

Budget crisis backdrop for conference on prison overuse

Recommendations on ways to reduce the state's ever-growing prison population were the focus of the May 9 conference in Lansing.

The forum – “Cost-Effective Corrections: Setting Priorities for Scarce Resources” – brought together experts in the fields of corrections, crime prevention and children’s services, legislative staff, community leaders, prisoner family members and researchers.



Stephen Gobbo (left) from the Bar Section and Barbara Levine from CAPPS opened the day-long conference in Lansing.

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Lynn Jondahl, former Michigan House member and executive director of Michigan Prospect, was the keynote speaker.

“Because of the budget crisis here in Michigan, diverse groups such as the ones at this conference are being given an opportunity to work together,” he said.

Michigan’s corrections policy has been unarticulated except by get-tough campaign literature, the policies of the Michigan Parole Board and the growing MDOC budget, Jondahl said.

“You could make a case that Michigan’s policy is ‘lock ‘em up and throw away the key’.

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“We have to look at the ‘farm system’ feeding the prison population.”



-- Lynn Jondahl of Michigan Prospect

The event was sponsored by CAPPS and the Prisons and Corrections Section of the State Bar of Michigan. Each organization had independently developed a comprehensive set of suggestions for policy makers. (See story, page 6)

Stephen Gobbo, chairperson of the Bar Section and moderator for the conference, explained that both sets of recommendations are designed to reduce excessive incarceration and to encourage criminal justice practices that are cost-effective and fair.

The morning session provided background information and set the stage for a lively panel discussion in the afternoon.

The state’s budget crisis and the role that corrections spending plays in siphoning funds from other government services, including those that prevent crime, was explained. Attendees also learned about the impact of the state’s sentencing guidelines on the prison population, parole policies which keep offenders in prison after they are eligible for release, national trends in parole and sentencing reform, community-based sanctions and crime preven-



Hearing a variety of voices

Members of the afternoon panel were, from left: Sen. Alan Cropsey, David Morse of PAAM, Dennis Schrantz of the MDOC, Heaster Wheeler of the NAACP, Sandra Girard of Prison Legal Services and Probate Court Judge Nancy Francis. Introducing the panelists (at right) is Stephen Gobbo.



Tom Clay

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“Because MDOC operations are taking a larger share of the state’s resources every year, changes in corrections policies will be needed to reduce expenditures.”

There is very little understanding by policy makers of parole and how it fits into the corrections system,” he said.

Jondahl said there are promising trends away from over reliance on prison as a sanction and cited the repeal of Michigan’s mandatory drug laws. He also called for more focus on the relationship between poverty and corrections.

“We have to look at the ‘farm system’ feeding the prison population,” he

said.

Tom Clay, senior research associate at the Citizens Research Council, explained Michigan’s budget dilemma.

He said the gaps between revenues and expenses, like the \$1.7 billion anticipated in the 2004 fiscal year, will not be eliminated even if we achieve sustained economic growth.

The problem has been caused, Clay said, not only by a weak economy and the decline in the stock market but because tax cuts have been eroding the revenue base, and government has failed to take action that would permanently balance the budget.

Because MDOC operations are taking a larger share of the state’s resources every year, changes in corrections policies will be needed to reduce expenditures, he said.

Revision of the state’s sentencing guidelines, adopted in the late 1990s, will be

needed to reduce the number of offenders coming into prison overall and the number of offenders coming to prison with short sentences, said Prof. Charles Ostrom, a researcher from Michigan State University who was a consultant to the state Sentencing Commission, before it was abolished.

He said the guidelines should be changed to take “truth-in-sentencing” into consideration and should include probation violators. He noted that at least one other state has a requirement that prison impact statements be attached to all prison-related bills and said he believes that if a commission is reconstituted its recommendations should go into effect unless the majority of legislators

say no. This would help avoid the ratcheting up of individual sentences, he said.

Barbara Levine, executive director of CAPPS, talked about parole policies that have created, in large measure, the hefty growth in the state’s prison population over the past decade.

In explaining how the Michigan Parole Board functions, Levine noted that legislative sentencing guidelines, the sentences judges actually impose and plea negotiations between prosecutors and defense attorneys all assume a high likelihood of parole once the defendant serves the minimum sentence. However, the parole board’s discretion is basically unfettered, and it denies parole at the minimum more than half the time.

“So,” Levine said, “when we talk about parole board policies and practices, we are talking about power – the power to control individual lives, the power to protect the public from clearly dangerous offenders, the allocation of decision-making power within the criminal justice system, and the power to impact state resources by requiring the operation of dozens of facilities to house prisoners who, by law, are eligible for release.”



Charles Ostrom



Barbara Levine



Robert Diehl

Other speakers included Robert Diehl, president of the Michigan Association for Community Corrections Advancement, who explained the state's community corrections law and the operation of Huron House, a probation residential treatment program he runs in St. Clair County.

Diehl said there are about 14 probation residential programs in Michigan. By providing or coordinating a variety of services including mental health treatment, vocational and academic education, job seeking skills, day reporting and substance abuse monitoring and treatment, they are an alternative to incarceration.

He said the centers, which require work, demand offender accountability and provide restorative justice to the community, impose 24-hour structured supervision. Defendants with minimum sentencing guideline scores of 0 to 9 months and probation violators with scores of 0 to 6 months are eligible.



Judith Greene, center, with other conference guests.

Judith Greene, a nationally-known criminal justice policy analyst from New York, told the audience that a number of states are addressing the problem of prison overuse by returning sentencing discretion to judges, by revamping parole board policies and by handling violations of parole and probation in a "smarter" way.

"There is a reawakening around the country caused by the nationwide budget crisis which is causing states to put an increasing emphasis on community sanctions," Greene said.

She singled out Ohio as an example of the change in focus.

Because of sentencing changes and parole reform, Ohio's prison population dropped by about 3,000 during a period when Michigan's population increased by 4,000, she said. These changes included the adoption of determinate (flat) sentencing and the resulting abolition of

parole for prisoners sentenced under the new scheme.

New sentencing guidelines in Ohio "pushed judges toward using community alternatives" for certain low-risk offenders and the state began pumping money into community corrections programs to handle the shift, Greene said. She said new parole guidelines for current prisoners produced an immediate turnaround in the paroling of low-level offenders and the prison population dropped as a result.

The parole guidelines do, however, place substantial weight on the "offense

category". The Ohio paroling authority was looking at the circumstances surrounding the crime and assigning offense categories based on charges that were never brought, were dismissed or that had resulted in acquittal.

The Ohio Supreme Court held in *Layne v Ohio Adult Parole Authority*, 97 Ohio St. 3d 456, 780 N.E.2d 548 (2002), that while the paroling authority could consider any relevant circumstances, to insure meaningful parole eligibility and preserve the integrity of plea agreements, it had to set offense categories based only on the offense of conviction. The decision resulted in many Ohio prisoners having their parole dates advanced.

District Court Judge Patrick Bowler of Grand Rapids, president of the Michigan Association of Drug Court Professionals, talked about the drug court he operates. He said that drug courts, which are growing nationally, target treatment at an individual's situation. The program is a bright spot in Michigan's efforts to reduce prison commitments.



Judge Patrick Bowler

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Sharon Claytor Peters

“The criminal justice system has failed to address the substance abuse problems that plague our communities. Drug treatment courts are a partial answer to the problem,” Bowler said.

Felons who are drug addicts and who can be safely managed in the community are identified for the program when they are arrested and are placed in treatment within about 14 days. They are required to take drug tests and attend a 12-step treatment program.

Offenders meet weekly with the judge to review their progress; offenders who fail to follow the rules are immediately sanctioned, usually with a brief stint in the county jail. Those who complete the program are honored in a graduation ceremony, one of a number of positive reinforcements used.

National and state studies show success in reducing recidivism and continuing drug use.

Bowler said his court is considering other specialty courts including ones for mentally ill offenders and those convicted of domestic violence.

Sharon Claytor Peters, president and CEO of Michigan’s Children, explained recent findings in the area of brain development and urged more resources be placed in early childhood intervention to prevent the life experiences that result in crime and prison.

Peters said children’s earliest experiences have long term consequences for their developing brains. High quality early childhood programs and family supports can help prevent violent behavior by helping parents develop effective parenting skills, and by giving children the tools they need to form relationships, control or regulate their own behaviors, and develop cognitively and emotionally.



Sen. Alan Cropsey

A panel, moderated by Senior Capitol Correspondent Tim Skubick, discussed issues relating to sentencing, parole and the readjustment of prisoners returning to the community. Audience members had the opportunity to pose a broad range of questions to the panel members, who were: Sen. Alan Cropsey, chair of the Senate Judiciary Committee and the Appropriations Subcommittee on Corrections; Hon. Nancy Francis of the Washtenaw County Probate Court; Sandra Girard, executive director of Prison Legal Services of Michigan, Inc.;



Capitol Correspondent Tim Skubick

David Morse, president of the Prosecuting Attorneys Association of Michigan; Dennis Schrantz, chief deputy director of the Field Operations Administration in the Michigan Department of Corrections; and Heaster Wheeler, executive director of the Detroit Branch of the NAACP.

The conference was funded in part by a grant from the JEHT Foundation and a gift from Atty. Daniel E. Manville.

Transcripts of the speakers’ remarks will be prepared and made available on the CAPPS website.



Panel members from left: Heaster Wheeler, Sandra Girard and Hon. Nancy Francis.