

Testimony of Citizens Alliance on Prisons and Public Spending

House Subcommittee on Corrections Appropriations

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Chairperson Smith, members of the committee and staff, Good Morning. I appreciate the opportunity to talk with you briefly about what has been an extraordinary past 16 months in corrections. On the upside, the prisoner population has declined by more than 3,700 people, due in large part to changes in parole release and revocation policies. This is a substantial achievement for which many people in and outside of the MDOC have worked very hard. Although we still have a long way to go, the importance of this turning point cannot be underestimated.

But then, there is the budget. First, we get a proposed budget from the Governor that depends on the passage of bills that would restore the pre-1978 good time system – a feat that would require the cooperation of three-quarters of each legislative chamber. Then we get a bill from the Senate that does not depend on the restoration of good but does assume that three percent wage increases promised to state employees will be rescinded by the Legislature. Of course, that assumption has proven equally unreliable.

Even more disturbing than these strategic maneuvers are the dollar figures themselves.

Comparison of FY 2011 Budget Proposals

Budget	Av. Pop.	Gross	Change from FY 2010 Gross	General Fund	Share of FY 2011 Total GF
FY 2002	49,459*	\$1,687,302,370	-13.7%	\$1,585,429,705	17.1%
FY 2010 YTD	45,433	1,956,122,800	-----	1,903,641,900	23.4%
Gov's Proposed w/ good time	39,160	1,967,197,800	+0.6%	1,875,904,500	23.8%
Senate Bill w/o 3% raise	44,893	1,999,870,000	+2.2%	1,908,576,700	24.3%
Gov's Proposed w/o good time	46,689	2,096,668,100	+7.2%	2,005,374,800	25.5%
Senate Bill w/ 3% raise	44,893	2,035,937,000	+4.1%	1,944,643,700	24.7%

\*Population is year-end, not average

The little table in my written testimony compares the Governor's proposal, with and without the enactment of good time, and the Senate's proposal, with and without the 3% raises, to FY 2010 and FY 2002. It makes several points.

Under every scenario, the gross appropriation to corrections would exceed last year's. Under every scenario, as a result of increased corrections spending and declining General Fund revenues, Corrections' share of GF spending continues to grow. The best case proposal puts it at nearly 24%; the worst case puts it over 25%. In every case it is fair to say that we are spending one-quarter of all our discretionary funds on corrections while higher ed, K-12 schools, revenue sharing and virtually every other budget that provides critical public services stagnates or is cut.

What is most frustrating is that reducing the prisoner population does not seem to be enough to bring corrections spending down. This is most evident from the Governor's original proposal. Even with nearly 6,300 fewer prisoners than were assumed in the FY 2010 budget, the 2011 proposal would save fewer than \$28 million GF dollars and would spend \$11 million more overall. That is, a 14% decline in the population would bring only a 1.5% decrease in the GF appropriation and gross spending would increase. We have got to figure out how to get this under control.

The Senate's approach, in addition to rejecting employee raises, is not to reduce the prisoner population but to direct the MDOC to simply spend \$59 million less on per prisoner costs and \$4 million less on central office positions. With little analysis of how this could be done or what the consequences will be, this is not a functional approach to problem-solving. It ignores the department's advice that eliminating \$11 million for the boot camp will end up costing far more than that when prisoners who would have served three months in SAI begin serving years in prison. And, since it is paired with a number of questionable additions to the MDOC budget, which I will address in a moment, it still doesn't decrease spending.

The MDOC tells us that most of the savings from having fewer prisoners would go to economics, primarily employee wages and health care, and to "reinvesting" in parole officers, GPS monitors and re-entry programs. Also, the department advises, that without a reduction in prisoners, costs will go up that much more.

Taking the second point first, I don't think there is any question that we need to continue reducing the prisoner population. Although that isn't the total solution, it is still a fundamental part. And there are a number of ways to do this.

We need to look closely at the nearly 9,000 prisoners we still have who are past their earliest release dates. Are these all people who are at high risk for reoffending? Do they have terrible institutional records? If not, why are they being denied parole? Would a presumption of release like the one recommended by the Council of State Governments, which would not apply to thousands of prisoners, have any impact on these people? What would be the impact of a presumption that applied to all prisoners? We should also look for ways to increase releases among the 800 or so parole-eligible lifers, many of whom have served decades and are extremely low risk.

We need to start looking for realistic compromises on restoring sentencing credits. Even if we don't go back to the old good time system, there is simply no reason not to adopt something akin to the disciplinary credits that were available until 1998. Credits are a fair and reasonable way to reward prisoners for positive behavior instead of only punishing them for misconduct. Awarding modest

amounts of credit to people who have earned it has absolutely no impact on public safety. Transparency in sentencing can be preserved by other means. Reducing the sentences of thousands of prisoners by just one or two months a year has enormous budgetary implications. And sentence credits are a widely accepted correctional practice used by the federal system, virtually every other state and 83 Michigan counties. We need to find a less expensive way to be more truthful than every other criminal justice system in the country.

Restoring community residential placements for people nearing parole is another sensible idea that can be implemented safely and save millions. With all the work that has been done on re-entry for parolees, it is logical to extend those resources to “pre-entry” for people who are within months of parole. If we are requiring thousands of people to go into substance abuse or sex offender treatment programs as a condition of release, why not start those programs a few months before the first parole eligibility date? The transition to the community is functionally still the same. The cost for the program is still the same. But the savings in prison beds is huge. If 4,000 low security prisoners were to go into community programs just two months before their ERD, the savings would be more than \$16 million. Again, the use of transition programs for people approaching parole is common around the country.

Changes in release practices will get you only so far. We also need to address the front end of the system by reinstating the sentencing commission. It has been more than 12 years since sentencing guidelines were enacted with the expectation that they would be periodically reviewed and adjusted. With the abolition of the sentencing commission in 2002, we have no mechanism for ensuring that sentences are proportional to the crime and reasonably related to public safety. A sentencing commission could examine the appropriateness of current guideline ranges and the cost-effectiveness of community-based and prison sentences. It could assist the growth of innovative alternatives like therapeutic courts. A modest investment in an agency that promotes uniform, evidence-based sentencing practices would undoubtedly pay for itself many times over.

While necessary to reduce prison spending, it appears that steps like these are not sufficient. We need to understand exactly what drives the MDOC budget other than the sheer number of prisoners. And here I have a lot more questions than answers.

My biggest question concerns the extent to which we are using the MDOC budget as a giant piggy bank for all sorts of expenditures that really don't belong there. The most obvious is the inclusion in the Senate bill of \$4 million in new interdepartmental grants for the state police, the judiciary, the auditor general and the ombudsman's office.

In a similar vein, the Senate added \$10 million to the line for MPRI to reimburse county jails for housing probation violators and parolees who have been arrested for a new offense. Since the purpose of a county jail is to house pre-trial detainees, it is not clear why the supervision status of these particular detainees should make their jail stay, based on charges brought by the local prosecutor, an MDOC cost. When prosecutors choose not to charge parolees and instead let the department return them to prison as technical violators, thereby saving the counties the cost of prosecution, the MDOC doesn't get reimbursed by county commissioners.

More broadly, and much more expensively, for many years corrections has been bearing the cost of closing state mental hospitals. It is undisputed that in thousands of cases we have swapped one form of institutionalization for another. We are now trying to compensate by pumping more money into mental health services for prisoners. But the real question is whether we should be making

fundamental changes in our mental health system so that care is provided at an appropriate time in an appropriate setting and fewer people end up in prison.

I also wonder about the extent to which residential substance abuse services are available primarily to probationers and parolees because the beds are paid for by MDOC funds. While I understand that service providers have to get their income from somewhere, there is a certain irony in requiring people who don't have insurance to commit crimes in order to get help. And, of course, as with mental health, by failing to provide people with the treatment they need before things escalate, we give them a criminal record that will haunt the rest of their lives and increase the corrections budget to boot.

We should also examine whether our extremely punitive approach to sex offenders is worth its cost. The corrections budget reflects this cost in numerous ways. For years we denied parole to sex offenders, extending their length of stay by many years. Although the parole grant rate is improving, we are spending enormous amounts for specialized parole caseloads that are less than half the average size and for GPS monitoring. Indeed, the cost for lifetime GPS monitoring of certain sex offenders, long after they are off parole, will be a perpetual part of the MDOC budget. Yet where is the evidence that these measures actually improve public safety? CAPPs research, like that done in other states, shows that sex offenders have extremely low recidivism rates. Of the nearly 6,700 in our study, only 3% returned to prison within four years of release for a new sex offense.

Looking more closely at the MDOC budget, we have to ask how well we are using the time during which we have people incarcerated. While field services and MPRI and electronic monitoring have grown, the education line has declined by 15% since 2008. College programming ended years ago. Prisoner newspapers have been eliminated. Hobbycraft activities have been severely restricted. The availability of college level classes, music and art programs, even parenting classes, health education and AA varies from facility to facility depending on whether there happens to be a volunteer available that the administration is willing to utilize. Most prisoners spend a lot of time playing cards, shooting hoops and watching TV. If we want people to behave differently upon release, we have to give them opportunities to develop new skills, to sharpen their thinking and to gain the confidence to walk different paths. The Department could provide far more of these opportunities if it developed a systematic method of training and supporting volunteers. Recruiting shouldn't be a problem. With all the newly retired school teachers and state employees we'll soon have, there will be a big pool of skilled people to draw from!

We also should ask how efficiently treatment services are being delivered. As I listened to the testimony a few weeks ago about supply chain efficiencies, I thought about the report that CAPPs and the American Friends Service Committee jointly published in 2005. We were addressing the fact that many prisoners who were required to complete assaultive offender therapy, or AOP, couldn't get into the program in time to complete it before their first parole eligibility date. Instead of maintaining a statewide list of everyone who needed AOP, there were separate waiting lists at each facility and program availability varied greatly. Some people waited until months after their ERD to begin the program while people at other prisons were able to finish in plenty of time. We estimated that about 600 people a year were being denied parole because they couldn't complete AOP at a cost for additional incarceration time of about \$12 million. Although some changes were made in response to our report, paroles are still denied or deferred so that people can complete required programs. This supply chain should be examined closely. Getting prisoners through treatment programs before they finish their minimum sentences will save a lot more money than making sure a hungry 19-year old doesn't come back for a second helping of mashed potatoes.

I could go on with questions about security classification, transportation, the use of contractors and consultants -- but I won't. I will simply encourage you to go behind the line items and consider carefully whether corrections dollars are being spent wisely and well.