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## Romero and Perata: Tough on crime vs. smart on crime

By Gloria Romero and Don Perata -

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Members of the Legislature have begun debate on a slew of prison reform bills. We are knee deep in a prison crisis and now is the time for action -- not rhetoric, scare tactics or labeling.

Specifically, the Senate Public Safety committee recently heard our Senate Bill 110, which would create a Sentencing Commission for California. The commission would be charged with the responsibility of collecting and analyzing sentencing and corrections data, developing statewide sentencing policies and achieving uniformity and consistency in our sentencing practices.

In creating a sentencing commission, we will join 21 states that have a body that conducts some form of sentencing policy review, plus Washington, D.C., and the federal government. Our offices have studied each sentencing commission, picked them apart and chosen only the "best practices." In other words, we know what works, and we have proposed that for California.

We have known for almost three decades that California's sentencing structure needs a major overhaul. In describing that structure, Justice Robert Gardner of the California Court of Appeal suggested in 1979 that the Legislature "exhumed some long, departed Byzantine scholar to create its seemingly endless and convoluted complexities" and called the determinate sentencing laws "a legislative monstrosity, which is bewildering in its complexity."

It appears that the U.S. Supreme Court agrees with Gardner. It recently ruled that California's sentencing structure is unconstitutional.

The California Blue Ribbon Commission on Inmate Population, initiated by Robert Presley, who had served as both a state senator and secretary of corrections, concluded in 1990 that "a sentencing law review commission consisting of representatives of all segments of the criminal justice system should be

established."

Last year, Kara Dansky, executive director of the Stanford Criminal Justice Center, testified before the Little Hoover Commission and specifically recommended that California overhaul the complex maze and mess of sentencing practices today.

We need resolve, and we need action, and SB 110 is the prescription we require.

The commission, as proposed, would be independent and nonpartisan, not allied with the Department of Corrections and Rehabilitation nor with the governor. It should not be merely advisory. It should command accountability; it should have teeth. We envision that the commission's proposals would be presumptively valid with the recommendations taking effect unless rejected by the Legislature.

The members of the commission would be appointed by the executive, legislative and judicial branches of government, and would represent a broad and inclusive array of expertise. The members would serve set terms and have independent staff support.

Everybody agrees that CDCR is in a state of crisis. The budget for the department has now ballooned to \$10 billion and the governor has proposed spending an additional \$11 billion this year to build new prisons and expand jail capacity. Yet our recidivism rate is more than 70 percent, and our parole system has been dubbed a billion-dollar failure.

Not one but three federal judges have threatened to take complete control of the system, and the governor already has declared a state of emergency. June 4 is our deadline to find overcrowding relief before the court establishes a panel of judges to impose a cap.

According to the Legislative Analyst's Office, our prison population has grown from 220 inmates per 100,000 Californians in 1986 to 460 inmates per 100,000 Californians today. The LAO adds that the Legislature has worsened the problem by passing numerous bills that increase the incarceration rate or number of parole violators returned to prison.

Consequently, the Senate Public Safety Committee adopted a new set of criteria to address the gross overcrowding currently felt at CDCR. We took the drastic measure of holding all bills that would exacerbate to any degree the prison or jail overcrowding crisis this year. These bills will be identified as "Receivership/Overcrowding Crisis Aggravators," or ROCA. These ROCA bills will be kept in committee until January, pending progress on the overcrowding crisis.

We hear those critics who say Democrats are being "soft" on crime. But looking

"tough" on crime isn't really worth much if in the end we can't deliver a correctional system that can pass constitutional muster. And looking "tough" on crime isn't really worth much if we can't even protect the public's safety.

We can't build or export our way out of this crisis. It will take political will and backbone to provide systemic relief that includes parole success, rehabilitative programs, sentencing reforms and, yes, perhaps, additional beds.

As the governor recently acknowledged, it does not matter to the people if the roads they drive on are Democratic roads or Republican roads. Likewise, there is no such thing as Democratic crime victims or Republican crime victims or independent crime victims. They are simply victims.

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