

MINI PLANNING

MARCH 1996

Paying. the Price:



T H E R I S I N G C O S T O F P R I S O N

Minnesota Planning is charged with developing a long-range plan for the state, stimulating public participation in Minnesota's future and coordinating public policy with state agencies, the Legislature and other units of government.

Paying the Price was prepared by Minnesota Planning staff members, Mark Larson, Dan Storkamp, Ray Lewis, Lonnie Erickson and Carol Weber with assistance from the Department of Corrections and Minnesota Sentencing Guidelines Commission.

March 1996

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Paying the Price

The Rising Cost of Prison

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Paying the Price

Summary

Minnesota's adult prison population has more than doubled over the last 10 years, shooting up from 2,244 in 1985 to 4,591 in 1995. In the next 10 years, the number of inmates is expected to grow by another 2,100, reaching 6,671 by 2005.

Spending for state adult and juvenile correctional facilities leaped from \$37 million in 1980 to \$162 million in 1995, rising more than twice the rate of inflation. It is projected to rise steadily to \$234 million by 1999, not including the costs of prison construction.

The simplest and costliest response to crime is to build new prisons, but more and more policy-makers are questioning the wisdom of this option during a time of limited public resources. *Paying the Price* examines about 20 other choices, few of them easy or cheap.

Several major factors are driving this unprecedented growth in the number of prison inmates:

- A growing number of 15- to 24-year-olds, the group most likely to commit crimes
- Increasing arrest rates for violent crimes

■ The delayed impact of a crackdown on drug offenses in the late 1980s

■ Dozens of new or increased criminal penalties imposed since 1989

In spite of recent expansions of Minnesota's prison capacity, these trends have caused a shortage of about 300 prison beds, a deficit that is expected to rise to 1,200 by the year 2000.

The bed shortage is most severe for close-custody offenders, one of the highest security levels of inmates. Minnesota has the largest percentage of maximum-security and close-custody inmates of any state — 46 percent. They are potentially violent inmates who require costly indestructible lock-up cells and high-security perimeter walls.

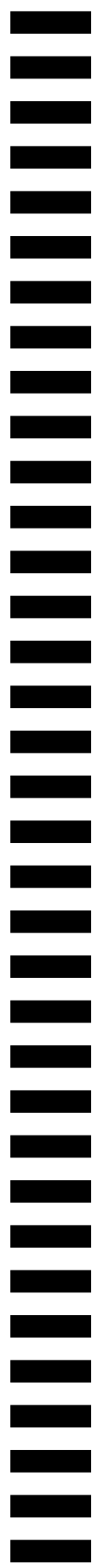
Medium- and minimum-security inmates are more often property and drug offenders who can be housed in cheaper, dormitory-style housing such as the recently converted regional treatment centers in Faribault and Moose Lake.

To relieve overcrowding, the 1996 Minnesota Legislature is considering a plan to build an 800-bed prison, scheduled to open in Rush City in the year 2000, costing up to \$100 million to construct and about \$25 million a year to operate. Even after the Rush City prison is built, Minnesota will be short 600 prison beds, and the shortage will grow to 900 by 2005. Another costly 800-bed prison will be needed by then, unless strategies are implemented to slow or divert the tide of felony offenders.

NEW RESPONSES REQUIRED

For years, Minnesota successfully limited the use of expensive prison space for only the most violent and habitual criminals, while using community-based intermediate penalties for more than 75 percent of felony offenders. This policy has kept Minnesota's per capita prison costs at \$25 per citizen, the third lowest in the nation, and the state's correction budget at less than half the level of other states. Because fewer people were incarcerated, Minnesota could afford to lock up violent offenders for longer periods than all but one of 26 other states reporting data.

But now the system is being overwhelmed by a flood of new inmates and offenders with longer sentences. Given media coverage and public concern about crime, the pressure to lengthen sentences could easily drive



the bed shortage even higher. Proposals to increase sentences for gun-related crimes could spur demand for 200 to 500 more prison beds, and three-time-loser legislation, such as was passed in California, would require more than 600 new beds above current projections by 2005. A full-blown three-time-loser bill, imposing life without parole for persons convicted of three violent crimes, would nearly double the number of Minnesota's inmates by the year 2035, requiring five new prisons and more than \$2 billion, measured in today's dollars, in new operating costs over the 40-year period.

A growing prison and probation population is driving a wedge into Minnesota's budget. It is beginning to cut into the discretionary dollars available for education, health care and other priorities.

Without a change in public policy direction, Minnesota could face a cycle of building prison after prison after prison over the next 40 years.

THE PRICE OF PUNISHMENT

About 20 options short of building more prisons exist for dealing with Minnesota's prison bed shortage. Few, however, would increase the supply of the most needed close-custody beds. Also, many of the options apply to low-risk offenders, whose numbers are limited.

Sentencing Options. Several changes to sentencing practices would lock up nonviolent drug and property offenders in less expensive local jails and use other community-based intermediate penalties. These options could empty 270 to 470 medium- and minimum-security prison beds, saving a minimum of \$6.5 million each year.

Nonprison Intermediate Penalties. These cost-conscious community-based penalties have the potential to free up as many as 300 to 600 minimum- and medium-security beds by placing carefully selected inmates in programs such as work release, intensive community supervision and electronic home monitoring. The price ranges from \$8 to \$38 per day per offender, which would save between \$5 million and \$17 million annually.

Short-Term Space Options. At least 800 beds could be obtained through contracting and other short-term temporary measures, but they would be primarily minimum- and medium-security beds. The cost varies from \$35 to \$80 per day plus the cost of transportation.

The options include contracting with the privately owned Appleton prison, contracting with other states, renting more county beds, creating barracks at Camp Ripley or expanding multiple-occupancy space at current facilities. Among these options, only other states and a few counties could provide the badly needed close-custody beds, unless Minnesota changes its policy on double- or triple-bunking high-risk inmates. Acquisition costs would be none or minimal.

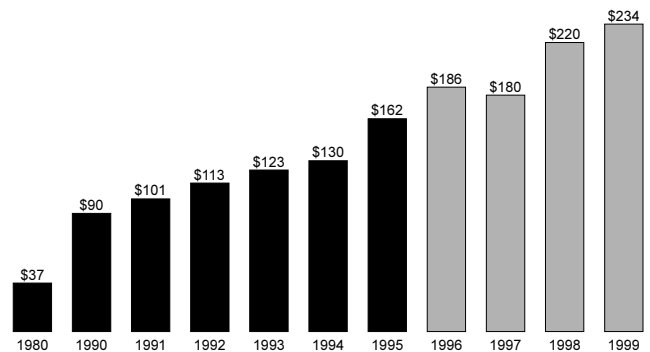
Long-Term Space Options. In addition to building the Rush City prison, several long-term options offer the greatest relief for Minnesota's growing shortage of close-custody beds. However, costs per bed could be just as high as new prison construction. Up front acquisition or construction costs for close-custody options range from \$9 million to \$49 million.

As many as 450 to 650 close-custody and maximum-security beds could be acquired by expanding existing correctional facilities. Expansions at Oak Park Heights prison, costing about \$9 million, and changes at Stillwater or St. Cloud would help the close-custody bed shortage. Another option is to purchase and renovate Appleton prison for about \$41 million to \$49 million and convert part of it to 192 close-custody beds.

At least 1,000 minimum- and medium-security beds could be obtained through purchase of Appleton, conversion of Brainerd regional treatment center, leasing barracks space and shifting short-term offenders to county correctional facilities. Strategic planning would be needed to ensure that the system's long-term operating costs are not elevated.

Spending for Prisons Quadrupled Since 1980

State Adult and Juvenile Corrections Facilities
General Fund Expenditures — in Millions



Note: Figures are not adjusted for inflation and do not include construction costs. Data is estimated for 1996 and beyond.

Source: Minnesota Department of Finance

Prevention. Preventing young people from entering the criminal justice system in the first place may be the best option to building costly prisons in the long run. Prevention strategies strive to give all children an opportunity to be successful, while trying to reach those at risk before they turn to crime. Better data is needed to document the effectiveness of prevention programs and their relationship to future prison cost savings.

Cost savings. These options will not reduce the need for prison beds, but they could free up money to help alleviate crowding pressures. They include:

- Contracting for private management of prisons
- Reducing per diem costs
- Funding per diem costs by security level
- Imposing budget caps

CHOICES FOR POLICY-MAKERS

Minnesota policy-makers have available a number of approaches for dealing with the growing prison bed shortage and the pressure to build new prisons. Minnesota can:

Continue current policy direction. If current sentencing practices are continued, another new 800-bed prison will be needed in 2005 in addition to the facility planned for Rush City in 2000. If unchecked, the trend to increase sentences could require the construction of

up to five additional prisons over the 40-year period beginning in 2005.

Maintain current laws. Even without increasing penalties over the next five years, another prison beyond Rush City will be required by 2005, unless short- and long-term space options are aggressively pursued.

Expand intermediate penalties and aggressively pursue space options. Legislative changes would be required to give corrections officials more freedom to use nonprison penalties for nonviolent offenders. Without expanding or leasing prison space and without a moratorium on increasing prison sentences, however, the 2005 prison would still be needed.

Adjust sentencing policies. Adopting a two-part Sentencing Guidelines Commission proposal could save 270 to 470 beds annually. If coupled with other space options, the need for the 2005 prison could be avoided or delayed.

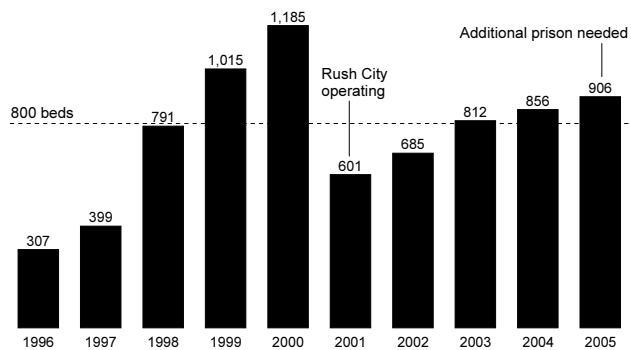
Aggressively pursue options to trim prison costs. Private management, reduced daily costs or a change in corrections philosophy could reduce prison costs but would not reduce the need for prison beds.

Invest in prevention. Though this long-term strategy will not affect the need for beds in 2000 and 2005, it could have an impact on corrections costs in the future.

FARSIGHTED APPROACH NEEDED

In the past, Minnesota's approach to dealing with prison bed shortages has been reactive and piecemeal. To save costs or avoid a cycle of building more prisons in the future, better long-range planning is needed.

Prison Problem Is Projected to Grow
Fiscal Year Bed Shortage for Adult Prisoners



A new prison is needed when the shortage exceeds 800 beds. If nothing changes, the proposed Rush City prison will relieve only half of the shortage.

Sources: Minnesota Department of Corrections and Minnesota Sentencing Guidelines Commission

GLOSSARY

Challenge Incarceration Program. A “boot camp” type program that involves rigorous physical training and intensive supervision during the work-release phase.

Close-custody facility. A facility housing inmates who are potentially violent and a risk to the public. These inmates require individual, indestructible cells but can be allowed to congregate in larger groups during meals, work and other activities.

Community-based penalty. A sentence served in the community, such as restitution, home electronic monitoring and rehabilitation programs.

Felony. A crime for which an offender may be incarcerated for more than one year.

Gross misdemeanor. Any crime for which an offender may be incarcerated up to one year or fined a maximum of \$3,000.

Intensive community supervision. A period of incarceration in prison, intended to shock the inmate, followed by a highly restrictive community supervision plan. Program elements can include house arrest, random drug testing, frequent face-to-face contact with specially trained agents, mandatory work, curfews and mandatory restitution to victims.

Intermediate penalty. A sentence served in the community that does not include incarceration in prison.

Intensive supervised release. For offenders who have finished their prison term and are under intensive surveillance in the community. Community supervision may include random drug and alcohol testing, mandatory work and curfews.

Jail. Operated by counties, a facility where people awaiting trial and convicted offenders are held.

Long-term offender. An offender who is sentenced to serve more than five years in prison.

Maximum-security facility. A facility housing hard-to-manage inmates who are prone to violence and a risk to staff and other inmates. These inmates require individual, indestructible cells with plumbing so they can be separated and the institution controlled in the event of a disturbance.

Medium-security facility. A facility housing inmates who meet minimum-security standards but have a pending felony or gross misdemeanor charge or are not yet within 12 months of their release date. Such a facility may house several inmates together in an open environment with a secure perimeter.

Medium-term offender. An offender who is sentenced to serve between one and five years in prison.

Minimum-security facility. A facility housing inmates who are not considered a risk to staff or the public, are within 12 months of their release date and do not have a pending felony or gross misdemeanor charge. Such facilities are similar to group homes.

Misdemeanor. A crime for which an offender may be incarcerated up to 90 days or fined up to \$700, or both.

Per diem. Average operating costs to house an offender for one day.

Prison. A facility where convicted felons are incarcerated.

Probation. A process of surveillance and supervision of offenders, which may follow incarceration. Probation may include house arrest, face-to-face contacts and drug testing.

Regional treatment center. A state-run facility that is designed to care for individuals who are mentally and physically unable to care for themselves.

Recidivism. Relapse into criminal activity.

Sentencing guideline grid. A grid based on an offender’s criminal history and type of offense that is used to determine the maximum and minimum sentences.

Sentencing Guidelines Commission. The commission that reviews and sets prison sentencing policies for Minnesota.

Short-term offender. An offender who is sentenced to serve less than one year in prison.

Supervised release. A process of surveillance and supervision of offenders who have served their prison time. Program elements are similar to probation.

Technical revocation offender. An offender who has violated the terms of probation or supervised release and is required to serve additional time in prison.

Three strikes. Three convictions for a designated felony under a “three-strikes-and-you’re-out” law. Each state defines these felonies differently. Also known as “three-time loser.”

Work release. Release of eligible offenders to work at paid employment, seek a job or participate in a vocational training or other educational program. The offender remains in supervised confinement when not involved in work release activities.

A System Under Stress

Without a change in public policy direction, Minnesota is on the verge of what could become a seemingly never-ending cycle of building new prisons. The cycle is driven by four main factors: changing demographics, increased arrest rates, the delayed impact of a crack-down on drugs in the late 1980s and dozens of new and increased criminal penalties imposed since 1989.

Prisons are a major and essential component of the criminal justice system, but they also are the most costly method of punishing crime. In a time of scarce public resources, more and more policy-makers are questioning whether prisons are always the most effective and cost-efficient type of penalty for every type of criminal. Less expensive options include community-based intermediate penalties for some nonviolent offenders and strategies that prevent people from entering the criminal justice system in the first place.

This report, prepared at the request of Governor Arne H. Carlson, examines the impact of Minnesota's rising prison population on future state budgets and suggests options that could help alleviate or delay the need to build prison after prison.

CORRECTIONS SPENDING IS SURGING

Traditionally, Minnesota has spent less on prisons than other states and invested more in education, health care and family services. As recently as 1991, Minnesota's

total corrections spending was only 1.8 percent of its budget, less than half the national average of 4 percent and third lowest of all states.

But now, corrections spending in Minnesota is surging, growing 132 percent from \$143 million in 1991 to a projected \$331 million in 1999. Rapidly growing numbers of inmates are crowding Minnesota's prisons, and corrections spending is beginning to cut into other public spending priorities:

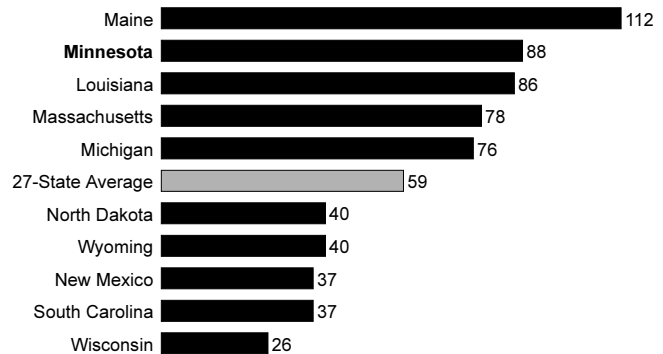
- Tough new sentencing policies and rising arrest rates for violent crime doubled the state's adult prison population from 1985 to 1995.

- Spending for adult and juvenile correctional facilities leaped from \$37 million in 1980 to \$162 million in 1995, rising almost two-and-one-half times faster than inflation.

- The share of the state's budget going to prisons nearly doubled over the last 15 years, from 1.1 to almost 1.9 percent. It is projected to reach about 2.5 percent by the year 2000 and to continue to escalate after that.

Minnesota has a shortage of about 300 prison beds, a shortage that is expected to rise to 1,185 by the year 2000. The 1996 Minnesota Legislature is considering a plan to build a new 800-bed prison, planned to open in 2000 at Rush City that will cost \$80 million to \$100 million to build. In addition to construction costs, the new facility will cost about \$25 million annually to operate, in 1996 dollars.

Minnesota Has 2nd Longest Prison Terms Average Minimum Months Served by Violent Offenders — 1994



Minnesota's violent offenders serve the second longest prison time of offenders in 27 states reporting — an average of 88 months compared to the national average of 59 months. The five highest and lowest states are shown.

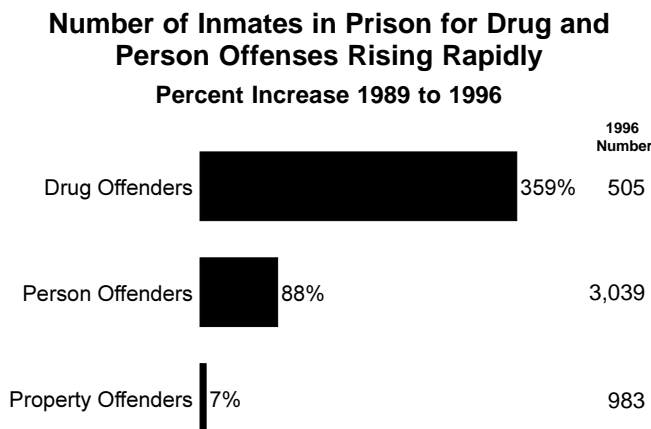
Source: U.S. Department of Justice

Recent projections by the Minnesota Department of Corrections show that Minnesota will need to build and operate another 800-bed prison by the year 2005 or find the equivalent number of new prison beds, again committing the state to up to \$100 million for construction and a perpetual \$25 million annual increase in operating costs. The need for more beds could come even sooner if policy-makers continue a recent pattern of stiffening felony sentences.

Capital costs of each new prison will compete with the construction needs of state colleges and universities, and operating costs of each new prison will drive up the corrections share of the state's budget another three-tenths of 1 percent. For comparison, the \$25 million per year in annual operating costs of each new prison could support about 5,400 children in Head Start programs, 25,000 youth in after-school programs, or provide full scholarships to 6,250 low-income university students.

MINNESOTA IS AT A CROSSROAD

The pressure to build new prisons comes at a time when Minnesota faces a serious gap between revenues and spending demands. *An Agenda for Reform*, a November 1995 report by former state Senator John Brandl and former Congressman Vin Weber, found that Minnesota's state and local governments face a projected cumulative budget gap of \$8.3 billion between now and 2001, including anticipated cuts in federal funds.



Person offenders take up 64 percent of Minnesota's prison beds, property offenders take 21 percent and drug offenders 11 percent.

Note: Person offenders are those who commit crimes of murder, rape, robbery and aggravated assault.

Source: Minnesota Department of Corrections, male and female populations on January 1, 1996

The prison space crisis is not unique to Minnesota. Many other states are struggling to deal with burgeoning prison populations, and some are actively attempting to slow down the prison-building cycle. In New York, where the prison population has quintupled over the last 20 years, the governor is supporting nonprison options, such as rehabilitation, community service, job training and electronic monitoring for drug users.

In Wisconsin, 2,300 new prison beds have been added since 1994, funds have been committed for an additional 1,200 beds and the state still faces a shortage of 6,000 beds by the year 2000. In response, Wisconsin's governor has established a special commission to examine ways of diverting lower-level offenders, especially drug users, to other forms of punishment.

Minnesota has long been regarded as a national model for promoting community-based corrections and investing a significant portion of the state budget in efforts to prevent young people from entering the criminal justice system.

Until now, Minnesota's policy of reserving expensive prison space for only the most violent repeat offenders has been successful; more than 75 percent of felons in Minnesota are already serving community-based sentences, and only a small portion of the rest are considered safe candidates for penalties other than prison. Yet, the demand for more prison beds continues to grow.

In some ways, Minnesota's policy challenge is made more difficult because the state already has such a high percentage of offenders in alternative programs, the lowest percentage in jail or prison of eight Midwestern states and the highest percentage serving community-based penalties or on probationary status.

PRESSURES ARE MOUNTING

Minnesota's prison crowding problems are getting worse. Major drivers include a growing number of people in the age group most likely to commit crimes, 15- to 24-year-olds; increased arrest rates; a crackdown on drug users and traffickers; and policy decisions to increase sentences.

Changing demographics

Increased arrests and a growing youth population are among the forces driving the increase in Minnesota's

prison population. People under age 25 account for almost 70 percent of the arrests and apprehensions for serious crimes and 36 percent of the state's new adult prisoners. From 1985 to 1992, the number of people in the 15- to 24-year-old age group rose steadily from a low point in the 1980s. From 1995 through 2005, the number of 15- to 24-year-olds in Minnesota will grow by 85,000, a 14 percent gain. It is projected to drop again to current levels by 2020.

Arrests for violent crimes grew

Intensified law enforcement efforts brought more violent offenders into the criminal justice system. Between 1985 and 1992, the number of arrests for violent crimes increased 53 percent, compared to a 39 percent increase in reports of violent crime.

Drug crackdown

Another significant force fueling the demand for prison beds has been the crackdown on drug offenders. From 1987 to 1992, the Legislature took eight different actions to increase felony drug penalties. Narcotics arrests almost doubled from 1989 to 1994. More than 90 percent of people convicted of selling drugs in 1993 were sentenced to jail or prison, according to state criminal justice statistics. Average sentence lengths for drug offenders grew 73 percent from 1988 to 1993.

In addition, a judicial ruling aimed at weeding out racial bias has had the additional impact of increasing sentences. In 1990, the Minnesota Supreme Court held as unconstitutional the sentencing of users and sellers of powder cocaine to less prison time than users and

sellers of crack cocaine. The intent was to alleviate a race and class disparity in sentencing under which users of crack cocaine, primarily African Americans, got longer sentences than did users of powder cocaine, primarily white people. As a result, lawmakers increased sentences for powder cocaine offenses, creating a need for about 300 additional prison beds.

As a result of these factors, the number of Minnesota prison inmates incarcerated for drug offenses more than quadrupled between 1989 and 1996, growing from 110 to 505, or from 4 percent of the prison population to 11 percent. By comparison, over the same period, the share of property offenders in the state prison population declined sharply from 33 percent to 21 percent.

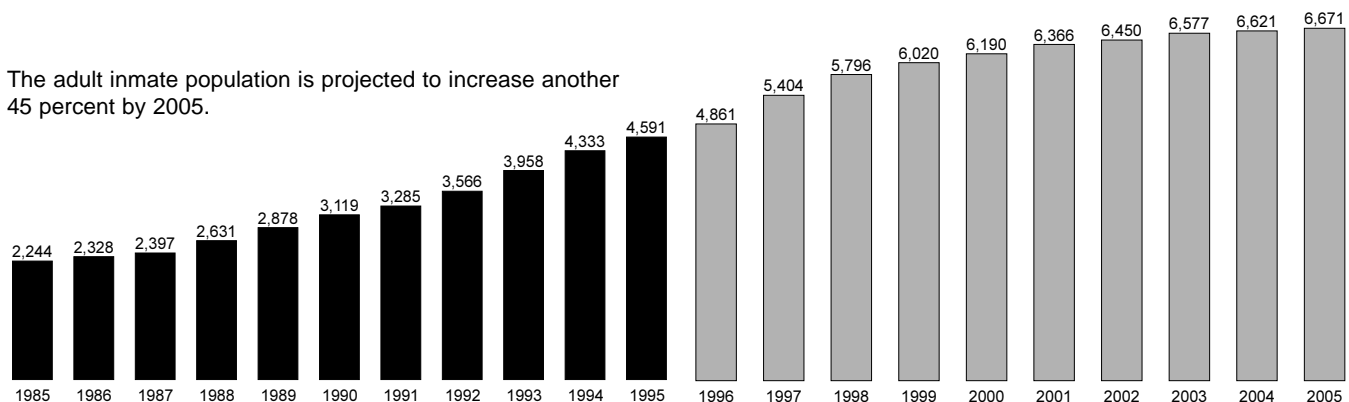
At 11 percent, the percentage of Minnesota inmates incarcerated on drug charges remains far below the country as a whole; more than a quarter of all inmates nationally have been committed for drug offenses. Skyrocketing imprisonment of drug offenders has been the chief force swelling prison populations in other states. If the number of drug offenders sent to prison continues growing rapidly in Minnesota, the state could face a greater demand for prisons than currently projected.

Longer sentences driving prison populations and costs

The dominant force behind Minnesota's explosion in prison population has been a series of policy decisions to increase crime penalties, along with heightened law enforcement. From 1987 to 1993, prison populations and arrests for violent offenses grew faster than re-

Minnesota's Prison Population More Than Doubled Since 1985 and Is Projected to Keep Booming

The adult inmate population is projected to increase another 45 percent by 2005.



Note: Adult prison operating costs were an estimated \$146 million in 1995.

Sources: Minnesota Department of Corrections, male and female offenders on July 1 each year. Minnesota Planning cost estimate.

ported violent crimes. The Legislature has enacted at least 37 new or enhanced felony penalties since 1989. Besides major increases in drug penalties, other key actions have been taken:

- Sentence lengths were doubled for serious crimes in 1989.
- Minimum prison time served under life sentences was increased from 17 to 30 years in 1989.
- Life sentences without parole were established in 1989 and 1992 for first degree murder tied to sexual assault and certain other heinous crimes.
- Life sentences for certain categories of repeat sex offenders were established in 1992.

PRISON POPULATION BOOMING

Many sentencing changes will not be felt until well into the future. For example, adding 13 years to the 17 years formerly served by most offenders for a life sentence will not intensify bed shortages until the year 2006, 17 years after the law went into effect. However, some immediate and dramatic effects of increased arrest rates and penalties have been documented:

- Total prison population has more than doubled in the past 10 years, from 2,244 in 1985 to 4,591 in 1995.
- The average prison sentence pronounced for new inmates has jumped from 36 months in 1987 to 51 months in 1994.
- New commitments for prison terms of more than five years increased 78 percent from 1990 to 1995, more than twice the rate of increase for shorter commitments.
- The number of inmates serving life sentences almost tripled, from 76 in 1985 to 222 in 1996.

Stiffened penalties for many types of crimes have created a domino effect throughout the criminal justice system. In the late 1980s, the Legislature added many new gross misdemeanors, such as drunk driving and domestic abuse, intensifying the burden on courts, probation and jail systems.

The number of felony offenders on probation surged from 18,659 in 1987 to 25,874 in 1994. The increased load on probation officers, in turn, makes it more diffi-

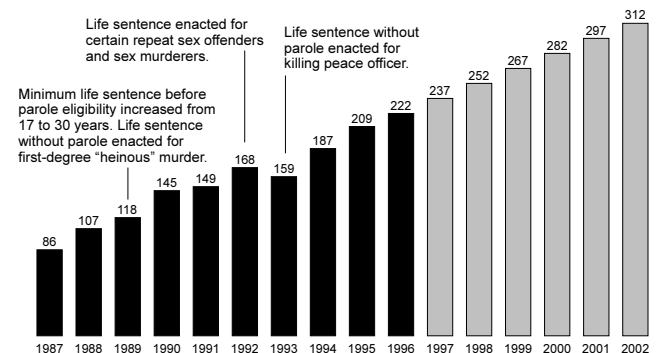
cult to supervise felony offenders. Higher probation failure rates mean that more offenders return to prison.

PRISON BED SHORTAGES ARE GROWING

Despite recent and planned bed expansions, Minnesota's adult correctional institutions face a continuing and growing capacity shortage under current sentencing statutes and practices. All of Minnesota's adult institutions except two of the smallest now have populations exceeding the capacity established in their original design. The total bed shortage will reach nearly 800 by 1998 and 1,185 by the time the proposed Rush City prison is scheduled to open in 2000. Even after the new prison opens, the shortage will remain at 600 and is projected to rise to more than 900 by the year 2005. Another new prison will be required unless alternative beds or sentencing approaches are found. Any new or increased penalties enacted into law will heighten the shortage.

While some prison bed shortages can be managed in the short term, chronic prison overcrowding over the long term carries the risk of federal court sanctions. Minnesota is one of only 11 states not under a federal court order to reduce prison overcrowding. Once an order is imposed, lawmakers and prison officials lose much of their discretion for managing prison populations. In California and elsewhere, federal court orders have forced wholesale early releases of inmates to relieve overcrowding.

Number of Inmates with Life Sentences More Than Doubled



If these trends continue, more than 300 Minnesota prisoners will have life sentences by the year 2002. Life sentences are for 30 years minimum or for life without parole.

Note: Projections for 1997 through 2002 are based on an average annual increase of 15 people between 1987 and 1996.

Sources: Minnesota Department of Corrections and Minnesota Planning estimates

PRISON SPACE NEEDED FOR LONG-TERM, VIOLENT OFFENDERS

Minnesota maintains adult correctional facilities at four different security or custody levels, based on the security risk imposed by different types of inmates. Because of the growing proportion of long-term violent offenders, Minnesota's bed shortage is concentrated in close-custody prisons. Close-custody prisons are the most expensive to build because they require indestructible, individual cells and heavy perimeter security.

Because Minnesota's criminal justice policy has been to reserve prison space for the most predatory, violent and repetitive offenders, Minnesota has the highest percent-

age of maximum-security and close-custody inmates of any state — 46 percent. The state's incarceration rate remains low, 49th in the nation, making prison operating costs per Minnesota citizen among the lowest nationally. Minnesota's \$25 per capita prison system costs are lower than all but two other states' and far below the national average of \$60. Minnesota's daily costs per inmate, however, are among the highest in the country, at \$82 per day, not including administrative and health care costs.

Minnesota's state correctional facilities for adults have been expanding steadily, yet they remain overcrowded. The growing excess population of close-custody prisoners is being housed in medium-security facilities and

Prison Populations Exceed Capacity

Correctional Facility and Founding Date	Per Diem Fiscal Year 1995	Current Design Capacity January 1996	Adult Inmate Population January 1996	Population as Percent of Design Capacity
Oak Park Heights (1982) Maximum security, male	\$113	386	399	103%
Stillwater (1914) Close custody, male	\$62	1,254	1,349	108%
St. Cloud (1889) Close custody, male	\$71	698	829	119%
Lino Lakes (Built 1963, converted 1990) Medium security, male	\$84	680	742	109%
Faribault (Built 1900, additions through 1964, converted 1990) Medium security, male	\$75	789	810	103%
Moose Lake (Built 1938, converted 1990) Minimum/medium security, male Per diem includes staff for 1996 expansion and is expected to decrease.	\$147	394	340	86%
Shakopee (1986) Medium security, female Projected to exceed capacity within one year	\$121	231	216	94%
Willow River (1951, part of Moose Lake facility) Minimum security, male Below capacity due to strict admission criteria	\$116	72	31	43%
Red Wing (1889) Minimum security, male, adult and youth	\$125	50	56	112%
Current Adult Total	\$82	4,554	4,779	105%
Rush City (2001) Close custody, male	Estimated \$80	776	0	0

Design capacity is 95 percent of physical capacity. A five percent buffer is needed for emergencies, maintenance and flexibility in movement of prisoners.

Notes: The 1995 per diems do not include central administration, certain support services and health care costs of about \$7 per day. The January 1996 inmate population data includes some inmates contracted out to county facilities.

Source: Minnesota Department of Corrections

temporary dormitories at Stillwater and St. Cloud correctional facilities. Stillwater has added 335 beds in the last 10 years, including many dormitory beds.

Recent expansions of minimum- and medium-security facilities will slow the mounting bed shortage but will not eliminate it. They do not address the shortage of maximum-security and close-custody beds. In the past five years, 1,245 medium- and minimum-security beds have been added through the acquisition and conversion of the Moose Lake and Faribault regional treatment centers, and 245 more beds are being added this year. At Lino Lakes Correctional Facility, 168 beds recently were added, and an expansion to be completed in mid-1996 will add 274 more beds, including a segregation unit and a chemical dependency unit.

Only two small facilities have empty beds, and they probably will be occupied within a year. The women's prison at Shakopee added 100 beds in 1995, but new projections show that a shortage will develop beginning in 1997. The 72-bed Willow River facility, managed as part of the Moose Lake prison, has empty beds because stringent eligibility criteria for the Challenge Incarceration Program — modeled on boot camps — limits the number of inmates who can be housed there.

COUNTIES PLAY A SIGNIFICANT ROLE

In addition to prisons, county jails and workhouses play a major role in Minnesota's system of incarceration. In 1995, county correctional facilities held an average of 4,248 inmates of whom an estimated 1,635 were felony offenders. County correctional facilities hold about 5 percent of the state's estimated 32,000 felony offenders, while 14 percent are in state prisons, 5 percent are under supervised release and 75 percent are under community supervision.

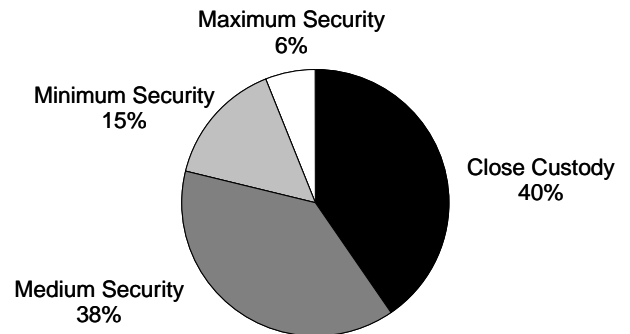
Minnesota counties also bear a significant share of the cost of corrections. In 1995, the state and counties together spent more than \$365 million on adult incarceration, probation and nonprison penalties, according to Minnesota Planning estimates. Of that total, an estimated \$146 million was spent by the Department of Corrections on adult correctional institutions. Although uniform county data is not reported to the state, it is

estimated that counties spent at least \$85 million to operate local jails, not counting sheriff and administrative costs. The Corrections Department and counties together spent an additional estimated \$34 million on community-supervised release programs for felony offenders and more than \$100 million on regular probation services.

More than 30 counties have expanded their jails since 1988, increasing statewide capacity substantially to 5,356 beds in 91 different facilities. Some have surplus space, but others are overcrowded. Because state standards and state and federal laws limit how jail cells can be used, optimal operating capacity is only 75 percent of actual capacity, or 4,017 beds statewide. For example, state standards require segregation of violent and low-level offenders, men and women, and juveniles and adults. In the first six months of 1995, county jails statewide had 81 percent of total beds occupied, which was 107 percent of optimal operating capacity.

Unlike state prisons, which handle only felony inmates, county correctional facilities handle all levels of offenders, including misdemeanor and gross misdemeanor offenders and people awaiting trial. Because their population mix changes from day to day, counties often build to higher security levels. Many lower-security offenders, such as drunk drivers, end up being housed in expensive high-security cells. To operate more economically, some larger counties are now setting up separate facilities for offenders like drunk drivers who do not need to be detained in secure cells.

Types of Prisoners in Minnesota



Sources: Minnesota Department of Corrections and *The Corrections Yearbook, 1995*

Responses to Rising Prison Populations

Even with no changes in current law or policy, Minnesota must contend with substantial prison population growth and overcrowding over the next 10 years. *Paying the Price* discusses four major areas for coping with the mounting prison bed shortage:

- Adjusting sentencing and reducing prison time served by some offenders
- Expanding use of nonprison, community-based penalties
- Acquiring more short-term and long-term prison space
- Investing in strategies to prevent young people from entering the criminal justice system

None of the options examined, nor any combination of them, holds out clear hope of avoiding construction of an 800-bed prison by the year 2000. Based on recent projections, the need for close-custody prison beds is growing too rapidly to be met by the short-term and piecemeal approaches that would be available over the next four years. Most of the available approaches produce minimum- and medium-security beds, not close-custody.

Moreover, no single option other than aggressively expanding and contracting for close-custody beds appears to have a realistic chance of alleviating or substantially delaying the need for building another 800-bed prison in 2005. To avoid the need for a second close-custody prison within 10 years, a combination of strategies will be needed.

Among those analyzed, the most controversial option — adjusting sentencing and reducing prison time served by some nonviolent offenders — seems to hold the greatest promise for reducing the need for prison beds over the long term. Without sentencing adjustments, the other short-term options — expanding the use of a variety of nonprison penalties, such as intensive community supervision or electronic home monitoring of selected inmates — likely will fall short.

Investing in measures to prevent young people from entering the criminal justice system in the first place is a long-term strategy. Investments made in early childhood education, kindergarten-through-12th-grade education, youth enrichment programs for adolescents and similar efforts may not influence prison costs until five to 20 years after the investment is made. Also, documenting a direct link between such investments and future prison cost savings is problematic.

SENTENCING TRENDS AND OPTIONS

By far, the major driving force behind Minnesota's prison population explosion has been increasing sentences for many crimes. In each of the past 10 legislative sessions, new laws have been passed that have the effect of sending more offenders to prison or keeping inmates in prison longer. Over the years, the cumulative result is that offenders in Minnesota now serve longer sentences for most crimes than they would in almost any other state.

Even seemingly minor law changes can significantly affect the prison population. For example, a recent proposal to add three years of prison time for the use of a firearm in the commission of a crime could create a need for an estimated 200 to 500 additional beds each year.

Sentencing policy is the major force driving prison overcrowding that public policy-makers can control. In Minnesota, the state Sentencing Guidelines Commission plays a key role in determining the length of prison time served by offenders. The commission sets statewide guidelines for judges to follow in deciding which types of offenders go to prison and for how

long. Used to determine sentences for felony crimes, the guidelines are structured to promote uniformity and fairness in sentencing. The guidelines are in the form of a grid that recommends penalties for various crimes, taking into account the offenders' criminal history and the seriousness of the offense. They do not cover offenders convicted of first degree murder, for whom sentences are set directly by the Legislature.

The guidelines grid indicates the upper and lower limits of sentence length for felony crimes. Judges may give longer or shorter sentences if there are compelling and substantial reasons to do so; these actions are called departures from the guidelines, and judges are required to explain the reasons for the departure. However, judges may not give shorter sentences for crimes for which the Legislature has established mandatory minimum sentences.

Minnesota offenders serve more time for drug, property crimes

A federal survey of 36 states found the median time served in prison in Minnesota was 70 percent higher than the national median for possession of drugs (17 months compared to 10), 64 percent higher for sale of drugs (23 months compared to 14) and 50 percent higher for burglary (21 months compared to 14). The data covered offenders released in 1992.

The Sentencing Guidelines Commission, with the encouragement of other organizations, has acknowledged the need to consider whether current drug offense sentences are more severe than necessary to protect public safety. The commission has recommended that state laws and sentencing guidelines for drug offenses be studied and that community members, legislators and all parties in the criminal justice system be involved in such a study. Wisconsin and New York also are re-examining their drug laws.

Commission proposal would save prison beds

The Sentencing Guidelines Commission has put forth a two-part proposal aimed at diverting some nonviolent offenders to county jail space and tough community-based intermediate penalties while continuing the policy of saving prison space for violent, repeat offenders.

The first part of the proposal modifies the sentencing guidelines grid and makes sentence increases based on

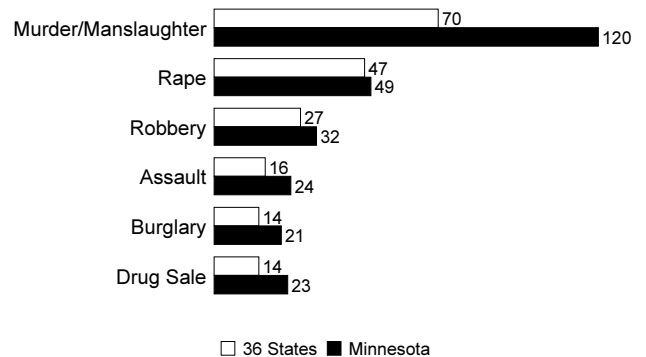
criminal history more uniform at all offense levels. It also puts all theft crimes at the same level. If enacted, the changes would lead to about 165 fewer prison beds needed in 1997, 206 in 1998 and about 220 each year after that.

The proposed changes, which affect about 13 percent of all offenders, would:

- Lengthen sentences for about 70 offenders with long criminal histories who have committed property crimes or crimes against people
- Shorten sentences by an average of three months for about 440 offenders, most of whom were convicted of property crimes
- Shift about 90 offenders, convicted of crimes such as theft, from state prisons to local jails or other alternatives, such as community-based penalties.

The second part of the commission's proposal could save up to 250 prison beds annually by giving judges the authority to sentence certain nonviolent offenders to the Intensive Community Supervision program rather than prison. Offenders in Intensive Community Supervision live in the community but are subject to house arrest, curfews, frequent probation agent contacts, electronic monitoring, and random drug and alcohol testing. The commission proposal would give judges greater flexibility by allowing the use of the Intensive Community Supervision program as an alternative to requiring departures from sentencing guidelines.

More Prison Time Served in Minnesota Than in Other States
Estimated Median Prison Months Served — 1992



Sources: U.S. Bureau of Justice Statistics, 1992, and Minnesota Sentencing Guidelines Commission

Four categories of less serious offenders receiving sentences of 30 months or less are eligible for intensive community supervision after being committed to a prison for about 30 days. Compared to traditional forms of probation, Minnesota's Intensive Community Supervision program features much lower caseloads and stricter control. Participants must be employed full time or in education or treatment programs, and they must pay any restitution ordered. One agent closely supervises a caseload of 15 offenders, a much smaller caseload than probation officers usually have.

Intensive Community Supervision participants have low rates of recidivism, or relapses into criminal behavior. Data released in 1993 showed that 8 percent of the program's participants were convicted of a new crime within 24 months. In contrast, 17 percent of offenders in more traditional supervised release were convicted of another felony within 24 months.

About 100 offenders are now enrolled in Intensive Community Supervision, a figure that could expand under the commission's proposal. Of about 1,200 offenders eligible annually for the program, it is expected that no more than half would be found by judges to be appropriate candidates. Expansion of intensive supervision as proposed by the Sentencing Guidelines Commission could free up an estimated 50 to 250 minimum- and medium-security beds. At a cost of \$13 per day, intensive community supervision for 250 offenders would save \$6.5 million annually over incarceration at Lino Lakes.

While either part of the Sentencing Guidelines Commission proposal would help reduce prison crowding,

Prison Costs Much More Than Nonprison Penalties

Minnesota Estimated Daily Cost per Offender — 1995



Prison costs two to 25 times as much as nonprison penalties. Only selected low-risk offenders are eligible and appropriate for nonprison penalties.

Sources: Minnesota Department of Corrections and Sentencing Guidelines Commission

the greatest impact on the shortage of beds would be realized through adoption of both parts. Total savings of 270 to 470 beds would bring the system shortage down, after the opening of the planned Rush City prison, to an estimated 100 to 300 beds in 2001. Still the shortage would grow again to 400 to 600 beds by 2005. Any expansion of criminal penalties, however, could easily offset the gains from the Sentencing Guidelines Commission proposal.

To eliminate the need for a second new prison, the commission's proposal would have to be combined with policy actions that add space through leasing or expansion.

Reduce time served in prison

Long-term offenders — those sentenced to prison terms of more than five years — are the fastest growing group in Minnesota prisons. They occupy about 1,400 beds, about 31 percent of the total, up from 25 percent in 1990. Medium-term offenders, those sentenced to prison time of one to five years, take up 2,500 beds, down from 60 percent of all beds in 1990 to 55 percent today. Short-term offenders, those with less than one year to serve when sentenced, occupy about 650, or 14 percent, of prison beds.

Minnesota had the second highest average incarceration time for violent offenders in 1994 out of 27 states reporting to the U.S. Department of Justice. Minnesota's average of 88 months served, equivalent to seven years, four months, was far above the national average of 59 months. Only Maine reported longer sentences served, at 112 months. Another federal sampling of 36 states showed the median prison time actually served in Minnesota was 70 percent longer for murder and 50 percent longer for assault than the median of all 36 states.

Pressure on prison space can be reduced either by adjusting total sentences or by adjusting the minimum percentage of the sentence that must be served in prison. Under Minnesota law, sentences are now divided into two parts: the first two-thirds of the term, which must be served in prison or jail, and the final third, which is served in probation in the community.

Reducing the proportion of a felony sentence that must be served in prison could free up prison beds. However, dramatic and controversial changes would be needed to achieve a significant impact. For example, to save 1,150 beds by 2005, the portion of a felony sentence served in prison would have to be reduced from two-thirds to one-half, which amounts to a 25 percent

reduction in prison time. A reduction of 10 percent, from two-thirds to 60 percent, would save an estimated 450 beds by 2005. In either case, potential cost savings would be partially offset by additional costs of intensive supervision, electronic monitoring and other control methods.

Reduced sentences contrary to trend

Adjusting some criminal sentences or reducing time served in prison would not be enough, by itself, to guarantee that a second new prison would not be needed by 2005. Minnesota lawmakers also would have to refrain from imposing new or increased penalties that would create a need for additional prison beds. However, a self-imposed moratorium on sentence enhancements is contrary to a pattern established over the past 10 years by the Legislature.

Nationally and in Minnesota, recent trends have been to increase prison sentences, not reduce them. At a time when fear of crime is high, it is difficult for lawmakers to propose or support measures to decrease criminal sentences or prison time served. Over the past several years, Minnesota lawmakers have gone in the opposite direction, consistently increasing crime penalties, imposing mandatory minimum prison terms for certain crimes and proposing bills that would have the effect of increasing the projected prison bed shortage.

Several costly proposals to increase prison sentences have come before the Legislature in recent years, including, versions of a “three-time loser” law that has recently been adopted in several other states.

Three-time loser laws would dramatically increase bed shortages

So-called “three-time loser” or “three-strikes-and-you’re-out” laws have become popular in a number of states and have been proposed several times in Minnesota. Typically, such laws provide lengthy mandatory minimum prison terms for offenders convicted of a serious or violent crime for the third time.

Any proposal to establish more mandatory minimum prison sentences would accelerate and increase Minnesota’s prison bed shortage. Depending on how such bills are constructed, passage of a broad “three-time loser” bill could require building one to five additional prisons over the next 40 years and would create major state budget obligations far into the new century.

Key variables in such laws are the types of crimes defined as “strikes” and the length of the mandatory minimum prison time. Generally, the types of crimes counted as strikes are felony crimes against persons: murder, assault, criminal sexual conduct and robbery, as well as some burglary and drug offenses. The most severe approach requires a life sentence without the possibility of parole after three convictions.

Such laws have little immediate impact on prison beds because most three-time losers would be serving time anyway. The impact comes later, when inmates are kept in prison long after they otherwise would have been released.

Any of three variations on “three strikes” laws heralds daunting costs for the state. A mandatory 10-year minimum prison term for three serious offenses would require building an additional 800-bed maximum-security prison by 2006; a 15-year mandatory minimum prison term would require construction by 2011 of a 500-bed prison plus an 800-bed prison, together costing \$130 million to build and \$40 million in annual operating costs; and a broad life-sentence-without-parole law would nearly double the size of Minnesota’s prison system by the year 2035, adding an estimated 4,000 new prisoners. Construction of five close-custody prisons over the next 40 years would be required to meet the demand, costing an estimated \$400 million. Over 40 years, the added operating costs of the new prisons would total an estimated \$2.3 billion. All estimates are in 1996 dollars and would be higher in future dollars.

California criminal justice system overwhelmed by three-strikes law

At least 13 states have adopted “three strikes” laws. California’s very broad version, passed in 1994, includes many lower-level crimes in its sweep. The state is now faced with building and operating as many as 19 new prisons, consuming a growing share of the state’s budget. Six additional prisons are proposed for funding this year, to be added to the state’s existing 32 facilities. Partly as a result of the law, the state’s prison population is projected to increase 57 percent from 1996 to 2001, with up to 48,000 new three-strikes prisoners accounting for over half the growth. The state’s prison operating budget is projected to grow from \$3.4 billion this year to \$5.6 billion in 2000.

A California legislative report found that the three-strikes law is affecting the entire justice system. It is jamming the courts by causing thousands of defendants

to demand jury trials instead of accepting plea bargains. Because jails are overflowing with three-strikes defendants who are denied bail, jail officials are forced to release other convicted offenders to make room for second- and third-strike defendants. Some judges are thwarting the law by reducing prior felonies to misdemeanors or ignoring them altogether. Three-strike offenders are being put in higher security facilities because of fear that, with nothing to lose, they are more likely to attack guards or attempt to escape.

Death penalty

Some believe that reinstating the death penalty, which was abolished in Minnesota in 1911, would be an effective way not only to mete out justice but also to free up prison space and reduce criminal justice costs. Considering only costs and putting aside moral and other arguments, the evidence from the experience of other states is that capital punishment is more expensive than housing an inmate in prison, even for a long time. At the end of 1994, 93 prisoners were on death row for every one who was executed. The cost of trial, appeal and Supreme Court review for one death penalty case is estimated by the New York State Defenders Association to be about \$3.3 million — the cost of housing an inmate for 100 years in a Minnesota maximum-security prison.

In 1995, state agencies estimated capital costs at \$30 million to build a 184-bed death row facility and significantly increasing annual operating costs, reaching \$7 million in the second year, for additional corrections, court, attorney general and public defender costs, escalating in future years.

Minnesota law recognizes that not all murderers should be considered for release: first-degree murderers now receive a 30-year minimum term in prison before possible parole, and those convicted of some of the most heinous murders receive life sentences without the possibility of parole.

NONPRISON PENALTIES

Prison is the most expensive corrections option, currently costing an average of \$82 per day, not counting administrative and health costs. This compares to daily costs of \$56 for local jails, \$38 for work release, \$13 for intensive supervision and \$3 for probation.

Expanding the use of nonprison or community-based penalties could shorten the time offenders spend in

prison and lessen total demand for prison beds. Such penalties include the use of boot camps; work release, in which offenders are released to work during the day and are confined at night; electronic home monitoring; and Intensive Community Supervision.

Data is somewhat limited, but nonprison intermediate penalties appear to have a reasonable record in keeping offenders from endangering public safety. Careful screening and program design improvements have kept down both participation and failure rates. Newer, more intensive approaches have been more effective at keeping participants from committing additional felonies than traditional probation.

One of the difficulties in estimating the potential impact of community-based penalties is determining what percentage of current prison inmates could safely and appropriately be controlled without being placed in prison. Factors usually considered are an inmate's criminal history, past evidence of violent behavior, the seriousness of the crime for which the inmate was sentenced and the length of sentence left to serve.

Limiting the pool of candidates for nonprison penalties to low-risk inmates — those who are nonviolent, property or drug offenders and geriatric inmates — would mean that an estimated 300 to 600 minimum- and medium-security prison beds could be saved. The number may well be lower once an actual case-by-case review is conducted. But even the 300 to 600 beds would not eliminate the need for an additional prison in 2005.

Also, these low-risk offenders are housed primarily in minimum- and medium-security beds, while the demand is high and growing for close-custody and maximum-security beds. Although some medium-security beds could be converted to close custody, conversion costs are very high.

Boot camp programs

In 1992, Minnesota established a small boot camp program that gives carefully selected inmates a chance to work their way from prison to a supervised community work release program. A recent Department of Corrections report to the Legislature found that the experimental Challenge Incarceration Program has saved 83 prison beds and produced an estimated net savings of \$220,000 per year. The department believes the program has been particularly successful for drug offenders and could be readily expanded. Thus far, the program has a high dropout rate while participants are

in the boot camp phase; the program is being fine-tuned to address its problems. Among offenders who have successfully completed the program none has returned to the state's correctional system to date.

The Challenge Incarceration Program is an intensive, highly structured program for selected male and female property and drug offenders judged not to be a danger to the community. It has three phases lasting a minimum of six months each. Inmates begin in phase one with intensive physical and mental activities from dawn until dusk at Willow River Correctional Facility, including treatment. Successful graduates enter a second phase of community release, full-time employment, curfews under daily contact with a caseworker, and random drug and alcohol testing. Graduates to the third phase are put under less intensive supervised release. If they have time left in their sentences, graduates complete their sentence under regular probation. Serious and repeat rule violators and any participants who become a danger to the public are returned to regular prison confinement. At full capacity, the program costs up to \$111 per day in phase one, \$15 per day in phase two and \$2 per day in phase three.

In part because of its stringent eligibility standards, the Challenge Incarceration Program has only 31 of 72 available phase-one slots filled. To break even, it needs a phase-one enrollment of at least 37. Under statute, only offenders sentenced to prison for 18 to 36 months are eligible for the program. A recent Department of Corrections report suggests that extending eligibility to offenders sentenced to 60 months of imprisonment (90 months total sentence) would expand the eligible pool by 66 persons a year.

Work release

Work release, in which eligible inmates are released from custody during the day for paid employment, vocational training, educational programs or employment search, is another option for reducing the need for prison beds.

Selected inmates are eligible for work release after they have served 50 percent of their sentence if they are judged by the Department of Corrections commissioner not to pose a danger to public safety. The maximum work release period is eight months. There are two types of work release programs: level-one participants reside in prisons or jails; level-two participants reside in halfway houses. The Corrections Department contracts with private vendors or county jails to run the work release programs at an average cost of \$38 per

day, compared with an average of \$82 per day for prison incarceration.

Currently, 184 inmates are participating in work release programs; the Department of Corrections does not believe the number of participating inmates could be significantly expanded without increasing the risk to public safety. Cost savings may be possible through the use of inexpensive housing options such as barracks.

Recidivism rates for inmates on work release have been low. Thirteen percent of work release participants have been convicted of another offense within 24 months of completing work release, a lower rate than for other offenders.

Electronic home monitoring

Electronic home monitoring devices are already used by county and state probation offices throughout the state as an addition to Intensive Community Supervision. Electronic monitoring can be used as a penalty to tighten the conditions of technical probation violators. The average cost is about \$8 per day, usually added to the cost of probation supervision; offenders often are charged for the cost.

Because Minnesota law provides for minimum sentences and minimum terms of incarceration, options for release are far more limited than in many other states that do not have minimum prison terms. This severely limits the use of electronic home monitoring to reduce prison bed shortages. Minnesota law would have to be changed to permit selected types of offenders to be released earlier into supervised electronic custody. There is no data yet on its effectiveness in preventing future criminal behavior.

SHORT-TERM SPACE OPTIONS

In the short term, a simple though expensive way to solve Minnesota's prison bed shortage is to acquire more space by constructing, purchasing or leasing additional beds. Another option is to crowd more beds into existing facilities.

Many of these space options already are in use. Minnesota has doubled its prison population since 1985, adding more than 2,300 inmates through conversion of existing facilities. Regional treatment centers formerly operated by the Minnesota Department of Human Services have been converted into prison space. Program and industry space in prisons has been changed into residential dormitories, and individual medium-

security cells have been made into double- and triple-occupancy spaces and small dormitory rooms housing more than three inmates. Despite expansion, Minnesota will be 400 beds short in 1997.

Besides converting existing facilities, several other options are available for short-term relief from prison overcrowding. The per diem rates (daily costs per prisoner) outlined below generally do not include the cost of health care, education and other support services, which cost an estimated \$7 per day per prisoner in Minnesota.

Contract with county jails

The Department of Corrections has authority to contract for space outside the state system, though typically the Legislature is consulted on major decisions. The department contracts for 126 jail beds at various security levels in Washington, Scott, Carver and Chisago counties in the Twin Cities metropolitan area and in Otter Tail County in northwestern Minnesota. Cost ranges from \$63 per day for each of 55 beds in Washington County to \$40 per day for five beds in Chisago County. Total expenditure for contract beds reached \$1.7 million in 1995. The department is looking for county jail space for women inmates so it can avoid expanding its Shakopee prison for females.

Drawbacks of county jail space include location — beds are dispersed across the state — and the cost of transportation outside the metropolitan area. Often, lack of work, education and treatment programs makes county jails unsuitable for long-term inmates, who at times have become disruptive in such facilities. In addition, many county jails are overcrowded.

Contract with privately operated Appleton prison

Depending on the status of the prison's contracts with other states, as many as 516 medium-security beds may become available on a contract basis at the privately owned Prairie Correctional Facility in the western Minnesota town of Appleton. The cost is estimated at \$55 per day, plus the cost of transporting prisoners from the metropolitan area four hours each way. This is comparable to or less than the \$62 to \$84 per diem cost of similar state facilities.

Contract with other states

Per diem costs for prison beds in other states range from \$35 to \$80, lower than Minnesota's average per diem cost of \$82. However, transportation and overhead costs may be high, and the spaces may not be

Costs of Acquiring and Operating More Prison Beds

Option and Security Level	Estimated Beds	Estimated Construction/ Acquisition per Bed	Estimated per Diem
Short-Term Space Options			
Lease Appleton beds (medium)	516	\$0	\$55
Lease more county jail beds (minimum – medium)	50+	\$0	\$40 to \$63
Lease Camp Ripley (minimum)	300	\$6,000	\$56
Lease other states' beds (various levels)	Not available	\$0	\$35 to \$80
Long-Term Space Options			
Expand Oak Park Heights (maximum)	60	\$156,000	\$113
Build Rush City (close)	817	\$100,000 to \$125,000	\$80
Purchase and convert Appleton (close – medium)	468	\$88,000 to \$105,000	\$85
Convert Brainerd (minimum)	300	\$4,300	\$74
Lease barracks (minimum)	Unlimited	Not available	\$55
Shift short-term offenders to counties and more nonfelony offenders to community-based penalties	Up to 650	Negotiable	Negotiable
Past Acquisitions			
Convert Faribault regional treatment center (medium)		\$41,494 (actual)	\$75
Convert Mooselake regional treatment center (medium)		\$46,941 (actual)	\$75

Sources: Minnesota Department of Corrections, Minnesota Planning

available as the other states' own prison populations grow. The number of beds that could be saved by contracting with other states depends on availability and Minnesota's willingness to accept short-term arrangements and prison conditions that may not meet Minnesota standards.

Convert space at Camp Ripley

Excess barracks at Minnesota's large National Guard training ground at Camp Ripley have been offered to the Department of Corrections for minimum-security prisoners and low-risk probation violators. The Minnesota Department of Military Affairs recently expressed interest in making land available for a permanent prison. Camp Ripley also could be used for a boot-camp program like Challenge Incarceration at the Willow River facility. Up to 300 beds would be available at a cost estimated by the Corrections Department to be \$56 per day, plus \$1.8 million in start-up costs for equipment and facilities preparation. Because they are close to one another, Camp Ripley and St. Cloud prison could use the same administrative services. A disadvantage of Camp Ripley is the possibility of disruption in the event of a major military mobilization, unless the prison facilities were built in a remote part of the camp.

Expand multiple-occupancy space

About 31 percent of Minnesota prisoners live in multiple-occupancy spaces, which include dormitories and cells housing two or three inmates. The use of multiple-occupancy space is limited by state law that allows only one inmate per cell for maximum- and close-custody prisoners. But less disruptive prisoners, such as geriatric and honors inmates, may be placed in multiple-occupancy spaces, including dormitories. With the need for temporary emergency space, 11 percent of Stillwater inmates and 14 percent of St. Cloud inmates are now being housed in dormitories. Normally, state law limits the use of multiple-occupancy arrangements for medium-security inmates to no more than 50 percent of each facility's design capacity. Due to construction and overcrowding, 61 percent of medium-security inmates are now in multiple-occupancy spaces.

While nationwide experience shows that putting several high-risk offenders in the same cell has been a chief cause of prison riots, Minnesota corrections officials believe that the current multiple-occupancy system has achieved both safety and economy, with some calculated risk. Unless Minnesota's correctional philosophy

and statutes change, the main opportunities for increases in multiple occupancy appear to be at two small minimum-security facilities, Red Wing and Shakopee, netting only a few dozen prison beds.

Other states make more extensive use of multiple occupancy at all security levels. Under tightening budget conditions, Minnesota may want to revisit the statutes that limit the use of multiple occupancy without giving up its commitment to safety.

LONG-TERM SPACE OPTIONS

Some options for additional short-term correctional space are not economical or reliable over the long term. Most of the options available now are for minimum- and medium-security beds, while the state's long-term primary need is for more close-custody beds. Nevertheless, when combined with other strategies, long-term space options could help delay or alleviate the need for more prisons.

Shift short-term offenders to county jails

One option that would reduce costs and free up some prison beds would be to assign all short-term felony offenders — those with less than one year of prison time to serve at the time they are sentenced — to county jails instead of state facilities. About 650 prison inmates fit this category, though there is not enough jail space to accommodate them.

County jail space generally is cheaper than prison space, averaging \$56 per inmate compared to \$82 per day for prisons. The lack of programming for long-term inmates may not be as important for inmates serving only a few months.

Shifting short-term offenders to county jails could be particularly appropriate in the metropolitan area, where 75 percent of Minnesota's short-term prisoners are from and where some county jail facilities have excess space. Current space, however, is very limited in the Twin Cities area. Significant space could be created if counties would shift more misdemeanor and gross misdemeanor offenders from jails to other community-based penalties. Groups such as drunk drivers could be housed in cheaper facilities, such as barracks or dormitories, as is being done in Anoka County. Counties already have discretion to expand use of court and jail diversion, pretrial release screening, sentencing to community service, home electronic monitoring and other methods of reducing jail populations.

The shift, however, would require the cooperation of counties and would have financial implications for both the state and the counties. If funding formulas were changed so that the state would pay for the increased use of nonjail sanctions, the financial burden on counties would be lessened.

Use more cost-effective options for older inmates

One inmate group that can be channeled to more cost-effective space is the growing geriatric population. As a result of recent changes in sentencing, the number of inmates age 55 and older escalated from 41 in 1983 to 139 in 1995 and is projected to exceed 190 by the year 2004. A 96-bed unit serving geriatric inmates and inmates with disabilities has been established temporarily at the medium-security Faribault prison. The need for geriatric beds is greater than what is available at the Faribault unit. Corrections officials prefer to move the unit to Brainerd, where nursing care services are available on site, which could free up 90 to 100 medium-security beds at Faribault.

Relax medical release criteria for nondangerous geriatric inmates

Costs for geriatric inmates remain high anywhere because of their chronic health care needs. Inmate medical costs are paid entirely by state funds. Relaxing medical release criteria would allow some nondangerous geriatric inmates to enter the community and have their medical and living costs paid by Social Security, Medical Assistance or other sources of federal funds or private insurance.

Convert Brainerd regional treatment center

The Department of Corrections is examining the soon-to-be-vacated portion of Brainerd regional treatment center for possible conversion into a prison. A combination of 210 minimum-security beds and 90 medium-security geriatric beds could be operated at an estimated cost of \$74 per day. Another option is to open the Brainerd facility for the 90 geriatric beds exclusively, but that would be relatively expensive to operate, an estimated \$121 per day. Efficiencies could be gained by placing the Brainerd facility under the administration of the St. Cloud prison. Brainerd was built in the 1950s and 1960s and is in relatively good

condition, so start-up costs are estimated at only \$1.3 million for 300 beds or \$516,000 for 90 beds.

Convert other public buildings

Converting excess space in the regional treatment centers has the advantage of quick start-up; also, it reduces financial hardship to communities from the phase-out of the centers because employees may be retrained to work at the prisons. Treatment centers still completing conversion to prisons include Moose Lake and Faribault. Another facility available for conversion is Ah-Gwah-Ching nursing home at Leech Lake. It is older than the Brainerd facility and would require greater up-front capital investment to create 90 geriatric prison beds. The disadvantage of such conversions is that these buildings were designed for a different purpose and may require higher staffing levels, making them more expensive to operate than a new facility. Repair and maintenance costs of aging regional treatment centers are high.

As Minnesota's college system becomes more streamlined with the merger of some community and technical colleges, it is conceivable that some college buildings suitable for conversion may become available. In 1992, the federal government purchased the abandoned Waseca campus of the University of Minnesota for a prison. However, college facilities are unlikely to be suitable and cost-effective for the close-custody prisons most needed by the state. The number of prison beds that could be gained from college conversions has not been studied.

Purchase Appleton prison

The Department of Corrections has explored purchasing the privately owned Prairie Correctional Facility at Appleton, near the South Dakota border. Unlike other space options, Appleton offers the possibility of creating 192 close-custody beds, out of a total of 468 beds, if the building is modified extensively. Offering immediate crowding relief, it could be purchased for an estimated \$20 to \$28 million. The departments of Corrections and Administration estimate that it would require \$11 million in renovation to meet Minnesota's security standards, \$9.2 million to correct other deficiencies in the 4-year-old physical plant and \$1 million for start-up equipment — a total initial investment of \$41 million to \$49 million. The total initial cost would be \$88,000 to \$105,000 per bed.

Appleton offers an immediate opportunity to expand beds to meet shortages. However, it offers only 192 close-custody beds at a fairly high cost when as many as 800 such beds may be needed by 2005. Its other disadvantages are a substandard physical plant, considerable capital costs and a fairly remote location accessible only by two-lane highways passing through many small towns, presenting a security risk in transporting prisoners.

Expand existing facilities

Expanding existing correctional facilities can be cost-efficient in some cases. Some efficiencies may be gained in management staffing and support service units. In other cases, however, expansion of very old facilities may be more costly than building a new facility. Beyond a point, not only bed space but core areas for food service, programming, visiting and mechanical systems must be expanded. Corrections officials point out that Stillwater prison, for example, could not add more beds without expanding core support facilities. Little comparative data is available on the costs of expansion versus new prison construction.

Minnesota has many minimum-security space options and adequate medium-security beds, some of which are housing close-custody prisoners. The priority at this time is to obtain more close-custody beds to handle the increase in violent criminals, but corrections officials cite numerous barriers.

Officials have proposed a \$9.4 million 60-bed expansion into the earth-sheltered side of Oak Park Heights prison, but the \$156,000 cost per bed is high.

Some existing facilities are nearing the point where they will need major repair or renovation. Stillwater prison is 80 years old and St. Cloud is 106 years old. Stillwater has already doubled its population of 25 years ago. It lacks space for expansion inside the walls and a proposal for expansion outside the walls could have difficulty getting community support, with two major prisons already in the immediate vicinity.

In St. Cloud, expansion within the walls would require the addition of costly program space; expansion beyond the walls would also require expensive construction to break through the massive granite wall perimeter.

The Department of Corrections has determined that an 800-bed expansion at either Stillwater or St. Cloud

would not be cost-effective but believes that smaller expansions, perhaps adding up to 400 new beds in total, could be explored. The most feasible expansion would be the construction of a close-custody prison on state lands just south of the St. Cloud prison. Clustering the new facility with the existing prison would permit economies through shared management, transportation and other support services.

Use barracks

Another approach, as yet untested, to meeting minimum-security space needs through multiple occupancy would be leasing warehouse space and outfitting it with bunks and surveillance equipment to serve as barracks. The barracks would be bare-bones, short-term holding areas for selected inmates returned from supervised release, probation revocation, short sentences or work release. Daily costs per inmate are estimated at about \$55, and initial building conversion costs would be low. In-house programming would be minimal, since residents would be temporary and many would be out of the building during the day for work or other programs.

Since no such facilities exist in Minnesota, no data is available on recidivism rates or effectiveness. A pilot barracks program would help provide better information on actual costs and feasibility.

PREVENTION STRATEGIES

Investing in measures to prevent young people from entering the criminal justice system in the first place is a long-term strategy that has become popular with many policy-makers. The concept of prevention is that investments made in early childhood education, kindergarten-through-12th-grade education, youth enrichment programs for adolescents and similar efforts will result, over the long run, in fewer people being sent to prison. Since the per-person cost of prevention investments generally are far less than the costs of building and operating prisons, the strategy is seen as a cost-saving measure over the long term.

Minnesota has a pattern of investing in prevention-oriented programs. Minnesota is one of only a handful of states that uses state dollars to supplement federal funds for Head Start programs, for example.

Better data is needed, however, to document the link between spending on prevention initiatives and future

corrections cost savings. For example, among Minnesota prison inmates, the high school dropout rate is 55 percent, more than five times the rate of the general population. A 1991 study by the Minnesota Citizens Council found a high correlation between dropping out of school and ending up in prison. This would suggest that programs that prevent young people from dropping out of high school may also be effective in preventing them from becoming prison inmates. However, there is a lack of data measuring the effectiveness of various approaches to preventing students from dropping out of high school.

Even if such performance- and outcome-based data were available, some factors influencing potential future cost savings are unpredictable. For example, the family of an at-risk child who has benefited from prevention-oriented programs may move out of state before the potential corrections cost savings are realized. Mobility between states has a significant impact on Minnesota's criminal justice costs. About 15 percent, or 613 inmates in Minnesota correctional institutions had lived in Minnesota for less than two years, according to a 1994 Corrections Department study.

Another barrier to relying solely on prevention to combat prison overcrowding is the long-term nature of the strategy. If, for example, enrolling young children in programs like Head Start means that they will be less likely to commit crimes when they are older, the potential cost savings does not occur until 15 to 20 years after the investment is made. That is far beyond the state's budget cycle.

From a budget standpoint, however, it is clear that continually escalating spending for prison construction and operation could, in the long run, reduce the share of state funds available for investments in early childhood and after-school programs, services to troubled families, education and youth diversion programs.

COST-SAVING OPTIONS

Several other options exist that do not free up beds but may save costs. Contracting for privately managed prisons is one such option, but because private prisons are so new, their track record is limited. Ways to free up corrections resources, such as reducing prison per diem costs where possible, also can help ease Minnesota's prison pressures.

Contract for private management of prisons

Competitive contracting offers the possibility of meeting the space shortage and lowering costs. The Brandl-Weber report, *An Agenda for Reform*, projected total savings of \$29 million over five years if the state contracted for private management of 500 prison beds in a privately owned medium-security facility and 300 beds in a state-owned minimum-security facility.

Private management of prisons is growing at a rate of 35 percent a year nationally. Eighteen for-profit companies manage 90 federal and state prisons, or 6 percent of all prisons in the country. Eighty percent of the 65,000 privately managed beds are in state prisons, but many of these are at lower-security levels. About half of all states allow for private prison contracts in statute. Leading states with private prison contracts are Texas with 33 facilities and Florida and California with seven each.

Competitive contracts can take four forms: private ownership and management of facilities, management of state-owned facilities, provision of support services to prisons and provision of nonprison intermediate penalties and services. Minnesota has used the latter two forms of contracting and is exploring the possibility of contracting with the private Appleton prison. While Minnesota law allows contracting with privately owned facilities, it does not authorize contracting for private management of state-owned facilities.

The Department of Corrections spent 8 percent, or \$18.1 million, of its total 1995 budget on private and public contracts for support and community-based services. The largest contract areas were for inmate medical services, \$7.9 million; inmate education, \$2.3 million; work release, \$2 million; inmate housing, \$1.8 million; residential supervised release, \$1.1 million; and food services, \$1 million.

The potential for cost savings through competitive contracting needs more analysis. Privatization is worthwhile only if it provides adequate service at less cost. Legal and security concerns also must be considered because the state is charged with protecting the safety of the public and the rights of offenders. Prime opportunities for expanded competitive contracting lie in support and community-based services, and possibly the operation of minimum- or medium-security facilities. Corrections professionals consider the private operation of maximum- and close-security facilities difficult and risky and advise against it. Managing pris-

ons privately in states with strong labor unions is difficult and can lead to lawsuits.

To explore the potential for privatization, Minnesota could contract with the Appleton facility or solicit competitive bids for minimum- and medium-security facilities on a pilot basis, as recommended in the Brandl-Weber report. Limiting contracts to five years or less would encourage contractors to meet state standards and maintain competitive prices. Contracts currently are limited to a two-year biennial period.

Reduce per diem costs

Reducing the costs of housing prison inmates would not solve the bed shortage, but it could free resources to purchase more beds. Pressures to cut per diem costs will mount as the inmate population grows. Labor costs comprise 75 percent of the budget for correctional institutions. This has made Minnesota's prison per diem costs, at \$82, among the highest in the country even as its total per-citizen correctional system costs are second-lowest. This year, the Department of Corrections has reduced medium-security per diem costs to offset budget shortages for 1997, saving \$9 million.

Age and design of the facility seem to have the most impact on per diem costs. Two of Minnesota's oldest prisons, St. Cloud and Stillwater, appear to provide the best bargain, at \$71 and \$62 per day, while the newest facilities have the highest per diem costs — Shakopee, Oak Park Heights and the proposed Rush City facility.

Per diem costs range from a low of \$62 at the Stillwater close-custody prison to \$113 at the relatively new Oak Park Heights maximum-security facility and \$121 at the recently expanded Shakopee minimum-security women's prison. Some lower-security facilities cost more to operate than higher-security ones.

Two approaches are available to reduce overall prison operating costs without examining specific budget items — funding daily costs per inmate by security level or setting spending caps for corrections.

Fund per diem costs by security level

The Legislature appropriates corrections funds based on the cost of operating prison buildings and programs, not on per-inmate costs. A capitation approach, in which funding is allocated based on costs per inmate, could have the effect of increasing flexibility and reducing costs.

Under such an approach, a fixed per-inmate funding level would be established for each security level, graduated from minimum security up to maximum security. Each facility would have to operate within the funds generated by the formula, based on inmate population.

The Corrections Department would be given the freedom to find the best, most economical locations to house its various levels of inmates through its institutions and other available options. Institutions with cost structures higher than the allowed amounts would have to adjust or close. Space shortages created by growing offender populations could be met by seeking proposals from public, nonprofit or private entities to contract for space for inmates, within the per capita limits.

Determining the feasibility of a capitation approach would need more detailed analysis. A transition period likely would be needed to make the shift from the current practice of institution-based budgeting. Capitation would have the benefit of rationalizing and capping unit costs, and of stimulating more flexibility in finding space for growing inmate populations. On the other hand, it could create new spending obligations based on increasing numbers of inmates. Incentives for use of cheaper nonprison penalties might be needed.

Budget caps

A second approach to containing spending is to establish budget caps for correctional spending in future budget periods. With inflation and growing inmate populations driving up budgets, spending caps would put the onus on the Department of Corrections to decide how to cut costs.

Spending caps are in use for kindergarten-through-12th-grade education and human services programs. Some policy-makers argue that it is inconsistent to cap school spending while not applying the same discipline to corrections and other areas.

Corrections philosophy

Overall, Minnesota's corrections cost are low, compared to other states. Minnesota spends a smaller proportion of its state budget on corrections and is third lowest in the nation in spending per citizen on corrections institutions.

At the same time, however, the per-inmate costs per day of incarcerating a prisoner in Minnesota are among

the highest in the country. Only six states have higher per diem costs, according to a 1995 ranking.

A number of factors affect Minnesota's daily cost per inmate. First, Minnesota has the highest percentage of maximum-security and close-custody inmates of any state, at 46 percent. Maximum-security and close-custody institutions generally are more expensive to run because they require individual cells for inmates, higher staffing levels and other intensive security measures.

Minnesota correctional salaries are high when compared to other states. According to a 1994 study, an entry-level prison guard in Minnesota is paid \$25,307 per year, 12th highest of all states and above the national average of \$21,589 per year.

Minnesota also provides education, training and occupational programs to long-term inmates in the belief that such programs will keep inmates occupied while incarcerated and reduce their likelihood of returning to prison once they are released. Reducing institutional programming could be an option to reduce corrections costs. However, benefits must be weighed against the possibility of higher recidivism rates and greater risk of violence to staff and inmates.

CHOICES FOR POLICY-MAKERS

Minnesota policy-makers have several choices for dealing with the growing prison bed shortage and the pressure to build new prisons. In 1996 dollars, each new 800-bed prison will cost between \$80 million and \$100 million to build and almost \$25 million annually to operate. Six types of choices are outlined below:

Continue current policy direction

Under this option, current laws and sentencing practices would remain in place, and the pattern, established over the past 10 years, of toughening criminal penalties would continue.

The result would be that, in addition to the new 800-bed prison which will open in 2000, another new 800-bed prison or the equivalent number of beds would be needed by 2005. Also, more new prisons likely would be needed after that, depending on the demand for beds created by enhanced criminal penalties. Passage of a "three-strikes-and-you're-out" law would require construction of between one and five additional prisons over the next 40 years, beyond the 2005 prison. Corrections costs also will continue to

consume a growing share of the state budget, leaving a smaller portion for other priorities such as education and health care, unless taxes are increased.

Maintain current laws, do not increase penalties

Under this option, current laws and practices would be kept in place, but criminal penalties would not be increased beyond current levels for at least the next five years. A hold-the-line approach to adopting new or tougher criminal penalties would mean that in addition to the new 800-bed prison, which will open in 2000, a second new prison will be needed in 2005, unless short- and long-term space options were aggressively pursued. Making maximum use of all available space options and expanding the use of nonprison penalties could allow the second prison to be delayed.

Expand community-based intermediate penalties and aggressively pursue space options

This option would require some legislative changes to give corrections officials more flexibility to use nonprison options for low-risk inmates. However, the estimated pool of 300 to 600 inmates suitable for intermediate penalties is not large enough to make it possible to avoid the need for an additional prison in 2005, unless short- and long-term space options were pursued at the same time. For this strategy to delay or eliminate the need for a new prison in 2005, the Legislature also would need to avoid adopting any substantial increase in criminal penalties.

Adjust sentencing policies

Adopting the two-part proposal of the Sentencing Guidelines Commission could save 270 to 470 prison beds annually. If combined with policy actions that reduce the demand for prison beds or add space through leasing or expansion, it could avoid or delay the need for an additional prison in 2005.

Aggressively pursue options to trim prison costs

Contracting for private management of prisons, reducing daily costs per inmate or changing corrections philosophy could have the effect of lowering the cost of prison somewhat but would not reduce the need for

additional prison beds. Potential cost savings must be weighed against the possibility of higher recidivism rates and greater risk of violence to prison staff and inmates.

Invest in prevention

While prevention strategies will not affect the need for new prisons in 2000 or 2005, they could have a significant impact on corrections costs beyond that time. Better data is needed to document the link between future corrections cost savings and current spending on preventative programs.

FARSIGHTED APPROACH NEEDED

A disciplined, long-term approach to integrated state and county planning for correctional space is needed to reduce future construction and operating costs. Up to now, prison expansion has been essentially reactive and will continue to be so unless long-term planning efforts are undertaken. Such piecemeal expansion — particularly converting existing, older facilities scattered around the state — is likely to result in higher operat-

ing costs in the long run. Long-term integrated planning could reduce future operating costs by encouraging clustering prisons with shared administrative services and support. Multiple prison units of various security levels could be built together, with units added as needed.

A statewide criminal justice information system, as recommended by the Brandl-Weber report, *An Agenda for Reform*, would support this joint planning. Better information is needed on the use, safety level and costs of community-based penalties, as is improved cost-accounting data from jails.

Minnesota faces difficult choices in dealing with the growing demands on the correctional system. There is no single solution, no magic bullet. And all of the choices come with a price tag.

In the long run, preventing crime through supporting services to children and troubled families, education and youth diversion programs may prove to be the best investment. In the short term, however, other steps must be taken if Minnesota is to avoid the need to keep building new prisons.