



June 11, 2010

The Honorable Denise Ducheny
Chair
Budget Conference Committee
State Capitol
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Sacramento, CA 95814
Senator.Ducheny@sen.ca.gov

The Honorable Bob Dutton
Vice Chair
Senate Budget and Fiscal Review Committee
State Capitol, Room 5094
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The Honorable Bob Blumenfield
Vice Chair
Budget Conference Committee
State Capitol, P.O. Box # 942849
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The Honorable Jim Nielsen
Chair
Assembly Budget Committee
State Capitol Room
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Re: Section VI, Public Safety, Issue 165 - Offenders with Sentences of Three Years or Less

Dear Members of the Budget Conference Committee:

I am writing in regard to the Governor's proposal to divert prisoners from California prisons to county jails. The Sentencing Project is concerned that the Governor's proposal to divert prisoners from California prisons to county jails will not effectively address the systemic causes of California's chronic prison overcrowding as intended. Other states have experienced overcrowded prisons and have adopted innovative policies that have succeeded in reducing the prison population and limiting correctional costs. The challenge is great but there is an opportunity for California to learn from the experiences of other states that have reduced prison populations while maintaining public safety.

Despite the recent decline in California's prison population (2.5% from 2008 to 2009), the state has experienced a dramatic increase in the number of persons in prison and jails over the last two decades. Since 1988, the total number of persons in prison in California has more than doubled, increasing by 144% from 71,278 to 173,670 in 2008. This exceeds the national rate of growth of 133% during the same period. California incarcerates its citizens at a 6% higher *rate*, 471 per 100,000, than the national average of 445 per 100,000. In addition to an increase among state prisoners, the county jail population increased by 29% from 64,216 in 1988 to 82,658 twenty years later.

These stark numbers call for comprehensive policy reforms such as diversion of people charged with lower-level drug offenses, developing graduated sanctions for people on probation and parole that break the rules, and enhancing reentry strategies. Below we identify reform models for California to examine.

Model Reforms

New York, Michigan, Kansas and New Jersey have adopted various strategies to address prison population growth that includes sentencing reforms, alternatives for “prison bound” people, reducing time served in prison, and reducing revocations. As a result, these states have achieved reductions in their prison populations between 5-20% in recent years. These changes include:

Sentencing Reforms

- New York: Scaled back the Rockefeller Drug Laws substantially to reduce the scope of mandatory sentences.
- Michigan: Reformed the “650 Lifer Law” that had previously imposed life sentences for 650 gram drug offenses, even for first-time offenders. Eliminated most mandatory minimum sentences for drug offenses and incorporated sentencing provisions into the guidelines system, with enhanced judicial discretion. Restructured community corrections planning expectations to create incentives to target “straddle-cell” cases in sentencing guidelines for intermediate sanctions.
- Kansas: Amended state sentencing guidelines to divert people convicted of drug possession to mandatory treatment rather than prison, and eliminated sentencing enhancements for persons with prior convictions for drug possession.

Alternatives for “Prison Bound” People

- New York: Drug Treatment Alternative to Prison program established by the Brooklyn District Attorney’s Office to divert prison-bound defendants into treatment programs helped to reduce use of incarceration, and was expanded to other prosecutor’s offices statewide. Statewide network of Alternatives to Incarceration programs utilized data to target prison-bound offenders for sentencing alternatives.
- New Jersey: Attorney General revised plea negotiation guidelines to permit “open pleas” in lower-level drug-free zone cases, giving judges discretion at sentencing. Expanded drug court model statewide and encouraged judges to consider “open plea” cases for treatment.

Reducing Time Served In Prison

- New York: Implemented “merit time” credits and other incentives for participation in education and vocational training, treatment and other services to speed parole consideration.

Parole Release

- New Jersey: Adopted risk assessment instruments to aid parole board in considering release issues, along with day reporting and electronic monitoring in community, resulting in increased rate of granting parole.
- Michigan: Use of data-driven policies to identify lower-risk cases for release, establishment of greater range of intermediate sanctions for rule violators, and designation of two “reentry prisons” to assist in planning for release.

Reducing Revocations

- New Jersey: Established Regional Assessment Centers to provide input to parole board in determining if parole violators should be allowed to continue on parole supervision.
- Michigan: Established the Michigan Prisoner Reentry Initiative to develop locally-based planning focusing on services in housing, employment, substance abuse, and other areas designed to increase prospects for successful reentry.

- Kansas: Justice Reinvestment strategy to provide services under community supervision to reduce revocations for rule violations. Risk Reduction Initiative provides funding to county-operated programs that emphasize neighborhood revitalization, substance abuse and mental health treatment, and housing services.

The experiences in New York, Michigan, Kansas, and New Jersey demonstrate that controlling prison growth is not an intractable problem. Over a period of years state policymakers and practitioners have come together to assess the sources of growth in incarceration and developed solutions that reversed those trends and strengthened public safety.

The approaches that California has undertaken to reduce its prison population in recent years can be strengthened substantially by implementing additional policy solutions that will contribute to reducing the state's overcrowded prison population without simply transferring its burden to county facilities.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Mauer". The signature is fluid and cursive, with the first name "Marc" and last name "Mauer" clearly distinguishable.

Marc Mauer
Executive Director

For more information please see [*Downscaling Prisons: Lessons from Four States*](#)

cc: Members of the Budget Conference Committee