



Update on Inmate Health Care

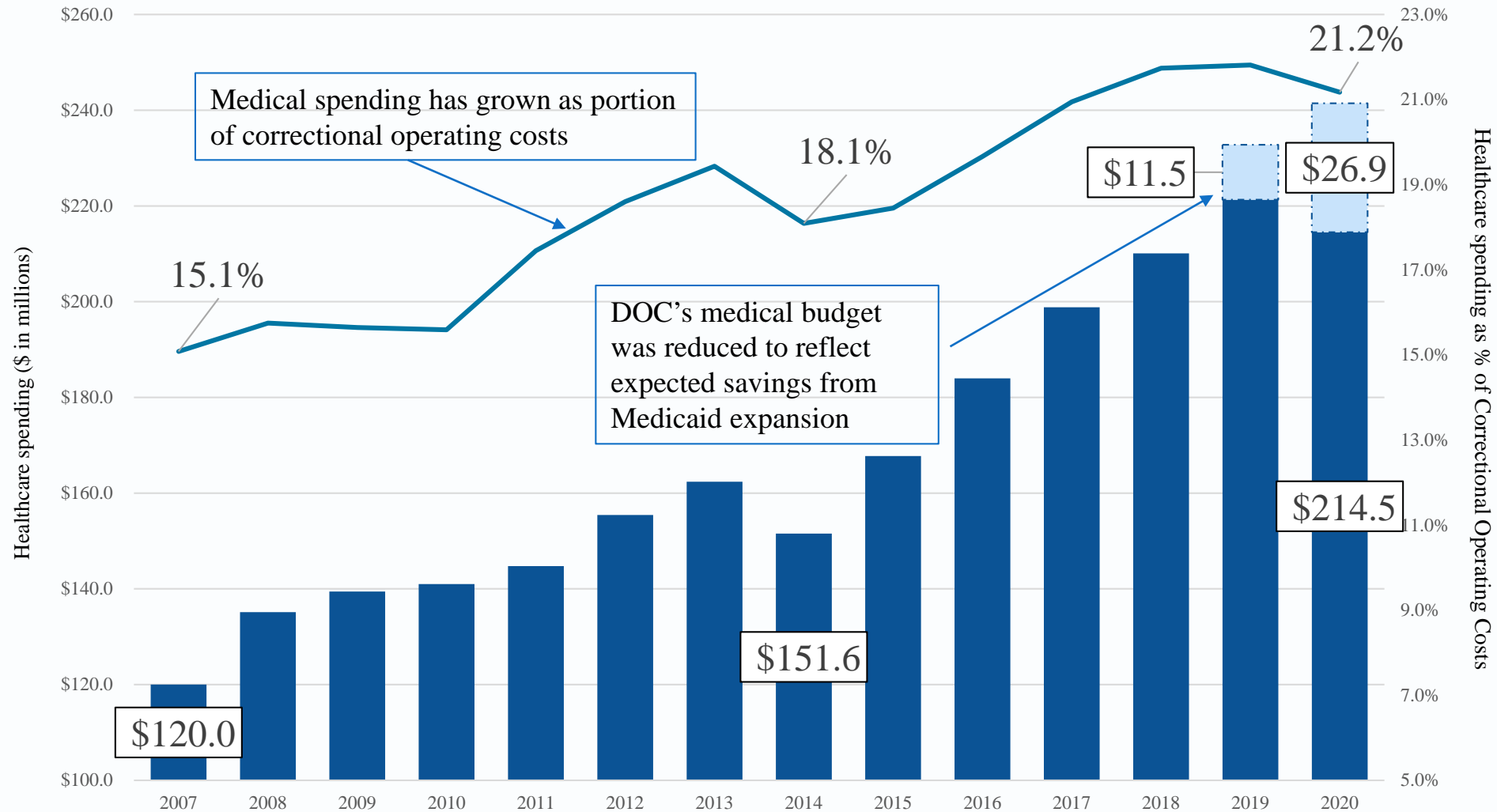
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General Assembly Has Invested in DOC in Recent Budgets, but Many Areas Will Continue to Drive Spending

- The Department has a long-standing structural operating deficit of more than \$15 million per year
 - This requires DOC to generate operating savings, particularly holding funded security positions vacant, in order to meet required operating expenses
 - The 2018 General Assembly provided \$3.0 million to begin reducing this operating deficit
- DOC has faced ongoing issues with recruitment and retention of its correctional officers
 - In FY 2018, the turnover rate for DOC correctional officers was 28.9%, substantially higher than the 14.5% turnover rate seen for all state employees
 - In response, the 2018 General Assembly provided \$26.0 million for salary increases targeted for DOC's correctional officers
- In recent sessions, the General Assembly has also increased funding to address other DOC needs, including probation and parole offices, alternative placements for opioid users, and the establishment of specialized units to provide an enhanced level of services to inmates with serious mental illness
- However, addressing other operational needs – primarily the growth in cost and complexity of providing inmate healthcare – has and will continue to drive spending and policy decisions within the Department in coming years

Medical Costs Have Grown Substantially Over Past Decade, and Now Represent 21% of Correctional Center Operating Costs



- DOC has requested an additional \$2.8 million in FY 2021 and \$6.9 million in FY 2022 for general inflation in its medical costs, but costs will be higher after vendors' rates are finalized in late November

DOC has Used Medical Contractors to Manage Cost Growth and Serve High-Need Facilities, but Strategy has Risks

- DOC uses vendors to provide comprehensive on-site healthcare at 14 facilities, serving approximately 15,000 inmates (about half of DOC's inmate population)
 - The Department has elected to use comprehensive contracts to manage growth in costs, and to provide care in facilities with high levels of medical need and a history of difficulty recruiting qualified staff
- DOC's reliance on vendors to provide healthcare at its institutions represents an operational risk, as seen in its experience at Fluvanna Correctional Center for Women
 - Since 2016, DOC has been subject to a consent decree resulting from a class action lawsuit alleging inadequate medical care was being provided by its contracted healthcare provider at Fluvanna
 - The court assigned a special master to oversee DOC's progress toward meeting 14 separate standards established by the settlement agreement
 - Healthcare at Fluvanna continued to be provided by a contractor following the settlement, but the contractor proved unable to meet the performance expectations required by the settlement, which resulted in the court citing the Department for a lack of compliance with the settlement
 - In 2019, DOC terminated its vendor contract to provide healthcare at Fluvanna and began providing these services with DOC staff. This required an additional appropriation of \$6.5 million and 123 staff in the 2019 Session
- Compliance with the consent decree has resulted in healthcare spending at Fluvanna increasing from \$11.4 million in 2016 to \$23.4 million in FY 2019
 - DOC has also paid approximately \$2.8 million in legal fees related to their various healthcare lawsuits since 2016

DOC is Exploring Options to Decrease Risks Related to Healthcare Contracts

- In its 2018 report, JLARC found several risks related to DOC's use of healthcare contracts
 - JLARC found that vendors have generally proven unable to provide stability in healthcare staffing at the facilities they manage
 - Vendor facilities with high rates of staff turnover experienced higher rates of medical grievance filings, and were more often to be found in violation of contractual requirements
- JLARC made a series of recommendations related to the use of healthcare vendors, including:
 - The explicit use of contractual incentives or mandates relating to staff turnover at vendor managed facilities
 - The use of administrative peer review, in which medical staff from different facilities have the opportunity to give and receive feedback, and share best practices
- DOC is trying to identify ways to better manage contractual risk, as well as risks of care being provided in the facilities it manages
 - In the Spring of 2019, DOC issued a request for information to explore what options might exist to address the contractual issues identified by JLARC in its report
 - DOC is currently reviewing responses, and expects to finish sometime in 2020
 - Findings from the RFI responses will be used to inform the Department's contractual relationships with its healthcare vendors in future years

Lawsuits Related to Hepatitis C Treatment are an Emerging National Trend

- Lawsuits in numerous states have resulted in settlements requiring state correctional systems to change their Hepatitis C protocols
- Nationwide, inmates have substantially higher rates of infection with Hepatitis C than the general population
 - The infection rate is approximately 1% in the general population, while correctional systems have found inmates are infected at rates ranging from 13% to more than 40%
 - The development of highly-effective drug treatments have changed how Hepatitis C is treated in the general population,
 - With costs between \$20,000 to \$80,000 per course, Hepatitis C treatment has become an acute budget issue in prison systems given the higher infection rates of inmate populations
- Other states have incurred substantial costs related to Hepatitis C settlements
 - Settlements have varied in their terms, but have typically required correctional systems to:
 - a) test all inmates within a reasonable amount of time of incarceration, and
 - b) provide treatment to all or nearly all inmates who test positive for Hepatitis C
 - Initial estimates for the settlement in Connecticut are that the total cost of implementation will be approximately \$158 million

In Response to Active Lawsuits, DOC Has Begun Changing its Hepatitis C Protocols

- Virginia's Department of Corrections is currently facing two active lawsuits which challenge the Department's current protocol for testing and treating inmates

Test upon physician request if inmates meet infection risk criteria	Prioritize treatment based upon level of damage to liver function	Approximately 300 inmates treated each year	\$3.4 million annual cost
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- In consultation with counsel at the Attorney General's office, DOC has made some changes to its Hepatitis C testing and treatment protocols which will have a financial impact

Test all inmates upon intake and before release	Prioritize treatment based upon level of damage to liver function	Estimated treatment of 700 inmates in FY 2021 and 800 inmates in FY 2022 <ul style="list-style-type: none"> • VCU limited in the number of inmates that can be treated through its 340B qualifying clinic 	Estimated total cost of \$17.6 million in FY 2021 and \$19.9 million in FY 2022
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- DOC staff have stated that the protocol will continue evolving in response to ongoing legal developments

DOC's Offsite Health Costs are Being Driven by an Aging Inmate Population

- In FY 2019, offsite healthcare costs totaled \$51.2 million, more than 20 percent of total healthcare spending
 - Of these amounts, \$26.1 million was for inpatient services, and \$25.2 million was for outpatient
- Offsite spending is primarily being driven by substantial growth in the Department's geriatric population
 - Between 2006 and 2019, the Department's geriatric population more than doubled to 23% of the inmate population, and DOC estimates it will continue to grow by an average of 4.6% per year
 - While less than one-quarter of the population, geriatric inmates represented 53% of all offsite medical spending in FY 2019
- While Medicaid expansion has generated savings for the Department, federal rules allow Medicaid to pay for DOC inmates only when they are enrolled in the program, and admitted to the hospital on an inpatient basis for more than 24 hours
 - DOC will continue to incur some inpatient expenses, primarily for inmates who are denied enrollment (such as non-citizens), and those who refuse to enroll in the program

DOC's Offsite Costs Have Also Been Increased by the Department's Limited Infirmiry Capacity in its Institutions

- DOC currently has 153 infirmiry beds at five institutions, less than the number needed to adequately serve its population
 - Limited infirmiry space means inmates released from inpatient care offsite often continue to be held offsite for recovery, at higher commercial rate
 - At any given time, an additional 150 to 200 inmates are awaiting placement in an infirmiry bed, increasing the Department's expenditures for offsite services
- In its capital submission, the Department has requested \$41 million to construct a modern infirmiry at Powhatan Correctional Center
 - Current medical facilities at Powhatan date to the 1970s, and layout, design, and mechanical systems issues prevent renovation from meeting modern medical standards
 - Facility would have a capacity of 112 beds, and would include clinical space for diagnosis and treatment, a pharmacy, nursing stations, laundry areas, and recordkeeping
 - Diagnostic and procedure space would allow DOC to perform a wide range of procedures onsite, including chemotherapy infusion, dialysis, physical therapy, and cardiology, and would reduce risks and costs associated with transporting inmates for offsite care
- The proposed facility would allow for inmates to be released from observation at MCV more quickly, as they could be adequately monitored onsite

An Aging Inmate Population is Also Driving a Need for Expanded Assisted Living Capacity within System

- The Department is experiencing a “bottle-neck” in its use of infirmary beds, as DOC has only 57 assisted living beds at one facility (Deerfield)
 - A shortage of long term care beds has resulted in these offenders instead filling infirmary beds for long periods of time, or being held in more costly offsite beds
 - The Department has identified 26 inmates in need of nursing home or skilled nursing beds that can’t currently be accommodated at Deerfield, and that 13 to 15 inmates in need of nursing home care are held in infirmary beds at any given time
 - The Department has also struggled to place its 46 inmates with dementia, and providing adequate end-of-life care for inmates with terminal conditions
- DOC has requested \$30.1 million in capital authority for an expansion project at Deerfield Correctional Center for a new 115 bed medical facility
 - Facility is intend to meet the medical needs of inmates with chronic or permanent or conditions
 - The proposed facility would include 30 assisted living overflow beds, 34 skilled nursing beds, 46 dementia beds, and 5 end-of-life beds
- The Department would benefit from taking a longer-term view when proposing its projected needs for assisted living
 - The 30 proposed assisted living beds included in the proposed project cannot fully accommodate the 69 inmates at Deerfield already waiting for an open bed
 - DOC estimates the wait list for placement in assisted living beds will grow to 74 inmates by the end of FY 2020 and 90 by the end of FY 2024

DOC Pays Commercial Rates for Outpatient Services, While Other States Have Moved to Less Expensive Rate Systems

- While Medicaid covers inpatient services for some DOC inmates, DOC and its healthcare vendors currently pay commercial rates for outpatient services using the Anthem network
- The commercial rates paid by DOC are substantially higher than those paid by other public entities, such as Medicaid and Medicare
 - One of DOC's vendors found that in 2018, its 50 most expensive outpatient observation cases cost a total of \$2.0 million. At Medicare rates, payment for these cases would have been approximately \$519,000 and at Medicaid rates just over \$400,000
 - JLARC estimated that in FY 2017, DOC could have saved \$10 million for physician services and outpatient hospital stays if they had paid Medicare rates, and approximately \$13 million if they had paid using Medicaid rates
- Other states have begun to change how they approach payment for inmate care, both administratively and legislatively
 - At least 7 states pay providers using Medicaid rates, or rates tied to Medicaid
 - Three states now use Medicare rates as the basis for their payments for inmate healthcare
- DOC potentially could use a pilot program to assess the impacts of changing some or all of their rate structure
 - The pilot could be limited to specific geographical areas or particular services
 - One key aspect of pilot would be determining whether lowering rate payments would effect provider participation to a detrimental extent

Virginia's Compassionate Release Policy Allows Few Inmates to be Released to Receive Care in Community

- Virginia inmates are eligible for conditional release if they meet three criteria:
 - Aged 65 and have served at least 5 years of their sentence or aged 60 and have served at least 10 years of their sentence
 - Have a terminal diagnosis with fewer than three months to live
 - Were not convicted of a Class One felony (e.g., capital murder)
- Virginia's criteria for conditional release are narrower than all but one state
 - Most states have policies which allow for the release of inmates with between 6 and 18 months to live
 - Due to the restrictive nature of Virginia conditional release policies, fewer than twenty eligible DOC inmates have been released over the previous five years
- Virginia is the only state that does not allow for the release of inmates with serious, but not terminal, illness or those with permanent physical disabilities
 - Other states vary in their approaches, but most have established a parole-like process to review applications for conditional release, and several make cost and complexity of inmate's medical condition a factor for consideration
- In FY 2019, HB 2461 (Sickles) proposed to broaden the terms for conditional release to allow for the release:
 - Inmates with a terminal illness in which the prognosis for death is less than 12 months
 - Inmates with a permanent physical disability

Limited Criteria for Conditional Release Increase DOC Spending for Offsite Care and Prescription Drugs

- JLARC found that in FY 2017, inmates with terminal illnesses or long-term medical conditions represented a substantial portion of DOC's spending on offsite care and prescription drug

	# of Inmates	% of DOC Inmate Population	% of Offsite Care and Prescription Costs (FY 2017)
Inmates with terminal illnesses	65	0.2%	4.7%
Inmates with serious long-term medical conditions	810	2.0%	19.8%
Total	875	2.2%	24.5%

- JLARC estimated that a range of savings could be achieved from different criteria for compassionate release
 - Allowing release of inmates with terminal diagnoses with 12 months to live could generate savings to DOC of approximately \$4.0 million per year
 - Allowing for the release of “permanently and totally disabled” inmates, as North Carolina does, could potential save DOC \$1.5 million per year
- Several topics would need to be addressed when exploring any changes to conditional release, including:
 - Public safety considerations
 - Length of time to live in cases of terminal diagnoses, or factors to be considered in cases with non-terminal conditions
 - Placement for inmates granted conditional release

DOC's Lack of Electronic Health Records Presents a Risk to the System

- The lack of electronic health (EHR) records at DOC facilities represented an overarching risk to the Department's provision of efficient and effective healthcare
 - The use of paper-based records increases the risk of medical error, and creates difficulties tracking inmates across multiple facilities and off-site providers
 - Department is limited in the extent to which it can engage in disease management best practices when target populations (such those with diabetes or hypertension) are difficult to systematically identify
- Chapter 854 (2019) directed the Department to procure an electronic health records system using Department of Behavioral Health and Developmental Services' existing state contract
- It is expected to cost \$71.6 million to fully implement EHR across all male and female DOC facilities over the next six years
 - Chapter 854 (2019) provided a total of \$11.9 million in FY 2020 to begin procurement and implementation but DOC has not incurred costs for the system this year, meaning those resources will be available for re-appropriation
 - According to preliminary estimates for procuring the system for all men's and women's facilities, indicate the Department will need \$25 million in resources over the coming biennium, in addition to the \$11.9 million provided in the FY 2020

	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	Total
Preliminary Cost to Procure System for Men's and Women's Facilities	\$17.4	\$13.2	\$10.2	\$3.8	\$3.8	\$3.8	\$52.1
DOC Staffing	\$3.2	\$3.2	\$3.2	\$3.2	\$3.2	\$3.2	\$19.5
Total	\$20.6	\$16.5	\$13.5	\$7.0	\$7.0	\$7.0	\$71.6

DOC Could Potentially Benefit from Increased Collaboration with Other State Agencies

- DOC's largest partnership with a state entity is with VCU, which provides several types of care to DOC's inmates
 - VCU provides 80 percent of offsite care delivered to DOC inmates
 - VCU hospital has a 20-bed secure unit staffed with DOC correctional officers that is used to provide outpatient and inpatient services to inmates, and will include a secure holding area of DOC inmates in the new ambulatory care clinic it is currently constructing
- UVA Health currently has three agreements with DOC to provide healthcare services to its inmates, covering:
 - OB/GYN, psychiatric, and teleradiology services at Fluvanna; telemedicine services at all DOC facilities; and, teleradiology services to facilities at which one of DOC's healthcare contractors provides services
- Other states' correctional systems appear to benefit from a greater level of coordination or partnership with their public university hospital systems
 - Other states' correctional systems have a spectrum of relationships with their university hospital systems, ranging from the provision of limited types of services to providing comprehensive healthcare
 - As an example of a comprehensive partnership, healthcare services are provided to all 150,000 inmates in Texas' correctional system through a contractual partnership between the Texas Department of Corrections and the medical division of the University of Texas and Texas Tech University
- The 2019 Appropriation Act (Chapter 854) included language directing DOC to convene a workgroup along with VCU and UVA in order to:
 - Develop a plan for a pilot partnership for a university health system to provide comprehensive health care for inmates in at least one state correctional facility, and
 - Collaborate on a plan to ensure that inmates with long-term or high-cost prescription drug needs receive treatment from a federal 340-B covered entity

VCU and UVA Have Proposals to Assess Providing More Healthcare Onsite to DOC inmates

- The workgroup created in Chapter 854 has recommended the use of demonstration projects as the first step of a phased approach to the provision of comprehensive health care services by VCU and UVA at two facilities
 - Both entities have identified reducing transportation costs for offsite services and maximizing the provision of 340-B drugs as primary short-term goals
 - Demonstration projects are seen as an opportunity for VCU and UVA to develop expertise and best-practices in various areas, including the delivery of onsite care in a correctional setting, pricing, payment processes and models, issues around risk-sharing, and delivery of pharmaceutical services
 - The workgroup has requested funding in this year's budget be provided for a consultant to assist the institutions in developing a plan for the provision of comprehensive care in DOC facilities
- VCU has proposed to pilot the provision of clinical orthopedic services on-site at DOC's State Farm Complex in Powhatan County
 - VCU's preliminary estimate to operate the demonstration project is approximately \$850,000 per year
- UVA has proposed to provide Hepatitis C treatment onsite to female offenders at Fluvanna
 - UVA will be able to utilize existing pharmacy infrastructure onsite to provide Hepatitis C treatment to female inmates at Fluvanna, including those transferred from other women's facilities
 - UVA has estimated costs of approximately \$4.6 million annually to operate the demonstration project, although the numbers are preliminary

Key Takeaways

- Inmate healthcare will continue to be the largest area of growth in the DOC's budget
 - Growth is being driven in large part by an aging inmate population with more complex and expensive healthcare needs
 - Active legal risk around the Department's treatment protocols for Hepatitis C will likely drive spending upward in the near term
- The Department lacks sufficient infirmary and long-term care space to adequately and efficiently meet the healthcare needs of its inmates onsite
- DOC's inmate healthcare costs could be defrayed in part by reconsidering the payment for inmate care, or exploring options to reform the Commonwealth's compassionate release policies
- There are opportunities to expand the partnerships between DOC, UVA, and VCU