



**Taxpayers for
Improving
Public
Safety**

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March 7, 2007

Dear California Lawmaker:

Taxpayers for Improving Public Safety ("TiPS"), since February, 2006, has attempted to focus the attention of the Legislature and the Governor on the eminent danger of prison overcrowding. While a strong advocate for prison and sentencing reform, TiPS recognizes that the wholesale release of the incarcerated as the result of a cap placed upon inmate population will result in inmates being paroled with nothing more than \$200.00 and a bus ticket.

There is no reason to believe the release of the lowest risk classification inmates will result in a reduced rate of recidivism than is currently experienced. Without a support net, most of the inmates who will be released by such a court order will suffer from significant medical and mental health issues for which county public health agencies are ill prepared, staffed or funded to handle. Public housing cannot handle a major influx of released inmates, and so the result is many, if not most, will become homeless and a major problem for public safety.


When many of these released inmates re-offend in the form of substance abuse or property crimes to support substance abuse needs, efforts by so many for penal and criminal reform will be set back years.

The plans which the Governor and the Secretary of the Department of Corrections and Rehabilitation have offered do not and cannot provide immediate relief from the problem of prison overcrowding. The only reasonable solution requires two steps: 1) the immediate release or transfer of the 45,000 men and women by the following proposal, followed by investment in facilities and staff to divert those who can and want to be rehabilitated and paroled; and 2) house those who do not want to take advantage of these opportunities in existing high security facilities.

The Federal Court has given California until Memorial Day to provide its own answer, or one will be imposed. TiPS has presented a solution which solves the crisis within the time frame that the court's have allowed. Whether or not you are a member of the Committee on Public Safety, every member should put the resolution of this issue at the forefront of your agenda because its outcome will affect every member's constituency.

Sincerely,


Matt Gray


David Warren



A REALISTIC SOLUTION TO CALIFORNIA'S PRISON CRISIS

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Introduction

Taxpayers for Improving Public Safety (“TiPS”) is a non-partisan consortium of California taxpayers, business interests, and persons within the prison reform community who seek to improve public safety through meaningful and cost-effective measures which best utilize taxpayer dollars. TiPS believes that the promotion of prevention, intervention, and rehabilitation, ought to always be the first consideration in determining the best public safety policy for California.

As the result of public anger to what was perceived to be a soft on crime approach by members of the judiciary, for the last forty years California Governors and Legislators have enacted a patchwork of sentencing enhancements which has resulted in prison inmate population in excess of 200% of design capacity, even after a two decade long building binge of new security cells. County jail facilities are overwhelmed and many are under court order to limit jail population, which results in little or no time for incarceration for individuals convicted of misdemeanors, and the release of individuals for a felony arrest on their own recognizance pending trial. During the same period, little or no investment in rehabilitative services was undertaken by the California Department of Corrections and Rehabilitation (“CDCR”) and the Governor and the Legislature turned a blind eye to the growing problem.

The prison building boom was based upon one simple premise, inmates could not be rehabilitated and should be housed, not treated or educated to succeed upon parole. This was clearly demonstrated by the failure to construct treatment facilities, educational facilities and medical facilities inside the new and existing prisons to provide inmates with the opportunity to obtain the survival skills necessary to reduce

recidivism, which now exceeds 70%.

Now, California is facing a complete implosion of its correctional system. The causes are so numerous and well known that there is really no need to repeat them all here. However, it is clear that victim's anger and politicians fear of being branded "soft on crime" has placed our State's politicians in a fearful position, as has the realization that while the citizenry wants "bad guys" locked up, the same taxpayers do not want to pay for the cost of incarceration and rehabilitation. As is typical, taxpayers do not want to pay the cost for the penal and rehabilitation system while at the same want to be "tough on crime".

It is at this juncture that litigation has brought judicial intervention into the issues of prison and parole reform to the forefront. For the first time, California is faced with the necessity to make a decision on corrections because of impending court orders to limit prison inmate population. That decision is (1) build more prisons; (2) build facilities to reduce recidivism and reconsider sentencing; or (3) do nothing, and watch the wholesale release of inmates to reduce prison inmate population which will result in unprepared men and women being released to overwhelm municipal and county social services agencies, medical facilities, police agencies, and the California court system. The foreseeable result of choice (3) is the meltdown of California social services as we know them today.

TiPs believes that this apocalyptic forecast, to quote Charles Dickens's a Christmas Carol, is "what can be", not "what must be". With reasonable prudence and adoption of the following proposals, California will not have to face the complete melt down of Correctional, Public Health, Social, Public Safety and Judicial services in

California. More importantly, California can join the State of New York which is now moving towards the closure of prisons because of parole and rehabilitation success, and a reduced crime rate. Based upon the CDCR's presentation on the Governor's Strategic Growth Plan to the Senate Budget Subcommittee #4 on February 21, 2007, New York State's rate of incarceration is 331 inmates per 100,000 population, while California's rate of incarceration is 456 inmates per 100,000 population. Clearly, New York has succeeded where California has failed.

This year, the United States Department of Justice issued a report indicating that more than 50% of the California State Prison inmate population suffered from mental illness. This is an essential factor to be considered in the following discussion. Prisons should house the violent and dangerous, not the mentally ill, the terminally ill, the habituated and the elderly who are no longer a danger to society.

This presentation is not meant as an academic presentation in that there are already too many of these available to the Legislature. Instead, TiPS which has been trying futilely since February 2006 to engage the members of the Legislature, the Governor's office, and the Secretary of CDCR in a discussion to solve the impending crisis, presents this solution. All stakeholders only have until Memorial Day 2007 to provide a solution for an immediate reduction of prison overcrowding and not for proposals that are years away from the completion and implementation. There is no longer any time to delay full and complete discussion and debate, and arrive at a solution. If a resolution is not available by that date, it will be imposed by the Federal Courts, as previously occurred in Texas and Massachusetts.

Creation of a Sentencing Commission

First, and foremost, the legislature must stop sentence enhancements for existing crimes on a piecemeal basis unless there is empirical evidence showing that a longer sentence will result in reduced criminality. Penal provisions should be based solely upon a cost/benefit analysis consisting of:

1. the nature of the crimes;
2. the effectiveness of preventing the crime;
3. the cost of incarceration; and
4. the cost of alternatives to incarceration.

Currently, sentencing enhancements and parole procedure changes are the result of pressure being asserted by an interested party or group, a procedure which would be immediately rejected if the statutory changes were from an interest group seeking a tax benefit or pollution exemption. Whether it is a tax break or enhanced sentencing, the burden of the lost revenue is borne by the taxpayers of the State of California. Each sentence enhancement prevents revenue paid by the taxpayers of the State of California from being used for repairing infrastructure, improving schools, or for health care.

In order to assure that penal code provisions meet the above requirements, a sentencing commission should be created, tasked and staffed in the following manner:

1. The membership of the commission should be made up of individuals who are professionals in the area of state and local government fiscal management, psychiatry, psychology, medicine, penology and criminology. This commission should take testimony from, but not be populated by, law enforcement, victims of crime, family members of inmates, elected officials unless independently expert in the field, members

of the Governor's or Legislative members' staff, or employees of the California Department of Corrections;

2. The commission should be funded sufficiently to allow a complete review of crimes set forth in the State Constitution, Penal Code, Government Code, Vehicle Code and Health and Safety Code within 24 months of implementation of the commission;

3. The commission should deliver recommendations on sentencing, including but not limited to, increases in sentencing, reductions in sentencing, alternatives to sentencing, including but not limited to, drug and mental health treatment, both within and without the custody environment, the elimination of any provision of law which contains a penal sanction, and recommend alternative penal sanctions;

4. The recommendations shall be incorporated into moving legislation, and considered and voted upon in the same manner as the United States Military Base closing commission, with the legislature holding hearings with the subsequent approval or rejection en masse of the recommendations.

One basic and simple reform to be considered should be denominated as "Result Based Sentencing." Result Based Sentencing will increase parole success by changing the period of incarceration to incentive sentencing by establishing objective measures for succeeding in programs and appropriate conduct while in custody. Thus, as an example, inmates who are currently sentenced to terms of 5, 7 or 9 years should instead be sentenced to low term of 4-6 years, mid-term of 6-8 years, or high term of 8-10 years. The actual length of incarceration would be determined by the inmates'

successful participation in rehabilitation programs while in custody, as well as an appropriate evaluation by risk assessment, which will be subsequently discussed in detail. If the Department of Corrections fails to provide these programs to the inmate, then that should not be deemed a prohibition to early parole.

Each and every penal code amendment should be required to be approved by the Assembly and Senate Committees on Appropriations, as well as Public Safety, after an independent in depth analysis of the legislation, not the cursory examinations which are now undertaken. Regardless of the emotional tug of the individual advocate from a members' district, penal code amendments must be mindful of their legitimate penological basis. If the sentence enhancement will not result in a demonstrable reduction in criminality, as a matter of law, it should be rejected.

The penal code is designed to deny an individual his or her civil rights for a period of time for the purpose of rehabilitation if possible, and if not, for a designated period of incarceration up to life. The misuse of the penal code for retribution or political gain is how we came to this prison crisis. California must change the focus of legislation back to incarceration and rehabilitation and not respond to the emotions of the moment, no matter how well meaning or intentioned.

New Construction Should Meet Legitimate Penal Needs

The Department of Corrections and Rehabilitation has recommended that 74,000 new custody beds be constructed. Of that number, 21,000 will be new prison custody beds and 40,000+ will be new beds for County jails. The proposal calls for the construction of 10,000 medical/mental health beds, which is grossly insufficient number.

The 40,000+ new county jail beds come with two dangerous caveats. First, the county jails will be called upon to house felony inmates sentenced to a period of incarceration of less than three years. This plan has potential devastating employment and financial affects for County government because:

1. Traditionally, County jail custodial staffs are the deputies with the lowest seniority. Custodial jobs are viewed by County deputies as the worst job possible with the specific goal of transfer from the position to patrol as soon as possible;
2. County deputies are not taught proper custodial techniques for felons who may become violent, unlike correctional officers;
3. County jails are not designed to house felons subsequent to trial. They are designed as holding facilities pending transfer to a State prison;
4. County jails do not have the medical or mental health treatment facilities which are necessary for the long term care (three years) of inmates;
5. Counties cannot assure adequate staffing levels to maintain a ratio of deputies to inmates in order to assure safety for both inmates and staff;
6. The 40,000 new County jail beds have the potential for becoming just one more unfunded mandate from the State upon County government. The threat of

transferring the cost of these felony inmates in County jails to the Counties from the States the first time the State has a budget deficit is both obvious and based upon past precedent. What will happen to the Counties when they are ordered to provide medical and mental health care at the level of service required in State prisons but are not provided sufficient funding to obtain medical services in rural areas far from metropolitan medical facilities?; and

7. In that the special masters appointed by the Federal Court's have started offering compensation for health professionals willing to work in State prisons at wages in excess of those offered by counties, there has been an accelerated departure of these professionals, and more to soon follow. Thus, the counties may well have to bear the cost of payment for deputies, health professionals, etc., in excess of State appropriations. In effect, the State is creating but one more unfunded mandate for County Government.

An expected response to the housing of inmates for less than three years in County jails will be a change in the manner in which District Attorney's charge defendants. It should be expected that individuals will be charged with crimes for which a period of incarceration is in excess of three years of incarceration rather than a lesser felony, and plea bargains will require a period of incarceration in excess of three years, to assure that County jail populations do not increase. Thus, the presumed transfer of inmates from State prison to County jails will not occur.

Instead, of building 64,000 new custody beds, California should invest in rehabilitation to reduce the number of inmates, following the New York State model. Instead of constructing 21,000 new prison security beds, California should construct

34,000 rehabilitation beds. These facilities should be operated in the same manner as a County medical facility; each separately accredited and supervised by the California Department of Health, with inmate security supervision by CDCR.

These facilities should provide rehabilitative treatment for inmates such as anger management, basic education, survival skills such as how to get a check book, how to obtain physical and mental health services, anger management, etc. These same facilities should also offer geriatric and psychiatric care. For those inmates who can transition from treatment to normality, treatment can then be the key to parole. To those who fail, these facilities will provide a safe place for civil commitment; even should it be for life. Finally, these facilities would provide beds for the mentally ill who are now housed in jail and prison facilities because there is simply no other place to house them.

One reasonable question which requires an immediate answer is “From where will the staff for these treatment facilities come?” The answer of course is not simple, but it is manageable. Not all inmates in these facilities will require psychiatric care, most who suffer from habituation problems can have a resolution through treatment by a licensed clinical social worker. More those who need more intensive treatment, psychologists and psychiatrists would be required. However, at a staffing level of one professional clinician to 50 patients, only 680 clinicians plus support staff would be required, which over a period of time, would be reduced as the population dwindled.

Although the number of beds may initially seem excessive, i.e., 34,000, in reality, it is not. An examination of the number of new beds for treatment of substance abuse and mental illness created over the past quarter century clearly demonstrates that

construction per hundred thousand State population has been negligible. This construction deficit is one of the major issues impacting both prison and jail overcrowding. As the result of decisions by former Governor Ronal Reagan to close State mental facilities, housing for individuals who need these services is farther behind than housing for prison inmates.

In order to assure the appropriate designation for individuals for treatment or incarceration, at reception, each inmate will undergo a mandated risk assessment examination by a trained psychologist or psychiatrist. The risk assessment will determine the inmate's mental health and medical status and determine what the inmate must accomplish to obtain parole. Prior to the release availability date for the term to which the inmate was sentenced, the inmate would again submit to the risk assessment. If the inmate has completed the assigned programming and succeeds in passing the risk assessment, then the inmate would be released. If the inmate either refused to complete the necessary programming and/or failed the risk assessment, then the inmate would serve up to the full term prescribed by law. Thus, inmates who do want to rehabilitate will have access to success and early release, and those who do not, will serve their entire term, or an extended term, if the risk assessment results in the recommendation of a civil commitment. At the same time, CDCR must be funded sufficiently to assure that the designated programs are available and that correctional staff is available to assure that inmates can attend the programs.

Facilities must be built for chronic health care needs such as geriatric care, substance habituation treatment and for heroic or hospice care. These facilities should be located at locations because of their proximity to medical professionals and the more

reasonable price of housing for staff. This division between health care services and security services will hopefully prevent a re-occurrence of our present medical crisis because housing in the facilities will not be determined by CDCR, but rather by demonstrated need.

Although this proposal has been submitted to Secretary Jim Tilton on numerous occasions, CDCR continues to reject any effort to alter its building plans. As recently as the first week of February, acting Director of Adult Institutions Scott Kearnan announced that only the acting Medical Receiver, Robert Sillen, could request the construction of any medical or mental health beds for CDCR. This statement was made two days after Robert Sillen testified before the Senate Budget and Fiscal Review Subcommittee No. 4 that it was the receiver's preference that the State proceed through its budget process to provide the necessary physical plant and staffing so that he did not have to intervene.

The Legislature need look no further than the State of New York to determine the success of this proposal. Crime rates have dropped in New York State and plans are being made to shut at least one prison. The example of New York's investment in preventative measures to reduce recidivism and rate of criminal activity demonstrates that California can obtain the same success and avoid the need for the construction of new security facilities.

No New Inmates at Currently Existing Prisons

CDCR proposes to increase the population in current prisons. This will not succeed because those plans do not provide for construction of new medical facilities, new classrooms, new waste treatment plants, new water sources, new religious facilities, new mental health care facilities, etc., in the prisons at which the new beds are proposed to be built. More importantly, with CDCR staff having a current deficit of 4,000 correctional officers, there is simply no possibility that even if the new beds are constructed, there will be staff available to supervise the new inmates. When these “temporary beds” are built, they will undoubtedly become permanent beds, which will further exacerbate the inability of medical, dental, educational and social services to provide for the minimum needs of inmates, and thus guarantee even a higher rate of recidivism, as well as overwhelming any proposed improvements in health care because there will be no physical plant to provide treatment.

Current examples of this future catastrophe can be easily seen at the California Rehabilitation Center (“CRC”), CSP-Mule Creek, CSP-High Desert, CSP-CIM and CSP-Avenal. At CRC raw sewage from broken exposed sewer lines can be found all over the prison grounds. At Mule Creek, the uncontrolled outflow of waste water has contaminated water wells downstream from the prison to the point that they are no longer usable at the same time the contamination plume continues to grow.

At CSP-High Desert, and the adjacent prison, CSP-California Corrections Center, water usage is abusing the local water districts fresh water limitations while at the same time overwhelming the communities waste treatment facilities. At CSP-CIM, the water wells which are the source of drinking water for both CSP-CIM and CSP-

CIW are so polluted with nitrates from former dairies that bottled water must be provided to inmates and staff to avoid adverse health consequences. At each and every prison, the educational facilities are overwhelmed by inmate over population, which then causes the rate of recidivism to increase as does the portion of the State Budget allocated to the California Department of Corrections and Rehabilitation.

At least one prison, CSP-CIM, the local government is engaging in opposition to, and threatening civil litigation, of any effort made to expand the inmate population at the prison, and the City of Ione and Amador County are threatening litigation over the violation of the contract with the county which provided for a maximum number of inmates to be housed at CSP-Mule Creek. These examples will be followed by other Counties and Municipalities as new expansions are announced. So, even if CDCR sought to expand inmate facilities, it will be years before the civil litigation over the proposals is resolved, and any construction, if allowed, actually starts. To avoid a court ordered population limitation, immediate workable solutions must be implemented.

Provide Funding to Counties and Cities for Tangential Support Services

The money saved from not building the security prison beds should be diverted to Counties and Municipalities which cannot afford to provide support programs for parolees in the form of housing, education, medical and mental health care, vocational training, habituation testing and treatment, and for more parole officers. The State should become the provider of first resort for the ancillary services needed for successful parole. Further, the number of parole agents must increase to assure that inmates who need supervision have it. If the state spent the approximately \$42,000 per year that it costs to incarcerate an individual on parole instead, our recidivism rate would drop sharply.

This provision of the proposal would provide for plan of treatment for inmates from classification to a period of 2 years after release, and for inmates who require habituation or mental health medication, for a period up to discharge by a licensed practitioner.

One of the principal reasons for inmates violating parole is that drug habituation therapy, mental health medication, anger management therapy and psychiatric services terminate on the date of release. County Public Health Services are neither sufficiently funded nor staffed to track results or provide treatment for the paroled mentally ill, substance habituated or parolees with anger management problems.

Nor does the present system of parole provide for a seamless transition from incarceration to freedom. An inmate's release does not allow for continued habituation treatment, mental health care, etc. Any prison reform must include funding for public healthcare so that parolees have access to medical treatment and the drugs which they

were provided while in prison.

TiPS proposes that parole staffing be set at a level of one parole officer to 40 parolees. Using current cost of housing an inmate of \$42,000 per year, each group of 40 parolees would be provided with a budget of \$1,680,000 per year. Secured group housing of those inmates, which would include therapy plus vocational training, including meals and medical costs, would be less than that amount. If only 60% of the parolees succeed in this type of program, which is a low estimate based upon New York State statistics, the recidivism rate will drop by 50%.

Move Sick Inmates Out of State Prisons into Convalescent and Managed Care

Currently, due to three strikes and sentence enhancements, an unanticipated event has taken place in the form of “graying” of the inmate population. More than 10,000 inmates with geriatric problems are now housed within State prisons. These inmates, as they continue to age, and as their number swell, have and will inundate the prison health care and hospice system. Further, in that the health profile of a fifty year old inmate, due to pre-incarceration substance abuse and lack of preventative health care is typically that of a 65 year old, requires intensive medical care and supervision, something which CDCR is absolutely incapable of doing.

This problem is further exacerbated by the number of new inmates who arrive with untreated medical, dental and mental health issues, as well as return parole violators who when paroled had a stable health profile, but after being released, without access to health, mental and dental care, are returning with a medical and mental health profile worse than when released upon parole. Because of the cost not only of their medical care, but also the security costs associated with that medical care, some of these inmate are costing CDCR as much as \$500,000.00 per year.

Further, CDCR is facing an imminent order by two, and in the immediate near future three, Federal judges to reduce prison population. The population cap will not provide for years to complete, rather it will mandate an immediate response. Because of social policy, not best penal practice, because of the crime to which these very sick inmates were sentenced, there is an unwillingness to accept the fact that the transfer of these sick inmates.

Inmates who are determined to be so sick that they no longer offer a risk to

public safety should be removed from the prison environment and transferred to convalescent facilities, or released. It simply makes no sense to spend \$500,000 a year per inmate to treat geriatric or chronic care disabled inmates inside a prison, when it would cost \$50,000.00 per year outside. That \$450,000 could be put to better use in improving our public schools, our roads and for public health.

One need not look any farther than the recent actions by the medical receiver, Robert Sillen, at CSP-Avenal, where he has ordered the diversion of correctional staff from security services inside the prison to security for inmates at local medical facilities, due to the deaths of inmates who suffered from treatable medical conditions. As each inmate requires two security officers to escort each inmate, and the medical staff ordered the transfer to the hospital in Coalinga of 30 inmates, 60 correctional officers were outside the prison each of the three shifts rather than providing security services at CSP-Avenal. With the prison housing more than 250% of the housing design limits, the diversion of the correctional officers compelled inmates to remain in their cells or dormitory style housing and not allowed out for exercise and work, as well as mandating correctional officers to work overtime. The lack of correctional officer supervision at prisons, not just CSP-Avenal, results in the cancellation of programming, interferes with inmate employment, prevents simple exercise out of cells, and increases tensions not only among inmates, but also staff who do not have sufficient respite from their employment, which then adds additional stress on the officers' home life, which then translates into more stress between inmates and staff back at the prison.

There are over 4,500 current inmates who would be available for such transfers. These inmates pose no threat in the general population. The diseases from which they

suffer include renal failure, end stage AIDS, diabetes, coronary insufficiency, dementia, etc. Most are only moderately ambulatory, if at all. These inmates require constant medical supervision. Any attempt at escape would result in the loss of medical treatment, with the obvious terminal result.

The policy which prevents the transfer of these inmates is not based upon penal management, but rather complaints by crime victims. The best financial interests of the general public has been relegated to a single social policy, i.e., the view of some crime victims organizations that incarceration should be the public policy vehicle for personal vengeance for criminal activity committed upon themselves or family members.

Most, if not all of these sick inmates, in the past were convicted of violent crimes there is no doubt of that. However, in a time of budget deficits and limited financial resources for all public services, whether for public safety, public health, education, or public works, the treatment of these extraordinarily sick inmates, should be determined by the best treatment options based upon cost, regardless of how the inmates arrived in prison. The punitive basis preventing transfer to outside care facilities should be relegated for this class of inmate to the best needs of California taxpayers. The taxpayers best interest, i.e., reduction of CDCR costs, should be the top priority and concern, consistent with making sure that inmates who would re-offend are kept in prison.

Enforce the Parole Matrix for Prisoners Serving Life Sentences with Possibility of Parole

One of the greatest dangers facing peace officers and correctional officers is the failure by the Board of Parole Hearings and the Governor to release inmates who have served their term for life sentences and are being denied parole. Sentencing is a contract upon which all of us should rely, a deal is a deal and the state ought to uphold its end of the agreement at sentencing. We are all in agreement that dangerous felons should not be released. However, with current psychological reports and risk assessment tools, that danger can be minimized.

Inmates with indeterminate life sentences, either as the result of a jury verdict or a plea agreement, are ordered to a period of incarceration based upon Title 15 California Code of Regulations, §§2280 and §§2400 et seq. These regulations provide a release date, assuming no further criminal activity or aggravating conduct while in custody, for these inmates. However, due to perceived public opposition to sentence reform based upon the fallout from “Willie Horton” and politicians fear of being branded soft on crime, these guidelines are repeatedly ignored with dire consequences to the State, peace officers, and the general public while at the same time, these are the inmates, who if paroled, are most likely to not re-offend.

The refusal to grant parole for life inmates creates a belief, inside and outside prison, that these men have nothing to lose. So long as the non-compliant inmates only maim or injure other inmates or correctional officers, they are only facing segregated housing time because they know they will never be released. The unfortunate lesson to young violent offenders who observe this conduct is do what you will because once incarcerated, if sentenced to ISL, there will be no release. Thus, if being pursued by the police before arrest, the lesson is to do whatever possible to avoid arrest, endangering

peace officers and the public. Once in custody, becoming a member of a gang becomes mandatory in order to survive for the rest of ones life in prison.

National statistics have shown that life offenders who are compliant while in prison have the lowest rate of recidivism once released. This is a direct consequence of the length of the period of incarceration and aging. Correctional officers in prisons as well as chaplains confirm that the lifer inmates are more likely to succeed on parole.

Correctional officers often ponder the question why CDCR is paroling young clearly violent offenders and retaining in custody old men and women who are clearly no longer a threat to anyone. The answer is regrettably simple. These older inmates, who are still in custody well past the matrix provided for in the California Code of Regulations, remain in custody because of perceived fear created by political advertising, rather than actual risk. Risk assessments are available to determine the chance of success upon parole. Although not an exact science because human behavior is not the same as determining success or failure of automobiles or television sets, the risk assessment is best tool available to determine the most important risk factor for parole, that of re-offending.

An immediate risk assessment of the ISL men and women to determine their eligibility for success on release would provide immediate bed space in our existing prisons. The alternative is far worse. A court order directing the immediate release of the lowest risk offenders, i.e., those incarcerated for repeat drug offenses and crimes related to habituation or mental health issues, in the current assumed number of 35,000 to 40,000, would overwhelm public safety, public health, social welfare services as well as low income housing and private social service agencies providing for the homeless.

Without the preparation of a comprehensive release plan which provides transition from treatment inside prison to treatment and training outside prison, it is both reasonable to believe and probable that each inmate provided with \$200.00 and a bus ticket will end up being arrested, creating an endless cycle of arrest and release, which will benefit no one and will increase local and County government costs.

Remove Foreign Nationals at Inception of Incarceration

Based upon the 2005 SCAAP survey (the latest available), there are in excess of 30,000 undocumented foreign nationals in California prisons. Based upon samples, 20,000 will voluntarily agree to transfer first to federal custody and then transfer to serve their sentence in their country of origin. TiPS has had legislative counsel prepare a draft of such proposed legislation, which includes provisions for the re-arrest and incarceration of an individual who returns to California after conviction, to serve a full sentence without credit for time served.

The benefits of this proposal should be obvious. First, prison population will be reduced by 20,000 within 12 months. Second, foreign national inmates will serve their sentences close to home, thus reducing recidivism by nurturing and encouraging felons to maintain family contacts, a result confirmed by a CDCR study. The period of incarceration provided for in the bill if the inmate returns to California assures compliance for those few who will not comply with both State and Federal law.

The only change in procedure which will occur is the timing for inmates delivery to Immigration and Customs Enforcement (“ICE”). Currently, undocumented inmates are delivered to ICE at the conclusion of their sentences for deportation. Instead, foreign national inmates should be allowed to serve their sentences in their country of origin at inception of sentence and after all appeals are complete if their country of origin is a signatory to either the Vienna or OAS Conventions on serving sentences abroad. This will allow inmates to serve their sentences close to their families and discourage criminality at the time of release or parole.

In that there are approximately 30,000 inmates who would be eligible for such

transfers to Federal Custody, California taxpayers would save approximately \$2 billion annually. The savings would immediately reduce our current over crowding crisis without the construction of a single new prison bed. Currently, Orange County and Los Angeles County have procedures which immediately transfer arrested foreign nationals with a felony history to Federal Custody.

The Governor and CDCR have resorted to what have been confirmed to be illegal efforts at inmate population reduction such as the voluntary and then involuntary transfer of inmates out of the State. Federal Judges have given CDCR until Memorial Day to come up with a viable plan for population reduction. The only proposal which the Governor and the CDCR secretary have brought forward is the construction of additional security cells in both County jails and State Prisons. However, implementation will take years, not only for planning and construction, but also to overcome local opposition and the resulting litigation from local governments and interested groups in communities where construction is planned.

If CDCR is to avoid a court order for the immediate release of a large number of inmates in an uncontrolled release, the immediate transfer to countries of origin for inmates to serve their sentences must be adopted to secure the safety of California communities. The alternative of the release of 40,000 inmates with no social service net, no health care, no mental health care, and the concomitant financial and social structure burden on municipal and county governments is by far the worse alternative.

Board of Parole Hearings Membership and Decisions

The selection of members of the Board of Parole Hearings must be changed from its current limited background of individuals in law enforcement and victims of crime, to a balanced membership consisting of professionals in the area of medicine, psychology, psychiatry, penology and criminology. That is not to say that the existing members should be excluded. Rather, a membership with views which are balanced should be included. However, the Board should reflect a broad representation of experience, and not just those who have a prior pre-disposition against granting parole.

The reason is simple. Currently, public policy by the Board of Parole Hearings is to prevent the release of inmates, regardless of their successful reformation while in custody. And even in those rare instances when parole is granted, it is public policy by the Governor to reject the recommendation. The Governor's rejections have been based upon inmate victim group complaints, as confirmed by the Governor's appointment of a cabinet level position for "victims of crime".

However, parole approval should be based upon fixed parameters, i.e., inmate behavior while in custody, behavior modification, completion of programs assigned by the Board of Parole Hearings when available, and successfully completing a risk assessment evaluation. When an inmate is successful, and has been incarcerated for the period provided for in the California Code of Regulations, then parole should be granted.

For those few who the Board of Parole Hearings does grant parole, the Governor should fully support the Board's recommendation. Parole is not an exact science. Paroling inmates is not like building cars where a mathematical risk analysis can

determine the number of failures per hundred thousand parts. There will be those paroled who re-offend in a terribly vicious way. That is the price we all pay for living in a free society. There is no guarantee of safety. However, we must focus on the successes, not on the failures.

Repeatedly, judicial review of the denial of parole concluded that the denial was an abuse of discretion. It is simply time for a change in policy.

Money to Schools to Stop the Cycle of Criminality

In devising a plan for reforming CDCR, a heavy emphasis should be placed upon preventative measures. There is no discussion in the one area which requires more funding to reduce prison population and is California's greatest failure in not addressing the genesis of crime, the failure of our educational system. As long as young people believe that they can be more successful in criminal activity than they can in productive activity, we will never succeed in reducing criminality. The Governor and the Legislature must demonstrate leadership by assuring that the educational opportunity for a student in Bel Aire is the same as for a student in Oakland. The simple truth is that most inmates cannot read at a functional level. Until educational opportunity is equal, reform of the penal system will be a continuing abject failure.

A review of the literature concerning the literacy of the California prison population confirms that most inmates are functionally illiterate. As a consequence, these individuals cannot obtain employment which provides more than marginal income. Without employment opportunities, young people become involved in criminal activity. Further, without youth support, i.e., after school programs, tutoring, recreational programs, as well as early detection and correction of obstacles to learning, too many young people stray into criminal activity during idle time.

No prison or penal reform program will succeed without assuring that young men and women are given the opportunity to obtain a good education to guarantee access to good paying jobs.

Employment Peace

The state of employment satisfaction at State Prisons is so low that it is impossible to fully staff prisons. The high cost of poor planning for the locations of prisons is most easily demonstrated by the medical receiver, Robert Sillen's decision to raise the wages paid to medical workers in State prisons. Albeit having a positive affect on improving medical care in some State Prisons, it has negatively impacted the delivery of public health care because licensed individuals leave lower paying County and State medical and mental health positions for higher paying jobs in State Prisons.

The same is true for correctional officers and prison wardens. The potential recruitment population for correctional officers is the same as those for municipal police, deputy sheriffs, and the highway patrol. In that employment locations for correctional officers are too often undesirable, either do to high living costs such as in the San Francisco Bay area, or because of weather conditions and lack of educational opportunities such as in the desert communities, competitive wages by other law enforcement agencies consistent with the cost of living in the communities hiring them reduce the available recruits, and encourage resignations to work for competing agencies.

Simply put, if you had a choice between patrolling in a California Highway Patrol Cruiser or working repeated double shifts inside a State Prison, and if the California Highway Patrol pay was higher, where would you work? Wages and working conditions for correctional officers should be consistent with the caliber of officers we want to attract. The same is also true for all non-management employees.

A similar problem exists for CDCR top management. Wardens are paid less than Deputy Wardens. If CDCR wants the best management candidates to step forward to deal with the CDCR crisis, then Wardens' compensation must exceed the pay of their subordinates. The Legislature should adopt a measure to provide that Wardens are paid no less than 110% of the wages paid to the chief deputy warden.

Unless the best employees work at prisons, there cannot and will not be any reform of the prison system.

Conclusion

The simple truth is that there are no simple answers. However, the past piecemeal approach to penal enhancements, parole procedures and rehabilitation is clearly an abject failure. The past failure to invest in, or the refusal to fully fund, programs with demonstrated success to prevent criminality and recidivism are what has brought us to this place.

TiPS' solutions provide both immediate inmate population relief of more than 40,000 inmates and long term inmate population reduction, based upon a comparison of the State of New York's success, of an additional 40,000 inmates, with a continuing lower rate of incarceration based upon New York's example.

This proposal, although requiring an initial capital investment, will result in the overall reduction of the California inmate population. When the California inmate population falls to the same level of 331 inmates per hundred thousand state population, we have no need for the construction of State Prison security cells, except to replace those which are so dilapidated that they are a danger to the inmates, the correctional officers, and to the community.

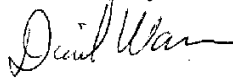
There is only twelve weeks left to implement this proposal. Whether a member of a committee dealing directly with corrections or not, the ultimate result in corrections by Memorial Day will directly affect every member's plans and funding goals.

Dated: March 7, 2007

Sincerely,


Matt Gray

Yours truly,


David Warren

Immediate Source of Inmate Reduction

Inmates for transfer from custody	Inmates
Foreign National Undocumented inmates subject to the Vienna and OAS conventions on housing foreign national inmates to be housed in Federal facilities	20,000
Inmates requiring specialized medical care	2,500
Inmates who should be treated in specialized assisted care facilities	3,000
Women's initiative	4,500
Life inmates who have exceeded their sentencing matrix	10,000
Total to be released or transferred within one year	40,000