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Dan Walters: Sentencing reform is perilous

By Dan Walters - Bee Columnist

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When Gov. Arnold Schwarzenegger launched his newest prison reform program with a bipartisan covey of legislators last month, he and they wanted to talk mostly about building more prisons and cutting recidivism through job training, substance abuse counseling and so forth.

The reporters who attended the news conference were more interested in the third aspect of the governor's approach -- the creation of a sentencing commission to study the terms being meted out for various offenses and recommend changes aimed at easing the prison system's dangerous overcrowding. Schwarzenegger characterized it as seeking parole and sentencing policies "so that we can continue to be tough on criminals but at the same time be prudent with our money."

The third aspect is, from a political standpoint, the third rail, because any proposals to change the state's recent history of imposing ever-harsher sentences will create backlash.

Republicans, including those who stood with Schwarzenegger on Dec. 21, would likely oppose any softening of sentences; one of them, Sen. George Runner, is fresh off a successful ballot measure campaign to make life harsher for sex offenders. And Democrats from conservative or even moderate districts would be reluctant to embrace any scheme that puts fewer felons behind bars for fear of being branded soft on crime.

Even Schwarzenegger might be leery. When asked whether he was open to changing the state's landmark "three strikes and you're out" law that puts repeat offenders behind bars for longer terms, Schwarzenegger replied, "I don't want to tamper with the three-strike system."

If there is one ever-present fear among California politicians, it is to do something that allows even one felon to be freed and then have him commit some heinous crime. Remember when Massachusetts Gov. Michael Dukakis was hammered during his 1988 bid for the presidency over the crime committed by a felon named Willie Horton? The fear led former Gov. Gray Davis to flatly refuse to parole anyone convicted of homicide, no matter what the mitigating circumstances.

So who would support any sentencing reform that included even the remotest chance that someone who otherwise would be locked up would be allowed to roam free and commit a crime? The potential backlash from sentencing reform, as fate would have it, was implied in the reaction to a San Francisco homicide that occurred exactly one day after the prison reform press conference.

San Francisco Police Officer Bryan Tuvera was shot to death by a man who had escaped from

a minimum- security camp for nonviolent inmates two years earlier, leading to howls of protest from cops and prosecutors.

They demanded to know why the alleged shooter, who was himself killed by Tuvera's partner, was allowed to live in a camp for firefighting inmates, even though he had an extensive record of felonies, including an armored car robbery. Prison officials said Marlon Ruff had met all the criteria for minimum-security handling, but their explanation didn't placate the critics.

"I think it's fair to say there was a failure of the system," San Mateo County prosecutor Jim Fox told the San Francisco Chronicle. "If it wasn't a failure, then there need to be considerable changes to the system."

There is no political benefit to softening sentencing laws, no matter how it's couched. By and large, voters want felons locked up as long as possible, even if they are also somewhat unwilling to build enough prison cells to house them all adequately. And that sentiment is bolstered by political propaganda and campaign cash from those with an interest in keeping as many felons locked up as possible, such as the union that represents prison guards.

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