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## Dan Walters: Sentencing is linchpin on prisons

**By Dan Walters - Bee Columnist**

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The dismantling of the Berlin Wall in 1989 was the turning point in the nearly half-century-long Cold War, and it soon became apparent that much of the immense American military apparatus would be dismantled as well.

Congress had a rare burst of common sense; acutely aware that it would be politically impossible for its own members to make decisions that could have substantial economic impacts on their districts, Congress created an independent commission to decide which military bases would be shuttered.

The same dynamic is now evident in the California Legislature, which faces massive overcrowding in the prison system but whose members are very chary about softening the state's tough criminal sentencing laws, lest they be accused of being soft on crime. Lawmakers are noodling around with creating an independent commission to overhaul sentencing laws, thus insulating themselves from the political fallout.

Democrats, especially leery about being tagged with the soft-on-crime epithet, appear to be lining up behind the idea, but Republicans and many law enforcement groups are opposed to it. Gov. Arnold Schwarzenegger seems to be somewhere in the middle, favoring a commission that would recommend changes to the Legislature, but not be empowered to make changes by itself.

Giving the California Sentencing Commission the power to independently change sentencing laws, subject only to a two-thirds override vote by the Legislature, was clearly the most divisive aspect during an initial hearing and vote Tuesday in the Senate Public Safety Committee.

"We can't continue to do business as usual in California any longer," the committee's chairwoman, Los Angeles Democrat Gloria Romero, said as she presented the measure (Senate Bill 110), citing not only the prison overcrowding

that could result in a federal court takeover, but a recent U.S. Supreme Court decision overturning the state's basic sentencing law.

However, law enforcement groups lined up against it, saying they're unwilling to cede sentencing power to an unelected commission. It would have "virtually unfettered power to (remake) California's sentencing laws," lamented John Lovell, a lobbyist for several law enforcement groups.

It's the latest chapter in a three-decade-long political war over crime and punishment that began in 1976 when the Legislature and then-Gov. Jerry Brown jettisoned the state's long-standing indeterminate sentencing law, under which prison authorities decided when felons had been rehabilitated enough to be returned to society. They decreed fixed terms for crimes, dozens of which have been enhanced over the years in response to public fears about crime and heated political campaigns, a syndrome that reached its zenith in the early 1990s when voters enacted the "three strikes and you're out" law.

California crime rates declined sharply over the past three decades -- because of the tougher laws, their advocates say -- as the prison population expanded from about 20,000 inmates to more than 170,000, roughly twice as many as the system was designed to house. But federal judges are poised to intervene, the state's recidivism rate is very high and the costs have escalated some 20-fold to about \$9 billion a year.

The Public Safety Committee approved Romero's bill on a party-line 3-2 vote, but it's a long way from enactment, which would require Schwarzenegger's signature. The Republican governor wants to build thousands of new prison cells, but Democratic lawmakers have blocked construction, demanding action on sentencing and other aspects of the crisis.

It's developing into an eyeball-to-eyeball confrontation, with federal judges ready to pounce if the Capitol doesn't move soon to relieve overcrowding.

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