

Legislative Sentencing Tradeoffs: Conjecture in Prison Bed Impact Analysis

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Delaware's House Bill 210

- Delaware's most sweeping crime legislation since its Truth in Sentencing Act of 1989
- Crafted as a compromise bill to appease those who wanted lighter sentences for drug offenders while increasing penalties for many violent crimes
- Signed into law June 30, 2003, less than one month after its introduction

Motivation behind aspects of the bill

- Penalties for violent offenses were too lenient
- Penalties for drug offenses were too harsh; many legislators and treatment advocates wanted mandatory terms eliminated altogether
- Whether in one of the above camps or not, many saw a relative imbalance in drug and violent offense penalties
- Conservation of prison space was paramount

Legislative intent as reflected in the bill's synopsis:

“This Act will ensure that Delaware’s prison space is reserved for violent offenders. The penalties currently available to punish offenders convicted of certain violent crimes are inadequate to protect society from them, and are insufficient to deter others from committing similar crimes. The prison space necessary to accommodate this toughening of our sentencing practices will be created by reallocating prison beds currently devoted to certain drug and motor vehicle offenders. Adoption of this Act is recommend[ed] by Delaware’s Sentencing Accountability Commission (SENTAC).”

Key Changes in House Bill 210

CRIME	PREVIOUS SENTENCE	NEW SENTENCE
Murder Second Degree	10 year minimum and 20 year maximum prison sentence	15 year minimum prison sentence and maximum sentence of life imprisonment
Manslaughter	No minimum prison sentence and 10 year maximum prison sentence	2 year minimum and 25 year maximum prison sentence
Assault First Degree	No minimum prison sentence and 10 year maximum prison sentence	2 year minimum and 25 year maximum prison sentence
Robbery First Degree (1st offense)	Minimum 2 year prison sentence	Minimum 3 year prison sentence
Robbery First Degree (2nd offense)	Minimum 4 year prison sentence	Minimum 5 year prison sentence
Burglary First Degree	No minimum prison sentence	Minimum 2 year prison sentence
Burglary First Degree (2nd offense)	No minimum prison sentence	Minimum 4 year prison sentence
Burglary Second Degree (1st offense)	No minimum prison sentence	Minimum 1 year prison sentence
Burglary Second Degree (2nd offense)	No minimum prison sentence	Minimum 3 year prison sentence
Possession of a Firearm By a Person Prohibited (by a prior violent felony conviction)	1 year minimum prison sentence	3 year minimum prison sentence if violent felony conviction within the preceding 10 years
All Class B felonies	20 year maximum prison sentence	25 year maximum prison sentence
All Class C felonies	10 year maximum prison sentence	15 year maximum prison sentence

Key Changes in House Bill 210 (cont.)

CRIME	PREVIOUS SENTENCE	NEW SENTENCE
Trafficking in Illegal Drugs: First Weight Level	3 year mandatory minimum prison sentence	2 year mandatory minimum prison sentence (excepting heroin)
Trafficking in Illegal Drugs: Second Weight Level	5 year mandatory minimum prison sentence	4 year mandatory minimum prison sentence (excepting heroin)
Trafficking in Illegal Drugs: Third Weight Level	15 year mandatory minimum prison sentence	8 year mandatory minimum prison sentence (excepting heroin)
Manufacture/Delivery/Possession with Intent to Deliver Illegal Drugs (Second Offense)	15 year mandatory minimum prison sentence	3 year mandatory minimum prison sentence for all drugs except heroin; 5 year mandatory minimum prison sentence for heroin
Manufacture/Delivery/Possession with Intent to Deliver Illegal Drugs (with prior drug offense)	3 year mandatory minimum prison sentence for all drugs except narcotics; 5 year mandatory minimum prison sentence for narcotics	3 year mandatory minimum prison sentence for all drugs except heroin; 5 year mandatory minimum prison sentence for heroin

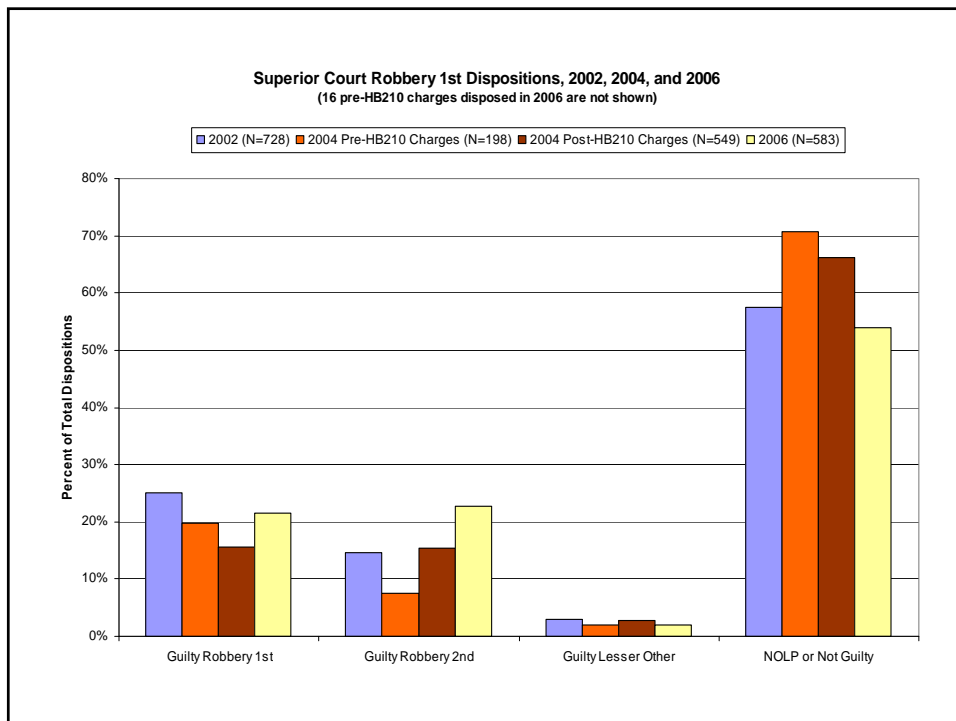
SAC's Role in Creation and Passage of House Bill 210

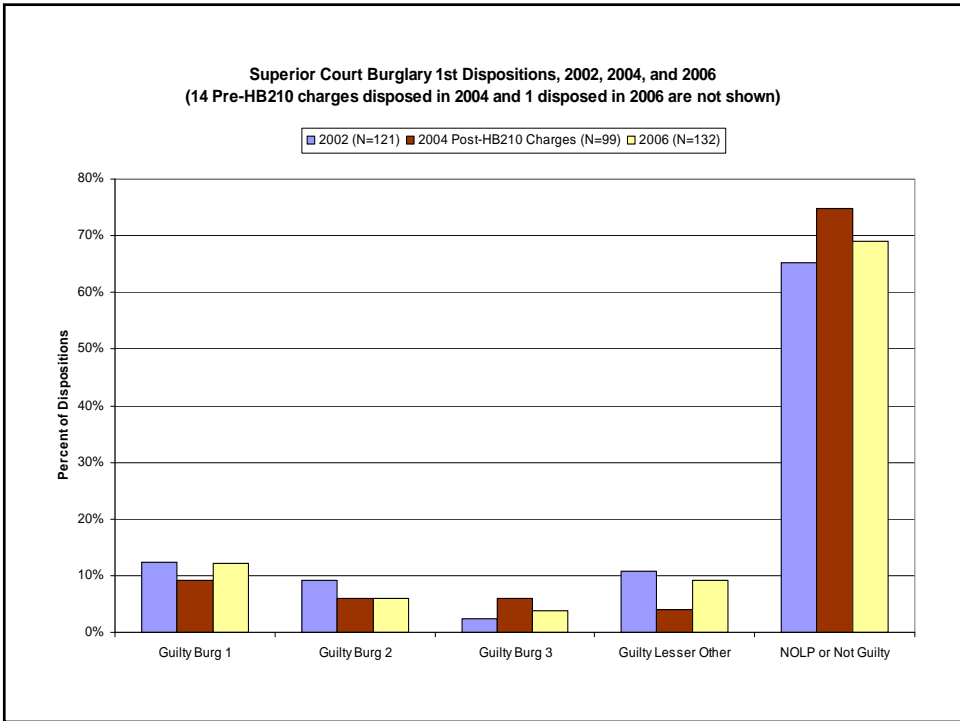
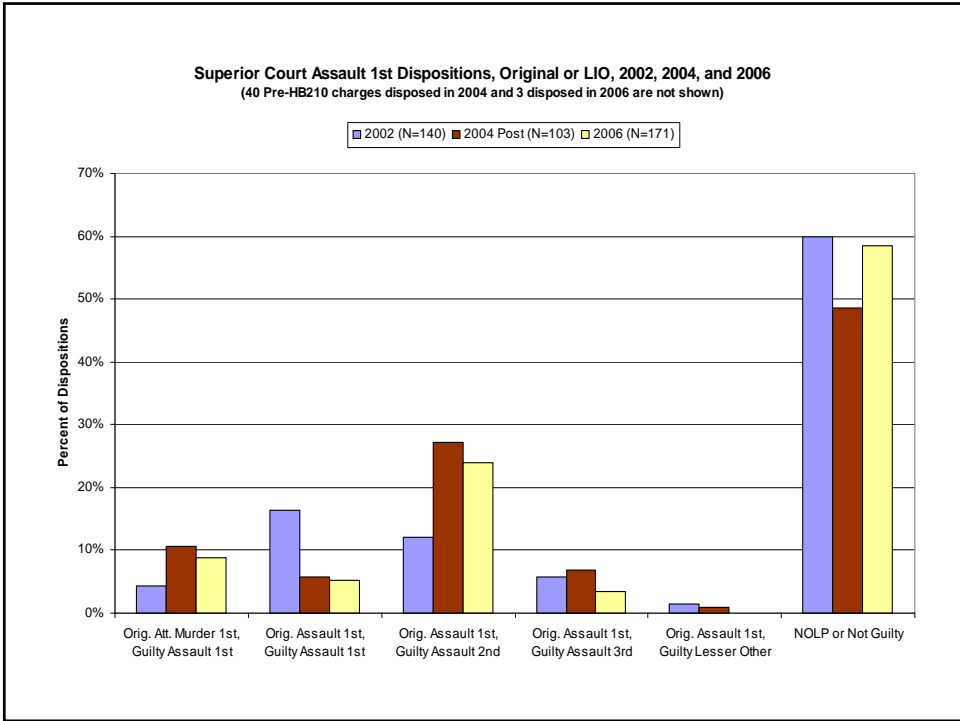
- Involved months of collaboration with and analysis of several scenarios proposed by the state's Department of Justice
- Up-front attainment of bed neutrality eliminated cost as a matter of contention

Problematic assumptions and uncertainties in typical bed impact analyses

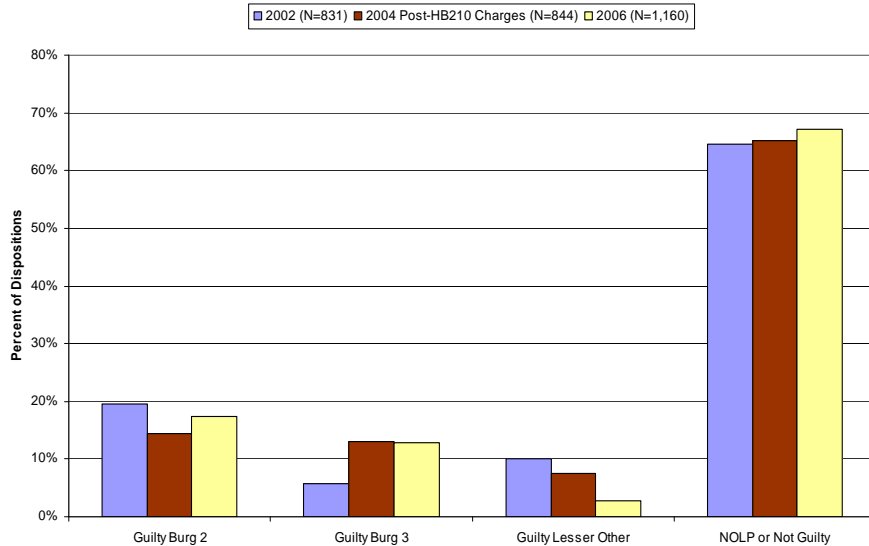
- Offenders subjected to longer sentences would not otherwise be incarcerated during the additional period
- Those subjected to shorter sentences will remain free during the period of reduction
- Law enforcement and prosecution will follow legislative intent, etc.

Is the influence of statutory sentence changes on behavior of criminal justice participants predictable?



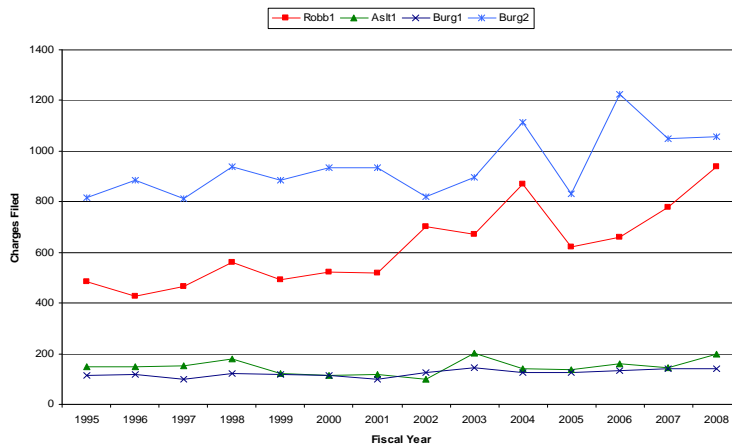


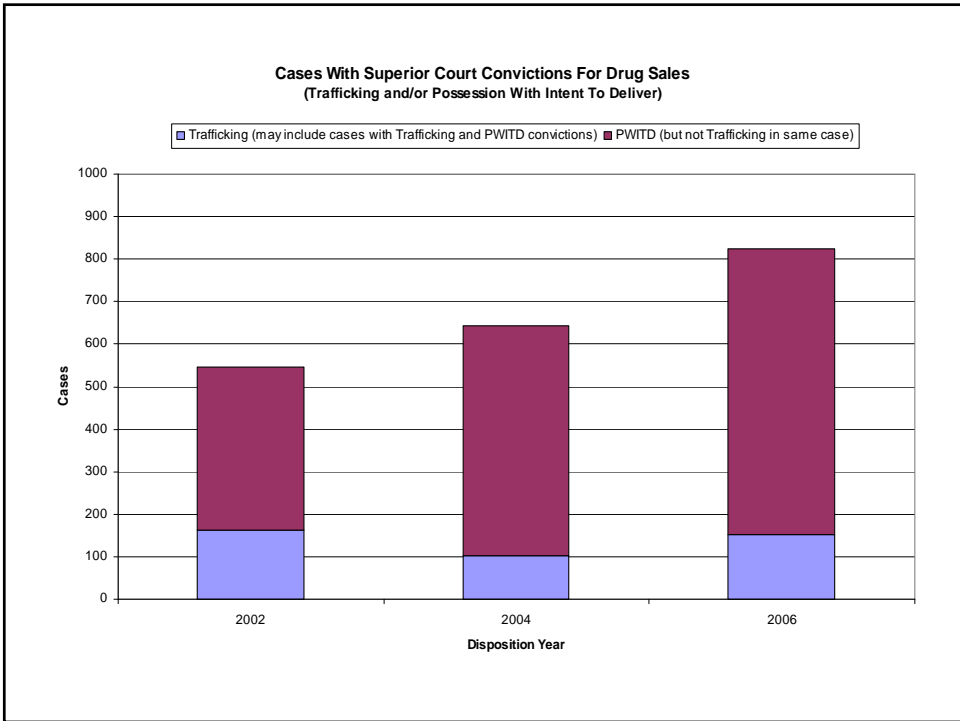
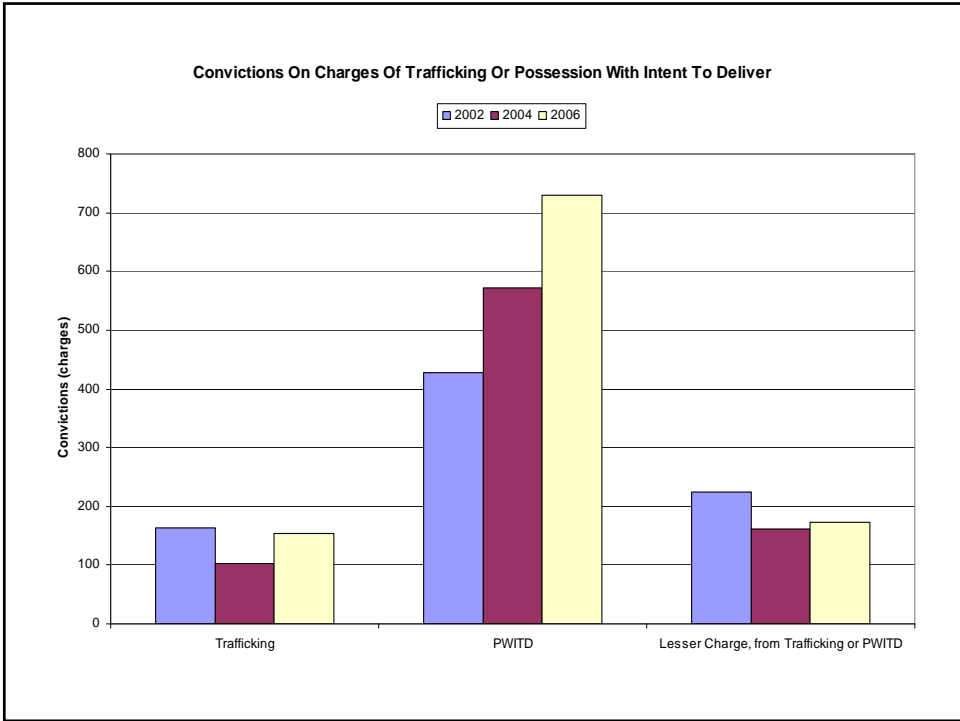
Superior Court Burglary 2nd Charge Dispositions, 2002, 2004, and 2006
 (123 Pre-HB210 charges disposed in 2004 and 14 disposed in 2006 are not included)



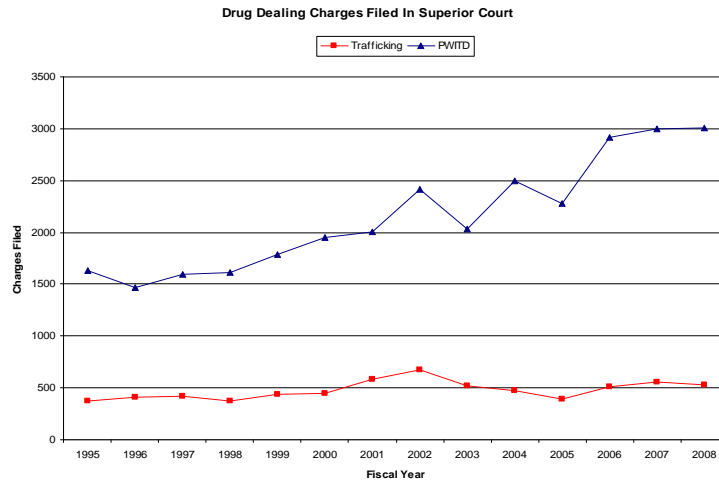
Violent felony charge volume changed unpredictably after HB 210 passed.

Selected Title 11 Superior Court Filings
 (Robbery 1st, Assault 1st, Burglary 1st and 2nd)

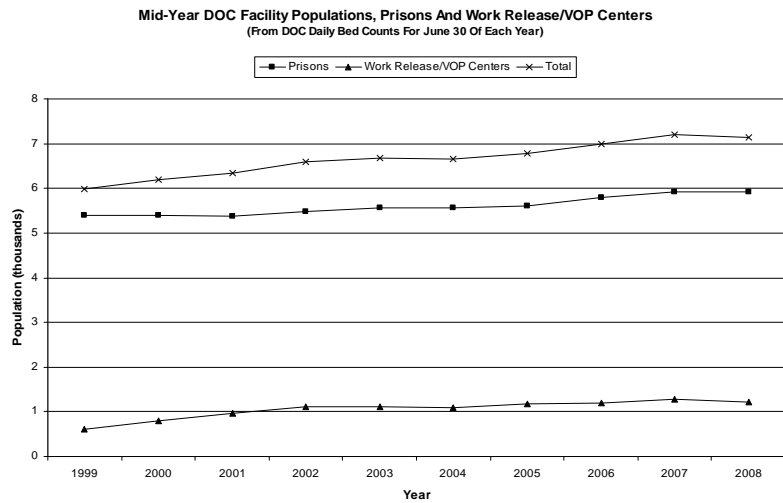




Drug dealing volume exceeded expectations in the post-HB 210 period.



Was there an impact on prison population?



After a brief period of stabilization around the time of HB 210's enactment, Delaware's DOC population resumed typical growth.

Other factors were at work during the same period:

- Increased early releases
- Stepped-up federal prosecution of gun law violators
- Probation reform

Is the influence of statutory sentence changes on behavior of criminal justice participants predictable?

At least in Delaware, probably not, but sometimes guesses are okay.