



NEW DIRECTIONS

A blueprint for reforming California's prison system to protect the public, reduce costs and rehabilitate inmates

California Correctional Peace Officers Association
January 2010





CALIFORNIA'S PRISON SYSTEM is failing at every level. The cost to taxpayers and public safety for this failure is staggering.

More than 170,000 inmates are now being warehoused in facilities designed to accommodate 80,000 inmates. Coupled with severe staff shortages, this overcrowding is inordinately jeopardizing the safety of inmates and correctional officers, while straining prison resources and infrastructure to the breaking point. Today, an average of nine correctional officers are assaulted every day inside California prisons, while tens of thousands of inmates are being denied the help and incentives needed to help make them productive citizens.

Inmate rehabilitation programs are failing, turning prison gates into revolving doors, giving California one of the nation's highest recidivism rates. Thousands of inmates who have served their sentences are being released without the education, job training or basic life skills needed to function in society. With few chances to succeed, they have little choice but to return to crime.

California's parole policies are also failing. Parole officers are overworked and overwhelmed. Parolees are receiving neither the services nor support they need to find jobs, deal with substance abuse or resolve psychological issues. This is wasting their lives, bankrupting taxpayers and endangering public safety.

Following is our blueprint for fixing California's broken prison system — a plan that offers relevant reform at multiple levels. Together, these reforms will save billions of tax dollars, protect the public and help inmates turn their lives around.

A handwritten signature in blue ink that reads "Mike Jimenez". The signature is fluid and cursive, with the first letters of "Mike" and "Jimenez" being capitalized and prominent.

MIKE JIMENEZ, President

California Correctional Peace Officers Association

CCPOA'S 2007 "BLUEPRINT FOR PRISON REFORM"

In January 2007, we published an analysis of California's dysfunctional correctional system entitled *From Sentencing to Incarceration to Release: A Blueprint for Reforming California's Prison System*.

In addition to recommendations for resolving the crisis, the blueprint detailed a number of factors that have contributed to the deterioration of California's public safety infrastructure, including:

- Lack of adequate prison and jail space, as well as correctional staff, at the state and local levels
- Lack of effective rehabilitation programs for inmates and parolees
- Failure to house mentally and physically ill inmates away from the general population, leading to federal takeover of our state prison's health care system
- Lack of a statewide risk assessment tool and application (with corresponding database) for inmates and parolees

The blueprint also offered a series of integrated near- and long-term solutions in four key areas, summarized as follows.

Public Safety & Infrastructure

To provide for immediate relief of overcrowding, re-open previously closed facilities while renovating existing ones to provide adequate space for rehabilitation programs; construct temporary housing structures within existing correctional facilities; and work collaboratively with local communities to site and construct new facilities — specifically re-entry facilities, separate facilities for severely physically and mentally ill inmates, and maximum security facilities.

Parole

To allow parole agents to focus their time and resources on offenders who pose the greatest risk, create a risk assessment tool that is utilized consistently throughout CDCR; and provide meaningful intermediate sanctions for parolees, along with local re-entry facilities and day reporting centers to promote rehabilitation.

Sentencing

To reduce California's future prison population, establish a sentencing commission and develop a plan to place appropriate offenders in less costly "prison alternative" programs; conduct a fiscal analysis of any proposed change to criminal law; and ensure that inmate "good behavior credits" are only awarded for actual participation in rehabilitation programs.

Staffing

To ensure a well-trained professional workforce, re-establish the Commission on Correctional Peace Officer Standards and Training (C-POST) to provide necessary oversight and improve officer training; and to promote the attraction and retention of qualified correctional peace officers, make available a competitive compensation and benefits package.

CORRECTIONS UPDATE 2007 – 2009

Since we issued our first Blueprint in January 2007, the Legislature has considered a number of proposals to reform corrections — the most prominent being AB 900 (Solorio), designed to solve the CDCR's overcrowding issue. Unfortunately, this measure was rushed through the legislative process with no hearings or opportunity for public input just prior to the deadline for the Governor's response to the courts on two major overcrowding lawsuits, *Coleman v. Schwarzenegger* and *Plata v. Schwarzenegger*. As such, CCPOA was forced to oppose the measure as incomplete and premature.

In September 2009, the Legislature approved SB 18 of the Third Extraordinary Session designed to help solve the state's historic budget crisis by reducing the corrections budget by \$1 billion. And while it may realize some savings, there is still work to be done to achieve long-term reform.

AB 900

In May of 2007, Governor Schwarzenegger signed AB 900 (Solorio) — entitled the "Public Safety and Offender Rehabilitation Services Act of 2007" — which allocated over \$7 billion to address both overcrowding and expanded rehabilitation as a means of reducing recidivism.

Since its signing, there have been numerous and considerable changes to the original plan — but almost no progress. All construction projects are far behind schedule and significantly over the budgets outlined in the bill.

The following lists both the initial intent, as well as the current status, of AB 900.

Infill Beds

Bill summary: \$2.4 billion to construct 16,000 beds on the grounds of existing prisons, to replace temporary housing in gymnasiums, day rooms, and other public spaces within the facility.

Status: The most recent public plan calls for using the \$2.4 billion to construct only 8,600 infill beds — just over half the number originally intended. To date, nothing has been built and the anticipated cost per bed has unfortunately doubled.

Rehabilitation Initiatives

Bill summary: \$50 million to expand drug treatment, academic education and other rehabilitative services for inmates and parolees within the CDCR.

Status: To date, \$36 million of the \$50 million has been spent on substance abuse treatment for inmates, mental health services for parolees, risk and needs assessments for some offenders, and information technology systems. Given the massive program reductions included in the current budget, further efforts to expand rehabilitation are being abandoned.

In addition, the measure also provided funding for jail construction, upgrades to CDCR's institutions and health facilities — however little progress has been made in most of these areas.

2009 BUDGET ACTIONS

In the initial May Revision to the Budget, the Governor proposed a package of corrections cuts totaling \$400 million. As the state's budget situation continued to deteriorate, the Governor subsequently modified his May Revision twice — increasing the CDCR budget-cut target to \$1.2 billion.

In passing the final budget bill, the Legislature approved an unallocated reduction to corrections in the amount of \$1.2 billion, leaving the details to either the CDCR (for actions not requiring law changes) or to subsequent legislative actions.

In September 2009, the Legislature passed SB 18, Third Extraordinary Session, designed to implement changes to sentencing, credit-earning laws and parole reform.

Following is a summary of the 2009 corrections budget actions:

Parole Reform

Bill Summary: SB 18 requires the CDCR to administer a risk assessment evaluation for parolees subject to being placed on “banked” caseloads without active supervision. The

risk assessments will target low and medium level non-serious, non-violent offenders — basically eliminating them from parole services and supervision, with the caveat that they will continue to be subjected to warrantless search and seizure by law enforcement. For the remaining parolees — essentially sex offenders and those convicted of serious or violent offenses — parole agent caseloads will decrease to 45 to 1 (from a budgeted level of 70 to 1 prior to this change). In theory, only high-risk, serious, violent or sex offenders will be placed on active parole caseloads.

Analysis: Only about 20 percent of convicted felons are sentenced to state prison. Most non-serious, non-violent offenders make numerous trips through the criminal justice system and receive alternative sanctions many times before they are ever sent to state prison.

“CDCR has few evidence-based rehabilitation programs and budget cuts are likely to devastate the few that do exist.”

Given this situation, releasing non-serious and non-violent offenders without parole services and/or supervision is likely to result in more victims, and more costs for local law enforcement, prosecution and the courts. As these former inmates are ultimately sentenced for their new crimes, any savings in the corrections system from not having them on parole are likely to be offset by the new and longer sentences they serve for the crimes they commit upon release.

The bottom line: For many offenders, this proposal has eliminated their best chance for success upon release — with the assistance of their assigned parole agents and services paid for by the CDCR — and increased local costs to deal with these offenders by eliminating the “short cut” of parole revocation.

Credit Earning Enhancements

Bill summary: SB 18 allows inmates sentenced for non-violent, non-serious and non-sex offenses to earn up to four months additional credits off their sentence for completing rehabilitation programs designed to enhance their chances for success upon release.

Analysis: While this proposal makes sense in theory, it fails to recognize that in reality the CDCR has few evidence-based rehabilitation programs in place, and that the 2009-10 budget cuts are likely to devastate the few that do exist.

Indexing Dollar Thresholds for Property Crime

Bill summary: SB 18 also indexed for inflation many of the monetary thresholds included in existing law for property crimes. For example, the threshold to make a crime grand theft was increased from \$400 worth of property to \$950.

Community Corrections

Bill summary: SB 18 provides \$45 million in federal funds as seed money to local governments for supervision and services for felony probationers, with the goal of reducing recidivism for these probationers.

Furloughs

Bill summary: As a part of the Governor's effort to balance the 2008-09 and 2009-10 Budgets, he imposed three furlough days per month on state employees. In the case of employees working in round-the-clock assignments, such as correctional peace officers, no provision was made allowing the employees to actually take the furlough time off. Rather, the governor imposed a pay reduction of more than 14 percent on such employees, and is forcing them to accumulate the "time off" on the books as a future state liability. The practical effect of this action is to create a major ongoing liability for the CDCR, which will inhibit any efforts to adequately fund rehabilitation programs in future years. This was acknowledged by the state's expert witness, Udensky, in *CCPOA v. DPA*.

CCPOA'S 2010 "NEW DIRECTION" CORRECTIONS RECOMMENDATIONS

Despite the state's efforts, California's prison system — and entire public safety infrastructure — remains in crisis. Overcrowding continues to be a major concern, not only to public safety officials, but also the federal courts. Per inmate costs continue to rise — as a result of court-ordered increases in inmate medical costs, as well as inefficient management. And planned rehabilitation programs have been scuttled due to the state's most recent fiscal crisis.

But failure is not an option — our corrections system must be reformed. As such, we recommend that the California Legislature dedicate 2010 to re-tooling AB 900 — to develop a sound analytical basis from which to build a safer, more efficient, cost-effective, and integrated corrections and rehabilitation system. Consistent with the Legislature's intent to date, we agree that these efforts should focus on six major areas:

- Sentencing
- Rehabilitation
- Infrastructure
- Assessments

- Parole
- Juvenile Justice

Sentencing. For the last several years, the Legislature has debated the value of a sentencing commission to simplify California’s complex system of legal punishment. To date, the debate has centered on the commission’s authority to alter existing or adopt new sentencing laws — with or without legislative enactment.

However, this debate has obscured a far more important and urgent goal for a sentencing commission — collecting data and evidence on the population and performance of the existing criminal justice system. Very little accurate information is available to guide the Legislature in implementing cost-effective rehabilitation programs or corrections reforms. As a result, policymakers are forced to make far-reaching decisions without benefit of a sound analytical foundation.

Currently, the only way to determine an inmate’s full criminal history — including arrests, sentencing, incarceration, parole/probation, re-entry programs, etcetera at the local, in-state, out-of-state or federal levels — is a hard paper search, requiring dozens of man-hours per inmate.

We recommend that the Legislature enact a sentencing commission whose mission is to gather accurate, timely and complete public safety data — including criminogenic data on inmates, as well as sentencing and parole/probation services data from each county.

Sentencing and services data will help identify disparities in sanctions and treatment among counties, while inmates’ criminogenic histories — coupled with a validated risk assessment tool — will be crucial in evaluating and improving both rehabilitation programs and disparity in sentencing.

In addition to the inmate data described above, we also recommend that information on inmates’ education, health, drug use, gang affiliation and family history be factored into any comprehensive risk assessment tool.

“We recommend that the Legislature enact a sentencing commission ... to gather accurate, timely, detailed corrections and public safety data ...”

Discussion of whether the commission will or won't be granted sentencing authority is premature — and should be postponed until after such time as we have sufficient data to analyze the existing state and country populations and infrastructure, particularly as it relates to the promising concepts of specialized courts (i.e., substance abuse and mental health) and determinate versus indeterminate sentencing.

“Employment may initially be difficult for felons, but it is essential in providing them an alternative to a life of crime.”

In the interest of both fairness and effectiveness, we recommend a commission with a diverse membership, including academic experts and practitioners at both the state and local level, with equal representation of management and rank and file.

Assessments. An accurate, evidence-based risk and needs assessment is key to ensuring that inmates are matched to appropriate programs and facilities. Ideally, we recommend that CDCR use a scientifically validated risk and needs instrument to assess each inmate while they are still housed at the county level. This streamlined process would allow inmates to be sent directly to the housing most appropriate to their risk and needs (i.e., re-entry facility, etc.) — as opposed to the current process, which funnels all inmates through state reception centers regardless of their final destination.

Such assessments will serve as a roadmap for the inmate's institutional assignments, and ultimately provide a plan for releasing the parolee into the community with the best chance to succeed.

In the long-term, we recommend a seamless transfer of inmate information from the local court system to the state — but this will be a complex and costly process. For example, even in today's high-tech society, little if any information from the local judicial system is available to the CDCR in a timely fashion, thus hindering the existing assessment process. Eventually, we believe that an individual should be given a risk and needs assessment prior to sentencing, in conjunction with an expansion of drug and mental health courts.

Rehabilitation. In 2005, California expanded the mission of the Department of Corrections to include “rehabilitation” — and renamed it accordingly. While previous budgets intended to expand rehabilitative programs, the Legislature was forced to slash funding for programs throughout the Department in 2007, 2008 and 2009 — leaving little, if anything, for these efforts.

CCPOA recognizes the important role that rehabilitation can and should have in the corrections mission — but that this is impossible without the necessary resources and a strong commitment to evidence-based programs to assist inmates in succeeding upon their release.

Studies show that gainful employment is one of the best tools for reducing recidivism — however, neither inmates nor parolees in California are receiving the job training or placement assistance necessary to help overcome the many challenges they face when trying to find a job after their release.

And while we recognize that not all inmates are amenable to rehabilitation, those that do have the desire to change and succeed have virtually no programs to assist them in this admirable goal.

We recommend that the Legislature provide funding for evidence-based, thoroughly researched rehabilitation programs that provide inmates, as identified by the risk and needs assessment, with the necessary skills to get and keep a job upon release. We suggest that the department work with experienced practitioners and academics to develop programs that best suit the needs of our unique inmate population. One such possibility is to transform the state's Prison Industry Authority (PIA) to focus on parolee training and employment.

Employment may initially be difficult for felons, but it's essential in providing them an alternative to a life of crime. Other states have done this successfully, and we look forward to working with the Legislature and new Administration to share this knowledge.

Infrastructure. Since AB 900 has resulted in no new construction to date, we recommend that the Legislature restructure this program to focus on four areas.

First, prison construction should be concentrated in security classifications where the population is most crowded and the consequences for failing to address overcrowding are the most severe — in other words, maximum-security facilities.

Second, we must revisit the intent of AB 900 in constructing up to 16,000 re-entry beds. Re-entry needs to be located in urban areas — where released inmates are ultimately going to live. An ideal re-entry program would serve inmates near the end of their term, and house

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them near their county of release where they could obtain employment that could continue upon their parole. At the time of parole, the inmate would move to another housing situation, but continue the job they held while living in the re-entry environment. For this reason, we propose tax incentives for local governments to site and for businesses to locate near these re-entry facilities — not only for the success of this program, but also for the economic benefit of the communities as a whole.

Third, the Department needs to construct separate facilities for the severely physically and mentally ill inmates. These inmate should be housed in facilities that are appropriate for their needs and that provide the necessary security for their given conditions.

Fourth, assuming that the Legislature is serious about making a long-term commitment to rehabilitation, the CDCR must re-examine the design, mission and staffing of existing prisons, as most do not provide sufficient staff or space for successful rehabilitation programs.

Parole. The Legislature’s fiscally-driven decision to eliminate parole supervision of certain non-serious, non-violent and non-sex offender parolees was intended to realize savings — based on the argument that with these individuals no longer on parole, they would not return to state custody as parole violators.

“... the monies devoted to the DJJ are better spent on staff and programs that actually serve wards rather than on wasteful overhead.”

Unfortunately, statistics show that many of these parolees will be re-arrested and re-prosecuted (since their parole can no longer be revoked) — and will ultimately be returned to CDCR with longer sentences than they would have served as parole violators. Worse for them, and more costly for taxpayers.

Fortunately, the Legislature has voted to reduce caseloads for the remaining parole population to 45 parolees per parole agent to compensate for the elimination of the so-called “lightweight” cases. However, this change has not yet been implemented, so the ultimate effect on public safety remains to be seen.

We also recommend that all persons released from state prison remain on parole for a minimum of six months in order to receive valuable parole services — with automatic discharge after that time for those who have maintained a clean, violation-free record. This is a simple policy change, requiring no legislation.

In past years, the Board of Parole Hearings (BPH) was only required to hear cases when parole agents, supervisors and/or the CDCR were in conflict over a parole recommendation. However, current policy directs all parole decisions to be heard by the BPH. In 2007, BPH discharged only 500 of the 11,000 parolees recommended for discharge by their own parole agents and supervisors — needlessly tying up prison beds. Restoring the previous policy is a far more effective solution.

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Juvenile Justice. Once considered one of the national leaders in the field, the newly named Division of Juvenile Justice (DJJ) — formerly California Youth Authority — has lost its luster.

DJJ serves an extremely challenging population — with severe substance abuse, mental health and criminal behaviors. The state’s juvenile courts send only about 300 wards to the system each year — cases local governments believe they cannot serve under current conditions. Despite this smaller and more difficult population, an increasingly higher share of the division’s resources are devoted to overhead and “consultant experts.”

We recommend that the Legislature dramatically reduce DJJ costs — which is currently about \$240,000 per ward — by eliminating excess overhead. And if the Legislature does move forward with its previously discussed efforts to consolidate, CCPOA looks forward to sharing its expertise and insights in assisting the Legislature.

While the wards committed to the DJJ are extremely challenging and in need of complex and costly programs, the monies devoted to the DJJ are better spent on staff and programs that actually serve wards rather than on wasteful overhead.

CONCLUSION

As the California residents, taxpayers and personnel who serve on the front lines of the state’s correctional system, the members of CCPOA have a direct and vested interest in the future of corrections and public safety policy.

We call on the new Administration, new and returning members of the Legislature, and all key stakeholders to participate in a clear and open working group process, and to devote the substantial time that will be necessary to develop meaningful, feasible and effective solutions in the coming years.

In the coming weeks, CCPOA will propose legislation to begin moving forward on rehabilitating the CDCR. The changes necessary will take open, honest discussion and commitment from all stakeholders. It took decades for the corrections system to get to this point, and we're committed to what will undoubtedly be a lengthy process of recovery and renewal.

Thank you for your interest in our views. Questions pertaining to this document can be directed to Chuck Alexander at 916-372-6060.



CALIFORNIA CORRECTIONAL PEACE OFFICERS ASSOCIATION
755 Riverpoint Drive • West Sacramento, CA 95605