

## Senate Appropriations Subcommittee on Corrections

### Testimony of Citizens Alliance on Prisons and Public Spending February 23, 2010

Good afternoon. My name is Barbara Levine and I'm the executive director of CAPPs, the Citizens Alliance on Prisons and Public Spending.

I would like to begin by saying how encouraged we are by the decline in the prisoner population. Although we still have concerns and there is still a good way to go, we know the parole board has been working very hard to release more people who are past their earliest release dates. When we did research on the number of people eligible for parole in 2003, including parolable lifers it was nearly 35% of the population. Now that same figure, excluding people with paroles granted who are finishing programs, is apparently down to about 23%. Certainly that is substantial progress.

I also have to say we share Sen. Cropsey's concern about the relatively small decline in spending this population decrease has brought. When you compare the budget initially adopted for FY 2008 and the one being proposed by the Governor for 2011, you get figures like these:

	<u>2008 Enrolled</u>	<u>2011 Proposed</u>	<u>Difference</u>
Prisoners	51,841	39,160	-24.5%
Employees	17,653	14,630	- 17.1%
Gross Appropriation	\$2.078 billion	\$1.967 billion	- 6.0%
General Fund	\$1.996 billion	\$1.876 billion	- 5.3%

So the projected population decrease is more than four times the projected spending decrease. Although I heard the general explanations given by the Department last week, I don't fully understand them and will look forward to the chance to ask some questions. CAPPs's concern has always been with not just reducing the number of prisoners but with increasing the resources available for other important services.

I do understand that this committee does not make policy and therefore won't make decisions about matters like the restoration of good time on which this proposed budget rests. However, there has been discussion of parole revocation rates and concern about the impact on public safety of increasing releases by various methods, such as more paroles of people past their earliest release date or ERD, restoring sentencing credits in some form or the adoption of presumptive parole at the minimum. Therefore I would like to use my few minutes this afternoon to review some of the findings from the research on recidivism by Michigan prisoners that we published last August.

Our database included every person sentenced to an indeterminate term after 1981 who was released for the first time, whether on parole or by maxing out, from 1986-1999. It excluded lifers. It also excluded parole violators who were being released for a second or third time because we didn't want to count multiple results for the same person. We are counting the success rates of people, not "releases", because some people were released on the same underlying offense more than once in the 14-year period.

**We had a total of 76,721 cases.** Roughly half were released under the old board and roughly half were under the new board. The total included more than 2,500 homicide offenders, nearly 6,700

sex offenders and about 6,500 other assaultive offenders. But 56% of those released were larceny, drug and burglary offenders, which is comparable to these crimes' proportion of total commitments. Success was defined as no return to prison, either with a new sentence or for a technical parole violation, within four years of release.

Other key points about the database are:

- all offenders were sentenced when disciplinary credits were available;
- all were serving when the Community Residential Program was functioning,
- there was no prisoner reentry initiative during this period;
- there were no laws restricting where sex offenders could work and live.

The ultimate question we were asking was whether public safety is improved by keeping people in prison an extra year or two. The short answer is: very, very little. We also learned a number of other important things. The full report was distributed to every legislator. We can get you another copy if you would like. It is also on our website, [www.capps-mi.org](http://www.capps-mi.org). For now, I have provided copies of the executive summary, along with several figures and tables to which I will refer.

Sixty-one percent of all the prisoners we studied had been released on their ERD; 15% were released after serving one additional year; 14.6% were released after serving two additional years. Thus, in total, 91% were released within two years of first eligibility.

The success rate of people released on their ERD was 66%. The success rate of people released after their ERD was somewhat lower at approximately 58%. While not insignificant, this eight point difference in success rates is not great. That is, if the board's decision to deny release reflected a substantial ability to discriminate between those who are likely to succeed and those who are not, the success rates of those released later would have been much lower. Notably, after the initial drop between those released when first eligible and those held for an additional year, success rates flatten out. That is, whether someone is held for one, two or three years beyond their ERD, the success rate is still, on average, about 58%.

We estimate that if everyone who was released a year or two after their ERD had been released when first eligible, it would have saved more than 2,300 beds a year or nearly 33,000 beds in 14 years. In today's dollars, the cost savings would have been nearly \$74 million a year or more than one billion dollars for the entire period. Yet the decrease in the total success rate, when everyone released on, one or two years after their ERD was combined, would have been 2.9%. That is, the success rate would have gone from 66.1% to 63.2%. The increase in returns with new sentences would have been only 1.7%. The increase in total arrests would have been 0.4%.

It is true, of course, that no amount of crime is "acceptable." And it is always possible to find examples of awful crimes committed by former prisoners, just as it is possible to find examples of people who spent many extra years in prison when they posed no threat to anyone. In making broad policy decisions and designing \$2 billion budgets, we have to be realistic about what we expect the MDOC to accomplish. It cannot deter all crime or predict with certainty which 18 out of 100 released prisoners will return to prison with a new sentence. All we can expect is rational, cost-effective decision-making that minimizes the risk to public safety. We cannot eliminate all risk. We cannot lock up everyone who might commit a crime at some point in their lives. We cannot spend \$4 or 5 billion on an effort to reduce the re-offense rate of parolees by another four or five points. We have to decide how to balance re-offense risk against the human and fiscal costs of incarceration.

In striking that balance, there are two other key points that our research demonstrates and a great many other studies we have cited confirm. One is that sheer length of time served bears no relationship to success. We want to incarcerate some people longer than others because they are deserving of more punishment, but more time will not improve success upon release. The average time served for both drug and larceny offenders was 2.2 years but their respective success rates were 69% and 55%. The average time served for sex offenders and robbers was nearly identical, but the success rate of sex offenders was more than 20 points higher.

Even more telling, *within* offense groups there was little or no difference in length of time served among those who succeeded, those who came back as technical violators and those who returned with new sentences. Among released larceny offenders, for instance, those who succeeded had served, on average, 2.2 years, those who came back as technical violators had served an average of 2.0 years and those with new sentences had served 2.2 years. This similarity in time served regardless of outcome was true for every offense group.

Which brings me to the last key finding. While age, prior record and institutional conduct are well known predictors of success on release, another critical factor to consider is offense type. And not in the way you might think. We always consider offense type by assuming that those who committed assaultive and sex offenses are high risk and should be incarcerated for as long as possible. As Fig. 2 shows, the parole board routinely denied release to assaultive and sex offenders who had favorable parole guidelines scores, based solely on the nature of the offense. But the fact that someone committed a violent crime years ago does not mean they are dangerous today.

On the contrary, the data in Fig. 3 show that homicide, sex and other assaultive offenders have substantially lower failure rates than do financially motivated offenders like those who committed burglary, larceny and robbery. For homicide and sex offenders the success rate exceeds 77%. Moreover, the offenders we fear most rarely return to prison for repeating their crimes. Only 4.5% of all the people released returned for a new crime against a person. Only 3.1% of sex offenders returned for a new sex offense. Only 0.5% of homicide offenders returned for a new homicide. The data on sex offenders in particular, which wholly contradicts public perceptions and the basis of much release decision-making, is similar to that of eight other major studies shown in Table 6. Ironically, releasing more of the people who used to be passed over will, in all likelihood, reduce recidivism rates overall.

The findings suggest three conclusions. First, MPRI does need to be selectively targeted at those who are actually at highest risk for re-offending. Even without MPRI, more than 60% of former prisoners are not coming back. With appropriate support, that number can undoubtedly be increased. But resources should be directed at the people who need them most, such as a continuing focus on education and employment for those whose crimes are financially motivated.

Second, parole conditions should also be selectively tailored to the individual's actual re-offense risk. They should not automatically be more stringent because of the nature of the offense.

Third, we can adopt reforms that decrease length of stay without jeopardizing public safety. Whether it is restoring some amount of sentencing credit, releasing more people who are past their ERD, adopting a presumption of parole at the minimum for all offense groups or narrowing some sentencing guideline ranges, the evidence is there to support reforms that will restore our prison system to a size that is more appropriate for our population and our resources.