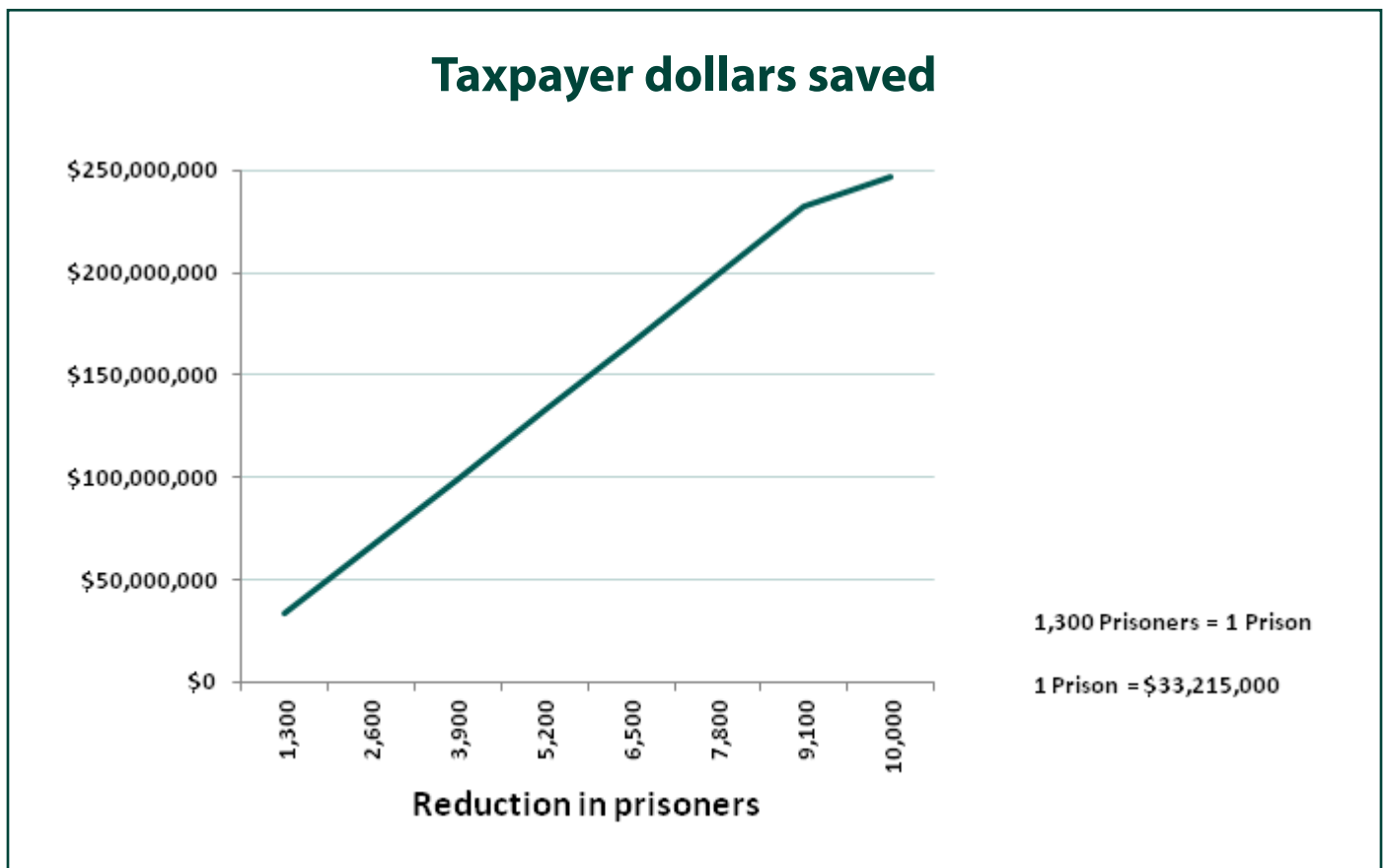

10,000 fewer Michigan prisoners: Strategies to reach the goal

Executive summary



A report by the Citizens Alliance on Prisons and Public Spending

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Executive summary

The context

Michigan's prisoner population has grown from fewer than 7,900 in 1973 to over 43,000. Corrections has gone from 1.6 percent of General Fund spending to nearly 20 percent. Today the budget of the Michigan Department of Corrections (MDOC) is roughly \$2 billion.

This growth is not the inevitable product of increases in the size of the general population or of increased crime. On the contrary, Michigan's population growth has been modest and index crime rates have been declining steadily for the last three decades.

Prison expansion resulted from specific changes in law, policy and practice that caused the state's incarceration rate to rise from 160 per 100,000 residents in 1983 to 442 today.

Reexamining policies in light of current research could allow Michigan, in the next five years, to:

- ◆ Have 10,000 fewer prisoners.
- ◆ Reduce the prisoner population to 33,704 (about the same amount as in 1990 and 35 percent below the high point in 2006).
- ◆ Close seven entire prisons and six additional housing units.
- ◆ Avoid the need to train 2,000 new corrections officers to replace retirees.
- ◆ Save nearly \$250 million annually.

And it could do all this without affecting public safety

This is a relatively modest initial target. Savings would grow over time and as cost estimates for some strategies are better developed. Substantial additional reductions will occur if issues beyond the scope of this report are addressed, including the over-representation among prisoners of people of color and the mentally ill.

This report:

- ◆ Provides policymakers with a comprehensive analysis of how and why Michigan's prisoner population has changed over the last 25 years.
- ◆ Identifies all strategies for reducing the population that are logically connected to the reasons for growth, regardless of their immediate likelihood of adoption.
- ◆ Establishes credible estimates of how many prison beds could be saved by adopting each strategy. Policymakers can choose a combination of strategies to reach a population target that is achievable in the short term.

The size of the prisoner population is determined by how many people enter the system and how many leave. In years when intake exceeds releases, the population grows. When releases exceed intake, the population drops. Therefore we must understand how to impact the various factors that drive both admissions and releases. More fundamentally, we must reconsider who we really want to incarcerate and for how long.

Intake

Admissions reflect our policies about who should go to prison, often called the “in/out” decision. There are five basic categories of entries to prison, four of which are people already under criminal justice supervision.

1. **New court commitments** are people who have been convicted of a felony and are being sentenced for that offense for the first time. In the early 1990s, there were 7,000 of them a year and they constituted more than 55 percent of total intake. Today there are about 5,100 new commitments and they account for only 46 percent of total intake.

The volume of new court commitments is affected by:

- Crime rates.
- Law enforcement strategies and resources.
- The redefinition of felonies and creation of new ones.
- Mandatory prison sentences.
- Defendants’ eligibility for non-prison sanctions under the sentencing guidelines.
- The availability of community-based alternatives.

2. **Technical probation violators** were convicted of a felony and sentenced to probation but were resented to prison because they violated the terms of their supervision. The violation may have involved such noncriminal conduct as changing a residence without permission or criminal behavior that was not prosecuted.

3. **Probation violators with new sentences** committed a new criminal offense while under supervision. The decision to revoke probation is made by the sentencing judge.

In 2013, a total of 2,708 probation violators entered prison (total includes technical violators and those with new sentences).

4. **Technical parole violators (PVT)** were released from prison after serving at least their minimum sentences but were returned for violating terms of their supervision.

There were 2,029 PVTs in 2,013.

5. **Parole violators with new sentences (PVNS)** were convicted of committing a new felony while on parole. Parole revocation decisions are made by the parole board.

There were 1,387 PVNSs in 2013.

The admission to prison of probation and parole violators is affected by:

- The intensity, conditions, quality and length of supervision.
- The availability of community-based supportive resources.
- The standards for revocation:
 - Parole board revocation criteria have varied dramatically over the years.
 - Probation revocation criteria vary according to the views of individual judges.

Releases

Releases reflect our policies about how long people should stay in prison. Average length of stay is the key driver of prison population size.

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The Pew Center on the States found that in 2009:

- Michigan had the longest average length of stay of 35 states studied.
 - Overall, Michigan prisoners served nearly 17 months more than the average.
 - Assaultive offenders served 30 months longer than assaultive offenders nationally.
- Michigan's 20-year rate of increase in length of stay far exceeded the growth rate of other states.

Researchers can make no connection between increased length of stay and recidivism.

Length of stay has three components:

1. The minimum sentence length, which determines when the parole board gains the authority to grant release.
2. The parole board's decision about whether to grant parole once the person is eligible.
3. The availability of credits for in-prison conduct to reduce the minimum sentence, so the earliest release date (ERD) arrives sooner.

Minimum sentence length. The average length of minimum prison sentences imposed from 2008 to 2012 increased by 2.7 months. The Council of State Governments (CSG) says this requires an additional 1,971 prison beds at a yearly cost of \$70 million.

The average minimum sentence of people who enter prison in a given year is much shorter than the average minimum being served by the total prisoner population. People with short sentences are released while people with long sentences build up in the prison population. In 2013:

- People with minimums of two years or less were 59 percent of the commitments but only about 24 percent of the total population.
- People with minimums of over 25 years or life were only two percent of commitments but 18 percent of the total population.

Approximately 10,400 people are serving sentences of 24 months or less, raising questions about how prisons are used and what such sentences can really accomplish.

Minimum sentences for the total prison population have been steadily increasing:

- From 1989-2003, average minimum sentences increased from 6.5 to 9.0 years (excluding nearly 5,200 people serving life terms).
- The increase in sentence length for offenses that carry life or any term, such as second-degree murder and first-degree criminal sexual conduct, is especially marked. In the 1970s, a large majority of sentences (including parolable life terms) resulted in parole eligibility in 10 years or less. By the 2000s, that proportion had plummeted.

The shift in our concept of appropriate punishment is reflected in the sentencing guidelines enacted by the legislature in 1998. The guidelines shortened sentences for less serious offenders and kept more of them out of prison, but lengthened minimum sentences for more serious offenses. Very broad guidelines ranges allow for terms that are very long and very disparate. Both length and disparity are enhanced by selective prosecution use of habitual offender statutes to increase people's sentences based on their prior records.

Without a sentencing commission to provide consistency, the legislature has made many adjustments to the guidelines on an ad hoc basis that have increased sentence lengths. It has also redefined crimes, increased maximum penalties, enacted harsh mandatory minimum sentences and permitted greater use of consecutive terms, all of which have contributed to Michigan's above average length of prison stay.

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Parole board decisions. The minimum sentence establishes the earliest release date (ERD) but does not determine how long a person will actually be incarcerated. Either a statute or the judge sets a maximum sentence that dictates when release is required. Between the minimum and maximum, the parole board has absolute discretion to grant or deny release. The period of time controlled by the parole board is usually 300-400 percent longer than the minimum imposed by the court.

In 1992, at the same time that parole board members were changed from corrections professionals with civil service protection to appointees, the legislature required the use of parole guidelines to “govern the exercise of the parole board’s discretion.” The guidelines measure a person’s risk of reoffending. When someone scores “high probability of release”, the board is only permitted to deny release for “substantial and compelling reasons.”

The parole guidelines are meant to constrain the exercise of discretion, increase objectivity, reduce disparity and promote transparency. However prisoners cannot appeal parole denials, so there is no method of enforcing the parole guidelines.

People with favorable scores are routinely kept long past their ERD:

- In Feb. 2012, more than 1,500 people who scored high probability had been denied release. On average, they had been eligible for 2.6 years.
- The reason given is typically a subjective assessment by a single board member that the person lacks sufficient insight, empathy or remorse.

For the past several years, about 13 percent of the total prisoner population (about 5,500 people) were past their ERD and had never been released. This costs taxpayers roughly \$150 million a year.

Release is often denied based on the nature of the offense. Drug and other non-violent offenders stand a high chance of being paroled; homicide and sex offenders have much lower parole grant rates, regardless of their guidelines scores.

Parole denials based on the nature of the offense are problematic for three reasons:

1. The offense was the primary factor on which the minimum sentence was based.
2. Selected offense factors are already scored in the parole guidelines.
3. A wealth of research shows that the assaultive and sex offenders who are most likely to be denied parole actually have the lowest reoffense rates. Keeping them incarcerated for additional years does virtually nothing to protect public safety.

Since, on average, there is no correlation between keeping people incarcerated past their ERDs and public safety, it is important to understand what drives parole decisions. Factors that have caused great volatility in parole grant rates over the last 25 years include:

- Changes in the membership of the board.
- The mandate given to the board by the governor.
- Publicity about a serious offense committed by an individual parolee.
- The availability of risk assessment tools.
- Administrative backlogs, as in psychological evaluations or required programs.

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Former Governor Granholm expanded the parole board from 10 to 15 members in 2009, so that the large pool of people who had been denied parole could be reviewed. Although 1,000 additional people serving for homicide and sex offenses were released, reoffense rates declined.

Of all the homicide and sex offenders who were paroled from 2007 through the first quarter of 2010, more than 99 percent did not return to prison within three years with a new sentence for a similar offense.

One strategy for increasing parole grants would be a statutory mandate known as “presumptive parole.” This would require the board to parole people on their ERD unless:

- There is objective evidence, not already scored in the parole guidelines, that the person would present a high risk to public safety or
- The person has a recent history of serious institutional misconduct.¹

Presumptive parole would:

- ◆ Reduce the prisoner population and save taxpayer money.
- ◆ Preserve the board’s discretion to deny release when the evidence indicates risk to the public.
- ◆ Give more deference to the minimum sentence imposed by the court.
- ◆ Increase transparency and certainty for victims and prisoners.
- ◆ Help insulate the board from public pressure and promote consistency.

Sentence reduction credits. Release also depends on whether and how much a person’s earliest release date is advanced by the availability of credits for good institutional conduct and/or “earned credits” for participation in productive activities like work, school and treatment programs. Historically, sentence reduction credits of various types and in varying amounts have been common nationwide. In Michigan:

- Generous good time was ended in 1978 by a ballot initiative.
- It was replaced by a more modest system of “disciplinary credits” in 1982.
- 1998 statutory provisions known as “truth-in-sentencing” eliminated disciplinary credits and prospectively required all prisoners to serve 100 percent of their minimum terms.

Truth-in-sentencing lengthened the time served by everyone whose good conduct in prison would have earned him or her modest amounts of credit. For example, a five-year minimum term that could have been served in four years and one month with disciplinary credits requires service of the full five years. The difference costs roughly \$32,000.

Proponents of truth-in-sentencing intended to ensure that victims and the general public understand what a sentence actually means. There is no evidence that people who are allowed to earn good conduct credits re-offend at a higher rate than those who are not.

Michigan is out of sync with most other jurisdictions. The federal system permits sentence reductions of up to 15 percent. Some states have increased the availability of credit as a way to control spiraling prison populations. Even in Michigan, sheriffs still award credits to help control jail populations and promote compliance with jail regulations.

¹ Release would also have to be denied if the person had pending felony charges or a detainer from another jurisdiction and could be delayed for up to a few months if necessary to complete a treatment program.

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Because the original elimination of good time resulted from a ballot initiative, restoring any form of sentence reduction credits would require a three-quarter vote of the legislature.

Special populations

Within the prisoner population are distinct subgroups that raise fundamental questions about who we choose to incarcerate. Our prisons are filled with people who:

- Made bad decisions to commit crimes as teenagers.
- Are middle-aged or elderly and unlikely to ever commit another crime.
- Are in such poor health they could not commit a crime if they wanted to.
- Have served far longer than their sentencing judges intended.
- Were returned to prison from parole for technical rule violations.

Targeted strategies addressing these groups could reduce the population substantially.

Juveniles. Beginning in 1988, Michigan moved away from having juvenile court judges conduct waiver hearings to consider juveniles' prior history, culpability and amenability to treatment before transferring to adult court for prosecution.

- Today, 14-, 15- and 16-year olds are waived automatically if the prosecutor chooses to file charges directly in the adult system for any of 18 specified offenses. Twelve of the offenses require an adult sentence.
- From 2008-2012, there were 604 teenagers sentenced to prison as adults who were between the ages of 14 and 16 when they committed their offenses.
- In 60 percent of the cases, minimum sentences were five years or less, suggesting that these teens were not viewed as especially dangerous. Hundreds may return home while still teenagers.

Prosecutors do not need a waiver process to treat 17-year-olds as adults. Michigan is one of only nine states that set the age of criminal responsibility below 18. Thus a 17-year-old who is legally too young to vote, marry, join the military or even get a tattoo without parental permission can be convicted in adult court and sentenced to adult prison for any felony, not just those specified as particularly dangerous. Even the large majority of 17-year-olds who receive probation or jail time will carry with them the lifelong consequences of an adult conviction.

From 2008-2012, there were 2,106 people sent to prison for offenses they committed at age 17:

- Half were convicted of non-assaultive crimes.
- Fifty-seven percent of the minimum sentences were for two years or less.

Sophisticated research on brain development shows that areas of the brain that affect judgment, foresight and impulse control continue to develop into the early and mid-20s.

- Impulsivity, susceptibility to peer pressure and inability to anticipate consequences all contribute to criminal behavior by juveniles.
- Conversely, the process of psychosocial maturation leads the vast majority of juvenile offenders, even those who committed serious crimes, to grow out of antisocial activity as they transition to adulthood.

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Keeping most children under 18 within the jurisdiction of the juvenile court and providing them with age-appropriate programming would reduce the adult prison population and give hundreds and hundreds of young people a better chance to mature into law-abiding, productive adults.

The elderly, the ill, the disabled. Three decades after the “tough on crime” policies of the 1990s, Michigan prisons house an increasing number of aging prisoners, with the resulting increased medical costs. This population is highly unlikely to reoffend. Yet, in 2013:

- There were 8,457 prisoners age 50 and older – 19 percent of the population.
- Nearly 1,200 of these were 65 or older; 151 were 75 or older.

Since Michigan has thousands of prisoners serving life or very long terms, the proportion of inmates who are elderly will continue to grow.

Of course, prisoners of any age can and do develop life-threatening illnesses or injuries. In addition, people are regularly committed to prison who already suffer from mental illness, intellectual and developmental disabilities and chronic medical issues.

To cope with the diverse groups of people with special needs, the MDOC has established various special housing units. Nearly 1,700 people are in prison beds reserved for people needing:

- Geriatric care, dialysis or other forms of chronic medical care.
- Mental health stabilization or residential treatment and adaptive skills support for chronic brain disorder or developmental disability.
- Dementia care –in some cases for people who do not know they are in prison or why.

This total does not include many hundreds of people housed in general population who:

- Can ambulate only with the assistance of wheelchairs, walkers or portable oxygen.
- Are treated in chronic care clinics for disabling illnesses like COPD and Parkinson’s.
- Require the daily administration of psychotropic drugs to treat mental illness.

One means of caring for aging and medically fragile prisoners is developing more long-term care units within the MDOC. While this may be unavoidable, there are at least three other options:

1. Grant parole to those who are eligible.
2. Use the medical parole statute to release people who are physically or mentally incapacitated.
3. Use the medical transfer statute to place “mentally or physically disabled” prisoners in outside medical facilities, like nursing homes.

Once people are out of MDOC facilities there are no longer security costs and the cost of their medical care may be covered by Medicare, Medicaid, Veterans Benefits, private pensions or other family resources.

The absence of risk to the public and the futility of further efforts at rehabilitation make releasing elderly and medically fragile prisoners a particularly appropriate means of reducing the prisoner population.

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Life and long indeterminate sentences. Three kinds of sentences keep prisoners behind bars for decades, driving up the population and costs:

1. Life without parole is mandatory for first-degree murder. The only possibility of release is a commutation granted by a governor.
2. “Parolable life” is an alternative to a term of years for such serious offenses as second-degree murder, first-degree criminal sexual conduct and armed robbery:
 - The judge can choose which penalty to impose.
 - “Parolable lifers” become eligible for parole in 10 or 15 years, depending on the date of the offense.
3. Long indeterminate sentences (LIDS) have very lengthy minimums and maximums:
 - Before the 1990s, people serving LIDS were eligible for parole after 10 years, just like parolable lifers.
 - Prisoners also earned “good time” – so much that a 50-year minimum sentence could be served in 18.5 years.
 - Today, due to truth-in-sentencing, prisoners must serve every day of these lengthy minimums.

Parolable lifers. About 850 parolable lifers are currently eligible for parole. Most were sentenced when judges treated parolable life and long indeterminate sentences as essentially interchangeable. Lifers were commonly paroled in 12, 14 or 16 years.

However, parole board practices changed dramatically. By the mid-90s, the board had adopted the position that “life means life”. The review process for lifers was changed:

- The frequency of parole reviews was reduced from every two years to every five.
- Parole interviews are not required. One board member can review a prisoner’s file.
- The board does not score parole guidelines to assess a lifer’s risk.

From 1992-2006, the board paroled fewer than three lifers a year. Thousands of prisoners, with similar records and similar crimes who had indeterminate sentences, were released while parolable lifers remained behind bars – often decades longer than their sentencing judges intended.

Since 2005, the parole board has resumed paroling lifers, but the pace is slow – just 164 in 10 years. In addition, either sentencing judges or successor judges who had no involvement in a case can stop a lifer parole by simply objecting. There have been 57 vetoes since 2007.

The parolable lifers are an aging and extremely low-risk group:

- More than half are older than 55.
- Nearly 200 were teenagers when they committed their offenses.
- Two-thirds are serving their first prison term.
- Most have not had a misconduct citation in decades.
- Most would score high probability of release if the parole guidelines were calculated.

Even if annual lifer paroles increased to 50, it would take ten years to release 500 of them.

Long indeterminate sentences. In 2013, more than 15 percent of prisoners (6,600) were serving minimum terms over 15 years. More than 2,300 of these were serving over 25 years.

To slow the growth of this population, sentence lengths for serious offenses will have to be reduced. That will require changes in the sentencing guidelines.

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There are four ways to reduce the length of time current prisoners must serve:

1. Restore the opportunity for prisoners to earn sentencing credits.
2. Restore the authority of the board to parole people with long minimums at the same time as parolable lifers, that is, when they have served 15 calendar years.
3. Provide earlier parole eligibility for people who were younger than 18 at the time of offense.
4. Ensure prisoners are paroled at their ERDs, if they do not pose a high risk to public safety.

Life without parole. In 2013, 8.5 percent of prisoners (3,703) were serving life without parole for first-degree murder. Because they are not released, their number will inevitably continue to grow. Commutations were once relatively common, but that is no longer true.

The actual culpability of people serving life without parole varies enormously. For instance, some were aiders and abettors with peripheral roles. However, the mandatory penalty means judges and the parole board cannot consider any mitigating factors. Possible solutions:

- ◆ Adopt the practice of states that impose a minimum number of years to life for these offenses, such as 25 to life, reserving life without parole for certain circumstances. The parole board determines if and when these prisoners can safely be released.
- ◆ Amend the corrections code to create parole eligibility for prisoners currently serving nonparolable life, as was done in 2003 for “650 drug lifers”. Criteria could be added to guide the parole decision-making process.
- ◆ Apply the 1980 Michigan Supreme Court decision in *People v Aaron* retroactively. This would allow courts to resentence dozens of people who could not have been found guilty, had their trials been held after the decision changed the definition of “felony murder.”

Technical parole violators. In June 2014, the prisoner population included 2,455 people who had been returned to prison for violating conditions of parole. Technical violators serve, on average, 13.9 months before being released again. Technical violations fall broadly into four categories, including conduct:

- That could have been prosecuted as a felony but was not.
- For which the person was convicted of a misdemeanor and received probation, a fine or jail.
- That could have been prosecuted as a misdemeanor but was not.
- That was a noncriminal violation of a condition of parole.

It is unclear how many technical violators fall into each of these categories, but they all raise difficult questions about how much punishment is proportional to the violations, including:

- ◆ To what extent should parole revocation be used as substitute for prosecution?
- ◆ Why should a 90-day misdemeanor bring a longer prison sentence because the person is a parolee?
- ◆ Why are we using scarce and expensive prison beds to sanction noncriminal conduct?
- ◆ Could violations be reduced by more support for parolees and more non-prison sanctions?
- ◆ Should there be a limit on how long technical parole violators can be re-incarcerated?

A more detailed picture of the technical violators would make it possible to statutorily reduce length of stay for this group while still imposing significant penalties when warranted.

Conclusion

Much has changed since Michigan's prison system began expanding in the 1980s:

- ◆ Crime rates have fallen dramatically and barely rank among voter concerns.
- ◆ We have learned the fiscal and human cost of our policies.
- ◆ We have the benefit of a wealth of research that tells which policies are – and are not – effective.

Above all, we have recognized that we have a wide range of choices. We can protect public safety in ways that are practical, cost-effective, fair to prisoners and respectful of victims.

Just as we adopted strategies that seemed appropriate in the 1980s and 1990s, we can respond to the changes of the last 35 years and adopt new strategies in 2015.

Summary of recommendations and estimated savings

The bed savings presented here are not precise. They are credible estimates rooted in MDOC data but they are not mathematically sophisticated projections. They are intended to suggest a range of possibilities and stimulate discussion.

The goal is to estimate the total population reduction that could be achieved by the end of Year Five. The number of beds and dollars saved in each intervening year would depend on when each strategy was implemented and how many people could be affected at that time. Savings would continue to increase past Year Five as prospective changes begin to affect people serving minimum sentences longer than five years.

The largest estimated total reduction in prisoners is 12,646. This assumes the broadest application of presumptive parole. With a narrower application of that single strategy, the estimated total reduction would be 11,378.

However, since all strategies are not mutually exclusive, there is redundancy. That is, some prisoners could be affected by more than one change. For instance, a person could enter with a shorter minimum sentence due to revised sentencing guidelines ranges, have that sentence reduced by earned credit, and then be released promptly on the minimum because of presumptive parole. Moreover, if sentencing changes resulted in that person not entering prison, other strategies that might have affected him or her would be moot. **Because of this potential for overlap, it is assumed that an actual reduction of roughly 10,000 prisoners is realistic.**

On the other hand, this estimate does not include an additional 1,037 beds that could be saved without actually changing people's current status as prisoners or parolees. **Overall, the number of beds saved could be as high as 11,000.**

These estimates are also conservative in a number of ways. The data was not available to estimate the impact of some strategies. Nor do these estimates include the potentially large savings that could be realized by fundamental changes in areas that are beyond the scope of this report. These include the incarceration of thousands of people who are mentally ill, policing practices that have a disproportionate impact on low-income communities and broad disparities in prosecutors' charging policies from county to county.

I. Recommendations to reduce intake

The following reforms could help reduce entries to prison:

- Increase the use of appropriately targeted community-based sanctions for the roughly 6,000 people who enter prison each year with sentences of two years or less, for such crimes as driving under the influence (3rd offense), delivering marijuana or small quantities of narcotics, and retail fraud. The means could include:
 - Adjust sentencing guidelines scores to move people from “straddle cells” to “intermediate sanction” cells.
 - Increase support for therapeutic courts and community corrections programs.
 - Eliminate the mandatory two-year sentence for possessing a firearm while committing a felony or, at least, allow judges to depart below it.

Estimated beds saved: 900

- Reduce the number of technical probation and parole violators who enter prison:
 - Ensure that the length, conditions and quality of supervision are appropriate to individuals’ needs and risk of reoffending.
 - Increase the availability of cost-effective community-based reentry support for parolees.
 - Standardize permissible sanctions for technical violations of probation and parole supervision so that revocation and admission to prison occurs only for the most serious or persistent violators.

[Estimates adopted from CSG]

*Estimated beds saved: 1,234
(Probationers = 990, Parolees = 244)*

- Change the age of criminal responsibility to 18; require judicial determination for all juvenile waivers.

*Estimated beds saved:
Elimination of automatic waiver – 197
Increase age of criminal responsibility to 18 – 977*

II. Recommendations to reduce minimum sentence length

Several reforms could help reduce the average length of cumulative minimum sentences for new admissions from 4.2 years to 3.5 years:

- Adjust the sentencing guidelines to:
 - Narrow the breadth of guidelines ranges.
 - Start each range at a somewhat lower number of months.
 - Modestly change the scoring of offense and prior record variables to shift some defendants into lower ranges.
- Revise the treatment of habitual offenders:
 - Do not count the same prior offenses in multiple ways.
 - Redefine “habitual” to mean multiple unrelated convictions and sentences over a period of time, not multiple convictions arising from a single criminal incident.

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- Eliminate the use of mandatory minimum sentences, especially for felony-firearm.
- Reassess the expansion of discretionary consecutive sentencing, which increases both sentence lengths and disparate sentences for similar offenders.

Estimated beds saved: 2,121

III. Recommendations to increase paroles

Average length of stay could be greatly reduced by multiple strategies for increasing the number and timing of releases on parole:

- Revise the statutory mandate to establish a presumption that parole will be granted upon service of the minimum sentence, unless there is objective and verifiable evidence that the prisoner would present a high current risk to public safety if released. The evidence must be of post-sentencing conduct not already scored in the parole guidelines or a high reoffense score on another validated risk assessment instrument:
 - Ensure that the mandate is enforceable by doing one or both of the following:
 - Reinstate prisoner appeals from parole denials for those who score high probability of release on the parole guidelines.
 - Establish an administrative oversight mechanism, such as reporting to the Criminal Justice Policy Commission, to permit independent tracking of cases that depart from the presumption.
 - Improve the ability of the board to make timely decisions. Amend the rule requiring psychological evaluations to exclude sex offenders who score low risk on relevant assessment instruments or increase the capacity to complete evaluations before prisoners reach their ERD.
[Assumes application to all current prisoners]

Estimated beds saved:

Application to high and average probability cases – 3,978

Application to high probability cases only – 2,710

- Parolable lifers – expedite and improve the review of roughly 850 parolable lifers who have served more than 15 years:
 - Expand the parole board to include a five-member special review panel.
 - Apply the same criteria used to review other parole-eligible prisoners.
 - Improve the review process (increase frequency, eliminate file reviews, require explanation of “no interest” decisions).
 - Eliminate the authority of successor sentencing judges to veto.

Estimated beds saved: 500

- Pre-Aaron felony murder cases – create judicial authority to review instructions and afford relief where appropriate; provide for representation by the State Appellate Defender Office.

Estimated beds saved: 40

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- Juveniles sentenced to long indeterminate terms – create parole eligibility after service of 15 years or half of judicially imposed minimum.

Estimated beds saved: 113

- Medical paroles – grant paroles to physically or mentally incapacitated prisoners who have not reached their ERD pursuant to MCL 791.235(10).

Estimated beds saved: 300

- Reduce the average length of stay for technical parole violators from 13.9 to nine months.

Estimated beds saved: 807

- Parole 298 more people nine months before they discharge on their maximum sentence.

Estimated beds saved: 224

IV. Recommendation to establish earned sentencing credits

- Permit prisoners to receive up to four days per month in earned credit for participation in work, academic, vocational, treatment or productive activities, so long as they have not received a Class I misconduct in that month.

Implementation issues:

- This would require a three-quarters majority vote of the Legislature because good time was eliminated by a ballot proposal in 1978.
- The MDOC would have to provide sufficient access to productive activities to enable prisoners to earn the credits.

[Assumes the number and distribution of minimum sentences of 2013 new commitments is constant for five years; reduces the number of sentences by 9.9 percent to account for additional sentences imposed; assumes 60 percent of prisoners receive maximum credits and are paroled on their ERD.]

Estimated beds saved: 1,255

Total estimated beds saved from fewer prisoners:

With presumptive parole for high and average probability cases – 12,646

With presumptive parole for high probability cases only – 11,378

V. Recommendations that reduce beds but not the number of prisoners

- Permit 1,000 prisoners who have had paroles granted to enter community placements up to four months before their ERD.

Estimated beds saved: 333

- Place medically or physically disabled prisoners in private medical institutions using the medical transfer statute, MCL 791.265.

Estimated beds saved: 200

- Eliminate the placement of selected parolees at the Detroit Reentry Center.

Estimated beds saved: 880

Parolees needing treatment programs = 688

IDRP parolees = 192

- Eliminate the placement of prisoners in county jails.

Additional beds needed: 357

Net additional estimated beds saved: 1,037

Citizens Alliance on Prisons and Public Spending (CAPPS)

Mission Statement

The Citizens Alliance on Prisons and Public Spending (CAPPS) is a nonprofit, nonpartisan policy and advocacy organization that works to reduce the social and economic costs of prison expansion. Because policy choices, not crime rates, determine corrections spending, CAPPS advocates reexamining those policies and shifting resources to services proven to prevent crime, better prepare people for success after release, and improve the quality of life for all Michigan residents.

CAPPS's members

CAPPS's members are individuals and organizations concerned about corrections spending and Michigan's over-reliance on incarceration. They include policymakers; corrections, education, human service, and criminal justice professionals; leaders of civil rights, community, business and faith organizations; prisoners and their families.

What CAPPS does

CAPPS develops evidence-based proposals for safely reducing the prisoner population and corrections spending. It informs policymakers, advocacy groups, affected communities and the general public about the issues through research reports, legislative testimony, a website, newsletters, social media and public presentations. CAPPS collaborates with a wide range of organizations and coalitions.

Contact CAPPS

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