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The Delaware Center for Justice, Inc. (DCJ) has waited to make a statement regarding the recent tragedy at James T. Vaughn Correctional Center (JTVCC) until meeting privately with many of the stakeholders involved with and affected by recent events. DCJ also respects the ongoing investigations being conducted by the Department of Correction (DOC), the Department of Homeland Security, and the team appointed by Governor Carney.

We aim to be sensitive to all parties involved including the victims, DOC staff, and those incarcerated. Delaware has suffered an immense tragedy, and we, as an agency, have a responsibility to our clients and supporters to advocate for policies that will have positive impacts on the safety and quality of life for all.

The Delaware Center for Justice urges the State to think critically about what research and best practices inform us in regards to safe communities and safe correctional facilities. We must respond to recent tragedies thoughtfully in order to ensure that all of those working for, and served by, the criminal justice system are treated fairly and humanely. There are no simple solutions, and our path forward must be nuanced and avoid finger-pointing and short-sighted vision. No single person, agency, or decision is to blame for this tragedy. We stand with those in the state who have worked tirelessly to enhance access to treatment, to improve conditions, and to develop evidence-based programming.

**The Delaware Center for Justice puts forth the following recommendations to increase safety both within Delaware correctional facilities and our communities:**

**Recommendation 1: Reduce Delaware’s prison population**

It is no secret that Delaware’s prison facilities are operating above operational capacity. Overpopulation compromises staff safety, and also reduces the quality of conditions for those incarcerated. It is in all parties’ interest to safely reduce population sizes. DCJ recognizes five common sense strategies to lower populations without jeopardizing community safety or victims’ interests.

**A. Reduce Delaware’s pretrial population**

Efforts have been underway in Delaware to modernize Delaware’s pretrial procedures in order to ensure that the state is not wasting limited resources to detain individuals pretrial who pose minimal risk. There is growing awareness that the cash bail system is set up to fail those with few resources and that there are better ways to identify who should and should not be behind bars other than access to money. DCJ fully supports the ongoing efforts of the



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Smart Pretrial Justice Initiative as well as the Access to Justice Commission to improve how pretrial detainees are served by the justice system.

**B. Reintroduce parole and roll back Truth in Sentencing (TIS)**

Delawareans, on average, serve longer sentences than those with equivalent criminal histories in other parts of the country.<sup>1</sup> Research has conclusively proven that longer sentences are not linked to lower rates of crime and victimization.<sup>23</sup> During the 1980s and 1990s, many states, including Delaware, eliminated or limited opportunities for parole or other mechanisms for early release as part of the wave of “tough on crime” policies that have contributed to ballooning prison populations. The growing consensus among researchers and criminologists, though, suggests that we must revisit parole and other mechanisms for early release in order to achieve the substantial reduction in populations necessary to bring facilities back to recommended population sizes.<sup>4</sup> The average sentence length in the United States far exceeds what criminologists globally deem appropriate. It has been found that opportunities for early release instill hope among those incarcerated, which serves as a motivator for good behavior and self-improvement. DCJ supports policies to reinstate parole in Delaware, roll back Truth in Sentencing, improve policies related to the accumulation of Good Time credit, and improve sentence modification procedures for those aging and infirm within facilities.

**C. Reduce reliance on mandatory minimum sentencing schemes**

The Delaware Center for Justice opposes the use and implementation of mandatory minimum sentencing schemes. Judicial discretion allows for nuanced, individualized sentencing and also ensures that both prosecutors and defense attorneys work to present the strongest evidence possible. Mandatory minimum sentences are responsible for countless individuals serving bloated sentences at the expense of already overburdened corrections systems, with no benefit to public safety.

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<sup>1</sup> Juliene James and Suzanne Agha. *Justice Reinvestment in Action: The Delaware Model*. Policy Brief, April. New York: Vera Institute of Justice, 2013.

<sup>2</sup> National Institute of Justice. *Five Things about Deterrence*. U.S. Department of Justice, Office of Justice Programs, 2016, <https://www.ncjrs.gov/pdffiles1/njj/247350.pdf>.

<sup>3</sup> Valerie Wright, PHD. *Deterrence in Criminal Justice: Evaluating Certainty vs. Severity of Punishment*. The Sentencing Project, 2010.



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**D. Develop victims'-centered alternatives to incarceration**

As discussed in a recent report released by the Vera Institute of Justice violence and mass incarceration are two distinct but interrelated challenges.<sup>5</sup> As a country, we must recognize that we cannot and will not incarcerate our way out of violence. We must embrace alternatives to incarceration that address trauma within victimized communities as well as deeply rooted inequities experienced by both offenders and those who have been harmed. Incarceration, by its very design, does little to nothing to address to the causes of crime, or the scars it leaves. A recent study by the Alliance for Safety and Justice discovered that many victims who live in communities where incarceration is common are often dissatisfied with its results and found that it did not heal, or protect, them in the way they had anticipated.<sup>6</sup>

The Delaware Center for Justice urges Delaware to develop policies and programming that are focused on prevention, healing, and empowerment for all involved. Restorative Justice programming can deliver powerful results by bringing those affected face to face in order to give perpetrators an opportunity to acknowledge the impact of their actions in a meaningful way. One such example of a victims' centered program is Common Justice, which operates in Brooklyn, NY, and works with consenting parties involved with serious and violent felonies. Common Justice is designed to "recognize the harm done, identify the needs and interests of those harmed, and develop appropriate sanctions to hold the responsible party accountable."<sup>7</sup> A full 90% of victims who have been given the choice of seeing the person who harmed them incarcerated or seeing them take part in Common Justice have chosen the latter alternative process.

**E. Invest in adequate healthcare services both within and outside of correctional facilities**

At least two-thirds of the national jail population suffers from alcohol/drug addiction, or mental illness, or both. According to the Delaware DOC, 22% of inmates have been identified as mentally ill or seriously mentally ill.<sup>8</sup> Repealing the Affordable Care Act without an equivalent substitution would have a devastating impact on Delawareans suffering from

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<sup>5</sup> Danielle Sered. *Accounting for Violence: How to Increase Safety and Break Our Failed Reliance on Mass Incarceration*. New York: Vera Institute of Justice, 2017.

<sup>6</sup> Alliance for Safety and Justice, *Crime Survivors Speak: The First-Ever National Survey of Victims' Views on Safety and Justice* (Oakland: Alliance for Safety and Justice, 2016), <https://perma.cc/W4XW-NQB8>.

<sup>7</sup> <http://archive.vera.org/project/common-justice>

<sup>8</sup> Delaware Department of Correction, Research and Planning Unit, 2017.



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the opioid epidemic and drug addiction, increasing the treatment gap.<sup>9</sup> The Department of Correction is not meant to be a de facto mental health service provider. Access to health coverage for low-income residents is essential to reduce the flow of individuals with untreated or undertreated issues into our facilities, further adding to the overcrowding. Coverage and care build capacity on the outside, so health problems aren't stuck on the inside.

**Recommendation 2: Enhance the Department of Correction's grievance process**

The grievance process is one of few ways that inmates are empowered to advocate for themselves. We believe that the following steps will help inmates feel that they are being heard.

**A. Schedule regular training about the grievance process for both those incarcerated and those working within the facility.**

After talking to clients, family members of those incarcerated, and those within DOC, it is apparent that there is general lack of understanding of the Department of Correction's Inmate Grievance Policy. The policy itself states that periodic trainings about the contents of the policy will be conducted for both those incarcerated and for prison staff.<sup>10</sup> DCJ urges the state to consider regularly offering training throughout the year, and also including interested family members. Regular training will enhance clarity, and empower both inmates and employees, while subsequently reducing the number of improperly filed grievances. Engaging community partners to assist with communication and education efforts may also be an option to increase DOC's capacity to address concerns of those incarcerated and their families.

**B. Streamline transparent communication among correctional staff and family contacts in regards to medical care and pending changes to incarceration status**

Following the recent tragedy at JTVCC, family members have reported challenges to finding information regarding their loved one's medical and/or housing status. We applaud the Department of Correction for creating a position to liaise between the department and families, but that position is currently listed as vacant on the DOC website, and there is more to be done to improve communication. All inmates should be given the option to designate an emergency contact to whom the Department can release information about

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<sup>9</sup> Daliah Heller, PHD. *The ACA and Medicaid Improve Public Safety*. Katal Center for Health, Equity, and Justice, Feb. 2017.

<sup>10</sup> Inmate Grievance Policy. Policy of Department of Correction, Bureau of Prisons. Policy Number 4.4, 2015.



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medical care. Open communication will foster trust and partnership among all those living and working within facilities as well as with family members on the outside.

**C. Develop meaningful mechanism for both those incarcerated and those working within the facility to provide feedback about conditions and needed improvements.**

The existing Inmate Grievance Policy is limited in its scope. Therefore, the Delaware Center for Justice recommends the establishment of a mechanism for both those incarcerated and those working in the facilities to raise additional meaningful complaints and suggestions. In particular, we suggest the creation of an advisory board composed of inmates and correctional officers from facilities around the state to review complaints and suggestions that may not fall within the narrow qualifications to go through the grievance process.

**Recommendation 3: Enhance programming within facilities**

The vast majority of inmates will return to the community. All inmates should have the opportunity to return to society rehabilitated and possessing skills that will contribute to overall quality of life for individual and society.

**A. Ensure that all facilities offer comprehensive programming to those incarcerated addressing education, professional development, and mental health.**

Every inmate should receive an equitable and thorough chance for rehabilitation via educational and vocational programming. This evidence-based and clinically sound programming should include programs with a focus on literacy and employable skills, those that aid in family re-unification, and clinically effective mental health and addiction treatment. Community-based providers are a great asset to the Department of Correction, as their ability to provide wraparound and reintegration support often makes them best equipped to serve this population.

**B. Update volunteer training to include more meaningful information about working with correctional populations, as well as facility safety.**

The Department of Correction is counting on volunteers to deliver necessary programming to its population. Without volunteers, much of its existing programming couldn't exist. The Department owes its volunteers not only more thorough information on how to prevent emergency situations and what to do if an emergency does occur, but also more robust training on how to work effectively with offenders. If the Department of Correction is going to count on volunteers to help rehabilitate inmates, the Department should offer ongoing



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training to volunteers on how to work with populations that may have experienced trauma, or have substance abuse or mental health disorders, and other relevant information to working with this population.

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None of these recommendations should come as a surprise as they are grounded in DCJ's core values and the national criminal justice reform landscape. However, the events of February 1<sup>st</sup> and February 2<sup>nd</sup> should spur all of us to work harder to transform these ideas into real, substantive change. It should not require a tragedy to fight for safer correctional facilities and communities, but since one has occurred, there is no better time than the present to act. The Delaware Center for Justice looks forward to supporting the Department of Correction, state legislators, and all interested stakeholders in implementing the above recommendations.