

SURJ is a statewide initiative to seek reforms within the criminal justice system, and to attack the causes of crime



**Stand Up
For What's
Right and Just**

SURJ

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EXECUTIVE COORDINATOR'S WELCOME

One of our most important tasks is to inform our membership. We have been visiting with the data experts both in government and from academic circles. Mastering the data is proving a challenging task. Recent learnings include that the First State, ranks:

- ❑ 12th highest for prison incarceration rate (493 per 100,000 in prison for a year or longer sentence);
- ❑ 34th on the annual Kids Count ranking on well being of children

by the Annie E. Casey Foundation.

Our data section is very much a "work in progress". Please take a look at the website, www.surj.org. for additional information that has been posted. We are now able to update our website information frequently. Please visit often and give us feedback on the newsletter, the information on the website, and suggestions for making our commitment to providing information stronger as we go forward. You can email me at teichler@surj.org, call at 302 426 9252, or write. -Tom Eichler

IMPORTANT END OF SESSION GOVERNOR'S MESSAGE...

"The changes we made to the mandatory minimum sentencing law may turn out to be the most significant law enacted this year. By giving our judges the discretion to handle non-violent drug offenders outside prison walls and through educational and rehabilitative programs, the citizens...will gradually see a huge reduction in the costs of incarceration. It will also allow many non-violent offenders another chance at becoming productive, tax-paying members of our society. The cost savings realized from this measure will help us maintain the pay raises we gave our corrections and public safety officers."

-Gov. Mike Foster, State of Louisiana

The new law passed in June **wipes out mandatory jail time for non-violent criminals**, giving judges the option of offering probation or suspending sentences and is estimated to **save the state \$60 million a year in prison costs.**

SURJ POSITIONS

SURJ has been hard at work since our May report. The Executive Committee, our policy setting body, has taken action of recommendations that have come to it from our working committees:

- ❑ SURJ has endorsed Senate Bill 100, Senator' McDowell's hand gun loophole bill, as have a growing coalition of other organizations concerned to enhance safety in our communities;
- ❑ SURJ has passed a resolution calling for criminal justice data to be made available to the media, consistent with protecting personal confidentiality.

Full text of these SURJ actions can be found on our website, www.surj.org.

FROM THE COURT HOUSE

UPDATE - Chief Justice Veasey Champions Speedy Trails

In our May newsletter we reported on Chief Justice Veasey's commitment to speedy trials for detainees in Delaware. The Court's standard is that 90 percent of cases will reach trial within 120 days of arrest. The experience as reported to Chief Justice Veasey in a November report has been that 50.3 percent of the cases actually reached this target in 1999. **Updated data** obtained by SURJ through **November 2000 shows slight improvement with 52.8 percent meeting the standard** in the first four months of fiscal year 2000.

Justice Walsh is chairing the committee appointed by Chief Justice Veasey to improve performance on the speedy trial standard. The committee is now hard at work. A key requirement is automated case reports that meet the various needs of the courts, prosecutors, and defenders. At it July 12 meeting the Committee received good news from Court administrative staff indicating "We conclude that establishing a statewide *pretrial*

Detentioners Report is feasible given what has been requested. Required data elements exist in the various databases, and those elements can be pulled...into one report..."

Accomplishing this, and being able to do it without embarking on a major replacement system is very promising in keeping to Chief Justice Veasey's deadline of December 1 for a final report from the committee, to be followed by a new Administrative Directive aimed at lowering pretrial populations within the subsequent 90 days. We will continue to report on the performance data and on the committee's progress toward a set of recommendations due later this year.

SENTAC TO TAKE UP EVALUATION OF CRIMINAL JUSTICE SYSTEM

Last year the General Assembly voted to request the State's Sentencing Accountability Commission, chaired by Judge Geblein, to report to it in January 2002 regarding the State's "truth in sentencing laws". An appropriation was made to

finance the analysis this major task requires.

For reasons which remain obscure, the study has not gotten underway, but in the just passed State budget bill the funds originally appropriated for the study have been re-appropriated and a new report deadline of October 31, 2002 has been set for the report to reach the General Assembly - a 10 month delay. The data to be developed by *SENTAC* is key to understanding current sentencing practices, including the impact of minimum mandatory sentences.

The *SENTAC* Research Plan developed in response to the General Assembly's mandate for this report includes looking at several very important issues:

- ❑ recidivism from Corrections substance abuse treatment programs;
- ❑ analysis of time inmates await access to treatment programs;
- ❑ detentioner study, including the use of bail and failure to appear rate;
- ❑ study of consistency of statutory penalties;
- ❑ violation of probation study; and

- evaluation of the impact of mandatory sentences on prison population.

SUPERIOR COURT AMENDS RULE 11

Delaware's court practice governing plea bargains became quite different on July 1st based on an order the Superior Court issued May 15th amending its Rules of Criminal Procedure. Previously, plea bargains, which included the length and type of sentence, reached by a deputy attorney general and the defense attorney, often a public defender, had to be accepted by the trial judge without modification. By deleting several sections of its Rules, the Court has restored discretion to the trial judge to accept, modify or reject the length and type of sentence reached in the plea agreement.

Speculation abounds among he experts regarding the impact of this sudden change – whether it will result in reluctance of defendants to reach plea agreements, whether it will result in more cases going to trial (only about 4% do today), whether it will lengthen the already over standard average detention time, and/or whether fewer drug charges with minimum mandatory sentences will be pled down to a lower charge. But clearly this is an action, taken unanimously, by the **Superior Court Judges to regain a degree of discretion in sentencing.** Restoration of discretion for judges as an alternative to minimum mandatory sentences is a key SURJ goal.

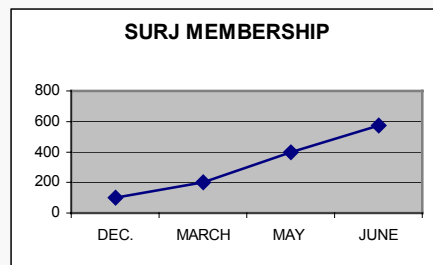
NEW IDEA COMES TO TOWN

Philadelphia Police

Commissioner John Timoney presented a provocative address at the annual meeting of the Delaware Center for Justice on June 1, 2001. In an address titled "Creating Safer Communities Through Innovation and Collaboration", the Commissioner shared with the Delaware audience steps being tried in Philadelphia to steer nonviolent criminals into rehabilitation programs, rather than into incarceration. Drug offenders are being given the option of going into drug treatment rather than being arrested. More than 500 clergy members have been trained to work with Philadelphia police in offering on the spot alternatives to offenders picked up on narcotics sweeps. A similar approach is being tried for

MEMBERSHIP NEWS...

Without members, SURJ is only a think tank. With a growing member base we have the ability to share our findings and recommendations for improvements for Delaware's criminal justice system with a wide audience, sparking a healthy dialogue for change. At our June retreat, the Executive Committee set an objective of "2002 members by 2002". Our member rolls now number **574 members, up 174 members since our May newsletter.** Membership chairman Dale Wolf is organizing outreach activities to approach various segments of the Delaware community.



SURJ members in Kent County under the leadership of Ellen Wasfi are inviting others to join the growing coalition by contacting leaders from the business, government, academic, and the faith community to meet personally around informal lunch sessions. Ellen sees her SURJ commitment and her leadership for developing the study circles in conjunction with the YWCA as a great way to demonstrate the coalition approach to community development.

Members who would like to actively work on the membership initiative are invited to contact us at the SURJ office, **302 426 9252**, or by email at teichler@surj.org. Kent County SURJ members can just contact Ellen at **302 743 1545**, or by email at ewasfi@aol.com. Members who would like to have a supply of our materials to aid in recruiting can give us a call. New members can also sign up at our website, www.surj.org. If each of our members will encourage three others to join we will meet our objectives that much sooner, and thereby advance the dialogue.

juveniles involved in car theft. The Commissioner indicated that it's too early to tell if these approaches will prove successful, but he is committed to taking some chances on alternatives outside the criminal justice system. In the case of drug users, the alternative is to repeatedly arresting them and sending them to jail.

SURJ LEADER NATIONALLY RECOGNIZED

Marlene Lichtenstadter, Chair of the Delaware Board of Parole and Chair of the SURJ Conditions of Confinement Committee was recognized by the Association of Paroling Authorities, International as the recipient of their Vincent O'Leary Award for 2001. The Vincent O'Leary Award recognizes a person for their contribution to the organization (APAI) and commitment to parole. Marlene is a longtime leader in APAI as well as presently serving a term on the Board of Governors of the American Correctional Association. Marlene is using the national perspective which these leadership posts afford to identify best practices for SURJ recommendations for improvement of Delaware's criminal justice system.

SURJ LEADER RECOGNIZED BY DELAWARE BAR

Judy Mellen, just retired Director of the Delaware Chapter of the American Civil Liberties Union, was recognized by the Delaware

Bar Association as the recipient of their Liberty Bell Award given to a non Bar Association member in recognition for outstanding service to the community. Judy's leadership in the transformation of The Ferris School for Boys was cited in making the award. Ferris School was the subject of an ACLU suit, which was ultimately resolved by consent agreement with the State. Ferris has gone on to become a national model in secure care for juvenile offenders. Judy has continued to stay involved in with Ferris School management, encouraging continuous improvement for a program serving some of Delaware's most troubled youth. Judy is also co-chair of the SURJ Conditions of Confinement Committee.

SHOVELING UP: THE IMPACT OF SUBSTANCE ABUSE ON STATE BUDGETS

A provocative national report was published in January by the National Center on Addiction and Substance Abuse directed by Joseph Califano at Columbia University. The report resulted from an exhaustive study funded by several foundations and the National Institute on Drug Abuse and the National Institute on Alcohol Abuse and Alcoholism.

Calling itself a "clarion call for a revolution in the way governors and state legislators think about and confront substance abuse and addiction", the study found

that 13.1 percent of state budgets are spent to deal with substance abuse and addiction. Of this expenditure, only 4 percent is used to prevent and treat substance abuse, 96 percent goes to "shoveling up" the wreckage of substance abuse.

States that want to reduce crime, slow the rise in Medicaid spending, move more mothers and children from welfare to work and responsible and nurturing family life must shift from shoveling up the wreckage to preventing children and teens from abusing drugs, alcohol and nicotine and treating individuals who get hooked.

According to the report "The next great opportunity to reduce crime is to provide treatment and training to drug and alcohol abusing prisoners...". The report finds that "...state spending on children is the cruelest misallocation of taxpayer funds. We know that a child who gets through age 21 without smoking, abusing alcohol or using illegal drugs, is virtually certain never to do so...in the face of this knowledge, states spend 113 times more to shovel up the wreckage of children savaged by substance abuse...than they spend to encourage children to stay away from these substances..."

The exhaustive study was based on a detailed survey provided by state budget offices, including Delaware's. Delaware's data places the State on the top of the list in

many categories. For example, Delaware is third in the percentage of every \$100 dollars spent on Substance abuse going to prevention, treatment, and research at \$6.27 compared with national average of \$3.70. Substance abuse represents 10.2 percent of Delaware's budget, compared with 13.1 national average. Of this \$31.34 is for prevention in Delaware. Only the District of Columbia ranks higher. The report indicates that Delaware spent \$367,591,000 in FY98 dealing with substance abuse, or \$500 per capita, placing Delaware third highest. Of this amount, 94 percent is still paid to "shovel up" the consequences of substance abuse in such areas as corrections, the courts, health, mental health, public safety, education, and welfare.

The report calls for **targeted investments** in prevention and treatment:

- ❑ prisoners with substance abuse problems (estimated to be 81% of inmate population);
- ❑ clients of the mental health system who have substance abuse issues;
- ❑ parents of children in foster care;
- ❑ individuals in the welfare system with substance abuse issues;
- ❑ youth in juvenile justice system with abuse problems (estimated to be 66.3% of that populations);
- ❑ children of adults in criminal justice system

with substance abuse problems:

- ❑ children of substance-abusing welfare recipients;
- ❑ substance-abusing pregnant women and their partners; and
- ❑ alcohol and drug-involved motorists.

While Delaware looks favorable compared to other states, the message is the same for all; we are investing state resources at the backend, "shoveling up" rather at the front to minimize the impact of substance abuse and addiction.

This report can be read on line at www.jointogether.org

OFF BALANCE: YOUTH, RACE AND CRIME IN THE NEWS

"Off Balance: Youth, Race and Crime in the News" concludes that if news audiences take crime coverage at face value, they are likely to believe—falsely—that most crimes extremely violent, the perpetrators are black, victims are white and young people are dangerous.

The study was commissioned by Building Blocks for Youth, a coalition of child advocacy groups, and was prepared by the Berkeley Media Studies Group and the Justice Policy Institute.

"It is not just that African Americans are over-represented as criminals and under-represented as victims, or that young people are over-represented as criminals, or that violent crime itself is given undue coverage," the

study concludes. "It is that all three occur together, combining forces to produce a terribly unfair and inaccurate overall image of crime in America."

Homicide Coverage on network news increased a striking 473 percent from 1990 to 1998 while homicides dropped 33 percent, the report found, stressing that minorities, especially blacks, are disproportionately portrayed as perpetrators of crime. More on the report can be found at www.buildingblocksforyouth.org

NEWS ITEMS FROM ELSEWHERE...

Proposals from conservative Republicans Gov. Pataki (R-**New York**) and Gov. Gary Johnson (R-**N.M.**) include changing their states' drug policies and penalties by incorporating more treatment. **Idaho** Gov. Dirk Kempthorne, noting that 95 percent of the prison population will be released someday, has indicated that "We are not going to warehouse people. In Idaho, we are going to build lives, not prisons...we will go from treating 30 percent of the inmates to 80 percent". **Nebraska** has allocated an additional \$91 million in general funds and tobacco settlement dollars to substance abuse and mental health treatment. For more information go to: www.jointogether.org

Goals of SURJ

- Changing sentencing laws and procedures;
- Ensuring that a continuum of care and treatment, both clinical and social, is available in the corrections system for alcohol and drug abuse, and for the mentally ill—and within the community as well;
- Reducing jail time for defendants who are awaiting trial;
- Supporting the victims of crime, including not only those harmed by the crime but also their families and neighborhoods;
- Attacking the causes of crime by rejuvenating distressed neighborhoods and broadening access to education, jobs and training for their residents.



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NEW FEATURE
DELAWARE CRIMINAL JUSTICE 101

The first of a series of reports on the basic dimensions of justice and community well being. This issue focuses on the criminal justice system. Visit our website for more information, www.surj.org

PRETRIAL DATA

In 1999¹ Delaware had:

- ❑ 32,606 adult criminal arrests²
- ❑ 15,355 detainees admitted to DOC³
- ❑ 1,203 detained persons on 6/30/99⁴
- ❑ 510% increase of detainees from 1981 to 1999⁵

“Speedy Trial”

Superior Court should dispose of 90% of criminal cases within 120 days of arrest⁶:

- ❑ In 1999, 7,767 total cases disposed of:⁷
50.3%–3,908–reached disposition within 120 days; 49.7%–3,859–did not.
- ❑ In 2000, 7,976 total cases disposed of:
52.8% –4,214–reached disposition within 120 days; 47.2%–3,762–did not.

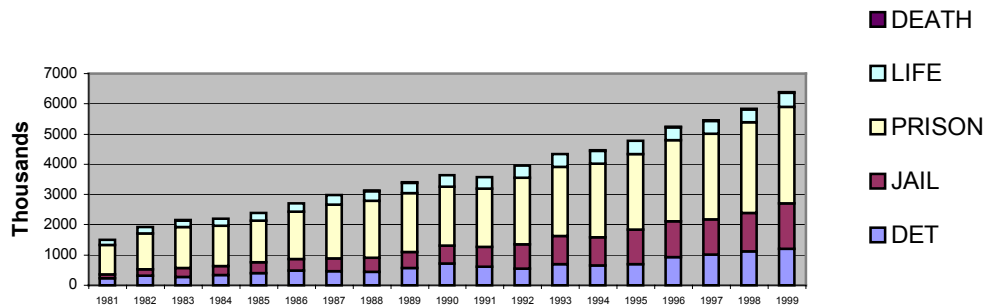
INCARCERATED POPULATION

Delaware’s incarcerated population increased dramatically from 1981 to 1999⁸:

- ❑ Total population increased 409 percent: 1,561 to 6,382.
- ❑ Detainees increased 510 percent: 236 to 1,203
- ❑ Those sentenced to jail⁹ increased 845 percent: 177 to 1,495.
- ❑ Those sentenced to prison¹⁰ increased 321 percent: 1,148 to 3,684.
- ❑ In 1986, Delaware had the 2nd highest incarceration ranking in the country¹¹ with a rate¹² of 281; in 1999 Delaware had the 12th highest ranking,¹³ with a rate of 493.

That’s Right, Delaware’s incarceration rate increased 75 percent

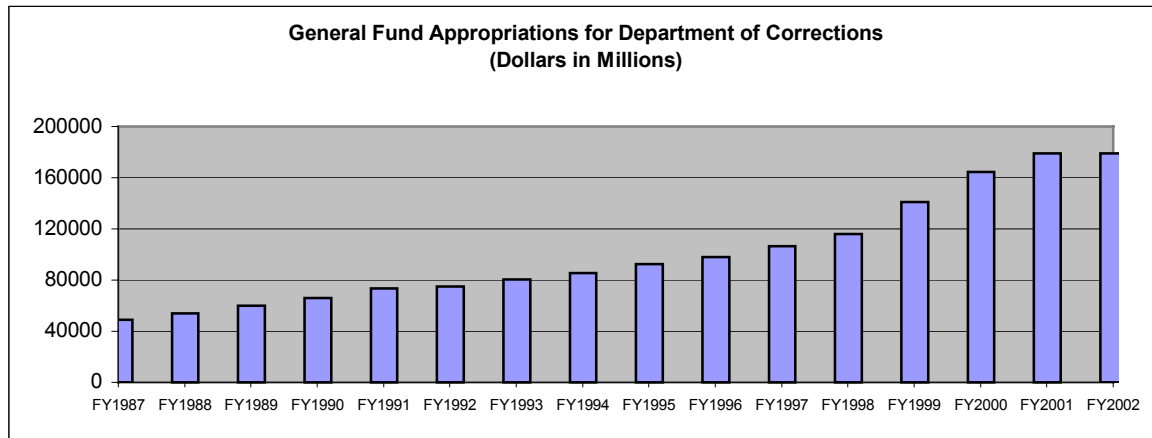
TOTAL DOC POPULATION ESTIMATES 1981-1999 (JUNE 30)



Note: 1999 Jail and Prison numbers exclude Level IV Supervised Custody counts due to the large number of Home Confinement cases. They do include Level IV offenders held at Level V, housed at work release and the VOP center.

INCARCERATION EXPANSION AND COSTS ARE STAGGERING

- ❑ The cost of incarceration is about \$24,500 per inmate.¹⁴
- ❑ The largest prison expansion in state history is nearing completion, adding more than 2,650 beds at a cost of over \$180 million.¹⁵
- ❑ The DOC estimates a need for 4,000 more beds by 2010 if sentencing practices do not change.¹⁶
- ❑ The DOC budget increased 367.9% from FY1987 (\$49,119,800) to FY2002 (\$180,693,500).¹⁷
- ❑ The DOC percentage of state appropriations increased from 5.29% in 1987 to 7.85% in 2002.¹⁸



NOTES

1. Year for most recent quality checked data from the Statistical Analysis Center(SAC).
2. Crime in Delaware 1999, Statistical Analysis Center, Sept.2000 p. 39.
3. 4/23/01 Statistical Analysis Center memo Subj; "First Cut"of Criminal Justice System Information.
4. Ibid.
5. Calculation using data, ibid.
6. Final report: Committee on Speedy Trial Guidelines, November 1, 2000, p.4.(Administrative Directive Number 82)
7. Cases disposed of and numbers and percentages disposed of from Court Administrator and Case Scheduling Offices, Superior Court; Administrative Office of the Courts.
8. 1981-1999 data from 4/23/01 SAC memo (on June 30).
9. Sentenced to one year or less
10. Aggregates prison, life, and death numbers from 4/23/01 SAC memo.
11. Bureau of Justice Statistics; DeISAC DOC Incarceration Factbook , after data corrections, found Delaware to have the 5th highest ranking in 1986, at 309.
12. Number of prisoners with sentences greater than one year per 100,000 residents.
13. In 1999, the Bureau of Justice Statistics and the DeISAC DOC Incarceration Factbook agreed on rate and ranking.
14. Statement of Commissioner Taylor at public meetings in 2001.
15. From "Correction 38-00-00" budget document (FY 2001)
16. From "DOC FY2002 Recommended Operating Budget" Joint Finance Presentation (Feb.8,2001)
17. Budget office data and calculations using this data.
18. Budget office data.