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Prisons Push California to Seek New Approach

By [JENNIFER STEINHAUER](#)

LOS ANGELES, Dec. 10 — By nearly every measure, the [California](#) prison system is the most troubled in the nation. Overcrowding, inmate violence, recidivism, parole absconders and the prison medical system are among its many festering problems.

Now, with the November election behind them, Gov. [Arnold Schwarzenegger](#) and state lawmakers from both parties say the time is ripe for the first major overhaul of the system since the 1970s.

Mr. Schwarzenegger, [a Republican](#) who easily won re-election, recently took the extraordinary step of declaring a state of emergency in the prison system, a move generally reserved for areas hit by natural disasters.

James E. Tilton, appointed in September by Mr. Schwarzenegger as the secretary of the Department of Corrections and Rehabilitation, described the prison system as a “powder keg” at risk of exploding.

“If you look at the characteristics of other states that have riots, we have an environment that is rife with the same,” said Mr. Tilton, who had been the acting secretary since April.

The creation of new prisons seems likely, but the governor and lawmakers are also seriously contemplating broad changes to the parole system and the establishment of a sentencing guidelines commission — anathema to some just a year ago — like those used by other states to reduce overcrowding and its costs.

“The November election is over, and that is critical in terms of the politics of prison reform,” said the State Senate majority leader, Gloria Romero, Democrat of Los Angeles. “The governor is particularly looking at his legacy, and I do not believe he can have a positive one if he does not solve the prison crisis.”

Overcrowding is so severe that 16,000 inmates are assigned cots in hallways and gyms; last month, the state began asking for volunteers to be moved to prisons out of state.

The system's medical program is in federal receivership and much of the rest of the system is under court monitoring. Cellblocks are teeming with violence. Seven of 10 inmates released from prison return, one of the highest rates in the country.

The state has the largest number of parole absconders, roughly 20 percent. Life for corrections officers has become so miserable, their union says, that there are nearly 4,000 vacancies. In May, just after Mr. Tilton started work, a corrections officer was held hostage for 10 hours by an inmate with a knife to her throat.

Like so many things in California, the scope of the prison problem stems largely from its size. The system houses 173,000 inmates — second-place Texas has 152,500 — and has an \$8 billion budget.

Its population explosion is in large part an outgrowth of a general increase in the state's population, its unusual sentencing structure and parole system, a legislature historically enamored with increasing penalties, and ballot measures like the three-strikes initiative.

Further, most rehabilitation programs have been eliminated from the system in recent years, which some criminal justice experts believe has increased the rate of recidivism. Some experts also argue that a legislature bound by term limits has created an expertise vacuum on the complex and emotional issue of prison sentencing.

Under laws passed in the 1970s, ironclad sentences for crimes are set by the legislature, with little discretion left to judges. Looked at simply, people sentenced to prison for three years get out in three years, whether they have behaved, gone to school or stared at the wall.

Once out, prisoners are assigned to parole and can be sent back to prison for automatic sentences for technical or criminal violations.

“All of these things lead to this incredible overcrowded prison system,” said Barry Krisberg, president of the National Council on Crime and Delinquency.

Changes to the system have been akin to peace in the Middle East — everyone agrees on the outcome, but there has been great debate over its path.

The corrections officers union, among the state's most powerful, has been historically resistant to reducing the prison population. Conservative lawmakers and the governor have resisted any change that smacks of sentence reduction, and their liberal counterparts have been loath to be tarred as soft on crime.

But a consensus has been building over the last six months, with union officials, the governor, public policy experts and many members of the legislature agreeing that a sentencing commission is in order.

Sentencing commissions, made up of a diverse group of experts including former judges and crime

victim advocates, essentially treat prison beds as scarce resources that need to be properly allocated.

Used in many states, the commissions, armed with empirical data, establish sentencing grids, with the offense on one axis and the offender's history on another, forming a narrow range of possible sentences.

These grids are presented to judges, who have discretion to go outside the range in light of extenuating circumstances. One of the system's greatest advantages, its proponents suggest, is that it depoliticizes sentencing by taking it out of the hands of elected officials.

Under a sentencing commission, a parole system can also be altered, placing, for instance, violent offenders under intense supervision after their release, and offering nonviolent offenders a chance at early parole.

"The way our current system works, all you have is sticks," said Joan Petersilia, director of the new Center for Evidence-Based Corrections at the [University of California](#), Irvine, and one of the state's leading experts on prisons.

"But we want to give carrots, too," Professor Petersilia said. "If in fact you can show us stable housing and drug treatment program for six months, you are off parole. The benefit of that is self-selection. Inmates who are low risk and who are motivated will do it, and then we reduce caseload size and let officers target very violent offenders."

The best commissions, criminal justice experts agree, are those in which violent criminals spend more time behind bars than they did before the commission's creation, and nonviolent offenders are placed in treatment programs, county jails or other alternatives, paid for in part by the savings accrued from not having them in prison.

Mr. Tilton said that in addition to such a commission, the system would require more prison beds, so prisoners would not be housed in gyms and classrooms and those areas could be used once again for programs to prepare offenders for life outside prison.

These changes have the support of the California Correctional Peace Officers Association, which has regarded the governor warily.

"I am tired of my profession being categorized as a failure when our success is judged on the success of people who everyone else failed with," said Lance Corcoran, a spokesman for the association.

Not everyone is convinced. "If sentencing commission is a code word for shortening terms, I am against it," said George Runner, the State Senate Republican caucus chairman. "It is an interesting discussion, but it cannot be had until we create more beds and have a parole re-entry program that works."

The California District Attorneys Association also regards sentencing commissions with suspicion and

will not support a law that does not increase sentences for some offenders.

Those who think a sentencing commission is an antonym for law and order “should look carefully at the statistics in a state like North Carolina,” said Tom Ross, the former chairman of that state’s sentencing commission, widely regarded as one of the most successful in the nation.

“Violent and career offenders serve nearly twice as much time as they did before the commission,” Mr. Ross said, while low-level offenders are sent elsewhere. “What it resulted in here was a substantial reduction in the incarceration rate.”

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