

Recommendations for Reducing Excessive Incarceration

Adopted March 7, 2003

Underlying Principles

1. Corrections should be part of a comprehensive plan to prevent crime and administer the criminal justice system that is developed by all relevant stakeholders. No component of the plan should undercut the efforts of any other, as when, for instance, legislatively enacted sentencing guidelines are negated by parole board practices.
 - a. The plan should utilize community-based measures to the full extent that is consonant with public safety.
 - b. The plan should reserve prison for those who are still serving the minimum term required for their offenses or who, although eligible for release, are objectively determined to be currently dangerous to the public.
2. Corrections operations should be de-politicized so that fair, cost-effective policies are implemented under the direct supervision of a knowledgeable, independent public body. Significant administrative decisions about individual prisoners should be subject to judicial review.
3. Corrections policies should be carefully designed to implement the fundamental goals of public safety, institutional security, and rehabilitation while avoiding unnecessary costs and prisoner overcrowding. Decision-making should be driven by data, not unproven assumptions or political rhetoric. The new administration should promptly conduct a thorough review of current corrections statutes, rules, policies and practices to determine whether they meet these criteria. Statutes, rules, policies and practices that result in longer periods of incarceration and high recidivism rates should be revised if there is not evidence they actually reduce crime.

Recommendations

Structural Changes

1. Establish a criminal justice coordinating council to engage in the following activities: undertake long range criminal justice planning; recommend resource allocation; facilitate data sharing among existing agencies; commission research; apply for federal and private grants; develop strategic partnerships with colleges & universities, other state agencies, professional organizations and community groups.

The membership of the council should include: the directors of the State Court Administrative Office, Michigan Department of Corrections, Michigan State Police, and Family Independence Agency; representatives from the Prosecuting Attorneys Association of Michigan, Criminal Defense Attorneys of Michigan, Michigan Association of Community Corrections Boards, Michigan Sheriffs Association, Michigan Association of Chiefs of Police, the Legislative Corrections Ombudsman, the Prisons and Corrections Section of the State Bar, the Collaborative on Juvenile Justice Reform, and the Citizens Alliance on Prisons and Public Spending; a mental health professional; a substance abuse treatment professional; an academician with expertise in criminal justice, and an ex-offender.

2. Establish a public oversight body for the Department of Corrections with the responsibility to: establish department policy, hire the director, oversee department operations, assess the department's effectiveness, solicit public input, and explore possible department reorganization to wholly separate the functions of community-based supervision and prison administration. The body should have bi-partisan, cross-professional and public membership.
3. Insure that the new director of the MDOC is an experienced corrections professional who is open to innovative ways to safely reduce the prison population.

Research

4. Insure that a detailed report regarding prisoners who have served the minimum number of years required by their sentences and who are therefore within the jurisdiction of the parole board is available in time for budget planning for FY 2004 . This report should include at least the following:
 - A. The number of prisoners who fall into each of the following groups:
 - 1) have completed the minimum term of an indeterminate sentence and been denied parole
 - 2) have been granted parole but not been released
 - 3) have been released on parole but had their parole revoked for a technical violation

- 4) are serving parolable life terms and are within the jurisdiction of the parole board pursuant to MCL 791.234 (the “lifer law”)
- B. For the prisoners in each of the above groups, information about their:
- 1) age
 - 2) gender
 - 3) race/ethnicity
 - 4) county of conviction
 - 5) conviction offense(s)
 - 6) current security classification (including true classification levels, waivers and departures)
 - 7) prefix/prior record
 - 8) number of years served beyond first parole eligibility date (groups A1-3)
 - 9) number of years served since the parole board obtained jurisdiction under the lifer law (group A4)
 - 10) parole guidelines score (preliminary and adjusted)
 - 11) immigration status.
- C. The nature and number of technical violations committed by prisoners in group A3. (Where technical violations are described as “criminal activity”, include the nature of the activity and basis upon which it was defined as criminal, e.g., filing of charges by prosecutor or assessment by parole officer.)
- D. The average amount of time technical parole violators serve after being returned to prison.
- E. The number of prisoners who are terminally ill, chronically ill, incapacitated, or over 55 years old.
- F. The number of prisoners serving indeterminate terms who were released from prison after completing their maximum sentences in each year from 1990-2002.
- G. Any evidence of the manner in which substantially decreased parole grants and increased parole revocations have affected public safety.
5. Require the MDOC to separate data on probation violators sent to prison, according to whether probation was revoked for technical violations or commission of a new offense, as is done for parole violators.
 6. Identify the impact of eliminating disciplinary credits under truth-in-sentencing on population projections.
 7. Reassess the impact of treating youthful offenders as adults.

8. Thoroughly audit MDOC expenditures, including a detailed breakdown of all budget lines and all capitol outlay expenditures for prison construction and remodeling.
9. Develop data-driven policies for reducing the use of costly secure prison beds through a combination of parole, community residential placements, and the use of technical rule violator centers and other progressive non-prison sanctions for technical probation and parole violations (see, e.g., attached CAPPS proposal for reducing 7,000 beds, saving \$118 million).

Sentencing

10. Adjust the current sentencing guidelines to reduce the number of offenders entering prison with minimum sentences of two years or less.
11. Develop sentencing guidelines for probation violation cases, which account for 38% of all new prison commitments but are not currently governed by sentencing guidelines.
12. Revise Michigan's truth-in-sentencing scheme to meet the federal mandate, i.e. violent offenders must serve 85% of the minimum sentence.
13. Eliminate the prohibition on placing prisoners who are nearing their first parole date into community residential placements.
14. Increase the availability of technical support and financial incentives for local communities to develop a broad range of community-based sanctions for low-level offenders.
15. Expand the use of drug and sobriety courts.
16. Establish pilot mental health courts to begin addressing the problem of incarcerating the mentally ill in lieu of treatment.
17. Adopt legislation to apply *People v Aaron* (the Supreme Court decision requiring an intent to kill for a felony-murder conviction) to prisoners serving mandatory life terms for felony-murder convictions obtained before *Aaron* was decided.

Prison Programming

18. Provide prisoners with the opportunity to complete all required programs, such as adult basic education and GED testing, substance abuse treatment, sex offender treatment, and assaultive offender treatment, before their first parole eligibility date.
19. Provide adequate treatment and educational programs early in a prisoner's term, instead of waiting until the minimum has nearly been served, then use successful completion as a basis for reducing security classifications and awarding merit-based credit toward release.

20. Insure that there is adequate age appropriate programming available to youthful offenders incarcerated in the adult system.

Parole

21. Establish parole guidelines that:

- a) are coordinated with sentencing guidelines,
- b) prevent the parole board from denying parole based solely on the same factors the trial court considered in selecting the minimum sentence,
- c) presume release after service of the minimum sentence absent a poor institutional record or objective factors indicating the prisoner is a current threat to public safety, apply to parolable lifers.

22. Establish separate release guidelines for technical parole violators.

23. Permit judicial review of parole decisions that depart from parole guidelines recommendations, as is permitted for judicial departures from sentencing guidelines.

24. Establish a special review mechanism for all parole eligible prisoners who have served more than 15 years and all first-degree lifers who have served more than 25 years. If the prisoner was less than 18 years old at the time of the offense, review should occur at 10 years for parole eligible prisoners and 15 years for first-degree lifers.

Re-Entry

25. Prepare prisoners to re-enter the community through individualized re-entry plans that include, at a minimum:

- a) An inventory of immediate transition needs, such as identification documents; medications; referrals to medical, mental health, substance abuse and social service providers; housing, clothing, and financial assistance;
- b) A comprehensive plan for re-integration that includes family reunification, job-seeking or school attendance, and any long-term treatment needs; and
- c) Training in basic life skills, such as parenting, budgeting and job seeking.

26. Insure that prisoners in community placements, parolees and discharging prisoners have access to the services necessary to enable them to succeed and to reduce recidivism, including substance abuse treatment, medical and mental health care, job training and placement, higher education, and family counseling.

27. Prohibit the return of technical parole violators to prison unless all reasonable alternatives have been tried.

POTENTIAL MDOC BUDGET/BEDSPACE SAVINGS*

ESTIMATED COSTS

Base cost per prisoner

Security Level 1	\$16,584
Security Level 2	\$20,131
Corrections Center	\$26,411
Electronic Monitoring	\$ 6,486
TRV (Technical Rule Violator Center)	\$ 4,819 (\$19,276 annually divided by four 90 day stays)
Parole	\$ 1,600

Additional costs for total prisoner population (excludes parolees)

Consent decrees (mental health)	\$110,906,000
Health care	<u>145,342,400</u>
	\$256,248,400

Average/prisoner \$5,177

*Operating cost for one 960 bed former temporary facility (Deerfield/Ionia Temporary Facility):
\$16.4 million + medical/mental health*

Seven temporary facilities x 960 = 6720 prisoners, 208 employees x 7 = 1,456 employees

Offsets from prisoner payments

Corrections Center (room & board)	\$5,282 (assumes charge = 20% of cost)
Electronic monitoring fee	2,738 (\$7.50/day)
Parole oversight fee	48 (assumes 20% of \$20/mo. charge goes to MDOC)

Estimated actual costs per prisoner

Level 1	\$16,584 + \$5,177 = \$21,761
Level 2	\$20,131 + \$5,177 = \$25,308
Corrections Center	\$26,411 - \$5,282 = \$21,129
TRV	\$ 4,819 +/- ? = \$ 4,891
Electronic tether	\$ 6,486 - \$2,738 = \$ 3,748
Parole	\$ 1,600 - \$ 48 = \$ 1,552

* Prepared by Citizens Alliance on Prisons and Public Safety (CAPPS), 11/15/01. Cost figures are approximations based on FY 2001/02 budget and 2000 MDOC Annual Report.

POTENTIAL SAVINGS

Place 800 eligible Level 1 prisoners in Corrections Centers

$$\begin{aligned} 800 \times \$21,761 &= \$17,408,800 \text{ (prison savings)} \\ 800 \times \$21,129 &= \underline{16,903,200} \text{ (corrections center costs)} \\ \text{Total savings} &\quad \$ \quad \mathbf{505,600} \end{aligned}$$

Place 1,200 eligible Level 1 prisoners on electronic monitoring

$$\begin{aligned} 1,200 \times \$21,761 &= \$26,113,200 \text{ (prison savings)} \\ 1,200 \times \$ 3,748 &= \underline{4,497,600} \text{ (electronic monitoring costs)} \\ \text{Total savings} &\quad \mathbf{\$21,615,600} \end{aligned}$$

Place 3,220 parole eligible Level 1 prisoners on parole

$$\begin{aligned} 3,220 \times \$21,761 &= \$ 70,070,420 \text{ (prison savings)} \\ 3,220 \times \$ 1,552 &= \underline{4,997,440} \text{ (parole costs)} \\ \text{Total savings} &\quad \mathbf{\$ 65,072,980} \end{aligned}$$

Place 240 parole eligible lifers who have served > 15 years, currently in Level 2, on parole

$$\begin{aligned} 240 \times \$25,308 &= \$ 6,073,920 \text{ (prison savings)} \\ 240 \times \$ 1,552 &= \underline{372,480} \text{ (parole costs)} \\ \text{Total savings} &\quad \mathbf{\$ 5,701,440} \end{aligned}$$

Place 1,500 technical parole violators in TRVs instead of returning them to Level 1 prisons

$$\begin{aligned} 1,500 \times \$21,761 &= \$ 32,641,500 \text{ (prison savings)} \\ 1,500 \times \$ 4,819 &= \underline{7,228,500} \text{ (TRV costs)} \\ \text{Total savings} &\quad \mathbf{\$ 25,413,000} \end{aligned}$$

Dollars saved: \$118,308,620

Beds saved: 6,960

Prisons available to close: 7 facilities initially designed to be temporary