

**STORAGE WARS:
OVERCROWDING & RECIDIVISM IN CALIFORNIA'S PRISONS**

By

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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).

STORAGE WARS: OVERCROWDING & RECIDIVISM IN CALIFORNIA'S PRISONS

Between 1849 and 1984 California built 16 prisons; from 1984 to 1997 the State built 16 more. Historically known as a more liberal state, California has traditionally been viewed by many as “soft” on crime. The Golden State now, though, leads the Nation with a recidivism rate over three times the national average at 67%. According to the California Department of Corrections & Rehabilitation, the State’s prisoner population dropped from a high in 2006 of 173,400 to approximately 137,000 today. Interestingly, that still ranks California second only to Louisiana in the United States for the number of inmates incarcerated per capita. Many factors have driven the prison system to a state of near-failure, including ineffective sentencing structures, “three-strikes” laws, and the reduction or elimination of many programs designed to help prepare inmates for success once released. The nation’s current financial crisis has only served to exacerbate the existing problems, and unless things change, the problems will only grow.

Since the late 1970’s, with the Legislature’s emphasis on housing and incarceration rather than rehabilitation, parole agents shifted their efforts to apprehension rather than working at their traditional role as the conduit for success for parolees recently released from prison. Ideally, California’s Parole Agents should give greater focus to keep their charges out of the system rather than facilitating their quick return. The problem, however, does not lie only in the hands of Parole (Farrell, 2009). Many in Law Enforcement have a mindset that has further strained the “us versus them” mentality

regarding parolees. This has persistently frustrated attempts to work with parolees to make them productive community members.

According to the United States Bureau of the Census, California's population in 1970 was just shy of twenty million (U.S. Census, 1972). In the past 40 years that number has nearly doubled to over thirty-seven and a half million (U.S. Census, 2010). The rise in population has caused a significant strain on a social services system that has been unable to keep up with the public needs. One of the primary stressors, and also perhaps the most expensive aspect of State government, is its prison system.

California's prisons have become a sort of Public Storage for people, where the inmates waste away the day learning only from each other rather than from any directed or systematic plan. Few programs remain to help the inmates prepare for their reintegration to communities, and all are voluntary (Petersilia, 2003). Theoretically, an inmate could spend his whole sentence sitting in his cell, emerging only to bathe and eat as instructed. This reality doesn't manifest itself until they find themselves on the outside: cold, hungry, and unemployed with only their criminal ways to rely upon (Spangenberg, 2011).

This community of untrained, unskilled, and largely unemployable men and women will be a greater and greater challenge for law enforcement unless radical changes are made to the way "the system" sees its future and responds appropriately. According to the FBI's 2011 preliminary Uniform Crime Report there has been a slow, but notable, decline in the number of both person and property crimes reported nationwide (UCR 2011). While many are proud to point out innovative and collaborative community policing models, and other aggressive policing models, the cops on the beat know there are a number of unreported factors affecting the decline. The most glaring is

that: people are just not bothering to report these crimes. The officers note that many people have apparently just stopped reporting crime because of the reduction in services offered by the police (Oltman, 2010). Citizens complain that because Law Enforcement has reduced staffing (both sworn and non-sworn) so dramatically, many agencies do little or no follow-up work on property crimes, people are tired of waiting long hours for a police response when they know nothing will come of it anyway . Unfortunately, even if they are not being reported, these crimes are still occurring.

One suggestion to create a sustainable prison infrastructure would be to reconfigure the current sentencing guidelines. In November, Californians will head to the polls to weigh in on California's "three strikes" laws that have exacerbated the issue of prison crowding since its inception. Instead of utilizing the current system, California should look to a more creative model where prisoners are given incentives for completing educational and vocational goals while incarcerated. Hopefully they could "return to society" and become productive, healthy citizens; lessening the burden on not only the criminal justice system, but all of social services. Santa Clara County District Attorney Jeff Rosen explains, "Prisons should be for people we are afraid of, rather than people we are angry at".

What? Say that again: It's fairly basic; kill, rape, or molest someone and you get locked up, but steal a bike, shorts, or car, or use or sell drugs, or just do something stupid, and society should think about the cost of incarceration versus the money that could be re-directed toward education and vocational programs likely to prevent them from making the same mistake again. Society should incarcerate the worst of the offenders; the

rest should be given the opportunity to be punished, pay restitution, and re-join their communities.

This paradigm shift could ostensibly lead to a reduction of criminality and a lessening of the burden on the entire social services system that is often greatly impacted by the arrest of a household breadwinner. For a new strategy to be successful, the criminal justice system would have to be completely restructured 180 degrees. This would require support from the ground up to be sustainable. The average person feels a need for a punishment when a crime is committed, but that sentencing could be tempered to fit the crime more realistically if there was promise in the subject being sentenced. It would not be suitable for all offenders, but could dramatically reduce the rate of recidivism within the State. Time spent in prison should be not be defined by the amount of time spent, but rather what the inmate does with his or her time (Banks 2011).

This concept is not new, but its implementation has historically been received as being too lenient. In Dr. Joan Peterselia's When Prisoners Come Home, she outlines the creation of this new population of inmates that has no motivation other than to "bide their time" in prison and wait for release. Dr. Peterselia is a Faculty Co-Director at Stanford University's Criminal Justice Center. She has spent over 25 years in the field, and has authored eleven books and numerous articles on the topic of parole and prison reform. She cites four major areas in which prisoner integration needs to be reformed:

1. Provide more education, work, and rehabilitation opportunities
2. Institute a system of discretionary parole release.
3. Revise post-prison release services and supervision

4. Foster collaborations with the community and enhance mechanisms of social control.

Although many of these programs have been attempted, none have ever been completely evaluated to determine their likelihood of success. Each, though, could be considered as a catalyst to reform and lower the current rate of recidivism in California. Strategies could also include intermediate housing, where inmates live outside of traditional prisons in monitored dormitories where costs are offset by the inmate's work product. A discretionary parole release program that offers incentives for achievements in education or work skills and good behavior could be implemented as an alternative for current practices. Changing current sentencing guidelines to mirror the parole program would also be a step in the right direction. Finally, legislation to change the ancient practices that restrict prior felons from certain lines of work would be the capstone of a non-traditional look at how communities view prior inmates. Why should an armed robber at 18 years of age be prevented from being a doctor or lawyer if his aptitude and grades point to a predilection for success in these areas?

These steps should be coupled with a progressive and innovative sentencing structure that provides incentives for positive behavior and completion of vocational or educational programs while incarcerated. Experts like Santa Clara County District Attorney Jeff Rosen agree that the current three strikes system is broken and in need of alteration, but few have attempted to offer sustainable solutions to the problems California law enforcement will soon be faced with. District Attorney Rosen is one of the proponents of change. His office is stepping out ahead of the upcoming ballot measures by changing several of their policies in hopes of reducing the number of persons

convicted for petty crimes that could otherwise see them incarcerated for more than twenty-five years under the current legislation. Yet, of the 58 District Attorneys in California, only two others share his position.

Rosen explains it would take an overhaul of our current justice system to reduce the recidivism rate, and that not all counties share the same beliefs. He notes “What works in Santa Clara County or Los Angeles County may not work for Butte or Mendocino Counties”. That aside, he said his office is interested in change. In September they will enact a policy diverting low-level misdemeanor crimes prior to issuance and thus avert these offenders from being entered into, and stigmatized by, the criminal justice system. To Rosen this is a no-brainer; if these offenders meet certain criteria (no priors, not on probation, etc.) they are offered a chance to participate in community service and pay restitution. These offenders cost the system significantly less than if they were to be formally prosecuted; they save the work hours required by the courts, the District Attorney’s office, and the Public Defender from having to divert precious resources away from more pressing crime.

In fact, the entire economy benefits from the notion that instead of having the traditional “punitive” mindset. The California public school system should absolutely jump on this bandwagon. By lessening the amount of money spent on incarceration in California, according to the Bureau of Prisons, nearly 8 billion dollars annually (or 11% of the State budget), perhaps the State could re-institute art and music programs, as well as sports and vocational programs after school. Funds could also be used to lessen college tuitions, and increase capital infrastructure in government services.

Implications on the Future of Policing in California

This problem will plague California for the foreseeable future unless we begin now to change perspectives within our own Law Enforcement community. As former San Jose Police Chief Rob Davis was fond of saying, “We can’t arrest our way out of the problem”. These words certainly ring true as the recent passage of AB109 and the court ordered early release of prisoners has forced over-crowded prisons to release inmates long before their sentences are complete in an effort to “stop the bleeding”. By 2015, some 35,000 “early release” prisoners will have been sent back to their home counties in an effort to reduce the number in the state prisons and transfer costs back from the State to the local jurisdictions.

As studies have shown, Californian parolees re-offend at a rate three times higher than anywhere else in the *world* (CDCR 2010), and will continue to do so until you change how society views them and how they view themselves. Victor Frankl wrote, in his lauded 1946 book Man’s Search for Meaning, that humans seek purpose or meaning; parolees and prisoners are no different. Law enforcement needs to consider how best to manage its resources to *prevent* them from re-offending. It’s a simple (yet less effective) strategy to spray water on the fire after it has started; the real challenge is to make it so there is very little chance of a fire starting in the first place.

Many law enforcement officials are forced to wonder how their agencies, both large and small, will manage to provide basic patrol services over the next few years if they continue down this path. Most agencies have seen dramatic cuts in funding, infrastructure, and personnel, and are resigned to the notion that they are not yet at the bottom of the hole. The State’s judicial system needs changing, and law enforcement

/corrections as professions need to have a paradigm shift if they hope to both maintain order and deliver timely service to their communities.

Conclusion

Unless drastic changes are made in the way we view the prison population, law enforcement will soon be unable to maintain order or investigate crimes in most cities. Society needs to change its perception and definition of crime, and shift to a more productive course or it will soon find all of its monies spent on the minority that does the least, but receives the most (housing, welfare, public safety services, etc). Stop punishing those that you are only mad at!

For those in the law enforcement and corrections fields there is a great opportunity to redefine strategies to help create a useful and productive population in our community rather than a demographic of uneducated, unemployed, unemployable, and bitter people that will place an extraordinary drain on our systems. By following some of Dr. Peterselia's guidelines and marrying them with some of the progressive sentencing models like Rosen's, society in California could actually create a system where inmates work for their release and in doing so produce a population that, when released into a community, could contribute and be less of a burden on both law enforcement and social services.

Any law enforcement senior executive in California should see this as an unprecedented opportunity to redefine their organization's mission. Chiefs and Sheriffs could upgrade technologies and focus on community issues. Prosecutors and Public Defenders could have the latitude to create sentences that develop offenders, and courts could create judgments that offer opportunity and growth. Prisons could institute

programs that create vocational and educational opportunity, and parole and probation could spend more time ensuring prospects other than those of returning to prison. Law enforcement could again return to prevention and intervention of crime, instead of simply suppression and reporting.

Society pays for services at the rate of what “the market will bear”. How much would you pay someone to clean out your toilets, or take away your garbage? How much money should we allocate for law enforcement and correctional services, and the services to support offenders if and when they are released? There’s an adage, “One man’s trash is another man’s treasure”. Perhaps Californians should begin looking to recycle rather than just throwing there unwanted into storage that the public pays for.

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