

**Prison Downsizing:
Mitigating the Impact on California Cities**

by

**Mark Helms
Stockton Police Department**

September 2010

COMMAND COLLEGE CLASS 47

The Command College Futures Study Project is a FUTURES study of a particular emerging issue of relevance to law enforcement. Its purpose is NOT to predict the future; rather, to project a variety of possible scenarios useful for strategic planning in anticipation of the emerging landscape facing policing organizations.

This journal article was created using the futures forecasting process of Command College and its outcomes. Defining the future differs from analyzing the past, because it has not yet happened. In this article, methodologies have been used to discern useful alternatives to enhance the success of planners and leaders in their response to a range of possible future environments.

Managing the future means influencing it—creating, constraining and adapting to emerging trends and events in a way that optimizes the opportunities and minimizes the threats of relevance to the profession.

The views and conclusions expressed in the Command College Futures Project and journal article are those of the author, and are not necessarily those of the CA Commission on Peace Officer Standards and Training (POST).

© Copyright 2010

California Commission on Peace Officer Standards and Training

Prison Downsizing: Mitigating the Impact on California Cities

Attention California cities: the Golden State's prison system is downsizing. At a time of economic turmoil, skyrocketing unemployment, increasing crime, and local governments struggling to maintain basic public safety services, the California Department of Corrections and Rehabilitation (CDCR) is on the fringe of sending around 40,000 inmates home early. That's nearly 25 percent of its criminal population. What does this mean for large cities already facing disproportionately high crime rates, and what can be done to ease the impact?

At a time when revenue shortages are forcing municipal law enforcement agencies to shed personnel and reduce service levels, California cities will need to find bold and innovative ways to cope with the serious problems that could result. This article will summarize the prison downsizing and reform measures currently underway, discuss the real local impacts of parole reform, and proffer suggestions to help minimize the threat to our communities.

A Perfect Storm for Reform?

Before we can draw conclusions, we need first to understand the situation. Consider the basics along with some recent prison history: CDCR is a behemoth and complicated organization, employing 63,000 sworn and civilian staff in more than 40 adult and juvenile facilities. About 170,000 convicted felons are incarcerated there, at a cost to the taxpayers of \$10.6 billion (CDCR, 2009). That's about \$49,000 a year to confine each inmate.

In prisons built to house just 100,000 inmates, overcrowding has been a vexing issue in California for years. In a 2007 report to the Legislature, an Expert Panel assembled to study the prison system identified several problems that contribute to overcrowding and made a number of

recommendations for improvement (CDCR, 2007). The Panel's report describes how a decades-long cycle of enacting "tough on crime" laws resulted in more offenders being sentenced to prison for longer periods of time. Between 1976 and 2005, for instance, California's Legislature and voters enacted more than new 80 laws that lengthened prison sentences, including the controversial Three Strikes initiative. As the philosophical shift continued, the Department of Corrections built several new facilities but couldn't keep pace with the strong push to lock up criminals. The Expert Panel found that many rehabilitation efforts have been diminished significantly because prisons are dangerously overcrowded and lack adequate programming space. As the population overtook capacity, gymnasiums and other facilities intended for recreation and rehabilitation activities were converted to massive dormitories (CDCR, 2007).

As prisoners were paroled, many quickly re-offended and recidivism rates increased. The number of parolees returning to prison in California became one of the highest in the nation, with about 70 percent re-offending within three years. In 2005, after recognizing vast reforms would be necessary to reduce recidivism, the California Department of Corrections (CDC) changed its name to the California Department of Corrections and Rehabilitation (CDCR). By the time the Expert Panel convened in 2006 to begin its work on prison reform, a variety of legal problems associated with overcrowding had surfaced (CDCR, 2007). Most critical amongst these were inmate health care, political restructuring and chronic budget shortfalls.

Inmate Health Care and Federal Judges

Overcrowding created a host of significant problems. Several lawsuits filed in federal court alleged that overcrowding caused an unsafe environment and prevented inmates from receiving adequate healthcare (Jones & Mayer, 2009). The court eventually placed the prison

healthcare system under control of a Receiver and ruled, among other things, that 40,000 to 60,000 inmates must be released to help remedy the problem (Jones & Mayer, 2009). The Receiver also ordered construction of 10,000 new prison hospital beds, at a cost to the state of \$2 billion (Kelso, 2009). Publicity from the federal lawsuits and the possibility that so many offenders could be released from prison prompted substantial interest in state government, especially among Sacramento lawmakers.

Politics and Budget Shortfalls

Parallel to the litigation, California legislators have taken their own steps to restructure the prison system and reduce incarceration costs (Chronicle Staff Report, 2009). Among them were proposals to downgrade several crime classifications from felonies to misdemeanors, changing sentencing laws to promote leniency, and a major makeover of the parole system, known as the Non-Revocable Parole (NRP) model. In this new model, which took effect in January 2010, thousands of inmates are being released from prison earlier than before. As of July 2010, CDCR reported that 14,452 of its 109,184 current parolees have been released under NRP (CDCR, 2010). Fortunately, that's far less than the 22,002 inmates it had intended to send home by June 2010 (CDCR, 2010).

Local law enforcement leaders are less than enthused about NRP (Blankstein, 2010). To their dismay, NRP strips away an effective tool for a street cop: the traditional parole violation. That is because NRP offenders are exempt from the rules and regulations traditionally invoked on parolees, essentially immunizing them from being returned to prison for a technical violation (CDCR, 2010). NRP parolees can still be searched without a warrant, but they cannot be returned to prison unless they are convicted of a new crime. This is a major concern for local

law enforcement agencies (Hernandez, 2010). NRP parolees are also exempt from supervision by parole agents, who have begun focusing their efforts on more serious offenders (Piombo, 2010). While cognizant of the need reform the correctional system and curb recidivism rates, California's Police Chiefs are wary that NRP will increase their work load and put public safety at risk (Manheimer, 2010).

A Plan to Address Recidivism

Not all the news associated with CDCR is bad. To help mitigate the effects of prison downsizing and reform measures, like NRP, that seem to favor the offender's well being over public safety, CDCR is dedicating significant resources to address its staggering recidivism rates (CDCR, 2007). Much of this effort is aimed at preparing prisoners to successfully re-enter the community.

CDCR is preparing to provide widespread re-entry services to offenders who are about to leave prison. The Department recently implemented a five-year, \$2.2 billion plan to construct several secure re-entry facilities, where up to 16,000 qualified inmates will spend the last year or so of their sentences preparing for life on the outside (CDCR, 2010). Depending on their individual needs, inmates approaching their release dates will transfer from a traditional prison to a re-entry facility. There, they'll have access to a variety of evidence-based programs tailored to their individual needs. Examples include vocational training, substance abuse and family counseling, and educational opportunities, to name a few. CDCR hopes to enlist local service providers who can provide specialized programming services while inmates are still incarcerated, as well as after their release (CDCR, 2007).

Law Enforcement Partnerships

For many years, CDCR parole agents have joined with local police to monitor the parolee population. Perhaps the most structured and productive partnerships are CDCR's Police and Corrections Teams (PACT). As described in *Successes and Challenges, the CDCR Story*, PACT teams are comprised of local law enforcement officers, CDCR Parole Agents, and various community-based service professionals who provide resources to local parolees in more than 60 locations throughout the state (CDCR). Their purpose extends far beyond arresting parole violators and tracking down fugitives. PACTs also host mandatory orientation meetings for newly-released parolees, using these opportunities to align each offender with the resources he or she needs to live a successfully outside of prison. Consistent with the re-entry theme, available services include substance abuse programming, job training, and family counseling. About one third of CDCR's parolees are serviced by a Police and Corrections Team each year (CDCR 2007). These partnerships have been an effective means of integrating Parole Agents with local law enforcement officials (Heathman, 2006).

Struggles of Local Government

Faced with severe budget shortages and other challenges, prison downsizing will undoubtedly exacerbate the burden on local law enforcement (California Police Chiefs Association, et al, 2009). Without significant mitigation measures, having more parolees in our communities will result in more crime. To make matters worse, the relaxed rules of NRP are making it much more difficult to return parolees to prison (Piombo, 2010).

Prior to early 2010, when NRP was implemented, local police successfully utilized the parole violation to remove problematic parolees from the community, often without devoting time and resources to charge fresh crimes that clog the jails and courts. Without the simple

parole violation at their disposal, local law enforcement officers will have to develop new strategies to provide such relief. Offenders instead will have to be arrested and prosecuted on new charges to get them off the streets, shifting the burden triggered by the parolee from the parole system to the community. Unfortunately, the loss of the parole violation as an enforcement tool couldn't come at a worse time. In San Joaquin County, for example, budget shortages have resulted in layoffs of prosecutors, defense attorneys, and court staff. As a result, many defendants who commit serious crimes may avoid prosecution (Farrow, 2010).

Coming to Terms and Finding Collective Solutions

Now what? In the midst of significant prison reform and a grim economic outlook for local government, what can be done to protect California communities from the coming flood of parolees?

It is CDCR's responsibility to protect California from convicted felons. Unfortunately, the State and CDCR are shifting much of that burden to local government, without increasing funding for front-line public safety. Even though cities and counties will suffer the negative effects of controversial public policy decisions like NRP and early inmate releases, the situation is nevertheless a reality we will experience for years to come (Manheimer, 2010).

More criminals will be on the streets, and fewer police officers and parole agents will be available to monitor them. Communities that already experience high incidence of crime are especially vulnerable. Left unaddressed, the massive inmate releases pose a serious threat to public safety (Dyer, 2009). The California Police Chiefs Association is working diligently with the League of California Cities, Legislature, Governor, and other stakeholders to find alternative

solutions that both recognize CDCR's woes and are sympathetic to the burden being placed on local government (Manheimer, 2010).

Unfortunately, there is no organization or individual component of the criminal justice system that can single-handedly save California from the havoc that will result from 40,000 convicted felons returning home early, relaxed parole restrictions that hinder local law enforcement officers, and other measures that will likely result in greater leniency and less accountability for criminal offenders. Achieving a positive outcome will take innovation, flexibility, compromise, and - most importantly - a strong commitment from us all.

Recommendations

The following are recommendations to lessen the effects of widespread prison downsizing. They are drawn from the available literature, CDCR reports, and from community and local government forums on re-entry and prison medical facilities that were hosted by CDCR in 2009. An expert panel convened to study this issue (NGT, 2009) also contributed to the recommendations. It is noteworthy that, amongst the panel's most compelling findings, they concluded that strong coordination among justice system partners, greater compatibility and interconnectivity of data systems between agencies, implementation of evidence-based offender rehabilitation practices, and effective parolee supervision are the most important ways to achieve effective prison reform while considering the affect on local government.

The recommendations will require compromise, commitment, and shared accountability amongst different levels of government. They seek to address the problem from a holistic yet practical perspective, and consider the challenges facing each party. They are:

1. Recognize the Obligations of CDCR

A major trend in CDCR is implementation of re-entry programming to help inmates prepare for a successful return to society after years of incarceration. Offenders who traditionally had little opportunity or incentive to access rehabilitation services have found themselves paroled back to the same destructive environments from which they came (CDCR, 2007). CDCR's re-entry programming offers some an opportunity to change all that. If successful, many parolees could transition from being society's liabilities to productive, self-sufficient members of our communities who contribute to our economic growth.

Though it may seem beyond the scope of traditional urban policing, local law enforcement organizations should support CDCR's endeavor to prepare low risk parolees for alternative custodial programs (Manheimer, 2010). These commitments need not be in the extreme form of dedicating vast sworn or civilian personnel resources to "coddle" new parolees. Rather, CDCR's outcomes could benefit substantially if local law enforcement leaders merely endorse the re-entry philosophy, support CDCR's efforts to engage local service providers to much of the work, and introduce prison staff to key leaders in the local public, private, and non-profit arenas.

2. Maximize Utility: Promote Enforcement-Based Partnerships

Police and Corrections Teams (PACTs) can maximize utility and produce positive results. Jurisdictions that already enjoy these partnerships should give heavy consideration to expanding their size and scope. These specialized teams bring together professionals from law enforcement, parole, and other important organizations. As with any effective task force, each team member can bring his or her own unique attributes to the group. PACTs "represent a superior model as to how our law enforcement agencies should exist and operate together,"

commented Stockton Police Chief Wayne Hose in 2006 (Heathman, 2006). Servicing about one third of CDCR's parolees statewide, PACTs are a very effective means of providing strict enforcement of parole conditions as well as ensuring that parolees receive the services and other assistance they need to avoid another trip to prison (CDCR, 2007).

3. Working Smarter with Technology

GPS and other electronic monitoring devices are already used by state and county agencies to monitor many criminal offenders. GPS technology has evolved and continues to develop as a reliable, accurate, and safe tool. Web-based systems on the market today offer many options and features that can be tailored to meet the different the needs of each individual parolee, at a fraction of the cost of incarceration (Secure Alert, 2009). Although some parolees aren't suitable to participate in such a program, most are and should be moved to a GPS monitoring protocol.

CDCR successfully uses active GPS monitoring to help parole agents track high risk sex offenders and gang members (CDCR, 2010). Why stop there? Used as a supplemental tool to strengthen and reinforce its re-entry programming, GPS could be expanded to become a standard component of CDCR's parole system. The first three years following release is the most vulnerable time for most parolees. Used as a deterrent to destructive behavior, GPS monitoring may encourage parolees to stay out of trouble during those critical months. And, at around \$10 a day, electronic monitoring is significantly less expensive than confinement.

4. Synergy and Compatibility

We should expect CDCR to bear the burden of electronically managing their parolees. However, efficiency and utility can improve exponentially if local law enforcement agencies

helped. Since most contemporary GPS systems are web based, interfacing that technology with allied agencies can occur with relative ease. Without initiating contact with the parole agent on-call, police staff could immediately determine if a parolee was in the area of an in-progress crime.

5. Accountability: Safety First

Finally, while local law enforcement agencies should endorse re-entry programs and support CDCR's quest to reduce recidivism, they can never forget it is the State of California's responsibility to incarcerate convicted felons. CDCR cannot be permitted to back away from the prison business or shift a greater burden to counties and municipalities. Local officials, including those holding elected posts and top-ranking executives like Police Chiefs and City Managers, should use their influence to ensure California's Legislature and CDCR are doing their jobs. If inmates are paroled early but it is clear they should have remained in custody, our local leaders must stand ready to hold CDCR accountable. Community-based influence, especially if it is collective among several cities, can bring significant benefit.

Conclusion

Prison downsizing and parole reforms like NRP are examples of public policy that can be disastrous for local government. It is unfortunate, even disturbing, that California is taking such drastic measures to reduce its prison inmate population without considering the local burden. While reform measures include positive changes and may help reduce recidivism, the first obligation of CDCR must be to incarcerate offenders who have been duly committed to State Prison. Sadly, the expected release of some 40,000 inmates may be devastating to some

California cities. The burden of those releases will fall on local governments, especially those that already experience disproportionately high crime rates and other challenges.

Municipalities could choose to observe from the sidelines and continue blaming the State for failing to live up to its responsibility. Unfortunately, that strategy will do little to mitigate the effects of prison population reduction and parole reform. The parolees are coming, and it's unlikely anything will occur in the near future to change that. Instead of pointing fingers, cities should be proactive in their response to address parolees and the problems associated with parolee crime. With tenacity and strong leadership, local officials can directly and indirectly influence CDCR to work in partnership with communities.

Strong partnerships and commitments will be essential to deter parolees from re-offending and keep crime rates from surging. As CDCR implements its new re-entry programs, local service providers will be an essential component of those efforts. Local governments must support re-entry programs if they hope to have the greatest opportunity to make the best of a bleak situation. Finally, technology provides a great opportunity to effectively monitor much of the parolee population. It is not an exaggeration to think this reality can create success for all involved. With cooperation and a spirit of collaborative problem-solving, it can happen. Certainly, the people we have vowed to protect deserve nothing less.

References

Blankstein, A. (2010, July 15). LAPD complains about parole officials classifying suspect in police shooting as "low-level, nonviolent". *Los Angeles Times*.

CDCR. (2007). *Expert Panel on Adult Offender and Recidivism Reduction Programming: A Report to the California Legislature*. Sacramento: California Department of Corrections and Rehabilitation.

- CDCR. (2007). *Integrated Strategy to Address Overcrowding in CDCR's Adult Institutions*. Sacramento: CDCR.
- CDCR. (November 7, 2007). *Secure Re-entry Facilities Protect Local Communities*. Sacramento, CA: CDCR.
- CDCR. (2009). *About CDCR*. Retrieved September 1, 2009, from California Department of Corrections and Rehabilitation: www.cdcr.ca.gov
- CDCR. (2010). *Division of Adult Parole Operations*. Retrieved July 29, 2010, from CDCR: http://www.cdcr.ca.gov/Parole/road_map/index.html
- CDCR. (2010). *Master Plan Annual Report for Calendar Year 2009*. Sacramento: California Department of Corrections and Rehabilitation.
- CDCR. (2010). *Spring 2010 Adult Population Projections*. Sacramento: California Department of Corrections and Rehabilitation.
- CDCR. *Successes and Challenges: The CDCR Story*. Sacramento: California Department of Corrections.
- California Police Chiefs Association, et al. (2009, June 22). Public Safety Concerns About Proposed Budget. *Memorandum to the California Legislature*. CA: California Police Chiefs Association, et al.
- Chronicle Staff Report. (2009, July 22). *San Francisco Chronicle*. Retrieved July 22, 2009, from SFGate.com: www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/07/22/mn2h18tal2.dtl
- Dyer, J. (2009, January 6). Letter to Governor Schwarzenegger and Legislature. Sacramento, CA, USA: California Police Chiefs Association.
- Farrow, R. (2010, June 23). San Joaquin County budget cuts: Some suspects may not be prosecuted. *Lodi News Sentinel*.
- Heathman, A. (2006, May 1). Stockton Parole Leads Another Successful Multi-Agency Sweep. *CDCR Staff News*, p. 5.
- Hernandez, S. (2010, April 30). What impact will early prisoner release have? *The Orange County Register*, Retrieved online July 29, 2010.
- Kelso, J. C. (2009, July 14). Receiver's Corner: Working Together, Now More Than Ever. *Lifeline Newsletter*, p. 1.
- Jones & Mayer (2009, February 10). Client Alert: Federal Court Issues Tentative Order to Release 40,000 to 60,000 Inmates from State Prison. *Jones & Mayer, Attorneys at Law*. Retrieved August 2, 2010, from <http://www.jones-mayer.com/clientalerts/ca2404021009.htm>

Manheimer, S. (2010, June 25). Legislative Alert - Important Budget Proposal Information. Sacramento, CA: California Police Chiefs Association.

McGreevy, M. A. (2009, September 2). *Los Angeles Times*. Retrieved September 1, 2009, from latimes.com: <http://www.latimes.com/news/local/la-me-prisons2-2009sep02,0,2980159.story>

Melekian, B. (August 2009). *President's Report*. Sacramento, CA: California Police Chiefs Association.

NGT Panel (October 15, 2009). Nominal Group Technique expert panel meeting. Stockton CA

Piombo, C. (2010, May 24). Non-revocable parole creating problems for police on streets. *Lodi News Sentinel*, Retrieved online.

Secure Alert. (2009). *TrackerPal II*. Retrieved September 4, 2009, from SecureAlert.com: <http://www.securealert.com/Home/>