



SPECIAL REPORT

**CALIFORNIA DEPARTMENT OF CORRECTIONS AND
REHABILITATION'S IMPLEMENTATION OF THE
NON-REVOCABLE PAROLE PROGRAM**

**OFFICE OF THE
INSPECTOR GENERAL**

STATE OF CALIFORNIA
MAY 2011



May 25, 2011

Matthew L. Cate, Secretary
California Department of Corrections and Rehabilitation
1515 S Street, Room 502 South
Sacramento, CA 95814

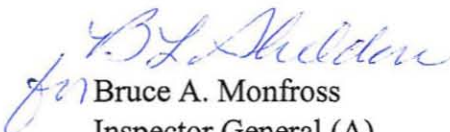
Dear Mr. Cate:

Enclosed is the Office of the Inspector General's special report of the California Department of Corrections and Rehabilitation's (CDCR) implementation of the non-revocable parole program. We conducted this review under the authority of California Penal Code section 6126, which assigns the Office of the Inspector General responsibility for oversight of CDCR.

The special report concludes the following with respect to CDCR's implementation of the non-revocable parole program: (1) the automated California Risk Assessment (CSRA) instrument inaccurately assesses a number of offenders; (2) the automated CSRA instrument uses incomplete conviction data; (3) the automated CSRA instrument inconsistently applies juvenile data when calculating risk assessment scores; and (4) CDCR's initial policy regarding juveniles convicted of serious or violent felonies was incorrect.

We would like to thank you and your staff for the cooperation extended my staff in completing this special report. If you have any questions concerning this report, please contact me at (916) 830-3600.

Sincerely,


for Bruce A. Monfross
Inspector General (A)

Enclosure

Contents

Executive Summary	1
Introduction	5
Parameters of Review	10
Results of Special Report	11
Finding 1	11
The Automated Assessment Tool Inaccurately Assesses a Number of Offenders	
Finding 2	17
The Automated Assessment Tool Uses Incomplete Conviction Data	
Finding 3	21
The Automated Assessment Tool Inconsistently Applies Juvenile Data when Calculating Risk Assessment Scores	
Finding 4	23
CDCR’s Initial Policy Regarding Juveniles Convicted of Serious or Violent Felonies was Incorrect	
Recommendations	24
California Department of Corrections and Rehabilitation’s Response to the Special Report	25
The Office of the Inspector General’s Comments on the Response from the California Department of Corrections and Rehabilitation	28

Executive Summary

On October 11, 2009, a major change occurred in California statutory parole requirements with the passage of Senate Bill X3 18. This landmark legislation was intended to help alleviate the endemic overcrowding within California prisons – and the numerous constitutional violations and budgetary demands occasioned by such overcrowding – by providing a system whereby non-violent parole offenders would not be returned to prison unless they were convicted of another felony offense.

On April 4, 2011, additional significant legislation was enacted with the passage of Assembly Bill 109. When funded, this legislation will ultimately shift non-violent parolees from oversight by the California Department of Corrections and Rehabilitation (CDCR) to oversight by local governmental agencies. Consequently, the non-revocable parole program established by Senate Bill X3 18 can now be viewed as an interim measure that will be in place only until such time as local governmental agencies assume supervision over non-violent parolees.

Effective January 25, 2010, CDCR began placing eligible convicted felons on non-revocable parole, commonly referred to as NRP, in compliance with Penal Code section 3000.03. Before the law’s enactment, when these types of inmates were released from California prisons, they were typically subject to parole terms of one to three years and were under some level of supervision by CDCR. Since the enactment of Penal Code section 3000.03, however, paroled inmates who meet certain criteria must be placed on non-revocable parole. Parolees on non-revocable parole are not supervised. Moreover, unlike supervised parolees, they are not subject to arrest or re-incarceration in prison for parole violations.

The California Department of Corrections and Rehabilitation has very little authority over offenders once they are placed on non-revocable parole. In the interest of public safety, then, and to comport with the legislative intent that only qualified, non-violent offenders be placed on non-revocable parole, the screening process used to determine an inmate’s eligibility for non-revocable parole must be accurate. The screening process for non-revocable parole excludes the following inmates and parolees: registered sex offenders; offenders with current or prior serious, violent or sexually violent felony convictions; offenders who are known prison gang members; and other offenders determined to have a high risk to reoffend. To determine an inmate’s risk of reoffending, CDCR has developed a validated risk assessment

Findings in Brief

The Office of the Inspector General finds that:

- The Automated CSRA Instrument Inaccurately Assesses a Number of Offenders
- The Automated CSRA Instrument Uses Incomplete Conviction Data
- The Automated CSRA Instrument Inconsistently Applies Juvenile Data when Calculating Risk Assessment Scores
- CDCR’s Initial Policy Regarding Juveniles Convicted of Serious or Violent Felonies was Incorrect

instrument referred to as the California Static Risk Assessment (CSRA).¹ However, flaws in the CSRA's implementation have resulted in flawed assessments. The CSRA has understated some offenders' risk of reoffending; some of these high-risk offenders have been placed on non-revocable parole.

The Office of the Inspector General (OIG) estimates that approximately 23.5 percent of the offenders assessed for possible placement on non-revocable parole between January and July 2010 were scored inaccurately, and that approximately 15 percent of the more than 10,000 offenders placed on non-revocable parole were inappropriately placed on non-revocable parole during that same time period.² Over 450 of these ineligible offenders carry a high risk for violence, and some of these ineligible offenders may have already been discharged from non-revocable parole after completing 12 months of parole, thereby precluding CDCR from taking action to correct the parolee's inappropriate placement on non-revocable parole. It should be noted, however, that CDCR reports it has improved scoring tables used in the automated scoring process and that these corrections would have reduced the error rate from approximately 23.5 percent to approximately eight percent if these corrections had been in place before July 2010.

It appears that CDCR's error rate in assessing offenders for non-revocable parole results from several factors. First, the computer-generated automated scoring system does not take into account information from CDCR's Offender Based Information System (OBIS) database, which contains information related to prior supervision violations. Although CDCR's manual scoring team uses OBIS information for scoring purposes, and although CDCR has recognized the need for the automated scoring system to eventually use data from the OBIS system, the automated scoring system currently does not do so. Second, as discussed below, the automated scoring system, unlike the manual scoring team, is not designed to take into account certain data concerning juvenile offenses. Further, some offenders whose CSRA score should have been completed manually because multiple sources had reported criminal history information on the offender were for unknown reasons scored instead by the automated scoring system.

During our review, we also discovered that the primary database that CDCR relies upon when calculating inmate scores for possible placement on non-revocable parole provides incomplete data. This database, the Automated Criminal History System (ACHS), is maintained by the California Department of Justice and is the most complete relevant data source currently available. Almost half of the 16.4 million arrests reported in the Department of Justice's database between 2000 and 2009, however, lack documented outcomes, such as convictions or other dispositions. Incomplete conviction history data reduces the assessment tool's accuracy in predicting an offender's likelihood of reoffending. In addition, untimely entered conviction data reduces the CSRA tool's accuracy in assessing the offender's eligibility for placement on non-

1 Although it is anticipated that the enactment of Assembly Bill 109 will eventually result in the non-revocable parole program being phased out as local governmental agencies assume oversight responsibility for non-violent offenders, CSRA scores will still be used for Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) and in the Parole Violation Decision Making Instrument (PVDMI) purposes. Consequently, it will remain important for CSRA scoring to be as accurate as possible.

2 These figures reflect only those offenders with computer-generated automated scores. There were approximately 2,300 offenders also approved for non-revocable parole based on a manually calculated CSRA score.

revocable parole.³ Despite these significant shortcomings in the ACHS database, CDCR had no choice but to use that database, however inadequate, as the best available source of data.

We also determined that the CSRA inconsistently uses data concerning juvenile offenses. Because CSRA developers were concerned about using incomplete or unreliable data for juvenile offenders, they intended to exclude juvenile offender criminal history data in their construction of the CSRA. However, the automated scoring process was implemented in such a way as to include some – but not all – juvenile offenses in the risk assessment scoring process.

In addition to inconsistently including juvenile convictions in the automated scoring process, CDCR initially incorrectly issued a policy that ignored the juvenile records of adult offenders who, when they were minors, were tried as adults and convicted of serious and violent felonies. The unintended result of the incorrect policy is that some adult offenders with histories of serious and violent felonies could be placed on non-revocable parole. Although CDCR has revised the policy, our interviews with field staff indicate that at least some CDCR staff members continue to follow the incorrect policy.

³ Individual agencies, not the Department of Justice, are ultimately responsible for entering data into the ACHS, and the agencies are not uniform in their manner of entering data into the system, or in their timeframe for entering that data. As a result, it is possible that an offender's conviction data may not be entered into the system until years after the fact, and after the offender was scored for non-revocable parole purposes. Such untimely entered conviction data, which might render the offender ineligible for non-revocable parole, would not be considered for scoring purposes.

Recommendations

In this special report, the Office of the Inspector General identifies deficiencies in CDCR's implementation of non-revocable parole. To address the issues identified in this special report, we recommend that CDCR take the following actions:

- Develop a quality control program for its CSRA scoring to ensure consistency, accuracy and timely reviews.
- Collaborate with the California Department of Justice and the California Judicial Council to obtain more complete criminal history information.
- Review the CSRA implementation to determine whether juvenile offender criminal history is considered appropriately.
- Ensure that CDCR staff is trained according to the revised policy regarding the inclusion of juvenile data for serious and violent felonies.
- Review CSRA scores of offenders already placed on non-revocable parole to verify that they were accurately assessed.
- Retain criminal history records used to determine eligibility for non-revocable parole.

Introduction

Historically, the California Department of Corrections and Rehabilitation (CDCR) has supervised parolees who are subject to particular rules, known as conditions of parole, upon their release from prison. Conditions of parole are written requirements that parolees must follow, such as meeting with their parole agents on a regular basis, contacting their parole agents regarding changes in employment or residence, obeying all laws, and not possessing weapons. Although no longer incarcerated, parolees remain under CDCR's supervision until they have completed their term of parole. Parolees who violate their parole conditions can have their parole status revoked and be returned to prison even though they have not been convicted of any new criminal charges. On October 11, 2009, a major change in parolee statutory requirements occurred with the passage of Senate Bill X3 18, which resulted in the enactment of California Penal Code section 3000.03. The new law mandates CDCR to place parolees on non-revocable parole, effective January 25, 2010.

Under this Penal Code section, offenders who are already entitled to parole and who meet the criteria for non-revocable parole are released into the community. They are not subject to parole holds, supervision by a parole agent, or any reporting of parole violations to the Board of Parole Hearings. For the duration of their parole period, parolees on non-revocable parole remain subject to search by any law enforcement officer. However, they cannot be returned to prison for parole violations. Like any other citizen, they must be convicted of a felony criminal offense and receive a new sentence in order to be sent back to prison.

According to CDCR, implementation of the non-revocable parole program reduces prison overcrowding and focuses parole supervision on paroled sex offenders and high-risk parolees with serious and violent commitment histories. Moreover, CDCR asserts that the new program will give parole staff additional time to work more closely with local law enforcement agencies, an improvement which should enhance overall public safety. As such, it is clear that non-revocable parole is designed to serve a compelling public purpose.⁴

During CDCR's implementation of non-revocable parole, however, problems arose. In April 2010, CDCR reported that it had incorrectly placed over 600 offenders on non-revocable parole. Public officials expressed concern as they became aware of offenders on non-revocable parole who had either previously committed significant crimes or committed additional crimes after their placement on non-revocable parole. Requests from the Legislature

(Offenders on non-revocable parole) will not be returned to prison for parole violations. They must be found guilty of a crime and receive a new sentence to return to prison.

⁴ It is also important to note that Assembly Bill 109 was enacted on April 4, 2011. When funded, this legislation will, among other things, ultimately remove non-violent parolees from oversight by CDCR to oversight by local governmental agencies. Consequently, the non-revocable parole program established by Senate Bill X3 18 can now be viewed as an interim measure that will be in place only until such time as local governmental agencies assume supervision over non-violent offenders.

to investigate the matter, as well as our concern for public safety, prompted the Office of the Inspector General to inquire about CDCR’s application of the eligibility criteria for non-revocable parole and inquire specifically about the development of a validated assessment instrument as required by law. We not only reviewed the assessment instrument development process but also tested the accuracy of CDCR’s automated assessment system.

Eligibility criteria for non-revocable parole

In order to qualify for non-revocable parole, an offender must meet the eligibility criteria as described in Figure 1. To determine an offender’s likelihood to reoffend, CDCR developed, with assistance from the Center for Evidence-Based Corrections at the University of California, Irvine, as well as from the Washington State Institute for Public Policy, a risk assessment instrument that is patterned after a risk assessment instrument developed for Washington. The Washington model was particularly appealing to CDCR because it uses static risk indicators, such as gender, date of birth, and criminal history.

To replicate the Washington predictive instrument, CDCR applied Washington’s methods to data related to California offenders. Because the California Department of Justice advised CDCR that the criminal history records for California juveniles were unreliable and only sporadically recorded, CDCR excluded these factors from consideration as it developed its own predictive instrument. Consequently, CDCR performs its assessment of inmates by using 22

Figure 1: Eligibility criteria for non-revocable parole.

Is the offender eligible for non-revocable parole (NRP)?		Ineligible for NRP Place offender on supervised parole.
Required to register as a sex offender?	NO ↓	YES ↑
Committed to prison for or have a prior conviction for a serious or violent felony?	NO ↓	YES ↑
Committed to prison for or have a prior conviction for a sexually violent offense?	NO ↓	YES ↑
Guilty of a serious disciplinary offense during the current prison term?	NO ↓	YES ↑
A validated prison gang member or associate?	NO ↓	YES ↑
Refused to sign any written notification of parole requirements or conditions?	NO ↓	YES ↑
Determined to pose a high risk to reoffend (based on CRSA score)?	NO ↓	YES ↑
Eligible for NRP Place offender on unsupervised parole.		

factors, or static indicators, rather than using the 26 factors employed in the Washington model, which is more fully discussed later in this report.

The resulting assessment instrument, called the California Static Risk Assessment (CSRA), uses the 22 static indicators to measure the risk or probability that an offender will reoffend within three years of his or her release from prison. The CSRA was developed to measure the risk of reoffending in two ways: it measures the likelihood of a felony arrest within three years of the inmate's release into the community and the likelihood of a felony conviction within three years of the inmate's release into the community.

These static indicators are items of data taken from the offender's demographic descriptors, commitments to prison, adult felony and misdemeanor records, and sentence and supervision violations. Based on numerical values assigned to these static indicators, a weighted scoring algorithm calculates the offender's risk of reoffending and assigns the offender to the corresponding risk group. The risk of reoffending is assigned a score, as follows:

- 1 – Low risk to reoffend
- 2 – Moderate risk to reoffend
- 3 – High risk to reoffend, and in particular, to commit drug offenses
- 4 – High risk to reoffend, and in particular, to commit property offenses
- 5 – High risk to reoffend, and in particular, to commit violent offenses

Indicating a low risk to reoffend, a score of “1” predicts that 48 percent of offenders in this group will be *arrested* for a felony, or that 18 percent of offenders in this group will be *convicted* of a felony within three years of being released into the community.

Indicating a moderate risk to reoffend, a score of “2” predicts that 69 percent of offenders in this group will be *arrested* for a felony, or that 31 percent of offenders in this group will be *convicted* of a felony within three years of being released into the community. Arrest rates are higher than conviction rates because not all offenders who are arrested are convicted, for various reasons.

Only offenders assessed at low and moderate risk levels are eligible for non-revocable parole.

Offenders assessed at high risk levels—scores “3” (High Drug), “4” (High Property) and “5” (High Violent)—are not eligible for non-revocable parole because they are considered highly likely to reoffend.

The development of the CSRA instrument included a validation process to ensure that it would produce the same results when applied to offenders beyond the group of offenders on which it was tested. Based on the results of this validation process, researchers determined the CSRA's predictive accuracy to be “moderately predictive” for future arrest and “weak” for future conviction, and concluded the CSRA was a valid risk assessment instrument.

To implement the non-revocable parole program, in January 2010 CDCR formed two teams of experienced parole agents to determine the non-revocable parole eligibility for approximately 24,000 pre-screened parolees among the more than 110,000 supervised parolees. In addition, the two parole teams were tasked with screening inmates scheduled for parole up to April 1, 2010, when eligibility screening would be incorporated into CDCR's release program.

The two parole teams' screening process included reviewing inmate central files, CSRA scores, current criminal identification and information reports, Federal Bureau of Investigation Record of Arrest and Prosecution sheets (for multi-state records), Penal Code section 290 registration requirements or eligible sexually violent offenses, prison disciplinary histories, and prison gang identification forms that document possible validated prison gang membership or association. Based on the results of this review, eligible inmates and parolees were placed on non-revocable parole.

After installing upgrades to the CSRA computer program on March 29, 2010, CDCR reported that over 600 offenders were actually at a higher risk to reoffend than originally projected. According to CDCR, several factors contributed to the updated assessment tool's increased accuracy at calculating scores, including the following:

- The code-mapping table was updated to list additional charges that can be extracted from criminal histories.
- The algorithm that extracts convictions from criminal histories was revised to also extract any conviction data contained in the comments sections of criminal histories.
- The California Department of Justice started recording additional data on crimes that can be classified as either misdemeanors or felonies.

However, CDCR did not uniformly implement the instrument upgrade at the several locations where it maintained CSRA scores. Some non-revocable parole assessments, therefore, continued to be based on old scores rather than on scores calculated after the March 29 update. This problem has since been remedied by eliminating the locations that contained outdated information.

Of the 600 offenders identified as erroneously classified after the March 29 update, approximately 400 had been released to non-revocable parole and were subsequently reclassified as requiring supervised parole. The remaining offenders were scheduled for non-revocable parole but had their status changed to supervised parole prior to their release.

In May 2010, CDCR determined that it had erroneously placed an additional 77 offenders on non-revocable parole and sought to return them to supervised parole. This error was attributed to a modification in the CSRA instrument on May 12, 2010, as well as to a failure to promptly update scores when manual calculations were necessary. These errors have been remedied by CDCR.

The initial screening teams of experienced parole staff have all returned to their normal duties. Screening for non-revocable parole is now conducted by each prison as part of the process of

placing offenders on parole. A small parole staff is available to handle non-revocable parole screening for offenders placed directly on parole from the courts. Using the CSRA instrument as the mandated risk assessment tool, CDCR had 14,859 offenders on non-revocable parole as of December 9, 2010.

A further concern with the implementation of non-revocable parole arose when a law enforcement official from a major metropolitan area and a member of the California Legislature expressed concern about CDCR's inclusion of offenders whose prior crimes appeared to be serious or violent felonies. However, certain crimes that may seem serious or violent are not considered so under state law. Eligibility for non-revocable parole includes the requirement that offenders cannot have been convicted of a serious or violent felony. Serious or violent felonies are specified in the non-revocable parole statute as those defined in Penal Code sections 1192.7, 1192.8 and 667.5. If offenders have not committed any offenses listed under these three sections, and if they meet the other eligibility requirements listed in the non-revocable parole statute, they are eligible for non-revocable parole.

“If offenders have not been convicted of any offenses listed under these three sections, and if they meet the other eligibility requirements listed in the non-revocable parole statute, they are eligible for non-revocable parole.”

Parameters of Review

To develop the information contained in this special report, the Office of the Inspector General completed the following activities:

- Interviewed various CDCR staff members and reviewed reports from CDCR's Office of Research, Division of Adult Parole Operations, Division of Juvenile Justice and Office of Legal Policy.
- Interviewed staff and reviewed reports from the Center for Evidence-Based Corrections, University of California, Irvine.
- Contracted with a statistics expert from California State University, Sacramento, to review CDCR's development of the CSRA instrument and validate the OIG sampling methods.
- Interviewed staff and reviewed data from the California Department of Justice.
- Conducted an assessment of the automated and manual CSRA processes.
- Consulted with an expert affiliated with the Washington study.

Results of Special Report

Finding 1

The Automated Assessment Tool Inaccurately Assesses a Number of Offenders

Each week, after receiving updated electronic criminal history data from the California Department of Justice, CDCR calculates the California Static Risk Assessment (CSRA) scores for all offenders. Since there are approximately 165,000 offenders in CDCR custody and approximately 108,000 parolees, CDCR has over 273,000 risk assessment scores to evaluate weekly, with about four percent of offenders flagged for manual scoring. These CSRA scores, which project an offender’s likelihood of reoffending within three years after being released from prison, are not only used to place offenders on non-revocable parole but are also a component in CDCR’s decisions about offenders’ programs, placements and supervised parole.

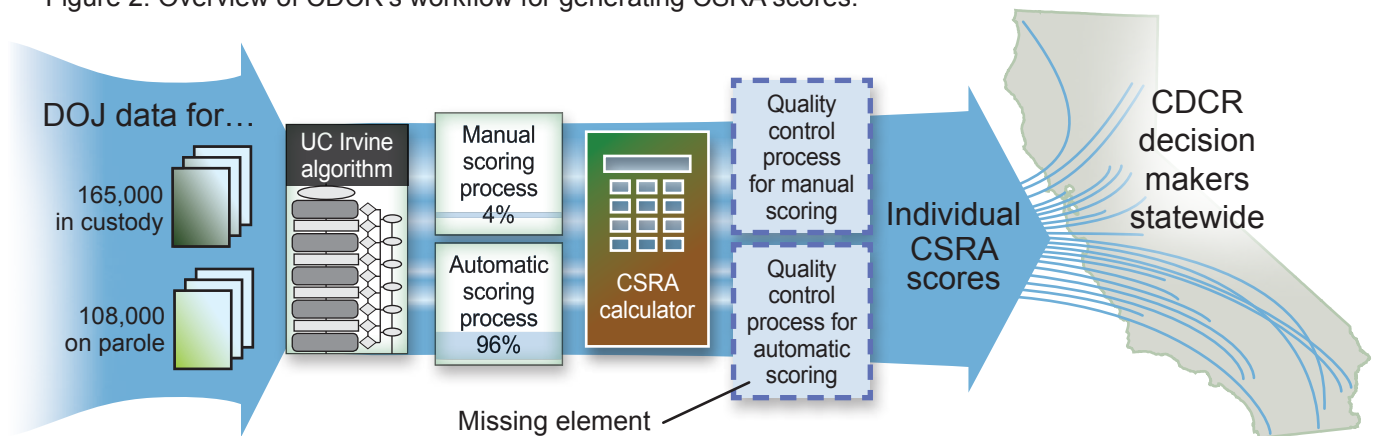
CSRA scores of 1 to 5 measure the risk or probability of reoffending as follows:

- 1 – Low risk to reoffend
- 2 – Moderate risk to reoffend
- 3 – High risk to reoffend, and in particular, to commit drug offenses
- 4 – High risk to reoffend, and in particular, to commit property offenses
- 5 – High risk to reoffend, and in particular, to commit violent offenses

As described in Figure 2, CDCR uses an algorithm developed by the University of California, Irvine, to produce a risk assessment score. The algorithm searches the electronic criminal history data of each offender for convictions, which are identified as “score-able events.” This data is then fed into a CSRA calculator. The resulting score for each offender is made available to staff through a CSRA link on CDCR’s computer network.

About 96 percent of offenders’ risk assessment scores can be calculated through the automated system. Data from the remaining four percent (approximately 10,000 offenders) must be manually reviewed for reasons that include evaluating criminal histories that come from

Figure 2: Overview of CDCR’s workflow for generating CSRA scores.



sources outside California, such as other states or the Federal Bureau of Investigation. The task of manually reviewing data is assigned to a specially trained and experienced team, which is separate from the team performing the automated scoring. Among its other duties, CDCR's manual scoring unit is tasked with performing quality control oversight of automated scoring.

The automated CSRA scoring process produces a number of inaccurate risk assessments

According to CDCR, it operates an ongoing program that verifies and authenticates the automated CSRA calculations by comparing the automated scoring with manual scoring. However, there is no formal policy specifying the frequency of the comparisons, so comparisons are performed at the discretion of the manager. Even so, CDCR was unable to produce any documentation that this process had ever been done. Noting that the automated CSRA system was a work in progress, CDCR explained that it continually receives questions and comments from the manual scoring team, and that many of these inquiries have resulted in instrument changes to the automated CSRA algorithm. As described in detail in this section, we note that the manual CSRA scoring team has access to more information than the automated CSRA process.

To evaluate the effectiveness and error rate of the CSRA scoring process, we conducted a test of the automated CSRA scores. We were provided with access to the manual CSRA scoring input and assessment calculator, and our staff was trained by CDCR's manual CSRA scoring unit. We compiled a list of the 10,134 auto-scored offenders on non-revocable parole in July 2010. From this list of auto-scored offenders, we selected a statistically valid random sample of 200 offenders and retrieved their criminal histories from the Department of Justice. Our sample, verified by a statistics expert at California State University, Sacramento, permits us to make statistically valid projections regarding the statewide population of offenders on non-revocable parole. The confidence level for our samples is 95 percent with a margin of error of plus or minus 5.83 percent. We then manually calculated the CSRA score of each offender's file in our sample, using CDCR's manual scoring process.

We determined that CDCR's automated scoring system produced inaccurate risk assessment scores for 47 of the 200 offenders, or 23.5 percent of our sample. To confirm our assessments, we gave CDCR's manual scoring team, which is tasked with quality control for automated CSRA scores, approximately one-third of the files from our sample—including all 47 erroneously scored files—and asked them to score the files independently. Our manual scoring team and CDCR's manual scoring team agreed on 67 of the 68 files manually reviewed by each team. As noted in Figure 3 and corroborated by CDCR's manual scoring team, 15.5 percent of the offenders sampled are ineligible for non-revocable parole because they are highly likely to reoffend. An additional eight percent of the offenders' files had a score error, but the error did not affect the offenders' non-revocable parole eligibility.⁵

When we made our sample selection in July 2010, there were 10,134 auto-scored offenders

⁵ There were an additional seven offenders in the auto-scored sample that we manually scored as "2" (moderate risk) and were therefore appropriately placed on non-revocable parole by CDCR. However, these seven offenders were discharged from non-revocable parole before our review, and CDCR was unable to produce their original CSRA scores. Therefore, these seven offenders were excluded from the score error calculation because we did not have an automated CSRA score with which to compare.

Figure 3: Projected error rates based on OIG auto-scored sample of 200 files.

	OIG random sample of NRP files auto-scored July 2010	Total NRP files auto-scored July 2010
	200	10,134
Number with score errors	47 (23.5%)	2,381 [†]
Should not be NRP	31 (15.5%)	1,571 [†]
CSRA Score High Drug (3)	13 (6.5%)	659
CSRA Score: High Property (4)	9 (4.5%)	456
CSRA Score: High Violent (5)	9 (4.5%)	456

[†] These are our best estimates of the errantly-scored parolees on non-revocable parole and those who should not be on non-revocable parole, based on the results of our evaluation of a statistically valid sample. Applying the margin of error of 5.83 percent and 4.98 percent accordingly, the number of errantly-scored parolees could be as high as 2,972 or as low as 1,791, and the number of parolees inappropriately placed on non-revocable parole could be as high as 2,075 or as low as 1,066.

on non-revocable parole. Projecting the error rates from our statistically valid sample to the total population, we found that there were an estimated 1,571 auto-scored offenders on non-revocable parole in July 2010 who were not eligible for non-revocable parole because their actual risk assessment scores identify them as highly likely to reoffend.

The cause of the error rate is central to the CSRA tool implementation. Unlike errors that may occur during the manual scoring process, which can be attributed to staff errors in interpreting or entering data into the CSRA, errors that occur during the automated scoring process should be traceable to a specific automated procedure or algorithm in the CSRA auto scoring process. The information we developed does not indicate that errors in the automated scoring process are uncorrectable. In fact, of the 47 scoring errors found in the OIG sample of 200, CDCR has acknowledged that 31 of the errors were directly related to the CSRA tool’s mapping table. According to CDCR staff, CDCR updated the tool’s mapping table to resolve this problem on July 1, 2010. Reportedly, this update would have reduced the error rate in our sample from 23.5 percent to approximately eight percent.⁶

⁶ CDCR did not reassess the offenders it had previously placed on non-revocable parole—as it did after improvements it made in March and May 2010. As discussed in the Introduction of this report, CDCR sought to recall 400 and 77 offenders, respectively, from non-revocable parole after it assessed the impact of its system changes on previously released offenders. Based on the results of our statistically valid sample, we estimate that had CDCR reassessed the offenders it had released to non-revocable parole prior to its July 2010 system change, CDCR would have discovered that it had inappropriately released approximately 811 additional offenders to non-revocable parole.

We are not in agreement with CDCR on the cause of the remaining 16 errors; the Office of the Inspector General attributes the remaining 16 errors to the following causes:

- Eleven errors relate to supervision violations recorded in CDCR's Offender Based Information System (OBIS) database, to which the CSRA automated scoring process does not have access.
- Two errors relate to scoring events found in multi-source out-of-state criminal histories.
- Two errors relate to juvenile convictions.
- One error relates to counting a CDCR custody event as a felony when it appears to actually be a supervision violation.

Identification of the causes of these 47 errors further reinforces the need for CDCR to develop an ongoing quality control process for timely assurance that the CSRA tool is working as intended.

Regarding the 11 errors relating to supervision violations, according to CDCR staff, the automated CSRA tool was designed to only consider offender information contained in the California Department of Justice's Automated Criminal History System (ACHS). This design excludes from consideration important risk prediction information contained in other systems, including CDCR's own systems. For example, CDCR maintains information in two of its computer systems on probation and parole violations—which the CSRA tool refers to as supervision violations. Supervision violations are one of the 22 factors the CSRA considers to determine offenders' risk of reoffending. In fact, after age and gender, it is the most heavily weighted remaining factor in the CSRA's felony scale. Acknowledging this deficit in its evaluation of the CSRA completed in November 2009, CDCR described a next step in the development of the CSRA:

Investigating the use of parole violations that do not appear on automated "rap sheets," but are recorded on CDCR automated systems. This would include violations that do not result in a criminal arrest or conviction, but may be important markers for risk prediction.

According to CDCR, it has not yet completed this step, despite the fact that the manual scoring team has access to and considers such information when calculating an offender's score. Our review indicates that the inclusion of this important risk prediction information would significantly reduce the error rate we discovered in the automated scoring process.

Conviction data is dynamic and subject to delays in reporting

During our review, we became aware of the dynamic nature of criminal history reporting in California "rap sheets" and multi-source criminal history data from other states. An offender's rap sheet is a report of the information contained in the ACHS. The Department of Justice depends on the local jurisdictions to report convictions or probation violations for all offenders. Local jurisdictions do not always report accurately, completely, or promptly. It is therefore possible for an offender to have one or more events in his or her criminal history that have not

yet been reported to the Department of Justice in the ACHS. This means CDCR would not have access to the unreported conviction or probation violation when calculating an offender's CSRA score. It is therefore possible for an offender to be deemed eligible for non-revocable parole, but to soon thereafter have previously unrecorded convictions and supervision violations reported to the Department of Justice, rendering the offender ineligible for placement on non-revocable parole.

By design, CDCR does not re-check the CSRA scores of offenders after placement on non-revocable parole. The CDCR Office of Research explained that once offenders have been placed on non-revocable parole, their CSRA scores are locked and removed from the weekly automated CSRA calculations done on all other inmates and supervised parolees. Again, if an offender's eligibility changes after release to non-revocable parole, CDCR has no mechanism to be alerted or to recalculate the CSRA score.

During our preparation for this special report, we reviewed inmate central files and parolee field files from our sample. We learned that CDCR does not always retain the criminal history record used during their review to determine non-revocable parole eligibility. We consider these criminal history records a valuable resource if eligibility for non-revocable parole is ever questioned; accordingly, we advise that these criminal records be retained.

Some offenders erroneously placed on non-revocable parole may have already been discharged from parole

From January 25, 2010, through October 27, 2010, over 8,000 offenders were discharged from non-revocable parole. Penal Code section 3001 requires that certain paroled offenders who meet the conditions of their parole supervision be discharged from parole within 30 days following their twelfth month on parole. Since offenders on non-revocable parole have no conditions of supervision to violate, this statute guarantees that offenders placed on non-revocable parole will be discharged from parole within 13 months of their original parole date unless they are sentenced to prison for committing a new felony offense.

Offenders on supervised parole before January 25, 2010, and then approved for non-revocable parole became eligible for discharge one year from their original parole date, due to the provisions of Penal Code section 3001. This means it is possible that some offenders may have spent just a few weeks on non-revocable parole before they were eligible for discharge and released from all parole conditions.

Based on the error rate found in our statistical review, we found it likely that a portion of these over 8,000 offenders were ineligible for non-revocable parole and should have been placed on supervised parole. In October 2010, CDCR reported that almost half of all supervised parolees—47 percent—are returned to prison for parole violations. It is therefore probable that some of the discharged parolees inappropriately placed on non-revocable parole would have violated their parole conditions and returned to prison, had they been on supervised parole.

CDCR's use of the CSRA instrument for other purposes could also affect the validity of inmate placement in other programs

Because CDCR uses an offender's CSRA score for purposes beyond determining eligibility for non-revocable parole, the deficiencies identified in the CSRA automated scoring process could have unforeseen negative impacts in other CDCR operations. Two prominent applications of CSRA scores occur in the Correctional Offender Management Profiling for Alternative Sanctions (COMPAS) risk and needs assessment tool and in the Parole Violation Decision Making Instrument (PVDMI). Among other purposes, CDCR uses COMPAS to decide which programs to provide to incarcerated offenders. The CSRA instrument has been integrated into the COMPAS risk and needs assessment tool. The PVDMI assesses a supervised parolee's risk for recidivism using the CSRA score in conjunction with the severity of the parole violation (based on a severity index) to determine an appropriate and proportionate response to the parole violation, such as returning the offender to prison or imposing alternative sanctions. The extent of the negative impact of the CSRA automated scoring deficiencies on the COMPAS and PVDMI outcomes is as yet unknown.

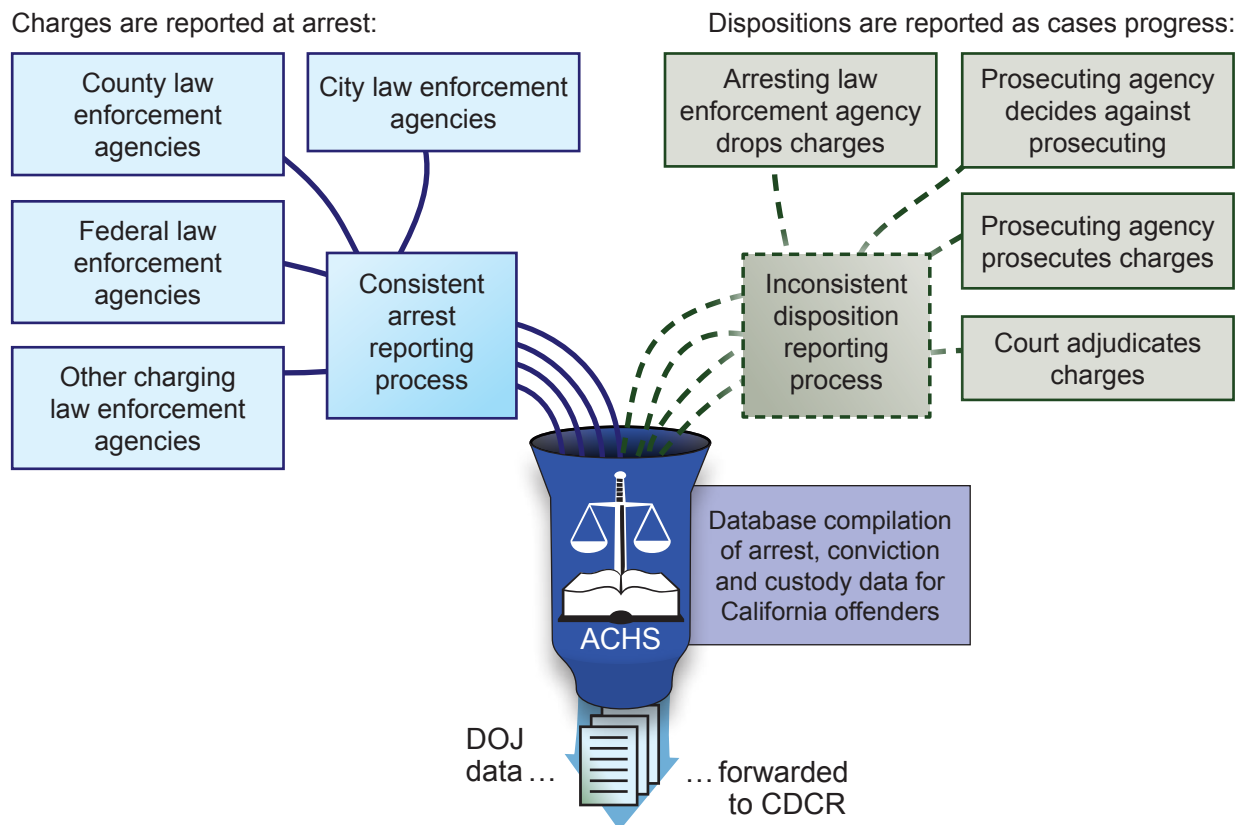
Finding 2

The Automated Assessment Tool Uses Incomplete Conviction Data

The automated CSRA instrument uses an offender's felony and misdemeanor conviction record, among other factors, to determine the offender's risk to reoffend. That risk is described as a score, which CDCR uses to determine whether the offender is eligible to be considered for non-revocable parole. The risk assessment score is also a factor in determining the offender's placement on supervised parole and in various CDCR programs.

The conviction data that forms the basis of the risk assessment score comes from the California Department of Justice's Automated Criminal History System (ACHS) database. This database is a compilation of arrest, conviction, and custody data for California offenders and is the only source of such data currently available to CDCR to complete a risk assessment. Arrest information is entered into the ACHS database by over 600 law enforcement agencies statewide and by courts in the 58 counties. Conviction and dismissal information is entered into the ACHS database by the respective California courts that adjudicated an offender's charges. Each week, CDCR sends the Department of Justice a list of all offenders incarcerated in prison and on parole. The Department of Justice then transfers the corresponding ACHS arrest and conviction data to CDCR, as shown in Figure 4.

Figure 4: Overview of agencies reporting to DOJ's ACHS.



Conviction data is incomplete

Arrest information is normally entered into the ACHS database when an offender is fingerprinted using the Department of Justice's LiveScan system. Because fingerprints are used to identify arrested offenders, the Department of Justice is confident that arrest information in ACHS is relatively complete, meaning that the identity of everyone who is arrested is likely entered into the system. The accuracy of the data, however, such as the specific charges in an arrest, cannot be confirmed. The Department of Justice relies on local agencies, which retain the actual arrest documents, to enter the data into the database; accordingly, the Department of Justice cannot confirm the data's accuracy.

The Department of Justice is less confident in the ACHS data's accuracy and completeness regarding arrest dispositions. An arrest is generally disposed of in one of three ways: (1) the arresting law enforcement agency decides to drop the charges; (2) the arresting law enforcement agency forwards charges to the prosecuting agency, which decides against prosecuting the charges; or (3) the prosecuting agency prosecutes the charges and the court adjudicates the charges. Unlike arrest information, however, disposition information is not collected by LiveScan. Instead, the Department of Justice relies on each of the criminal justice agencies included in each of the above scenarios to report the disposition of arrests. Unfortunately, this reporting oftentimes does not occur.

According to the Department of Justice, California law enforcement agencies reported more than 16.4 million arrests between 2000 and 2009. However, criminal justice agencies reported dispositions for only 8.7 million of the arrests—and failed to report dispositions on 7.7 million arrests (47 percent). Included in these 16.4 million arrests are 7.3 million felony arrests, for which 3.3 million (45 percent) have no reported disposition. The Department of Justice ACHS data, therefore, does not contain the outcome of almost half of all arrests in California. The implications for non-revocable parole are plain: more recorded convictions would result in increased accuracy of risk assessment scores and fewer high-risk offenders erroneously placed on non-revocable parole.

The Department of Justice ACHS data ... does not contain the resulting outcome of almost half of all arrests in California.

In addition to having incomplete records of the arrest dispositions, the Department of Justice is not always able to match the disposition records it has with the corresponding arrest records. The Department of Justice advised us that it currently has approximately 1.9 million dispositions for which it cannot identify the corresponding offender arrest records. As a result, these dispositions are not included in the ACHS database. This omission further weakens the incomplete ACHS conviction data reported to CDCR for its use in the automated CSRA instrument.

Current alternatives are limited

Although the ACHS data in the automated CSRA instrument is incomplete, CDCR has no viable alternative sources to provide more complete information. Currently, the Department of Justice's ACHS database is the only central repository of California conviction information. Opportunities may be on the horizon, however, for CDCR to obtain more complete conviction information.

The California Judicial Council, which functions as the administrative arm of the California judiciary, has begun an effort to establish a statewide information system that, among other activities, would capture information on cases adjudicated by all 58 of the California superior courts. This new information system currently operates in only a few California counties. The Judicial Council reports that in the future, all of its trial courts will be brought into the new information system. However, the council added that due to budgetary constraints, further implementation of the information system is currently on hold.

The Judicial Council's new information system may present an opportunity for CDCR to obtain more complete conviction information for its automated CSRA instrument. This information would likely be more complete because it would come directly from the adjudicating court rather than through an intermediary (DOJ), as is the case with the ACHS database.

More complete conviction information would improve CDCR's ability to predict recidivism

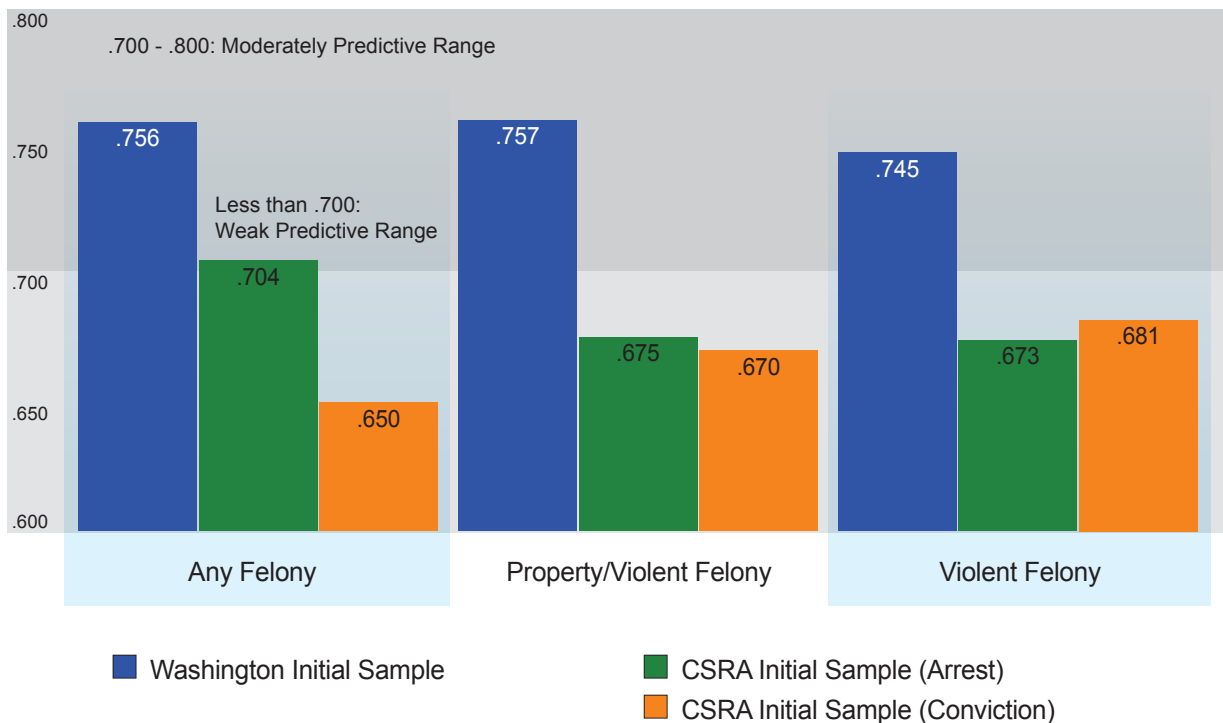
Obtaining more complete offender conviction data would increase the effectiveness of the CSRA in predicting the likelihood that a parolee will reoffend after his or her release from prison. Both our statistical expert and the researcher who oversaw the development of Washington's predictive instrument, which CDCR used as a model for the CSRA, agreed that better data would increase the predictive accuracy of the CSRA.

The measure of the predictive accuracy used by the Washington researchers is called *the area under the receiver operating characteristic* (AUC). The Washington researchers provided the following description of the AUC:

The best measure for determining how accurately a score predicts an event like recidivism is a statistic called the area under the receiver operating characteristic (AUC). The AUC ranges from .500 to 1.000. This statistic is .500 when there is no association and 1.000 when there is perfect association. AUCs in the .500s indicate little or no predictive accuracy, .600s weak, .700s moderate, and above .800 strong predictive accuracy.

As shown in Figure 5, CDCR’s version of the Washington instrument is based on subsequent felony convictions and produced AUC scores ranging from .650 to .681. These scores indicate that the model is weak in predicting whether an offender will be convicted of a felony within the three years after being released. The AUC scores for future arrests ranged from .673 to .704, which is weak to moderate in predicting future arrests. Both of these measures are weaker than the results Washington obtained in its predictive tool. That Washington’s accuracy rate is higher than California’s accuracy rate may be due in part to Washington’s smaller and less diverse population and cleaner data. Other states’ instruments are more typical of the CSRA, like the Wisconsin Risk Assessment Instrument, which has an AUC of .660. Our statistics expert from California State University, Sacramento, concluded that the CSRA is a useful and helpful instrument to predict future recidivism. However, it could be improved. One reason the California AUC scores are lower than Washington’s is that the criminal history data that California uses is incomplete. Both our statistical expert and the researcher who oversaw the development of Washington’s predictive instrument believe that CDCR could increase the predictive accuracy of the CSRA if it had access to and was able to use more complete conviction data.

Figure 5: The predictive accuracy of the CSRA instrument is lower than the accuracy of the Washington instrument.



Finding 3

The Automated Assessment Tool Inconsistently Applies Juvenile Data when Calculating Risk Assessment Scores

When it developed the CSRA instrument, CDCR patterned it after the Washington instrument, which was based on offender demographics and criminal history. However, unlike the developers of the Washington instrument, CDCR did not include separate juvenile data categories in the CSRA. Of the 26 items in the Washington instrument, as seen in Figure 6, four relate to juvenile offender criminal history. The CSRA developers chose not to include juvenile offender criminal history because, as they explained in their CSRA working paper, the California Department of Justice felt the data would be “unreliable and sporadically recorded.” As a result, the CSRA instrument contains 22 rather than 26 items in the assessment.

According to CDCR, the CSRA algorithm ignores juvenile adjudications by filtering out the Welfare and Institutions Code section 602 prefix, which assigns jurisdiction for most juvenile offenses to the juvenile courts. However, we note that some juvenile offender convictions do not have a Welfare and Institutions Code section 602 prefix and are, therefore, used during the scoring process to calculate offenders’ risk assessment scores. Even though the CSRA instrument was developed to ignore juvenile data, we have determined that the CSRA instrument does, in fact, capture some juvenile data while ignoring other juvenile data when calculating risk assessment scores.

We do not know how this juvenile data affects the risk assessment scores for the entire CDCR offender population, but we believe that CDCR should investigate its impact. In the 200 randomly sampled auto-scored CSRA files, we identified six offenders who had juvenile adjudication data that counted towards their risk assessment scores. For example, we found in an adult offender’s criminal history a juvenile adjudication for a felony Health and Safety Code violation relating to the possession of a controlled substance. The CSRA instrument handles this juvenile adjudication as an adult event, but the Washington model treats this separately as a juvenile occurrence. This difference could be significant because juvenile adjudications in the Washington study impact recidivism predictions differently from adult convictions.

Figure 6: Comparison of CSRA instrument items and Washington instrument items.

CSRA Instrument Items	Washington Instrument Items
Demographics	
Age at time of release	Age at time of current sentence
Gender	Gender
Juvenile Record	
Ignored	Felony convictions
Ignored	Non-sex violent felony convictions
Ignored	Felony sex convictions
Ignored	Commitments to state juvenile institution
Total Felony Convictions	
Total felony convictions	Commitments to Department of Corrections
Adult Felony Record	
Felony homicide	Felony homicide
Felony sex	Felony sex
Felony violent property	Felony violent property
Felony assault offense—not domestic violence	Felony assault offense—not domestic violence
Felony domestic violence assault or protection order violation	Felony domestic violence assault or protection order violation
Felony weapon	Felony weapon
Felony property	Felony property
Felony drug	Felony drug
Felony escape	Felony escape
Adult Misdemeanor Record	
Misdemeanor assault—not domestic violence	Misdemeanor assault—not domestic violence
Misdemeanor domestic violence assault or violation of a protection order	Misdemeanor domestic violence assault or violation of a protection order
Misdemeanor sex	Misdemeanor sex
Misdemeanor other domestic violence	Misdemeanor other domestic violence
Misdemeanor weapon	Misdemeanor weapon
Misdemeanor property	Misdemeanor property
Misdemeanor drug	Misdemeanor drug
Misdemeanor escapes	Misdemeanor escapes
Misdemeanor alcohol	Misdemeanor alcohol
Adult Sentence Violations	
Total sentence/supervision violations	Total sentence/supervision violations

Finding 4

CDCR's Initial Policy Regarding Juveniles Convicted of Serious or Violent Felonies was Incorrect

Penal Code section 3000.03, subsection (b) prohibits any offender convicted of a serious or violent felony as defined in the Penal Code from being eligible for non-revocable parole. Figure 7 presents a partial listing of serious or violent felonies listed in the code. On January 21, 2010, CDCR issued policy memorandum 10-01, Implementation of Penal Code Section 3000.03 – Non-Revocable Parole. This memorandum explains the criteria that make an offender ineligible for non-revocable parole. Under the sections for both violent and serious felony convictions, the policy specifies that juvenile sustained convictions are not disqualifying factors. Accordingly, CDCR staff members who conduct eligibility screening for non-revocable parole calculate the age of the offender and then exclude any serious or violent felonies that the offender committed as a juvenile. However, according to the legal staff in CDCR's policy unit, the policy was worded incorrectly: it should have read, "juvenile sustained petitions," rather than "juvenile sustained convictions."

The difference between a "sustained petition" and a "sustained conviction" is significant. A sustained petition is the outcome of a guilty adjudication in juvenile court; a "sustained conviction" is the outcome of a guilty verdict in adult court. According to Penal Code section 3000.03 (b), any person committed to prison, or having a prior conviction, for a serious or violent felony is not eligible for non-revocable parole. Therefore, juveniles tried as adults and convicted of serious or violent felonies should not be eligible for non-revocable parole.

On November 5, 2010, following the Office of the Inspector General's identification of the inaccurate policy, CDCR took corrective action and changed the language of the policy to correctly read, "juvenile sustained petitions." When asked how it would correct past implementation of the faulty policy, CDCR replied that it had already trained staff to properly apply the policy, since the staff's training material had been correct from the beginning. However, during our discussions with field staff, we discovered this was not always the case. Specifically, we found that the teams responsible for screening the initial group of eligible offenders had been following the incorrect policy and had consequently ignored all convictions relating to serious and violent felonies that adult offenders had committed as juveniles.

Figure 7: Partial listing of serious or violent felonies.

Violent felonies include:

- Murder
- Rape
- Lewd and Lascivious act
- Robbery
- Arson
- Car Jacking

Serious felonies include:

- Providing certain narcotics to minors
 - Grand theft with a firearm
 - Intimidation of a witness/victim
 - Gross vehicular manslaughter
-

Recommendations

In this special report, the Office of the Inspector General identifies deficiencies in CDCR's implementation of non-revocable parole. To address the issues identified in this special report, we recommend that CDCR take the following actions:

- Develop a quality control program for its CSRA scoring to ensure consistency, accuracy and timely reviews.
- Collaborate with the California Department of Justice and the California Judicial Council to obtain more complete criminal history information.
- Review the CSRA implementation to determine whether juvenile offender criminal history is used appropriately.
- Ensure that CDCR staff is trained according to the revised policy regarding the inclusion of juvenile data for serious and violent felonies.
- Review CSRA scores of offenders already placed on non-revocable parole to verify that they were accurately assessed.
- Retain criminal history records used to determine eligibility for non-revocable parole.

California Department of Corrections and Rehabilitation's response to the special report (page 1 of 3)

STATE OF CALIFORNIA — DEPARTMENT OF CORRECTIONS AND REHABILITATION

EDMUND G. BROWN JR., GOVERNOR

OFFICE OF THE SECRETARY

P.O. Box 942883
Sacramento, CA 94283-0001



May 23, 2011

Mr. Bruce Monfross
Inspector General (A)
Office of the Inspector General
P.O. Box 348780
Sacramento, CA 95834-8780

Dear Mr. Monfross:

The implementation of Senate Bill 18 (Ducheny, Third Extraordinary Session), which began last year, has led to significant improvements in public safety as well as cost savings for California's prison system. This important legislation has already created better probation outcomes resulting in thousands of fewer probationers being revoked to prison; it established collaborative reentry courts for parolees to receive programs and services that keep them from reoffending; it made important updates to our sentencing laws; and it expanded incentives for inmates to engage in rehabilitative programs while in prison. And while these reforms have helped to successfully reduce the crowding rate in our prisons to the same level seen two decades ago – thereby saving California taxpayers millions of dollars – our prison system continues to face extraordinary challenges. These challenges include both the worst fiscal climate for California State government since the Great Depression and an order from the United States Supreme Court today that would release over thirty thousand prisoners into our communities. It is unfortunate, then, that against this historic backdrop of California's efforts to overcome such monumental challenges, the Office of Inspector General (OIG) would choose to concentrate its own resources on an aspect of the Senate Bill 18 legislation – non-revocable parole – that it notes is slated to disappear and, perhaps more disappointingly, on alleged "errors" within the non-revocable parole program that have in large part been corrected. But our concern with this report goes beyond its relevancy; in fact we must also take issue with its facts and its central conclusion.

† ① In "Special Report: California Department of Corrections and Rehabilitation's Implementation of the Non-Revocable Parole Program," the Office of the Inspector General (OIG) claims that the automated risk instrument utilized by the Department as part of its non-revocable parole program is flawed. In support of this conclusion, the OIG cites an "error rate" it associates with the instrument. We reject the notion that the California Static Risk Assessment (CSRA) is flawed and dispute the evidence the OIG cites in support of this claim.

By law, the California Department of Corrections and Rehabilitation (CDCR) is required to use a validated risk instrument as part of the statutory criteria that determine whether an offender is placed on non-revocable parole. The Department's instrument, known as the

† Circled numbers correspond to OIG's comments (on page 28) to CDCR's response text.

California Department of Corrections and Rehabilitation's response to the special report (page 2 of 3)

Mr. Bruce Monfross
Page 2

- CSRA, uses data obtained from the California Department of Justice – such as age, gender, and criminal offense history – to predict an offender's risk to reoffend. The CSRA was developed in conjunction with experts from the University of California, Irvine, Center for Evidence-Based Corrections. As part of the development process, the researchers validated the predictive strength of the CSRA on a California population of over 100,000 offenders and found the CSRA's ability to predict risk to be similar to other risk instruments. Notably, the fact that the CSRA is automated saves a significant amount of money as it allows CDCR to determine risk by electronically "reading" the rap sheets of more than 160,000 inmates in our prisons and more than 100,000 offenders on parole. Further refinements to the CSRA have involved improved ways for our computers to "read" rap sheet information such as narrative information in comment fields, as well as an ongoing effort to catalogue all of the crimes newly enacted each year in California. Despite the fact the predictive strength of the CSRA had already been validated and shown to be commensurate with other available risk assessments, CDCR undertook these efforts in order to continuously improve the tool's ability to capture criminal history information and therefore better predict risk.

- Regrettably, the OIG chose not to substantiate these improvements, but to use this occasion as an opportunity to look backwards at some of the risk scores generated by the prior version of the CSRA – a version that has now been obsolete for over a year. Most of the "errors" that the OIG takes credit for discovering are in fact no more than a side-by-side comparison of old and new scores that demonstrates the improvements we have made. As such, these "flaws" no longer exist today but unfortunately remain the object of the report's focus. Ultimately, any improvement to a screening device is always going to carry the risk that critics will seize upon the change as an opportunity to focus in hindsight upon the "deficiencies" of the prior version. Sadly, the OIG takes this approach today.

- While this accounts for the majority of the "errors" cited in the OIG's report, we also dispute those that remain. Having chosen to focus on the older version of the CSRA, the OIG speculates that "the most likely" cause of the CSRA's flaw involves the failure of the automated instrument to take into account additional sources of data that would be available to human reviewers conducting the same assessment on a manual basis. The report goes on to state that "CDCR has recognized the need for the automated scoring system to eventually utilize" such additional data. The OIG is mistaken on both counts. The CSRA was validated using rap sheet information alone. The introduction of extraneous sources of information, such as those used by the OIG in its review, has never been tested and therefore has not been shown to better predict risk. CDCR will certainly continue to test new sources of data for their ability to test risk, but will not incorporate those data into our risk assessment until they have in fact been proven to do so. The OIG has itself not undertaken this effort and in fact lacks the expertise to do so. Therefore its view that the CSRA is flawed for failing to incorporate this data is without scientific support.

We have still further concerns regarding the claimed "error rate" suggested by the OIG. In one of the forty-seven examples cited as errors in the CSRA, our information shows the OIG

California Department of Corrections and Rehabilitation's response to the special report (page 3 of 3)

Mr. Bruce Monfross
Page 3

- ⑩ mistook the gender of the offender, a mistake that would affect the OIG's calculation of the offender's CSRA score. The OIG has provided us no information to show that our concern is misplaced. In another example, our score and the OIG's score perfectly match but, again without explanation, the OIG has continued to cite this example as an "error" on our part. In other examples, the presence of out-of-state records would trigger an automatic manual review leading to a correct calculation of the risk score, but the OIG chooses to view these as "flaws" in the system. Further examples exist, but suffice to say that we do not accept the "error rate" set forth in this report.

- ⑬ The report's remaining findings merit little attention. The OIG's second finding, that rap sheet data is often incomplete, is important to recognize but hardly revelatory to anyone familiar with California's system of criminal justice records. This finding holds scant value to CDCR as no better option is available for criminal history records in California, a point that even the OIG recognizes. The report's third finding that the CSRA inconsistently applies juvenile data is incorrect. As we have explained to the OIG, the CSRA consistently utilizes records of juveniles convicted of adult charges, but excludes juvenile petitions sustained in juvenile court, a business rule that has been validated by research. The report's last finding faults a policy that has since been corrected, as the OIG itself recognizes. The corrected policy is currently being used as part of staff training.

In closing, we are proud of our efforts to use the assessment of risk to better protect public safety. We will move forward in our continued partnership with the University of California, Irvine, Center of Evidence-Based Corrections, to develop smarter ways to do so. We thank you for the opportunity to share with you our views on this matter.

If you have further questions, please contact me at (916) 323-6001.

Sincerely,



LEE E. SEALE
Deputy Chief of Staff

cc: Matthew L. Cate, Secretary

The Office of the Inspector General's Comments on the Department's Response

(page 1 of 3)

Although we are not responding to all of CDCR's statements contained in its response, we are commenting on the following specific issues to provide clarity and perspective.

- ‡① As our report states, our concerns are not with the CSRA instrument, but rather with CDCR's automation of the CSRA instrument.
- ② We appreciate CDCR's desire to save money by automating the CSRA instrument, and encourage it to continue to seek opportunities to be more efficient throughout its organization. However, CDCR should not compromise public safety in doing so, as it does by understating offenders' risk of reoffending and releasing high-risk offenders to unsupervised parole.
- ③ The OIG understands that a system such as CDCR's automated CSRA will be refined and modified over time. However, as discussed in Finding 1 of our report, when improvements allow CDCR to identify high-risk offenders that it previously erroneously released to unsupervised parole, we expect CDCR to recall such offenders to supervised parole in the interest of public safety.
- ④ Contrary to CDCR's assertion, the OIG has specifically noted corrections or improvements that CDCR has made to the automated scoring process since July 2010, such as noting that changes made by CDCR to its mapping table would reduce the error rate found in our sample from 23.5 percent to eight percent. In this report, the OIG simply notes that during the specific time period that the OIG sampled—January through July 2010—a specific error rate was detected in the automated scoring process. The report also, however, gives credit to CDCR for subsequent improvements that would serve to reduce the error rate. In short, this is not a case of “critics...[seizing] upon the change as an opportunity to focus in hindsight upon the ‘deficiencies’ of the prior version.” Instead, this is a case of the OIG reporting upon those prior deficiencies, while also acknowledging those improvements that CDCR has since made to the automated scoring process, subsequently reducing the error rate.
- ⑤ Although CDCR advised us that a July 2010 modification addressed many of the errors we identify in our report, we have not verified this assertion.
- ⑥ Statistical samples are always taken at a given point in time. To review CDCR's implementation of non-revocable parole, we selected a statistically valid sample of offenders on non-revocable parole in July 2010. At the time of our review, this was the latest data available.
- ⑦ CDCR is misstating the facts. As stated in Finding 1 of our report, the experts at UC Irvine with whom CDCR contracted to develop the CSRA state that information not contained in automated rap sheets but recorded on CDCR automated systems—including supervision

‡ Circled numbers correspond to CDCR's response text beginning on page 25.

The Office of the Inspector General's Comments on the Department's Response (page 2 of 3)

violations—may be important markers for risk prediction and should be addressed in the next steps of development of the CSRA. Furthermore, CDCR's manual CSRA scoring team includes supervision violations reported in CDCR's automated systems in its evaluations of offenders.

- ⑧ The CSRA identifies 22 factors that are significant to consider in estimating the risk of an offender's propensity to reoffend. As discussed in our report, these factors include age, gender, felony convictions, and supervision violations. Nevertheless, when assessing an offender with its automated CSRA system, CDCR does not utilize information in its own data systems that establish the presence of these factors.
- ⑨ When the Office of the Inspector General determines it requires expertise beyond that of its staff, it consults with experts in the appropriate fields. In this report, we retained a statistics expert at California State University, Sacramento and consulted with the researcher who oversaw the development of Washington's predictive instrument, upon which the CSRA is based. We do not state that the CSRA is flawed, rather, we identify the CSRA as a validated risk assessment tool. What we point out is that the automated scoring process employed by CDCR does not take into account information that CDCR's own experts believe to be important risk indicators, and that CDCR's manual scoring team routinely takes into consideration during the manual scoring process.
- ⑩ While the Office of the Inspector General did mistakenly code one offender as a male when in fact she was female, we corrected this error and determined that the change had no impact on our conclusion that CDCR had inappropriately released the high-risk offender to unsupervised parole. We attempted to meet with CDCR to discuss its concerns with this and other offenders, but CDCR did not avail itself to meet as of the time of this reporting.
- ⑪ In the example cited, CDCR's automated score and manual score did not match. The OIG score matched CDCR's manual score, which concluded that the offender should not have been released to non-revocable parole. As discussed in number 10 above, we attempted to discuss this concern with CDCR.
- ⑫ CDCR has missed the point. Although these offenders' criminal histories should have triggered a manual CSRA, CDCR failed to do so, instead relying on the incomplete automated CSRA score to release these high risk offenders to non-revocable parole.
- ⑬ The Office of the Inspector General acknowledges that, at present, the ACHS is the most viable rap sheet database available to CDCR. We disagree, however, that this finding is of "scant value," since all experts consulted agree that the CSRA's predictive capacity will be enhanced if and when a more accurate database is made available. This finding simply points out the need for such a database, as almost half of the 16.4 million arrests between 2000 and 2009 lacked dispositions, such as convictions.

The Office of the Inspector General's Comments on the Department's Response (page 3 of 3)

- ⑭ As discussed in our report, CDCR appropriately excludes from its assessments juvenile sustained *petitions*, which are adjudicated in juvenile court. However, CDCR is inconsistent in its treatment of juvenile sustained *convictions*, which are adjudicated in adult court. Our analysis found that CDCR treats some juvenile convictions as adult convictions, and ignores other juvenile convictions. The designers of the CSRA acknowledge that juvenile convictions impact an offender's risk of reoffending differently than an adult conviction, and therefore, should be considered separately. Nevertheless, CDCR in some cases combines juvenile convictions with adult—thereby diluting their impact—and in other cases excludes juvenile convictions—ignoring their impact altogether.



SPECIAL REPORT

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION'S IMPLEMENTATION OF THE NON-REVOCABLE PAROLE PROGRAM

OFFICE OF THE INSPECTOR GENERAL

Bruce A. Monfross
INSPECTOR GENERAL (A)

David Chriss
DEPUTY INSPECTOR GENERAL, SENIOR

Larry Sewell
DEPUTY INSPECTOR GENERAL

Dave Biggs
DEPUTY INSPECTOR GENERAL

STATE OF CALIFORNIA
MAY 2011

WWW.OIG.CA.GOV