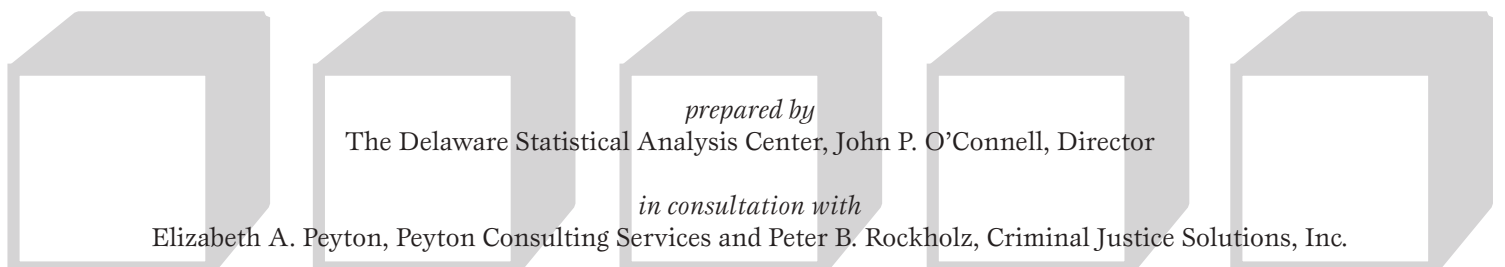
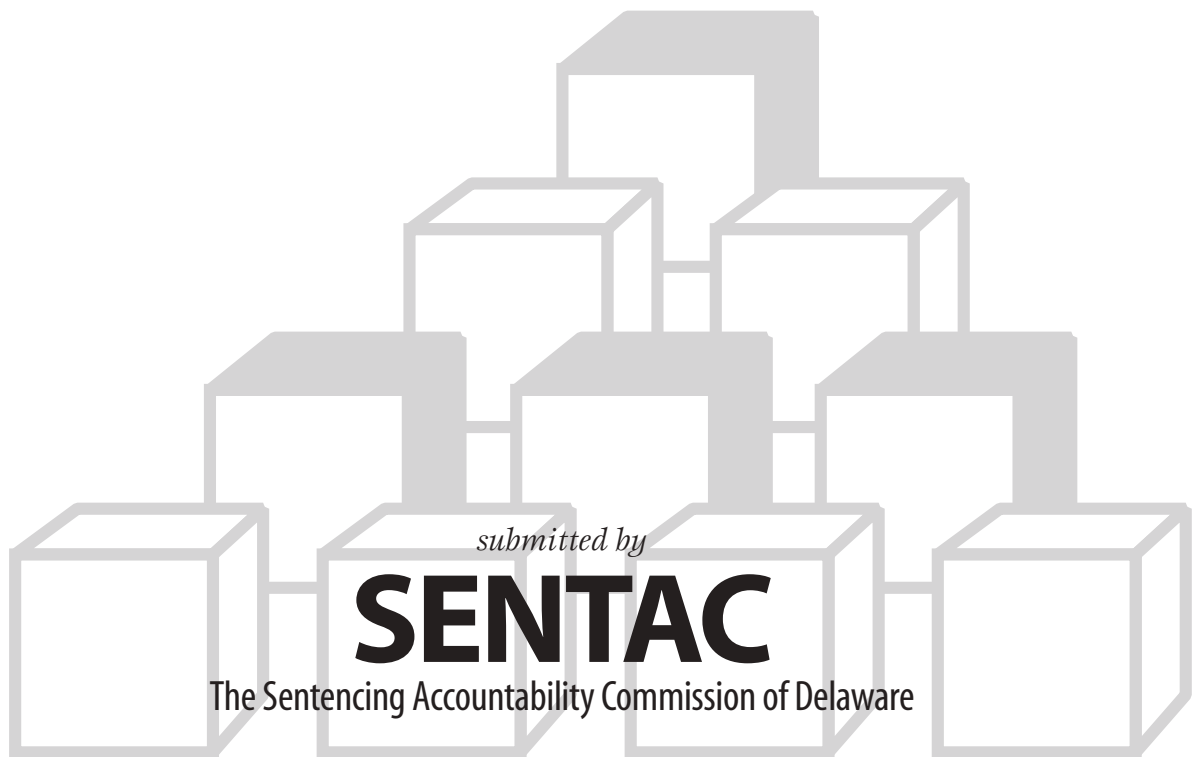


A Report to the Joint Finance Committee of the Delaware General Assembly

Sentencing Trends and Correctional Treatment in Delaware

April 10, 2002



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of the
Delaware General Assembly

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submitted by

SENTAC

The Sentencing Accountability Commission of Delaware

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I would be remiss if I did not also extend a thank you to the members of the Joint Finance Committee of the General Assembly, the Office of the Controller General and the Office of the Budget, who made this work possible. Additional financial support for this project came from the Edward R. Byrne Memorial Formula Grant, which is administered by the Delaware Criminal Justice Council.

Richard S. Gebelein
Chairman
Delaware Sentencing Accountability Commission

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EXECUTIVE SUMMARY

The accompanying report is intended to explain, describe, and clarify the current state of sentencing practices, population trends, and correctional treatment in Delaware. It is structured in two interrelated parts, with the first section describing sentencing patterns and overall correctional trends, and the second section presenting information related to correctional treatment. This document was prepared at the request of the Delaware General Assembly, who authorized the Sentencing Accountability Commission (SENTAC) to prepare a report on sentencing trends as well as a report comparing recidivism rates among participants of the Greentree, Key, and Crest correctional treatment programs.

SENTENCING TRENDS

The sentencing reform efforts led by SENTAC have caused sweeping changes in the administration of justice in the State of Delaware. What began as a five-step hierarchical framework for punishing offenders has evolved into a multi-layered system designed to hold them accountable as well as to foster rehabilitation.

Delaware's system reflects a comprehensive focus on offender management, and includes a number of structural and programmatic options designed to punish offenders while addressing the underlying behavioral problems associated with their criminal activity. Despite the complexities that result from integrating rehabilitative services into Delaware's punishment structure, SENTAC believes it is the right thing to do to promote individual change, reduce recidivism and protect the public.

Major findings related to overall correctional trends reveal that:

- ❑ The overall goals of SENTAC are largely being met. Superior Court sentencing patterns indicate that offenders with serious and violent lead charges receive sentences to Level V incarceration while less serious offenders are arrayed among the less restrictive—and less expensive—Levels I through IV.
- ❑ SENTAC is holding offenders accountable. In 1999, the Superior Court handled almost 70 percent more violations of probation (VOPs) than it did new charges. Growth in the VOP population has been significant, and VOPs account for the single largest source of admissions (approximately 40%) to Level V. Most of these admissions are to jail (sentences of one year or less). SENTAC anticipated growth in this population based on its focus on accountability, and these findings indicate the system is working as it was designed.

Sentencing Trends and Correctional Treatment in Delaware



- ❑ Treatment is interwoven into the structure of sanctions in all supervision levels. Judges are imposing “addiction” sentences whereby all or a portion of a Level V sentence can be suspended upon successful completion of a correctional treatment program (Key, Greentree, or bootcamp). At the end of 1999, 28 percent of the prison population was serving suspendable “addiction” sentences in Key or Greentree programs.
- ❑ The change under SENTAC has been large and rapid. The movement of offenders that occurs underneath the platform of sentencing—the “flow downs” and “flow ups” into sanctions and treatment—is a hallmark of the system. This movement among the levels is designed to gradually return offenders to productive and crime-free status in the community while preventing new criminal activity and to intercede when offenders do not comply with the requirements of supervision and treatment.
- ❑ While the overall DOC “count” population has grown substantially over the years, much of the growth has been related to increased admissions in the “detained” population (although time held in pre-trial detention has remained stable, between 25-31 days); in Level IV programs; in Level V treatment programs; and in Level V programs that are not part of the major institutional structure (boot camp). Length of stay in jail and prison remained relatively constant between 1997 and 1999.
- ❑ Although treatment slots have increased in Level IV, overall expansion of work release and other Level IV options has not kept pace. In fact, regular “non-treatment” work release has diminished in capacity. All offenders need transitional support when they are facing the critical time—the crisis—of reentering the community.

CORRECTIONAL TREATMENT

The accompanying document presents a snapshot view of comparative recidivism among the Key, Crest and Greentree programs for offenders discharged during 1999. The findings herein that relate to correctional treatment in Delaware should be considered preliminary for several reasons that are described more fully in the body of the report.

Correctional treatment in Delaware rapidly expanded throughout the 1990s. Today, the Key and Crest continuum of therapeutic community (TC) treatment includes approximately 600 institutional beds, 400 work release/Crest beds¹, and approximately 400 aftercare slots. The Greentree program expanded from about 25 residents in the late 1980s to its current capacity of approximately 175 inmates.

¹Because of the shorter length of stay, 400 Crest beds translates to approximately 800 “slots” of 6–9 months duration.

Sentencing Trends and Correctional Treatment in Delaware

Preliminary findings from this study include:



- ❑ Delaware has established a comprehensive system of therapeutic community (TC) services throughout the correctional system. Research supports this model of treatment for offenders with long histories of substance abuse, criminality, and other associated disorders.
- ❑ A continuum of treatment that begins in the prisons and transitions of offenders into the community reduces recidivism. Institutional treatment alone reduces recidivism, but results erode over time without transitional care and aftercare. This finding is consistent with other research findings that support a full continuum of treatment following release from custodial programs.
- ❑ Delaware has established a continuum of TC services to provide institutional treatment, transitional services and aftercare, a model that has shown positive outcomes in other research studies. It appears from this study that too few offenders are receiving the full benefit of this continuum. Sentencing and classification practices do not always support the utilization of the treatment continuum, and program placement appears to be driven primarily by length of time on sentences and slot availability. SENTAC will examine more closely how offenders move through the correctional treatment continuum in a scheduled follow-up study, and will recommend corrective action to support optimal use of these services.
- ❑ The programs in Delaware are treating offenders with very serious criminal histories, and any reductions in recidivism are positive. Improvements to institutional management provided by TCs may also provide collateral benefits such as reductions in violence, reduced disciplinary incidents and improved institutional control.
- ❑ Results indicate that Greentree graduates do about as well as Key graduates who do not complete Crest, but the effects of institutional treatment are enhanced if followed by transitional care in the community. In terms of arrests for violent felonies, Key/Crest graduates have the lowest recidivism rates compared to other populations. The Crest program is effective at further reducing recidivism generally for Key graduates, as well as for offenders who enter the program following incarceration or who enter as direct Level IV sentences.
- ❑ Surveillance and supervision of offenders in treatment programs, and following treatment completion, is high. The system is intervening when substance abuse or behavioral slips occur by violating probation and seeking court action. This activity promotes public safety to a much larger extent than was occurring pre-SENTAC.



RECOMMENDATIONS

Several important activities would improve the overall management of the system. A full set of recommendations is included in the attached report. Briefly, they include:

- ❑ Continued examination of the issues related to VOPs. A scheduled follow-up study by SENTAC will provide more information regarding the VOP population.
- ❑ Support of more comprehensive examination of the Level IV and Level V DOC “count” populations.
- ❑ Expansion of work release capacity in Level IV. Non-treatment work release has diminished in capacity, and all offenders need transitional support when they are reentering the community.
- ❑ Ongoing improvements in the correctional treatment continuum, including adoption of the American Correctional Association’s Standards for Therapeutic Communities and providing transitional care and aftercare for all TC graduates.
- ❑ Support of a process to re-examine the ways that offenders are placed in treatment services to support better use of the treatment continuum.
- ❑ Removal of restrictions on placing Key graduates into Crest programs at the end of their Level V sentences and other barriers that prevent full use of the treatment continuum.
- ❑ Provide SENTAC with the resources to monitor and examine the impact of these corrective actions, as well as its overall impact, on an ongoing basis.



INTRODUCTION

This report was prepared at the request of the Delaware General Assembly, which authorized the Sentencing Accountability Commission (SENTAC) to conduct a number of research studies related to correctional treatment, sentencing, and correctional trends in Delaware. A research plan was submitted by SENTAC and approved by the Office of the Controller General and the Office of the Budget, and is included as Appendix A.

Section A of the research plan called for a report comparing recidivism rates among participants in Greentree, Key, and Crest programs. Specifically, the report was to answer the question, "What are the comparative recidivism rates among Greentree, Crest and Key?"

Section D of the research plan called for a report on sentencing trends. Specific questions to be answered under this section include: "For what offenses are the offenders in the prisons?" "How long are they in the prisons?" "Are we complying with the SENTAC guidelines?"

This analysis was conducted under the auspices of SENTAC and its Sentencing Research Committee², and was carried out by the Delaware Statistical Analysis Center (SAC) in consultation with Elizabeth A. Peyton of Peyton Consulting Services, located in Newark, Delaware, and Peter B. Rockholz of Criminal Justice Solutions, located in Middletown, Connecticut.

Although these two reports have different due dates³, as work progressed it became apparent to researchers and to SENTAC that many of the findings related to sentencing trends have direct bearing on the operations and results of the correctional treatment programs. In the interest of presenting a more complete picture, this document presents findings related to *both* sentencing trends and correctional treatment in Delaware.

Additional work, some of which may have bearing on the findings and conclusions of this report, will be conducted at a later date, with reports due to the General Assembly during 2002. Significantly, research related to the flow of offenders through correctional treatment programs is due in October, 2002, and many of the findings related to recidivism in correctional treatment programs are correlated with offender movement. As such, the findings presented in the correctional treatment section of this report should be considered very preliminary.

This report is reflective of trends and patterns through calendar year 1999. As such, more current DOC population numbers should be factored into immediate policy decisionmaking.

²Members of the Sentencing Research Committee include Hon. Richard S. Gebelein, SENTAC Chairman; Hon. Stanley W. Taylor, Commissioner of Correction; and David S. Swayze, Esq., who served as Committee Chairman. Gail Riblett Rohm, Deputy Director, Criminal Justice Council, Bryan Sullivan, Budget Office, and Evelyn Nestlerode, Office of the Controller General, attended committee meetings and contributed significantly to the work.

³The report related to Section A is due on 3/31/02; the report related to Section D is due 10/31/02.

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SENTENCING TRENDS IN DELAWARE

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SENTENCING TRENDS IN DELAWARE



This section of the report is intended to satisfy the requirements set forth in the SENTAC Research Plan, Section D.

SENTENCING REFORM IN DELAWARE

In 1986, the Sentencing Accountability Commission (SENTAC) adopted the Master Plan for Sentencing Reform that was subsequently enacted by law and court rule in October 1987. This plan called for the establishment of a five-level system of graduated sanctions ranging from the most secure—Level V incarceration, to the least secure—Level I administrative probation. Associated sentencing standards and principles were developed to place offenders along the supervision continuum based upon their crimes and criminal histories. This system was designed to replace the traditional “in-out” decision by judges whereby offenders were sentenced to either incarceration or probation. The overall goals of SENTAC, as established by the General Assembly and listed in priority order, were to:

- ❑ Incapacitate the violence-prone offender;
- ❑ Restore the victim, and;
- ❑ Rehabilitate offenders.

These different levels of punishment and surveillance, referred to as “accountability levels,” were intended to allow the judiciary to reserve incarceration for the most serious and/or repetitive offenders, thereby minimizing prison costs while maximizing opportunities for rehabilitation at the intermediate levels of sanctioning.

These accountability levels are:

- ❑ **Level V—Incarceration.** 24-hours a day in a secure correctional facility. Incarceration in Delaware includes jail (sentences to 12 months or less), prison (sentences to longer than 12 months), and sentences to life or death. In 1999, boot camp was added as another Level V sentencing option⁴.
- ❑ **Level IV—Quasi-incarceration.** Sentences to Level IV are designed to provide a high level of surveillance (nine or more hours per day) in a community setting. Currently, Level IV includes halfway-house supervision, home confinement with electronic monitoring, placement in a residential treatment facility, placement in a Violation of Probation (VOP) Center, or Re-Entry court supervision.
- ❑ **Level III—Intensive Supervision.** Level III includes multiple weekly direct and collateral contacts (eight or more hours per week) between the intensive probation officer and the offender while the offender is still free

⁴Delaware has a unified Department of Correction, wherein jail, detention, prison and all community corrections programs are placed within that state agency.

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to live in the community. Level III can include requirements for day reporting, as well as intensive supervision following completion of Boot Camp. This level is supervised by probation officers who should be carrying limited caseloads of approximately one officer to 25 offenders.

- ❑ **Level II—Field Supervision.** Level II is best equated to the pre-SENTAC sanction of probation. Offenders receive one to five hours of supervision per month.
- ❑ **Level I—Administration Supervision.** Level I consists of initial reporting and a monthly review of computerized arrest records, program participation verification, and verification of payments of fines and restitution.

Figure 1, entitled *Pre- and Post-SENTAC Sentencing Alternatives*, compares sentencing options pre- and post-SENTAC.

Sentences at all levels are also designed to include conditions for victim reparation (restitution and/or community service), participation in appropriate treatment (substance abuse, mental health, domestic violence, anger control, etc.) and other rehabilitative activities such as job training, education, including obtaining a General Equivalency Diploma (GED), and requirements to obtain and maintain employment. In particular, the intermediate sanctions are intended to provide sufficient public safety and punishment through the graduated loss of freedom and strict accountability while maximizing the chance for rehabilitation.

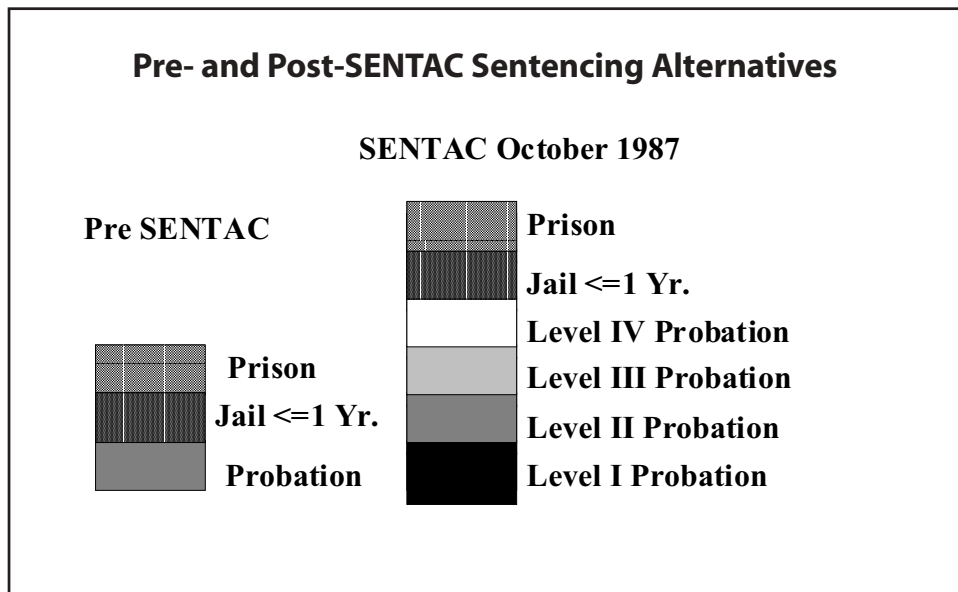


Figure 1.

Sentencing Guidelines



SENTAC established sentencing guidelines to provide a rational and equitable system for the use of the graduated sanction system. (See Table 1, entitled *Presumptive Sentencing Guidelines*.) The guidelines serve as a tool to allocate resources to incapacitate violent and recalcitrant offenders in expensive correctional facilities, and to provide strict, meaningful, and less expensive community-based options for non-violent offenders. While the guidelines are voluntary and not prescriptive, the sentencing judge is required by court rule to take them into account at the time of sentencing, and required by statute⁵ to justify departure from the guidelines by articulating aggravating or mitigating circumstances that led to the departure.

The SENTAC sentencing guidelines, which are outlined in the SENTAC sentencing benchbook, incorporate the statutory sentencing requirements regarding minimum and maximum sentences as well as the SENTAC intentions regarding graduated sanctions. Crime severity at the time of conviction establishes the ranking for the severity of punishment. Class A Felony crimes (statutes related to homicide and the most serious levels of rape) require a minimum sentence of 15 years at Level V and a maximum of life or death. Class B Felony crimes (less serious crimes involving death and rape as well as robbery, kidnapping, and selling drugs) require a minimum sentence of two years at Level V and a maximum of 20 years at Level V⁶.

Class C Felony convictions have a sentencing range of “0 to 10 years” which means one of the community graduated sanctions can be given as the sentence. However, the presumptive sentence for a Class C Felony crime is a Level V sentence of up to 30 months. Class D Felony and Felony E violent crimes also have a presumptive Level V sentence, but non-violent and less serious felony crimes and misdemeanors have a presumptive sentence for one of the graduated community sanctions. Presumptive sentences are also guided by the criminal history of the defendant.

Within these sentencing guidelines, aggravating and mitigating circumstances can play a significant role. A mitigating circumstance, mentioned on the record, may allow a Class C Felony offender to be placed in a midlevel sanction, and an aggravating circumstance can allow a misdemeanor conviction to result in a Level V sentence. When an offender is sentenced to Level V, the presumptive sentencing length is based on up to 25 percent of the maximum term, and standards for violent offenses are structured at a higher percentage of the statutory maximum.

⁵*Del. Code Ann.* tit. 11, § 4204(m)(2001).

⁶Under Delaware’s Truth in Sentencing statute, any Level V sentence that must be imposed as a statutory minimum cannot be suspended and must be served in a Level V institution. The maximum good time that can be used to reduce any Level V sentence is 25 percent, although few offenders can earn that amount.



**SENTAC
Sentencing
Guidelines
serve as a tool
to allocate
resources**

Presumptive Sentencing Guidelines

Felony A	Level V: 15 Yr. Min. Prison		
Felony B	Level V: 2 Yr. Min. Prison		
Felony C Violent	Level V up to 2.5 Yrs. Prison	Felony C Non Violent	Level V up to 1 Year
Felony D Violent	Level V up to 2 Yrs. Prison	Felony D Non Violent	Level III up to 2 Years
Felony E Violent	Level V up to 15 Mos. Prison	Felony E Non Violent	Level II up to 2 Years
Felony F Violent	Level V up to 9 Mos. Jail	Felony F Non Violent	Level II up to 21 Months
Felony G Violent	Level V up to 6 Mos. Jail	Felony G Non Violent	Level II up to 12 Months
Misdemeanor A Violent	Level II up to 12 Mos.	Misdemeanor A Non Viol	Level I up to 12 Months
Misdemeanor A Escape	Level IV up to 3 Mos.	Misd. A Order & Decency	Level I up to 12 Months
Misdemeanor B Violent	Level V up to 2 Mos. Jail	Misdemeanor B Non Viol.	Fines & Restitution
		Unclassified Misdemeanor	Fines & Restitution

Source: Delaware SENTAC Truth in Sentencing Benchbook 2001

Table 1.

Truth in Sentencing

Under Truth in Sentencing, offenders increased time served to approximately 85% of their sentences.

In 1990, the Truth in Sentencing Act was implemented. The original sentencing guidelines were constructed so that the severity of punishment and supervision would coincide with the severity of the offense and prior criminal history. However, during the early years of SENTAC, the laws allowing for use of good time credits and a parole system that could release inmates after they served as little as 30 percent of their incarceration sentence undermined the SENTAC structure and eroded fairness. For example, in 1988 serious offenders such as homicide and sex offenders served about 30 to 33 percent of their sentence while theft offenders serving shorter sentences served about 73 to 78 percent of their sentence. These variances in percentage of time served resulted in little difference in actual incarceration time despite differences in severity of crime and/or criminal history. In the early days of SENTAC a person convicted of burglary—a violent crime—served on average 1.1 years and a person convicted of theft—a non-violent crime—served on average 0.9 years⁷.

The Truth in Sentencing Act standardized the percentage of time served in a correctional facility at 75 percent of the original sentence. It also redefined and regulated good time credits and abolished parole eligibility. The result has been that the actual percentage of time served in a Level V facility ranges between 85 and 87 percent.

Although the Truth in Sentencing Act resulted in dramatic changes for bringing equity to time served, it was designed to have minimal impact on the overall incarcerated population. The Act adjusted sentence lengths for various offenses to ensure that

⁷DeISAC 1989. *Impact of Truth in Sentencing on Prison and Jail Populations.*



although the SENTAC principle of sentencing to 25 percent of the maximum term was applied, actual time served was population neutral. Time served for some of the violent crimes increased while actual time served for non-violent crimes decreased, and the population increases caused by sentencing patterns for the more serious offenders were offset by decreases in jail or prison time served by non-violent offenders.

Figure 2, entitled *Percent Time Served: Pre-Post Truth in Sentencing*, shows the average time served at Level V for pre-TIS and post-TIS populations. The top two bars indicate the average time served under TIS as well as the minimum time required to be served under TIS. The bottom three bars show the average time served for pre-TIS offenders released under good time or meritorious time, as well as the average percent time served for offenders released via parole.

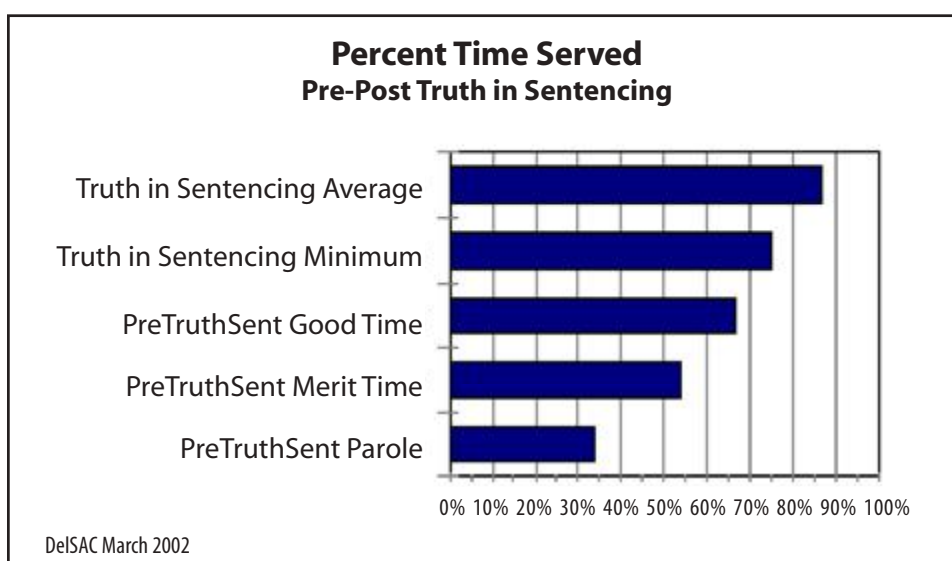


Figure 2.

SENTAC IS A PROCESS

The SENTAC system is designed to hold offenders at all levels accountable to the justice system. As such, almost all sentences call for a graduated release from supervision based on offender compliance and progress, and there is a statutory requirement that all offenders who serve a Level V sentence of one year or more receive post-release community supervision⁸. Typically, offenders sentenced to Level V (jail or prison) are required to spend time in Levels IV and III before being released to regular probation or being discharged from their obligation to the justice system. As a result of this shift, offenders in the community are under much closer scrutiny than they were pre-SENTAC. Likewise, failure to comply with conditions of lower sanction levels often results in movement up to higher levels and tighter surveillance.

⁸Del. Code Ann. tit. 11, § 4203(I)(2001).



Movement among accountability levels is designed to gradually return offenders to productive and crime-free status in the community.

Flowing Down

Most offenders are sentenced to an initial level—Level V, IV, III, etc.—and then after successful completion of that level, they “flow down” to one or more lower levels before their full sentence is completed. At each lower level the offender is expected to stay crime free, cooperate with court imposed restrictions, and follow instructions regarding rehabilitation. This process of “flow down” sentencing is designed to gradually return the offender to productive and crime-free status in the community.

Flowing Up

The system is also designed to increase supervision based on lack of progress or non-compliance. From the inception of SENTAC, Commissioners were aware that increased surveillance at the mid-level sanctions would likely result in an increase in violations. This process of tightening supervision when offenders start to slip is referred to as “flowing up,” and generally results from the recommendation of a probation officer and a ruling from the sentencing court. For instance, a probation officer reporting that an offender on Level III in an outpatient treatment program has had multiple positive drug screens could result in the court violating the offender’s probation (VOP) and issuing a new sentence to Level IV electronic home confinement, more intensive treatment, and closer monitoring to ensure that he attends his treatment program.

Guidelines for Violation of Probation

In 1991, SENTAC adopted violation of probation (VOP) standards as a means to organize the wide-ranging responses associated with violations of probation. Prior to the adoption of the violation of probation standards, some offenders who violated their probation had the maximum Level V term imposed, while others may have had their supervision increased by one level or had their conditions modified while remaining at the same supervision level. Currently, the SENTAC policy is to move an offender who violates his probation up one level of supervision, absent extenuating circumstances. Therefore, if an offender violates a Level IV electronic home confinement order, he can find himself serving a jail term of one year or less. To address the problems of violence, use or possession of weapons, and willful noncompliance with treatment conditions, an offender violating a Level III probation or even a Level II probation may, upon the violation, be sentenced to Level V.

Implementation of SENTAC Graduated Sanctions

Figure 3, entitled *SENTAC Graduated Sanctions*, shows that probation populations grew from 6,373 in 1984 to 15,545 in 1999. This represents about a five percent increase per year.

In 1999, the Level I administrative supervision population had a count of 3,870. The Level II probation population was smaller in 1999 (6,085) than it was in 1987 (8,200), reflecting in part the creation of Level I. The Level III intensive and day reporting population had a count of 6,085. The Level IV population had a count of

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1,539, and includes offenders sentenced to Level IV but held in a Level V major institution (311), Level IV offenders at Work Release facilities (including those in Crest treatment programs (675), and Level IV offenders on electronic home confinement or in the supervised custody program (553).

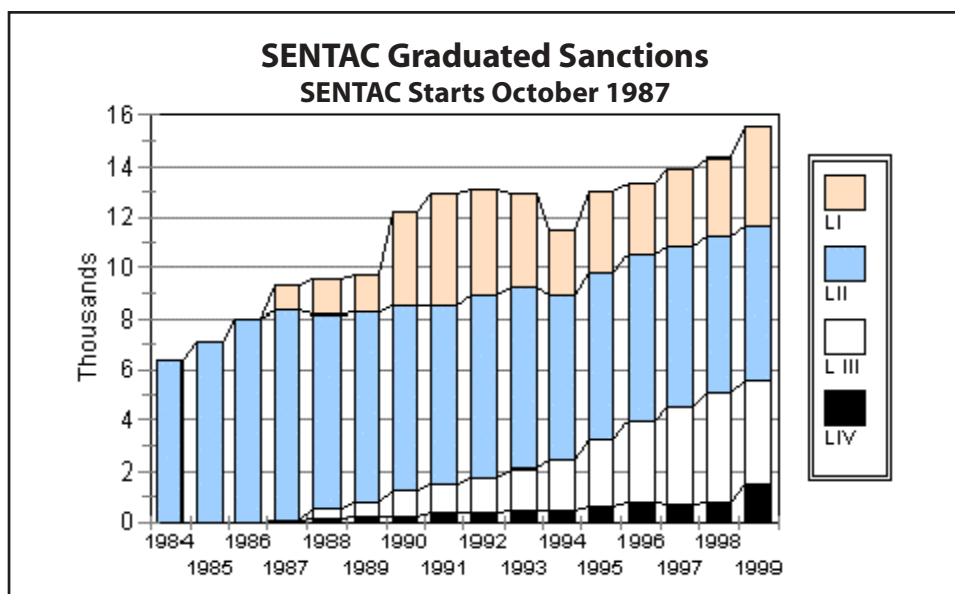


Figure 3.

Under SENTAC, the least serious offenders in the Level II population were transferred to Level I, administrative supervision. Populations in Levels III and IV have increased as a result of direct sentencing from the courts, flow downs of successful offenders from Level V, or flow ups of violators from less restrictive levels of supervision.

A MAJOR SHIFT TO TREATMENT: THE BIGGEST CHANGE YET

During the late 1980s and throughout the 1990s, SENTAC initiated a number of significant activities designed to meet its goal of rehabilitating offenders.

In 1988, the Department of Correction established the Key Therapeutic Community (TC) at Gander Hill. In 1991, the Crest Program, funded through a National Institute on Drug Abuse (NIDA) research grant, was established by the University of Delaware as a work release TC located at the Plummer Work Release Center in Wilmington. These programs have rapidly expanded and currently consist of approximately 600 institutional beds, 400 work release/Crest beds⁹, and approximately 400 aftercare slots. Key and Crest programs operate in all the major institutions and work release centers in the State, with the exception of the Delaware Correctional Center (DCC). In addition, the Greentree program, a self-help correctional treatment program that

⁹Because of the shorter length of stay, 400 Crest beds translates to approximately 800 "slots" of 6–9 months duration.

Sentencing Trends and Correctional Treatment in Delaware



The development of Delaware's correctional treatment programs coincided with reported national research findings that showed reductions in criminal activity for substance involved offenders who completed long-term treatment... Today, Delaware has one of the most comprehensive treatment systems for offenders in the country, and it is viewed as a national (and international) model of excellence.

operates at the Delaware Correctional Center, expanded from about 25 inmates in the late 1980s to its current capacity of approximately 175 inmates.

In 1994, SENTAC's Treatment Access Committee published a report, *A Coordinated Approach to Managing the Drug Involved Offender*, that outlined the substance abuse and other treatment needs of Delaware's offenders. This report led to the expansion of community-based substance abuse treatment for offenders, and supported the development of Delaware's Drug Court Initiative. The Superior Court operates drug courts in all three counties for sentenced and diverted offenders, as do both the Court of Common Pleas and the Family Court. Drug court participants receive case management support from the Treatment Access Center (TASC), which also began in the early- to mid-1990s.

The development of these programs coincided with reported national research findings that showed reductions in criminal activity for substance involved offenders who completed long-term treatment. In addition, the integration of treatment services into Delaware's sentencing scheme is associated with a shift in sentencing patterns, as judges and corrections professionals respond to relapse to drug use by increasing both treatment and supervision intensity.

Today, Delaware has one of the most comprehensive treatment systems for offenders in the country, and it is viewed as a national (and international) model of excellence.

Addiction Sentencing

In the late 1990s, a new method of sentencing began to emerge from the courts. Prior to 1997, it was rare for a Level V sentence to include the possibility of suspension of a portion of the sentence based upon successful completion of treatment programming. Starting in 1997, and increasing since, a number of Level V offenders have been receiving "addiction sentences," whereby judges state that all or a portion of a Level V sentence can be suspended upon the successful completion of a correctional treatment program (e.g., Key or Greentree). The logic underlying the shift to "suspendable" sentences is based on the fact that high percentages of our serious criminals are heavily involved in a drug addiction that perpetuates a criminal life style. If that dysfunctional behavior can be addressed, it is believed that concomitant reductions in criminal activity will result. Structuring a suspendable sentence also provides considerable leverage to encourage treatment entry and successful treatment completion.

In addition to the DOC Key-Crest-Aftercare and Greentree programs, the state further invested in addiction treatment when the law was amended to provide for suspended three year mandatory drug trafficking convictions with the condition that offenders successfully complete the six-month Delaware Adult Boot Camp and its drug treatment program¹⁰. A recent study of the Delaware Adult Boot Camp¹¹ shows

¹⁰*Del. Code Ann.* tit. 11, § 6712(a)-(b)(2001).

¹¹DeISAC 2001. *Delaware's Adult Boot Camp*.

that although a boot camp graduate may not be less likely to reappear in the criminal justice system than other similar offenders, the amount of violent crime that these offenders are likely to be involved is significantly reduced.



SENTENCING PATTERNS ARE CONSISTENT WITH GOALS OF SENTAC

Delaware's sentencing goals are being met in large measure. Table 2, entitled *Superior Court Sentencing Patterns by Crime Type*, shows the highest sentencing level by level of crime severity for Delaware Superior Court sentences in calendar year 1999. The crime categories are organized such that FA refers to felony A, FB refers to felony B, etc. Misdemeanors are categorized as MA, for misdemeanor A, etc., and V refers to violations. Sentence severity ranges from the lowest level of punishment ("fine") through the five SENTAC sentencing levels (I, administrative probation, through V, incarceration).

Within each of the sentencing levels, details are provided for specific sanctions within each level. For instance, Level IV is divided into general Level IV, Home Confinement, and Treatment Level IV. Level V is divided into boot camp, jail (a sentence of 12 months or less), prison (a sentence greater than 12 months), life sentences, death sentences, time served¹², and Level V treatment.

The categories referred to as "Treatment Level V," "Treatment Level IV," etc. include those sentences whereby the sentence may be suspended upon successful completion. These "suspendable" sentences have been referred to as "addiction" sentences. The many other Superior Court sentences that direct or recommend substance abuse or other treatment for offenders (including drug court sentences, sentences to TASC, etc.) **are not** included in this table.

Table 2 shows that in 1999, a total of 5532 offenders were sentenced by Superior Court for new crimes¹³. Overall, Superior Court sentencing patterns are consistent with the goals of SENTAC, as offenders with serious and violent lead charges receive sentences to Level V incarceration, while less serious offenders are arrayed among the less restrictive Levels I through IV. For example, this chart shows that 100 percent of all Felony B offenders were sentenced to Level V, with 76.5 percent receiving a sentence to prison (greater than one year).

It is important to remember that those sentences denoted as treatment sentences only include those where the sentence is **suspendable** upon successful completion of the program—"addiction" sentences. Therefore, these figures do not reflect the substantial numbers of offenders whose sentences contain conditions for treatment but are *not* subject to suspension upon successful completion.

¹²Time served is a sentence that stipulates the time served in detention prior to conviction as the full Level V sentence.

¹³Superior Court also disposed of 304 lead charges for felony DUI (246) and other crimes in Titles 21, 4, 6 and 7 (58) during 1999.

Superior Court sentencing patterns are consistent with the goals of SENTAC. Offenders with serious and violent lead charges receive sentences to Level V incarceration; less serious offenders are arrayed among the less restrictive Levels I-IV.



Superior Court Sentencing Patterns by Crime Type

	FA	FB	FC	FD	FE	FF	FG	MA	MB	M	Y	Total
Total Convictions	33	325	386	505	428	484	1043	2022	156	141	4	5627
% of Total	0.6%	5.9%	6.9%	9.1%	7.8%	8.8%	18.8%	36.6%	2.8%	2.6%	0.1%	100.0%
Fine					0.5%		0.2%	0.4%	2.5%	7.4%	25.0%	0.4%
Level I				0.2%	0.5%	0.8%	0.3%	6.0%	15.2%	9.5%	75.0%	3.1%
Level II			4.4%	6.3%	8.2%	17.1%	31.4%	54.7%	39.9%	60.8%		31.7%
Level III			18.9%	19.6%	28.3%	36.0%	30.4%	26.9%	27.8%	16.2%		25.3%
Treatment Level III			0.3%		0.2%		0.2%	0.5%				0.2%
Total Level III			19.2%	19.6%	28.5%	36.0%	30.5%	27.4%	27.8%	16.2%		25.5%
Level IV			3.9%	2.2%	3.5%	2.9%	1.5%	0.8%	1.3%			1.6%
Home Confinement			7.5%	10.1%	10.0%	12.6%	5.6%	0.8%	4.4%			4.8%
Treatment Level IV			2.6%	3.0%	4.7%	3.3%	2.7%	1.4%	1.9%			2.1%
Total Level IV			14.0%	15.3%	18.2%	18.8%	9.8%	3.0%	7.6%			8.6%
Level V												
Boot Camp			20.0%	9.0%	3.0%	2.1%	1.0%	0.2%	1.3%			2.7%
Treatment Level V			1.7%	3.1%	3.3%	2.1%	2.1%	0.7%				1.7%
Jail (<= 12 Months)			1.5%	15.5%	18.0%	12.6%	11.9%	4.4%	3.8%	2.7%		10.5%
Prison (>12 Months)			63.7%	28.8%	14.6%	5.2%	5.8%	0.2%				10.9%
Life			33.3%									0.3%
Death			3.0%									0.0%
Time Served			0.3%	5.2%	7.5%	5.4%	6.9%	3.0%	1.9%	3.4%		4.5%
Total Level V			100.0%	100.0%	62.5%	27.3%	27.8%	8.5%	7.0%	6.1%		30.7%
Total % by Class			100%	100%	100%	100%	100%	100%	100%	100%		100%

5 cases are not included that are being reviewed by SENTAC

Table 2.

SENTAC FUNDAMENTALLY CHANGES THE CRIMINAL JUSTICE SYSTEM



Focus on Offender Management

There is little question that the five-tier graduated sanction sentencing system, sentencing guidelines, and Truth in Sentencing, combined with the integration of treatment and other programming into the sanction structure, have fundamentally changed the criminal justice system. Both the courts and the DOC have become much more active in their management of offenders. Offenders are continually monitored, through regular judicial oversight (most apparent in drug court), focused oversight by probation and law enforcement officers (as in Operation Safe Streets), and through coordinated clinical oversight in correctional treatment programs (Key, Crest, Greentree and boot camp). Delaware has not only moved to a system that emphasizes alternatives to incarceration, but **has shifted to a system that expects demonstrable behavioral change in offenders or there will be consequences.**

Perhaps the most profound impact of SENTAC has been the rapid and high volume movement of offenders throughout the five-level system after initial sentencing (the “flow ups” and “flow downs”). Table 3, entitled *Superior Court VOP Sentencing 1999*, shows Superior Court sentencing patterns for violations of probation (VOPs) for 1999.

Superior Court VOP Sentencing 1999		
Final VOPs that Resulted in Level Movement		
SANCTION LEVEL	NUMBER OF VOPs	PERCENT
LEVEL I	34	0.9%
LEVEL II	245	6.7%
LEVEL III		
Level III	842	22.9%
Treatment Level III	14	0.4%
Total Level III	856	24.2%
LEVEL IV		
Level IV	352	9.6%
Home Confinement	309	8.4%
Treatment Level IV	463	12.6%
Total Level IV	1,124	30.6%
LEVEL V		
Boot Camp	68	1.8%
Jail (12 mos. or less)	845	23.0%
Prison (> 1 year)	98	2.7%
Life	0	0.0%
Death	0	0.0%
Time Served	2	0.1%
Treatment Level V	302	6.2%
Total Level V	1,315	36.8%
Total Superior Court	3,574	100.0%

Table 3.

Sentencing Trends and Correctional Treatment in Delaware



Superior Court handled almost 70 percent more violations of probation (VOPs) in 1999 as it did new charges.

A total of 9,799 VOP cases were downloaded from the JIC files in 1999, and 4548 (46 %) resulted in a change of sentencing level. In addition, some offenders had more than one VOP during calendar year 1999. Table 3 shows a total of 3,574 “final” VOPs that resulted in sentence level changes for 3,072 offenders who have an average of 1.5 VOP dispositions in 1999.

Table 3 also shows that VOPs result in increased sentence levels that span the gamut of Levels I through V, with most offenders receiving sentence changes to Levels III, IV, or V.

Several significant issues are revealed in this Table, including:

1. The sheer numbers of VOPs are staggering. The Superior Court handled almost 70 percent more VOPs in 1999 (9,799) as it did new charges (5,835). Since the inception of SENTAC, the VOP population has steadily climbed, and the 1999 data reflects this phenomenon.
2. While a significant number of probation violators (23 %) receive jail sentences of a year or less, relatively few (2.7 %) receive prison sentences (greater than one year).
3. Large numbers of probation violators are given “suspendable” sentences to treatment. 583 (12.8 %) offenders were ordered to treatment at Level IV (predominantly Crest) and 321 (7.1 %) were ordered to treatment at Level V (predominantly Key) in 1999. This pattern of VOP sentencing reflects earlier research indicating that there are high levels of substance abuse in the VOP population.
4. The movement in the system that is revealed by examining VOPs depicts the process of supervision that occurs in the criminal justice system, rather than the “product” of supervision that we saw in the past.

Figure 4, entitled *Violation of Probation: Admitted to DOC Level V*, shows how SENTAC and other major justice initiatives have caused the number of violation of probation admissions to increase since the early 1990s. The lighter section at the top of the bars indicates that the sentence for the violation of probation was greater than one year (a prison sentence). The dark portion of the bar shows the number of DOC VOP admissions with a jail sentence (a year or less).

The reorganization of DOC’s Community Services Division with its new case management policy in the early 1990s was the beginning of an effective relationship between the Department of Correction and the judiciary. Following this change in operations, criminal justice initiatives like drug court, fast track, and Operation Safe Streets added more reasons and consequently more cases to probation violation review. By 1999, about 3,000 persons were admitted to DOC Level V for violating probation, many with conditions for treatment.



Both the courts and the DOC have become much more active in their management of offenders.

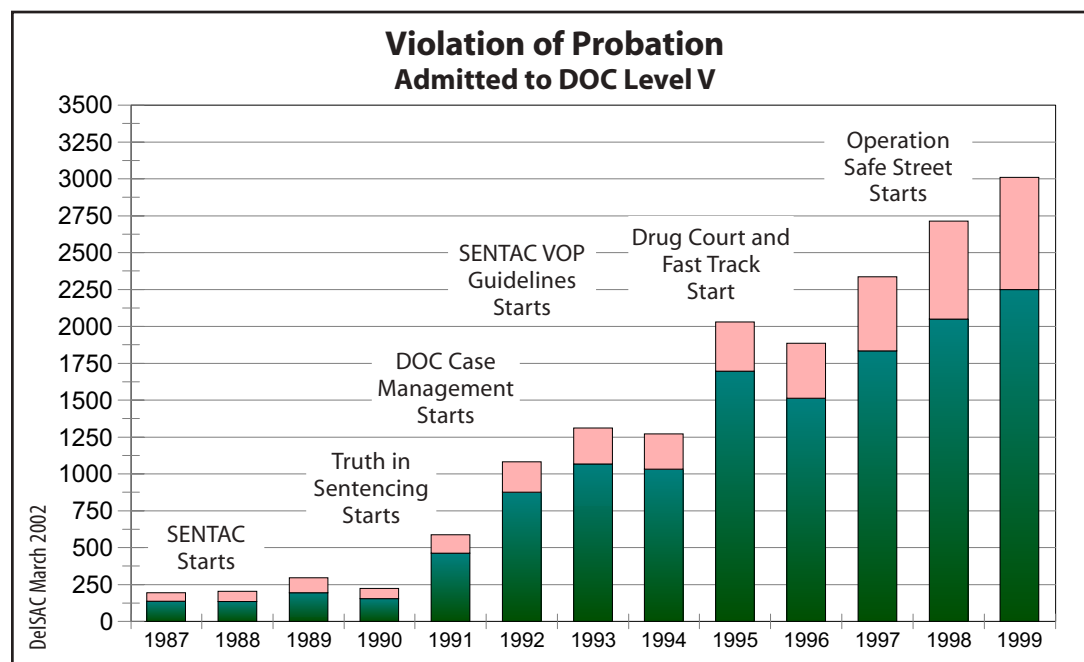


Figure 4.

Treatment is Woven into the Fabric of Justice

Only a few years ago, mandatory sentences, particularly those for drug crimes, were viewed by SENTAC and others as working at cross purposes with sentencing guidelines and judicial discretion. In a recent analysis of mandatory drug sentences, it was discovered that currently at least half of the mandatory drug sentences include the suspension of some Level V time for successfully completing either the DOC boot camp or a DOC Level V drug treatment program¹⁴. Incarceration is still available for the non-addicted or violent drug dealer, or to those who fail to respond to treatment, but drug offenders with serious addiction problems are being provided realistic motivation to begin to deal with their addictive behavior. Part of the rationale behind this shift in the use and meaning of mandatory sentencing is based on the understanding of justice leaders that intervening in substance abuse can lead to significant reductions in criminal activity—reductions that are not likely to occur if the substance abuse remains unchecked.

Table 4, entitled *Summary of 1999 Superior Court Sentencing Patterns: New Crimes and Violations of Probation*, combines information about new sentences and VOPs, and shows changes in sentencing practices that are measurable and significant. Only a few years ago, Superior Court sentencing to boot camp and treatment Level V, IV, or III did not exist.

¹⁴DelSAC March 28, 2001. *Letter to Representative John Van Sant.*



The numbers of VOPs reflect SENTAC's goal of holding offenders accountable, and reflect SENTAC's philosophy of offender management.

Summary of 1999 Superior Court Sentencing Patterns New Crimes and Violations of Probation						
Level of Sanction	New Crime*		Violation of Probation**		Total	
Fine	46	0.8%	0	0.0%	46	0.5%
Level I	183	3.1%	34	0.9%	217	2.3%
Level II	1,777	30.4%	245	6.7%	2,022	21.5%
Total Level III	1,420	24.3%	856	23.3%	2,276	24.2%
Level III	1,409	24.1%	842	22.9%	2,251	23.9%
<i>Treatment Level III</i>	11	0.2%	14	0.4%	25	0.3%
Total Level IV	475	8.1%	1,124	30.6%	1,599	17.0%
Level IV	91	1.6%	352	9.6%	443	4.7%
Home Confinement	256	4.5%	309	8.4%	575	6.1%
<i>Treatment Level IV</i>	119	2.0%	463	12.6%	582	6.2%
Total Level V	1,935	33.2%	1,315	36.8%	3,250	34.5%
<i>Boot Camp</i>	152	2.6%	68	1.8%	220	2.3%
<i>Treatment Level V</i>	97	1.7%	302	6.2%	399	4.2%
Jail (12 mos. or less)	811	13.9%	845	23.0%	1,656	17.6%
Prison (> than 12 months)	605	10.4%	98	2.7%	703	7.5%
Life	16	0.3%	0	0.0%	16	0.2%
Death	1	0.0%	0	0.0%	1	0.0%
Time served	253	4.2%	2	0.1%	255	2.7%
Total Superior Court	5,835		3,574		9,409	

* The New Crime total of 5,835 is the lead charge for each conviction in calendar year 1999. This represents a total of 8,730 charges for 4,804 individuals.
 ** This number references the last active VOP sentence in 1999.

Table 4.

Table 4 shows that in 1999, a total of 220 persons were sentenced by Superior Court to adult boot camp. 152 of these were sentenced for new criminal charges and 68 were sentenced as violation of probation offenders. Many offenders who are offered boot camp can avoid a lengthy or mandatory prison term.

An additional 399 offenders were sentenced to Level V treatment as a result of new crimes (97) or VOPs (302). These offenders also have the opportunity to avoid a lengthy prison term, since their sentences allow for a suspension of the prison sentence upon successful completion of the Level V correctional treatment program.

Because options have expanded, the judicial decision to incarcerate in prison is lower than in the past. A total of 703 offenders were sentenced to “regular” prison for new crimes or VOPs, compared with 619 offenders who received suspendable or addiction sentences to Level V treatment or boot camp. Without the availability of treatment sentences or boot camp, a large proportion of offenders sentenced to prison would likely be serving lengthier non-suspendable prison sentences.

Jail sentences of terms less or equal to one year are the most frequent Level V sentence, accounting for about one-half of the Level V sentences (1,656 out of 3,250). Offenders who violate an existing probation account for about half of the offenders

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sentenced to jail terms (845 out of 1,656). This pattern reflects the seriousness that the system attaches to violations of sentence conditions or failure to change criminal behavior.

A significant number of offenders were also sentenced to treatment at Level IV. Most of these sentences are to Crest, with 119 offenders sentenced as the result of a new offense and 582 ordered to Crest as the result of a probation violation. Many of these sentences would likely have been to Level V if this option were not available.

Population Trends

In the previous section, we examined sentencing patterns from the Superior Court. To gain a better understanding of the impact of SENTAC, it is also important to examine trends and changes in the overall incarcerated population. Information from the recently released *1997–1999 Delaware Department of Correction Incarceration Fact Book*¹⁵ provides another view of correctional trends in Delaware.

The overall DOC “count” population has grown, but a lot of the growth has occurred in Level IV, and in expanded Level V settings such as boot camp and institutional treatment.

Figure 5, entitled *Delaware Prison Population: Sentences Greater Than One Year*, shows the growth in the Level V prison population from 1981 through 1999¹⁶.

Since 1981, the prison population has grown from 1,148 to 3,333. The most stable period in the growth of the prison population (sentences greater than one year) was during 1989 through 1991, when it was virtually stable. This was during the full implementation of SENTAC and Truth in Sentencing, and occurred before arrests for drug crimes began to spike. Much of the growth in the mid-1990s was largely due to double digit increases in violent and drug crimes. ***It is important to note that during 1999, the prison population included a substantial number of inmates (28%) who were in Key or Greentree serving an addiction sentence that can be suspended upon successful program completion.***

Since 1987 (pre-SENTAC) through 1999, the overall incarcerated population has increased from 2,979 to 6,750. However, many different populations are included in this overall count. Although the Department of Correction furnishes beds and pillows for most of this population¹⁷, a substantial number (2,356) are in Level IV status, are in boot camp, or are serving “addiction” sentences which may be suspended upon program completion.

¹⁵DelSAC 2002. *1997–1999 Delaware Department of Correction Incarceration Fact Book*.

¹⁶The population dip in 1997 reflects DelSAC’s improved method of accounting for DOC populations. This population count does not include those offenders sentenced to Level IV but held at Level V.

¹⁷644 of the total count are on electronic monitoring or supervised custody, and do not take up beds.



...drug offenders with serious addiction problems are being provided realistic motivation to begin to deal with their addictive behavior. ...intervening in substance abuse can lead to significant reductions in criminal activity—reductions that are not likely to occur if the substance abuse remains unchecked.

Sentencing Trends and Correctional Treatment in Delaware



Without availability of treatment sentences or boot camp, a large proportion of offenders sentenced to prison would likely be serving lengthier non-suspendable prison sentences.

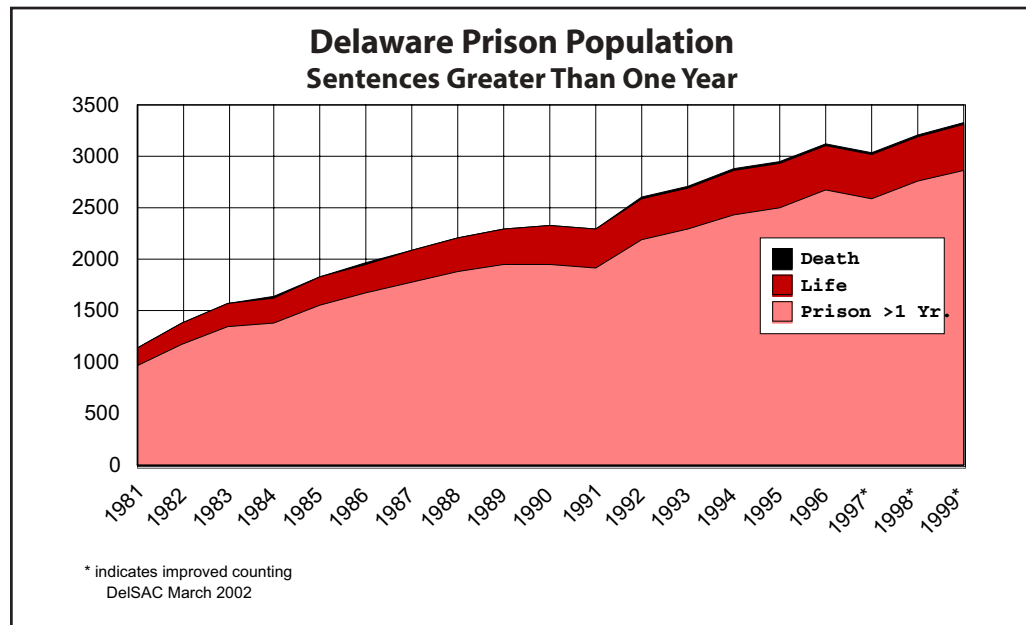


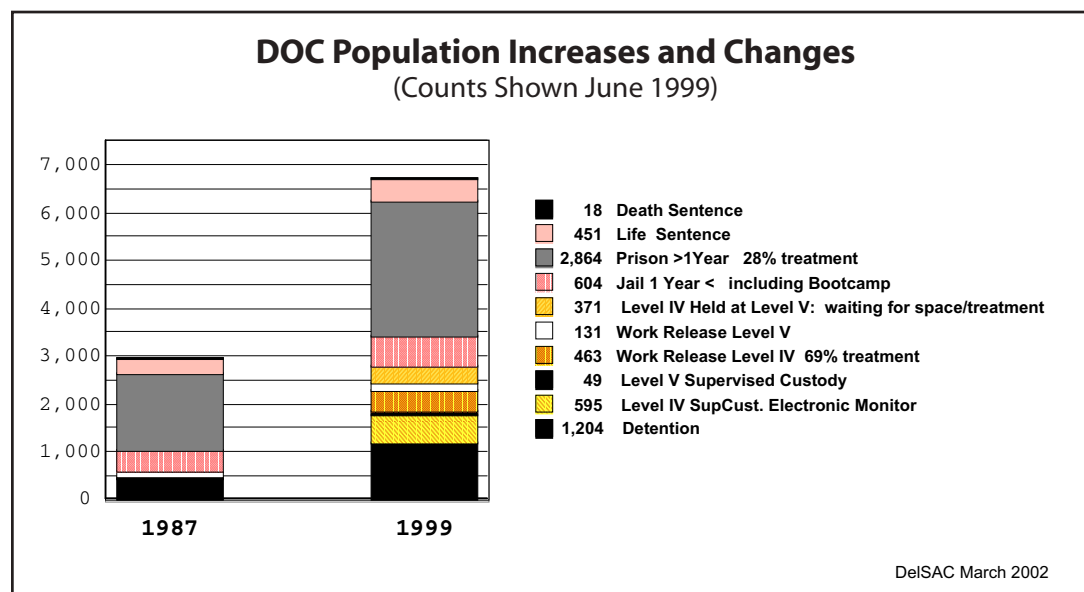
Figure 5.

Figure 6, entitled *DOC Population Increases and Changes*, shows a detailed breakdown of how the population has increased and changed since 1987.

Figure 6 reveals several important things:

- The population classified as “detention” has grown substantially. This population includes defendants held pretrial; offenders who have been convicted but not yet sentenced; persons held on Federal and INS detainers; and administrative holds (including persons held awaiting VOP or Capias hearings). While a more detailed report on the detention population is forthcoming, preliminary analysis of this population indicates that:
 - detention admissions have increased dramatically (a 428 % increase since 1981);
 - the average time defendants are held in pretrial detention has remained constant, averaging 25–31 days;
 - the percentage of the total population count of persons held for administrative acts has increased from 10 percent or less during the early 1980s to 25 percent or more in the 1990s. This change mirrors the increases in VOPs overall, and reflects SENTAC’s focus on public safety;
 - growth has also occurred due to increased admissions and higher rates of detention for serious offenders charged with drug, robbery, assault, and weapons offenses.

- 595 persons on the institutional population count are on Level IV home confinement with electronic monitoring. This option was not available pre-SENTAC.



...detention admissions have increased dramatically since 1981; but the average time defendants are held in pretrial detention has remained constant...

Figure 6.

- ❑ The work release population now consists of mainly Level IV offenders (78%), and of those, 69 percent are in treatment programming serving suspendable addiction sentences.
- ❑ In this snapshot of the 1999 population, 371 Level IV offenders were incarcerated at Level V waiting movement to Level IV. Today, there are approximately 95 people in this status.
- ❑ 604 offenders were serving jail sentences of one year or less.
- ❑ 28 percent of the 2,864 offenders sentenced to prison (sentences greater than one year) are serving addiction sentences in Key or Greentree programs.
- ❑ The numbers of people sentenced to life (451) and death (18) have slowly climbed over the years. These people are permanent consumers of prison beds.

Length of Stay

According to the Fact Book¹⁸, time served patterns remained relatively stable between 1997 and 1999. Released offenders sentenced to prison (sentences greater than 12 months) served an average of 850 days, or 2.3 years. Released offenders sentenced to jail (sentences less than or equal to one year) serve 96 days on average.

¹⁸DelSAC 2002. *Supra*.



What began as a five-step hierarchical framework for punishing offenders has evolved into a multi-layered system designed to hold them accountable and foster rehabilitation.

DISCUSSION

The sentencing reform efforts led by the Sentencing Accountability Commission have caused sweeping changes in the administration of justice in the State of Delaware. What began as a five-step hierarchical framework for punishing offenders has evolved into a multi-layered system designed to hold them accountable as well as to foster rehabilitation.

Delaware's system reflects a comprehensive focus on offender management, and includes a number of structural and programmatic options designed to punish offenders while addressing the underlying behavioral problems associated with their criminal activity. By forging this system, Delaware has recognized that punishment alone may be easy, but is also expensive in the short term (building expansion) and in the long term (public safety). Rehabilitation, on the other hand, may sound easy, but it is more difficult than simple punishment. And while it is not free, it is less expensive than punishment alone. Despite the complexities that result from integrating rehabilitative services into Delaware's punishment structure, SENTAC believes it is the right thing to do to promote individual change and thus truly enhance public safety.

Many other states and jurisdictions are experimenting with sentencing alternatives, such as intensive probation, drug courts, and correctional treatment. However, unlike these other places, Delaware has incorporated these programs into a comprehensive framework for offender management. In Delaware, these programs do not sit outside the mainstream justice system, but rather are part of the mainstream correctional system. They are an integral part of the justice landscape. While Delaware's system is flexible enough to accommodate changes in the nature of crime and offenders, more discipline is needed to guide and manage the offender population.

The magnitude of change has been large and rapid. The movement of offenders that occurs underneath the platform of sentencing—the “flow downs” and “flow ups” into sanctions and treatment—is perhaps the most stunning finding from this research. Clearly, Delaware is as much or more involved with adjusting sanctions and treatment as it is with making initial sentencing decisions. And it has so far managed this change without significant infrastructure support.

The growth of the violation of probation population has been extremely significant, though predictable. SENTAC anticipated growth in this population based on its focus on accountability. This growth has so far been managed without the addition of new resources. However, a crisis has been avoided only because of the diligent work of justice professionals overall, the development of creative management strategies, and the extraordinary efforts of a handful of individuals. Continuing to manage this population under existing circumstances is risky.

While the overall DOC “count” population has grown substantially over the years, much of the growth has been in the population considered “detained,” in Level IV programs, in Level V treatment programs, and in Level V programs that are not part of the major institutional structure (boot camp).

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The movement of Level IV offenders into and out of institutional settings is also very challenging. Since 1999, the number of people waiting in Level V for Level IV placement has decreased from 371 to 95, in part because Morris Correctional Facility was changed to a Level IV work release (and Crest) facility. Although treatment slots have increased in Level IV, overall expansion of work release and other Level IV options has not kept pace. In fact, regular “non-treatment” work release has diminished in capacity. All offenders need transitional support when they are facing the critical time—the crisis—of reentering the community.

The challenge for the immediate future is to develop mechanisms to nurture the forward thinking and effective system that has been developed in Delaware.



Despite the complexities that result from integrating rehabilitative services into Delaware’s punishment structure, SENTAC believes it is the right thing to do to promote individual change and thus truly enhance public safety.

Delaware has incorporated correctional treatment programs into a comprehensive framework for offender management.

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CORRECTIONAL TREATMENT IN DELAWARE

The following section of this report is intended to satisfy the requirements set forth in the SENTAC Research Plan, Section A.

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CORRECTIONAL TREATMENT IN DELAWARE



The following section of this report is intended to satisfy the requirements set forth in the SENTAC Research Plan, Section A.

BACKGROUND AND OVERVIEW

During the late 1980's, Delaware, like the rest of the country, experienced tremendous increases in the numbers of drug offenders coming through the criminal justice system. In response, government leaders and policymakers conducted a number of activities to analyze this phenomenon and develop methods to address it.

In 1994, SENTAC published a report entitled "*A Coordinated Approach to Managing the Drug Involved Offender.*" This report described the national research on substance abuse in the offender population, and documented the level of substance abuse in Delaware's correctional population. Major findings from the report include:

- ❑ There is a high need for substance abuse treatment among the incarcerated and non-incarcerated offender population in Delaware, and there is a high level of drug use in all five sanction levels;
- ❑ Large numbers of drug-involved offenders who could not function in strict community sanction settings and who did not receive or complete drug treatment remain in the system as probation violators in Level V. The most heavily drug-involved population identified in the incarcerated population is probation violators—with a 70 percent need for residential treatment;
- ❑ Despite the high level of illicit drug abuse in the offender population, there is a large gap between services needed and services available¹⁹.

The findings in this 1994 report are still current when compared to more recent national data. According to the Bureau of Justice Statistics, in 1997, 75 percent of State and 80 percent of Federal prisoners could be characterized as drug involved, and 21 percent of State and more than 60 percent of Federal inmates were convicted on drug charges²⁰. Nearly 3.2 million adults are on probation in the United States, and about 65 percent are drug involved, with almost 70 percent reporting past drug use²¹. Women in state prisons were more likely than men to have used drugs in the month before their offense, and they were more likely to have committed their offenses while under the influence of drugs²².

¹⁹SENTAC Treatment Access Committee (March, 1994). *A Coordinated Approach to Managing the Drug Involved Offender*.

²⁰Bureau of Justice Statistics (1999). *Special Report: Substance Abuse and Treatment, State and Federal Prisoners, 1997*. Washington, DC: U.S. Department of Justice.

²¹Bureau of Justice Statistics (1998). *Special Report: Substance Abuse and Treatment of Adults on Probation, 1995*. Washington, DC: U.S. Department of Justice.

²²Bureau of Justice Statistics (1999). *Supra*.

Sentencing Trends and Correctional Treatment in Delaware



The number of arrestees who test positive for illicit drugs is also high. According to the National Institute of Justice (NIJ) 1998 Arrestee Drug Abuse Monitoring (ADAM) program, the percentage of adult male arrestees testing positive for any illicit drug (excluding alcohol) ranged from 51.4 percent to 80.3 percent, and female arrestees testing positive ranged from 37.6 percent to 80.5 percent, at 35 testing sites in 1997²³. In addition, significant numbers of both women and men tested positive for more than one drug.

Almost all those incarcerated are released back into the community. Nationally, in 1999 about half a million individuals were released from State prisons alone, and nearly a quarter were released with no continued supervision²⁴. In Delaware, 88 percent (3,586 of 4,051) sentenced offenders in jail and prison will eventually return to the community; 475 will remain locked up as lifers or on death row.

Figure 7, entitled *Drug Complaints*, shows the increase in drug complaints in all three Delaware counties. There is no question that the use of illicit drugs and alcohol is a central factor driving correctional policy in Delaware, and nationwide.

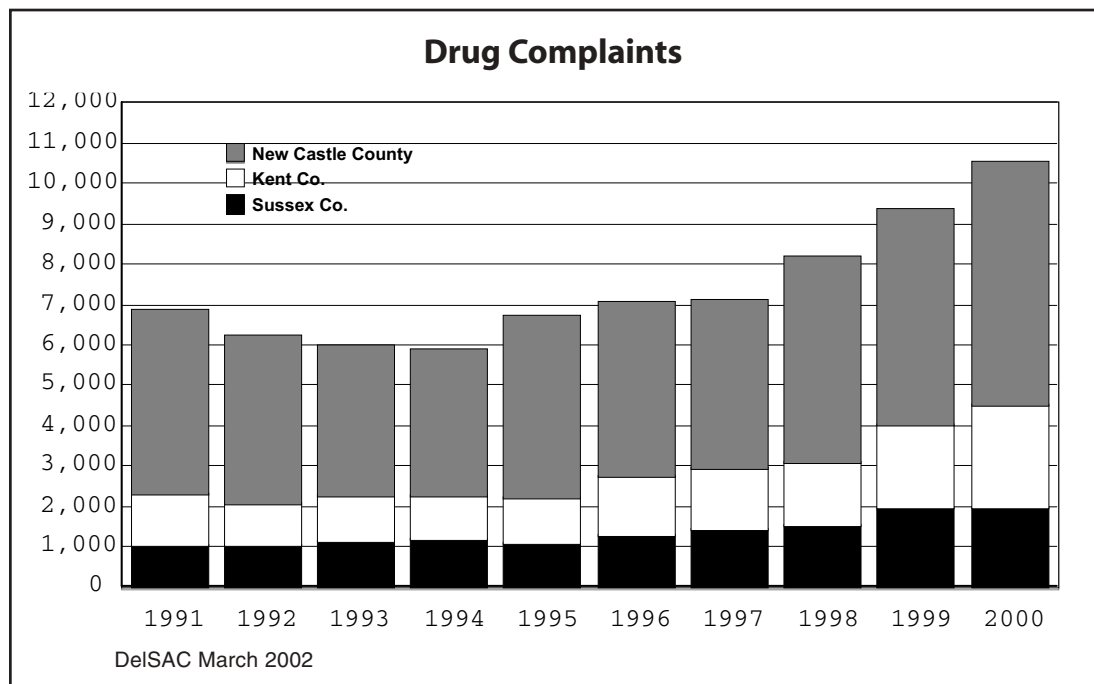


Figure 7.

²³National Institute of Justice (1999). *1998 Annual Report on Drug Use Among Adult and Juvenile Arrestees*. Washington, DC: U.S. Department of Justice.

²⁴Travis, J. (1999). *Remarks to the National Assembly on Drugs, Alcohol Abuse and the Criminal Offender*. Washington, DC. December 7.



In response to both growth in correctional populations and awareness of the relationship between illicit drug use and criminal activity, the State, led by SENTAC and the Department of Correction, expanded substance abuse treatment for offenders significantly. Correctional therapeutic community (TC) treatment services are now interwoven with sanctions as a major component of justice in Delaware.

What is a Therapeutic Community?

Modern therapeutic communities for addictions derive from Synanon, founded in 1958 by Charles Dederich with other recovering alcoholics and drug addicts²⁵. Basically a self-help approach, TCs represent a social learning model whereby recovery and prosocial behaviors are encouraged via the creation of a milieu or community that serves as the primary therapeutic method.

The TC perspective consists of four broad views which guide its approach to the treatment of substance abuse and related problems²⁶:

- ❑ the view that substance abuse and criminality are **symptoms of a disorder of the whole person;**
- ❑ the view of the person which consists of the **social and psychological characteristics which must be changed;**
- ❑ the view of “right living”—the **morals and values requirements which sustain recovery;** and,
- ❑ the view of **recovery from addiction as a developmental learning process.**

The TC approach to substance abuse treatment is a psychosocial, experiential learning process that utilizes the influence of positive peer pressure within a highly structured social environment. The primary therapeutic change agent is the community itself, including staff and program participants together as members of a “family.” The culture is defined by a mutual self-help attitude where community members confront each other’s negative behavior and attitudes and establish an open, trusting and safe environment where personal disclosure is encouraged, and the prison culture of the general population is rejected. TC residents view staff as role models and rational authorities rather than as custodians or treatment providers.

While there are many similarities between the TC methodology and traditional substance abuse treatment (i.e., “medical model”), there are identifiable differences that enable the TC to produce very positive results with chronic substance abusing offenders. The “medical model” approach is applied in most community-based

²⁵De Leon, George. Therapeutic communities for addictions: a theoretical framework. *The International Journal of the Addictions*, 30(12), pp. 1603-1645, 1993.

²⁶De Leon, G. 2000. *The Therapeutic Community: Theory, Model and Method*. Springer Publishing Co.

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residential and outpatient treatment and in many publicly-funded treatment systems. Some of the more significant differences are described in Table 5, entitled *TC Model vs. Medical Model*.

TC Model vs. Medical Model	
TC Model	Medical Model
Views addiction as one of many secondary problems, and views the whole person as the problem	Views addiction as a primary disease, and as the central problem to be addressed in treatment
Treatment utilizes a behavioral approach	Treatment utilizes a disease management approach
Program participants are viewed as community or family “members”	Program participants are viewed as “clients” or “patients”
The community process is the primary therapeutic agent that occurs 24 hours a day, 7 days a week	Treatment is therapist-directed (i.e., doctor-patient) and often manual-driven, occurring during sessions
Psychoeducational and didactic groups are seen as tools to support the TC process	Psychoeducational and didactic group and individual methods make up the treatment approach—the sessions are the treatment
Effective TCs utilize a mix of TC graduates, ex-offenders, other recovering persons, and trained clinicians as staff	Programs are encouraged and/or required to only utilize staff that are certified, degreed, or otherwise credentialed and traditionally trained
Personal issues are public —confidentiality is maintained within the TC community	Personal issues are private —confidentiality is maintained within the client-counselor relationship
Staff role is defined as facilitating a mutual self-help positive peer process	Staff role is defined as providing treatment services
Greater emphasis on affective skills development—feelings	Greater emphasis on cognitive skills development—thinking
Group encounter is the primary clinical intervention	Individual counseling is the primary clinical intervention
Staff share personal information and are engaged in the community process	Staff maintain professional distance and function outside the community process

Table 5.

Activities in TCs are designed to evoke feelings and identify behaviors that residents need to address and change, and to establish a structure whereby other residents actively encourage the change process by providing honest feedback and confronting the individual’s self-deception. TCs are uniquely designed to treat character disorders. These disorders, including addiction, result from backgrounds that are often filled with neglect, physical and emotional abuse, sexual abuse, exposure to criminality and criminal role models, and an absence of socially acceptable morals and values. As a result, many TC residents are unable to identify, label, or express their feelings,



and act out on those repressed and unexpressed feelings in negative ways. Effective TCs assist clients to access those feelings, process them in a healthy way, gain an understanding of how they affect current behavior, and move toward increased self-awareness, internalized locus of control, and prosocial behaviors. Through confrontation, the program is uniquely able to help participants who are highly manipulative and dishonest, have minimal impulse control, exhibit an inability to delay gratification and justify any actions to get what they want, when they want it.

Therapeutic Communities Have Emerged as the Preferred Treatment for Offenders

The therapeutic community (TC) has emerged as a preferred and effective methodology for treating and rehabilitating substance abusers in correctional settings (as well as in the community). Forty-seven (47) States currently have, or are in the process of implementing, nearly 300 TCs in prisons and community correctional settings²⁷. Concurrently, TCs are now operating in over 54 countries²⁸. The State of Delaware has one of the most comprehensive systems of TC services in the nation.

There is a growing body of research that supports the effectiveness of TCs. Major evaluations of prison-based TCs in California, Delaware and Texas have been conducted over the past several years, making TCs a very well-studied model of treatment. Although these studies have included different measures of recidivism and used different research designs, they have all shown reductions in recidivism of varying degrees for TC clients compared with similar offenders who did not receive treatment services. To summarize major findings:

- ❑ Research on the Amity prison TC in California found that only 27 percent of inmates who completed both the TC and aftercare returned to prison within three years of release, compared to 75 percent of similar inmates who had no such treatment²⁹.
- ❑ A study of Delaware's Key/Crest continuum found that offenders who completed the Key TC only were marginally less likely to be arrested than the control group. Offenders who completed Key and Crest work release had rearrest rates of 57 percent compared to a 70 percent rearrest rate for the comparison group. Those who completed Key, Crest and aftercare were significantly less likely to be rearrested (31 %) compared to the comparison group who received no treatment services (70 %)³⁰. Although this study, con-

²⁷Rockholz, P.B. 2000. Findings of a National Survey on Therapeutic Communities for Substance Abusing Offenders in State Prisons. Middletown, CT: *Association of State Correctional Administrators Newsletter*.

²⁸Source: Therapeutic Communities of America, Inc.

²⁹Wexler, Harry K.; Melnick, Gerald; Lowe, Louis and Peter, Jean. 1999. "Three year reincarceration outcomes for Amity in-prison therapeutic community and aftercare in California." *The Prison Journal*, 79(3) 32 1-336.

³⁰Martin, Steven S.; Butzin, Clifford A.; Saum, Christine A. and Inciardi, James A. 1999. "Three year outcomes of therapeutic community treatment for drug-involved offenders in Delaware: from prison to work release to aftercare." *The Prison Journal*, 79(23), 294-320.

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ducted by the University of Delaware Center on Drug and Alcohol Studies, relied on self-reports of rearrest, the Delaware Statistical Analysis Center (SAC) verified overall research trends using criminal justice data bases.

- ❑ Studies of the Kyle New Vision TC in Texas found that the three-year reincarceration rate for inmates who completed all phases of treatment was 26 percent, compared with 52 percent of inmates who had no treatment. This study also found that the most significant impact of treatment was on the most severely addicted inmates³¹.
- ❑ In addition to changes in criminal recidivism, a number of important byproducts were observed in these studies. The implementation of TCs in institutional settings has produced documented reductions in drug use within the institutions, dramatic reductions in levels of institutional violence and disciplinary incidents, improved working conditions and reduced stress on staff, and improved morale of both staff and inmates³².

Other research findings support the efficacy of treatment for offenders. Key findings include:

- ❑ Length of time in treatment is consistently the most important variable related to treatment outcome. For TC clients, research has shown that a minimum of 9-12 months is needed to produce good outcomes³³.
- ❑ Successful outcomes may require more than one treatment experience. Many addicted individuals have multiple episodes of treatment, often with a cumulative impact³⁴.
- ❑ A comprehensive continuum of treatment services, including aftercare, supports treatment effectiveness³⁵.
- ❑ Treatment does not need to be voluntary to be effective³⁶.

³¹Knight, Kevin; Simpson, D. Dwayne, and Hiller, Matthew L. 1999. "Three year reincarceration outcomes for in-prison therapeutic community treatment in Texas." *The Prison Journal*, 79(3), 337-351.

³²Deitch, David; Koutsenok, M.; McGrath, P.; Ratelle, John; and Carleton, R. 1998. *Outcome Findings Regarding In-custody Adverse Behavior Between Therapeutic Community Treatment and Non-treatment Populations and Its Impact on Custody Personnel Quality of Life*. San Diego, CA: University of California-San Diego, Department of Psychiatry, Addiction Technology Transfer Center.

³³Wexler, H.K.; Falkin, G.P.; and Lipton, D.S. 1988. *A model prison rehabilitation program: An evaluation of the Stay'n Out therapeutic community*. Final report to the National Institute on Drug Abuse.

³⁴*Principles of Drug Addiction Treatment: A Research-Based Guide*. National Institute on Drug Abuse, 1999. NIH Publication No. 99-4180.

³⁵Center for Substance Abuse Treatment. *Continuity of Offender Treatment for Substance Use Disorders From Institution to Community*. Treatment Improvement Protocol (TIP) Series, Number 30. Washington, DC: U.S. Government Printing Office, 1998.

³⁶Leukefeld, C.G., and Tims, F.M., eds. *Compulsory Treatment of Drug Abuse: Research and Clinical Practice*. National Institute on Drug Abuse Research Monograph, Number 86. Rockville, MD: National Institute on Drug Abuse, 1988.

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In part as a result of these studies, the U.S. Department of Justice began administering the Residential Substance Abuse Treatment for State Prisoners (RSAT) Formula Grant Program. This program enabled states to access funding to develop residential programming for offenders, and has resulted in the rapid expansion of TCs and other correctional treatment programs across the country. RSAT funds were used in Delaware to significantly expand the Key/Crest continuum.

In sum, the existing body of evaluation literature on prison-based TCs has supported a widely accepted conclusion in the corrections field that TC is an effective and efficient means of addressing the problems of seriously addicted offenders. The research also indicates that completion of short-term treatment and temporary abstinence from drugs are probably not sufficient to habilitate most serious offenders. For lives characterized by self-destructive acts, violence, hopelessness, and lack of meaningful relationships, the concept of rehabilitation is probably a misnomer. Many of these individuals were not previously “habilitated,” never having learned prosocial skills. At best, prisons temporarily remove offenders from society rather than transforming attitudes and values.

Successful substance abuse treatment needs to address the multiple problems that lead to drug addiction and criminality. Ultimately, the offender, the justice system, and society are better served if time spent in prison is directed toward recovery, toward habilitation, and toward reintegration into society. Inmate follow-up in community-based treatment after release appears important to the consolidation of prosocial gains. The success of substance abuse treatment in a variety of settings is creating important changes in correctional philosophy.

DELAWARE’S STATEWIDE CORRECTIONAL TREATMENT SYSTEM

The Delaware Department of Correction established the Key Therapeutic Community (TC) in 1988 with federal funds from the Bureau of Justice Assistance. The program began as a 20-bed pilot program operating out of Gander Hill prison in Wilmington, and was designed as a 12- to 18-month treatment program for chronic substance abusers with serious criminal backgrounds and other character disorders. The University of Delaware, through a National Institute on Drug Abuse (NIDA) research grant, subsequently developed the Crest Outreach Center in 1991 as a work release TC in Delaware. Since then, through a combination of federal and state funds, the Key/Crest continuum has expanded to include a women’s TC (Key Village); institutional TCs for men operating out of Gander Hill (Key North), Sussex Prison (Key South), Webb Correctional Institution (Key West); Crest components at the Plummer Center (Crest North), Sussex Halfway House (Crest South) and Morris Correctional



...the existing body of evaluation literature on prison-based TCs has supported a widely accepted conclusion in the corrections field that TC is an effective and efficient means of addressing the problems of seriously addicted offenders.

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Institution (Crest Central); and a statewide aftercare component³⁷. Rapid expansion of these programs occurred during the mid- to late-1990s, with the Key/Crest continuum currently consisting of approximately 600 institutional beds, 400 work release/community-based TC beds³⁸, and approximately 400 aftercare slots³⁹.

In addition, the Greentree program, a self-help correctional treatment program that operates at the Delaware Correctional Center, expanded in 1994 to its current capacity of approximately 175 inmates.

Figure 8, entitled *Delaware (DOC) Correctional Treatment Beds*, traces the expansion of Level V and Level IV correctional treatment programs. The growth in this programming has been rapid and significant. It is important to note that the program expansion represented in this chart primarily represents a shift from “regular” institutional or work release beds to treatment beds, and does not represent an increase in prison or work release beds overall⁴⁰. As Figure 8 shows, the Key and Crest programs have been in a state of rapid growth and change, while the Greentree program has been stable for quite some time.

Key/Crest Continuum

The Key/Crest continuum is designed to provide institutional TC programming for offenders who are within two years of their release dates or who are serving “addiction” sentences⁴¹, community-based transitional TC programming that includes a work release component for six to nine months, followed by aftercare groups for an additional six months. Aftercare consists of once a week group and once a month individual counseling, and includes a continuum of intervention activities for those who relapse to drug use or exhibit behavioral problems.

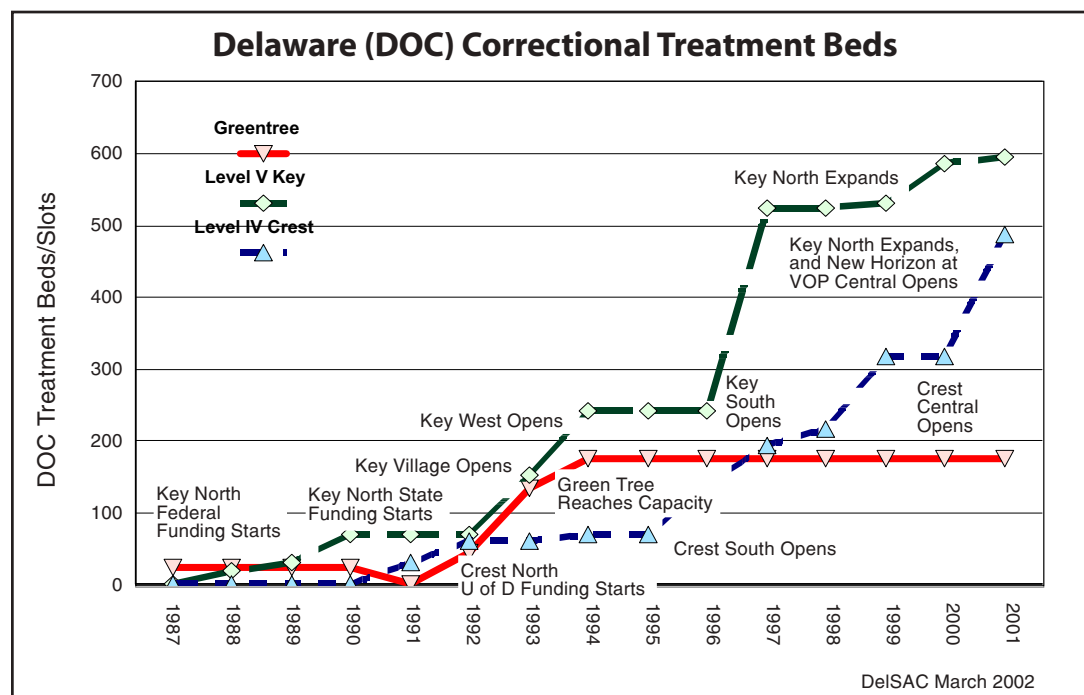
³⁷Spectrum Behavioral Services, the contractor that provides Key/Crest services, also operates programming out of the Central Violation of Probation (VOP) Center, a program for youthful offenders at Gander Hill (YCOP), and educational programming at the boot camp. Analysis of these sites is not included in this report because they were not operational during the 1999 study year. In addition, Spectrum provides drug and alcohol education services at the boot camp, and boot camp graduates are required to participate in aftercare.

³⁸Representing approximately 800 “slots”.

³⁹The number of aftercare slots varies based on demand.

⁴⁰Although no new beds were added for Key per se, a number of beds were designated as Key beds when new construction occurred. Likewise, additional Crest beds were designated when Morris Correctional Institution expanded and changed to a Level IV facility, and when the VOP centers were constructed.

⁴¹Length of stay at the various Key sites varies somewhat by design. Most of the Key programs are designed to provide 12–18 months of treatment to coincide with release dates. Key West was designed to be a more short-term program of 6–9 months, and the average length of stay is currently 7.5 months. In addition, modifications have been made to establish a short-term version of Key at all the other Key program sites. This modification was made to accommodate a backlog that occurred at Key West, and to satisfy court orders that call for “short-term Key” or do not contain enough Level V time to allow for extensive stays.



Key and Crest programs have been in a state of rapid growth and change, while the Greentree program has been stable for quite some time.

Figure 8.

Each level of treatment consists of three basic phases: Orientation, Primary Treatment and Re-Entry. Movement among these phases is based on participant progress. A number of curriculum-based educational seminars are provided at each phase of treatment, and individual and group counseling sessions include encounter groups (designed to teach participants how to get past attitudes, behaviors and actions that are barriers to achieving compliance and conformity), caseload group counseling, relapse prevention, criminal thinking, and other topical groups. In addition, all residents are assigned a job function within the community, and progress to more responsible jobs based on their needs and progress. Job functions are designed to teach residents skills, as well as to manage the community. Residents are also encouraged (and at some sites, required) to obtain their GED if they do not have one, or participate in other educational or job training programs. During more advanced treatment phases, residents are encouraged to work in institutional jobs, and in Crest programs, to participate in community employment through work release.

Crest was designed to serve as a transitional phase for those completing Key, as well to examine the effects of work release TC treatment for clients who did not come from a prison TC⁴². Therefore, a number of people are also sentenced directly to Crest programming by the courts, even though they have not completed a Key program. The DOC has recently initiated a policy whereby those sentenced directly to Crest participate in short-term (three months) residential programming at the Central VOP Center, but this was not in effect during our 1999 study year. People also move directly to aftercare upon completion of Key.

⁴²Martin et. al, 1999. Three-year outcomes of therapeutic community treatment for drug-involved offenders in Delaware: from prison to work release to aftercare. *The Prison Journal*, Volume 79, No. 3, September, 1999, pp. 294-320.



Crest was designed to serve as a transitional phase for those completing Key, and to examine the effects of work release TC treatment for clients who did not come from a prison TC.

Although basic program goals and operational procedures are the same, many variations occur between and among the Key and Crest programs. Some of the program distinctions are included in Table 6, entitled *Delaware's Key and Crest Continuum*.

Greentree Program

The Greentree program was started with federal funds in the early 1970s. At that time, alcohol and drug counselors employed by the Bureau of Alcohol and Drug Addiction (now the Division of Substance Abuse Services) operated what was basically an outpatient substance abuse treatment program for inmates confined at the Delaware Correctional Center. Since that time, the program has gone through substantial changes, and is now operated exclusively by the Department of Correction. Currently, 175 inmates are housed in a separate facility, and two correctional counselors support the program. The former Director, Ms. Frances Lewis, had been working in the Greentree program since the late 1970s, and was formerly certified as a substance abuse counselor. The other counselor is a former correctional officer who became a correctional counselor in the early 1990s. A new director (Kay Sturtz), also a correctional counselor, has recently taken over Ms. Lewis' duties.

Unlike the Key/Crest continuum, the Greentree program is not designed to work with inmates pending release. While no detentioners are accepted, any inmate sentenced to more than six months may be eligible. In addition, the program accepts felony DUI offenders. Lifers are eligible, and according to staff generally want to participate if they have an upcoming parole or pardon board hearing. Many graduates return to the general population, and graduation is not tied to release dates. Potential clients write a letter to the program director and are interviewed to see if they are acceptable for admission.

Almost all of the therapeutic activities are conducted by inmates who have been long-term residents of Greentree, with staff making final progress decisions for residents and providing program oversight⁴³. An inmate facilitator leads each of four tiers of approximately 44 residents. The program is offered in three versions, primarily depending on length of sentence. An "accelerated" six-month program is conducted for those court-ordered to Greentree, usually with the stipulation that they can be released from Level V upon completion. There are also 12- and 18-month versions, and inmates are assigned to these based on their histories, needs, and sentence parameters. DUIs and others with short sentences are housed together in one of the tiers. In addition, Greentree correctional counselors provide outpatient sessions for other inmates outside the Greentree setting.

Each of these versions (6-, 12-, and 18-month) is structured into three phases following orientation. In Phase I, childhood issues are addressed; during Phase II, adult issues are addressed; and in Phase III, the client is offered an opportunity to start

⁴³Staff oversees therapeutic activities occasionally, and approves all program changes. Staff communicates frequently with facilitators about residents, and facilitators' recommendations are taken into consideration regarding disciplinary actions, phase movement, and graduation readiness.

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Delaware's Key and Crest Continuum					
Name	Location	Beds	Program Length	Clients Served	Program Characteristics
Key North	Gander Hill	200-230	12-18 months, with a 6-9 month short term component	Males	Two 100+-bed barracks-like dormitories flank a large open area. The open area is used for most clinical activities with the aid of movable acoustic panels, and staff cubicles are located around the perimeter. Located in the new section of Gander Hill, the acoustics initially prevent hearing in normal speaking tones. Staff turnover has been high. Security staff is experienced in TC and is very supportive of the program. Key North is a flagship program with a long history and well developed culture. This program provides a significant improvement in institutional management and reduced operational costs.
Key Village	Baylor Women's Correctional Institution	96	12-18 months	Females	Four 24-person pods surround a central area that includes a security station. Office and counseling space is limited. The main area is under-utilized for clinical activities due, in part, to the location of the security post. While some activities include the entire community, the pods are structured in large part as mini-TCs. Staffing patterns are stable.
Key West	Webb Correctional Institution	90	6-9 months	Males who meet minimum security classification requirements	Located in the old Pre-Trial Annex, Key West has experienced low staff turnover, and the program makes creative use of the limited space available.
Key South	Sussex Correctional Institution	160 -180	12-18 months	Males	Key South capacity fluctuates, occupying two or three of four available pods in the facility. Each pod contains central program space, office space, and dormitory-style housing located on the upper level. There has been some staff turnover, including the director and clinical director.
Crest North	Plummer Center	140	6-9 months	Males and Females Approximately 30 Crest North clients are women	Crest North operates out of the Plummer Work Release Center. Women and men are restricted to on-site activities during the first three months of their stay, then are transitioned to work-release status. Space to conduct clinical activities is adequate. The Plummer Center is located in a high-crime, high-drug neighborhood; residents are exposed to this environment with relatively few negative incidents. There has been some staff turnover, including the director and clinical director. This program has strong relationships with the Warden and other security staff.
Crest Central	Morris Correctional Institution	100	6-9 months	Males	Located in the newly remodeled MCJ, the facility is well designed to house a TC. Residents are engaged with staff. The program started in 1999 and has had low staff turnover.
Crest South	Sussex Halfway House	150	6-9 months	Males and Females	Located in the Sussex Halfway House, the facility is augmented by prefabricated buildings that offer excellent space for clinical activities. The ratio of women to men is about even, elevating the focus on women's needs in this program.
Aftercare	All three counties	400, based on demand	6 months	Males and Females who have completed a Key and/or Crest program	Aftercare programs operate out of Crest North in Wilmington, the Dover Probation Office, and Crest South in Georgetown. Offenders who have completed Key and/or Crest are required to participate in group and individual counseling sessions and are monitored for substance use and behavioral problems.

Table 6.

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Compared to other national studies, this study has used very stringent measures of recidivism.

“giving back” to the program⁴⁴. Those in the six-month program attend all required groups and seminars in an accelerated fashion. All residents are required to meet the conditions of their correctional treatment plan, which may include participation in GED classes, mental health classes, work at an institutional job, attendance at pre-release classes, etc. Almost all Greentree residents are involved in some sort of outside activity (work in institutional jobs, etc.).

Seminars and group sessions are offered on topics such as 12 Steps, Transactional Analysis, DUI, Friends in Need (similar to AA/NA), and others. Inmate peer counselors and facilitators run all groups. All residents participate in a “hot seat” group prior to graduation. This activity, whereby the person on the “hot seat” recalls major life events from birth, is designed to assess whether the client can identify those activities and feelings that contributed to the client’s present life situation, as well as the level of self-awareness and honesty the client has achieved. Morning “formations” are held daily on each tier, are repeated in the afternoon for those clients who work or have other activities during the day, and may be called in the evening if necessary. During formation, anybody can express concerns or share information/issues. Often, issues that arose during previous groups or through other activities are addressed during formation. Facilitators lead formations, although all residents participate.

METHODOLOGY

As directed by the enabling legislation and per the instructions set forth by the Controller General and the Budget Director, this study was designed to provide a snapshot view of comparative recidivism among the Key, Crest and Greentree programs.

A total of 1,630 cases were included in the study. Lists of offenders who were discharged from a Key, Crest, or Key/Crest Aftercare program during calendar year 1999⁴⁵ were provided to the Statistical Analysis Center (SAC) by the contractor, Spectrum Behavioral Services (the substance abuse arm of Correctional Medical Services, Inc.). The lists were verified with CJIS and DOC databases to insure proper identification of inmates (by checking for validity of SBI numbers), and to verify placement in the correctional system. For instance, records for discharges of Key South were cross-checked with DOC records to make sure the inmates were classified at Sussex Correctional Institution during the time they were at Key South.

The Key programs had a total of 758 discharges in 1999. 468 persons (60 %) were identified as completers, and of these, 445 had also been released from a Level V institution. Crest programs had a total of 725 discharges. Of these, 481 (66 %) were identified as completers.

⁴⁴Some residents are offered the opportunity to remain at Greentree after program completion to “pay back,” and may become peer facilitators or co-counselors. Currently, approximately 20 inmates are in this status and may remain at Greentree for quite some time.

⁴⁵Calendar year 1999 was chosen to allow enough time after discharge to measure recidivism.

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Greentree provided a list of offenders who were discharged from the program during calendar year 1999. Because not all offenders are released from Level V upon completion of Greentree, the last Greentree completion cohort from 1998 was also included in the study⁴⁶. Identification and classification was also verified for this population.

A total of 147 discharges were reported for Greentree. Of these, 94 (64%) were identified as completers. Of the 94 program completers, 66 had been released from Level V at the time of the study.

This study examined recidivism for completers only. Reasons for this are described in the following section entitled “Methodological Limitations.”

Once identification was verified, criminal histories were accumulated for all study subjects. There were a total of 96,717 charges associated with 38,661 arrest events for the participants.

Post-program recidivism measures were derived using an “at-risk” assumption. Offenders were not considered at risk until they had been released from an institutional program as well as released from a Level V facility. For instance, graduates of Greentree who were returned to the general population waiting release from Level V were not considered at-risk until they left the institutional setting⁴⁷. Offenders in Crest or aftercare programs were considered at-risk upon program entry, since they were not in a Level V facility and had some opportunity to reoffend.

Once a person is “at-risk,” any return to jail, prison, or detained status is deducted. This is referred to as “at-risk” time less time in a major institution (MI). This methodology provides a more accurate view of when an offender may have been rearrested. In addition, a few offenders were not “at-risk” a full 18 months. Therefore, there is a possibility that recidivism rates will change slightly over time.

Recidivism was defined as any new felony arrest, violent felony arrest or violation of probation (VOP). Compared to other research studies examined (that may use reincarceration as a recidivism measure), this is a very rigorous study model.

In addition to statistical analyses, descriptive and qualitative reviews were conducted for all correctional treatment programs by project consultants Beth Peyton and Peter B. Rockholz. Ms. Peyton is the former director of the Delaware Treatment Access Center, and provides consulting services to states and the federal government in the area of integrating treatment services into justice system processes. Mr. Rockholz is a national expert on therapeutic communities and other substance abuse treatment programming for incarcerated offenders. Mr. Rockholz is a senior associate at the Criminal Justice Institute, the organization contracted by the U.S. Department of Justice to provide training and technical assistance under the federal Residential Substance Abuse Treatment (RSAT) initiative. He developed the initial version of

⁴⁶Greentree officially discharges offenders from the program twice a year.

⁴⁷Gaps between program completion and institutional discharge have a potential impact on treatment effect, but were not able to be factored in to this study.

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It is premature to make definitive conclusions about the effectiveness of correctional treatment in Delaware without examining the effect of the continuum.

the national prison TC standards that have subsequently been released by the White House Office of National Drug Control Policy (ONDCP). A revised version of these standards is currently under consideration for adoption by the American Correctional Association.

A series of site visits was conducted by Ms. Peyton and Mr. Rockholz, and a number of people were interviewed and/or observed. Mr. Rockholz and Ms. Peyton used the draft version of the National Prison TC Standards and the Criminal Justice Institute's Essential Prison TC Standards as baseline guides for analysis. These standards are available through the American Correctional Association.

Methodological Limitations

There are several methodological limitations to the research design that prevent drawing definitive conclusions about the efficacy of correctional treatment programs in Delaware, and limit our ability to compare Delaware's programs with findings from other research. As such, the findings in this report should be considered preliminary, and are indicative of future research needs as much as current program effectiveness. These methodological limitations include:

- ❑ No control or comparison group exists to enable us to compare outcomes of offenders who participated in treatment with similar offenders who did not receive treatment.
- ❑ The nature of the population of non-completers does not allow for comparison to completers in this snapshot view. Many offenders in the 1999 non-completer category may have gone on to complete treatment later—they are actually treatment completers, but did not complete during 1999. A more comprehensive, longitudinal study would be needed to make this comparison.
- ❑ Client lists from program providers contained some errors. Client lists were provided by both Spectrum and Greentree, and contained between a 10 percent and 20 percent error rate on identification (SBI numbers were wrong or missing). In addition, there was no way to cross check to ensure we received complete lists of all offenders who were discharged in the 1998/1999 study period. Although efforts were made to verify client participation, this baseline data may still contain some errors.
- ❑ Measures of success and failure were defined by the programs, and were inconsistent. During the study period, there were inconsistent policies among programs regarding the criteria that constituted success and failure (definitions for discharge criteria have subsequently been standardized among all the Key and Crest programs). In addition, some programs used discharge criteria that was deemed "neutral," and due to time constraints and lack of program consistency, the study population has not been broken

down by detailed termination criteria. Neutral criteria could include such things as being medically inappropriate for the program, time running out on a sentence order, etc.

- ❑ The substance use history and severity, and other clinical characteristics of clients (both completers and non-completers) is not known for the study population. This information may be available in paper files, but time and resources did not allow for collection of this data for inclusion in the study.
- ❑ Because the study group is a snapshot population, we do not have data to examine the effect of Delaware’s continuum of treatment on this population through longitudinal study. The literature indicates that offenders who complete a long-term continuum of treatment achieve better results than those who complete an institutional program only. It is premature to make definitive conclusions about the effectiveness of correctional treatment in Delaware without examining the effect of the continuum.
- ❑ Program observations and site visits were conducted in November and December of 2001, and the study population consists of discharges from 1999 who may have been in treatment even earlier. Program quality could have varied between the study period and the time the observations were made.

How the System is Used—How do People get There?

Offenders are referred for admission to the Key, Crest, Greentree and aftercare programs through a variety of mechanisms, including 1) court orders that specify a specific program (e.g., Key, Greentree); 2) court orders that specify a particular program with the stipulation that a portion of the Level V time may be suspended upon successful completion (“addiction” or “suspendable” sentences); 3) court orders that contain a condition for treatment in general; 4) parole orders; and, 5) classification to a program by DOC. These mechanisms are not mutually exclusive since DOC ultimately classifies all offenders into these programs. However, court and parole orders are taken into consideration and given priority when feasible.

Consistent with effective treatment practices, the Key/Crest/Aftercare continuum was designed to provide intensive initial treatment in an institutional environment, followed by transitional treatment and support to assist offenders to successfully reenter the community⁴⁸. In reality, however, offenders move into and out of the continuum similarly to how offenders move in the general justice system. That is, they are placed in an initial program setting and their sanction (and treatment) levels are modified based on their progress and compliance (or lack thereof). Sentence length and availability of treatment slots appear to be the biggest drivers of placement and admission to correctional treatment programs. As a result, some of the benefits of this continuum may not be realized.

⁴⁸The Greentree Program does not have an aftercare component as part of its program structure.



Consistent with effective treatment practices, the Key/Crest/Aftercare continuum was designed to provide intensive initial treatment in an institutional environment, followed by transitional treatment and support to assist offenders to successfully reenter the community.

Sentencing Trends and Correctional Treatment in Delaware



Another phenomenon that affects program admission and movement is the “stutter start.” Offenders may have multiple program admissions before they engage in treatment.

In this study, we found very few people who completed the Key/Crest treatment continuum in a traditional fashion during the 1999 study year. This phenomenon and its implications will be described in more detail in a forthcoming report to focus more specifically on offender movement throughout the treatment system. However, it is important to understand why many offenders are not afforded the opportunity to complete the full continuum of treatment:

- ❑ SENTAC is based on the premise that incarceration space should be reserved for persons with serious and violent charges. Therefore, many offenders who clinically might benefit from a long-term residential TC are placed in Level IV at Crest. If they respond to treatment at this level, prison resources are conserved. If they fail to respond, they often receive a violation of probation and they may be ordered to Key.
- ❑ Sentences may result from Rule 11 pleas⁴⁹ which stipulate Level III supervision after Key completion, thus bypassing Crest.
- ❑ Space is not always available in Level IV Crest programs. Although recent expansion of Crest has created more balance between institutional and Level IV programming, many offenders may have to wait for Crest admission, and may not be admitted at all prior to the expiration of their sentences.
- ❑ There are statutory and DOC policy prohibitions that prevent some Key graduates from entering work release and therefore Crest. Class A felons, sex offenders, and habitual offenders are prohibited from work release by law. DOC policy prohibits the admission of inmates with detainers⁵⁰, inmates serving sentences under 4204(k)⁵¹, and inmates convicted of escape after conviction or escape 2nd to work release.
- ❑ Some offenders are ordered directly to aftercare because they have completed another community-based treatment program, or have participated in Key or Crest during previous years.
- ❑ Some offenders graduate from boot camp which is followed by aftercare.

Another phenomenon that affects program admission and movement is the “stutter start.” Offenders may have multiple program admissions before they engage in treatment. Because the programs are voluntary, offenders may decline to participate. Leverage is used by the courts and by DOC to encourage participation, including increasing sanctions or restricting institutional privileges. As such, some offenders may be admitted to programming two or more times before they fully start treatment.

⁴⁹Under Court Rule 11, which has recently been rescinded, judges agree to accept a plea as well as a sentence agreed upon by the prosecution and defense. If the judge refuses to accept the sentence, the plea can be withdrawn.

⁵⁰Unless the detaining authority has given specific approval for work release.

⁵¹Unless the sentencing judge specifies that work release is allowed.

RESULTS

Although methodological limitations render many of the findings of this study preliminary, in general, it appears that program results reflect what other studies have shown. Offenders who complete institutional programs (e.g., Key and Greentree) show measurable improvements in recidivism, but these improvements erode over time without aftercare. Rates of recidivism for completers of Crest were lower than those of Key or Greentree completers, but the populations going in to these programs differ based on prior criminal histories. Recidivism rates are also lower for offenders who have completed Key and Crest programs, compared to those who complete Key only or Greentree only.

A pre-post comparison indicates that criminal activity after program completion is substantially reduced from pre-program levels. Given the extremely serious criminal histories of the populations in treatment, any type of rehabilitation is a challenge, and any reduction in criminal activity should be viewed very positively.

Compared to other national studies, this study has used very stringent measures of recidivism. The California study of Amity used return to prison as a measure of recidivism; similarly, the Texas study compared reincarceration rates of offenders. The University of Delaware study of Key and Crest did not include violations of probation or parole as measures of recidivism, and relied on offender self-report of rearrest.

Violation of probation rates for Key, Crest, and Greentree completers are high, demonstrating that the system is holding these offenders accountable with increased surveillance. While some VOPs are tied to new criminal activity, other VOPs result from relapse or lack of compliance in treatment. As such, some VOPs may reflect adjustments to treatment rather than new criminal activity.

As this study progressed and reached its preliminary conclusions, it became more and more apparent that the flow of offenders through these programs is a critical issue in evaluating effectiveness. Although we cannot yet make a definitive statement, it appears that too few people are receiving primary treatment, transitional treatment and aftercare in an uninterrupted, consecutive fashion. And while it may not be wise to incarcerate offenders based on treatment need, too few Key completers appear to transition to Crest and aftercare, and Greentree graduates do not appear to receive aftercare as a general rule.

A Comparison of Key and Greentree

A snapshot look at recidivism indicates that overall, offenders who completed a Key program did about as well as offenders who completed the Greentree program. In terms of rearrests for any felony, about 26 percent of Key and Greentree graduates were arrested for any new felony 18 months after release from the program and from a Level V institution, as depicted in Figure 9, entitled *Key and Greentree: Percent Rearrested Any Felony: 1999 Completers*. Key completers averaged 5.5 felony arrests prior to program participation, and Greentree completers had even more serious criminal histories, with an average of 6.2 prior felony arrests.



Offenders who complete institutional programs (e.g., Key and Greentree) show measurable improvements in recidivism, but these improvements erode over time without aftercare.

Sentencing Trends and Correctional Treatment in Delaware



A pre-post comparison indicates that criminal activity after program completion is substantially reduced from pre-program levels....

Table 7, entitled *Key and Greentree 1999 Snapshot Recidivism: Percent Rearrested Any Felony*, compares results from the various Key programs. We would expect to see differences in program outcome, since the Key programs work with different populations (Key Village is for women, Key West is a short-term program for offenders who meet minimum security classification requirements) and were at different life cycle stages during the study year.

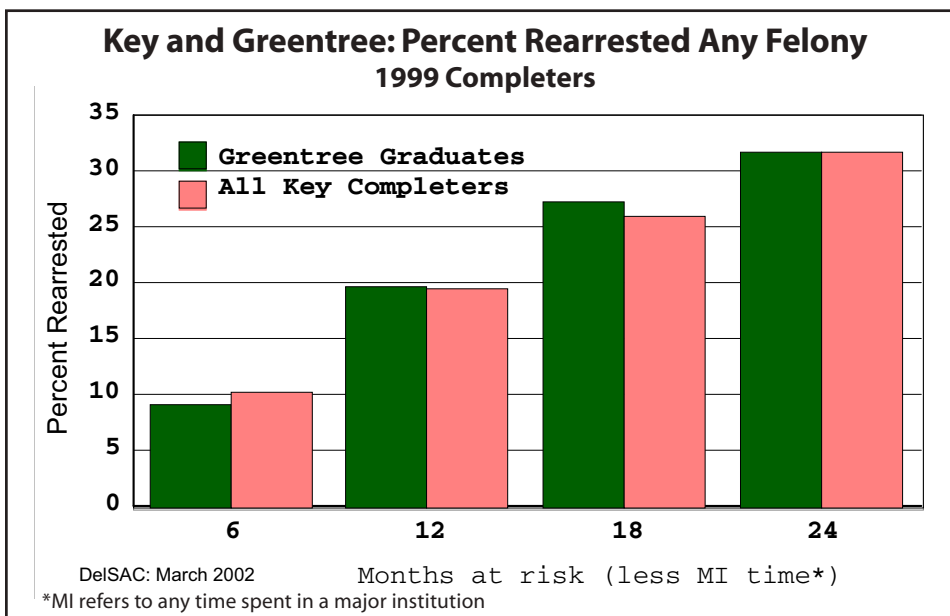


Figure 9.

...the flow of offenders through these correctional treatment programs is a critical issue in evaluating effectiveness.

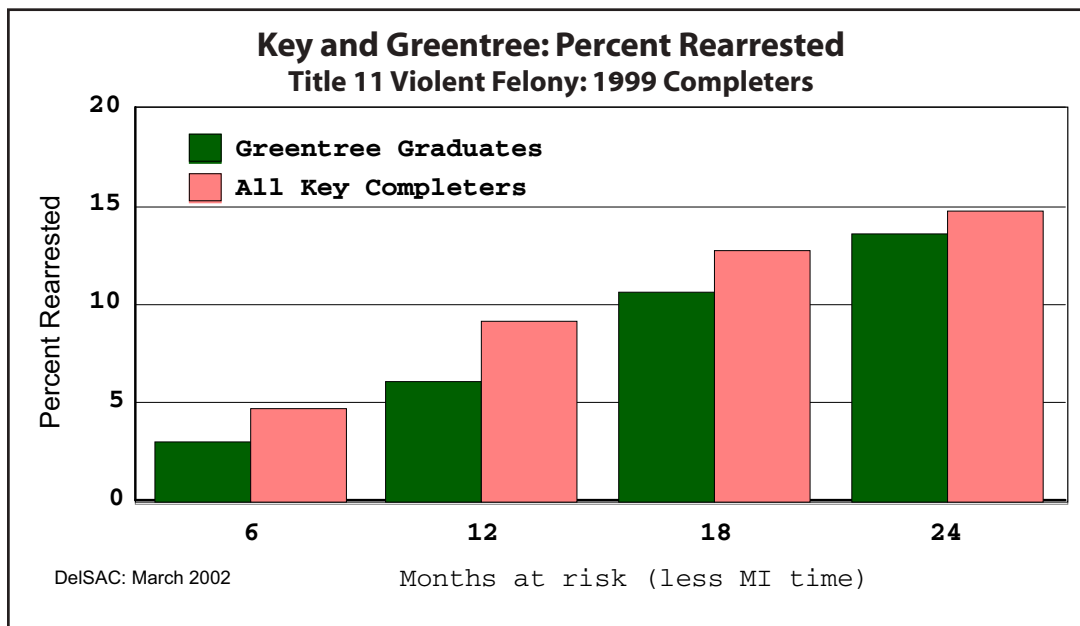
		Months at risk (less Major Institution time)			
		6	12	18	24
Key North Completers		11.4	22.7	27.6	30.3
Key West Completers		9.8	17.6	19.6	25.5
Key South Completers		10.2	18.9	31.5	39.4
Key Village Completers		6.5	9.7	16.1	29.0
All Key Completers	n = 445	10.3	19.6	26.1	31.7
Greentree Graduates	n = 66	9.1	19.7	27.3	31.8

Table 7.

Sentencing Trends and Correctional Treatment in Delaware



Figure 10, entitled *Key and Greentree: Percent Rearrested Title 11 Violent Felony: 1999 Completers*, shows the percentage of Key and Greentree completers who were rearrested for Title 11 (non-drug) violent felonies.



When examining rearrests for Title 11 violent felonies, the results show that the recidivism rates for violent felonies are about one-half of those for any felony.

Figure 10.

When examining rearrests for Title 11 violent felonies, the results show that the recidivism rates for violent felonies are about one-half of those for any felony. Greentree completers did slightly better than Key completers, although completers of some Key programs had lower violent felony recidivism than Greentree completers (Key West, Key Village). Table 8, entitled *Key and Greentree 1999 Snapshot Recidivism: Percent Rearrested Title 11 Violent Felony*, shows a breakdown by program site.

		Months at risk (less Major Institution time)			
		6	12	18	24
Key North Completers		3.8	8.6	11.9	13.5
Key West Completers		4.9	7.8	7.8	10.8
Key South Completers		5.5	11.0	18.1	20.5
Key Village Completers		6.5	9.7	12.9	12.9
All Key Completers	n = 445	4.7	9.2	12.8	14.8
Greentree Graduates	n = 66	3.0	6.1	10.6	13.6

Table 8.

Sentencing Trends and Correctional Treatment in Delaware



As with the general sentenced population, violations of probation (VOPs) represent the most frequent reason for continued contact with the justice system. Completers of institutional treatment programs receive perhaps the most intense scrutiny of any offender population, with the possible exception of those offenders in Operation Safe Streets. Figure 11, entitled *DOCs Surveillance is High: VOPs Key and Greentree: 1999 Completers*, shows probation violations for Greentree and Key completers.

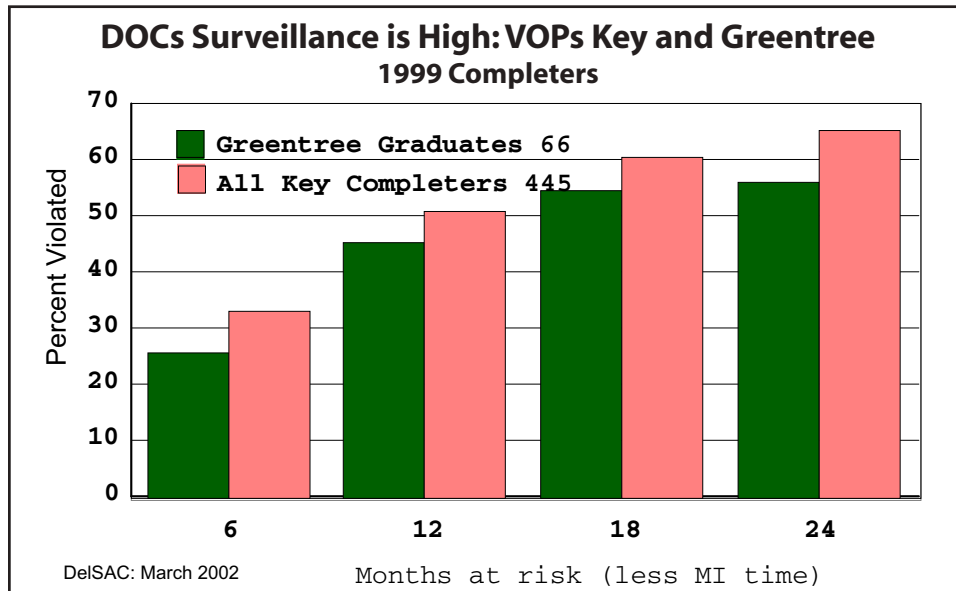


Figure 11.

It is important to recognize that probation violations almost always accompany new arrests or convictions of any kind, since a new arrest is an automatic violation of probation. In addition, relapses to drug use (including positive drug tests), failure to attend treatment, and a variety of other substantive and technical infractions can result in a VOP. We do not know how many of the VOPs resulted in new sentences or adjustments in sentence levels, although based on Superior Court data, about half of all probation violations result in movement to a higher level. Perhaps as many as half of the VOPs actually reflect adjustments in treatment.

The level of VOPs in this population reflects SENTAC's policy of holding offenders accountable, and reinforces the seriousness of a sentence to treatment. Judges and correctional professionals expect treatment participants to toe the line and comply with program requirements. This focus on public safety is a major change that has occurred as a result of SENTAC, since prior to SENTAC, few offenders were violated and did not reenter the system until they had committed new criminal offenses.

Crest Programs

In general, recidivism results for Crest completers were positive. Fewer than 20 percent of all Crest completers had a new felony arrest at 18 months.

Sentencing Trends and Correctional Treatment in Delaware

The Crest population overall has a lower level of pre-program criminal activity, compared to the Key and Greentree populations, so we would expect to see better results. Pre-program felony arrest rates for Key and Greentree completers were substantially higher than Crest completers. Crest completers have an average of 4.4 prior felony arrests, which makes them serious criminals, but less serious than those completing Key or Greentree on average.

Offenders are admitted to Crest through a variety of mechanisms. During the 1999 study period, a total of 482 Crest completers were identified. A total of 96 (20%) Crest completers were identified as having been in a Key program directly prior to admission; 103 (21%) moved from Level V⁵², and 283 (59%) were direct commitments from the Courts. Those offenders who are sentenced directly to Crest know they have a lot to lose if they fail, because failure is likely to lead to incarceration.

The percentage of Crest completers who were rearrested for any felony is depicted in Figure 12, entitled *All Level IV Crest Programs: Percent Rearrested Any Felony: 1999 Completers*.

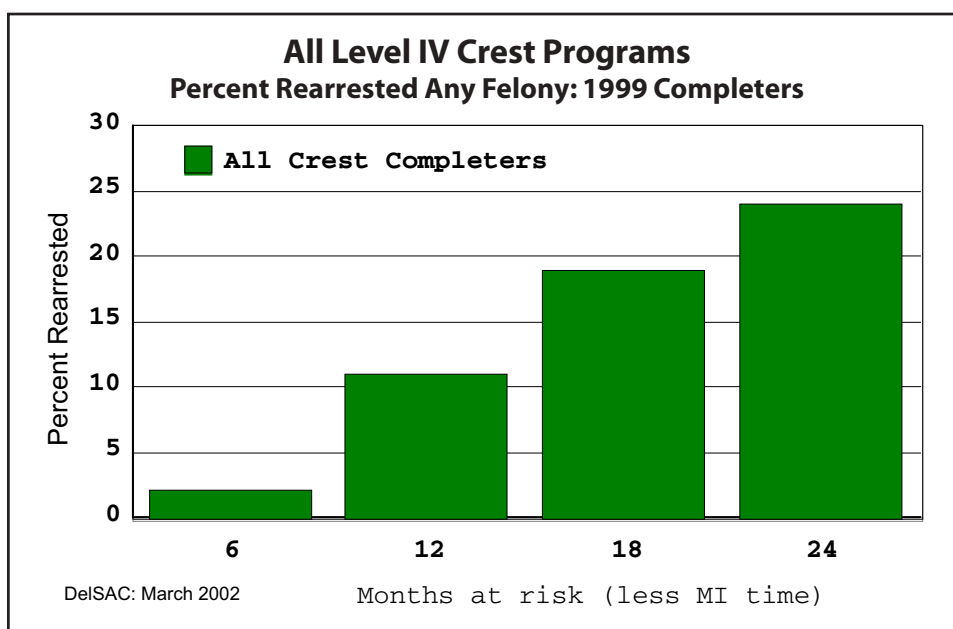


Figure 12.

There was also some variation in outcomes based on the particular Crest program that people completed. These site differences are shown in Table 9, entitled *Level IV Crest 1999 Snapshot Recidivism: Percent Rearrested Any Felony*.

⁵²Persons in Level V may have been in Greentree, boot camp, other programming, or nothing prior to their transfer to Crest.



Judges and correctional professionals expect treatment participants to toe the line and comply with program requirements.



	Level IV Crest 1999 Snapshot Recidivism			
	Percent Rearrested			
	Any Felony			
	Months at Risk (less Major Institution Time)			
	6	12	18	24
Crest North Completers	3.5	14.2	18.6	23.0
Crest Central Completers	1.5	8.4	21.4	29.0
Crest South Completers	1.7	11.0	17.7	21.9
All Crest Completers	2.1	11.0	18.9	24.1

Table 9.

Figure 13, entitled *All Level IV Crest Programs: Percent Rearrested Title 11 Violent Felony 1999 Completers*, shows the percentage of Crest completers who were rearrested for a Title 11 violent felony. Re-arrests for violent felonies were about half as for all felonies. At 18 months, fewer than 10 percent of Crest completers had been arrested for a Title 11 violent felony.

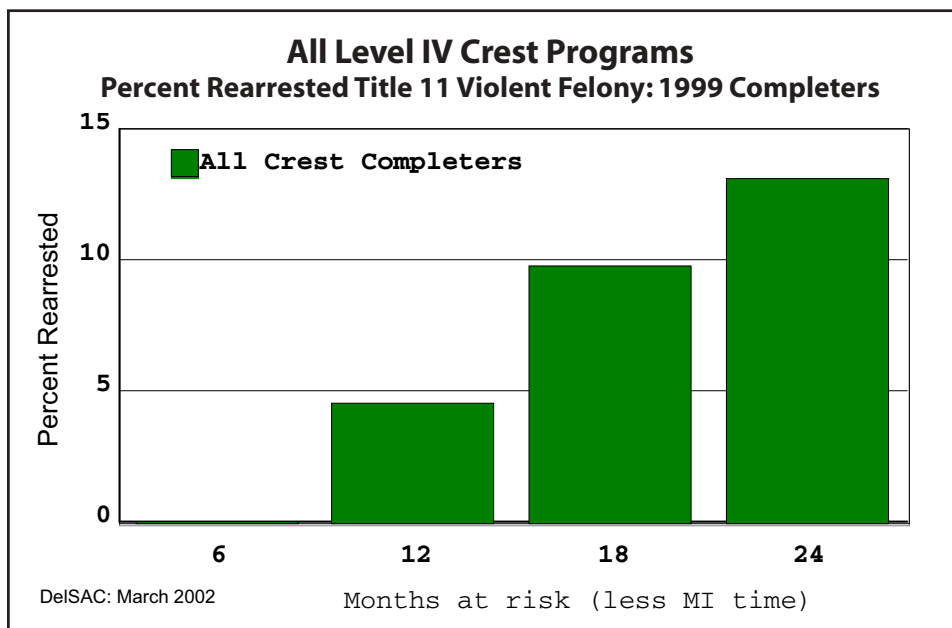


Figure 13.

Differences in rearrest rates for Violent Felonies by Crest site are shown in Table 10, entitled *Level IV Crest 1999 Snapshot Recidivism: Percent Rearrested Title 11 Violent Felony*.



Level IV Crest 1999 Snapshot Recidivism Percent Rearrested Title 11 Violent Felony				
Months at risk (less Major Institution time)				
	6	12	18	24
Crest North Completers	0.1	4.4	7.1	8.8
Crest Central Completers	0.1	3.1	9.9	15.3
Crest South Completers	0.0	5.5	11.0	13.9
All Crest Completers	0.4	4.6	9.8	13.1

Table 10.

Consistent with SENTAC’s policy of holding offenders accountable, high levels of surveillance of the Crest population results in high levels of VOP’s. (See Figure 14, entitled *DOCs Surveillance is High: Crest VOPs: 1999 Completers.*)

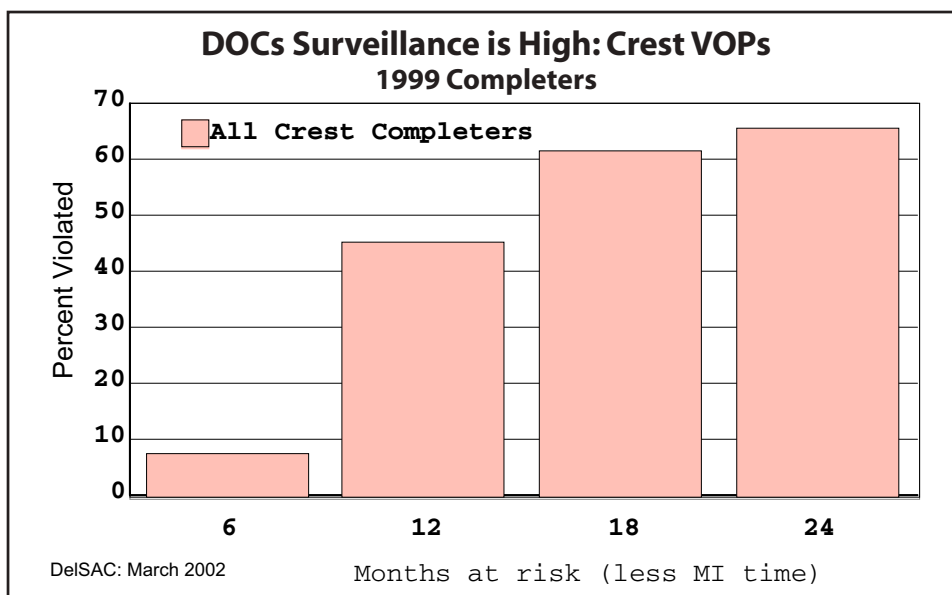


Figure 14.

Again, we do not yet know how many of these VOPs result in adjustments to sentencing level, or how many reflect “tune-ups” or adjustments to treatment, but hope to report this at a later time.



...offenders who completed BOTH Key and Crest had lower recidivism rates than offenders who completed ONLY Key or Greentree.

Completion of Crest Enhances the Results of Key

Approximately 20 percent of the 1999 snapshot Crest population flowed down after completing a Key program. Consistent with other research, offenders who completed both Key and Crest had lower recidivism rates than offenders who completed only Key or Greentree.

Figure 15, entitled *Key-Crest Comparison: Percent Rearrested Any Felony: 1999 Completers*, shows that completers of Key **and** Crest did better than Greentree-only or Key-only completers in terms of felony rearrests.

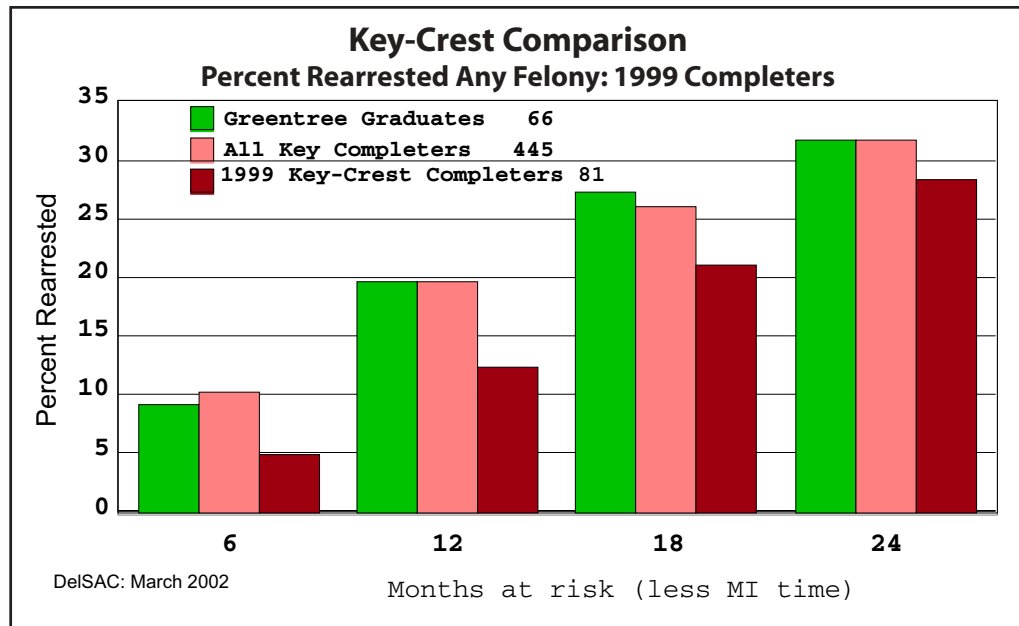


Figure 15.

These trends hold when comparing Key/Crest graduates to Key only or Greentree only graduates rearrested for violent felonies, as shown in Figure 16 entitled *Key-Crest Comparison: Percent Rearrested Title 11 Violent Felony*.

The maximum potency of treatment is likely to be realized with offenders who participate in a full continuum of treatment. Outcomes for both Greentree and Key completers should significantly improve if they receive transitional treatment and aftercare.

All offenders in the TC continuum should receive treatment in the community, but some need institutional programming as well. Part of the success of Crest may be due to the Key programming that precedes Crest admission for a number of clients, as Key completion prepares offenders for community-based treatment.



The maximum potency of treatment is likely to be realized with offenders who participate in a full continuum of treatment.

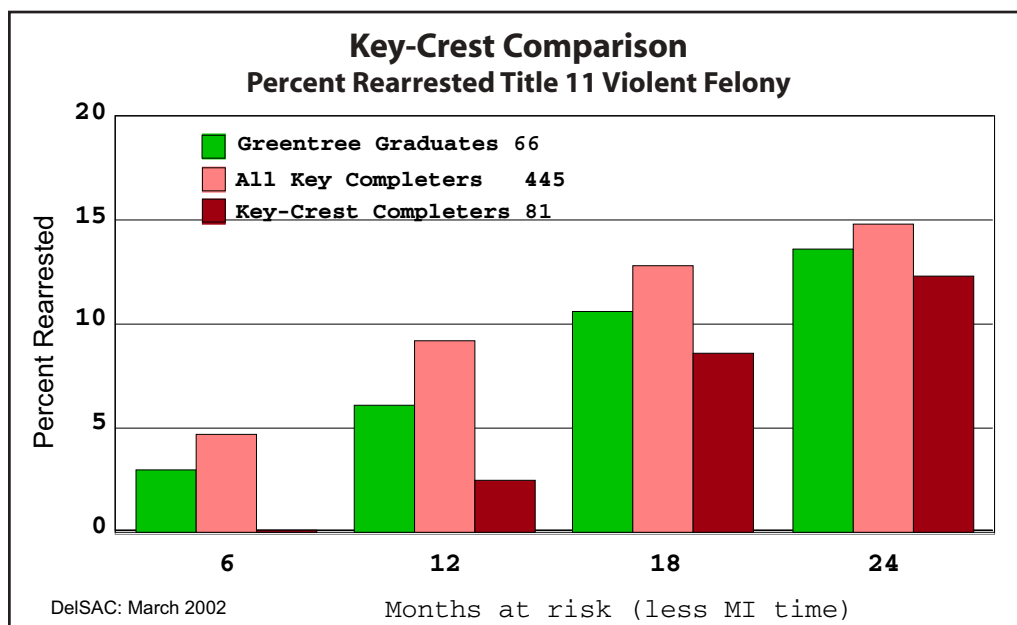


Figure 16.

The positive cumulative effect of Key and Crest is likely to increase as Key and Crest completers move into and complete aftercare. Aftercare is an important and very active program component in the Key/Crest continuum. Studies in Delaware and elsewhere have shown that offenders who complete a full treatment continuum including aftercare demonstrate marked reductions in recidivism. Unfortunately, time did not allow for an examination of the population of aftercare completers in Delaware.

Comparison of All Programs

When comparing all programs, in terms of felony arrests, Key and Greentree graduates did about the same, with about a 25 percent recidivism rate at 18 months. Key graduates who also completed Crest did better than Key-only or Greentree-only graduates. Crest completers had the lowest rate of recidivism, but they also have the lowest rate of pre-program criminal activity. Figure 17, entitled *All Programs: Percent Rearrested Any Felony: 1999 Completers*, compares felony arrest recidivism among these programs.

These results are promising. In terms of felony arrest history:

- ❑ Crest completers averaged 4.4 prior Felony arrests;
- ❑ Key completers averaged 5.5 prior Felony arrests;
- ❑ Greentree completers averaged 6.2 prior Felony arrests.



The positive cumulative effect of Key and Crest is likely to increase as Key and Crest completers move into and complete aftercare. Aftercare is an important and very active program component in the Key/Crest continuum.

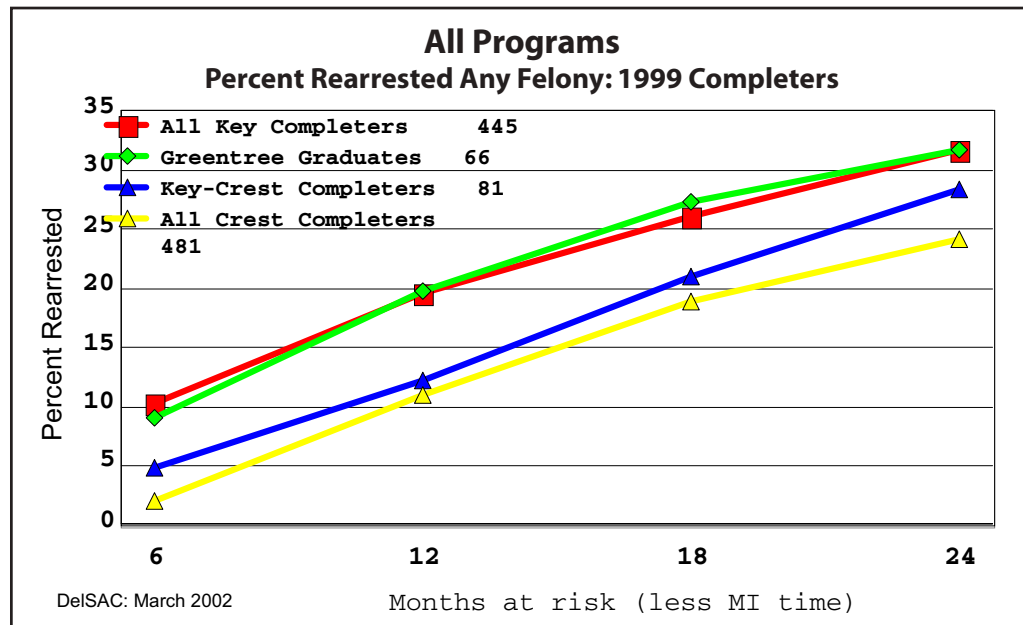


Figure 17.

Given the seriousness of these criminal histories, one would expect to see high rates of rearrest. Because of different measurement standards, there is no way to make direct comparisons with other states' programs. However, we do know that in Delaware, an average of 39.2 percent of offenders released from prison from 1981 through 1994 were returned to prison within 18 to 24 months⁵³. Although this study used a more stringent measure of recidivism, felony rearrest, we can see that all program graduates do better than the general population.

It may also be useful to examine how correctional treatment compares to recent boot camp results. Table 11, entitled *Felony Rearrest 18 Months at Risk: Comparison of Boot Camp and Correctional Treatment Programs*, shows comparative recidivism rates for correctional treatment programs compared to boot camp graduates.

The greater the number of prior felony arrests, the greater the likelihood that an offender will be arrested again. Table 11 shows that in terms of prior history, boot camp graduates had pre-program felony arrest histories that were significantly lower than Greentree or Key completers, and slightly lower than Crest completers. Nonetheless, many categories of treatment completers did better than boot camp graduates even though we would expect to see higher recidivism based on prior history.

In terms of arrests for violent felonies, Key/Crest graduates have the lowest recidivism rates compared to other populations as shown in Figure 18, entitled *All Programs: Percent Rearrested Title 11 Violent Felony: 1999 Completers*.

⁵³DelSAC September 1997. *Recidivism in Delaware 1981-1994, Phase 2*. Unpublished Report.



Program	Percent Felony Rearrest	Number of Felony Priors
Greentree Completers	27.3%	6.2
Key Completers	26.1%	5.5
Boot Camp Graduates ⁵⁵	24.3%	4.3
Key and Crest Completers	21%	na
Crest Completers	18.9%	4.4

In terms of arrest for violent felonies, Key/Crest graduates have the lowest recidivism rates compared to other populations.

Table 11.

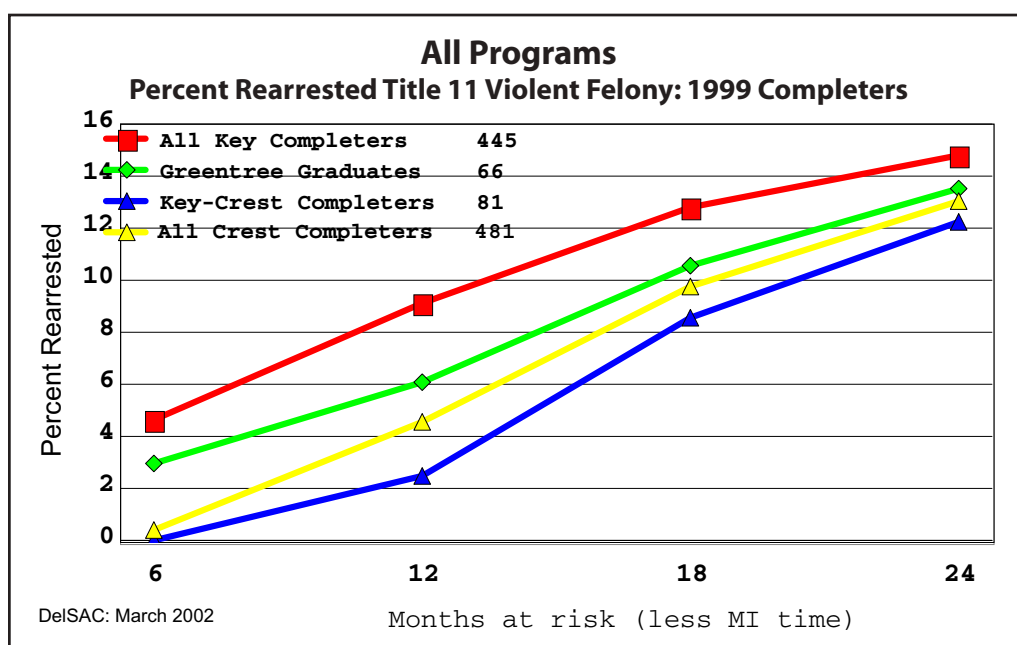


Figure 18.

While these data compare outcomes of completers in terms of criminal activity, it does not mean that we can conclude that one program is better than another. The populations who enter these programs differ based on criminal history, and we do not know how they may differ on other measures, including seriousness of substance abuse.

⁵⁴DelSAC 2001. *Delaware's Adult Boot Camp*.

⁵⁵The analysis of the correctional treatment population accounted for any time an offender was in a major institution when calculating time at risk. If this had been done for the boot camp population, recidivism rates for boot camp would have been slightly higher.



Delaware has an impressive continuum of correctional treatment services, with significant support for treatment as a method to reduce criminal activity by DOC administration and staff, by the judiciary, by others in the justice system, and by program providers.

QUALITATIVE ANALYSIS

Delaware has an impressive continuum of correctional treatment services, with significant support for treatment as a method to reduce criminal activity by DOC administration and staff, by the judiciary, by others in the justice system, and by program providers. To a person, all wardens interviewed were very supportive of having treatment programs operate in their institutions. The programmatic infrastructure has grown into a system that, when fully developed, should be able to provide maximum benefit to a large number of substance-abusing offenders. The inclusion of requirements for treatment participation is well integrated into Delaware's criminal sentencing practices, and the availability of correctional treatment has significantly influenced criminal sentencing patterns. At the same time, in terms of organizational growth, this system is in a very early stage of development.

Programming, particularly the Key/Crest continuum, is designed to coincide with movement among the SENTAC levels, giving both the DOC and the judiciary the flexibility to access services that correlate with the supervision needs of offenders, and to respond with more intensive supervision and treatment when offenders fail to respond to less intensive interventions.

In general, all programs observed appeared to be well-run and well-organized, with participants seeming to be productively engaged in the treatment process. In the opinion of the consultants who conducted site visits, all programs observed, including Greentree, should be able to meet the ACA Prison Therapeutic Community Accreditation Standards⁵⁶.

The Greentree Program

The Greentree program was observed to be a potent self-help therapeutic community facilitated primarily by inmates with DOC staff oversight. The Greentree program is generally very well designed in the context of the overall prison environment, and is effective in addressing the behavioral, attitudinal and social habilitation needs of inmates in a culturally proficient manner. The therapeutic community process at Greentree appears to be achieving a significant degree of clinical depth. The senior inmates at Greentree have mastered the essential therapeutic community facilitation processes, and exemplify positive role modeling and genuine credibility with other inmates. Although some of the interventions at Greentree are non-traditional and may not be viewed favorably by traditionally trained clinicians, these are precisely the processes that make a therapeutic community effective. In addition, there does not appear to be an additional cost to the DOC for the Greentree program, and there may, in fact, be indirect savings to the institution in terms of reduced disciplinary incidents.

It would be very difficult or impossible to replicate this program. Its quality is based on the commitment and skills of several "lifer" inmate facilitators. In addition, a number of long term inmates who are part of the "chain of command" provide stabil-

⁵⁶These draft standards are currently being field tested.

Sentencing Trends and Correctional Treatment in Delaware

ity and support of the positive TC culture. This program has taken years to develop, and is dependent on the mix and charisma of the inmate program leaders and long-term residents, as well as staff support.

Although Greentree could benefit from oversight by qualified TC experts, significant changes in admission patterns, in program content, or attempts to “professionalize” the program could be disastrous. There is a chemistry in Greentree that could be altered by any attempt to mainstream the program⁵⁷. However, the addition of after-care, preferably in the form of case management support to develop concrete after-care plans, provide advocacy at Parole Board, court and other hearings, and link released residents to housing, employment, continuing care and other services would benefit the program and would likely improve outcomes.

The Key/Crest Programs

The Key/Crest programs provide quality services, and are highly capable of improving service delivery. Program directors and clinical supervisors at all Key/Crest sites are highly qualified and competent in TC practices. Key/Crest has undergone a tremendous expansion in a relatively short period of time. Many existing programs (Key North, Crest North, the Village) have expanded their capacity and/or changed location within their facilities, and new programs have developed at new sites (Key South became operational in 1997, and Crest Central became operation in 1999). As a result, one would expect to see some program instability and “growing pains.”

This rapid expansion has been experienced across the country, as state and local jurisdictions have taken advantage of RSAT funding to develop treatment programming for offenders. In a recent study of programs funded by the Residential Substance Abuse Treatment (RSAT) for State Prisoners Formula Grant, the University of Delaware Center for Drug and Alcohol Studies found that most of the 77 sites studied had experienced moderate to severe start-up or expansion problems⁵⁸. Some of the problems identified in this national study have been experienced in Delaware, including high rates of staff turnover, difficulty finding staff with TC experience, and inappropriate client referrals⁵⁹.

In an effort to ensure high quality services, and for lack of more appropriate alternative methods, DOC requires that the Key/Crest programs meet state substance abuse treatment licensing requirements. Unfortunately, and similarly to what has occurred in several other states, the result has been the opposite of what was intended. Paradoxically, the more emphasis that is put on meeting traditional professional standards, the more likely that the TC process becomes less potent and produces outcomes that are less than anticipated. This is not the fault of the licensing standards,

⁵⁷Like Delancy Street, perhaps the most effective TC for serious offenders, Greentree would not likely meet substance abuse treatment standards; but that does not mean that it is less effective.

⁵⁸Harrison, Lana D. and Steven S. Martin. October 2002. *Residential Substance Abuse Treatment (RSAT) for State Prisoners Formula Grant: Compendium of Program Implementation and Accomplishments*. University of Delaware Center for Drug and Alcohol Studies.

⁵⁹Inmates with too much or too little time remaining on their sentences.



...in terms of organizational growth, the Delaware correctional treatment system is in a very early stage of development.

Sentencing Trends and Correctional Treatment in Delaware



The Greentree program is generally very well designed in the context of the overall prison environment... but it would be a challenge to replicate this program since its quality is based on the commitment and skills of several "lifer" inmate facilitators.

but rather an indirect result caused by a shift in focus to administrative and clinical processes that are more traditional, that take counselors' time away from the TC, and that encourage the hiring of professional staff who may nonetheless lack TC experience or training.

Sentencing and classification practices do not always support offender participation in a continuum of treatment services. Limitations on sentence length, laws and policies that proscribe assignment to work release (Crest), and placement that is driven by sentence length and slot availability reduce the programs' ability to produce good results.

The costs associated with Key/Crest programming are offset by reductions in disciplinary actions, reductions in security and correctional counselor staffing, and lowered maintenance costs, particularly at some sites. At Key North, for instance, inmates are housed in an area of Gander Hill that was difficult to manage before Key moved in. After the Key program was located there, maintenance costs were reduced by 40 percent, and two fewer 24-hour security posts were needed (a cost reduction of approximately \$404,400 per year⁶⁰). Although these dramatic cost reductions are not apparent at all Key/Crest sites, nonetheless the programming is beneficial to the overall discipline and management of correctional institutions.

In sum, there are a number of factors in Delaware that influence the ability of the TC system to produce consistent outcomes. They are summarized in Table 12, entitled *Factors that Influence Correctional Treatment Effectiveness*.

Factors that Influence Correctional Treatment Effectiveness	
Factors supporting positive outcomes	Factors limiting positive outcomes
Well established programs	Few ex-offenders, TC grads on staff (Key/Crest)
Contracted services (Key/Crest)	Emphasis on licensing of programs and staff credentials, absent other qualitative measures
Single provider with common approach and focus (Key/Crest)	Focus on cognitive programming vs. interactive, experiential programming (Key/Crest)
Very competent program directors	Emphasis on medical model (Key/Crest)
Administration and wardens very supportive of programs	Promotion of participants based on time and curriculum vs. personal growth
Programs understand the justice system and have positive relationships with criminal justice professionals	Sentencing and classification practices do not always support utilization of the treatment continuum
Statewide network with three levels of care	Limited client tracking, MIS, ongoing evaluation capability
	Rapid growth and change

Table 12.

⁶⁰Two security posts is equivalent to about 10 correctional officer positions.

DISCUSSION

Delaware has established a comprehensive system of therapeutic community (TC) services throughout the correctional system. National research, as well as the recidivism reduction apparent in this study, supports this model of treatment for offenders with long histories of substance abuse, criminality, and other associated disorders. Correctional treatment in Delaware is interwoven into the system of sentencing and sanctioning offenders, and supports SENTAC's goal of rehabilitating offenders. In fact, this programming supports the philosophical shift that has occurred in the justice system that expects demonstrable behavioral change on the part of offenders.

Preliminary statistical research on a snapshot population of program completers in 1999, consistent with other national outcome studies, shows that:

- ❑ Institutional treatment alone reduces recidivism, but results erode over time without transitional care and aftercare. The programs in Delaware are treating offenders with very serious criminal histories, and any reductions in recidivism are significant. In addition, improvements to institutional management provided by TCs may also provide collateral benefits such as reductions in violence, reduced disciplinary incidents and improved institutional control.
- ❑ The effects of institutional treatment are enhanced if followed by transitional care in the community.
- ❑ Greentree graduates do about as well as Key graduates. Graduates of both programs are likely to do better if they receive transitional and aftercare services.
- ❑ The Crest program is significantly effective at further reducing recidivism for Key graduates, as well as for offenders who enter the program directly following incarceration or who enter as direct Level IV sentences.
- ❑ The impact of aftercare was not examined in this study, but should have additional benefits according to national research.
- ❑ We need to more closely examine how offenders move through the correctional treatment continuum.
- ❑ Surveillance and supervision of offenders in treatment programs, and following treatment completion, is high. The system is intervening when substance abuse or behavioral slips occur by violating probation and seeking court action. This activity promotes public safety in a much larger measure than was occurring pre-SENTAC, and reflects the process of supervision rather than the product of supervision.



Other benefits associated with Key/Crest programming include reductions in disciplinary actions, reductions in security and correctional counselor staffing, and lowered maintenance costs ...

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In terms of quality, all programs observed would likely meet the American Correctional Associations standards for TCs, including the Greentree program. However, there are some factors that reduce the programs' likelihood of achieving optimal results. Among them:

- ❑ The Greentree program is somewhat isolated and graduates do not have routine access to transitional or aftercare services;
- ❑ In 1999, the quality of the Key and Crest programs, like other programs across the country, had been affected due to rapid expansion; staff turnover; limited staff TC competency and training; and an increased focus on traditional substance abuse treatment approaches and related record-keeping requirements. Requiring these programs to meet traditional treatment licensing standards, absent other TC-oriented qualitative standards and criteria, may contribute to less than optimal results.
- ❑ Program placement is primarily driven by length of time on sentences and slot availability instead of careful assessment of clinical need. The system does not support the utilization of the continuum of treatment services to the fullest extent possible.
- ❑ Communication and information management and exchange capabilities have not kept pace with the rapid expansion of the treatment system, and are not sufficient to accommodate the many ways offenders enter and participate in correctional treatment.

Delaware's system of correctional treatment services is in an early stage of development, and especially given the recent expansion of services, program outcomes are hopeful. In addition, a number of things can be done to improve the management of this system and ultimately promote positive outcomes. Significant changes to the system at this time would be premature, and could have very negative consequences in terms of offender population control and management.



RECOMMENDATIONS

This report is intended to explain, describe, and clarify the current state of sentencing practices, population trends, and correctional treatment in Delaware. The system has changed considerably since the inception of SENTAC. The system has evolved in both quantitative and qualitative ways, and in ways that were predicted as well as in ways that are surprising. It is clear that SENTAC has had an effect in controlling and managing the offender population in Delaware, and that policies, principles and goals promulgated by SENTAC are being met in large measure. However, there are several important activities that, if undertaken, would improve the management of the system.

1. Continue to examine the issues related to violations of probation (VOPs). The planned movement of offenders flowing up and flowing down the system, combined with unplanned movement that results from VOPs, is stressing the system. Better monitoring of this movement is needed to identify how resources should be shifted or added to the system to prevent eventual system problems or collapse. A scheduled follow-up study by SENTAC will provide more information regarding the VOP population.
2. Continue to support more comprehensive ways to capture and describe what is really going on with the Level IV and V populations—those populations that are included in routine DOC “institutional count” reports. It is important to clarify which populations are changing and it is inadequate to simply describe this population in terms of overall numbers.
3. Expand the work release capacity in Level IV. During 1999, 371 Level IV offenders were waiting for placement in Level V. Since then, the number of people waiting has decreased to 95, but Level IV trends have important implications regarding new construction. In addition, although treatment slots have increased in Level IV, overall expansion of work release and other Level IV options has not kept pace. In fact, regular “non-treatment” work release has diminished in capacity. This is an especially acute problem in New Castle County where work release beds have significantly declined and where the largest percentage of offenders will likely reenter society. All offenders need transitional support when they are facing the critical time—the crisis—of reentering the community.
4. Encourage improvements in the correctional treatment continuum. The Key/Crest continuum would benefit by adopting the American Correctional Association’s Standards for Therapeutic Communities, and all institutional TC graduates could benefit from transitional care and aftercare.

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5. Support a process to re-examine the ways that offenders are placed in treatment services. The goal of this process should be to identify priority populations, improve methods of movement through the continuum, and support the full utilization of the continuum when possible. This process, led by SENTAC, should include a series of seminars or discussions with justice and treatment professionals with the assistance of outside facilitators and/or experts.
6. Restrictions on placing Key graduates into Crest programs at the end of their Level V sentences should be removed. SENTAC believes Key completers should be placed in supervised transitional services rather than released directly to the streets. Identification of legal, regulatory, or policy barriers that prevent full use of the continuum should be examined and changes should be made where feasible.
7. Provide SENTAC with the resources to monitor and examine its impact on an ongoing basis, report on the status of offender management regularly, and conduct education and training to translate findings, policies and procedures throughout the system. Given the magnitude of the changes that have taken place, we cannot afford to wait another five or six years to examine the system. Continue to support the improvement of Delaware's data systems, and support regular comprehensive evaluations of offender management programs and policies.



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APPENDIX A: RESEARCH PLAN					
Name of study	Questions to be answered	Data Sources	Needs	Timetables	
<p>A. Program Study Product: Database, report comparing recidivism rates between participants in Greentree, Key, and Crest programs. Budget: \$64,000 DTF</p>	<p>What are the comparative recidivism rates among Greentree, Crest and Key?</p>	<p>1997 SAC sentencing order database; DOC database; DOC case files; Greentree program files; SBI arrest database</p>	<p>Data collectors or DOC staff to be closely supervised by SAC staff; to the degree that current SAC staffing does not allow, may need to use SAC OT</p>	<p>Graduate lists for 1997- 1998 for 3 programs; sample. Need to know more information to estimate the task. Due by 12/ 30. High priority.</p>	
<p>B. Process Study of Drug/ Work Release Programs Product: New snapshot database, report indicating time spent waiting for treatment and the effectiveness of reaching treatment and other programs Budget: \$40,000 for travel, data collection; \$20,000 for analysis Contract \$3,000 in OT DTF</p>	<p>What are the residential treatment practices? Do people actually get into the programs that are ordered? How long do they wait? How many never get there? What is the effect of addiction sentences? How does that affect sentencing practices?</p>	<p>DOC case files (prisons and P/P); 1st Q SAC 1999 sentencing orders; the SAC draft addiction sentencing study</p>	<p>Contract supervised by SAC staff/DOC staff; SAC staff OT or additional staff</p>	<p>1099 orders w/residential drug treatment, then classified by add. v. non-addiction. Pilot 50; follow. Draft report May 30, 2002.</p>	
<p>C. Detentioner Study Product: Database and report as to who is being held for what (Phase 1). Phase 2: Report addressing the process of detention; database modification to better clarify purposes of detention (determine who held for what and for how long), cost benefit on a basis of use of detention for economic purposes; repetitive entry and re-entry of same individuals; bail amounts and correlation with above factors. Budget for Phase 1: \$2500 Phase 2 Budget: \$20-25,000</p>	<p>Who is being held (break out by gender and race)? What are they being held for (what stage of the process)? How long? What are the offenses? Are persons held appropriately awaiting trial or other events? Are there any inconsistencies and cost savings according to how bail is set? What is the rate for failure for those with new convictions while out on bail? How many categories of detentioners are there?</p>	<p>DOC FactBook data from 1980 to 1999; DOC case files; JIC files; Family Court and CCP Court paper files; JP Court computer files</p>	<p>Current staff work for who is being held, how long & recid rates. We cannot tell next process step, nor what went into the decision to hold them, nor whether they showed up for trial. Etiology of status as detentioner is still unknown.</p>	<p>Phase 1 would take 8 weeks, using current information, (end of Dec.). Phase 2 (for future consideration) would include non-court holds, ins/outs, bails, and financial holds, would take 6 months (following the end of other research) and would cost 2 staff persons working on it part-time.</p>	
<p>D. Offenses and Offender Charts Product: charts, database, report on trends Budget: \$2500</p>	<p>For what offenses are offenders in prisons? (Break out according to gender and race) How long are they in the prisons? Are we complying with the SENTAC guidelines?</p>	<p>1981-1996, and 1997-1999 DOC FactBook database; 1999 SAC Sentencing order database</p>	<p>Current SAC staff with possible OT to expedite.</p>	<p>This would logically be done first, and would take 60 days to do. (April/May) Update database as data is available.</p>	
<p>E. Criminal Law Study Products: Index of all criminal statutes, report detailing consistencies and inconsistencies (TIS v. non-TIS) in statutory penalties, recommendations for statutory change. <u>The substantial policy issues will be addressed after the statistical analysis.</u> Budget: \$2,000 for publication</p>	<p>What are all of the laws which have criminal penalties and what are those penalties and do they make sense or do they need to be revised?</p>	<p>Delaware Code and statutory history; Release Date Task Force Final Report</p>	<p>AG resources for Titles 11, 16 and 21. Superior Court law clerks for the rest of DE Code.</p>	<p>All statutes identified by 6/30/01. In July SENTAC meeting, discuss policy implications. By 9/01, recommend statutory amendments on consistency, cohesiveness of statutes. Major policy recommendations based on statistical study will follow later.</p>	

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Research Plan (continued)					
Name of study	Questions to be answered	Data Sources	Needs	Timetables	
<p>F. Level 4/Hold at Level 5 Study Product: database and report detailing the process for defendants held in prison for Level IV programs, administrative flow downs, recommendation for process change, resource enhancement that can reduce costs and enhance effectiveness. Budget: \$2500</p>	<p>Where are the bottlenecks which impede movement in the system? Are the sentences effectively being carried out? Are there any problems with resources? What is the time served at Level 5 before release? What are the types of release following a Level 5 hold?</p>	<p>1997-1999 DOC rev. FactBook database; 1999 SAC sentencing order database; Probation admit files</p>	<p>SAC staff OT</p>	<p>1999 orders plus DOC admit files will tell those held at Level 5 for a slot at 4, and will tell Level 5 served, then held at 5 awaiting the 4 slot, as well as type of release. This could be done in 6 weeks (end of July).</p>	
<p>G. VOP Study Product: Updated database, and a report discussing the probation system giving recommendations as to appropriate use of sanctions, recommendation for process change, resource enhancement that can reduce costs and enhance effectiveness. Budget: \$2500</p>	<p>What are VOP offenders incarcerated for? How long are they being incarcerated for? Are we effectively putting the right people on probation/revoking probation? What are the prior criminal histories on these folks?</p>	<p>1998 Special SAC VOP database (Q: Did the original study look at the underlying crime?)</p>	<p>SAC staff OT</p>	<p>This could be started in August, and finished end of September.</p>	
<p>H. Rule 11(e)(1)c Study Product: Updated database; Report indicating the impact of Rule 11 (e)(1)c on sentencing practices and sentencing guidelines Phase III Product: In conjunction with mandatory Phase III study report would show impact of procedural rule used in conjunction with mandatory sentences and its impact upon sentencing decisions. Looking at similar offenders are those taking Rule 11 (e)(1)c pleas treated the same as those entering traditional pleas. Budget: \$2500 for Phases 1, 2. Budget for Phase 3: (wait)</p>	<p>How does Rule 11 impact upon sentencing decisions and guidelines? What is the pervasiveness of Rule 11 pleas? Is there equity in the final sentences? How does Rule 11 and mandatory drug sentences impact upon sentencing decisions?</p>	<p>SAC Superior Court Sentencing orders; benchmark guidelines; SAC Burglary study</p>	<p>Percentages can be run from 1999 sentencing orders with current funding to explore equity of R11 v. Non-R11 would require extra resources.</p>	<p>Phase 1 is running the percentages; done by end of June with current resources. Phase 2 is whether the guidelines are being followed; done by end of September with current resources. Phase 3 is exploring the equity; would take more resources and could be done by December 2002.</p>	
<p>I. Mandatories Study Product: Description of all mandatory sentencing laws, a database as to sentenced inmates on mandatory sentences for Phases 1 and 2. Phase 3: A report showing the impact of mandatory sentences and Rule 11 on plea and sentence practice and its implications on prison population. Budget for Phase 1: No cost (see #6) Phase 2: \$2500 Phase 3: cost postponed until 2002</p>	<p>What are the existing mandatory statutes: drugs, weapons, habitual, etc.? How does this impact upon population? How does impact on pleas? How does it impact on sentencing decisions? Who serves time on of pleas to other charges where mandatories were involved?</p>	<p>Delaware Code; SAC Superior Court sentencing order database; DOC FactBook database; JIC files; RDBB Task Force Final Report; 2001 House Mandatory Drug Sentencing Study</p>	<p>Descriptive stats re: mandatories using 1999 database can be done with current funds. Need additional resources to quantify primary and secondary bed impact.</p>	<p>Phase 1 would include descriptive statement of mandatory sentencing laws, using work already done; this could be done by end of June 2001. Phase 2 would be stats (adm, length) using the 1999 data; done by end Dec. 2001 with OT. Phase 3 would indicate primary and secondary bed impact (and controlled for Rule 11) in 2002.</p>	

NOTES



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