

Penny Wise & Pound Foolish

CAPPS/AFSC study highlights problems with therapy program that delay paroles, cost state millions

Complex problems with Assaultive Offender Program (AOP) in Michigan prisons stem from a lack of resources, a flawed delivery system and the failure to make treatment programming a high enough priority.

The result has been delayed paroles costing the state millions in unnecessary incarceration and the discharge of assaultive offenders on their maximum sentences without treatment or community supervision.

This is the general finding of a study recently completed by CAPPS and the American Friends Service Committee, Criminal Justice Program (AFSC).

The study, called *Penny-Wise and Pound-*

Foolish: Assaultive offender programming and Michigan's prison costs, found:

- There are 2,256 prisoners on facility waiting lists who have already passed or are within one year of reaching their first parole dates.
- Prisoners are frequently denied parole for failing to complete a treatment program they could not access.
- The parole board estimates that 1,440 prisoners enrolled in the program will have their release decisions deferred in 2005, many for six, seven or eight months, until therapy termination reports are available.
- Prisoners nearing their release dates are commonly housed at facilities where the

treatment is not even provided.

- The average cost of keeping a prisoner at a Level 1 or 2 facility for one year is about \$22,000. The cost at higher security levels is substantially more. The per prisoner cost of providing AOP is about \$1,400.
- AOP is not available at the higher security level facilities.
- There are not enough therapists available to conduct AOP groups.
- There are no criteria for deciding when AOP need not be required or when it would be appropriate to make completion of a comparable program a

Report on Assaultive Offender Program spurs action

Legislation may make prisoner treatment programming available before parole decision

Recommendations to ensure that prisoners get access to assaultive offender programming before their first parole dates are getting attention from legislators.

In their report, *Penny-Wise and Pound-Foolish: Assaultive offender programming and Michigan's prison costs*, CAPPS and the American Friends Service Committee, Criminal Justice Program (AFSC) recommend that the MDOC be required to maintain a statewide roster of prisoners waiting to enter various programs and to transfer them to prisons where the programming is available in time to complete the therapy before parole eligibility. Currently, each facility maintains its own waiting list and prisoners are routinely transferred without regard to their positions on these lists.

The report says the parole board should be prohibited from denying parole to a prisoner solely for failure to complete

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CAPPS/AFSC study shows problems with program that delays paroles, costs state millions

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condition of parole.

Even with the expense of adding more therapists, if 600 more prisoners were paroled after completing AOP, the net savings would exceed \$7 million.

"This isn't an easy problem to solve," says CAPPS Executive Director Barbara Levine. "Delivering a year-long group therapy program at prisons and camps all over the state is not a simple task. Sufficient resources must be dedicated, qualified staff must be retained and the appropriate prisoners must be placed in the program at the appropriate times. The current enrollment

PENNY-WISE & POUND-FOOLISH

Assaultive offender programming and Michigan's prison costs



A report by
Citizens Alliance on Prisons and Public Spending
and
American Friends Service Committee, Criminal Justice Program

April 2005

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Legislature could make prisoner treatment programs available before parole decision

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a program if it was not available in time or if the prisoner did not meet the criteria for participation. Parole could still be denied if evidence exists that the person is currently a risk to the public.

The report also revealed that 1,500 current prisoners have completed AOP but were denied parole, often despite positive evaluations by MDOC therapists. The groups urge an administrative review process whenever the parole board's decision is inconsistent with a therapy termination report.



Penny Ryder

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Study shows problems that delay paroles, cost millions

(Continued from page 2)

of more than 2,000 prisoners in several dozen facilities is not an insignificant accomplishment. Nonetheless, a close look at how the programming is being delivered shows a myriad of problems that are bloating the size of our prison system and costing taxpayers millions of dollars.”

Though hundreds of prisoners are denied parole for not having completed AOP, hundreds more who have been referred for possible placement in the program are paroled each year without completing program.

“This suggests that many people are referred to AOP unnecessarily and that waiting lists need not be so long,” Levine says.

On the other hand, the report explains, 1,500 prisoners who completed AOP are still being denied parole. Despite positive assessments from

MDOC therapists, the parole board has concluded that these prisoners pose a current threat to public safety. When this happens, the board is not required to explain its difference of opinion with the treating therapist. If, as the result of an administrative review process designed to reconcile the conflicting assessments, just 500 more prisoners are

needed AOP treatment because of an assaultive history is not provided that treatment. We believe public safety is compromised even more when prisoners are discharged to communities with no parole supervision and without needed programming from a level IV or V prison,” she said.

Ryder notes that resources have not been increased to meet the needs of the ever-growing prison population. There were 100 therapists working in the prison system in the early 1990s to handle all counseling, including AOP. Today, there are still only 100 therapists even though the prison population has grown 35 percent.

The report makes recommendations to improve the system. In addition to the ones contained in Sen. Bishop’s proposed legislation (see sidebar) they include:

- Hire more therapists to conduct AOP groups
- Adjust AOP admissions criteria and apply them consistently
- Provide AOP at all custody levels

Levine said: “Taking the steps necessary to improve the delivery of assaultive offender programming to the right Michigan prisoners will require a change in MDOC priorities and a shift in the allocation of resources. Developing more consistency between the assessments made by treatment personnel and parole board members will require closer examination of how each group performs its function. However, making such efforts will pay off with increased public safety and decreased prison spending. Not taking these steps would be truly penny-wise and pound-foolish.”

Principal researcher for the report was Charlene Lowrie of CAPPs. Lowrie and Levine wrote the text. Penny Ryder and Natalie Holbrook of AFSC provided source materials, analysis and editorial support. Gail Light of CAPPs designed and produced the report.

How to save \$17 million with improvements in AOP delivery

1. Hire 55 more therapists and parole 600 Level I & II prisoners still in prison because they could not complete AOP.

Annual net savings per prisoner:

\$	21,794	average cost /prisoner
	- 1,977	cost of parole supervision
	\$19,817	

Total net savings:

\$	19,817	
	x 600	
	\$11,890,200	600 prisoners paroled
	- 4,600,000	55 therapists hired
	\$ 7,290,200	

2. Parole one-third of the 1,484 prisoners denied parole who completed AOP.

\$	19,817
	x 500
	\$ 9,908,500

Total Savings:

\$	7,290,200
+	9,908,500
	\$17,198,700

paroled, the savings would be \$10 million.

AFSC Director Penny Ryder says failure to provide the therapy to prisoners in Levels III through V is also a serious problem.

“We believe the goal to protect the community is not being satisfied when any prisoner who

We’re Tardy to be Timely

We have combined the March and June issues of *Consensus* into this single Spring edition to bring you timely information on the AOP report and the special supplement on what \$20 million can buy . . . other than a prison.



Legislation to make prisoner treatment programs available before parole decision

(Continued from page 2)

Sen. Michael Bishop, R-Rochester, appeared with CAPPS Executive Director Barbara Levine and AFSC Director Penny Ryder at an April 20 press conference where he discussed his intent to introduce legislation addressing the problems.



Sen. Michael Bishop

“We have a real crisis here in Michigan,” Bishop said. “There shouldn’t be a requirement to complete a program unless you *can* complete that program. Each time the parole board denies parole for a year so a lower security level prisoner can complete the program, it costs taxpayers 14 times as much as it would have cost to have provided the program in a timely fashion. The waiting list continues to grow, and we’ve been in denial in the system in terms of how to address it.”

An Auditor General’s report released in 2000 criticized the MDOC for failing to make the assaultive offender program more widely available and noted the impact on parole.

An additional legislative approach to the concerns is also being considered. CAPPS proposed to the Senate Subcommittee on Corrections Appropriations that some of the problems could be addressed in boilerplate language as part of the FY 2005-2006 Corrections budget bill.

In boilerplate, the Legislature could direct the MDOC to create a statewide waiting list and implement timely transfers. It also could require the department to adopt an administrative review process to resolve conflicts between the parole board’s assessments and those of AOP therapists. At a minimum, the Legislature could require the MDOC to identify all prisoners who have been denied parole despite positive therapy reports and to prepare a report on the cases, including the reasons for denying release.

These proposals are currently under consideration by members of the subcommittee, which is chaired by Sen. Alan Cropsy.

Cutting prisoner programs proposed as way to save money

Corrections budget at \$1.8 billion and growing

While other state budgets face more and more cuts, the Michigan Department of Corrections would receive a six percent increase under the Governor’s proposed budget for Fiscal Year 2006. The additional \$97 million would bring MDOC spending to \$1.8 billion.

Corrections accounts for 20 percent of all General Fund expenditures. It surpassed colleges and universities in 2004. In 2002, we spent \$228 million more general fund dollars on universities than on corrections; in the proposed budget we would spend \$313 million less.

The MDOC budget assumes a prisoner population of nearly 51,000, virtually the same as in

2004. The number of employees would be 17,529, a decline of 768 or four percent since 2004.

Controversy has erupted over the Governor’s proposal to save money by closing the maximum-security Michigan Youth Facility at Baldwin. The state’s only private prison costs nearly \$19 million to lease and operate. As CAPPS noted in its testimony at last year’s budget hearings, the need for a maximum security facility to house juvenile “superpredators” never materialized. Nearly all of the 480 prisoners at MYF are 17 or older and two-thirds are classified at security levels 1 or 2. (See *Consensus*, May 2004).

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Proposed Corrections budget sparks talks of program cuts

(Continued from page 4)

The two Republican members of the three-person House Appropriations Subcommittee on Corrections, Chairperson Jack Brandenburg and Rep. John Pastor, have made clear their desire to maintain the contract with Geo Group, Inc. (formerly Wackenhut Corp.) and keep the Youth Facility open. They focused much attention at committee hearings on the possibility of cutting prisoner programs, including academic and vocational education and substance abuse treatment. MDOC representatives were grilled about what evidence exists to demonstrate that these programs reduce recidivism. The proposed budget includes \$34 million for academic and vocational programs, less than 2 percent of Corrections spending. An additional \$20 million is allocated for substance abuse testing and treatment.

The CAPPS board of directors has adopted a resolution urging the Legislature not to reduce prisoner programs. (See page 6.) The resolution notes that programs are not only critical to helping people re-enter the community upon release, they are an important management tool inside prisons. CAPPS members who wish to address this issue should call, write or e-mail their legislators.

The proposal for 2006 also incorporates a number of cost savings in the FY 2005 budget initiated in March by Executive Order 2005-7. Two prison camps, Sauble and Tuscola, which cost \$2.1 million to operate, and the Mangum Farm barracks at Marquette, which cost more than \$1 million, are being closed. Reducing security levels at five facilities will save \$2.9 million. Several corrections centers are being closed because, under "truth in sentencing" provisions that prohibit prisoners nearing parole from entering community programs, there are no longer enough prisoners eligible for center placement. The funds allocated for electronic monitoring are being reduced for the same reason.

Facility closings do not mean the prisoner population is getting smaller. Prisoners are simply being transferred to other facilities, making already overcrowded conditions worse. At eight prisons, a seventh bunk will be added to cubicles that currently house six men but were designed for four.

Although various factors, including fewer court commitments and earlier parole eligibility

Budget Proposal for FY 06: Redistributing Beds Among Fewer Prisons

Beds Reduced	
Jackson Complex (A&B)	480
Camp Tuscola	260
Camp Sauble	158
Mangum Farm	59
Michigan Youth Facility	480
TOTAL	1,437
Beds Added	
7 th bed added to cubicles at 8 prisons	976
Kinross	296
Ojibway	80
TOTAL	1,352
Net loss	85

under the revised drug laws, resulted in modest population decreases for 24 straight months, the population is growing again. The MDOC projects that it will run out of beds this August. CAPPS has estimated that adjustments to parole policies could result in 7,200 fewer prisoners at cost savings of \$145 million, without posing an unreasonable risk to public safety.

The Governor's budget proposal re-reflects her five-year plan for slowing prison growth. It includes \$5 million for pilot sites for the Michigan Prisoner Re-entry Initiative, \$3 million for demonstration projects focused on mentally ill parolees and \$4 million for increasing county jail capacity. The plan also calls for saving 650 beds by making adjustments to sentencing guidelines ranges that would result in 228 more low-level offenders going to jail and 889 more being placed on probation.



May 4, 2005

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Dear Rep. Brandenburg and Sen. Cropsey:

The Board of Directors of the Citizens Alliance on Prisons and Public Spending has resolved to urge the Legislature to preserve academic, vocational and treatment programs for prisoners at current levels. Our reasons for this position are as follows:

- A growing body of research indicates that various in-prison programs are effective in decreasing recidivism, thus reducing crime and saving taxpayer dollars.
- While more evaluation of Michigan's specific programs is warranted, programs should not be discarded before that evaluation is done. If programs are proven to lack value, they can then be eliminated. However, dismantling programs that are subsequently found to have been effective would be inefficient. Not only is it much harder and more costly to rebuild than to tear down, but thousands of prisoners would be denied access to effective programs in the interim.
- Institutional programming is an important aspect of the continuum of activities envisioned by the Michigan Prisoner Re-entry Initiative and by re-entry experts nationally. Re-entry planning assumes that successful transition to the community builds on experience in treatment, academic and vocational programs while incarcerated.
- Achieving success in academic, vocational and treatment programs is virtually the only way prisoners have of demonstrating to the parole board that they have been rehabilitated and are good risks for release.
- Participation in productive activities is an important management tool. Prisoners who sit idly in crowded prisons day after day become more dangerous to staff and other prisoners alike.
- The public expects some efforts at rehabilitation to be made while people are incarcerated. It does not expect people to be warehoused without any effort being made to address their substance abuse problems or their lack of education and job skills. As it stands, less than 2 percent of the proposed budget is allocated for academic and vocational programs and only 1 percent is allocated for substance abuse testing and treatment. To reduce these small investments in rehabilitation without proof that the money is actually being wasted would violate the reasonable expectations of sentencing courts and taxpayers.

Thank you for considering our concerns. I look forward to hearing from you.

Very truly yours,

Robert C. Grosvenor

President

cc: Rep. John Pastor
Rep. Alma Wheeler Smith
Senator Cameron Brown
Senator Valde Garcia
Senator Michael Prusi
Senator Michael Switalski

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Returning technical parole violators to prison – are we doing more harm than good?

By Dena Anderson

Prisoners placed on parole must abide by conditions of supervision set by the parole board. If they violate those conditions, progressive community-based sanctions, such as more intensive supervision, treatment, extending the length of parole, or a short stay in a technical rule violator center or jail, can be imposed. Alternatively, parole can be revoked and the parolee can be returned to prison. These parolees, who have not been convicted of new crimes, are referred to as “technical parole violators.” In its 2003 publication, *The high cost of denying parole*, CAPPS reported that as of May 2003, 3,645 technical parole violators were serving an average of two additional years in prison at a cost of \$81 million per year.

Returning people to prison for non-criminal conduct raises numerous issues.

- What conditions should parolees reasonably be expected to meet?
- How strictly should these conditions be enforced?
- What sanctions are appropriate for which violations?
- When parole is revoked, how long should people be kept in prison before being released again?
- What steps can the Department of Corrections take to improve people’s chances of succeeding on parole?

The MDOC says that, after years of returning technical parole violators to prison quite quickly, it is committed to using progressive community-based sanctions first. The MDOC is also engaged in an extensive re-entry initiative designed to help parolees secure jobs, housing and needed treatment and to assist in family reunification. The goal is to reduce parole revocations by enabling parolees to succeed. Nonetheless, the experience of many individual technical parole violators indicates that important questions about the handling of these cases remain.

Harvey Reese, who had served 3½ years on a 1½ to 5 year sentence for having sex with a 15-year-old girl when he was 24, had been on parole for 13 months. He had a well-paying job as

a contract employee at General Motors, a car, a steady girlfriend, and a child. He never tested positive for drugs or alcohol, was reporting as directed and paying his supervision fees. He had completed his required group therapy with a good report. Reese says, “This was the first time in my life I had done well....I really had it set in my heart to do right.”

Then, one day in January 2004, Reese happened to meet his pregnant cousin at a McDonald’s. She asked him for a ride home. As she got in the car, her three sons, ages 11, 14 and 16, came out of the restaurant and climbed in the back seat. A few minutes later, police stopped Reese for a minor traffic violation. When they found that he had a parole condition that forbade any contact with children age 16 or younger, they arrested him. The parole board returned him to prison.

Reese lost his job and his car. His girlfriend struggles to support the household and raise their child by herself. Last November the board continued his incarceration until at least January 2006.

Tim Selepak was a painter for a construction company and had completed 28 months of a 36-month parole when he was arrested for accepting two collect phone calls from a former cellmate. The cellmate was suspected of being involved in smuggling drugs into prison, but, although phone calls are recorded, there was no evidence that Selepak had knowledge of any such scheme. Nonetheless, accepting the calls violated the condition of Selepak’s parole that forbade “associating with a known felon.” He spent two more years in prison before being released on parole for another two years. In addition to the emotional costs they suffered, Selepak says he and his girlfriend are many thousands of dollars in debt as a result of income lost during his re-incarceration.

Vance Taylor was four months from discharging off parole when he left residential drug treatment in September 2001 because he learned that his wife was filing for divorce. He reported to his parole agent the next morning, as ordered. Although Taylor’s agent, the agent’s supervisor and

(Continued on page 11-- see Questions)

CAPPS, FAMM present proposals at Detroit NAACP breakfast

The impact of parole policies on the size of Michigan's prison population and efforts to complete drug sentencing reforms started in 1998 were the focus of discussion at an April 22 breakfast hosted by the Detroit Branch of the NAACP. The meeting, jointly convened by two CAPPS board members, Heaster Wheeler, execu-



Wheeler

tive director of the Detroit NAACP, and Laura Sager, national campaign director for Families Against Mandatory Minimums (FAMM), was attended by NAACP staff and community leaders.

NAACP Public Policy Coordinator Korey Hall reviewed the broad spectrum of issues the organization seeks to affect.

These range from health care, education and affordable housing to civil rights, urban revitalization and black economic empowerment. Wheeler emphasized that criminal justice reform is also an NAACP priority. Criminal justice policies have a highly disparate impact on the African-American community. Although African-Americans constitute only 14 percent of the state's total population, 54 percent of the prisoner population and 74 percent of those serving for drug offenses are black.

Sager, who headed the campaign that made massive changes in Michigan's harsh mandatory drug laws, reviewed what has been accomplished so far.

- In 1998, the sentence of mandatory life without parole for delivering more than 650 grams of heroin or cocaine was eliminated. More than 200 prisoners sentenced under that law will become eligible for parole after serving 15, 17 ½ or 20 years and more than two dozen have already been released.
- In December 2002, the "McConico" package of bills was signed that:
 - √ Eliminated mandatory minimum sentences for drug offenses and established sentencing guidelines ranges,
 - √ Eliminated mandatory consecutive sentences for drug offenses,
 - √ Eliminated lifetime probation for low level drug offenders and made 7,000 current probationers

eligible for five-year terms,
√ Created early parole eligibility for 1,200 prisoners sentenced for under-650 gram drug offenses under the old laws, bringing many home years or even decades earlier than would otherwise have been the case.

Sager then explained FAMM's plan to finish the job for people sentenced under the old laws. It includes:

- Enacting clean-up language to ensure consistency in applying early parole eligibility provisions and address cases that were "in the pipeline" when changes were made,
- Extending early parole eligibility to prisoners serving sentences for the lowest-level drug offenses,
- Expanding early parole eligibility provisions by making mandatory consecutive drug sentences concurrent,
- Eliminating life without parole for a second drug offense over 50 grams and providing parole eligibility for those serving life without parole for second drug offenses,
- Requiring in-person interviews of parole-eligible lifers every 2.5 years.



Sager

CAPPS Executive Director Barbara Levine explained how parole board policies have driven up the prisoner population since 1992 and described 13



Levine

recommendations that would make parole decisions fairer and more transparent. Adopting these proposals would lead to the release of thousands of prisoners who have served their minimum sentences and save taxpayers tens of millions of dollars. The CAPPS proposals break down into five groups: 1) Establish statutory criteria for release on parole. 2) Make parole guidelines more accurate at predicting risk and increase the board's reliance on them. 3) Improve parole decision-making procedures. 4) Improve access to treatment programs and make the relationship between treatment and parole more consistent. 5) Restore fairness to the review process for parolable lifers.

The full set of recommendations can be found at the CAPPS website and in CAPPS research reports.

Efforts to alter treatment of parolable lifers underway

Efforts continue on several fronts to change policies and procedures that govern the parole board's treatment of parolable lifers.

CAPPS has several recommendations to make the lifer review process fairer and more rational. These recommendations, contained in the CAPPS report, *No way out: Michigan's parole board redefines the meaning of 'life,'* include restoring the requirement that personal interviews be conducted every two years.

Also recommended is the application of the parole guidelines to parolable lifers. That would require the board to provide "substantial and compelling reasons" for not proceeding to a public hearing when a lifer has a high guidelines score. A special lifer review board to assess the 670 parolable lifers who have served more than 15 years and the 360 prisoners who have served 25 years on mandatory life terms is also proposed.

Legislation will be needed to put these recommendations into place. CAPPS is discussing them with policy makers, community groups and the media. Rep. Michael Switalski has already proposed legislation to require personal interviews every five years, as opposed to just file reviews.

With the generous support of a new member, CAPPS is also creating a video based on the lifer report. It will be used to stimulate discussion and encourage community and faith-based organizations to become involved in supporting change.

The 15 to 20-minute presentation should be available in June. More information on the video and how it will be distributed will be available at the CAPPS website and in the next issue of *Consensus*.

Another approach is litigation. A lawsuit has been filed in U.S. District Court, Eastern District of Michigan, on behalf of seven named parolable lifers. A motion has also been filed for class action status, which, if granted, will make the suit apply to all parolable lifers.

The lawsuit – *Kenneth Foster-Bey et al v John S. Rubitschun et al* – which asks the court to order new parole hearings for the plaintiffs using the pre-1992 parole standards and policies, was filed by University of Michigan law professor Paul

D.Reingold and student attorneys from the U-M clinic.

The suit claims the parole board is using parole laws and policies that were not in effect when the plaintiffs were convicted and that the changes have "created a different parole regime in violation of the ex post facto and due process clauses of the United State Constitution." It says the system has made parolable life the equivalent of a mandatory life sentence.

Public support for more consideration of parolable lifers is growing. In back-to-back editorials, the *Detroit News*, on April 25, 2005, and the *Detroit Free Press*, on April 26, 2005, reacted to the filing of the lawsuit. The *Free Press* said: "The Legislature ought to require the Parole Board to treat these cases as it does other inmates with parole eligibility. It should also authorize a special Parole Board panel to review them."

The *News* called for reforming parole policies generally and the treatment of lifers in particular. It said:

"Prison inmates who are sentenced to life terms but are eligible for parole should get hearings and written statements that can be appealed. This should be state policy regardless of the outcome of a lawsuit challenging the state's parole procedures.

"Aging and ailing prisoners should be let out of prison. It's estimated that the state can save from tens of millions to hundred of millions with a more sensible parole policy. Whatever the possible savings, justice alone should motivate a reform of current parole practices."

Efforts are also ongoing to make changes in laws that affect juveniles sentenced to life without parole. A report produced by the ACLU last year, *Second Chances: Juveniles serving life without parole in Michigan prisons*, (See December, 2004, issue of *Consensus*), contained a number of recommendations, including limiting first-degree murder sentences for juveniles to 25 years.

Finally, efforts are continuing to pass legislation to extend provisions of the Michigan Supreme Court decision – *People v Aaron* – to all

(Continued on page 11 -- see Efforts)

Faces behind the figures

Are we safer because they're behind bars?

Another in a series of CAPPs profiles of prisoners currently eligible for parole

Nicholas Seymour, No. 312131

In spite of a perfect institutional record and a positive recommendation from the Assaultive Offender Program therapist, the parole board has kept Nicholas Seymour in prison for three years past his earliest release date, effectively doubling his minimum sentence.

Nicholas Seymour is a 1997 high school graduate who completed 22 credits at Kirtland Community College. When he turned 19, Seymour moved out of the family home and began drinking and experimenting with illegal drugs. In the spring of 1999, he was arrested for several misdemeanor offenses: possession and use of alcohol and marijuana, impaired driving, and fleeing and eluding police.

In November 1999, Seymour was involved in a fist fight with an acquaintance over ownership of a pick-up truck. As they wrestled each other to the ground, the victim's head struck a near-by car and the curb. Seymour continued punching the victim until he was pulled away by a witness. The victim died two days later of a head injury. Seymour pled guilty to voluntary manslaughter. In accordance with legislative sentencing guidelines, he was sentenced to 3 – 15 years in prison.

Seymour has had a perfect institutional record – no misconduct citations of any kind. He played guitar and sang at church services every Sunday for almost two years, and has continuously participated in AA/NA. Housing unit reports indicate that he is positive, cooperative, and involved in many projects to benefit the unit. Seymour has worked whenever a job was available, earning outstanding reports from all his supervisors, who say he's always ready to take on extra duties. He trained as a tutor, then worked with several classes of GED students. In 2001, after completing levels 1, 2 & 3 of Anger Management, he began teaching the class.

The Reception Center recommended that Seymour be assessed for assaultive offender therapy. However, it was fifteen months before AOP was available at the facility where Seymour resided. Even then he couldn't get into the year-long program, because other prisoners had earlier release dates. It took another nine months, five more inquiries, and a transfer to another facility before he was placed in AOP in April 2002. By then he was just seven months from completing his minimum sentence.

When he was first interviewed by the parole board in September 2002, Seymour scored favorably on the board's own parole guidelines, was housed in minimum security and had a gate pass to work outside the facility. He had strong family support and was represented at his hearing by the undersheriff of Roscommon County. However, the parole board continued Seymour for 12 additional months, stating:

The offender's involvement in AOP designed to address his anger and assaultiveness is incomplete. His meaningful insight into the causes of this assaultive crime is also incomplete. Departure warranted. Still view as risk.

By the time of his 2003 parole interview, Seymour had completed AOP. In his final report, the therapist wrote that Seymour displayed a consistently calm demeanor and empathy for group members, his victim, and others hurt by his actions. He showed excellent insight into the issues that led to his assaultive behavior and was able to apply the lessons of group in his daily living. Seymour had developed a workable, common sense relapse prevention plan. The therapist supported Seymour's being paroled, saying that his risk of re-offending had been greatly reduced. Nonetheless, the parole board denied him release, writing:

During Parole Board interview prisoner continues to minimize his level of responsibility for this offense. Despite completion of

(Continued on page 11 -- see Profile)

Questions about returning technical parole violators

(Continued from page 7)

the administrative law examiner who conducted his parole revocation hearing all recommended re-parole and return to residential treatment, the parole board sent him back to prison, where he still remains.

Taylor lost his job and his share of the equity in his home. His mother pays storage on the few belongings he was able to salvage. His father is seriously ill in Arizona, and Taylor fears he will not be able to see him before he dies. They have little contact, even by phone, because state-to-state calls from prison are unaffordable.

Despite the obstacles that face any convicted felon trying to re-build his or her life, Reese, Selepak and Taylor were doing relatively well.

However, the obstacles become that much greater when parole is revoked. Relationships parolees had begun to build or re-build are further stressed or broken completely. Families are often placed in financial trouble without income they had come to depend on. Children are left once more without a parent, and mothers often have to take a second job to pay the bills. Technical violators have lost employment, defaulted on mortgages, and had vehicles repossessed. The resulting poor credit rating will make it that much harder for them to start over. Some may not be able to find employment again.

In addition, even if they had almost completed their first parole, the parole board will require them to begin parole all over again, burdening them, as well the system, and setting up conditions that will put them at risk of more violations. The whole cycle of reporting and supervision, treatment assessment, therapy, and drug tests begins anew. Parolees are required to pay various fees again, often at a cost of hundreds of dollars, without regard for what they may have successfully completed during their previous parole.

The harm done by returning a technical parole violator to prison often far outweighs the harm the parolee caused. Given the high costs these administrative decisions impose on taxpayers, their tenuous connection to public safety, the collateral damage they cause to parolees and their families, and the availability of other sanctions, it

is fair to ask whether imprisonment is ever warranted for non-criminal conduct. At a minimum, legislators struggling with a huge budget deficit could make tens of millions of dollars available for other needed programs simply by placing a six-month limit on how long technical parole violators who are returned to prison can be required to serve.

Profile: Nicholas Seymour

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recommended therapy, the Parole Board is not assured that prisoner's risk of re-offending has been diminished.

In July 2004, the parole board notified Seymour that it was denying release for the third time. Although it noted again that AOP completion did not provide enough assurance, this time the board stressed “the very brutal crime that occurred in front of victim’s child” and called him “an unwarranted risk to public safety.” With this 12-month continuance, the board effectively doubled the three-year minimum sentence imposed by the judge. Seymour’s next re-consideration date was set for November 2005. However, for reasons that are unclear, the board recently relented and set a parole date of June 12.

Efforts to change lifer situation underway

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prisoners convicted of felony murder. Before 1980, if someone died during the commission of a felony, all those involved received a mandatory sentence of life without parole. In 1980, the Court decided that someone who is an accomplice in a felony is not necessarily guilty of an ensuing murder. The jury must decide if the defendant intended for a death to occur. Without that state of mind, there can not be guilt of first-degree murder.

Legislation to make the *Aaron* decision retroactive to felony-murder cases tried before 1980 has been introduced. But, so far, it has failed to pass.

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