



State of California

LITTLE HOOVER COMMISSION

November 13, 2003

The Honorable Gray Davis
Governor of California

The Honorable Arnold Schwarzenegger
Governor-elect of California

The Honorable John L. Burton
President pro Tempore of the Senate
and members of the Senate

The Honorable James L. Brulte
Senate Minority Leader

The Honorable Herb J. Wesson, Jr.
Speaker of the Assembly
and members of the Assembly

The Honorable Dave Cox
Assembly Minority Leader

Dear Governor and Members of the Legislature:

The State's fiscal crisis provides an important opportunity to rethink essential public safety policies that are not working well. Topping the list should be the State's practice of releasing 125,000 felons from prison each year with little preparation for life on the outside, and then returning the vast majority to prison out of concern that they pose a risk to our communities.

California's prison system consumes nearly \$5 billion from the state General Fund each year. About \$1.5 billion of that is spent dealing with felons who have completed their initial prison terms. From the perspective of local law enforcement – and an increasing number of civic leaders – the parole system is not providing \$1.5 billion worth of public safety. But it could.

Experts assert that even modest reforms could save hundreds of millions. Prisons can cost-effectively prepare inmates for their eventual release. Local governments and community organizations can be given more responsibility for returning parolees. The State and local agencies can use smarter tools for dealing with unemployed, uneducated and addicted parolees who are not making it at home. And the State can make sure that truly dangerous parolees who commit serious new crimes are returned to prison under new convictions rather than for violating parole.

These are not new ideas. This Commission and other blue-ribbon panels have advocated for similar reforms for more than a decade. They would save money, they would save lives, but they have largely been ignored. Why?

The reforms detailed in this report would direct state and local agencies to fashion a cohesive system of state, county and community agencies, focused on making the best use of existing resources to reduce crime, violence and drug abuse. That should be the common goal.

Many of the recommendations, such as the expansion of community-based halfway houses, draw heavily from proven practices in other states, or isolated pockets of innovation within California. All of the recommendations are based on evidence of success, not ideology. And if they were faithfully implemented, with sound management and meaningful oversight, California's correctional system would provide the same value as those in other states.

The State should either make fundamental changes to improve the correctional system and public safety, or explain to taxpayers and victims why it will not.

As it stands, California's policies for returning inmates to their communities are very different than what is done in other states. Forty-eight other states do a better job of getting parolees

from the prison rolls to tax rolls. In general, they rely more on education, job training and drug treatment to keep parolees from coming back to prison simply because they are homeless, unemployed and abusing alcohol and drugs.

They do a better job of rallying community resources to provide the assistance that state correctional agencies cannot provide. And they intervene with parole violators in a variety of less costly and more effective ways than returning them to a prison, where little will be done to prepare them for their re-release.

The enormous gap between how California's correctional system works and what communities need the correctional system to do imposes tremendous costs. The demand on public services and the pressure on public budgets are increased. And the quality of life – measured by our personal safety and the well-being of our neighbors – is diminished. This is a fixable problem that needs to be fixed.

The Budget Act of 2003-04 does include some long-considered initiatives to prepare inmates for their release and help them with the transition home. But those measures must be considered first steps toward a fundamental rethinking of how the correctional system protects the public.

This year's reforms are an important recognition that prisons must do something more than punish. But these initiatives need good management. They need to be supported by evidence-based practices, monitored using modern information technologies, and held accountable by state and community interests. If California does not institutionalize these changes, these programs will gradually lose political and financial support and will ultimately fail.

The State should learn from the experience with prison-based drug treatment. The treatment program was created after a successful pilot project demonstrated how treatment paid for itself several times over in reduced prison costs. But without adequate and independent oversight and supportive management, the pilot was not faithfully replicated, was not institutionally supported, and its expansion has been slowed.

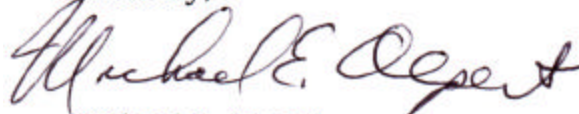
The same can be said for the Preventing Parolee Crime Program. This initiative also was inspired by a few good ideas and launched in a flurry of concern. But nearly a decade later, the programs are underdeveloped and the evaluation has not been released that would let policy-makers know – during a severe budget crisis – whether these programs should be expanded or eliminated.

The Commission understands the politics of public safety. But the policies of public safety should be predicated on a shared and factual understanding of current practices and what could be done to reduce crime, violence and drug and alcohol abuse.

Clearly, prisons protect the public by isolating felons from future victims. But that tool is the most expensive one in the correctional continuum. And since most inmates are eventually released, incapacitation alone is only effective as long as felons are locked up.

The first recommendation in this report is to create the means for assessing the performance of the correctional system and parole in particular. The State should rely on the Board of Corrections – an existing panel of state and local officials – to monitor and report on the efforts of individual prisons and their outcomes. The system's performance should be measured by the fate of the 345 newly paroled felons who every day step off buses onto downtown sidewalks throughout California. Policy choices based on that outcome will be truly tough on crime.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael E. Alpert", with a stylized flourish at the end.

Michael E. Alpert
Chairman

Back to the Community:

Safe & Sound Parole Policies

November 2003

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Executive Summary

California's parole system is a billion-dollar failure.

As the State built and filled prisons over the last 20 years, the number of felons who serve their time and are given a bus ticket home has swelled to 125,000 a year. But the real problem is that a growing percentage of those 125,000 parolees are unprepared to get a job, steer clear of drugs and alcohol and find a home. Not surprisingly, before long most of those parolees are back on a bus to prison.

There are four fundamental problems:

1. The time in prison is not being used to prepare inmates for their eventual release.
2. Available resources – particularly those in communities – are not being used to help parolees who with some assistance could get a job and stay out of trouble.
3. And when inmates do get into trouble, the vast majority of them go back to prison – even if drug treatment, short jail stays or some other intervention would cost less and do more to help them straighten up.
4. Thousands of times each year, parole revocation is used in lieu of prosecution for parolees who are suspected of committing new serious crimes.

Parolees are a challenge for all states. But California's parole policies are simply out of sync with the rest of the nation. California puts a greater percentage of felons on parole. The State offers little assistance to parolees. And then it sends parolees back to prison for violations that in other states would land a parolee in drug treatment, work furlough or some other "intermediate" sanction.

The numbers bear that out: Nationally one in three parolees end up back in prison before completing parole. In California two out of three parolees return to prison. Criminologists say California's parolees are no more dangerous than those in others states. Rather California has created a revolving door that does not adequately distinguish between parolees who should be able to make it on the outside, and those who should go back to prison for a longer period of time.

California is Out of Sync

California puts more offenders on parole:

California:	95%
National Average	82%

More prison commitments are returning parolees:

California:	67%
National Average	35%

Fewer parolees successfully complete parole:

California:	21%
National Average	42%

Sources: Jeremy Travis, Senior Fellow, Urban Institute, Written testimony to the Commission, February 27, 2003. Michael P. Jacobson, Ph.D., Professor, John Jay College of Criminal Justice, New York. Written testimony to the Commission, January 23, 2003.

California is not even doing as well on this score as it once did. Returning prisoners are less prepared than ever before to get a job, stay sober and successfully reunite with family and community.¹

In 1980, about one in four parolees ended up back in prison. And now, with two out of three coming back, prisons are overcrowded and constantly churning with inmates – frustrating the efforts that do exist to teach and counsel inmates, as well as punish them.

Also caught up in this recycling of parole violators are scores of serious criminals, who are blamed but never formally prosecuted for murder, assault and rape. Without another trial – or the long sentences they would receive – many of these criminals are imprisoned for a few months, and then given another bus ticket home.

The bottom line: California's correctional system costs more than it should and it does not provide the public safety that it could. Incarcerating parole violators costs \$900 million a year. The State spends another \$465 million on parole, the bulk of which is for parole agents, who spend much of their time filling out paperwork to send parolees back to prison. Another \$660 million is spent incarcerating parolees convicted of committing new crimes.²

Ironically, many of the decisions that have resulted in the status quo were inspired by the desire to “get tough” on criminals. But if the goal is to reduce future crime, the evidence is clear that punishment by itself does not get the job done.

***California Prison and Parole
Population, Then and Now***

The adult prison population has increased six-fold:

1980: 24,569	2000:
160,655	

The number of parolees released has increased ten-fold:

1980: 11,759	2000:
126,184	

The number of parole violators returned to prison has increased thirty-fold:

1980: 2,995	2000: 89,363
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The percentage of parolees returned to prison has nearly tripled:

1980: 25%	2000: 71%
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Source: Department of Corrections, Historical Trends, 1980-2000. Jeremy Travis, Senior Fellow, Urban Institute, Written testimony to the Commission, February 27, 2003.

One problem is the punishment continues beyond the prison gate – explicitly by denying access to food programs and other essentials, or implicitly by shunning parolees, making it hard to find a job, or putting community support out of reach.

Reforms should begin with – and be faithfully guided by – a commitment to align policies, programs and resources to improving public safety as defined by both the incapacitation of serious criminals, and the successful reintegration of offenders who serve their time and come back home.

Prisons have excelled at what they have been asked to do: manage more and more inmates without escapes or riots. But eventually, nearly

all felons are released. Prison time also must be used to help inmates learn basic skills, kick drug habits, and plan for their release. Communities also must do more. As the prison system expanded, the link between state correctional and local law enforcement agencies has weakened. Frustrated with a parole system they describe as “broken,” some local law enforcement officials have stepped in to provide the supervision and assistance that most felons need to go from cellblock to neighborhood.³ But all community assets – from community police to the pulpits – need to help willing parolees obey the law and become self-sufficient. Workforce investment boards, community colleges, adult schools, alcoholics anonymous, local charities and labor unions all have a role.

Most importantly, if given more opportunity, inmates must do their part. This is the point where ideology usually interrupts the debate, because some people feel felons have wasted all of their opportunities and should be given no more. Parolees can find a job if they want, and if they don’t we will build another prison.

To be realistic, many parolees have serious problems, pose a significant risk and will be reincarcerated. But we must assess those risks, and provide the assistance and incentives for those who have indicated by their behavior and activities that they want to change. Otherwise most of the felons will do what they have done before, communities and families will share in the consequences, and the State’s prison bill will continue to grow.

In small ways, the reforms described above are already underway – initiated by local law enforcement, community leaders and prison officials who see the shortcomings of a system that makes life hard for both inmates and parolees. These pioneers have documented a better way. For example, a state-local partnership in Sacramento has trained and found truck-driving jobs for 1,000 parolees.

The first reason for improving parole is to make Californians safer. Given the fiscal crisis, public leaders also should urgently implement ways to make better use of existing dollars. But justice should also be on our minds. After decades of increasing sentences in response to rising violence, more Americans are asking for something in addition to retribution. They want restitution. A parole system that moves felons

Immediate Opportunities

The Commission identified two immediate opportunities to cut costs without jeopardizing public safety:

- Implement a series of graduated sanctions for the large percentage of parole violators returned to prison for drug use and possession, including more frequent testing, outpatient treatment and residential treatment.

Immediate Savings: \$151 million

- Reduce the length of revocation sentences for certain offenders from an average of 140 days to 100 days.

Annual Savings: \$300 million

Sources: 2003-04 Budget Bill deliberations, staff analysis of proposed CDC Reforms and Efficiencies, David Panush, June 6, 2003. Michael P. Jacobson, Ph.D., Professor, John Jay College of Criminal Justice, New York. Testimony to the Commission, January 23, 2003.

from their deserved punishment to responsible community members is the bridge.

After considerable study, debate and deliberation – and after consulting with correctional professionals, community leaders, victims and reformed felons – the Commission respectfully offers the following recommendations:

Using the Evidence

Finding 1: The correctional system's focus on punishment alone is not adequately protecting Californians from the 125,000 inmates released from prison each year.

While prison is about punishment, the goal of the correctional system must be that inmates who are released from prison will not commit another crime. Clearly, many parolees will continue to fail themselves and their communities. But until the correctional system employs interventions that have been shown to help parolees become responsible citizens, the system will continue to fail us.

Evidence is mounting that educational, vocational and drug treatment programs reduce recidivism, yet only 30 percent of eligible inmates have access to educational and vocational programs. Even after significant expansions, few drug abusers receive treatment while in prison.

The Department of Corrections does not have a comprehensive, integrated data system to manage its efforts. Three data systems within parole alone require offender information to be entered multiple times, increasing costs and the chances for errors. None of the systems are integrated with the prison-based data system.

Unlike hundreds of other correctional organizations in the United States, the California Department of Corrections (CDC) has not developed and used risk assessments of individual offenders to target available resources for supervision and services to the most high-risk parolees. Eighty percent of parolees are supervised on regular caseloads and typically have fewer than two 15-minute face-to-face contacts with a parole agent each month.⁴

Many other states respond to parole violators with a range of sanctions that are less costly and more effective than prison. But California has not developed to any meaningful extent a range of interventions for parole violators and still resorts to the most expensive response – prison.

The State returns 70 percent of parolees to prison within 18 months of their release – at an annual cost of \$900 million for incarceration alone.⁵ Research shows that it is important to respond to parole violations, but that the length of the revocation sentence does not influence whether the parolee will commit another crime when released again. Nevertheless, from 1990 to 1999 the State increased the length of time parole violators spent in prison by 23 percent, with the largest proportional increases imposed for the least serious violations.⁶

The correctional system should be driven by the best available evidence to protect public safety, reduce the enormous costs associated with parole failures, and improve the ability of parolees to reintegrate.

Recommendation 1: To protect the public, the correctional system must use proven strategies to prepare inmates for release, supervise and assist parolees in California communities, and intervene when parolees fail. The State should create the means to improve the performance of the correctional system by changing laws, budgets and programs to increase success among parolees. Specifically, the State should:

❑ ***Use evidence to guide policy reforms.***

The Board of Corrections should routinely evaluate the outcomes of the correctional system and identify evidence-based ways to improve those outcomes, beginning with the use of offender risk and needs assessments and performance measures. It should annually assess the risks and needs of offenders in prison and on parole, evaluate the programs that offenders received to reduce future crime, and compare the outcomes for offenders in California with offenders in other states. The board annually should recommend statutory changes, budget priorities and resource allocations that would improve public safety.

Board of Corrections

The Board of Corrections – comprised of state and local correctional officials and members of the public – is well suited to assume these responsibilities and could do so without growing the bureaucracy. The board is charged with assisting county sheriffs, chief probation officers, other local officials and community-based service providers to improve the delivery of correctional programs. That function could be enhanced by giving the board the responsibility and authority for improving outcomes for offenders across the correctional continuum – from jails to prison and back to the community.

❑ ***Use evidence to guide decision-making.*** Offender information should be used to guide decision-making at every point in the correctional continuum. Specifically:

- ✓ Offender risk and needs assessments should be used to better allocate resources including prison education, job training and drug treatment programs, parole supervision and assistance resources, and to make parole revocation decisions.
- ✓ County sheriffs and other agencies should receive assessments in advance of an inmate's release, as well as documentation of what

programs and services the inmate received in prison, how the services related to the inmate's assessment and the outcomes.

- ✓ Releasing prisoners should receive their assessments to assist in their reintegration and help hold them accountable for pursuing the services that could reduce their chances of re-offending.

- **Automate offender information.** The State should make the automation of offender files and integration of the Department of Corrections data systems a priority. Efficiencies that result from automation and integration and savings from reforms suggested in the following recommendations could offset the costs.

Before They Come Home

Finding 2: The State's failure to use prison time to prepare offenders for release jeopardizes public safety and squanders public resources.

More than 95 percent of all inmates will eventually be released and returned to their community.⁷ This reality is ignored by correctional policies that rely exclusively on incapacitation. The singular focus on punishment guarantees that upon release most offenders will be as ill equipped to be productive, law-abiding citizens as the day they entered prison.

Offenders are responsible for their actions, but public officials should be, as well. Only 35 to 40 percent of eligible inmates have access to literacy programs, despite evidence that re-arrest, re-conviction and re-incarceration rates are lower for offenders who participate in educational programs. More than three-quarters of prisoners have drug and alcohol problems, but just 6 percent participate in a substance abuse program in any given year.⁸ Re-entry programs, designed to teach job search techniques and how to apply for benefits, identification cards and drivers licenses are voluntary and only serve about 30 percent of all inmates.⁹

Not only do these interventions reduce crime, they save money. In the case of educational programs, for every dollar spent on education more than two dollars are saved on food and cell space alone.¹⁰

Assuming they are not responsible for inmates after release, many prison administrators have resisted or undermined efforts to develop and expand programs.¹¹ When released, 10 percent of parolees are homeless, half are illiterate, 70 to 80 percent are unemployed and as many as 80 percent abuse drugs.¹² When they return to prison, most parole violators spend most of their time in "reception centers" where there are even fewer opportunities to prepare for their re-release.

Drugs and alcohol continue to be available in prisons despite some efforts to control them. There should be a zero tolerance policy of drugs in prison, as recommended by the Commission in 1998.¹³

Recommendation 2: To increase public safety, state and local correctional agencies, community organizations and the inmates themselves should prepare for the predictable release of inmates from prison.

❑ ***To focus prisons on preparing inmates, wardens should develop and implement comprehensive preparation programs. They should:***

- ✓ Identify state and local resources available for prerelease programs.
- ✓ Develop a strategy for expanding and operating programs based on a risk and needs assessments of inmates, and submit those plans to the Governor and Legislature.
- ✓ Annually report on the participation of inmates in education, work and treatment programs and the employment and re-arrest rates of parolees.
- ✓ Provide information to local law enforcement on the programming provided to individual inmates prior to their release.

Improve Accountability

If the success of wardens was linked with the success of inmates exiting their prisons, the quantity and quality of programs would be improved. Wardens should be appointed to fixed, four-year terms with reappointment and reconfirmation by the Senate determined by an evaluation of their success, based on the safe operation of prisons and outcomes related to inmate preparation.

❑ ***To motivate inmates to prepare for parole, the State should restructure “good time” credits and provide other incentives.***

Among them:

- ✓ Link credits toward early release to completion of education and job training programs, as well as plans for a job and housing.
- ✓ Require inmates to make progress toward educational or drug treatment goals before becoming eligible for work assignments.
- ✓ Provide programs and allow inmates to earn credits in reception centers.
- ✓ The State should consider denying the early release of some inmates who have earned early release credits but are deemed unprepared for release, as described in the box on the following page. The Commission recommends starting with parole violators who have been returned to custody.

Invest in Cost-effective Drug Treatment Strategies

Assignment to drug treatment programs should be based on a needs and risk assessment and be mandatory for the highest risk inmates. Drug treatment should be available in conservation camps and camp inmates with a history of drug abuse should be required to participate in drug treatment.

- ❑ ***To improve the transition of parolees, the State should build strong partnerships with communities. Specifically, the State should:***
 - ✓ Fully support re-entry units established in the 2003-04 Budget Act and partner with local law enforcement and community providers to link inmates with jobs, housing, drug treatment and other support prior to their release.
 - ✓ Contract with county sheriffs who are willing to house inmates during the final months of their sentence and prepare them for release. The State should provide to the counties funding equal to the cost of incarceration in prisons. Sheriffs should select the inmates most amenable to their services, based on a needs and risk assessment.
 - ✓ Work with communities to establish halfway houses, drug treatment facilities and other residential settings in appropriate locations for those parolees who need that support to stay out of trouble and out of prison.
- ❑ ***To improve outcomes and accountability, the State should provide correctional officials with technical assistance and independent evaluation.***
 - ✓ The Advisory Committee on Correctional Education should be fortified, expanded and given specific responsibility for advising state and local correctional administrators on ways to expand the quantity and quality of educational, vocational and treatment programs. The committee could report its recommendations for improvements on a prison-by-prison basis to the department director, agency secretary, Legislature and Governor.
 - ✓ The Inspector General should annually report on the progress of individual prisons and the department overall in expanding and effectively managing educational, vocational, prerelease and treatment programs.

To Safeguard Communities and Motivate Inmates to Improve Themselves

Some inmates may do a better job of preparing themselves for release if the consequences for failure to do so were greater. The State could create a process to deny early release credits to some inmates as a way to motivate them to prepare for their return to the community. Among the alternatives:

Alternative I: The Board of Prison Terms could deny the early release of all inmates who have earned early release credits but are deemed by the board to be unprepared for release.

Alternative II: The Board of Prison Terms could deny the early release of all first release inmates (not parole violators) who have earned early release credits but are deemed by the board to be unprepared for release.

Alternative III: After implementing a risk assessment system and expanding in-prison programs and community-based sanctions for parole violators, the Board of Prison Terms could deny the early release of all incarcerated parole violators who the board deems unprepared for release.

For a detailed discussion of these alternatives and estimates of the costs to implement them, see p.53.

Back to the Community

Finding 3: The goals for parole – public safety and successful reintegration – are undermined by the way the State supervises and assists parolees and the lack of community involvement in re-entry.

Parole is the process of supervision and assistance intended to protect communities and help parolees get jobs, find homes and stay clean and out of trouble. Some parolees present greater risks to public safety than others. But the State does not adequately target supervision and assistance to increase the number of parolees who successfully transition home.

The department has programs intended to help parolees reintegrate. But they are not available in every parole region, are not integrated and are not targeted to parolees who need them the most or who are most likely to benefit from them. Community-based services, while plentiful in many areas, are not geared to parolees, and are sometimes denied to parolees, at great costs to the community and the State.

Moreover, the Department of Corrections' focus on punishment rather than public safety influences its parole practices, contributing to an emphasis on enforcement and high revocation rates. Only 21 percent of parolees complete their parole term without being returned to prison for some period of time or absconding.¹⁴

Recommendation 3: To maximize public safety, communities must assume greater responsibility for reintegrating parolees, and the State should provide the leadership and funding to make those efforts successful. Specifically, the State should:

- ❑ ***Start with pioneering counties.*** The Governor and Legislature should shift resources, responsibility and accountability for parolee reintegration to communities. The State should identify three or four communities with the desire and capacity to be the first ones to assume responsibility for parolee reintegration. The State should develop agreements and provide funding for sheriffs in those counties, in partnership with community agencies, to provide supervision, services and sanctions for parolees. Funding should be equal to the cost of state-administered activities. Within three to five years all counties should assume responsibility for returning offenders.
- ❑ ***Manage a transition plan.*** The Youth and Adult Correctional Agency should manage the transition plan by identifying and helping to overcome barriers to operating effective re-entry programs and providing training, technical assistance and evaluation.

- ❑ **Identify and report outcomes.** The Youth and Adult Correctional Agency and the Department of Corrections, in cooperation with their community partners, should establish performance measures for reintegrating parolees and annually report progress to the Governor, Legislature and county boards of supervisors.
- ❑ **Reduce barriers.** The State should review all inappropriate legal barriers to reintegration and remove them. It should seek a federal waiver to remove punishments that thwart reintegration such as the ban on public assistance and food stamps for some offenders, including low-level drug offenders. The State should consider providing parole officials with absolute immunity for the actions of parolees under their supervision, as it does judges and prosecutors.
- ❑ **Develop promising models.** The State should encourage counties to establish re-entry courts when they assume responsibility for parolee reintegration. The State should fully develop Parole and Correction Team programs by dedicating staff to coordinate and sustain community participation and follow-up activities with parolees. The department should pursue resources for evaluations, including foundations and universities.

To best use available resources and motivate parolees to reintegrate, the State and its community partners should ensure that parole embodies:

- ❑ **Supervision and services based on distinctions among parolees.** Supervision and services should be based on individual risk and needs assessments. Parole conditions should be linked to these assessments and show evidence of reduced recidivism.
- ❑ **Supervision and services that are “front loaded.”** Supervision and services for parolees should be targeted and intense in the first critical months following release and reduced later when the risk of recidivism is lower.
- ❑ **Rewards for positive behavior.** Some parolees who meet specific

criteria for successful reintegration, like maintaining employment, housing and remaining violation free for a period of time, should be released early from parole or provided other rewards like reduced reporting requirements.

- ❑ **Restorative practices.** Parole should provide opportunities for parolees to pay their victims and communities back for the harm they caused, including, paying for a portion of the cost of their supervision, and using community service as a condition of parole and as a sanction for parole violations.

Focus on Drug Offenders

The State, in coordination with communities, should expand the availability of aftercare treatment for parolees who participated in drug treatment while in prison. Additionally, the State should provide fiscal incentives to counties to house and treat parolees who are substance abusers. The preliminary success of Proposition 36 shows the potential of drug treatment to reduce the demand on prisons and address addiction among offenders.

When Parolees Fail

Finding 4: Correctional officials do not intervene in cost-effective ways with parolees who are not successfully reintegrating. When parole violators are returned to custody, they are not prepared for their imminent re-release.

Parole officials respond to most parole violations – minor or serious – with a return to prison, overcrowding prisons and increasing correctional costs, an expensive and temporary solution to a long-term problem.

In effect, revocation time is used to resume the punishment of offenders, rather than to promote their reintegration. The bulk of many revocation sentences are served in reception centers where offenders are ineligible for programs. The system does not address the reasons for their failure or provide services to prepare them for release.

The experience of other states has shown that intermediate sanctions can reduce prison commitments, keep communities safe, foster offender rehabilitation, and gain public support. Alternative sanctions for parole violators can include intensive supervision, substance abuse treatment, day reporting, house arrest, electronic monitoring and community incarceration.

Statistically, it is difficult to assess how much crime is committed by parolees. Because it places more people on parole, California's rates may be higher than those in other states. In Oakland, for example, where a larger percentage of the population is on parole, officials attribute 50 percent of the crime to parolees.¹⁵ But multi-state studies show that only a small proportion – 3 to 5 percent – of crimes are committed by ex-prisoners.

Whatever their contribution to the overall crime rate, parolees represent an identifiable group of offenders that can be assessed based on their likelihood of committing further crimes and targeted with cost-effective prevention, intervention and enforcement strategies.

Some parolees commit serious crimes. Many others are deemed responsible for behaviors that would not earn them a prison sentence if they were not on parole. It is estimated that California could save \$50.4 million in 2003-04 and \$100.8 million in 2004-05 by using sanctions other than prison, particularly for non-criminal and low-level drug-related parole violations.¹⁶

Recommendation 4: The State should make better use of the resources currently spent re-incarcerating parole violators – and provide more public safety – by developing a range of interventions for failing parolees. Specifically, the State should:

- ❑ **Use structured decision-making.** The State should establish clear, transparent and binding guidelines for parole revocation to provide consistency and accountability in the revocation process. This could be the first step in implementing a broader range of responses that are cost-effective and protect public safety.
- ❑ **Use alternative sanctions.** To promote public safety and parolee reintegration, the State, in cooperation with police chiefs and sheriffs, should develop a range of sanctions to be used as alternatives to returning parole violators to prison. A system of graduated sanctions would include:
 - ✓ Community-based sanctions for “technical” violations.
 - ✓ Limits on which serious violations warrant a return to prison.
 - ✓ Lower revocation sentences based on offender risk assessments.
 - ✓ Short-term incarceration in community correctional facilities.

Focus on Drug Offenders

Jeremy Travis’ analysis for the Commission found that drug use and drug possession account for nearly one third of all administrative criminal returns to prison. The State could make better use of existing resources – and get better outcomes – if it used different strategies, including treatment, to respond to parolee drug use.

- ❑ **Focus revocation time on reintegration.** Parole violators who are returned to prison should be processed and housed separately from other inmates. They should receive services such as drug treatment, life skills and employment preparation to address the factors that contributed to their parole failure. Interventions should be targeted using risk assessments.

When New Crimes Are Alleged

Finding 5: The parole revocation process is used too frequently to respond to new and serious criminal behavior by parolees.

Thousands of inmates cycle in and out of prisons under the guise of parole revocations, when in fact parole officials believe they are responsible for new and serious crimes. In 2000, more than 47,000 parolees were released from custody after serving revocation sentences for criminal actions. Some of the alleged crimes were serious, including 78 homicides, 524 robberies and 384 rapes and sexual assaults. These serious violators served on average a little more than three months more in prison than those revoked for “technical” violations of parole and their punishments were not nearly what they would have been if successfully prosecuted for the new crime.¹⁷

County district attorneys decide whether or not to prosecute alleged criminal behavior, and there is little public knowledge or public scrutiny of the decisions in all but the most high profile cases. As a result, it is nearly impossible to know if a decision not to prosecute a parolee resulted from too little evidence, not enough investigation, or simply because parole revocation is an easy alternative to a potentially costly and uncertain criminal process.

Using revocation of parole in lieu of prosecution of serious crimes undermines public safety and criminal justice. Using parole revocation – with its lower standards of proof – also may result in the return to prison of innocent parolees. Either way, it regularly returns serious and violent offenders to communities far sooner than if they had been prosecuted and found guilty.

The current practice provides some public safety benefits, and many individual decisions may have been the best among poor choices. But criminal justice officials should embrace a detailed review of these practices.

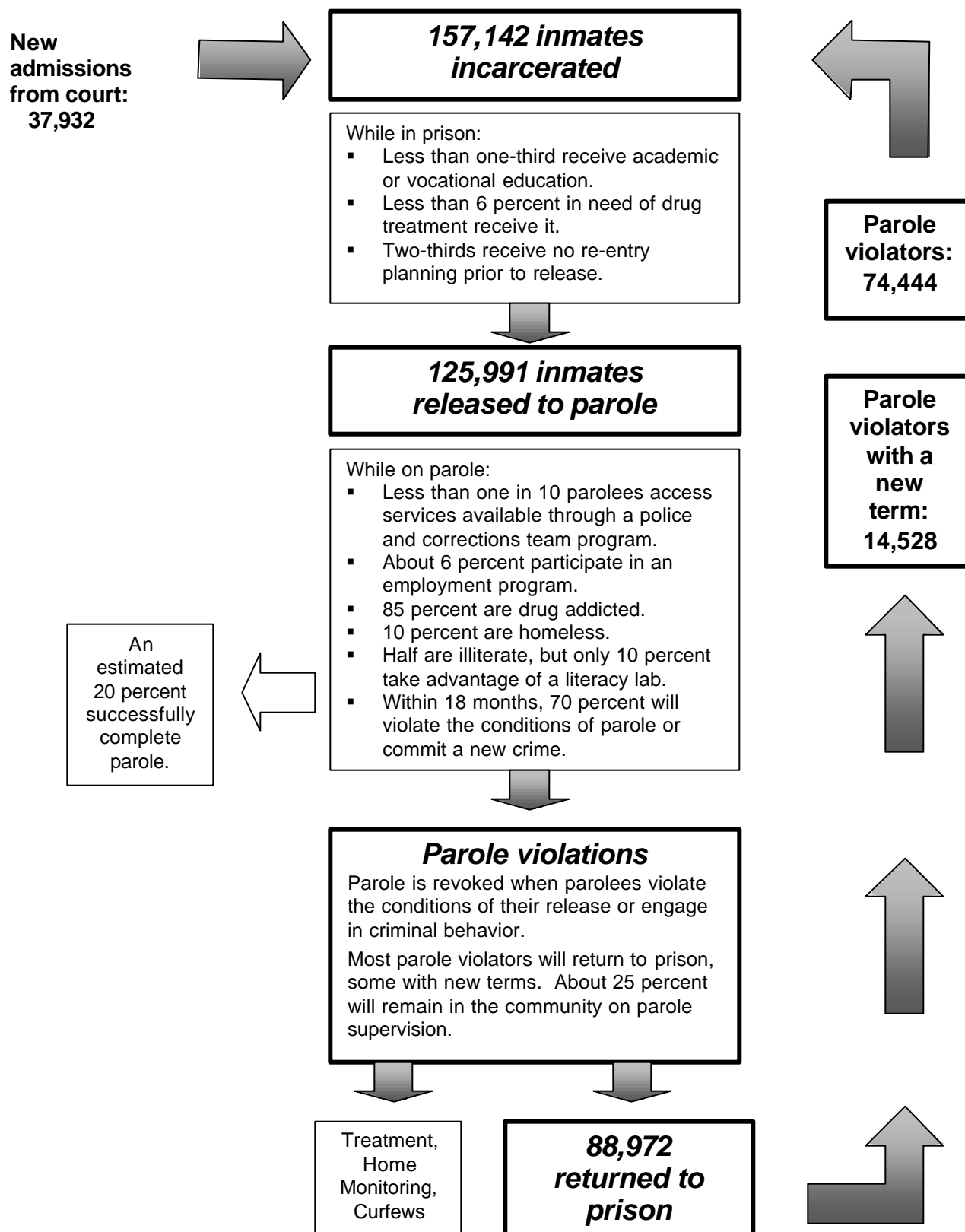
Recommendation 5: To ensure public safety and fairness, the State should scrutinize its responses to parolees charged with new, serious crimes. Specifically the State should :

- ❑ ***Review practices and recommend reforms.*** The Attorney General should review how district attorneys handle serious crimes by parolees and make recommendations for reforms.
- ❑ ***Impose accountability.*** When a parolee is suspected of a new, serious crime, district attorneys should be required to solicit input from parole officials and local law enforcement before determining not to file charges. District attorneys, when determining not to prosecute a parolee for a serious alleged criminal activity, should be required to report that information and the reason why to the Attorney General, the local law enforcement agency and parole officials. The Attorney General should annually report the information to the Governor and Legislature, by county.
- ❑ ***Ensure due process protections.*** Depending on changes ultimately put in place by the court to improve due process protections for parolees, the Legislature should review the plan and determine what statutory, regulatory and budgetary reforms should be enacted to ensure that it is adequately implemented.

In conclusion, the State recycles nearly 100,000 parolees through the prison system each year, as depicted in the chart on the following page. Following this illustration of the current system, is a chart summarizing how the Commission's recommendations would systemically solve the State's problems with the parole system.

Thousands of Inmates Cycle Through the System

The chart below shows the flow of inmates through the system in 2001.



Sources: CDC, "Historical Trends 1981-2001." Michael P. Jacobson, Ph.D., Professor, John Jay College of Criminal Justice, New York, Written Testimony to the Commission, January 23, 2003.

How Public Safety Could Be Improved

By improving the success of parolees, the State could reduce crime and save money as depicted below.

The Commission Recommends

Using the Evidence

To protect the public, the correctional system must use proven strategies to prepare inmates for release, supervise and assist parolees in California communities, and intervene when parolees fail. The State should create the means to improve the performance of the correctional system by changing laws, budgets and programs to increase success among parolees.

Before They Come Home

To increase public safety, state and local correctional agencies, community organizations and the inmates themselves should prepare for the predictable release of inmates from prison.

Back to the Community

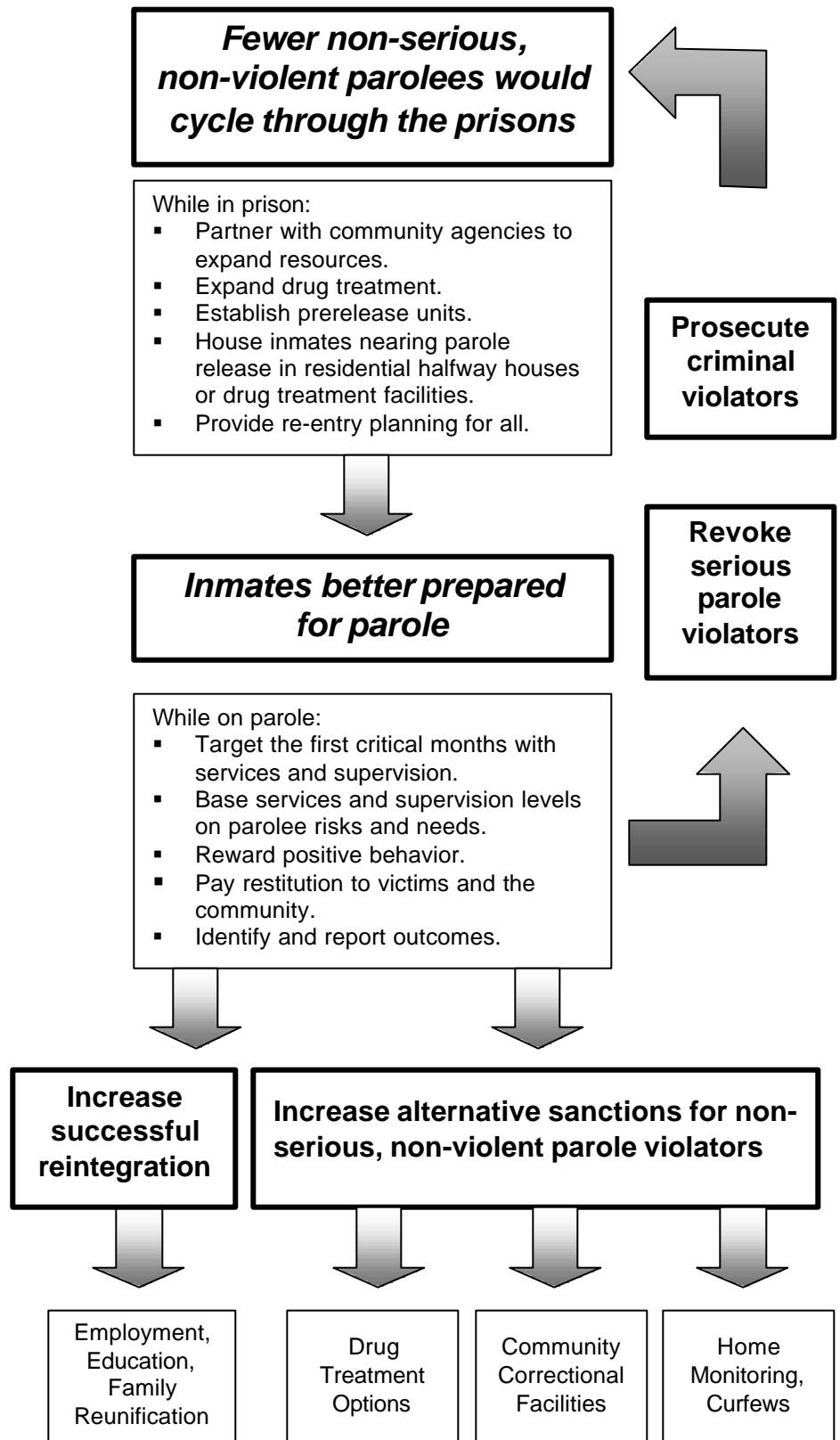
To maximize public safety, communities must assume greater responsibility for reintegrating parolees, and the State should provide the leadership and funding to make those efforts successful.

When Parolees Fail

The State should make better use of the resources currently spent re-incarcerating parole violators – and provide more public safety – by developing a range of interventions for failing parolees.

When New Crimes Are Alleged

To ensure public safety and fairness, the State should scrutinize its responses to parolees charged with new, serious crimes.



Introduction

The Commission initiated this study because of recent data showing that California has the highest parole revocation rate in the nation. National experts are now referring to California's parole policy as an "experiment" that is diminishing the public safety benefits of a correctional system, while consuming significant fiscal resources.¹⁸

From two previous reviews of state correctional policies, the Commission recognized from the beginning that improvements to the parole system could save money in the near term and improve the quality of life for nearly all Californians.

As correctional costs spiraled upwards, so have costs for other programs impacted by the failure or success of the correctional system. During the past decade, the Commission has analyzed foster care, mental health, alcohol and drug addiction, and youth crime and violence.

These issues are interrelated. More children are in foster care because of the criminal behavior – and drug and alcohol abuse, in particular – of their parents. Mental illness is common among criminal offenders. And while more is being done to treat offenders, many inmates still end up in jails and prisons because of inadequate mental health treatment in their communities. Once in prison they may receive court-ordered treatment. But in many cases, early treatment could have avoided the need for incarceration.

Alcohol and drug addiction thrives among prisoners and parolees and is frequently a contributing factor in criminal behavior. In its review of the State's alcohol and drug treatment policies, the Commission found that crime and correctional budgets could be reduced if quality treatment programs were expanded.

The Commission examined the State's parole policies by conducting two public hearings. It received testimony from top criminal justice experts, state correctional leaders, victim's rights advocates, union representatives, community activists and local law enforcement officials.

A panel of leaders from Oakland, including a state Senator, the mayor, a city councilman, the chief of police, a parole administrator and a community liaison testified on the devastation that parole policies impose on California's communities. They also identified the promise and potential of local efforts to successfully reintegrate parolees into the community. The witnesses are listed in Appendix A.

The Commission held a roundtable discussion with local law enforcement officials from throughout the state to discuss challenges and solutions to reduce parolee crime and increase successful parolee re-integration. These law enforcement officials are listed in Appendix B.

The Commission convened an advisory committee comprised of a diverse group of stakeholders impacted by parole policies. The advisory committee met three times. Participants in the advisory committee are listed in Appendix C.

To better understand the prison and parole system, the Commission toured the Deuel Vocational Institution where many Northern California parolees initially are sent when their parole is revoked. The Commission also toured San Quentin State Prison to learn more about community participation in prison programs. San Quentin Warden Jeanne Woodford shared her expertise and experience in a meeting with Commissioners.

What More Do We Need to Know?

In 1990 the Blue Ribbon Commission on Inmate Population Management, established by the Legislature to make recommendations on prison overcrowding and escalating costs, concluded that parole violators returning to prison were a significant contributing factor to burgeoning prison populations. Between 1978 and 1988, parole violators returned to prison had increased from 1,011 to 34,014. CDC projected that without policy changes there would be more than 83,000 parole violators returned to prison by 1994. The Blue Ribbon Commission recommended the following:

- ✓ Guidelines to assist in parole revocation decisions.
- ✓ Parole plans and intensive prerelease programs for releasing inmates.
- ✓ A range of sanctions as alternatives to re-incarceration of parole violators.
- ✓ More balance between the law enforcement and assistance functions of parole agents.
- ✓ Expanded community detention capacity including fiscal incentives for counties to set aside jail space to house and prepare parole violators.

The Little Hoover Commission in 1994 recommended improving the parole system by instituting comprehensive prerelease programs at all prisons, improving the effectiveness and management of prison work programs, and restructuring educational programs.

In its 1998 report, the Commission recommended comprehensive reforms to stop the costly recycling through prisons of low-level parole violators. Among its recommendations were community-based sanctions, expanded drug courts, assessments to determine what kinds of treatment and educational opportunities would benefit individual offenders, and expanded parolee assistance programs.

Absent efforts to reverse course, the projections made a decade ago have come true. California now returns about 90,000 parole violators to custody annually.

As the parole population grows so does crime in those communities with the highest concentrations of parolees.

In contrast, other states have proactively worked to reduce recidivism and use resources wisely. Promising practices have become proven practices and are being embraced by states and communities who understand the consequences of failing to do so.

California leaders should learn from these examples, implement reforms across the correctional continuum based on evidence of what works and evaluate all programs based on outcomes.

The Commission participated in a Police and Corrections Team (PACT) meeting in Sacramento that is held weekly for new parolees. Commission staff visited community-based parolee program providers, including a literacy lab, a drug treatment facility, a substance abuse education program and a residential multi-service center.

The study examines evidence-based decision-making, evaluates programs and services for inmates before and after they are released, reviews revocation policies and responses to parole violations and analyzes the prosecution of parolee crime.

The study provides recommendations that, if implemented, could reduce crime, cut costs and hopefully turn criminal offenders into responsible citizens.

This introduction is followed by a background, which details the scope of the problem and identifies the State's current programs and parole trends. The background is followed by five findings and recommendations.

All written testimony submitted electronically for each of the two hearings and the executive summary and complete report are available online at the Commission Web site, <http://www.lhc.ca.gov/lhc.html>.

Background

California's parole policies are unlike those in any other state. Approximately 125,000 inmates will be released on parole from California prisons this year. Most parolees return to California's communities with limited education and job skills. They have little or no preparation for a life without crime. They often have no family to return to and no place to call home. Many suffer from drug addiction, mental illness and infectious diseases. Within a matter of months, most will commit another crime or violate a condition of their parole and return to prison.

Once in custody again, parole violators will serve an average of five months, whether they were returned to custody because they failed to meet with their parole agent, they used drugs or even if they were blamed for a violent crime. While serving a revocation sentence, parole violators have limited access to educational, vocational or substance abuse treatment programs. Upon completing the revocation sentence, they will return once again to the streets to finish their parole supervision time – no healthier, no more educated, no more employable than when they returned to prison.

This constant recycling of parolees through prison squanders limited public resources and jeopardizes the safety of all Californians.

The California Problem

Incarceration rates have grown dramatically over the past two decades across the nation. In California, incarceration rates have increased faster than the national average. Between 1980 and 2000, the state prison population increased nearly seven-fold, from 24,000 to nearly 160,000, compared to a four-fold increase nationwide. In 2002, California had an incarceration rate of 452 per 100,000 population, compared to the national average of 427 per 100,000 population. When California and Texas – two states with the largest prison populations and above-average incarceration rates – are excluded from the calculation, the national average falls to 398. Or put another way, 34 states have lower incarceration rates than California.

If California had the same incarceration rate as the rest of the nation, there would be approximately 9,000 fewer inmates in California prisons. The cost to house these 9,000 inmates is over \$250 million.¹⁹

The high incarceration rate also contributes to the size of the parole population – which translates into significant consequences for

communities when inmates are not prepared for release, and higher prison costs when parolees return to custody.

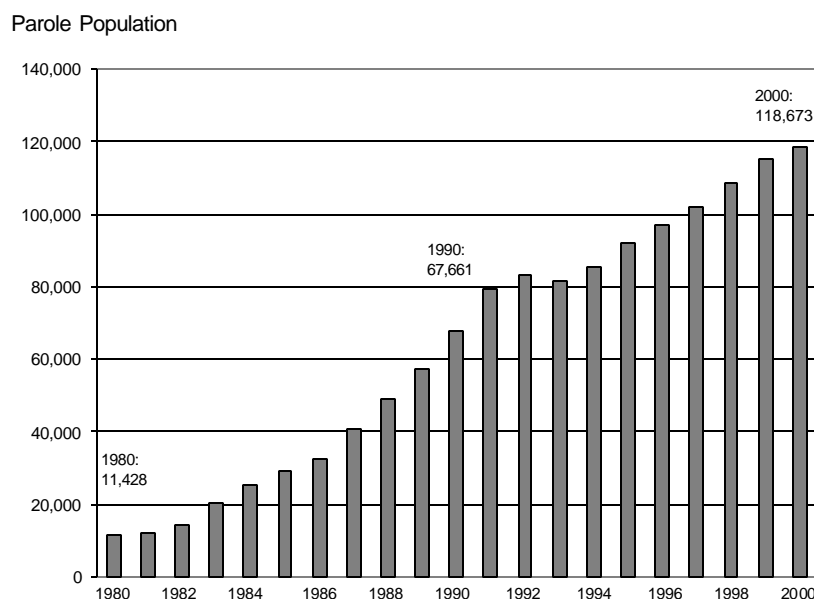
Additionally, California sharply diverges from the rest of the nation in the policies it employs to supervise parolees. California far exceeds the rest of the nation in the rates at which it places people on parole and then revokes their parole. As a result, California's parole population has grown much faster than the rest of the nation.²⁰

In testimony to the Commission, Jeremy Travis, a national expert on parole stated that "California has embarked on parole policies markedly different from every other state in the country, with significantly greater use of parole supervision and dramatically greater use of parole violations. These parole supervision and revocation policies are very expensive, with uncertain benefits."

The State's parole population has increased ten-fold, compared to a four-fold increase nationally during the past two decades. While California accounts for 12 percent of the nation's general population, it accounts for 18 percent of the parole population. In other words, nearly one in every five people on parole in this country live in California.²¹

California parolees are not substantially different than parolees in other states. However, California parole policies are dramatically different:

California's Parole Population 1980-2000



Sources: Jeremy Travis, Senior Fellow, Urban Institute, Written Testimony to the Commission, February 27, 2003 and CDC, "Historical Trends, 1980-2000," Table 7.

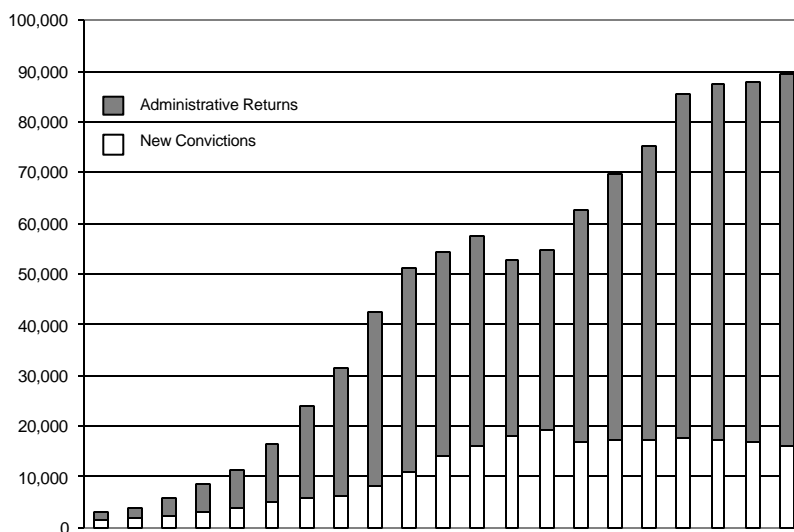
- ✓ Virtually every California prisoner is placed on parole upon completing a prison term. Nationally the average is 82 percent.²²
- ✓ California revokes parole and returns a greater percentage of parolees to prison than any other state. While nearly one in five parolees live in California, more than two in five of all parolees (42 percent) returned to prison are in California.²³
- ✓ When a parolee is returned to prison, the "clock stops" on the time owed for parole supervision. When offenders leave prison after serving time for a parole violation, they still face the same remaining supervision time as when they returned to prison. In this way, parole supervision can stretch out for years. In fact, it's possible for an offender to spend more time in prison for parole revocations than for an original sentence.²⁴

The issue with the greatest consequences – for public safety, prison operations and fiscal implications – is how California deals with parolees who are not successfully reintegrating into their communities.

Parole Violations Defined

Parolees can be returned to custody for either a violation of the conditions of parole or for having been convicted of a new crime. A small percentage of parolees are actually charged and convicted of a new crime and receive a new sentence. The vast majority of parolees returned to custody have committed a parole violation, commonly called a "technical violation."

Parole Violators Returned to Prison 1980-2000



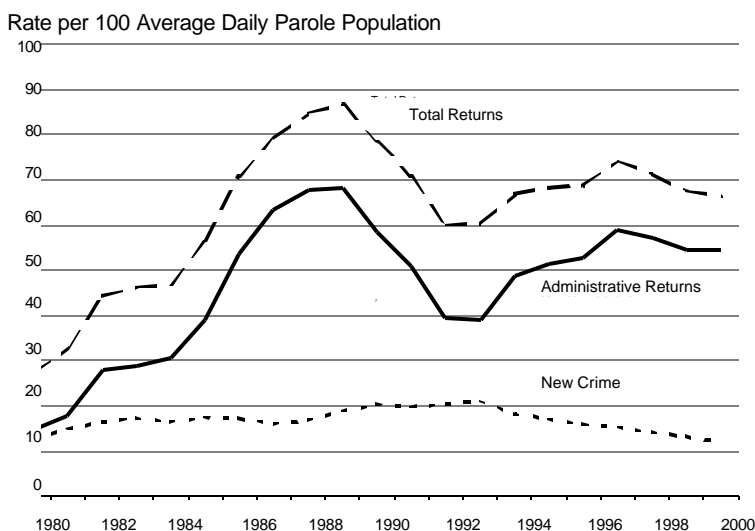
Sources: Jeremy Travis, Senior Fellow, Urban Institute, Written Testimony to the Commission, February 27, 2003 and CDC, "Rate of Felon Parolees Returned to California Prisons, CY 2000," Table 1.

The California Department of Corrections (CDC) uses the term "administrative return" for parole violations that result in a return to custody. Within this category, the CDC makes a further distinction between an administrative "criminal" return and an administrative "non-criminal" return. An administrative criminal return involves criminal activity, even though the parolee is not convicted of a new crime. An administrative non-criminal return is a violation that does not involve criminal activity and would not result in a prison sentence except for the terms of parole. Approximately 20 percent of the total returns to custody are classified as non-criminal administrative returns, and of these almost all are for a violation of the parole process, such as failure to meet with the parole agent, report a change of address or refrain from using alcohol. Of the administrative criminal returns, half are for drug use or possession. The rest include more serious property crimes and violent crimes.²⁵ The chart on the following page details the percentage of parolees returned to custody for each type of violation and the average time served.

Parole Trends

The rate of returns to prison for parole violations has varied significantly over the years, ranging from less than 30 percent in 1980 to nearly 90 percent in 1989, and down again to 60 percent in 1992. The rate has remained fairly stable for the past several years at about 70 percent. The chart below reveals that while the overall rate of returns to prisons has fluctuated dramatically, the rate of returns for parolees who commit new crimes and receive new sentences has remained stable at 17 percent. The dramatic rise and fall of return to custody rates has been driven by administrative returns.²⁶

Parolees Returned to Custody **New Crimes and Technical Violations 1980-2000**



Sources: Jeremy Travis, Senior Fellow, Urban Institute, Written Testimony to the Commission, February 27, 2003 and CDC, "Rate of Felon Parolees Returned to California Prisons, CY 2000," Table 1.

Parole Violators Released from Custody by Principal Charge Category Average Revocation Time Assessed and Served - Calendar Year 2000				
	Number	Pct.	Revocation Time in Months	
			Revoked	Served
Felon Parolees Returned to Custody	71,562			
Parole Violators Returned to Custody (PV-RTC)	61,675			
Continued on Parole	9,887			
Parole Violators Returned to Custody	61,675	100.0	7.8	5.2
Violations of Parole Process	11,563	18.7	5.9	4.2
Crimes Against Persons	7,533	12.2	10.2	7.2
Weapons Related Offenses	1,809	2.9	9.7	7.8
Property Offenses	3,867	6.3	9.7	5.8
Drug Offenses	18,031	29.2	6.8	4.3
Other Offenses	16,481	26.7	8.6	5.5
Charge Information Not Available	2,391	3.9	*	*
Administrative Criminal Returns	47,161	79.6	8.3	5.4
TYPE I	24,085	40.6	7.0	4.4
Drug Possession	6,671	11.3	7.1	4.3
Drug Use	9,534	16.1	6.0	4.0
Miscellaneous Violations of Law	7,880	13.3	8.0	5.0
TYPE II	15,503	26.2	9.3	5.9
Sex Offenses	1,292	2.2	8.7	6.1
Battery and Assault (minor)	1,574	2.7	9.5	6.3
Burglary	506	0.9	9.7	5.8
Theft and Forgery	3,016	5.1	9.6	5.7
Drug Sales/Trafficking (minor)	1,375	2.3	10.0	5.7
Firearms and Weapons	366	0.6	9.7	7.1
Driving Violations (minor)	2,692	4.5	9.2	5.8
Miscellaneous Non-Violent Crimes	4,682	7.9	8.9	5.8
TYPE III	7,573	12.8	11	7.6
Homicide	78	0.1	11.5	9.9
Robbery	524	0.9	11.4	9.6
Rape and Sexual Assaults	384	0.6	11.2	8.6
Battery and Assault (major)	3,681	6.2	10.6	7.4
Burglary (major)	345	0.6	10.9	6.4
Drug Violations (major)	451	0.8	10.1	5.7
Weapon Offenses	883	1.5	10.7	8.9
Driving Violations (major)	364	0.6	10.3	6.3
Miscellaneous Violent Crimes (major)	863	1.5	10.5	7.1
Administrative Non-Criminal Returns	12,123	20.4	6.0	4.3
TYPE I - Violations of Parole Process	11,556	19.5	5.9	4.2
TYPE II - Weapons Access	560	0.9	8.0	6.4
TYPE III - Psychiatric Endangerment	7	0.0	10.3	9.2

Source: CDC, California Prisoners and Parolees, 2001, Table 42. Numbers have been rounded. *Data not available.

How Revocation Decisions Are Made

Parole revocation is the process by which a parolee is found to have violated the conditions of parole and is returned to custody. Not every parole violation results in a parole revocation. With certain violations parole officials can offer the parolee an alternative sanction. For example, a parolee who fails a drug test can be offered the alternative of enrolling in and completing a drug treatment program. Some violations require mandatory reporting to the Board of Prison Terms as detailed in the box. Another alternative is to charge parolees with a new crime, and upon conviction, return them to prison with a new sentence.

Violations Triggering Mandatory Reports

- Any violent conduct described under Penal Code 667.5 or other assault resulting in serious injury to the victim.
- Possession, control or use of any firearms, explosives or weapons, and any knife with a blade over two inches in the parolee's possession outside a kitchen or job.
- Involvement in fraudulent schemes involving more than \$1,000.
- Sale, transportation or distribution of controlled substances.
- A parolee whose whereabouts are unknown and who has been unavailable for 30 days.
- Any other conduct in violation of conditions or parole deemed sufficiently serious by the parole agent.
- A mentally disordered parolee whose ability to maintain himself or herself is seriously impaired or who poses a serious threat to the community, and who cannot be adequately treated in the community.
- Failure to register as a sex offender as provided, or the failure to provide blood/saliva samples as required.
- Failure to sign conditions of parole.
- Violation of a special condition prohibiting gang participation or mandating compliance with any gang-abatement injunction or court order.
- Any conduct indicating that the parolee's mental condition has deteriorated such that the parolee is likely to engage in future criminal behavior.

Parole revocation is initiated when the Board of Prison Terms is notified by CDC that a violation has occurred. The Board of Prison Terms has the authority to suspend or revoke parole and return a parolee to custody for violating any of the conditions of parole.

Overall, three-quarters of detected parole violations are referred to the board, with the remainder dealt with by parole officials.²⁷ If a violation is referred to the board, the parolee has the opportunity for a hearing in front of the board.

Some 95 percent of parolees are in custody while awaiting a revocation hearing.²⁸ Some cases are disposed of prior to a hearing through a process called the "Parole Revocation Screening Calendar," where the parolee is presented with a sentence for the alleged violation and can accept or reject it. Of the parole violators referred to the board, 92 percent are returned to custody.²⁹

If a revocation hearing occurs, the threshold for finding a parolee in violation is a preponderance of evidence and hearsay is allowed. By comparison, in criminal courts, the standard is guilt beyond a reasonable doubt and hearsay evidence is not permitted. In the revocation process, legal representation is not required or provided in most cases.³⁰

Parole Revocation is Expensive

As incarceration rates skyrocketed over the past two decades, so did costs. In 2002-03, the average annual cost to house an inmate in state prison was \$28,502 or approximately \$78 per day.³¹

The majority of offenders entering prison are parole violators, as opposed to new commitments from courts. Parolees account for two-thirds of all admissions to California prisons. This was not always the case. In 1978, parole violators represented approximately 8 percent of the felons admitted to California prisons. By 1988, this number had increased to 47 percent, and by 1999 parole violators represented 67 percent of all admissions to state prisons.³²

All parolees returning to custody must be processed through the CDC's intake reception centers. CDC is unable to provide specific costs for reception centers, however, it is likely to be higher than other inmate housing because of the higher costs associated with the personnel required for the intake process.³³ Because revocation sentences are relatively short, parolees may serve most, if not all of their sentence in the reception center.³⁴ By comparison, the cost to house a parolee in one of the CDC's privately contracted Residential Multi-Service Centers, which provide housing, drug counseling and educational and job training, is \$55 per day.³⁵ Costs to supervise a parolee in the field are significantly less, \$2,882 annually or approximately \$8 per day.³⁶

Reception centers serve as intake facilities where new prisoners and returning parolees are classified by potential threat level. Since the inmate population at these centers ranges from low-level offenders to the high-security risks, offenders spend most of each day locked in a cell, often as much as 23 hours a day.³⁷

Unclassified offenders typically are unable to participate in the limited number of educational and vocational training or alcohol and drug treatment programs offered to prisoners. Due to the time spent being reclassified and the relatively short terms, parole violators are unable to gain the full "good time" credits rewarded to inmates who participate in prison programs. So, not only are parole violators unable to receive the possible benefits of education or drug treatment programs, they also cost taxpayers more than other inmates because they serve a longer percentage of their sentence in prison.

California spends approximately \$1.5 billion in parole-related funding annually. The vast majority of the funding, \$900 million, is spent to house parole violators who have returned to custody. The State spends

an additional \$465 million supervising parolees, including slightly more than \$15 million on the Preventing Parolee Crime Programs that foster successful parolee reintegration.³⁸

Uncertain Public Safety Benefits

Despite nearly a billion spent returning parolees to prison, the benefits of this strategy are uncertain.³⁹ And the revolving prison door impacts much more than tax dollars. The consequences for public safety and the costs to society in terms of crime are potentially larger.

As noted previously, most parolees have limited educational and vocational skills. An estimated 80 percent are substance abusers and approximately 16 percent suffer from mental illness.⁴⁰ While serving time in prison, opportunities to participate in programs to prepare for re-entry are limited. CDC policies prevent offenders with the highest security classifications from participating in virtually any rehabilitative programs. So some of the most violent offenders, who have spent most of their prison sentence in a security housing unit, go straight from solitary confinement to the street, with virtually no preparation at all.⁴¹ It is not surprising that more than half of all parolees commit another crime within months of their release from prison.⁴² In some California cities, parolees account for half of all crimes.⁴³

Returning virtually all parole violators to prison has had unproven public safety benefits.⁴⁴ While parole violators returned to custody are temporarily unable to commit crimes outside the prison walls, critics argue that this method of containment merely postpones, but does not prevent crime.

Additionally, critics argue that some parole policies – such as returning a parole violator who has committed a violent crime to prison on a parole revocation instead of charging and sentencing the offender with a new crime – may actually endanger public safety.⁴⁵ Most parolees returned to custody serve fairly similar sentences, ranging from three to 12 months, regardless of the severity of the parole violation. Violent offenders serve much shorter sentences than they would if they were charged and convicted of the same crime through the court system. Correctional officials argue that in certain instances, there is not enough evidence to convict a parole violator of a new crime, since the burden of proof in court is much higher than in a Board of Prison Terms revocation hearing. By revoking parole, a criminal offender who would otherwise be on the streets is at least temporarily locked up.⁴⁶

On average, a parole violator serves five months. A parole violator with an administrative non-criminal violation, such as a failure to meet with a parole agent, will serve an average of 4.3 months. A parole violator with an administrative criminal violation for drug use or possession will serve an average of 4.4 months. A parole violator with a violent administrative criminal violation such as homicide or rape, will serve an average of 7.6 months.⁴⁷

Ironically, parolees returned to prison for non-criminal violations have the least access to "good time" credits because their sentences are so short. They receive an average sentence of six months and serve an average of 4.3 months, earning slightly more than a month and a half of good time credit. Parolees returned for the most serious administrative criminal violations receive an average sentence of 11 months and serve an average of 7.6 months, earning nearly four months in good time credit.⁴⁸

Parole Over Time

Parole in California today is dramatically different than when it was first introduced at the turn of the 20th century. Until the mid-1970s, prisoners served sentences of indeterminate length that could range from a minimum of one year to as high as life in prison. Parole boards determined when an offender was ready for release and parole was an incentive to entice prisoners to behave in prison, participate in rehabilitative programs and develop plans for re-entering society.

The State's Uniform Determinate Sentencing Act of 1976 radically changed parole in California. Today, most prisoners serve a fixed sentence followed by up to three years of parole supervision. Only offenders convicted of the most serious and violent offenses receive an indeterminate sentence with the possibility of parole determined by the Board of Prison Terms. Less than 1 percent of all parolees are released as a result of a board decision.⁴⁹

Parole is no longer a reward for prisoners deemed ready to re-enter society – it is a mandatory requirement after completion of a prison sentence for more than 90 percent of all prisoners.⁵⁰ The box on the opposite page provides a historical perspective of sentencing policy shifts, the consequences of determinate sentencing laws, and a summary of a Commission survey of criminal justice experts on the feasibility of reforming sentencing laws.

Impact of Determinate Sentencing Laws on Parole Policy

The concept of parole began in the late 1800s with the introduction of indeterminate sentencing laws allowing the early release of prisoners to six months of parole supervision. Courts set sentencing ranges, allowing prison authorities and boards to decide if prisoners should be released before their maximum sentence was served. Early release to parole was an incentive to encourage inmates to participate in rehabilitative programs.

California enacted indeterminate sentencing laws in 1917. The theory, as explained by the California Supreme Court was that *"these laws...seek to make the punishment fit the criminal rather than the crime. They endeavor to put before the prisoner great incentive to well-doing... the purpose is to strengthen his will to do right and lessen his temptation to do wrong."*

By the mid-1970s, the Adult Authority that made decisions regarding early release to parole was under attack from divergent factions for being too harsh and discriminatory with some inmates and too lenient with others. Individuals convicted of similar crimes often received grossly different punishments. Lawsuits were filed claiming race and gender bias and discrimination. Others argued that the ambiguity of parole hearings violated the right to due process. Simultaneously, victims' rights advocates argued that dangerous offenders were being paroled too early considering the severity of their crimes. There was a universal lack of faith in the Adult Authority's ability to choose an appropriate time for inmate release.

In addition to the system inequities, the public also had become disillusioned with the prison system's ability to rehabilitate inmates. A well-publicized study stating that nothing worked in prison rehabilitation, coupled with rising crime rates, fostered an environment for change.

Liberals seeking equality in sentencing and conservatives emphasizing the need for greater crime control found common ground on the issue of "certainty of punishment." Academics with vastly divergent ideologies agreed that sentencing judges and parole boards had too much discretion.

In response, California lawmakers enacted the Uniform Determinate Sentencing Act, which set off a national trend. Punishment replaced rehabilitation as the primary function of prison time. Convicted felons would receive fixed sentences with the possibility of "good-time" credits, followed by up to three years of parole supervision. The law dramatically changed the concept of parole as a reward incentive. Release dates for most inmates were no longer decided by the Adult Authority. Sentencing decisions were divided between the Legislature and the courts.

Initially, the law established a simple triad of terms for several categories of felonies. Judges were required to sentence an offender to the middle term within the triad of the legislatively established law, unless there were mitigating or aggravating circumstances. Over the past three decades hundreds of laws were enacted to enhance and further define sentences. Indeterminate sentencing still exists for offenders convicted of the most serious violent crimes such as murder or kidnap for ransom and the Board of Prison Terms (which replaced the Adult Authority) is charged with reviewing these cases and determining parole eligibility, although these cases comprise a very small portion of the prison population.

While determinate sentencing laws eliminated the inequities and uncertainties of prison terms, the laws spawned new challenges, including California's current parole problems. To further understand the impact of determinate sentencing laws on parole policy, the Commission conducted a survey of criminal justice experts on the feasibility of sentencing law reforms. Responses were as diverse as the experts surveyed. However, many agreed that the current sentencing system was unduly expensive and flawed. All agreed that the State should not return to the indeterminate sentencing structure as it existed before. Several thought significant reforms were possible within the existing sentencing structure. Others indicated a major shift in sentencing law was required, but doubted the political feasibility of such a major endeavor.

Oakland Mayor Jerry Brown, who as Governor signed the Determinate Sentencing Law, told the Commission he had erred. He said that the reform was not well thought out and that the State should return to indeterminate sentencing with a Board of Prison Terms representative of the State's diversity.

Sources and a list of experts participating in the Commission's survey are detailed in the notes on page 103.

How Are Parolees Supervised?

Parolees are classified into four major groups, high control, high services, control services and minimum services.

- ***High Control.*** Parolees classified as high control were convicted of violent felonies, must register as sex offenders, are known gang members, or are cases of particular interest to the public. They must make contact with a parole agent twice a month – at the parolee’s residence once a month and at another location once a month. If subject to drug testing, they are tested at least once a month. Additionally, parole agents make two collateral contacts per month with a doctor, relative, spouse, employer or other individual who has contact with the parolee.
- ***High Service.*** Parolees classified as high service have special service needs or behaviors, such as people with severe mental illness or civil addicts (offenders civilly committed to CDC for treatment of narcotic addiction). The supervision requirements are the same as for high control parolees, except that civil addicts have weekly drug tests.

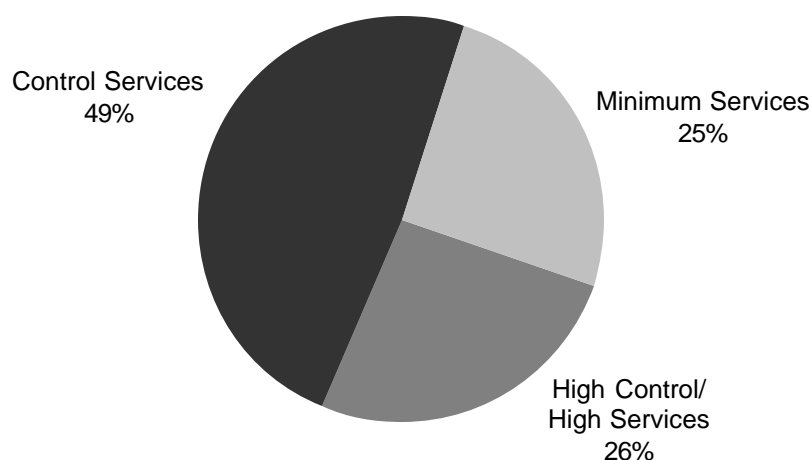
As of July 2003, there were 28,233 parolees classified as high control or high service. Within the high control and high service classifications there are several specialized categories, including high risk sex offenders (1,964), second strikers (10,703) and an enhanced outpatient defined as a parolee requiring psychiatric assistance and extensive help (1,102). High control and high services parolees are evaluated every 90 days and can drop down to a lower service level if they are free of violations and show stable employment and housing.

- ***Control Service.*** Parolees classified as control services do not meet the criteria for high control or high service and must make two face-to-face contacts per quarter with the parole agent. As of July 2003, there were 54,191 parolees classified as control service.
- ***Minimum Service.*** Control services parolees who satisfactorily complete 180 days of parole are automatically assigned to minimum supervision, where they are only required to have one face-to-face contact with their parole agent every 120 days. They are required to submit a written form monthly updating the parole agent on personal information such as a change of address, employment or marital status. As of July 2003, there were 27,929 parolees classified as minimum service.

Other parolees who are not classified in these four categories include illegal immigrants who have served their sentence and will be deported, mentally disordered parolees assigned to state hospitals and parolees who have absconded. As of July 2003, there were 14,794 parolees awaiting deportation. These are not considered part

of the parole caseload unless they return illegally to the United States and come to the attention of law enforcement. As of July 2003, there were 19,954 parolees at large who had absconded by failing to report their whereabouts to their parole agent and who have a warrant out for arrest.⁵¹

Parolee Classifications



Source: Parole Classifications by Region, July 2003, Parole & Community Services Division, Department of Corrections.

What Are the Conditions of Parole?

The Department of Corrections imposes conditions of parole for determinately sentenced prisoners, while the Board of Prison Terms sets conditions for indeterminately sentenced prisoners. General conditions of parole are applied to all parolees and include complying with parole agent instructions, not engaging in criminal conduct and not owning, possessing, using or having access to any weapons. Special conditions of parole can be imposed based on the prisoner's offense and most commonly include the requirements to abstain from alcohol, submit to drug testing or participate in psychiatric treatment.⁵²

The State's Role

Three state entities – The Youth and Adult Correctional Agency, the Board of Prison Terms and the Department of Corrections – have responsibilities for setting parole policies and administering parole.

Youth and Adult Correctional Agency

The Youth and Adult Correctional Agency oversees the activities of several boards and departments, including the Board of Prison Terms, Board of Corrections and Department of Corrections. Its stated mission is to “develop and implement effective and innovative correctional policy, create a coordinated correctional system which is responsive to the citizen's right to public safety and governmental accountability, and maintain a reputation for excellence and integrity.”⁵³ The agency secretary is a member of the Governor’s Cabinet and advises the Governor on correctional matters.

Youth & Adult Correctional Agency

The Youth & Adult Correctional Agency is charged with overseeing and coordinating the activities of the following departments:

- Board of Corrections
- Department of Corrections
- Narcotic Addict Evaluation Authority
- Board of Prison Terms
- The Youth Authority
- Youthful Offender Parole Board

Board of Prison Terms

The Board of Prison Terms conducts parole and parole revocation hearings for the relatively small number of prisoners sentenced to state prison for a term of life with the possibility of parole and various custody hearings for mentally disordered sex offenders. It also conducts revocation hearings for parolees who violate conditions of parole and are reported to the board by CDC. Additionally, the board makes recommendations to the Governor regarding applicants for pardon and executive clemency.

Board of Corrections

The 15-member Board of Corrections – comprised of state and local correctional officials and members of the public – works in partnership with county sheriffs, chief probation officers, other local officials and community-based service providers to improve the delivery of correctional programs. The board develops standards for the construction and operation of local jails and juvenile detention facilities and for the training of local law enforcement and probation personnel. It administers grant programs for facility construction, crime and delinquency prevention and conducts studies regarding the criminal justice needs of California communities.

Department of Corrections

The California Department of Corrections is charged with two distinct and often-conflicting missions. On the one hand, the department operates 32 state prisons, 37 conservation camps, 16 community correctional facilities and three prisoner mother facilities.⁵⁴ The explicit goal of these facilities is to punish offenders. The department is the largest of all state entities in terms of staffing with 48,559 employees, of which 31,241 are sworn peace officers. Of these, 42,341 work in

institutions, 3,099 are employed in parole and community services and 3,119 are in various administration positions at the central office and at the Richard A. McGee Correctional Training Center.⁵⁵

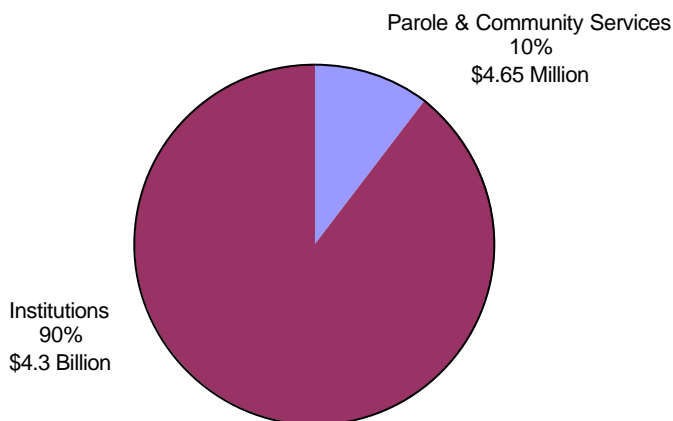
Rehabilitation programs are small and access is limited. In 2003, only 54 percent of the inmates were assigned a full-time placement in a program. The remaining inmates were either awaiting classification in a reception center or on a waiting list for a program, in secure or segregated housing, awaiting deportation or were severely physically or mentally disabled.⁵⁶ A summary of the programs is provided in a table on the following page. The 2003-04 budget directed CDC to restructure some of the programs and these reforms also are outlined in the table.

The Parole and Community Services Division is responsible for protecting the public and assisting parolees to reintegrate into society. The division has four regions and within these regions there are 182 parole units and sub-units in 81 locations throughout the state. Additionally, the division operates four parole outpatient clinics.⁵⁷

The division also oversees 18 re-entry centers and two restitution facilities operated by public or private agencies under contract to CDC.⁵⁸ Re-entry centers assist inmates with education and job training and provide counseling. Furlough to the re-entry centers is available for certain non-violent offenders with 120 days or less remaining on a sentence.⁵⁹ Currently, 884 inmates are housed in re-entry centers.⁶⁰

The department's 2002-03 operating budget was \$4.8 billion representing 6 percent of the state General Fund. Of that amount, \$4.3 billion was allocated to the Institutions Division and \$465 million was allocated to the Parole and Community Services Division.

Department of Corrections Budget 2002-03



Source: Department of Finance, 2002-03 Governor's Budget

Prison Programs			
Program Name (Inception Date)	Participants	Funding 2002-03	2003-04 Budget Reforms⁶¹
Educational and Vocational (50+ years)	12,294*	\$201.2 million	Academic and vocational training programs will be restructured to give priority to inmates eligible for day-for-day sentence reduction credits and to add education programs in reception centers. The budget restored \$10.9 million in cuts and provided an additional \$10 million to fund the reception center program.
<p>Educational programs include instruction in basic literacy and general educational development (GED). The Prison Literacy Act required that CDC offer literacy training to 60 percent of eligible inmates by January 1, 1996 and established the goal that eventually all prisoners read at the ninth grade level. In 1997, the department reported that only 35 to 40 percent of eligible inmates had access to literacy programs. Vocational education programs teach inmates skills including carpentry, metal working, painting, masonry, auto mechanics, auto body and graphic design.⁶² Funding cuts and restructuring in the 2003-04 State budget eliminated vocational programs in most Level 4 prisons, leaving about 575 vocational instructors to provide classes in 22 prisons.⁶³ *12,294 is the maximum number of classroom slots available each month. CDC tracks the number of program participants monthly but does not have data on the number of prisoners participating annually in a program. Inmates remain in a program for various lengths of time based on their competency in the coursework and their sentence term.⁶⁴</p>			
Re-entry Programs (1978)	32,802	Unknown	Re-entry programs will be expanded to provide a distance learning program for inmates in reception centers.
<p>Re-entry programs (previously called prerelease programs) teach job search techniques and how to apply for benefits, identification and drivers licenses. In general, the programs last three weeks, except in the women's prisons where the program lasts six weeks. In institutions where classroom teaching is not possible, inmates are provided information packets, individualized workshops and a video series. There is typically a waiting list for participation, although the length varies by institution. While less than 30 percent of all inmates participate in the re-entry program, CDC estimates that many more are exposed to re-entry concepts while in substance abuse treatment programs and through a closed circuit video series provided at all institutions. The re-entry programs are budgeted under the academic and vocational education budget and the department is unable to quantify a cost of the re-entry programs.⁶⁵</p>			
Drug Treatment Program (1990)	8,226	\$31.8 million	Non-violent inmates could be placed in a secure, supervised, community residential drug treatment program for the final 120 days of their sentences, a strategy available under current law but underused. ⁶⁶
<p>CDC's Office of Substance Programs coordinates the department's alcohol and drug treatment programs. There are 8,226 in-prison substance abuse treatment beds in 18 facilities. An additional 400 beds will be activated in December 2003. Inmates participate an average of nine months. Aftercare upon parole is available for half of inmates who complete in-prison treatment but it is not mandatory.⁶⁷</p>			

Prison Programs			
Program Name (Inception Date)	Participants	Funding 2002-03	2003-04 Budget Reforms
Prison Industry Authority (1983)	6,000	Self- supported	
The PIA was established to reduce the cost of prison operations and help rehabilitate inmates by putting them to work. The PIA operates about 65 manufacturing and agricultural industries in 24 sites. ⁶⁸ Inmates produce clothing, shoes, mattresses and furniture used in the prison, operate the laundry, and provide printing, lens grinding and other services. The PIA also sells furniture and office supplies to other state agencies. ⁶⁹			
Joint Venture Program (1991)	163	Self- supported	
Joint Ventures are partnerships between a correctional facility and a local business that agrees to set up a production or service enterprise within the prison walls, hire, train and supervise inmates, and sell the products or services to the general public. Participating inmates earn wages prevailing in the local area. Eighty percent of their earnings are subject to deductions for taxes, room and board, restitution and family support. Remaining earnings are credited to a savings account available to inmates upon release. CDC currently has 163 inmates employed in joint ventures at eight institutions. ⁷⁰			
Conservation Camp Program (1946)	4,000	\$43 million (CDC) \$38 million (CDF)	
There are 38 CDC conservation camps scattered across rural California. Inmates in camps join fire lines in the fire season and in the off season build and repair river dikes and roads, maintain state parks and join rescue missions. They make toys for the "Make a Wish Foundation," repair bikes for "Toys for Tots" and cut firewood for the disabled and elderly. Eligibility is confined to low-level offenders with no records of violence, sexual offenses or arson. Inmates annually provide over 3.1 million hours of emergency response and 10 million hours of labor on work projects and save California taxpayers billions of dollars, according to the California Department of Forestry and Fire Protection (CDF). ⁷¹ Consistently, more than 2,000 inmates are on waiting lists for conservation camps.			
Community Correctional Re-entry Centers (mid 1980s)	884	\$24.2 million	Eliminates three of the five facilities which are described as marginally more expensive than incarcerating inmates in state prisons. Anticipated savings are \$400,000.
CDC oversees 18 private re-entry centers that provide education, job training and counseling. Furlough to re-entry centers is available for certain low-offending male and female inmates with 120 days or less remaining on a sentence. The program is voluntary for those who qualify. ⁷²			

Prison Program Eligibility

In 2003, approximately 87,000 or 54 percent of the 160,000 inmates were participating in a full-time prison program assignment. An additional 19,000 were eligible to participate, but were either on a waiting list for a

program, waiting to be classified in a reception center or were not assigned full-time. As indicated in the chart, the 2003-04 Budget Act directed CDC to add education programs in reception centers. While educational and academic programs are open to all eligible inmates, other programs have further eligibility restrictions. For example, only certain low-level offenders qualify to participate in the conservation camps and placement in community correctional re-entry centers is limited to low-level offenders within 120 days of prison release. The remaining 54,000 inmates who are not eligible to participate in programs include inmates in administrative segregation or in secure housing units, undocumented aliens awaiting deportation and inmates who are severely physically or mentally ill.⁷³

Parolee Supervision Trends

As documented previously, the past two decades have witnessed explosive growth in the prison population, and in California, tremendous growth in the number of parolees. The number of parole agents has not kept pace with the caseload growth and there are limited resources available to support the successful re-entry of parolees. The majority of parolees, some 80 percent, usually have fewer than two 15-minute face-to-face contacts with their parole officer each month.⁷⁴

The Parole and Community Services Division oversees a variety of programs to help facilitate successful parolee re-entry. However, there are not enough programs to serve the needs of all parolees and programs are not consistently available across the state. Additionally, participation in some programs is low because the programs are voluntary. When a parolee violates a condition of parole that does not require a mandatory report to the Board of Prison Terms, the parole agent can compel participation in a program, when available, as an alternative to a return to prison.

The Legislature recognizes that current prison and parole policies are costly and do not adequately protect public safety. In the 2003-04 state budget, the Legislature directed CDC to implement policy changes in parole to reduce costs and improve public safety by expanding services to assist parolees in becoming law-abiding citizens and by increasing the use of alternative sanctions in the community to avoid costly returns to prison for technical parole violators.

The tables on the following pages depict current programs for parolees including the number of participants and the estimated need for the program services. The current program descriptions are followed by a table detailing the reforms in the 2003-04 budget.

Parole Programs 2002-03⁷⁵			
Program Name & (Inception Date)	Participants served	Estimated Need	Funding
Computerized Literacy Learning Centers (1991)	4,727	56,000-70,000	\$3.2 million
The literacy program offers computerized education in reading, writing, math, G.E.D., and resume writing. Participants learn at their own pace and lessons are tailored to individual needs. Contra Costa County Office of Education administers the program serving 45 parole units. The program is funded through the federal Workforce Investment Act. ⁷⁶			
STAR - Substance Abuse Treatment and Recovery (1991)	9,190	90,000	\$3.1 million
STAR is a curriculum-based program designed to motivate substance abusers to participate in post-release recovery activities. Contra Costa County Office of Education administers the program and serves the same parole units as the literacy centers plus three additional units. The majority of the parolees are participating as an alternative to a return to prison for a drug or alcohol use-related parole violation. ⁷⁷			
Residential Multi-Service Centers (1991)	456	8,000 - 11,300	\$4.4 million
The service centers provide housing, meals, counseling and life skills, including parenting, money management and budgeting, and job search and placement assistance. There are 228 beds available for the six-month program. The program can be expanded up to a year and includes 90 days of aftercare services. The centers are located in Fresno, Stockton, Bakersfield, and Los Angeles. Additional locations in the Bay Area were eliminated due to non-compliance by private contractors, however, staff indicated CDC expects to replace these centers. ⁷⁸			
SASCA - Substance Abuse Services Coordination Agencies (1995)	10,371	90,000	\$50 million
This program connects parolees who have participated in the substance abuse treatment program while in prison with community services providing aftercare. Participation in aftercare treatment is voluntary. There are 8,200 in-prison treatment slots and aftercare funding is provided for half of those inmates upon release. Additionally, female offenders participating in a treatment program while in prison can be placed in aftercare treatment through the FOTEP program described below.			
FOTEP - Female Offender Treatment and Employment Program (2000)	984	See above	\$13.2 million
This residential program for female parolees is available following release from a prison-based drug treatment program. In addition to substance abuse treatment, the program provides life and job skill development, victim impact awareness, job and housing search assistance.			
Parole Services Network (1991)	4,711	90,000	\$11.7 million
This partnership between CDC and the Department of Alcohol and Drug Programs provides substance abuse treatment to parolees who did not receive treatment services while in prison. The majority of parolees participating in PSN treatment programs are enrolled as an alternative sanction as a result of a parole violation. There are four networks serving nine counties.			
Offender Employment Continuum (1999)	2,512	79,000-101,000	\$1.7 million
The OEC provides parolees an opportunity to further their education, obtain vocational training or be placed into a job. It includes a mandatory 40-hour weeklong program to assess education and job skills and provide job preparation and placement. It is offered in 41 parole units through private contractors in six counties: Fresno, Sacramento, Contra Costa, Alameda, Los Angeles and San Diego.			

Parole Programs 2002-03			
Program Name & (Inception Date)	Participants	Estimated Need	Funding
Employment Development Department	8,088	79,000-101,000	\$2.8 million
Job placement specialists from EDD help parolees obtain employment in 62 parole units.			
PACT - Parole and Corrections Teams (1999)	Data unavailable	126,000	No state funds
Complete PACT programs are available in Oakland, Sacramento and San Bernardino. Several other communities have partial programs. PACT partners parole with local law enforcement and community organizations to serve new parolees. Parolees attend a mandatory orientation session where they have opportunities for employment, vocational training and substance abuse treatment. Approximately 10 percent of the parolees attending these sessions enter one of the offered programs.			
Mental Health Services Continuum (2001)	17,023*	15,700	\$10 million
This program provides case management for mentally ill parolees, including assistance in setting mental health appointments and coordinating other program needs including drug treatment, education and job programs and housing. *The number of participants includes parolees referred to the program for an evaluation by their parole officer, but who were not diagnosed with a mental illness in prison.			
HIV (1993)	1,700	Voluntary program	\$2.5 million
Inmates who identify themselves as HIV positive receive medication and case management services before and after release to parole. Upon release, HIV parolees are treated at local government or other community facilities.			

2003-04 Budget Act –Parole Reforms⁷⁹	
Implement a Risk Assessment Tool	To effectively target resources and to enable parole agents to better assess the public safety threat of parolees, CDC has been directed to implement a risk assessment tool.
Establish Re-entry Units	Parole staff and social workers will be placed in re-entry units in each of the 32 prisons to provide case management services for inmates 90 days prior to release.
Expand PACT Programs	CDC was directed to increase services in existing PACT programs and to establish PACTs in more communities.
Expand Substance Abuse Treatment	Substance abuse treatment control units will be expanded as an alternative sanction for non-violent, drug abusing parole violators. It will include a 30-day "dry out" in custody combined with intensive drug treatment followed by 90 days of aftercare.
Increase the Use of Alternative Sanctions	CDC was directed to utilize more alternative community-based sanctions including curfews, electronic monitoring, home detention and placement in a community correctional center to reduce costs and minimize disruption for parolees working at a job or enrolled in school.
Expand the Mental Health Continuum	The budget provides for services for an additional 5,250 parolees.

Proven Practices

Some programs are beginning to show promising results in stemming the tide of parole violators returning to prison. Certain programs, including the alcohol and drug treatment programs and the mental health programs, have been vigorously evaluated and have proven effective in preventing recidivism. Preliminary data from a study commissioned by CDC to evaluate the effectiveness of the preventing parolee crime programs indicates a reduction in recidivism rates for parolees who complete any one of the six programs evaluated.⁸⁰ The final study is due to the Legislature by the end of 2003.

Prison-based Treatment Programs. Based on the success of a pilot project for an alcohol and drug treatment program, the State expanded in-prison treatment programs to 8,000 beds and aftercare upon release from prison to 4,000 beds. Additional program expansion was planned, but put on hold due to fiscal constraints. A rigorous evaluation of the pilot program at R.J. Donovan Correctional Facility found that one year after release from prison, only 17 percent of those who completed the in-

prison program and the aftercare component were re-incarcerated, compared to 66 percent of a control group who received no treatment. Among those who went through the in-prison program but did not complete aftercare, 35 percent were re-incarcerated.⁸¹

Diversion. Voters enacted Proposition 36, the Substance Abuse and Crime Prevention Act of 2000, a law diverting non-violent offenders convicted of drug possession into community-based treatment instead of incarceration. A six-county survey of the program indicates 17,907 individuals were referred to treatment instead of incarceration in the first year of implementation. CDC indicated in 2002 that the State's population of women inmates dropped 10 percent from 2001 to 2002 and acknowledged that the biggest contributing factor was Proposition 36.⁸²

Court Intervention. While also an example of diversion, the drug court model employs the leverage of the court to coerce drug offenders into treatment. California has 146 drug courts in 50 counties. Drug courts are a collaborative effort between the courts and the criminal justice system with a shared goal of helping

Proven Practice: The California Transportation Training Institute

Sacramento's California Transportation Training Institute is a partnership among the CDC, the Sacramento County Office of Education, the Department of Motor Vehicles, the Department of Social Services and Foodlink, a non-profit organization, to teach parolees commercial truck driving skills. The intensive, low-cost 18-week program provides valuable on-the-job experience for intern drivers who pick up food donations and deliver to community programs that feed the hungry.

Until 2002 budget cuts, CDC paid the \$184 fees for the course and licensing for all parolees referred to the program. CDC currently pays for three or four parolee participants per class. The award-winning program has proven highly effective in reducing recidivism: only 7 percent of the parolees completing the truck driver program have returned to prison.

Sources: Frances Hesselbein, Chair, Board of Governors, Leader to Leader Institute, Testimony to the Commission, February 27, 2003. Francisco Chavez, Training Center Manager, Foodlink, Personal communication, September 29, 2003.

convicted felons and misdemeanants with serious substance abuse problems complete treatment rather than serve a prison or jail sentence. A recent evaluation of 3,000 drug court graduates revealed an arrest rate reduction of 85 percent among participants, a conviction rate reduction of 77 percent and an incarceration rate reduction of 83 percent. The study revealed \$3 million in savings over the cost of the program to the State and an additional \$26 million in savings in local jail costs.⁸³

Networked treatment programs for parolees. As described previously, the Parole Services Network provides alcohol and drug treatment for parolees who did not participate in the prison treatment programs. Community-based drug treatment providers participating in the network provide case management services to develop individualized treatment plans to address needs. A RAND analysis of the multi-county Bay Area Services Network found that success rates for parolees receiving treatment from the network providers had no better outcomes than parolees directed to participate in non-network providers. However, the study noted that many of the network providers were not consistently performing true case management. Those that were, particularly some of the providers in San Francisco, were achieving improved outcomes.⁸⁴

Case management. A CDC program providing case management for approximately 13,000 inmates annually released to parole who have mental illnesses has shown significant reductions in recidivism for participating parolees. Prior to an inmate's release, a social worker interviews the inmate to determine needs and collects and compiles all available medical and institutional information. Upon release, the case manager assists in setting mental health appointments and coordinating other program needs including drug treatment, education and job programs and housing. CDC staff tracked outcomes for 3,000 program participants. Recidivism for these participants was 16.5 percent, as compared to 59.7 percent for parolees with mental illness who did not receive case management.⁸⁵

Proven Practice: The Supportive Living Program

The Supportive Living Program, run by the Center on Juvenile and Criminal Justice, provides substance abuse treatment for parolees in two residential settings in San Francisco. The facilities have a total of 16 beds and are funded through the CDC Parolee Services Network and the San Francisco Department of Public Health. Founded in 1991 as part of the Bay Area Services Network (BASN), the program serves parolees who did not receive substance abuse treatment while in prison. The typical client is a 28- to 40-year-old male who has been in and out of prison multiple times. Parolees who stay in the program for 180 days have a success rate of 60 to 70 percent.

Sources: Dan Maccallair, Executive Director, Center for Juvenile and Criminal Justice. Little Hoover Commission advisory committee meeting. January 22, 2003.

Using the Evidence

Finding 1: The correctional system's focus on punishment alone is not adequately protecting Californians from the 125,000 inmates released from prison each year.

The correctional system effectively punishes prisoners and protects public safety while inmates are incarcerated. But 95 percent of prisoners are eventually released – most after serving an average of 19 months behind bars.⁸⁶ But the moment inmates exit the prison gates, the failings of the correctional system's singular focus on punishment become apparent. Within 18 months, 70 percent of parolees will be returned to prison, many for committing new, drug-related crimes.⁸⁷

California could substantially improve the performance of the correctional system if its primary focus was public safety and it developed information systems to guide evidence-based reforms and manage programs to reduce violence, crime and drug abuse by convicted felons.

Unlike many other states and countries, California does not use information about the public safety risks and rehabilitation needs of individual prisoners and parolees to reduce parole revocations, crime and correctional costs. This information is critical to set goals for corrections, measure progress and hold policy-makers, correctional officials and offenders accountable for improvements.

California should develop a comprehensive, integrated data system to manage its correctional programs. It should use evidence about program effectiveness and information about offenders as the foundations of parole reforms focused on public safety and parolee reintegration.

The Growing Evidence About What Works

Over time, educational, vocational and treatment programs in California prisons have declined. Today, evidence about what works to reduce the likelihood that offenders will commit new crimes is growing. But California has not translated that knowledge into policies to better prepare inmates for their return to the community or to guide how it supervises, assists or intervenes with parolees. Among the examples:

- ***Preparing inmates.*** Despite mounting proof that educational, vocational and treatment programs reduce crime and the costs of the criminal justice system, the focus on punishment has greatly limited

programs to prepare inmates for release. Only 30 percent of eligible inmates have access to educational and vocational programs.⁸⁸

- ***Supervising and assisting parolees.*** Supervision – without services and assistance – does little to reduce recidivism.⁸⁹ But the focus of parole has shifted from assistance to mostly surveillance-oriented activities.⁹⁰ A study of California parole officers concluded that while rehabilitation remains in their rhetoric, in practice parole services are almost entirely focused on control-oriented activities like drug testing and curfew monitoring.⁹¹
- ***Responding to parole violators.*** Experts assert that it is important to respond swiftly to parole violations, but that not all violations require a return to prison. But parole officials recommend three-quarters of detected parole violations to the Board of Prison Terms for revocation. Of the parole violations referred to the board, 92 percent are returned to custody.⁹² Research shows that the length of a revocation sentence is unrelated to whether a parole violator will commit another crime upon release. Moreover, there is no research to say that technical violations lead to more serious crime.⁹³ Nevertheless, from 1990 to 1999, the length of time parole violators spent in prison increased by 23 percent with the largest proportional increases imposed for the least serious crimes.⁹⁴

But the existing evidence that could guide correctional policies does not improve public safety because California does not distinguish adequately among the risk and needs of inmates or reallocate resources to those responses that maximize public safety in the long-term.

“One-size-Fits-All” is Costly

The correctional system does not make decisions about programs, services, supervision and return to custody based on risk and needs assessments that distinguish among offenders. Rather, it largely uses a one-size-fits-all approach that squanders limited resources and jeopardizes public safety. Risk and needs assessments can reliably predict which offenders present real risks to public safety and which interventions are most likely to reduce the chances those offenders will commit additional crimes.

Officials gather a variety of information about offenders when they come into prison, including their health and mental health status and needs, educational level and employment skills and needs. But it is used largely for security classification purposes or to satisfy court orders. The information collected is not what is needed to strategically allocate

available educational, job training or treatment opportunities to inmates with the greatest needs or amenability.

On parole, California classifies offenders using a system developed in the 1970s in Wisconsin that was never scientifically validated. Over two decades it underwent periodic modifications in response to fluctuating resources and collective bargaining agreements and essentially has become a workload management tool.⁹⁵

The 1996-97 Budget Act directed the department to develop a new classification and risk methodology to more accurately assess the public safety risks posed by parolees and identify appropriate staffing levels. The Legislature provided the department with \$1 million to perform the research and analysis.⁹⁶

Two years later the department reported that the old classification system had an accuracy of 45 percent and concluded its integrity as a risk assessment tool was “negligible.”⁹⁷ It was declared “to no longer be viable given the lack of validity, the subjective structure of its application and the fact the classification system (Risk/Needs Assessment) did not reflect current developments in risk prediction.”⁹⁸

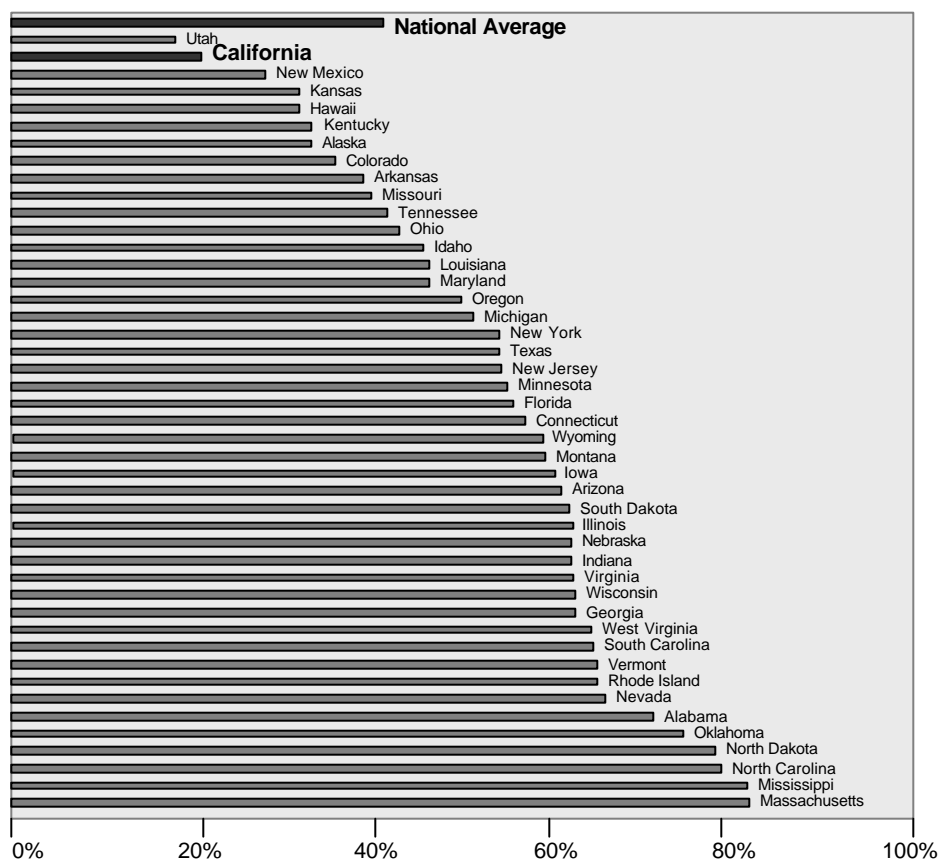
CDC proposed a two-year pilot study to evaluate the effect on parolee return-to-custody rates and public safety of a proposed new classification and workload system developed by UCLA and later validated in a study by CSU San Bernardino. The study showed the proposed instrument to be 65 percent accurate in predicting success on parole, comparable to national standards, and 50 percent more accurate than the existing parole classification system.⁹⁹ The pilot study was never funded.

The 2003-04 budget requires the department to develop a new risk assessment tool to ensure that parole supervision is “targeted in a consistent and effective manner.” Parole officials are reviewing existing tools and intend to adopt one that is automated and accounts for dynamic – or changing – factors in the lives of parolees.¹⁰⁰ The Legislature required the department to use the assessment as an offender is released from prison. Other states, like Oregon and Washington, use it when offenders enter prison to develop corrections plans, allocate programs and assist with transition planning.

California’s failure to use information about individuals to assess risks and identify the programs most likely to prevent them from committing new crimes has enormous fiscal, social and human consequences, including:

- ✓ **Poor use of existing funds.** Absent risk and needs information, resources are not wisely spent to prepare inmates for their eventual release and promote parolee reintegration. A risk assessment tool would distinguish among offenders, permitting more resources to be directed to higher risk offenders.
- ✓ **Reliance on the most expensive, least effective response to parole violations.** Because California does not distinguish among parolees, it relies on the most expensive and often least effective response to parole violations – re-incarceration. Risk and needs assessment would permit the safe and effective use of less expensive responses for some offenders.
- ✓ **Harm to offenders, their families and communities.** Research shows that repeated incarcerations can thwart the ability of offenders to ever successfully reintegrate, disrupt families emotionally and economically, and foster community instability and crime. The evidence is leading some states to rethink their incarceration and parole revocation policies to focus on public safety and reintegration rather than solely on punishment.

Percentage Successful Among Parole Discharges, 1999



When California data is eliminated the national average for parolee success increases to 53 percent.

Source: Michael P. Jacobson, Ph.D., Professor, John Jay College of Criminal Justice, New York. Testimony to the Little Hoover Commission, January 23, 2003. U.S. Department of Justice, Bureau of Justice Statistics, "Trends in State Parole, 1990-2000," October 2001.

Offender Information is Widely Used -- Elsewhere

Many correctional entities in the United States, Canada and other countries use offender information to develop correctional policies, cost-effectively target correctional strategies and improve public safety. More than 460 correctional entities use the Level of Supervision Inventory-Revised (LSI-R), one of the most respected of the newer risk assessment instruments. The U.S. Bureau of Prisons, Iowa Department of Corrections, San Diego Probation Department and New Zealand Department of Corrections are just a few. The LSI-R predicts success as well as failure, providing parole officials with a numeric estimate of each parolee's risk and needs, making it possible to link them to appropriate services.¹⁰¹

The National Council on Crime and Delinquency developed and tested the Correctional Assessment and Intervention System, which combines proven risk and needs assessments with the Case Management Classification system, a method of using offender information to develop case plans and allocate resources. Evaluators concluded that offenders supervised by officers trained in CMC were 44 percent less likely than a comparison group to fail while on community supervision.¹⁰²

An Antiquated Data System

The Department of Corrections maintains multiple information systems. Developed incrementally over time, the systems are not integrated and do not work together. Because information has to be keyed into each system, some information is inaccurate. Errors are costly to reconcile and can impact public safety when relied upon by law enforcement to make decisions about parolees. According to one parole agent, the most inaccurate system feeds into the Law Enforcement Automated Data System (LEADS), which is used by local law enforcement to access critical information about offenders they encounter in the community.¹⁰³

In addition to being poorly integrated, CDC's information systems are two decades old and cannot be cost-effectively modified to meet current needs. The technology is no longer manufactured or supported and failing computers strain staff resources. As the technology becomes more obsolete, technical staff with the skills to repair and maintain the

Goals for an Integrated Offender Data System

- ✓ One data base
- ✓ One-time data entry
- ✓ Real time information available to all agencies that need it
- ✓ Designed by users
- ✓ Meets the needs of all system users
- ✓ Serves as the platform for all future systems development
- ✓ Enables data to be easily shared with other agencies.

Source: The Utah Experience, Gae Lyn DeLand, Director, Information Technology, Utah Department of Corrections, August 29, 2003.

antiquated systems become increasingly scarce.¹⁰⁴ Over the years, there have been several failed attempts to acquire an integrated offender data system that would protect public safety and help managers efficiently run the corrections department. The box on the following page details various efforts, including current upgrade activities and planned projects.

In 2001-02 the department surveyed all states to learn how they managed criminal justice data. The systems used by Florida, Utah, Massachusetts and Delaware were believed to have the capacity to meet California's needs. There was broad agreement among department, agency and legislative leaders that an integrated system was desperately needed, but that funding was the barrier.¹⁰⁵ In testimony to the Commission, a senior official from the Youth and Adult Correctional Agency acknowledged that correctional agencies lack the data to effectively manage their programs, citing funding as the major obstacle.¹⁰⁶

Parole staff assert that a seamless, integrated criminal justice data system is still the vision. But correctional officials and policy-makers have not made the development of an adequate information system a priority to better manage the largest prison system in the country.¹⁰⁷

Staff in the department's Parole and Community Services Division, charged with implementing a prerelease program contained in the 2003-04 budget, are developing yet another information system to manage and track outcomes for parolees. While important to the success of the program, it is just another incremental step that may or may not lead to a comprehensive, integrated system. In fact, they assert that the department's Information Services Division is not assisting in the development of this system, but is conducting a feasibility study regarding a different attempt to centralize data and identify what data system the department should use. Staff describes their efforts as working "under the radar" and necessary to develop the data they need to manage programs and measure outcomes.¹⁰⁸

CDC's Integrated Offender Information System Development Attempts

A Decade of Failed Attempts

In 1994, CDC awarded a \$40 million contract to TRW to design and build an integrated Correctional Management Informational System (CMIS). Simultaneously, CDC hired Logicon for independent quality assurance and project oversight. In July 1995, TRW completed the analysis phase of the project and CDC paid TRW \$2 million. By 1996, TRW was well into phase two, but CDC and Logicon recognized the second phase was incomplete, inconsistent and inaccurate. In 1997, CDC sued TRW and in 1998, the court ordered TRW to pay CDC \$18 million and awarded the intellectual property rights of the project to CDC. At the time, CDC was in the midst of a change in leadership and the funds were diverted to fill a budget shortfall. Y2K became a priority and the information system upgrade was shelved.

In 2000-01, CDC's chief information officer directed an informal market survey of technology solutions. Analysis from the TRW process provided a starting point and staff from parole, institutions and health participated in the survey. CDC researched comprehensive criminal justice information systems used in other states and invited vendors to provide information. CDC identified various systems that could be scaled to meet California's needs. One is used by the Utah Department of Corrections and other states that formed a consortium to develop and share criminal justice technology. Another is used in Massachusetts. The staff recommended California adopt one of these systems and purchase off-the-shelf products to resolve specific data problems.

Staff recommended to go forward with a feasibility study and a formal procurement process. But the timing coincided with the onset of the energy crisis and the Oracle Corporation software scandal. Policy-makers had little appetite for the perceived risks associated with new, large-scale technology projects.

Piecemeal Progress

CDC has multiple technology improvement projects in the works. CDC is consolidating 73 obsolete database servers in parole offices throughout the state into a centralized system with a user-friendly, Web-based front end. This effort, called CalParole, will enable statewide access to shared uniform data. CDC anticipates CalParole to be completed within a few months at a one-time cost of nearly \$1.4 million dollars and ongoing costs of \$16.8 million over the next six years. Implementation and training is planned for 2004. Eventually, CalParole will feed into an integrated offender information system. While acknowledging the CalParole upgrade is a piecemeal solution to much broader needs, staff indicated it was essential to get the parole department off of an obsolete system immediately.

Another project, an upgrade of the inmate restitution banking and canteen system, has an approved feasibility study, but no funding. A project to install network communications for the 32 prisons enabling e-mail and local document management has been partially implemented.

Future Endeavors

CDC has two major projects in the planning stages, one to develop a Business Information System (BIS) to streamline, automate and integrate the business operations of CDC, and the other, a Strategic Offender Management System (SOMS) to integrate all offender information, from the point an inmate enters the CDC to the time of release from parole. Both projects will be able to provide administrators and policy-makers critical data on all aspects of the correctional system. CDC anticipates being able to modify existing criminal justice systems used in other states, utilize off-the-shelf software where appropriate, and employ a modular roll-out of the new systems to contain costs and avoid technology pitfalls. However, both projects have major hurdles to overcome, the most critical of which is funding.

The BIS project, has a feasibility study near completion. The department plans to release requests for proposals before the end of 2003. If funded, CDC anticipates project completion in 2005. CDC was granted five information technology positions to begin the feasibility study for the SOMS project; staff anticipates procurement for the system to occur in 2005, if funded, with a project completion date in 2009.

Sources: Christy Quinlan, Chief Information Officer and Wendy Still, Chief Financial Officer, Department of Corrections. Written testimony to Assembly Select Committee on Prison Construction and Operations, August 6, 2003 and personal communication with Christy Quinlan, September 5, 2003 and October 3, 2003. Sandra Emert, Project Management Officer, Department of Corrections, Information Services Division, Personal communication, September 8, 2003.

Pioneering States: Florida, Georgia and Utah

Florida, Georgia and Utah are among the states using integrated data systems and automated offender files to improve the performance of correctional programs and protect public safety.

Florida. Florida's integrated offender information management system tracks 80,000 prison inmates and 250,000 offenders in community corrections, primarily probationers. Offender information is entered electronically into a centralized data system as soon as a person enters the Florida correctional system. All data, including health records, movement, programming needs, assignments and completion data, infractions, good time credits, sentencing structure and classification are accessible instantaneously by staff in numerous locations and departments.

Over the past two decades, the Florida Legislature and correctional agency leaders have dedicated resources to ongoing system improvements. Each year, new applications on new generations of software are developed, so the system stays technologically up-to-date. Virtually all data, even though it may require access through different software platforms, is available from personal computers throughout the correctional system.

The integrated information system enables Florida to prioritize placement of inmates in programs. During intake, inmates are ranked based on a variety of criteria such as substance abuse problems, education requirements, criminal history, and time remaining on a sentence. The state has established policy priorities, and once an inmate is ranked, placement in a program cannot be circumvented.

Georgia. Georgia developed a program to collect data to manage programs and measure outcomes. Offender files are automated and parole agents working from laptop computers input current parolee information, including changes in dynamic risk factors such as program participation, employment, drug use and changes of residence. Daily data runs on each parolee generate e-mails to parole agents if there is a change in the parolee's assigned risk level. The information is used to reassess and modify supervision and assistance strategies. Automation also has permitted parole agents to work from their homes, permitting the Georgia Parole Board to close several regional offices, resulting in \$250,000 in savings during a budget crisis. Georgia's system was developed over two years at a cost of about \$350,000.

Utah. The Utah Department of Corrections developed a single automated offender data system that meets the needs of users at every point in the correctional system. It captures data one time, serves as the telecommunications, hardware, and software platform for future systems and permits real time data to be easily shared with other agencies. Limited funding required that it be developed one module at a time, a process that proved beneficial by allowing for testing and improvements along the way. It was designed by users to eliminate or reduce paperwork and provide outcome measures.

To augment funding for the program Utah invited other states, including Alaska, New Mexico and Colorado, to form a consortium to share costs and co-develop system modules. Utah has allocated about \$7 million to the development of the system and estimates it has reaped about \$12 million in added value from the innovations of the other states. For example, Colorado developed the pharmacy application while Utah and Alaska paid for the medical component, which all three states designed. The system was built to work in other states, is available to them on a lease basis and can be customized to meet their needs.

Source: Fred Roesel, Bureau Chief of Classification and Records, Florida Department of Corrections, Personal Communications, September 11, 2003. The Utah Experience, Gae Lyn DeLand, Director, Information Technology, Utah Department of Corrections, August 29, 2003. John Prevost, Georgia Parole Board, August 29, 2003.

Information is Knowledge

Knowledge about offenders gives policy-makers the tools to develop effective – rather than politically “safe” – correctional policies. It permits policy-makers and correctional administrators to establish goals for corrections, allocate resources effectively and measure progress toward the goals. Comprehensive and integrated offender information systems improve program management, facilitate information sharing among agencies and protect communities by providing accurate, real-time information.

Information developed through structured risk and needs assessments allows correctional administrators to distinguish among offenders who present real risks to public safety and those who do not and to target resources effectively – to the right offender at the right time.

Offender information is critical to:

- **Policy-making.** State and local policy-makers need aggregated data on offenders to understand the public safety risks posed by the offender population, their needs and their likelihood of success or failure. They need information to make good decisions about which offenders should have the highest priority for limited resources, what types of programs should be funded and where gaps exist.¹⁰⁹
- **Information sharing.** Automated offender files and integrated data systems permit the seamless sharing of information among prisons, parole, local law enforcement and other agencies. It provides law enforcement with real-time information on parolees, enabling them to determine the status and potential risk to public safety of individual parolees. Automation would expedite parole revocation processing – which is often delayed by weeks while officials wait for paper files to catch up with offenders.
- **Prisoner preparation.** Prison administrators need risk and needs assessments to strategically allocate available education, job training, treatment and prerelease opportunities to inmates. Assessments also can guide transition planning and be used to link offenders with critical post-release services.

How PACTs Could Use Data

Parole and Correctional Teams (PACTs) could use parolee data to target resources and enhance PACT program offerings. Specifically, PACTs could use data to:

- ✓ Develop reintegration plans
- ✓ Develop supervision and assistance strategies
- ✓ Allocate resources
- ✓ Identify and address gaps in available community resources
- ✓ Develop education and training programs
- ✓ Track parolee participation in programs
- ✓ Measure outcomes

Accountability Case Studies: Washington and Oregon

Washington Offender Accountability Act

As part of its Offender Accountability Act, Washington classifies felony offenders according to the risk they pose to re-offending in the future, and the amount of harm they have caused society in the past. Washington uses the Level of Supervision Inventory-Revised (LSI-R), a 54 question survey developed by Canadian researchers to evaluate the risk of re-offending. The tool permits the department of corrections to target more resources to higher-risk offenders and spend fewer dollars on lower-risk offenders. Washington also uses risk assessment in the prison system to link inmates with post-release services. An initial evaluation based on 24 months of offender post-release data suggests that the LSI-R "...provides a reasonable way to measure an offender's likelihood of re-conviction."

Oregon Accountability Model

Oregon uses offender information developed through risk assessments to develop individual, automated case plans for every offender that focus on mitigating the risk factors and returning offenders to the community as productive, pro-social citizens. The plans "travel" with inmates during their entire incarceration and into the community while they are on supervision. The plans identify needed activities and interventions and are used to hold inmates accountable for carrying out the activities.

Source: Peggy Smith, Washington State Department of Corrections, Personal communications. July 29, 2003. Washington State Institute for Public Policy. "Washington's Offender Accountability Act: Update and Progress Report on the Act's Evaluation. January 2003. The Oregon Accountability Model: Criminal Risk Factor and Case Planning Component. <http://www.doc.state.or.us>

- **Parolee reintegration.** Parole officials need information derived from risk and needs assessments to classify parolees based on the threat they pose to public safety, develop supervision and service strategies aligned with their needs and measure progress toward identified goals. With reliable information, more resources can be targeted to higher-risk offenders while fewer resources can safely be spent on lower-risk offenders. Assessments provide local law enforcement and other community agencies with information to guide decisions about monitoring and services for returning offenders.

- **Revocation decision-making.** Risk assessment could generate immediate cost-savings if it were used in making parole revocation decisions. Assessments permit officials to identify those offenders who require a return to prison to protect public safety and those who could safely receive a less costly sanction. If California reduced its return-to-custody rate by 20 percent for non-serious, non-violent parole violators, correctional costs could be cut \$71 million.¹¹⁰

- **Accountability.** Data can be used to hold policy-makers, correctional officials and offenders accountable for improvements. Information widely shared permits the public to hold policy-makers and correctional administrators accountable for establishing and funding parole policies aligned with the goals of public safety and reintegration. In turn, offenders can be held accountable for taking advantage of available opportunities.

Advancing the Development and Use of Data

Without persistent champions for using information to improve the performance of public programs, policy-makers and program administrators do not invest the will or resources to develop and use critical data. For example, the Little Hoover Commission advocated for the use of existing data to improve the State's response to mentally ill offenders. It brokered an agreement to query the mental health and criminal justice databases to better understand how mental health clients become involved with the criminal justice system. The data match will inform recommendations to prevent crime, reduce costs and improve community care for people with mental health needs. Preliminary data suggests that 40 percent of mental health clients sampled have a criminal justice record.

Where information needs have been successfully addressed, a venue has been created for stakeholders to come together to champion the development and effective use of data. California's child welfare leaders and community activists joined forces to harness data to promote reform, improved decision-making and accountability. Education reforms in California and across the nation have largely been driven by data that show where progress is being made and where additional effort is warranted.

To effectively use offender information, a venue is needed to bring together the people who produce the data with those who use it to supervise and provide programs for offenders. State correctional officials, local law enforcement leaders and criminal justice experts could work together – formally or informally – to create and sustain the expectation for information, overcome barriers to obtaining it and ensure that it is used effectively to craft policies, manage programs and measure progress.

As Californians grapple with an unprecedented budget crisis and the costs associated with the State's parole revocation policies, offender information should be developed and used to guide the Legislature and Governor in developing cost-effective reforms focused on public safety and parolee reintegration. It should be used to make decisions about how to intervene with offenders from the day that they enter prison until they have successfully reintegrated into the community.

Recommendation 1: To protect the public, the correctional system must use proven strategies to prepare inmates for release, supervise and assist parolees in California communities, and intervene when parolees fail. The State should create the means to improve the performance of the correctional system by changing laws, budgets and programs to increase success among parolees. Specifically, the State should:

Board of Corrections

The Board of Corrections – comprised of state and local correctional officials and members of the public – is well suited to assume these responsibilities and could do so without growing the bureaucracy. The board is charged with assisting county sheriffs, chief probation officers, other local officials and community-based service providers to improve the delivery of correctional programs. That function could be enhanced by giving the board the responsibility and authority for improving outcomes for offenders across the correctional continuum – from jails to prison and back to the community.

❑ **Use evidence to guide policy reforms.** The Board of Corrections should routinely evaluate the outcomes of the correctional system and identify evidence-based ways to improve those outcomes, beginning with the use of offender risk and needs assessments and performance measures. It should annually assess the risks and needs of offenders in prison and on parole, evaluate the programs that offenders received to reduce future crime, and compare the outcomes for offenders in California with offenders in other states. The board annually should recommend statutory changes, budget priorities and resource allocations that would improve public safety.

- ❑ **Use evidence to guide decision-making.** Offender information should be used to guide decision-making at every point in the correctional continuum. Specifically:
 - ✓ Offender risk and needs assessments should be used to better allocate resources including prison education, job training and drug treatment programs, parole supervision and assistance resources, and to make parole revocation decisions.
 - ✓ County sheriffs and other agencies should receive assessments in advance of an inmate's release, as well as documentation of what programs and services the inmate received in prison, how the services related to the inmate's assessment and the outcomes.
 - ✓ Releasing prisoners should receive their assessments to assist in their reintegration and help hold them accountable for pursuing the services that could reduce their chances of re-offending.
- ❑ **Automate offender information.** The State should make the automation of offender files and integration of the Department of Corrections data systems a priority. Efficiencies that result from automation and integration and savings from reforms suggested in the following recommendations could offset the costs

Before They Come Home

Finding 2: The State's failure to use prison time to prepare offenders for release jeopardizes public safety and squanders public resources.

With 70 percent of parolees returning to custody, incarceration alone is only providing limited protection to communities. By focusing exclusively on punishment, offenders do not receive the educational, vocational or treatment interventions that have been proven to reduce recidivism and cut costs to the correctional system. Prisoners spend an average of 19 months behind bars, time that could be used to obtain a General Educational Development (GED) diploma, gain a marketable job skill or kick a drug habit.¹¹¹

Programs within CDC institutions to help inmates get a job, stay sober and successfully reunite with their families and communities upon release are limited, unevenly available and not targeted to offenders who upon release present the greatest risks to public safety. Often, they are managed in ways that limit their effectiveness. When released, 10 percent of parolees are homeless, half are illiterate, 70 to 80 percent are unemployed and as many as 80 percent abuse drugs. In large urban areas like Los Angeles and San Francisco, homelessness approaches 30 to 50 percent.¹¹² Half the parolees in Sacramento use Loaves and Fishes, a local non-profit organization providing food and services to the homeless, as their address.¹¹³

To improve public safety, state prisons must prepare inmates for release, as well as punish them. The State also should provide fiscal and other incentives for communities to provide services and prerelease planning for inmates.

A Focus on Punishment

With the enactment of determinate sentencing, punishment explicitly replaced rehabilitation as the primary purpose of incarceration. This change also resulted in a steady decline in the incentives for inmates to participate in programs that could reduce their chances of re-offending. Under indeterminate sentencing, inmates received a minimum and maximum number of years and knew that their release

Primary Purpose of Imprisonment

Indeterminate Sentencing Law of 1917:

The theory behind indeterminate sentencing laws, as explained by the California Supreme Court, was that *"these laws...seek to make the punishment fit the criminal rather than the crime. They endeavor to put before the prisoner great incentive to well-doing...the purpose is to strengthen his will to do right and lessen his temptation to do wrong."*

Uniform Determinate Sentencing Act of 1976:

The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances...(This) can best be achieved by determinate sentences fixed by statute in proportion to the seriousness of the offense.

Source: In re Lee, 177 Cal. 690, 692-3, (1918). California Penal Code 1170.

was predicated on their ability to demonstrate to the parole board that they had improved themselves through education, job training or counseling and had plans for a job and housing upon release. Under determinate sentencing, inmates know that they will be released on a given date, whether or not they have improved themselves or have lined up employment or housing.

In more recent years, a series of lawsuits and shifts in legislative sentiment have revived interest in rehabilitation. By 1993, court citations were acknowledging the “importance” of rehabilitating inmates.¹¹⁴ In 1995, the legislature inserted language into the Penal Code acknowledging the importance of rehabilitation in prison programs, but limiting it to first-time, nonviolent offenders.¹¹⁵ The box on the following page describes some of the legislation and court rulings that have mandated programs for certain inmates.

Prisons offer a variety of educational, vocational and treatment programs. A box in the background describes the programs, the numbers of inmates served, and the funding. In general, inmates are rewarded for participation in the programs with a day-for-day credit off their prison sentence. Inmates in administrative segregation and security housing units are not eligible for these programs. Historically inmates in reception centers have been ineligible, but the department is planning to provide those inmates with educational programs.

A Culture of Punishment Thwarts Preparation

Despite the benefits of addressing the causes of criminal behavior, a culture of punishment within prisons stymies efforts to prepare inmates for their return to their communities as productive, law-abiding citizens. Most prison administrators have endorsed a “confinement model” described as “keep them in, keep them safe, and keep them in line.”¹¹⁶ With no responsibility for inmates after their release, many prison administrators have resisted or undermined efforts to expand programming. The Commission reported in 1998 that the primary reason only a small percentage of inmates participate in programs is the fundamental belief of correctional officials that the behavior of most inmates cannot be changed.¹¹⁷ Among the specific consequences of punishment-focused prisons:

1. ***Most inmates receive no programming.*** Nearly 20 percent of all inmates have no assignment to a correctional program during their entire incarceration.¹¹⁸ Only a fraction of inmates potentially eligible for prison programs actually participate in them. Participation rates ranged from a low of 163 inmates for the Joint Venture Program to a high of

32,802 for re-entry programs. Waiting lists are long for most programs and many inmates never gain access.¹¹⁹

Education programs comprise less than 1 percent of the CDC budget for institutions, and educational and vocational programs are the first to be cut in tight budget times.¹²⁰ CDC educator positions have been reduced from a high of 1,800 to 1,250.¹²¹ The 2003-04 Budget Act cut \$37.4 million from the \$200 million previously allocated to academic and

Legislation and Court Rulings

Rehabilitation for Nonviolent First-Time Offenders

Penal Code 1170.2, (which states that the purpose of imprisonment for crime is punishment) "shall not be construed to preclude programs, including educational programs that are designed to rehabilitate nonviolent, first-time offenders. The Legislature encourages the development of policies and programs designed to educate and rehabilitate nonviolent, first-time felony offenders consistent with the purpose of imprisonment."

The Prison Literacy Act

Penal Code 2053: "The Legislature finds and declares that there is a correlation between prisoners who are functionally literate and those who successfully reintegrate into society upon release. It is therefore the intent of the Legislature, in enacting "The Prisoner Literacy Act," to raise the percentage of prisoners who are functionally literate, in order to provide for a corresponding reduction in the recidivism rate....The director of the Department of Corrections shall implement in every state prison literacy programs that are designed to ensure that upon parole inmates are able to achieve a ninth-grade reading level. The department shall...make the program available to at least 60 percent of eligible inmates in the state prison system by January 1, 1996."

Legal Rights of Mentally Ill Offenders

Mentally ill state prisoners filed a class action suit against the governor and the directors of the state penal system, claiming that the severe lack of mental health care and certain policies and procedures for handling mentally ill inmates violated their rights under the Eighth and Fourteenth Amendments. The matter went to a magistrate, who found that the governor and the directors had engaged in deliberate indifference to the prisoners' rights. He issued a comprehensive report with extensive recommendations for the establishment of corrective policies and procedures. The governor and the directors objected to the findings and recommendations and the matter went before a U.S. district court. The district court accepted, with modifications, the findings and recommendations, specifically that the governor and the directors were deliberately indifferent to the rights of the mentally ill state prisoners and such indifference violated their rights. The court appointed a special master to oversee the implementation of required policies and procedures. (Coleman v. Wilson, 912 F. Supp. 1282, 1995 U.S. District Court)

Rights of Prisoners and Parolees with Disabilities

A U.S. district court found the Board of Prison Terms to have violated the rights of prisoners and parolees with disabilities under the Americans with Disabilities Act during parole proceedings conducted by the BPT. The court ordered an injunction requiring BPT to provide accommodations to prisoners and parolees at all parole proceedings. (Armstrong, et. al. v. Davis, et. al, Permanent Injunction December 23, 1999)

Rights of Prisoners with Developmental Disabilities

After extensive discovery in a class action lawsuit, prison officials agreed to develop and implement a plan to screen inmates for developmental disabilities and to provide developmentally disabled inmates with safe housing and supportive services. (Clark vs. California, 123 F.3d 1267, 9th Circuit 1997)

Sources: In addition to the court documents listed above, The Prison Law Office Web site, <http://www.prisonlaw.com/achievements.htm>, provides additional cases and links to some of proceedings described above.

vocational programs; however, \$10.9 million was restored and an additional \$10 million was added to establish education programs in reception centers.¹²²

Programs also are often suspended for security reasons. Prison lockdowns can shut down prison programs for months.

2. Programs are poorly implemented. CDC has a history of unsuccessfully implementing the few educational, vocational and treatment programs that do exist. For example, a recent evaluation concluded that the effectiveness of the department's substance abuse program was compromised by the way it was managed. UCLA evaluators concluded that CDC was not faithfully replicating a pilot project that significantly reduced recidivism rates and had structured the contracting

process to award contracts based on the lowest bid rather than the quality of treatment.¹²³ In its 1994 report on California prisons the Commission concluded that CDC educational programs were neglected, unfocused and poorly structured. Little has changed in nearly a decade.

3. Resources are diverted. The department routinely and openly diverts resources intended for educational programs to fund other operations. During the 2000-01 fiscal year, the department froze spending on educational supplies to divert all available resources to the department's operational deficit. Even before the fiscal crisis, vacancies in teaching positions were left unfilled to capture and divert salary savings.¹²⁴ In response to the State's current budget crisis, the department placed prisons on lockdown to save overtime costs – again suspending programming.¹²⁵

4. Expansion opportunities are not pursued. Even when the department acknowledges the need for additional resources for programs, it does not aggressively pursue opportunities to use state resources, tap grants or make use of community-based organizations and volunteers.

What Works

Researchers have identified a number of programs that when faithfully replicated reduce recidivism. Research by University of Maryland criminologists examining the effectiveness of correctional programs offered in Washington State identified successful and promising programs.

What Works:

- ✓ In-prison Therapeutic Communities with Follow-up Community Treatment
- ✓ Cognitive Behavioral Therapy: Moral Reconnection Therapy and Reasoning and Rehabilitation
- ✓ Non-Prison-Based Sex Offender Treatment Programs
- ✓ Vocational Education Programs
- ✓ Multi-Component Correctional Industry Programs
- ✓ Community Employment Programs

What's Promising:

- ✓ Prison-Based Sex Offender Treatment
- ✓ Adult Basic Education
- ✓ Transitional Programs Providing Individualized Employment Preparation and Services for High-Risk Offenders

Source: Doris Layton MacKenzie and Laura J. Hickman. "What Works in Corrections? An Examination of the Effectiveness of the Type of Rehabilitation Programs Offered By Washington State Department of Corrections. June 1998.

5. Inmates are not held accountable. When programs are available, inmates are not held accountable for participating in activities that could keep them from re-offending. For the most part, participation in prison education, work, and treatment programs is voluntary and the current incentives are not structured to maximize public safety. Inmates who have not achieved a 9th grade reading level as required by the Prison Literacy Act are often given work assignments – precluding their participation in educational programs. Most work assignments involve maintaining the institution and provide few skills that are marketable outside the prison walls.

6. Correctional officials are not held accountable. The department does not routinely or publicly report participation in programs that prepare inmates for release. Moreover, prison administrators are not held accountable for implementing statutory or court-ordered programs or for outcomes like recidivism, or for the re-arrest or employment rates of inmates exiting their institutions. As a result, there is no external pressure to increase and improve programs that could reduce crime by parolees and prison costs.

7. Highest-risk inmates are excluded. Researchers consistently conclude that the greatest public safety benefits come from focusing programs on the highest-risk offenders. But CDC excludes from programs inmates who are in reception centers awaiting parole revocation hearings, even though they were returned to prison as a public safety risk and will be released in a matter of months. (As described in the Background, the 2003-04 Budget Act requires CDC to develop a plan for providing education programs in reception centers.) CDC also excludes those in security housing and administrative segregation units. These inmates are deemed to pose a significant security threat to staff, yet in 2002, 414 inmates were released almost directly from security housing units with little, if any preparation or planning for their release to the street.¹²⁶

Officer's Union Thwarts Efforts to Help Inmates Succeed

The 31,000 member strong California Correctional Peace Officers Association actively worked to shut down programs at two rural prisons designed to help inmates earn community college degrees. The local union chapter demanded the wardens shut down the programs, outraged that a community college would provide state-funded education to inmates. A memo to union members urged a boycott of all prison-backed fundraisers, blood drives, picnics and other functions until the program was cancelled.

One warden told the Commission that correctional officers are threatened by inmates who may become more educated than the officers - who are only required to have a high school education. Another official asserts the stance stems from a mentality of "meanness" and "retribution" among correctional officers.

The union succeeded in shutting down one of the programs, only to see it resurrected six months later. The warden at the second facility refused to cancel the program and has since been awarded a pilot program to study the program's effect on recidivism and decreased disciplinary actions.

Sources: Jenifer Warren, Los Angeles Times, "Union Targets Inmates' College Program," May 10, 2003. Rick Babb, Community Resources Manager, Ironwood State Prison, August 22, 2003. Jeanne Woodford, Warden and Vernell Crittendon, Public Information Officer, San Quentin State Prison, August 21, 2003.

Education is Rehabilitation

Research shows that the State should use the time offenders are in prison to try to change their behavior. Adult offenders are severely undereducated. Nineteen percent of adult inmates are completely illiterate and 40 percent are functionally illiterate, meaning they would be unable, for example, to prepare for a written driver's test without assistance. By comparison, the national illiteracy rate for all adults is 4 percent, with 21 percent functionally illiterate. Nationwide, over 70 percent of all people entering state correctional facilities have not completed high school.

One of the most comprehensive studies ever conducted on the impact of correctional education on recidivism found that inmates who participated in education programs had a 29 percent reduction in re-incarceration rates and also earned higher wages than those who did not participate in education programs. The three-state study found that annually for every dollar spent on education more than two dollars are saved on food and cell space alone. "Education provides a real payoff to the public in terms of crime reduction and improved employment of ex-offenders. Investments in correctional education programs have been confirmed as a wise and informed public policy."

- ✓ The Federal Bureau of Prisons reports an inverse relationship between recidivism rates and education – the more education offender receive, the less likely they are to be re-arrested or re-imprisoned.
- ✓ A five-year follow-up study conducted by the Arizona Department of Adult Probation concluded that probationers who received literacy training had a significantly lower re-arrest rate (35 percent) than the control group (46 percent), and those who received GED education had a re-arrest rate of 24 percent, compared to the control group's rate of 46 percent.
- ✓ Inmates with at least two years of college education have a 10 percent re-arrest rate, compared to a national re-arrest rate of approximately 60 percent.
- ✓ Individuals who receive higher education while incarcerated have a significantly better rate of employment (60 to 75 percent) than those who do not participate in college programs – 40 percent.

Source: Open Society Institute, Criminal Justice Initiative. "Education as Crime Prevention," Research Brief, Occasional Paper Series - No. 2. September 1997. www.soros.org. Accessed September 12, 2003.

Promising Practices: Ironwood State Prison Community College Program

An innovative collaboration between Ironwood State Prison and Palo Verde Community College in Blythe, provides inmates the opportunity to earn an associate of arts degree through distance learning. The program began in the spring of 2001 with approximately 50 inmates. By fall 2003, the program had expanded to nearly 300 inmates enrolled in courses ranging from basic math and English to accounting and sociology. To date, some 40 inmates have graduated.

The program is run at no cost to CDC. Most inmates participate through the Palo Verde Extended Opportunity Program and Services (EOPS) and receive Board of Governor's grants available to all low-income Californians. EOPS helps pay for textbooks and student counseling services and the grant covers fees. Inmates recycle books and calculators, reducing EOPS costs. The community college pays for proctors, typically off-duty prison educators, to distribute coursework and oversee exams.

To participate, inmates must be free of any disciplinary infraction for 12 months and must be eligible for parole. Courses are offered on a first-come first-serve basis and there are approximately 600 inmates on a waiting list. The EOPS program rules require that all participants maintain a course load of 12 units. Initially, all Ironwood participants were working full-time in addition to carrying the full course load. To succeed, inmates were viewing the videos in the wee hours of the morning and cracking the books and completing their coursework during their limited free time.

Student inmates watch videotaped classes on the closed circuit prison television system broadcast into their cells. Televisions are purchased by the inmates or their families. Written communication is exchanged between the inmates and the instructors through a courier service. Instructors and counselors meet with the students in person about once a semester. State law prohibits community college instructors from teaching inside prisons, although the law allows this type of instruction in jails and federal prisons. According to college officials, the inmates have higher grade point averages than the students participating in traditional classrooms and complete more course units.

The prison, the college and the surrounding community all have benefited from the program. For Ironwood the goal is two-fold: reduce recidivism and decrease disciplinary actions, and as a result, reduce crime and lower costs. Correctional officials at Ironwood project cost savings for the prison of \$8 million annually if even a small portion of program participants do not return to prison after their release. In addition, the program has decreased disciplinary incidents in the prison, which often create expensive overtime costs. Additionally, those involved with the program have seen racial and gang barriers eliminated among student inmates.

For Palo Verde and Blythe, the inmate program has expanded courses and instructors. The distance learning program would not have been possible without the critical mass of students the prison provides. Residents who have difficulty attending traditional courses due to work schedules, disabilities or travel challenges are able to enroll in coursework that previously did not exist. The prison and the community college designed the inmate program to ensure that enough enrollment slots were set aside in each course for community members so that law-abiding citizens would have equal access to the courses.

Currently, the only other state prison offering the community college program is Chuckawalla Valley, also located in Blythe. The program was suspended in spring 2003 due to pressure from the correctional officer's union, but restarted in fall 2003 with approximately 50 inmates enrolled. San Quentin State Prison also offers college coursework at no cost to the state through a private university. The Inmate Correctional Education Project, an all volunteer, non-profit organization sponsors 50 inmates in six colleges who are enrolled in college-level correspondence courses.

In fall 2003, CDC established a pilot program for Ironwood to track recidivism rates and disciplinary savings from the program. If the program proves successful in reducing crime and saving money, CDC has indicated a willingness to expand the program to other prisons. Ironwood officials estimate that if the program were implemented statewide, the State could save hundreds of millions.

Sources: Jim Hottois, Superintendent/President, Eric Eikenberry, Interim Associate Dean of Extended and Noncredit Programs, and Pat Koester, EOPS Director/Counselor, Palo Verde Community College. Rick Babb, Community Resources Manager, Ironwood State Prison. Personal and written communication, August 2003. California Code of Regulations, Section 58051.6. Stephen Green, Assistant Secretary, Youth and Adult Correctional Agency. Los Angeles Times, Editorial Page, May 16, 2003.

Changing the Prison Culture

An ex-convict who runs prerelease programs in several states said: "Preparing inmates for the free world is frequently treated as an isolated, second-class function, rather than as a vital mid-step in an ongoing process. Administratively, the function is often viewed as low priority, a shallow institutional 'afterthought' of little importance."¹²⁷

Refocusing prisons on quality education, treatment and work programs will require redefining the responsibilities of prison administrators, inmates and communities.

Prison administrators. The notion that prison administrators should accept prisoner reintegration as a core responsibility has been controversial and met with resistance in California and many other states.¹²⁸ Criminologist Joan Petersilia points out that truth-in-sentencing and other determinate sentencing schemes provide an opportunity for prison administrators facing budget cuts to refocus

Drugs in Prison

CDC acknowledges that illicit drugs are available in prisons, and has asserted it would be impossible to halt the drug flow without putting prisons "under glass" – allowing inmates no contact with anyone from outside the prison walls. A number of other states, however, have successfully adopted "no tolerance" policies toward drugs in prison.

Correctional experts across the country say drugs enter prisons two ways: from outsiders who smuggle drugs to prisoners and from prison guards who deal drugs to inmates. Several states conduct regular drug tests of both guards and inmates and impose sanctions on those who test positive.

Alabama, for example, tests 10 percent of the prison population and randomly tests prison staff, including wardens. Inmates who test positive are sent to substance abuse programs or to a higher level of custody; staff who test positive are automatically dismissed. State correctional officials report that between 1 and 4 percent of the drug tests come up positive. Ohio, Massachusetts, New Hampshire and North Carolina also have no tolerance drug testing policies in place.

The federal Violent Offender Incarceration and Truth in Sentencing Program required states to implement inmate drug testing policies by September 1, 1998 or lose federal prison construction grant funds. CDC said that it does not have an explicit "no tolerance" for drugs policy and could not provide written drug testing policies for inmates or staff. It did describe four areas of inmate drug testing, including: before and after family visits or temporary release to the community; for inmates found guilty of drug offenses in prison; when an inmate is suspected of drug use; and, for civil addict inmates and those in drug treatment programs.

Under a collective bargaining agreement, the department drug tests correctional staff hired after April 1998. In June 2003, the department began random drug testing of managers and supervisors. Under the collective bargaining agreement, once 20 percent of managers and supervisors are tested, the correctional officer's union is to renegotiate with the administration regarding testing of all correctional staff. When staff tests positive for drugs, it is up to the prison warden at each institution to initiate disciplinary action.

Federal transportation law also requires prison bus drivers to be tested for drug use. The state Department of Personnel Administration administers drug testing of CDC transportation personnel.

Source: Little Hoover Commission. "Beyond Bars: Correctional Reforms to Lower Prison Costs and Reduce Crime." January 1998; Lieutenant Michelle Ortega, CDC, October 7, 2003; Paul Mize, CDC, October 7, 2003, Daryl Brown, CDC, October 27, 2003.

resources and programs on release services. Knowing when an inmate will be released permits more targeted prerelease planning.¹²⁹

Moreover, if the job performance of prison wardens was gauged, in part, by the success of their inmates in gaining employment, housing and remaining arrest free, the availability and quality of in-prison programs would improve. As one former prison warden asserted: “The only time wardens are held accountable is if a staff member is killed.”¹³⁰

San Quentin Warden Jeanne Woodford said that wardens should be evaluated in part on community involvement in the prison.¹³¹ Similarly, the New York Police Department in the 1990s reduced crime dramatically by rigorously analyzing crime data and making local commanders responsible for public safety in their jurisdictions.¹³²

There is a mechanism to critique prison education programs and recommend improvements. In 1980 the Legislature created an advisory committee of mostly educators to review educational programs in individual prisons. The committee strives to visit six prisons a year, but is dependent on funding from CDC, which can be cut to meet other needs. The committee has not conducted any reviews since January 2003 when the department cut off funding. The volunteer committee made recommendations for system-wide improvements to the director in 2001, but those have not been implemented. The recommendations addressed class size, the diversion of educational funds for other purposes and teacher preparation.¹³³

Extending the oversight role of the committee to include vocational training and substance abuse treatment programs could improve the availability and quality of programs critical to the post-prison success of offenders. To ensure its recommendations are given serious consideration, the committee could report its findings to the department, the agency secretary, the Governor and the Legislature, and to individual prison administrators. Modest, stable funding for travel expenses and a small staff to organize meetings, gather information, write reports and track progress would improve the committee's effectiveness.

Inmates. Inmates also should be held accountable to pursue available opportunities to improve themselves. Under the current system, the goal of inmates is to serve their time. Incentives are focused on good behavior in prison, not improvements to reduce the chances of failure on parole.

From the day an offender enters prison, Oregon focuses on returning inmates to the community as productive, law-abiding citizens. As part of the Oregon Accountability Model, the Oregon Department of Corrections targets services to mitigate inmate risk factors identified through

structured assessments. While the department makes the programs available, inmates are responsible for carrying out activities in their individual correctional plans. The Performance Recognition and Award System uses monetary and other incentives to encourage inmates to perform well in work assignments and programs addressing their criminal thinking, education and training needs, substance abuse problems and other contributors to their criminal behavior.¹³⁴

Communities. To hold inmates accountable for improvement, the programs must be available. The reforms recommended in this report would decrease the number of returning parolees and generate savings, which could support the expansion of programs to further reduce recidivism. Even with existing resources, opportunities to improve programs exist, particularly if the State partners with communities.

California's communities bear the brunt of the consequences – in lives lost and neighborhoods harmed – when parolees fail. Cities like Oakland and Los Angeles are watching their crime rates increase after more than a decade of decline.¹³⁵ They attribute the problems, in part, to large numbers of parolees who exit prison uneducated, unskilled and unable to succeed in the community. In Oakland, one of every 14 adult males is on parole or probation.¹³⁶ Oakland officials report that parolees perpetrate 50 percent of the crime in their city and have decided to step in where the State is failing to adequately prepare inmates.¹³⁷

Faith-based Organizations at San Quentin Prison

Five chaplains and a Native American spiritual leader each spend a minimum of three days a week ministering to inmates at San Quentin Prison. Chaplains include a Buddhist Monk, Jewish Rabbi, Islamic Imam, Catholic Priest and Protestant Chaplain. Each has their own place of worship on the prison grounds. Additionally, 1,500 volunteers provide "cell ministry" to inmates who cannot leave their cells. Approximately 60 percent of the inmates participate in religious programs.

Prison staff attribute the deep and diverse involvement of faith-based organizations to the leadership of the warden and commitment of staff, who recognize the value it brings to the institution, the inmates and the community.

Staff report that the religious activities help to instill in inmates morals, values and contribute to behavioral changes that are critical to their success as parolees and the safety of the community. As one official described the dynamic: "Same mind, same results; changed mind, changed results."

The religious programs also reach out to the children and families of offenders by assisting them both spiritually and practically during the incarceration and when prisoners return home. The Protestant chaplain hosts an annual camp for the children of offenders and the prison conducts an annual Christmas toy drive for the children with the support of all the religious organizations. Finally, the religious organizations build and link releasing prisoners and their families with support systems and services in the community -- all at no cost to the State.

Source: Vernell Crittendon, Public Information Officer, San Quentin Prison, October 2, 2003.

Oakland is conducting prerelease planning and providing educational, vocational and other needed services to inmates slated to return to Oakland, paid for with a grant from the federal Serious and Violent Offender Reentry Initiative. The city and its community partners are targeting high-risk male offenders in CDC and California Youth Authority facilities near Oakland. Re-entry planning and services will begin six to 12 months prior to release, followed by intense post-release supervision.

Los Angeles also received a federal grant. The Going Home Los Angeles Program received \$2 million to target serious and violent offenders with histories of substance abuse and mental illness. The program includes six to 12 months of prerelease services followed by intensive case management while offenders are on parole. The program coordinates transition planning among substance abuse, parole, health care, mental health and community-based service systems to serve offenders and their families. Administrators hope that positive results will overcome the reluctance of some community organizations to work with offenders.

Law enforcement leaders from Los Angeles, Sacramento and San Diego testified they would house and prepare inmates for release in the last months of their sentence if they were provided with the resources and could identify offenders most amenable to services. Similarly, they would house and provide programs for selected parole violators.

Making the Most of Available Resources

Prison administrators could expand reentry efforts using existing resources by partnering with community agencies, including community colleges, workforce investment boards, faith-based organizations, and others to provide services. Regional strategies could be developed where prisons are not close to communities. Among the opportunities:

- ***Academic programs.*** Academic programs could be significantly expanded if prisons developed partnerships with local and state education systems and creatively tapped public and private resources to provide adult education services. Volunteers could be recruited from the community to tutor inmates, while inmates who have or achieve literacy could provide peer tutoring.
- ***Vocational programs.*** Community colleges could provide vocational education and partner with community businesses that need workers skilled in specific trades. Classroom and hands-on learning could begin in prison, linked to apprenticeships and jobs in the community. Staff in the newly established prerelease program and PACTs could facilitate the links between the prison and the community.

- **Drug treatment programs.** Current law permits non-violent inmates to be placed in a community treatment program for the last 120 days before release. Also, the 2003-04 Budget Act estimates that drug treatment furloughs in secure, supervised, community residential drug treatment programs for the final 120 days of some inmate's sentences could generate savings of \$20 million and \$44 million respectively in the 2003-04 and 2004-05 fiscal years.¹³⁸ To be implemented on a meaningful scale, the State should creatively and aggressively explore with communities ways to site residential facilities and contract with quality providers.
- **Conservation camps.** Officials from CDC and the California Department of Forestry say that the biggest barrier to expansion of the program – which has 2,000 inmates on the waiting list – is funding to build additional facilities. The department could expand existing facilities at a lower cost than building new ones. It could partner with communities to develop additional camps or identify existing facilities, such as closed military bases, that could accommodate inmates and provide services needed by communities. (CDC jointly administers five camps with Los Angeles County.)

But the program also has one of the highest recidivism rates because many of the participants are drug abusers who receive no treatment in the program and quickly re-offend once they are released. To reduce recidivism and costs, drug treatment could be mandatory for addicted inmates and delivered by community providers. Savings from reduced recidivism could pay for substance abuse treatment and other programs to prepare inmates for release. A former California Conservation Corps official said that CDC is merely running a fire service and misses numerous teachable moments to prepare inmates for release, including education, life skills and counseling.¹³⁹

The State, correctional administrators and communities should do more to expand access to prison programs and target existing resources to inmates who are approaching their release date and pose the greatest risks to public safety. Prison officials should be held accountable for preparing inmates for release and developing partnerships with communities to expand access to programs. And inmates should be held accountable for pursuing available opportunities to improve themselves.

Recommendation 2: To increase public safety, state and local correctional agencies, community organizations and the inmates themselves should prepare for the predictable release of inmates from prison.

❑ **To focus prisons on preparing inmates, wardens should develop and implement comprehensive preparation programs. They should:**

- ✓ Identify state and local resources available for prerelease programs.
- ✓ Develop a strategy for expanding and operating programs based on a risk and needs assessments of inmates, and submit those plans to the Governor and Legislature.
- ✓ Annually report on the participation of inmates in education, work and treatment programs and the employment and re-arrest rates of parolees.
- ✓ Provide information to local law enforcement on the programming provided to individual inmates prior to their release.

Improve Accountability

If the success of wardens was linked with the success of inmates exiting their prisons, the quantity and quality of programs would be improved. Wardens should be appointed to fixed, four-year terms with reappointment and reconfirmation by the Senate determined by an evaluation of their success, based on the safe operation of prisons and outcomes related to inmate preparation.

❑ **To motivate inmates to prepare for parole, the State should restructure “good time” credits and provide other incentives. Among them:**

- ✓ Link credits toward early release to completion of education and job training programs, as well as plans for a job and housing.
- ✓ Require inmates to make progress toward educational or drug treatment goals before becoming eligible for work assignments.
- ✓ Provide programs and allow inmates to earn credits in reception centers.
- ✓ The State should consider denying the early release of some inmates who have earned early release credits but are deemed unprepared for release, as described in the box on the following page. The Commission recommends starting with parole violators who have been returned to custody.

Invest in Cost-effective Drug Treatment Strategies

Assignment to drug treatment programs should be based on a needs and risk assessment and be mandatory for the highest risk inmates. Drug treatment should be available in conservation camps and camp inmates with a history of drug abuse should be required to participate in drug treatment.

❑ **To improve the transition of parolees, the State should build strong partnerships with communities. Specifically, the State should:**

- ✓ Fully support re-entry units established in the 2003-04 Budget Act and partner with local law enforcement and community

providers to link inmates with jobs, housing, drug treatment and other support prior to their release.

- ✓ Contract with county sheriffs who are willing to house inmates during the final months of their sentence and prepare them for release. The State should provide to the counties funding equal to the cost of incarceration in prisons. Sheriffs should select the inmates most amenable to their services, based on a needs and risk assessment.
- ✓ Work with communities to establish halfway houses, drug treatment facilities and other residential settings in appropriate locations for those parolees who need that support to stay out of trouble and out of prison.

❑ ***To improve outcomes and accountability, the State should provide correctional officials with technical assistance and independent evaluation.***

- ✓ The Advisory Committee on Correctional Education should be fortified, expanded and given specific responsibility for advising state and local correctional administrators on ways to expand the quantity and quality of educational, vocational and treatment programs. The committee could report its recommendations for improvements on a prison-by-prison basis to the department director, agency secretary, Legislature and Governor.
- ✓ The Inspector General should annually report on the progress of individual prisons and the department overall in expanding and effectively managing educational, vocational, prerelease and treatment programs.

To Safeguard Communities and Motivate Inmates to Improve Themselves

Some inmates may do a better job of preparing themselves for release if the consequences for failure to do so were greater. The State could create a process to deny early release credits to some inmates as a way to motivate them to prepare for their return to the community. Among the alternatives:

Alternative I: The Board of Prison Terms could deny the early release of all inmates who have earned early release credits but are deemed by the board to be unprepared for release.

Alternative II: The Board of Prison Terms could deny the early release of all first release inmates (not parole violators) who have earned early release credits but are deemed by the board to be unprepared for release.

Alternative III: After implementing a risk assessment system and expanding in-prison programs and community-based sanctions for parole violators, the Board of Prison Terms could deny the early release of all incarcerated parole violators who the board deems unprepared for release.

For a detailed discussion of these alternatives and estimates of the costs to implement them, see p.53.

Alternatives and Cost Estimates for Denying Early Release Credits

To motivate offenders to prepare for their return to the community, the State could deny early release credits to inmates who have not adequately prepared for reintegration. The annual cost of implementing this policy could range from tens of millions to more than \$240 million, depending upon various factors: how many inmates were subject to the review process; when it was implemented; how many lost some or all of their earned work credits; how many additional months they were incarcerated as a result; and, how much total time was left on their sentences. Some of these costs could be offset by potentially significant future savings from reduced recidivism rates that would have to be calculated. Additional savings also may be achieved from reduced crime, but these savings would not be accrued to CDC.

Eligibility for Early Release Credits

Work credit eligibility varies depending on the crime, the date it was committed, and previous felony convictions. Generally, inmates convicted of non-violent felony offenses can earn one day off for every day of participation in a work, educational, vocational or drug treatment program. Inmates in fire camps earn two days off for every day of work. Most violent offenders can reduce their sentences by no more than 15 percent and "second strikers" can reduce their sentences by no more than 20 percent. Inmates on waiting lists to participate in programs earn one day off for every two days on a waiting list. Approximately 54 percent of the 160,000 inmates participate in full-time assignments in the work incentive program to earn early release credit.

Potential Costs

Retaining inmates longer would result in additional costs for incarceration. Presumably, other costs would include a hearing and appeals process. An additional process would be necessary upon intake to develop release plans and inform inmates of what they need to accomplish to fully retain earned work credits. CDC educators, officers and treatment providers would spend time evaluating inmate readiness and testifying at hearings and appeals. Additionally, CDC currently does not have enough programs available for all eligible inmates. If early release was linked to completion of specified readiness tasks, such as earning a GED or participating in drug treatment, CDC could be legally required to add additional programs incurring additional costs.

Cost Estimates

Based on the above assumptions, costs were estimated for denying the early release of 20 percent of all inmates eligible for early release to parole through the work incentive program. The estimate assumes that 54 percent or 68,000 of the 126,000 inmates annually released participated in early release credit programs and includes only additional incarceration and hearing process costs. Costs were broken down for three alternative approaches: all inmates, first releases and parole violators.

Population	Incarceration Costs for 20% Prison Retention	Review/Hearing Process	Total Annual Cost
All Inmates	\$217,683,000	\$23,921,106	\$241,604,106
First Releases	\$170,629,500	\$10,525,146	\$181,154,646
Parole Violators	\$47,053,500	\$13,395,960	\$60,449,460

Notes and sources for the analysis and cost estimates are detailed on page 104.

Back to the Community

Finding 3: The goals for parole – public safety and successful reintegration – are undermined by the way the State supervises and assists parolees and the lack of community involvement in re-entry.

Every year, about 125,000 inmates are released from California prisons and placed on parole – a process of supervision and assistance intended to protect public safety and help parolees successfully transition from prison to the community.¹⁴⁰ Some parolees present real risks to public safety and some do not. But the State does not adequately target supervision and assistance to increase the number of parolees who successfully return home. Only 21 percent of parolees will complete their parole term without being returned to prison or absconding.¹⁴¹

CDC has a variety of programs designed to improve the literacy and employability of parolees, treat their drug addictions and assist them with the life skills necessary for successful reintegration into the community. But the programs are not available in every parole region, are not integrated and are not targeted to parolees who need them the most or who are most likely to benefit from them. In fiscal year 2002-03, the department's programs served about half of all parolees released.¹⁴² Community-based services, while plentiful in many areas, are not effectively tapped to serve parolees or are denied to parolees.

The State should transfer the resources and responsibility for parolee reintegration to communities – who have the most to gain when parolees succeed and the most to lose when they fail. To manage resources wisely and manage offenders safely, supervision and services should be based on distinctions among parolees and evidence of what works.

The Purpose of Parole

Parole agents are charged with two distinct functions – providing surveillance of parolees to protect public safety and brokering the assistance parolees need to successfully transition from prison to the community.

By law all state prisoners serve a period of time on parole upon release from prison.¹⁴³ As described in the Background, parolees are assigned to one of four levels of supervision, which determine the intensity of contact with the parole agent. Eighty percent of parolees are supervised on regular rather than intensive case loads and typically have fewer than two, 15-minute face-to-face contacts with the parole agent each month.¹⁴⁴ Even the most high-risk parolees are only required to see their

parole agent at their residence once a month. Parole has the discretion to place low-risk parolees on “banked” or unsupervised caseloads, which would permit more intensive supervision of the remaining parolees. But it has chosen to do this only for undocumented immigrants who have been deported from the United States upon their release on parole.¹⁴⁵

Parolees are required to abide by numerous conditions of parole, including general conditions that are applied to all parolees and special conditions that can be imposed based on the parolee’s offense. (Conditions of parole are described in the Background.) For example, in 1998, 71 percent of the total parole population, or nearly 81,000 parolees, were required to submit to regular drug testing. Almost 25,000 were directed to abstain from drinking alcoholic beverages, and more than 12,000 were required to participate in psychiatric treatment. (This includes parolees taken into state custody for parole violations and those who have fled from parole.)¹⁴⁶

To reduce parole failure and subsequent returns to prison the department’s parole and community services division operates the Preventing Parolee Crime Program. The effort consists of programs to address the literacy, employment, substance abuse and life skills needs of parolees. The programs are described in the Background. CDC spends 12 percent of the parole budget on assistance and services for parolees, while 88 percent is spent on supervision.¹⁴⁷

Parole is “Broken”

The goals of parole are public safety and parolee reintegration. Some correctional officials and victim advocates argue that the State’s high return-to-custody rate is evidence that parole is effectively protecting public safety by taking dangerous offenders off the street.

While public safety is enhanced when dangerous violators are behind bars, all parole violators will be back on the streets within a few months – without having participated in programs to reduce the chances they will commit further crimes.

The large number of parolees who are returned to prison also is evidence that the goal of successful parolee reintegration is not being met. Some local law enforcement officials assert that the parole system is “broken” beyond repair.¹⁴⁸

In its review, the Commission identified five fundamental problems that undermine the goals of public safety and parolee reintegration.

1. No transition process. Most prisoners are released from prison to the streets without the benefit of a “step down” process to help them successfully make the transition. There are approximately 900 re-entry prison slots and a limited number of substance abuse treatment slots, that only meet the needs of a small percentage of prisoners.¹⁴⁹ The federal prison system uses halfway houses for prisoners nearing release dates. The 2003-04 budget requires the department to implement prerelease planning in all prisons. The budget included 143 positions to support the program but the department’s request for a project team to develop and manage the effort was denied. And as late as October 7 the department had not been granted all of the hiring freeze exemptions required to fill the positions.¹⁵⁰

2. Supervision is inadequate. In 2000, CDC lost track of about one-fourth of the 117,000 parolees it was supervising.¹⁵¹ Nationally, about 9 percent of all parolees have absconded from supervision.¹⁵² Local law enforcement leaders assert that CDC so poorly supervises parolees that public safety is jeopardized. They say police and sheriff’s departments do far more parolee monitoring than CDC.¹⁵³ Parole agents often work alone, are unarmed and fearful to enter the homes and neighborhoods where parolees reside, according to these officials. Rather than risk their safety by conducting unannounced home visits, parole agents schedule appointments – undermining the effectiveness of supervision.¹⁵⁴ The Oakland police chief said that parole agents “supervise from their desks” because they cannot safely supervise parolees alone, but fear reliance on law enforcement will jeopardize their jobs.¹⁵⁵

Sacramento law enforcement officials assert that labor union bargaining agreements preclude parole agents from working beyond their regularly scheduled shift, even if their presence is needed in activities involving parolees. The police chief said: “At the community level we could do a better job (of supervising parolees) than the State could ever think of doing.”¹⁵⁶

3. Inadequate services. CDC programs serve only a fraction of the parole population, are not integrated, are not available in every parole region and are not well known to many parole agents. Similar to prison programs, parole services are not targeted based on risk and needs assessments and most have not been evaluated.

Most communities have a wide range of services that could serve parolees but often do not for a variety of reasons, including poor communication between parole and local agencies, reluctance of community-based providers to serve parolees and low motivation by parolees to participate.

Mental health, drug treatment and other local service providers often turn away parolees on the assertion they are a state responsibility. Similarly, the performance of local workforce investment boards is measured by their success in placing clients in the highest paying jobs, a disincentive to serve parolees who often only qualify for low paying positions and have trouble maintaining employment.

Parole Programs: Problems and Potential

Computerized Literacy Learning Centers are available in 45 of the State's 91 parole units. In 2001-02 they served 5,355 of the 125,000 inmates released to parole, providing reading, writing, math, G.E.D. preparation and resume writing. Sacramento has one center, which consists of a small classroom with a handful of computers and one instructor. Participation is voluntary, participants work at their own pace and are not required to meet goals within specified timeframes. The program is provided through a contract with the Contra Costa County Office of Education. Program managers from the county office and CDC believe that this and most other parole programs should be mandatory and targeted to parolees with the greatest needs. Office of education staff stated they have fought for years to make literacy centers mandatory. Moreover, there is no mechanism to link offenders in the literacy program with other programs that comprise the Preventing Parolee Crime Program, even though many need the multiple services available through these fragmented programs.

Many of the Preventing Parolee Crime Programs have been in effect since the early 1990s, but have only recently been evaluated to determine their effectiveness. CDC has contracted with a researcher at San Diego State University to evaluate six programs and their impact on parolee recidivism. The study is not due to the Legislature until the end of 2003, but preliminary results indicate significant reductions in recidivism rates for parolees who enter into and complete any of the six programs.

Sources: Sharon Jackson, Assistant Deputy Director, Parole & Community Services Division, Department of Corrections, Written communication, May 12, 2003. Shannon Swain, Project Coordinator, Contra County Office of Education, July 9, 2003.

Federal law requires states to bar drug-related felons from receiving federally funded public assistance, including housing and food stamps. Individuals who violate probation or parole are "temporarily" ineligible for TANF, food stamps, SSI benefits and public housing – frustrating women offenders who are trying to reunite with their children.¹⁵⁷ California has not sought a waiver from federal restrictions. Nine states have opted out of the ban, 10 impose partial denials and 10 states link benefits with participation in drug treatment.¹⁵⁸

By failing to consistently or adequately provide transitional housing, employment assistance or other bridge services, the State has increased the chances that parolees will either violate technical conditions of parole or engage in behavior that compromises public safety.

4. Numerous parole conditions. By placing all released inmates on parole and including numerous conditions of parole, the State has greatly increased the numbers of parolees and the chances that parolees will violate some condition of parole. Jeremy Travis, a national expert on prisoner re-entry, recommends that states make parole conditions few in number, readily enforceable, supported by strong research and strictly tied to the goals of reintegration and crime reduction.¹⁵⁹

5. Few incentives for success. Just as there are few incentives for inmates to prepare for release, there are few positive incentives for parolees to reintegrate. Parolees are readily sanctioned for negative behavior, but seldom rewarded for positive behavior. Early release from parole – possibly the best incentive for

reintegration – is underused. Parolees in Nevada get a month off their parole term for every successful month on parole. Reduced reporting requirements, early electronic monitoring termination, and verbal and written recognition of compliance – rewards used in Georgia – also could be employed.

California can award Certificates of Rehabilitation, which are “court orders which declare that a person who has been convicted of a felony is rehabilitated.”¹⁶⁰ To apply, offenders typically must be arrest free for five to seven years. But the process is described as cumbersome and unfamiliar to parolees and parole agents. Consequently, few parolees apply for the certificates.¹⁶¹

Increasing Community Involvement

Across the country re-entry partnerships have developed to respond to the impact of prisoners returning to communities. These partnerships are based on the premise that no single agency can successfully address the complex needs of prisoners. Research and experience are showing that community-based entities – like local law enforcement, probation departments, re-entry courts and non-profit agencies – can more effectively mobilize local employment, health, drug treatment, housing and other critical services to support reintegration. While most of the programs have not yet been sufficiently evaluated, many have been identified by experts as “promising practices.”¹⁶² Across the country, three major models are being explored:

- ***Re-entry Partnerships*** are based on the premise that no one strategy – supervision or rehabilitation alone – or any one agency can effectively address crime-related issues. Each element of the criminal justice system – police, courts, institutional and community corrections – plays a role in managing offenders and changing behaviors. Similarly, the criminal justice system cannot do this alone and must engage family, community service providers, faith-based organizations and other formal and informal supports in reintegrating offenders.

In 2001, the U.S. Department of Justice funded the Re-entry Partnership Initiative (RPI). Participating states include Vermont, Maryland, Washington, Nevada, Missouri, Florida, South Carolina, and Massachusetts. Evaluators at the University of Maryland wrote that the best RPI sites use case management, where “the collective efforts of justice agencies, service providers, family, and other community supports are devoted to enhancing the offender’s accountability and productivity in the community.” Over time, it is

hoped that formal social controls – that is police, parole and judges – give way to informal social controls in the form of families and neighborhoods.¹⁶³

- **Police and Corrections Partnerships** bring corrections, police and community-based organizations together to monitor and assist with parolee reintegration. While similar to the comprehensive partnerships described above, they are more narrowly defined, involve fewer community organizations and are more surveillance focused.¹⁶⁴ They coordinate police and corrections resources to improve parole outcomes and leverage the greater resources of the police, who are already working in the community around the clock – often in a community policing model. Criminologist Joan Petersilia notes that advocates believe police-corrections teams could potentially reshape how policing and parole services are performed.¹⁶⁵

California's Police and Corrections Teams (PACTs) are characteristic of police and corrections partnerships elsewhere. The program began in Oakland as a partnership between law enforcement and the parole department to locate and capture parolees at large. Over time, the focus shifted to a weekly orientation meeting that all parolees are required to attend within one week of their release from prison. Corrections and law enforcement personnel, as well as organizations that provide education, vocational training, housing, mental health

and drug and alcohol treatment participate in the meeting. Parolees are welcomed back to the community, provided information about services and told what is expected of them. The program is now in about a dozen sites. The department plans to expand the program and received funding in the 2003-04 budget to contract for staff to develop, coordinate and sustain the participation of community service providers at the sites.¹⁶⁶

The Maryland Department of Probation and Parole's HotSpots Initiative provides funding to 62 high-crime communities in Maryland called HotSpots – many of which are also home to high concentrations of returning prisoners. Adults and juveniles on probation and parole in HotSpots neighborhoods receive intensive supervision from joint teams of police, parole, probation, juvenile justice and federal probation officers.¹⁶⁷

Engage Community-based Agencies in Prisoner Re-entry

In communities where multi-disciplinary providers have come together to serve parolees, including Oakland and Los Angeles, leaders say that two elements are critical to successfully engaging and maintaining their participation: capacity building and inmate preparation. The capacity of the providers to serve the parole population must be developed and sustained and inmates must be prepared, while in prison, to receive the services once they are on parole. For example, Project Choice, a re-entry initiative in Oakland, found that housing providers are willing to work with parolees when they have been prepared for their return to the community. The initiative involves a contract with two community-based organizations to prepare inmates for release.

- **Re-entry Courts** have emerged in about a dozen jurisdictions around the country. Some are located in parole departments, some are extensions of drug courts and some are special calendars in traditional criminal courts. Re-entry courts involve judicial oversight of parolees as they try to reintegrate, just as drug courts oversee addicts in treatment.

The parole officer serves as a case manager, working with the court and parolee on a re-entry plan. Prisoners appear before a judge when released from prison and then monthly to report progress in meeting the conditions of their re-entry plan. Judges can marshal community resources to assist parolees, and wield both “carrots” and “sticks” to promote successful reintegration. The “carrots” are services, positive reinforcement, family and community support, and a venue for acknowledging success. The “sticks” can be enhanced levels of supervision, curfews, more intensive drug treatment or frequent drug testing and local incarceration for short periods of time, or ultimately return to prison. Jeremy Travis says drug courts are “open and public, use the adversarial process productively, and involve the use of “carrots” and “sticks” in a direct conversation between judges and parolees.” Travis suggested that California could pave the way toward widespread establishment of re-entry courts for all returning prisoners.¹⁶⁸

Many re-entry partnerships are in their infancy and few have been adequately evaluated. But confidence is growing among academics, researchers and practitioners that these efforts, when well managed and targeted to the right individuals, will cut costs, improve parolee reintegration and benefit public safety. The State and communities should explore the range of proven strategies to improve parolee reintegration and should promote innovations, including parole camps where inmates can develop job and life skills.

San Diego Dialogue

The San Diego Dialogue, an array of organizations, is developing a multi-disciplinary approach to prisoner re-entry in neighborhoods hardest hit by large numbers of returning prisoners. The pilot project will serve 100 parolees and their families from prerelease from prison through re-entry into the community. The four core program components include:

- 1) Providing education and job services in prison
- 2) Assisting families to prepare for re-entry by addressing child custody, child support and domestic violence issues
- 3) Developing a network of community service providers
- 4) Educating the community about prison re-entry

Giving Communities More Responsibility

As recognition grows that state correctional agencies alone cannot effectively manage prisoner re-entry, some States are redefining their relationships with communities to better share the responsibility for prisoner re-entry or to shift the responsibility for prisoner re-entry to communities.

The Oregon Community Corrections Partnership, established in 1995, gave communities more resources, responsibility and accountability for local correctional activities. The law was in response to concerns that new mandatory sentencing laws would increase the prison population and that offenders with sentences less than a year – most of whom were probation or parole violators – were not being efficiently managed by a state prison system that revolved around longer terms of incarceration. The problems mirror those in California, including:

- ✓ Offenders, particularly parole violators, are not in prison long enough to benefit from programs to reduce the likelihood of further criminal behavior. Counties, in turn, were recognized as providing effective programming for short-term offenders.
- ✓ Prisons are not equipped for quick turnaround admissions and releases.
- ✓ Short-term inmates are difficult and expensive to manage in a prison environment, draining resources needed for long-term inmates into a costly admission, security and release process. Ninety-two percent of offenders who receive short sentences have had their parole or probation revoked for failing on community supervision.

Oregon requires counties, in partnership with the state, to provide punishment, sanctions and services for felony offenders, including parole violators with sentences of 12 months or less, while the state incarcerates felony offenders who are violent or commit more serious offenses. The model shifts the focus of corrections away from a state system to a model of local responsibility to prevent the escalation of criminal activity. It is premised on the idea of putting offenders in the hands of authorities that know them and how to work with them. Counties have decision-making authority about investments in correctional resources and which offenders will receive local incarceration sentences or alternative sanctions.

The State provided construction funds for counties needing additional housing capacity and operational funds to provide services. Counties had two years from the enactment of the law to take full responsibility for

local supervision, sanctions and services for these offenders – provided the State maintained a base level of funding.

Community correction agencies use offender risk and needs assessment and focus the most intensive supervision and programs on the higher risk individuals. The state department of corrections provides technical assistance and training to counties regarding supervision, sanctions and services.

Since the law was first enacted community corrections dollars invested in programs increased from 1 percent to 15 percent. Studies of recidivism found no differences, but revocation rates fell as counties used a wider variety of sanctions. Also, the average length of revocation sentences was reduced from 4.2 months to 3.4 months, resulting in substantial savings in the cost of incarceration.¹⁶⁹

Other states have explored similar alternatives. Washington prohibits returning parolees to prison for true technical violations of parole and instead sanctions them with 30 to 60 days in jail and requires parolees to pay a fee for services. Michigan created “technical rule violation” centers in lieu of re-incarceration.

PACT Programs

PACT programs, in part, are designed to bring multi-disciplinary community providers together in one location to serve parolees. The concept is sound, but the program fails to link enough parolees with important services like housing, employment and drug treatment. Only 10 percent of parolees take advantage of community-based services available through the program.¹ Fundamental shortcomings include:

- ***One-time outreach.*** Parolees attend a mandatory orientation meeting with parole, law enforcement and community providers within a week of their release from prison. Parolees are encouraged, but not required, to learn about and access the services of community providers. For those who do not, there is no mechanism to follow up and encourage or require them to do so.
- ***Limited agency involvement.*** A law enforcement partner in the Sacramento PACT program described local service providers as the “life blood” of the program that had been steadily drained. He attributed the decline in participation to low parolee motivation and the failure of the State to dedicate a parole official to develop, nurture and maintain the participation of community agencies and follow up with parolees. In two years, the number of community agencies participating in the PACT weekly parolee orientation meetings had diminished by one-half. Dedicated staff with responsibility for facilitating coordination and communication among the core agencies, eliciting and sustaining the participation of a wide range of community providers and arranging for follow-up with specific offenders could improve the performance of the program.
- ***No evaluation.*** PACT programs have existed since 1999, but CDC has not evaluated them to determine what elements are working, what elements are not working and how programs could be improved and, if appropriate, expanded. At a meeting attended by officials from the Parole and Community Services Division, the Commission heard from a national expert that several foundations would be willing to fund evaluations of PACT programs.

Some states have implemented justice reinvestment initiatives that allow funds saved by other social service programs as a result of parolee success to be directed to fund parole programs. In many large cities, parolees typically are concentrated in specific locations, representing "multi-million dollar blocks" where families tap into multiple costly social service programs, such as foster care and needy family programs.¹⁷⁰

Recommendation 3: To maximize public safety, communities must assume greater responsibility for reintegrating parolees, and the State should provide the leadership and funding to make those efforts successful. Specifically, the State should:

- ❑ **Start with pioneering counties.** The Governor and Legislature should shift resources, responsibility and accountability for parolee reintegration to communities. The State should identify three or four communities with the desire and capacity to be the first ones to assume responsibility for parolee reintegration. The State should develop agreements and provide funding for sheriffs in those counties, in partnership with community agencies, to provide supervision, services and sanctions for parolees. Funding should be equal to the cost of state-administered activities. Within three to five years all counties should assume responsibility for returning offenders.
- ❑ **Manage a transition plan.** The Youth and Adult Correctional Agency should manage the transition plan by identifying and helping to overcome barriers to operating effective re-entry programs and providing training, technical assistance and evaluation.
- ❑ **Identify and report outcomes.** The Youth and Adult Correctional Agency and the Department of Corrections, in cooperation with their community partners, should establish performance measures for reintegrating parolees and annually report progress to the Governor, Legislature and county boards of supervisors.

Focus on Drug Offenders

The State, in coordination with communities, should expand the availability of aftercare treatment for parolees who participated in drug treatment while in prison. Additionally, the State should provide fiscal incentives to counties to house and treat parolees who are substance abusers. The preliminary success of Proposition 36 shows the potential of drug treatment to reduce the demand on prisons and address addiction among offenders.

- ❑ **Reduce barriers.** The State should review all inappropriate legal barriers to reintegration and remove them. It should seek a federal waiver to remove punishments that thwart reintegration such as the ban on public assistance and food stamps for some offenders, including low-level drug offenders. The State should consider providing parole officials with absolute immunity for the actions of parolees under their supervision, as it does judges and prosecutors.

- ❑ **Develop promising models.** The State should encourage counties to establish re-entry courts when they assume responsibility for parolee reintegration. The State should fully develop Parole and Correction Team programs by dedicating staff to coordinate and sustain community participation and follow-up activities with parolees. The department should pursue resources for evaluations, including foundations and universities.

To best use available resources and motivate parolees to reintegrate, the State and its community partners should ensure that parole embodies:

- ❑ **Supervision and services based on distinctions among parolees.** Supervision and services should be based on individual risk and needs assessments. Parole conditions should be linked to these assessments and show evidence of reduced recidivism.
- ❑ **Supervision and services that are “front loaded.”** Supervision and services for parolees should be targeted and intense in the first critical months following release and reduced later when the risk of recidivism is lower.
- ❑ **Rewards for positive behavior.** Some parolees who meet specific criteria for successful reintegration, like maintaining employment, housing and remaining violation free for a period of time, should be released early from parole or provided other rewards like reduced reporting requirements.
- ❑ **Restorative practices.** Parole should provide opportunities for parolees to pay their victims and communities back for the harm they caused, including, paying for a portion of the cost of their supervision, and using community service as a condition of parole and as a sanction for parole violations.

When Parolees Fail

Finding 4: Correctional officials do not intervene in cost-effective ways with parolees who are not successfully reintegrating. When parole violators are returned to custody, they are not prepared for their imminent re-release.

Parole officials respond to the majority of parole violations – minor and serious – by returning parolees to prison, driving prison overcrowding and correctional costs. It is estimated that California spends \$900 million annually to house parole violators.¹⁷¹ Experts say that while it is important to respond to parole violations, it is not necessary, or even prudent, to respond with a return to prison in every instance.¹⁷² For most parolees, revocation should be a last, rather than a first, response.¹⁷³

Unlike many other states California has not developed a range of sanctions that can be used to respond to parole violators who do not require a return to prison to protect public safety. States that have instituted intermediate sanctions have cut prison commitments, increased offender reintegration and generated community involvement in prisoner reentry.

Revocation time is used to resume the punishment of offenders, rather than to promote their reintegration. In many cases, revocation sentences are served in reception centers where offenders are ineligible for programs. The system does not address the reasons for their failure or tailor services to prepare them for release.

The State should establish guidelines for parole revocation to provide consistency and accountability in its response to parole violators. To advance the goals of parole – public safety and parolee reintegration – and cut correctional costs, the State and communities should develop a range of sanctions to be used as alternatives to returning parole violators to prison. It is estimated that cost savings of \$50.4 million in 2003-04 and \$100.8 million in 2004-05 could be achieved if alternatives to prison were implemented, particularly for non-criminal and low-level drug-related parole violations.¹⁷⁴

When Parolees Falter

For parolees who violate conditions of their parole the most common response is a return to prison. It also is the most expensive sanction and does not address the problems that contribute to continued criminal behavior. California returns approximately 90,000 parolees to prison a year, compared to about 3,000 in 1980, a thirty-fold increase. The

greatest increase – 82 percent – has been in administrative returns through the parole revocation process.¹⁷⁵

An analysis by the Urban Institute of parole violations in California from 1990 to 2000 revealed the following:

- ***Most parolees are returned to prison for drug use and drug possession.*** Drug use and drug possession account for nearly one-third of all administrative criminal returns, raising the question of whether different strategies for responding to parolee drug use, such as treatment, might be more effective.
- ***The largest increase is in violations of the “parole process.”*** The growth in administrative returns for non-criminal violations of the parole process accounted for 32 percent of the overall increase. From 1990 to 2000, returns to prison for non-criminal parole violations increased 247 percent. The institute suggested that a better understanding of the behaviors that comprise this category could help policy-makers determine whether alternative methods for responding to these violations, including graduated sanctions, could be more effective.
- ***Most revocations involve criminal behavior.*** When the Board of Prison Terms revokes parole and sends a parolee back to prison, four out of five of those cases involves a determination that the parolee was involved in criminal activity. In 2000, drug use comprised 51 percent of the criminal returns, with parolees serving an average of four months before they were re-released.¹⁷⁶ This issue is addressed in detail in Finding 5.

Why Revocation is the Response of Choice

In theory, parole officials have broad discretion when it comes to responding to parole violations, with the exception of specific behaviors that must be reported to the Board of Prison Terms. In reality, parole agents and the BPT emphasize revocation over other alternatives. Among the reasons are an organizational culture that emphasizes enforcement over treatment; the lack of revocation guidelines and risk and needs assessments to guide decision making; and, the lack of adequate alternatives to prison.

An organizational culture that emphasizes enforcement. In responding to violators, parole officials and the Board of Prison Terms emphasize enforcement – and punishment – over rehabilitation. In the past, the career paths of correctional officers and parole agents were

largely separate and distinct. Most parole agents came from the ranks of county probation officers and social workers, professions that emphasize rehabilitation and service. Today 60 percent to 70 percent of parole agents began their careers as prison guards.

Managers in the Parole and Community Services Division said correctional officers have a different “mind set” than long-time parole agents, and many correctional officers have difficulty making the transition to the more rehabilitation-oriented role of a parole agent. They believe the result has been an increased focus among parole agents on “nailing and jailing” parolees, rather than considering alternative interventions and providing the services that could successfully keep offenders in the community.¹⁷⁷

Parole agents receive limited training on the importance of effectively linking parolees with programs and the parole agent’s role in helping parolees to successfully reintegrate. A CDC manager said that the parole agent academy should devote at least a full day to programs and, more importantly, that a “culture” of rehabilitation needs to be continually infused into the work environment and promoted by top administrators.¹⁷⁸

The board is criticized for its “one-size-fits-all” approach to parole violators. With a bias toward revocation, limited due process and a low threshold for revocation, the board revokes 92 percent of the cases that are sent to it.¹⁷⁹ Institutionally opposed to other options, the board sends revoked inmates back to the same type of institution where they served their original sentence. There is little variation in the revocation time served – an average of five months – regardless of the nature of the violation, risk to public safety posed by the offender, or evidence that more or less time would result in better success upon release. The board justifies its tough stance, saying that by the time parolees arrive at revocation hearings they have squandered numerous opportunities to succeed through alternative sanctions. A deputy commissioner told the advisory committee that the board does not see itself in the roles of parole agent or treatment provider and that it most commonly uses the “stick” approach.¹⁸⁰

BPT Deputy Commissioner Comments to the Little Hoover Commission

"I have 26 years of experience in county probation, familiar with the menu of intermediate sanctions served to this same population of offenders. Parolees are typically graduates of the county correctional system – they are the failures of that system. They deflected success. They are the least amenable to counseling, treatment, threats, and supervision. They’ve earned their way to prison on the installment plan.

They are the chronic and habitual offenders still preying upon the residents and businesses in our communities. They have left many victims in their wake. It’s much more than self-victimization.

The BPT takes its responsibility to preserve public safety quite seriously and opts for re-incarceration frequently versus less punitive sanctions that have already failed."

Source: Kenneth E. Cater, Chief Deputy Commissioner, Board of Prison Terms, Little Hoover Commission Advisory Committee Meeting, January 6, 2003.

No standards to guide decision-making. The State has not established guidelines that could provide transparency, consistency and accountability in responding to parole revocations. Without revocation guidelines or a formal risk assessment instrument, parole officials err on the side of caution and recommend revocation rather than assume the risk inherent in keeping the offender on the streets. One expert witness testified that California's parole system embodies "every bureaucratic, organizational and political incentive" for parolees to be violated and returned to custody and every incentive to spend more on prisons.¹⁸¹

Moreover, absent guidelines, parole violators with similar histories and parole violations can receive dramatically disparate sanctions, depending on who supervises them, the region in which they live, or the BPT commissioner conducting their hearing. There are significant differences in parole revocation rates among California's four parole regions, ranging from a low of 34 percent in Region III (Los Angeles County) to a high of 69 percent in Region I (the Central Valley and Sierra).¹⁸²

Many variables effect parole revocation decisions. Some communities have more resources, such as drug treatment where a parolee can be placed in lieu of a return to prison. For instance, parole agents in

The Texas Violation Action Grid

Texas recently altered its parole revocation decision-making process to reduce costs and improve outcomes. Previously, all revocation decisions were made by a centralized unit that would determine sanctions for parole violators or refer cases to the Texas Board of Pardons and Parole for a hearing. Parole violators were costing the state hundreds of millions while waiting for hearings and the board was declining to revoke the parole or apply alternative sanctions in a quarter of the cases it heard.

In 2000, decision-making was decentralized so that parole officers were given the authority to determine whether alternative sanctions or a hearing was appropriate for parole violators. Using a violation action grid developed with data from the National Institute of Corrections, parole agents consider a range of alternative sanctions based on the type of parole violation and the offender's supervision level. A variety of sanctions, including electronic monitoring, drug treatment and short-term confinement in an intermediate sanction facility, are part of the grid options. The parole agent recommendation is electronically referred to a supervisor. If the supervisor agrees with the agent, the decision-making process is complete. If the parole agent and the supervisor do not concur, the review is sent electronically for a third-party review and the third party decision is final.

If alternative sanctions are deemed appropriate, the parolee is offered a waiver to decline a hearing and accept the sanction. If a parolee declines the waiver, the case will go to the board for a hearing.

The policy shift resulted in multiple cost savings. The parole population in county jails awaiting hearings and the number of hearings held was reduced by more than 50 percent. The board revoked parole in a higher percentage of the cases it heard, however, since the caseload had dramatically decreased, the overall revocation rate declined by 10 percent. Parolees receiving intermediate sanctions increased by 8 percent, which resulted in cost savings for the prison system. Accepting an alternative sanction prevents the clock from stopping on a parole term. More significantly, the parolee doesn't lose parole time served and earned good time credits, as is the case for parolees who return to prison in Texas.

Source: Bryan Collier, Division Director, Parole Division, Texas Department of Criminal Justice. Personal and written communication, September 19, 2003.

Oakland and San Francisco have more opportunities to place a drug offender into treatment than parole agents in small coastal communities.

In many of the rural communities in Region I, crime rates are low and local law enforcement is inclined to influence parole agents to recommend parole revocations for minor infractions that would not be considered by parole agents in large, urban communities. There is a mentality that "no crime goes unpunished." In early 2003, Region I implemented a process to have a second review of parole violations by the regional administrator in an attempt to reduce the influence of local law enforcement on parole agents. The strategy recently has been expanded to all regions.¹⁸³

Individual parole agents also play a significant role in regional revocation variances. In large urban areas where turnover among agents is high, regional administrators have taken the opportunity to hire and train parole agents who are more amenable to using alternative sanctions.

In the past decade the National Institute of Corrections has worked with 29 jurisdictions to help them develop policies to respond to violations in ways that enhance the effectiveness of probation and parole supervision and improve community safety. Jurisdictions also were interested in creating a certain amount of consistency and equity in handling violations.

NIC developed and took participants through a comprehensive process that began with the development of a vision about what they wanted to do with supervision and what they wanted to achieve, and ended with monitoring and assessing new policies and practices for responding to parole violations. The components of the process, which ideally involves all of the key stakeholders, lead to the development of a violation policy and tools and instruments through which the policy is implemented. The process is described in the box.

Many jurisdictions developed "New Generation" policies that provide a framework to guide officer decision-making when a violation occurs. An example of a "New Generation" policy is detailed in the box on the following page.

Few alternatives to incarceration. Unlike many other states, California has not developed a range of alternative sanctions for parole violators who do not require a return to prison. Moreover, California policy-makers have rejected many strategies that have been proven to work elsewhere and have been proposed by California's own parole authorities.

Components of the Process
Establish/Maintain policy team
Assess current practice
Agree on goals
Explore policy options
Assess impact of options
Implement new policies/practices
Monitor and assess new policies/practices (ongoing)

Source: National Institute of Corrections. "Responding to Parole & Probation Violations, A Handbook to Guide Local Policy Development." April 2001.

In 1998, at the request of the Senate President Pro Tempore, the federal Bureau of Justice Assistance, through its technical assistance program, assessed California parole violations and recommended a series of programs and policies designed to reduce the rate of parole revocations. The researchers suggested that the State fund a number of programs experimentally to measure their effectiveness and target them to parole violators who have not been re-arrested for a violent crime. The proposals were approved by the Legislature, but vetoed by Governor Davis. In his veto message the Governor said the bill would reduce

Typical "New Generation" Policy Regarding Violations

The purpose of the "new generation" policy is to provide a framework to guide officer decision-making when a violation of probation occurs. A clear, consistent understanding of the steps to be taken when responding to violation behavior should increase officer autonomy and reduce the filing of petitions to revoke probation in cases in which a response short of revocation and incarceration is appropriate.

Administrative violations of the conditions of probation are inevitable. It is unrealistic to believe that offenders, even if they sincerely desire to develop drug-free, prosocial lifestyles, will immediately have the skills or abilities to meet their goals. The issues and forces that brought them into the system will most likely continue to influence their behavior to some extent until they learn new coping skills.

All responses to violation behavior should consider the agency's mission and philosophy as well as the goals of the supervision process. Although protection of the community should be the primary consideration, it does not follow that revocation is always, or even usually, the most effective or efficient way of achieving this goal.

The goal of community supervision is to intervene selectively and proactively with offenders to reduce the likelihood of future criminal activity and promote compliance with the supervision strategy. Strategies involve holding offenders accountable for their actions, monitoring and controlling offender behavior, and developing rehabilitation programs specific to offender needs. Another significant goal of the supervision strategy is to ensure an appropriate departmental response to all violations of the conditions of probation, taking into account offender risk, the nature of the violation, and the objective of offender accountability.

The basic expectations underlying the department's policy regarding probation violations are:

- There will be a response to every detected violation.
- The response to a violation will be proportional to the risk to the community posed by the offender, the severity of the violation, and the current situational risk.
- The least restrictive response that is necessary to respond to the behavior will be used.
- There will be consistency in handling similar violation behavior given similar risk factors.
- The response to a violation should hold some potential for long-term positive outcomes in the context of the supervision strategy.
- Although response to violation behavior is determined by considering both risk and need, risk to the community is the overriding consideration.
- A probationer or parolee who demonstrates a general unwillingness to abide by supervision requirements or who poses undue risk to the community should be subject to a petition to revoke probation or parole.

Source: U.S. Department of Justice, National Institute of Corrections. "Responding to Parole & Probation Violations, A Handbook to Guide Local Policy Development." April 2001.

accountability for the conduct of parolees and result in the implementation of unproven intermediate sanctions that could pose a danger to public safety. The box on page 74 describes the sanctions suggested in the report.

In a 2003 report to the Legislature, parole officials stated: “Re-confinement of non-serious parole violators is the most expensive sanction available in a system that provides few alternatives, and does not address the core problems that drive long-term patterns of criminality.” The report proposed initiatives to reduce recidivism, including cost-cutting measures, effective punishment, prevention and early intervention programs and prisoner reentry programs. It estimated the proposals could result in a 50 percent reduction in parolee recidivism by 2005-06 and net savings of \$189.3 million.¹⁸⁴ Some of these programs were included in the package of correctional reforms included in the 2003-04 budget.

Finally, parole agents say they often have no choice but revocation, because services in the community are inadequate or difficult for parolees to access, issues described in Finding 3.

Using Alternative Sanctions

Many jurisdictions have developed alternatives to prison for non-violent parole violators. They include: community service and restitution, enhanced substance abuse monitoring, day incarceration, electronic monitoring, work furlough programs, day reporting centers, halfway houses or community incarceration. Some correctional agencies have linked sanctions to the seriousness of violations. Others use risk assessments to gauge the jeopardy to public safety.¹⁸⁵ Some examples of actions taken by other states to control prison populations include:

- ✓ ***Restrict re-incarceration of technical violators.*** Washington prohibits the return of technical parole violators to state prison. Instead, they remain in the community and serve any additional time in local jails.
- ✓ ***Develop graduated sanctions.*** Michigan, Vermont, Maryland and Wisconsin have developed innovative programs to limit the number of parole violators returned to prison, while protecting public safety.
- ✓ ***Change laws on drug offenders.*** Some states, like Florida, have diverted drug offenders to local jails and expanded drug courts.

To reduce the cost of incarcerating increasing numbers of non-violent parole violators, the 2003-04 budget directed CDC to employ alternative sanctions for these parolees including substance abuse treatment in jails, placement in Community Correctional Re-entry Centers, home detention and electronic monitoring.

What the Research Shows

A 2001 prison survey showed that 22 percent of all state prisoners – and 18 percent of prisoners on death row – committed their most recent crime while on parole.¹⁸⁶ An 11-state study of recidivism among ex-prisoners found that 63 percent of the offenders were re-arrested within three years of their release from prison. Two-thirds of the re-arrests occurred within one year. Importantly, the study found that despite the high re-arrest rate, the arrests linked to these ex-prisoners constituted less than 3 percent of all arrests that occurred in the 11 states during that time period.¹⁸⁷

A recent meta-analysis of 175 evaluations of intermediate sanctions programs concluded that the combination of surveillance and treatment was associated with reductions in recidivism of 20 to 25 percent and up to 30 percent if the program was more targeted.¹⁸⁸ A study by RAND showed that offenders who participated in treatment, community service, and employment programs – all prosocial activities – had recidivism rates 10 to 20 percent below that of participants who did not participate in such additional activities. Reductions of as much as 30 percent were achieved when programs targeted particular risks and needs. Researchers found similar results in Massachusetts, Oregon and Ohio.¹⁸⁹

Criminologist Joan Petersilia concludes that the research regarding intermediate sanctions is decisive: “Without a rehabilitation component,

Graduated, Intermediate Sanctions for Parole Violations

Community Service. Work performed for the benefit of the community by the parolee. The number of hours of community service to be performed by each offender is governed by program guidelines.

Restitution. Repaying the victim the financial costs of the offense.

Day Fine. A monetary penalty tied to the parolee's wages.

Day Incarceration Center. An enhanced day reporting center where an offender stays all day.

Day Reporting Center. A place where parolees report on a daily basis. Day reporting centers should provide both supervision and services. Offenders may spend anywhere from an hour per day to a full day at the facility.

Intensive Supervision. The provision of enhanced contacts with the parolee. It may include collaborative efforts such as using the police and social service providers to ensure participation in mandated treatment programs.

Electronic Monitoring. The monitoring of a condition of parole regarding where that parolee should be at any given time.

Day Boot Camp. A boot camp that allows offenders to return home at night.

Halfway House. A supervised setting where a parolee who may be at work/school during the day returns for nights, weekends and holidays.

Weekend, Part-time or Shock Incarceration. When an offender on parole is incarcerated for a short period of time and then released to parole.

reductions in recidivism are elusive... However, programs that provided treatment and additional services obtained some reductions in recidivism, particularly for high-risk offenders, and drug offenders more specifically.”¹⁹⁰

Moreover, intermediate sanctions are not “soft on crime.” Research has shown that offenders perceive intermediate sanctions like house arrest and electronic monitoring as much more punitive than a short stint in jail or prison. When offenders were asked whether they would prefer to serve six months in jail or prison or two years on intensive supervision, more than 50 percent chose jail or prison.¹⁹¹

CDC and BPT could better assess the public safety risks posed by parolees and appropriately apply a broader range of sanctions for violations. Also, communities could assume responsibility for intervening with parolees who do not require a return to prison.

Recommendation 4: The State should make better use of the resources currently spent re-incarcerating parole violators – and provide more public safety – by developing a range of interventions for failing parolees. Specifically, the State should:

- ❑ ***Use structured decision-making.*** The State should establish clear, transparent and binding guidelines for parole revocation to provide consistency and accountability in the revocation process. This could be the first step in implementing a broader range of responses that are cost-effective and protect public safety.
- ❑ ***Use alternative sanctions.*** To promote public safety and parolee reintegration, the State, in cooperation with police chiefs and sheriffs, should develop a range of sanctions to be used as alternatives to returning parole violators to prison. A system of graduated sanctions would include:
 - ✓ Community-based sanctions for “technical” violations.
 - ✓ Limits on which serious violations warrant a return to prison.
 - ✓ Lower revocation sentences based on offender risk assessments.
 - ✓ Short-term incarceration in community correctional facilities.
- ❑ ***Focus revocation time on reintegration.*** Parole violators who are returned to prison should be processed and housed separately from other inmates. They should receive services such as drug treatment, life skills and employment preparation to address the factors that contributed to their parole failure. Interventions should be targeted using risk assessments.

Focus on Drug Offenders

Jeremy Travis’ analysis for the Commission found that drug use and drug possession account for nearly one third of all administrative criminal returns to prison. The State could make better use of existing resources – and get better outcomes – if it used different strategies, including drug treatment, to respond to parolee drug use.

When New Crimes Are Alleged

Finding 5: The parole revocation process is used too frequently to respond to new and serious criminal behavior by parolees.

Parole revocation is used in lieu of criminal prosecution for thousands of offenders who parole officials believe have committed new and serious crimes. In 2000, more than 47,000 parolees were released from custody after serving revocation sentences for criminal behaviors ranging from drug possession to homicide. They served an average of 5.4 months before being re-released.¹⁹²

Using parole revocation instead of criminal prosecution undermines public safety by responding to serious criminal behavior in ways that differ little from responses to non-serious behavior and returns serious and violent offenders to the streets far sooner than if they had been prosecuted in a criminal court. Parolees returned to prison for homicides served on average 9.9 months while those returned for non-criminal violations served on average 4.3 months.¹⁹³ Using parole revocation, with its lower standards for proof of guilt, may also result in innocent parolees being returned to prison.

The State should review how district attorneys handle parolees who commit new, serious crimes and institute reforms to ensure that those parolees are prosecuted to the full extent of the law.

Parole Revocation

When a parolee commits a crime, which also constitutes a violation of parole, it can be handled administratively through the parole revocation process or through the criminal court – or both. When the BPT sends a parolee back to prison, four out of five cases involve a determination that the parolee was involved in criminal activity.¹⁹⁴

In 2000, of the 47,000 parolees who were released from custody after serving revocation sentences for criminal actions, 78 were classified as homicides, 524 as robberies and 384 as rapes and sexual assaults. Those and other serious offenders served an average of 7.6 months before they were re-released. The maximum revocation sentence is 12 months. By comparison, offenders convicted in criminal court of voluntary manslaughter served an average of 74 months.¹⁹⁵

Criminal behavior by a parolee may be discovered by a parole agent or law enforcement. About 60 percent of the reported violations are the result of arrests by local law enforcement; the remainder are arrests that

involve the parole officer.¹⁹⁶ Either way, the parolee can face criminal charges or be referred to the BPT to be handled administratively as a parole revocation. A parolee can be involved in the revocation process at the same time criminal charges are being pursued. In most cases where criminal charges are being pursued, parole has been revoked.

To Prosecute or Not to Prosecute

Locally elected district attorneys review cases referred to them and determine whether criminal charges will be filed. A number of considerations influence their decisions, including:

- ✓ Whether the district attorney believes there is enough evidence to gain a conviction. (To gain a conviction a jury must determine that the offender is guilty beyond a reasonable doubt – a threshold that results in the dismissal of many cases that are referred to district attorneys.¹⁹⁷)
- ✓ The availability and credibility of witnesses.
- ✓ Whether the difference in prison time between a conviction and a revocation sentence is substantial enough to warrant the cost of prosecution.
- ✓ The priority of the case in the context of available resources.

Observers assert that filing standards differ widely among county district attorneys, reflecting their political views and those of their constituencies – with more conservative prosecutors more inclined to file charges for serious parole violations than their more liberal counterparts. Others claim that these locally elected officials are driven to maintain high conviction rates and are therefore reluctant to try cases where the outcome is uncertain. Finally, the availability of the revocation process as a fallback that at least gets the offender off the streets for a period of time makes the decision not to prosecute easier. While this practice provides immediate protection for victims, particularly in cases involving domestic violence or stalking, the end result may be a short-term revocation sentence instead of a more lengthy new prison term.

Furthermore, there is little public knowledge or public scrutiny of these decisions in all but the most high profile cases and the district attorney is not required to confer with law enforcement or parole officials when considering whether to file criminal charges. Local law enforcement agencies are supposed to be informed when the district attorney determines not to file criminal charges.¹⁹⁸

The Commission reviewed more than 20 case files of offenders who served revocation sentences for crimes classified by CDC as homicides in an attempt to understand why the cases were handled as parole

revocations. The review raised more questions than it did answers. Most of the cases involved allegations of attempted murder. The responses of the system ranged from instances where there appeared to be no referral to the district attorney to a few instances where charges were filed but later dismissed.

In many of the cases it was unclear from the information in the files why the district attorney did not file charges or why charges were dismissed. For example, in a case of involuntary manslaughter where the identities of two parolee suspects and the victim did not appear to be in question, BPT found good cause to revoke parole. Yet there was no evidence of a referral to the district attorney. There were instances where parole

Parole Revocation vs. Criminal Prosecution

Lower threshold of proof. Revocation hearings are administrative in nature and require a “preponderance of the evidence” as the standard of proof, which demands no more than a 51 percent level of certainty of guilt. In criminal proceedings the standard of proof is “guilt beyond a reasonable doubt,” a much higher and more difficult criteria to establish.

No judge. Parole revocation hearings are conducted before one of 65 deputy commissioners stationed throughout the state. The commissioner has the responsibility for controlling the proceedings and rendering decisions and judgments that impact the liberty of parolees – acting in the role of a judge.

Right to counsel. Parolees do not have the right to an attorney in a revocation proceeding, but may have an attorney appointed if any of the following criteria are met:

- ✓ The parolee needs representation.
- ✓ The parolee’s claim of innocence is supported by some element of evidence.
- ✓ The parolee lacks the capacity to state his case or provide a defense.
- ✓ The parolee’s mental state impairs the ability to state his case or provide a defense.
- ✓ The parolee has a physical disability that impairs his capacity to present a defense.

The deputy commissioner decides if any of these tests of “fundamental fairness” are met. Only one third of parolees are represented by counsel.

Hearsay evidence is admissible. In contrast to criminal proceedings, the administrative revocation process permits the admission of hearsay evidence, that is second hand evidence not usually allowed into the record in a criminal court proceeding.

No right to call witnesses. The deputy commissioner can accept testimony from witnesses he or she deems “appropriate witnesses.”

If charged and tried before a judge in a criminal court, offenders are entitled to all due process rights, including representation and the right to call witnesses.

Source: Board of Prison Terms: Revocation Hearings Overview. Kenneth E. Cater, Chief Deputy Commissioner, Board of Prison Terms, Written communication, October 3, 2003.

officers and local law enforcement appeared not to have been consulted and parole agents were unaware why district attorneys failed to file cases. In one case the parole officer tried repeatedly but unsuccessfully to obtain information on the status of the case.

The deputy executive director of the California District Attorneys Association said that in making filing decisions district attorneys often confer with parole officers, particularly in gang-related cases. He said the communication is made easier because officials from these agencies

sit on local gang task forces in all urban counties. The CDAA representative did concede that outcomes in these cases could be improved with better communication between law enforcement, parole and district attorneys.

The consequences of this system of adjudication for parolees has implications for community safety and the due process rights of offenders.

**Valdivia v. Davis:
Due Process for Parolees**

In June 2002, a U.S. District Court found that California's parole revocation system violates the due process rights of parolees and ordered the State to come up with a remedial plan to resolve the problem. In response to the court order, YACA has proposed the following changes:

- ✓ A probable cause determination/review will take place within 48 hours of a parole hold to determine if the parolee is a danger to public safety or if remedial sanctions or community-based treatment is possible.
- ✓ If remedial sanctions are deemed inappropriate, the parolee shall be served notice of the charges within three business days.
- ✓ Parolees will have an opportunity to meet with an attorney who shall communicate any offers made by BPT or a parole administrator prior to a probable cause hearing.
- ✓ A probable cause hearing will be conducted within 10 business days following the notice of charges. The parolee will have the opportunity to present evidence and hearsay testimony. The BPT deputy commissioner or parole administrator will have a full range of options to resolve the case.
- ✓ If the parolee rejects an offer at the probable cause hearing, a revocation hearing will take place within 35 days.

Source: YACA Valdivia Revised Remedial Plan submitted to the U.S. District Court for consideration, August 21, 2003.

❑ **Public safety.** Using parole revocation in lieu of prosecution for new and serious crimes may undermine public safety and criminal justice. It often fails to impose sanctions that are commensurate with the criminal action and aligned with the punishment that would accompany a criminal conviction. Most importantly, it returns violent felons to California communities far sooner than if they had been tried and convicted for their crimes – potentially creating more victims.

❑ **Due process.** The lower standards of proof and fewer due process protections inherent in the revocation process may also result in the return to prison of innocent parolees. The administrative parole revocation process differs in significant ways from criminal proceedings and is described in the box on the previous page.

Throughout the criminal justice system, professionals are expected to make judgments – based on the mission of their organization and available resources – that best serve public safety. There is an inevitable and important tension between the need for due process and

the desire for swift and sure justice. There is a trade-off between the risk of a new trial and the certainty of a parole revocation. Where elements of the correctional system intersect -- such as a parole violator who could be charged with a serious new crime -- additional diligence is necessary to ensure that routine decisions indeed are serving the public interest.

At the same time, over the last 20 years, California has made fundamental changes to its correctional policies without systematically identifying and resolving the unintended consequences. Among them may be thousands of inmates who are repeatedly sent back to prison for serious crimes without the due process they would receive in court. The unintended consequences may also include future victims who could have been protected had parole violators been given the second or third strikes they deserved.

The large number of serious charges being used as a basis to revoke parole probably reflects some reasonable trade-offs. But it also raises serious questions that the Commission does not have the evidence to answer. It encourages policy-makers and public safety officials to pursue that analysis.

Recommendation 5: To ensure public safety and fairness, the State should scrutinize its responses to parolees charged with new, serious crimes. Specifically the State should:

- ☐ ***Review practices and recommend reforms.*** The Attorney General should review how district attorneys handle serious crimes by parolees and make recommendations for reforms.
- ☐ ***Impose accountability.*** When a parolee is suspected of a new, serious crime, district attorneys should be required to solicit input from parole officials and local law enforcement before determining not to file charges. District attorneys, when determining not to prosecute a parolee for a serious alleged criminal activity, should be required to report that information and the reason why to the Attorney General, the local law enforcement agency and parole officials. The Attorney General should annually report the information to the Governor and Legislature, by county.
- ☐ ***Ensure due process protections.*** Depending on changes ultimately put in place by the court to improve due process protections for parolees, the Legislature should review the plan and determine what statutory, regulatory and budgetary reforms should be enacted to ensure that it is adequately implemented.

Conclusion

For more than a decade the Little Hoover Commission, blue ribbon panels, and a variety of learned experts have challenged California to improve the performance of its correctional system. Most of the recommendations have simply been ignored. Under pressure, the correctional agencies have occasionally conceded to token reforms that are then poorly managed and even undermined by prison officials.

Today, there is more evidence than ever to support the recommendations in this report – many of them common sense ideas that have been embraced in other states, and were first recommended in California when many of today’s adult offenders were in juvenile hall.

It is not that other states have figured out how to prevent all ex-felons from committing new crimes. But most other states recognize that is the goal and expect the correctional agencies to be refining their programs to ensure progress toward that goal.

What has changed is that California is now recognized nationally for parole policies that by all measures are failing. Moreover, California is seldom even a part of the national discussions about how to develop correctional policies that improve public safety. Many accomplished academic criminologists – including Californians – do not even want to come to Sacramento to discuss the issue, because they do not believe the State is sincerely interested in changing correctional policies.

What also has changed is that California’s communities have recognized the impact of tens of thousands of felons – no more prepared for a crime-free life than the day they were sentenced by the courts – coming back to their neighborhoods.

These communities are taking the leadership to build partnerships, find resources, and implement the best available strategies for helping parolees find a job and a home, getting them help with their addictions and an ounce of hope.

The most substantial reforms in correctional policies are occurring in Oakland, Los Angeles and San Diego – not in Soledad, Avenal or Corcoran.

Across the country, a growing number of community partnerships have emerged to share responsibility for returning prisoners. While many are in their infancy, the successes are mounting and consensus is growing

that prison-community partnerships have the greatest potential to reduce the impact of parole failures on communities.

San Quentin State Prison – an exception to the rule in California – is gaining a reputation as one such model. The oldest prison in the state is making fresh thinking a tradition. Administration and staff, inmates and volunteers are linking the prison with the community, offenders with the outside, responsibility for the past with expectations for the future.

The other 31 prisons – and the more than \$4 billion spent in them each year – have the same potential.

More than anything else California needs to develop the means for correctional policies to be based on evidence of what works to reduce crime, violence and drug abuse by felons who leave the system.

California could discipline correctional policy by giving communities a strong role in evaluating the performance of prisons and recommending improvements to prison and parole policies. The Board of Corrections is well suited to assume this responsibility.

The current policies are costing the State billions of dollars that could be spent improving education, strengthening families and addressing youth violence – which are all proven strategies for preventing future criminal behavior and the associated costs.

It is not a question of what to do. Rather the question is whether California's leaders have the will to make the policy choices based on evidence rather than ideology, on facts rather than fears. The prison system will be accountable when its performance is publicly measured based on the success of released offenders. The political system will be accountable when leaders either implement needed changes or explain to citizens why they will not.

Appendices & Notes

- ✓ *Public Hearing Witnesses*
- ✓ *Public Meeting With Local Law Enforcement*
- ✓ *Advisory Committee*
- ✓ *Notes*

Appendix A

Little Hoover Commission Public Hearing Witnesses

Witnesses Appearing at Little Hoover Commission Parole Reform Hearing on January 23, 2003

Rulette Armstead, Assistant Chief
San Diego Police Department

Ernest Austin, Founder
Ex-Offender Action Network

Susan Fisher, Executive Director
Doris Tate Crime Victims Bureau

Michael P. Jacobson, Ph.D., Professor
Department of Law and Police Science
John Jay College of Criminal Justice

Peter Jensen, Undersecretary
Youth and Adult Correctional Agency

Richard Rimmer, Deputy Director
Department of Corrections
Parole & Community Services Division

Harriet Salarno, Chair/President
Crime Victims United of California

Nina Salarno Ashford, Consultant
Crime Victims United of California

Marvin Speed, Executive Officer
Board of Prison Terms

Witnesses Appearing at Little Hoover Commission Parole Reform Hearing on February 27, 2003

The Honorable Jerry Brown
Mayor, City of Oakland

Lance Corcoran
Executive Vice President
California Correctional Peace Officers
Association

Frances Hesselbein
Chair, Board of Governors
Leader to Leader Institute
(formerly the Peter F. Drucker Foundation)

Andy Hsia-Coron, Chair
Professional Educators and Librarians
California State Employees Association

Ron Owens, Community Liaison
Mayor's Office, City of Oakland

The Honorable Don Perata
Member of the California State Senate

Shirley Poe
East Bay District Administrator
California Department of Corrections
Parole and Community Services Division

The Honorable Larry Reid
Council Member, City of Oakland

Jeremy Travis, Senior Fellow
Urban Institute
Justice Policy Center

Richard L. Word, Chief of Police
City of Oakland

Appendix B

Public Meeting With Local Law Enforcement

Participants at a Little Hoover Commission

Public Meeting on June 26, 2003

Richard J. Barrantes, Commander
Los Angeles County Sheriff's Department

Lou Blanas, Sheriff
Sacramento County

Bob Blankenship, Chief of Police (Retired)
City of Redding

Albert Nájera, Chief of Police
City of Sacramento

Richard L. Word, Chief of Police
City of Oakland

Appendix C

Little Hoover Commission Parole Reform Advisory Committee

The following people served on the Parole Reform Advisory Committee. Under the Little Hoover Commission's process, advisory committee members provide expertise and information but do not vote or comment on the final product. The list below reflects the titles and positions of committee members at the time of the advisory committee meetings in 2003.

Ernest Austin, Founder
Ex-Offender Action Network

James Austin, Ph.D., Director
George Washington University
Institute on Crime, Justice and Corrections

Bob Blankenship
Representing the League of California Cities
and the California Police Chiefs Association

Tim Brown, Executive Director
Loaves & Fishes

Ken Cater, Chief Deputy Commissioner
Board of Prison Terms

Bubpha Chen
Research Program Specialist III
California Department of Corrections
Research Branch

Arthur Chung, Chief
California Department of Corrections
Offender Information Services

Karen Dalton PH, CJM, Director
Los Angeles County Sheriff Department
Correctional Services Division

Connie Erlich
Administrative Representative
Youthful Offender Parole Board

Ben Fairow, Lieutenant
Oakland Police Department

Susan Fisher, Executive Director
Doris Tate Crime Victims Bureau

Raul Galindo, Chair
Youthful Offender Parole Board

Mike Gallegos, Deputy Director
California Youth Authority
Parole Services & Community Corrections

Millicent Gomes
Mental Health Administrator
California Department of Corrections
Parole and Community Services Division

Stephen Goya
Regional Administrator
Department of Corrections
Parole and Community Services Division

Simon Haines, Chief Counsel
Senate Public Safety Committee

Ross D. Hutchings, Executive Director
California Probation, Parole & Correctional
Association

Sharon Jackson
Assistant Deputy Director
Parole & Community Services Division
California Department of Corrections

Edward Jagels
Kern County District Attorney

Jim L'Etoile, Assistant Director
Department of Corrections
Office of Substance Abuse

Jim Lindburg, Legislative Advocate
Friends Committee on Legislation

Tim Lockwood, Acting Chair
California Department of Corrections
Research Branch

Dan Macallair, Executive Director
Center on Juvenile & Criminal Justice

Rick Mandella
Board of Prison Terms
Council on Mentally III Offenders

Jerome Marsh
Assistant Regional Parole Administrator
Department of Corrections
Parole and Community Services Division

Keith Matsuo
Regional Parole Administrator
Department of Corrections
Parole and Community Services Division

Marcus Nieto
Research Program Specialist
California Research Bureau

Ron Owens, Community Liaison
Mayor's Office, City of Oakland

Greg Pagan
Assembly Committee on Public Safety

David Panush
Assistant Fiscal Policy Advisor
Senator John L. Burton's Office
President Pro Tempore

Mark Peterson, Sergeant
Sacramento County Sheriff Department

Ruben Ramos, EDD Representative
California Department of Corrections
Parole and Community Services

Richard Rimmer, Deputy Director
Department of Corrections
Parole & Community Services Division

Sharon Rocco, Parole Agent III
Department of Corrections
Parole and Community Services Division

Eluid Romero, Attorney
Sacramento County Public Defender Office

Paul Seave, Director
Department of Justice, Office of Attorney
General
Crime & Violence Prevention Center

Don Specter, Director
Prison Law Office

Norma Suzuki, Executive Director
Chief Probation Officers of CA

Susan Turner, Ph.D., Associate Director
RAND Public Safety & Justice

Max Vanzi, Principal Consultant
Senate Office of Research

Steve Weinrich, Sergeant
City of Sacramento Police Department

Mary Wiberg, Executive Director
Commission on Status of Women

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Text Box Endnotes

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Senior Fellow, Governance Studies Program, The Brookings Institute, Peter W. Greenwood, Ph.D., Greenwood Associates, Barry Krisberg, Ph.D., National Council on Crime & Delinquency, Joan Petersilia, Ph.D., Department of Criminology, Law & Society, University of California, Irvine, Jeremy Travis, Senior Fellow, Urban Institute, Honorable James R. Milliken, San Diego Superior Court.

Alternatives and Cost Estimate for Denying Early Release Credits. Prior to implementation of a policy, more detailed costs estimates should be calculated based on actual CDC inmate release data. The cost estimates in this chart are based on a variety of estimates and assumptions. 87,000 inmates in 2003 were assigned full-time placements to earn work credits. There were approximately 160,000 inmates in 2002-03. This equates to 54 percent earning work credits. In 2001, 125,991 offenders were released to parole. Of these 44 percent were first releases, including parole violators serving a new term. Assuming 54 percent of all offenders released to parole in 2001 earned work credits, 68,035 could be affected by denying early release credits. Of these, 29,935 or 44 percent would be first releases and 38,100 would be parole violators re-released. The annual cost to house offenders is \$28,500. The chart depicts the costs of denying 20 percent of the eligible offender population early release credit. Incarceration costs were derived by multiplying the number of affected inmates (20 percent of 68,035, 29,935 and 38,100) by the average months of earned release credit (12 months for first releases and 2.6 months for parole violators) and the cost of incarceration (\$28,500 annually, or \$2,375 monthly). Hearing costs were derived by multiplying the number of inmates releasing (68,035, 29,935 and 38,100) by \$293, the average cost of a parole revocation hearing. Assuming 20 percent were denied release, 20 percent would require an additional hearing for an appeal. (20 percent of 68,035, 29,935 and 38,100 multiplied by \$293).

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