CALIFORNIA CORRECTIONAL SYSTEM'S POLICIES REGARDING PAROLE RELEASE AND MENTALLY DISORDERED OFFENDERS

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
FINDINGS AND RECOMMENDATIONS

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Assembly
California Legislature

Committee on Public Safety

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August 5, 1987

Honorable Willie L. Brown, Jr.
Speaker of the Assembly
State Capitol, Room 219
Sacramento, California 95814

Dear Mr. Speaker:

The attached documents represent the testimony presented to the Committee on Public Safety at the "Informational Hearing on Parole Release Policies and Evaluations and Treatment of Mentally Disordered Offenders." Also included are the committee's findings and recommendations regarding these issues.

A number of expert witnesses testified regarding the recent release of convicted rapist-maimer, Lawrence Singleton, and regarding several related subject matter areas, such as pre-release and post-release programming for prisoners, parole placement, and mentally disordered offenders. Their testimony offers a rare opportunity for Californians to collectively address a series of major policy questions that must be resolved in the immediate future regarding the public safety of the State of California.

The materials contained herein represent the testimony and deliberations which resulted from the May 26th hearing. I would like to urge you and your staff to pay particular attention to the committee's recommendations, as I believe that the implementation of these recommendations is a crucial first step toward achieving correctional reform in California.

Sincerely,

Larry Stirling

LARRY STIRLING
Chair

LS:DD:rlm
Enclosures

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II. PURPOSE OF HEARING

At the height of the Department of Correction's (CDC) attempts to locate a community in which to release convicted rapist-maimer Lawrence Singleton, this committee called a special hearing for the purpose of informing the public of CDC's parole policies and related issues, such as evaluations and treatment of mentally disordered offenders, and pre-release and post-release programs for convicted felons.

In his opening statement, Larry Stirling, Chair of the Assembly Committee on Public Safety, stated that the Singleton release highlights several issues regarding the correctional system: the lack of an informed public regarding how many felons are being released, under what conditions they are being released, and what the public can or cannot do to prevent the release of dangerous felons into their communities. Chairman Stirling also stated that the Singleton release points out the weakness of our correctional system in releasing inmates with mental disorders.

In calling this special hearing, Chairman Stirling stated that it was his intent to get to the bottom of the public's concerns and fears about the releases of prisoners like Singleton, to find out what the scope and extent of the releases are, to find out the strengths and weaknesses of legislation which authorizes the extended commitment of parolees who have mental disorders, to determine what CDC does about reinserting felons into society, and what parole authorities do to ensure public safety.

What follows is a summary of relevant provisions of law, a summary of testimony, and this committee's findings and recommendations with respect to these issues.

IV. THE SINGLETON CASE

A) Facts.

On September 30, 1978, Lawrence Singleton kidnapped a young girl in Stanislaus County, committed various forcible sex acts upon her, and chopped off her lower arms with a hatchet. After a change of venue motion was granted, Singleton was tried by a jury in San Diego County. He was convicted of 7 felonies: 1 count each of attempted murder, mayhem, kidnapping, forcible rape, forcible sodomy, and 2 counts of forced oral copulation (see Appendix #1). Three charges carried enhancements for both the infliction of great bodily injury and for the use of a deadly weapon. The jury convicted on all of the substantive charges and on the enhancements charged in 2 of the 3 substantive counts. (The jury acquitted on the enhancements charged with the kidnapping count.)

On April 20, 1979, a San Diego Superior Court sentenced Singleton to 14 years and 4 months in state prison. Singleton had a prior record of 3 drunk driving convictions and 2 public intoxication convictions between 1955 and 1978. Although the probation department recommended 15 years and 4 months, the judge decided to impose the middle rather than the aggravated term for attempted murder (the base term count) since the reasons for aggravating that count may have been encompassed in the sentences given for the other crimes.

B) Singleton's Release: Are We Ready?

On April 25, 1987, after serving 8 years and 5 days of his 14-year 4-month sentence, Singleton became eligible for parole. Since Singleton was sentenced to a "determinate term" (a term which has a predetermined end), once he completed his sentence, CDC had no choice but to release him.

Current law provides that prisoners are eligible to receive a one day reduction in their sentence for each day of participation in work, training, or education programs (Penal Code Section 2933, See Appendix #2). Pursuant to these provisions, Singleton was employed as a teaching aide for English classes while he was incarcerated in state prison at the California Men's Colony (CMC) in San Luis Obispo. Singleton received a 2,021-day reduction in his sentence for participation in this work program. (From May 16, 1979 until April 3, 1984, Singleton received a 1/3 reduction in his sentence rather than 1/2 pursuant to the provisions of the "goodtime" law which were in effect at that time. Penal Code Section 2931, see Appendix #2.)

According to the District Attorney of Stanislaus County, Donald Stahl, who tried the Singleton case, "Singleton comes out of prison vengeful and unrehabilitated. We're not ready for him, and he's not ready for us." Mr. Stahl testified that he believes, based upon the evidence in the case and

upon Singleton's behavior during trial and while incarcerated, that Singleton has a mental disorder which needs to be treated. "To this day, Singleton believes in his innocence. Each day, Singleton 'tries' himself in his own mind, and comes up with a different story which indicates his innocence."

Additionally, Mr. Stahl believes that as a parolee, Singleton poses a threat to the public safety because of his mental disorder. This is evidenced by the fact that while Singleton was incarcerated, he made several threats against Mr. Stahl. Concerned that there was a lack of effort on CDC's part to treat and rehabilitate Singleton, Mr. Stahl contacted E.J. Martin, Assistant Warden at CMC, to request that Singleton receive a mental health evaluation and treatment for mental disorders as well as for substance abuse.

According to Dr. Nadim Khoury, Chief of the Medical Services Division for CDC, Singleton was evaluated by several psychiatrists while he was incarcerated in order to determine whether he met the criteria of the mentally disordered offender law. This law authorizes an extended commitment in a mental health facility during a prisoner's parole for purposes of providing mental health treatment (see Section VIII of this report). According to Dr. Khoury, the majority of these psychiatrists determined that Singleton did not meet the criteria of the mentally disordered offender law since he did not have a severe mental disorder. Although CDC refused to release the specifics of any of Singleton's mental health evaluations (claiming that this information was privileged), Singleton's records indicate a history of alcohol dependency -- a problem which can be the cause or a contributing factor to criminal behavior. Mental health professionals who testified at the hearing concurred that mental disorders caused by substance abuse do not meet the requirements of the mentally disordered offender law which requires that the prisoner suffer from a severe mental disorder.

C) Findings: Increased Sentences

Since Singleton was sentenced in 1979, the sentences for all of the crimes for which he was convicted have increased. The most significant increase has been for the crime of attempted murder. In 1979, the penalty for this crime was 6 years. Effective January 1, 1987, the penalty for attempted murder was raised to a 5, 7, or 9 year state prison term. If the attempted murder was willful, deliberate, and premeditated, the penalty became life with the possibility of parole (SB 1668, Presley -- Chapter 519, Statutes of 1986).

If Singleton were sentenced pursuant to the increased sentencing schemes which are now in effect under current law, he could have received a sentence of 31 years plus life (see Appendix #1). The life term for attempted murder would commence after the completion of the determinate sentence for the other crimes (31 years, reduced to 15-1/2 years if worktime credits were granted). Once serving his indeterminate term, Singleton could only become eligible for parole after serving 7 years of

his life sentence (Penal Code Section 3046 -- see Appendix #3). Parole would not be automatic, but would be up to the discretion of the Board of Prison Terms.

D) Recommendations

1) Violent Felons -- Worktime Credits. Mr. Stahl recommended that the Legislature consider changing provisions of worktime law to differentiate between those inmates who would pose a "high risk" upon parole and those who would pose a "minimum risk" upon parole.

The Legislature is encouraged to pass AB 1056 (Katz), which would adopt this concept by providing that inmates convicted of violent felonies would be eligible to receive only a 1/3 reduction in their sentence for participation in work, training, or education programs, instead of the 1/2 reduction available under current law. Additionally, this measure would provide that inmates who have received sentence enhancements are ineligible to receive worktime credits until they serve the period of their enhancement (See Appendix #4). AB 1056 is a two-year bill and can be heard by the Legislature after January 1988.

2) Denial of Worktime Credits. CDC is encouraged to exercise its power to deny worktime credits to inmates for acts of misconduct while incarcerated. Current law authorizes CDC to deny up to 360 days for the commission of specified serious felonies, up to 180 days for the commission of all other felonies, up to 90 days for the commission of a misdemeanor, and up to 30 days for an act of misconduct as defined in CDC's regulations (Penal Code Section 2932 -- see Appendix #2).

With respect to the Singleton case, even though Singleton issued several threats against the District Attorney, CMC authorities did not attempt to deny Singleton from receiving any worktime credits. According to Warden Estelle, this was because these threats were of an "indirect" nature and did not give rise to a disciplinary action. This logic is inconsistent, however, with the parole division's findings that Singleton should not be paroled to Stanislaus County because of these threats made against a public official (see Section VII-B of this report).

3) Denial of Worktime Credit Eligibility. In addition to denying worktime credits already received, current law also authorizes CDC to deny inmate eligibility to receive worktime credits when the inmate has had a change in custodial status (Penal Code Section 2932 -- see Appendix #2). The Legislature is encouraged to amend these provisions to delete the requirement that the inmate have a change in his or her custodial status. This would enable CDC to, in addition to denying previously earned work credits, provide that such inmates are also denied an opportunity to earn worktime credits, regardless of whether or not CDC changes the custodial status of such inmates.

V. PRE-RELEASE PROGRAMS FOR PRISONERS

A) Related Provisions of Law. There are several provisions of law which require CDC to provide programming opportunities for inmates (see Appendix #5):

1) Penal Code Sections 2022-2049.1, which establish the various state prisons, specify that providing industrial, vocational, and other training to prisoners are among the primary purposes of state prisons.

2) Penal Code Section 2054 authorizes CDC to establish and maintain educational and vocational classes for inmates.

3) Penal Code Section 2801 requires the Prison Industry Authority "to develop and operate industrial, agricultural, and service enterprises employing prisoners."

4) Penal Code Section 6261 requires CDC to contract with public and private corporations to provide reentry work furlough programs for all eligible inmates. Penal Code Section 6264 requires CDC to review each inmate 120 days prior to release for work furlough consideration.

5) AB 1403 (Baker -- Chapter 1, Statutes of 1982) provides that it is the intent of the Legislature that "all able-bodied prisoners in the state prisons be directed to work, inasmuch as the performance of productive work on a regular basis is the most appropriate method of successfully instilling in prisoners the values of a law-abiding and cooperative society and will improve the possibility of their reintegration into that society."

B) Summary of Testimony

1) Pre-Release Program. Mr. Jim Coffman, Program Administrator for CDC, testified that CDC offers all inmates a 3-week pre-release program for 6 hours a day. According to Mr. Coffman "this program concentrates on increasing self-esteem, establishing positive attitudes, pre-employment preparation, and resources to link individuals with support services in the community." Since participation in the program is not mandatory, however, only 10% of the prison population participates in these programs.

2) M-2 Sponsor Program. Assemblyman Tim Leslie (R-Roseville) encouraged support of additional budget funding for the M-2 Sponsor Program. This program matches socially isolated inmates with volunteer "sponsors" who provide visitation, friendship, correspondence, and other assistance to inmates. Approximately 2,000 M-2 sponsors are matched with inmates each year under this program. Assemblyman Leslie cited a recent CDC report, Evaluation of the M-2 Sponsors Program (1987- EMT Associates, Inc.), which concludes that, based upon the following statistics, M-2 program participation significantly increases parole success among male

inmates. (Parole success is measured by the re-arrest rate both for parole violations and new commitments.)

-- Within 6 months after release, there is a 77% parole success rate of inmates who received 12 or more visits by a sponsor while incarcerated, as compared to a system-wide success rate of 46%.

-- Within 12 months after release, there is a 63.7% parole success rate as compared to a system-wide success rate of 35.8%.

-- Within 24 months after release, there is a 58.9% parole success rate as compared to a system-wide success rate of 31.3%.

3) Pre-Release Services: An Ex-Con's Perspective. According to Dorsey Nunn, a former San Quentin inmate who was paroled in 1981 after serving 10 years for murder, "CDC needs to provide more services prior to release and during parole since the constant confinement and violent environment of prison is not conducive to success upon parole." Mr. Nunn, who now works as a paralegal for the Prison Law Office, an advocacy group for prisoner civil rights, stated that CDC does not provide inmates with the needed services, and that the programs CDC claims to have are essentially "paper programs."

Mr. Nunn asserted that there are thousands more like Singleton who are getting out of prison each day, and that the public should be concerned about these releases. They, like Singleton, are released without being provided the proper services in order to prepare them for reintegration into society. According to Mr. Nunn, "the problem started in 1978 when the Legislature changed the law to say that the primary purpose of incarceration is punishment...at that point, the focus changed from books and educational programs to barbed wire and bullets."

C) Findings

1) Correctional Counselor Caseload. According to CDC, each inmate is assigned to a correctional counselor while incarcerated. The average case load for a correctional counselor is 150 inmates. Although the number of visits an inmate has with a correctional counselor varies, correctional counselors must meet with each inmate twice a year in order to review the inmate's classification. Additionally, the correctional counselor must meet with each inmate prior to release for the purpose of developing recommendations to the parole division.

2) Literacy Levels. Fifty-four percent of California's prison population tests below a 9th grade reading level and, as such, are functionally illiterate according to national literacy standards. The average inmate has a 7.7 grade reading level. Currently, only 3,300 inmates are participating in programs that provide basic educational skills, including reading.

3) Academic Programs. Six percent or 3,931 inmates participate in educational programs ranging from basic education to college level instruction, for an average of 30 hours per week. Inmates who participate in educational programs may or may not receive a salary, depending upon the policy of the individual institution.

4) Vocational Educational Programs. Seven percent or 4,341 inmates participate in vocational training programs, such as welding, machine shop, offset printing, or data processing, for an average of 30 hours per week. Inmates who participate in vocational programs may or may not receive a salary, depending on the policy of the individual institution.

5) Inmate Employment. As of June 30, 1987, 62% of the prison population or 39,026 inmates are employed. These inmates work an average of 32 hours per week, and earn between $10.90 to $45.30 a month.

   a) Support and Maintenance Services. Of the prison population, 34.2% or 21,544 inmates are employed in support or maintenance services. Those employed by support services have positions which assist in the daily running of the prisons, such as janitorial, clerical, and culinary positions. Those employed by maintenance services have positions which assist in maintaining the prisons, such as plumbing, electrical, and mechanical positions.

   b) Prison Industries. 8.6% of the prison population or 5,416 inmates are employed by the Prison Industry Authority (PIA). PIA employs inmates in enterprises which provide goods and services to CDC and other state agencies. Examples of PIA enterprises include a mattress factory, a farming and dairy operation, a furniture factory, and a license plate and road sign factory.

   c) Construction Camps. CDC operates 30 conservation camps out of three of its institutions. Of the prison population, 5.4% or 3,412 inmates work in such camps whose primary function is forestry work, such as maintaining fireroads and firefighting.

   d) Community Service Crews. Less than 1% of the prison population or 362 inmates are employed by community service work crews who clean up highways, parks, and grounds for the Division of Highways, the Division of Water Resources, and local county departments of parks and recreation.

6) Employment Prior to Incarceration. As of December 31, 1983, 46% of the incoming inmates were unemployed at least 6 months prior to incarceration. According to national studies, the annual salary of inmates who were employed was just $4,000.

7) Work Credit Eligibility Programs: Waiting Lists. There are currently 6,224 inmates, or 10% of the inmates in state prison, on waiting lists for employment. Currently, there is not a waiting list for inmates

who wish to participate in educational or vocational training programs. Participation in work, training, or education programs entitles inmates to receive a reduction in their sentence of one day for each day of participation in such programs. Inmates whose names are on a waiting list are eligible to receive a 1/3 reduction in their sentence (Penal Code Section 2933 See Appendix #2).

8) Pre-Release Program. According to Mr. Coffman, the primary focus of CDC's pre-release program is to assist inmates in locating employment. These classes include assistance in such skills as filling out job applications, developing a resume, or conducting oneself in an interview.

9) Work Furlough Program. Eligible inmates who are able to secure employment in the county to which they will be paroled can participate in a work furlough program whereby they can be transferred to a community based program so that they can begin employment 90 days prior to their release. CDC currently has 992 community based work furlough bed spaces and is in the process of contracting for an additional 150 beds. During 1986, CDC screened 23,763 inmates for work furlough eligibility. Of this number, 2,604 inmates were denied eligibility on the sole basis that there were no available work furlough programs for inmate placement.

   In CDC's annual work furlough report to the Legislature, Action By the Department of Corrections to Secure Community Beds, CDC states that its main obstacle to obtaining additional work furlough beds is community opposition. "The potential for expanding community correctional facilities and programs beyond present levels remains totally dependent upon the degree to which they are accepted by local government and its constituency."

10) Singleton. According to CDC, Singleton was employed as a teaching assistant while he was incarcerated and received a reduction in his sentence for such employment (See Section IV-B). Singleton did not, however, opt to participate in a pre-release program.

D) Recommendations

1) "Meaningful" Employment. Although PIA is required to establish enterprises which provide prisoners with the opportunity to work productively and to acquire or improve occupational skills (Penal Code Section 2801 -- see Appendix #5), most inmates are employed in support service positions which do not provide inmates with the opportunity to improve or acquire occupational skills (see Section V-C of this report).

   The Legislature is encouraged to require CDC to provide all inmates with meaningful employment which enables inmates to acquire occupational skills.

2) Waiting Lists for Worktime Programs. Pending implementation of recommendation #1, the Legislature is encouraged to amend provisions of law which authorize inmates whose names are on waiting lists for employment to receive a 1/3 reduction in their sentence. These provisions should be amended to provide a 1/3 reduction only if there are no available work, education, or training assignments. This proposal would encourage inmates to participate in educational and vocational training programs (which currently do not have a waiting list for assignments). It would additionally instill in inmates the principle that there is no benefit to be received for idle time.

3) Pre-Release Program. In 1986, CDC contracted with Sacramento State University to perform an independent evaluation of CDC's pre-release program (Employability and Life Skills Project -- 1986; Dr. Shel Weissman, Project Director). This report contained the following recommendations:

   a) Expansion of the Program. CDC should expand its pre-release program to include life management skills, money/time management, stress reduction, handling parole, increasing self-esteem, overcoming barriers to change. "...They (these areas) need to be integrated into the skill-based curriculum and give (inmates) the opportunity to practice skills that will make them independent and productive in the community." The report continues that the program should be extended to a four-week course, instead of the current three-week course, with one week set aside for such activities as recruiting, following up, and contacting resources.

   b) Interagency Letter of Agreement. CDC should establish an interagency letter of agreement with other agencies, such as the Employment Development Department, the Department of Social Services, and the Department of Vocational Rehabilitation. The purpose behind this would be to facilitate a formal relationship between inmates (via the pre-release program) and other agencies which may provide needed services upon release. The agreements should specify contact people statewide and the services or information each agency is willing to provide to parolees.

4) Mandatory Pre-Release Programs. The Legislature is encouraged to adopt AB 133 (Bates) (See Appendix #6) which requires all inmates to participate in CDC's pre-release program. Since participants in the pre-release program are already provided with worktime credits, a requirement that all inmates participate in the pre-release program would not prejudice inmates who would be forced to leave their job, educational or vocational training program 3 weeks prior to release. Additionally, requiring inmates to participate in the pre-release program would have the effect of opening up spaces in work programs which currently have waiting lists for job assignments.

5) Collection of Data. In order to determine the efficacy of the pre-release program, CDC should be required to collect data which

compares the recidivism rate of inmates who did not participate in a pre-release program to those who did. CDC should also be required to collect similar data comparing the recidivism rates of those who participated in educational, vocational training, and work incentive programs to those who did not.

6) Inmate Employment Program. A 1986 Rand report indicates that one of the major factors of recidivism is the lack of employment skills. Edward Veit, Assistant Deputy Director of CDC's Parole Division, estimated at this hearing that if each parolee were gainfully employed, the recidivism rate would be reduced by 25% to 35%. Because of the effect of employment upon recidivism, CDC should be required to establish an "inmate employment program" similar to the Department of the Youth Authority's (CYA) "ward employment program."

   a) CYA's "Ward Employment Program." AB 3145 (Vasconcellos -- Chapter 1362, Statutes 1986) required CYA to establish a model system of employment preparation and placement services for youthful offenders. Specifically, this bill requires CYA to train its staff in counseling, goal setting techniques, and assisting wards in the development and implementation of "an individual employment development plan."

      In implementing this bill, CYA has established a continuing system of services from the time the ward is committed to CYA to the time the ward is released from parole:

      -- CYA provides academic and vocational testing of wards upon commitment. The vocational testing focuses upon the ward's interests, aptitude, and ability.

      -- CYA staff conducts a personal interview with each ward in order to set goals which match the ward's interests, aptitude and ability.

      -- CYA, together with volunteers from private industry, works to provide employability skills training. This program focuses on teaching wards coping skills, how to be supervised, how to dress for work, communication skills and employer expectations. This program also includes a mock interview program.

      -- Within East Los Angeles, CYA recently established a pilot project whereby parole agents establish a partnership with job counselors from the Employment Development Department to assist parolees in locating and retaining employment.

   b) Required Participation. Participation in the inmate employment program should be required as a precondition to receiving employment while incarcerated. This program should be a part of the inmate's work program, similar to a training program, and inmates should be provided with the right to receive worktime

credits for participation in the program. Requiring participation in the inmate employment program as a condition to receiving a job would have the added benefit of reducing CDC's inmate waiting list for work programs.

7) Literacy Program. An August 1986 Rand report states that one of the major factors of recidivism is the lack of employment skills. Although 54% of California's prisoners are illiterate, only 5% are currently enrolled in reading programs (see Section V-C of this report). For these reasons, the Legislature is encouraged to require CDC to establish a literacy program designed to achieve functional literacy at each of its institutions. Reading programs would provide prisoners with the opportunity to acquire the basic skills they need to fill out job applications and to read simple instructions.

   Each inmate who tests below the 9th grade reading level (California's standard of functional literacy) should be required to participate in a literacy program. CDC should be required to establish a program of specialized instruction for those inmates with learning disabilities. Worktime credits should be provided to such inmates. Additionally, CDC should be required to schedule the literacy classes throughout the day so that participation in a reading program would not conflict with the work or training schedules of individual inmates.

   AB 632 (Stirling) requires CDC to report to the Legislature regarding the various reading levels of prisoners, the recidivism rates for the varying reading levels, and the cost to implement a literacy program (see Appendix #6). The Legislature is encouraged to adopt this measure as a first step toward the goal of implementing a literacy program.

8) Expansion of the Work Furlough Program. CDC is encouraged to expand its work furlough program in order to meet its legislative mandate to provide reentry work furlough programs to all eligible inmates (see Penal Code Section 6261 -- Appendix #5).

9) Inmate Tutoring Programs. The Legislature is encouraged to adopt SB 117 (Lockyer) (See Appendix #6) which specifies that prisoners who offer tutorial assistance to other prisoners shall be eligible to receive worktime credits. The purpose behind this bill is to foster the education of prisoners as well as to provide a pool of tutors who are not on the state payroll.

   In order to ensure that CDC actually provide inmates with the means to become employed as tutors, this bill should be amended to require CDC to establish an inmate tutoring program as part of its educational program.

VI. PAROLE

A) Related Provisions of Law. Current law requires all inmates to be placed on parole upon release (see Appendix #7 for parole provisions).

1) Purpose. Current law contains the following Legislative findings and declarations: "The period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees and to provide educational, vocational, family, and personal counseling necessary to assist parolees in the transition between imprisonment and discharge" (Penal Code Section 3000).

2) Determinate Sentences. Inmates sentenced to determinate terms shall not be placed on parole for more than three years and must be discharged from parole upon one year unless the Board of Prison Terms (BPT) determines otherwise based on "good cause" (Penal Code Sections 3000[a] and 3001[a]).

3) Indeterminate Sentences.

a) Granting Parole of Indeterminate Prisoners. Current law provides that BPT has the power to grant parole to inmates sentenced to an indeterminate term (Penal Code Section 3040). BPT is required to, 1 year prior to an inmate's minimum eligible parole date, set a release date unless it determines that the gravity of the offense is such that consideration of the public safety requires a more lengthy period of incarceration and that a parole date cannot be fixed.

b) Period of Parole: Inmates Convicted of First or Second Degree Murder. Inmates convicted of first or second degree murder and sentenced to life shall be on parole for the remainder of their lives. Those convicted of first degree murder shall be discharged upon 7 years and those convicted of second degree murder shall be discharged upon 5 years unless BPT determines otherwise based on good cause (Penal Code Section 3000.1).

c) Inmates Sentenced to Life. Inmates sentenced to life shall not be placed on parole for more than 5 years, and must be discharged upon 3 years unless the BPT determines otherwise based on good cause (Penal Code Sections 3000[b] and 3001[b]).

4) Factors Which Constitute "Good Cause" to Retain the Parolee Longer Than the Minimum Statutory Period. BPT is required to use the following criteria when determining whether or not good cause exists to retain a parolee longer than the minimum statutory period (Title 15 California Administrative Code 2535):

-- The parolee was committed to prison for several offenses, for an offense involving weapons or great bodily harm, for an offense which was part of large scale criminal activity, or for an offense which caused considerable concern in the local community.

-- The parolee was involved in serious gang activity or in acts of violence while incarcerated.

-- Conditions exist for the revocation of parole, whether or not a parole revocation results.

-- The parolee is in special need of continued supervision for the safety of the parolee or of the public.

5) Conditions of Parole. Current law requires the Department of Corrections to meet with each inmate at least 30 days prior to release and to provide the inmate with conditions of parole as provided by BPT (Penal Code Section 3000(f)). BPT is required to establish guidelines for conditions of parole and to enforce conditions of parole (Penal Code Section 3053).

B) Summary of Testimony

1) Determinately Sentenced Prisoners. According to Mr. Edward Veit, Assistant Deputy Director of CDC's Parole Division, "The primary purpose of parole is community protection. Most inmates are on parole for 1 year. At the end of that year, the parole division reviews the case in order to determine whether or not the parolee poses a threat to community safety. If not, the parolee is then discharged. If the parole division determines that the parolee does pose a threat to community safety and that the parolee should continue on parole, it makes such a report to BPT, who has the authority to retain on parole a determinately sentenced inmate for up to 3 years."

2) Indeterminately Sentenced Prisoners. Mr. Ron Koenig, Chairman to the Board of Prison Terms, stressed that BPT only has the power to set a release date for prisoners with indeterminate terms and has no power to retain prisoners sentenced to determinate terms longer than their sentence. Mr. Koenig provided the committee with data that only 10% of the inmates are sentenced to indeterminate terms.

3) Conditions of Parole. Mr. Veit testified that there are mandatory and special conditions of parole. Although BPT is required to determine the conditions of parole for all parolees, it delegates this responsibility to CDC with respect to parolees who were determinately sentenced.

a) Mandatory Conditions. There are certain conditions of parole which apply to all parolees:

-- All parolees must keep their parole agent informed of their whereabouts.

-- All parolees must advise their parole agent if they leave the county of parole.

-- The parolee's car, residence, and person is subject to warrantless search.

b) Special Conditions. Special conditions of parole can also be imposed, depending upon the individual case, such as a requirement that the parolee submit to drug testing or a prohibition against contacting the victim.

4) Parole Supervision

a) High Control v. Minimum Control Parolees. According to Mr. Veit, prior to release from prison, a risk assessment is completed on each parolee. During this assessment, the parolee is assigned a numerical score between one and ten (ten being the highest risk) in four predictive areas: commitment offense, criminal patterns (frequency and severity), prior patterns (substance abuse, gang affiliations, associates, etc.), and patterns of response to custody/supervision. A composite, average score is then determined. Any parolee whose score is 7.5 or above is considered a high risk case and is provided with more stringent and intense supervision and control (see Section VI-C). Singleton is being treated as a high risk case.

b) Burden on Local Communities. Dr. Timothy Armistead, Criminologist with the San Francisco Mayor's office, testified that "The Parole Offender Strike Team" program in San Francisco illustrates the difficulties caused by parolees in urban areas. Under this program, the San Francisco police department and regional parole agents joined together for the purpose of locating and apprehending parole violators. Within 23 working days, 114 parolees were arrested for parole violations and 50 parolees were arrested for new offenses. Of those arrested, 15% had weapons in their possession. According to Dr. Armistead, since the strike team's efforts, the City of San Francisco has seen a downtrend in homicide, robbery, and burglary.

5) Services: An Ex-Con's Perspective. According to Mr. Nunn, parole services are essential in order to guarantee successful parole, particularly since the constant confinement and the environment in prison is not conducive to a successful parole. Mr. Nunn testified that when he was released on parole after serving a 10 year sentence for murder, he did not receive any assistance from parole authorities in obtaining a job or applying for school. He claims that his inmate contacts and his contacts with prison gangs proved to be greater resources than did CDC's parole division.

Dr. Armistead reiterated Nunn's testimony, saying "inmates are turned loose with too few programs for rehabilitation."

C) Findings

1) Prison Population. As of June 14, 1987, there were 64,024 inmates serving time in state prison. Ten percent, or 6,400 persons, are serving indeterminate terms, the remaining prisoners were serving determinate terms.

2) Parole Population.

a) In 1986, 32,265 felons were released from state prison -- 20,000 of which were re-releases who were returned to custody because of a parole violation, and 12,000 of which were new releases.

b) There are currently 36,000 persons on parole in California.

c) Thirty-six percent of the parole population sentenced to determinate terms is released at the end of 1 year; the remainder is on parole for up to 3 years

d) In 1986, 30,000 parolees were rearrested: 7,000 by their parole agents and 23,000 by law enforcement.

3) Services During Parole. According to James Rowland, Director of CDC, parole agents are responsible for obtaining information about a parolee's activities and needs and for referring parolees to services such as counseling, residence placement, employment, drug counseling, detoxification, and other services which may aid the parolee's rehabilitation.

4) Parole Agent Caseload. According to CDC, each parolee is assigned a parole agent who is responsible for providing supervision, surveillance, and referral services to parolees assigned to them. There are 700 parole agents in the state. The number of parolees assigned to a parole agent depends on whether the parole agent monitors high, medium, or minimum control cases.

a) High Control Cases. The average high control case load is 40 to 45 cases per parole agent. CDC requires parole agents on such cases to have a minimum of two face-to-face visits with the parolee and two collateral contacts with other persons regarding the parolee per month.

b) Medium Control Cases. The average medium control case load is 55 to 60 cases per parole agent. CDC requires parole agents on such cases to have a minimum of one face-to-face visit with the parolee and one collateral contact with another person regarding the parolee per month.

c) Minimum Control Cases. The average minimum control caseload is 115 to 120 cases per parole agent. CDC requires parole agents to visit with such parolees within 7 days after release and during the month prior to the parolee's discharge.

5) Recidivism Rate. According to CDC, the recidivism rate for persons on parole is 57%. Of this figure, 33% are rearrested for parole violations, the remaining parolees are arrested for new commitments. According to a 1986 Rand report, 76% of former prison inmates are rearrested within 3 years of their release. Since 1979, the arrest rate for parolees committing violent offenses has reduced from 23% to 13%. According to CDC, the violent re-offense rate has decreased because of the high increase in recent years of nonviolent offenses, particularly drug offenses and drug related offenses, such as burglary.

6) Singleton.

a) Period of Parole. CDC has placed Singleton on parole for a period of 1 year. Although current law authorizes CDC to retain determinately sentenced inmates on parole up to 3 years, this authorization was not in effect in 1978, the year Singleton committed his offense.

b) Supervision. According to CDC, Singleton is being treated as a "high control case" (See VI-C). CDC is providing surveillance beyond the minimum amount required on this case, and in fact has parole agents stationed adjacent to Singleton's residence around the clock.

c) Conditions of Parole. CDC has provided Singleton with the following conditions of parole:

-- Not to enter Stanislaus County.

-- Not to contact Don Stahl, Mary Vincent (the victim), or her family members.

-- Not to leave the county of residence without the written permission of his parole agent.

-- To abstain from the use of alcohol.

-- To participate in an anti-abuse program.

-- To submit to anti-narcotic testing.

-- To participate in a parole outpatient clinic.

-- Not to leave his residence between the hours of 10 p.m. and 6 a.m.

D) Recommendations

According to Director Rowland, "The objectives of parole supervision are to reduce the frequency and severity of incidents of parolee criminal behavior and to facilitate their (parolee) community adjustment." In light of these objectives, this committee makes the following recommendations:

1) M-2 Sponsors Program. CDC is encouraged to expand the M-2 Sponsors program to provide for a continuation of the visits by sponsors once the prisoner is released. The success rate statistics of the M-2 program (See Section V-B) clearly indicate that the success rate of parolees who were matched up with an M-2 sponsor was much higher during the period immediately following their incarceration. Expanding the program to continue the visits during the period of parole would provide parolees with additional resources to assist in reintegration from prison life to community life.

2) Volunteers in Parole. For 15 years, the State Bar of California and CYA jointly have operated "Volunteers in Parole," a program which matches attorneys and judges with CYA parolees. The volunteers serve as role models for their parolees, providing positive input and assistance in their efforts to become productive citizens. According to Mary Van Zomeren, Statewide Coordinator-Director to Volunteers in Parole, although a recidivism study has not been conducted, she is convinced that due to the quality of the volunteer/parolee visits, parolees who participate in the program have greater success upon parole than those who did not participate in the program.

   CDC is recommended to establish a Volunteers in Parole Program similar to CYA's program, and the Legislature is encouraged to provide funding for such a program.

3) Substance Abuse. Mr. Nunn recommends that participation in a substance abuse program should be required as a condition of parole for all parolees in which substance abuse caused or contributed to the commission of the parolee's crime.

4) The Period Immediately Following Incarceration. Mr. Nunn also recommended that all parolees be on intensive surveillance and programming during the first 30 days of parole. According to Mr. Nunn, the period immediately following release is the most critical to the parolee's reintegration into society. During this period, the parolee will undergo major adjustments regarding personal relationships, employment, and housing.

5) Parole Agent Visits: Report to the Legislature. Although CDC specifies the minimum number of contacts a parole agent must have with each parolee (see Section VI-C of this report), CDC does not specify the length or nature of such visits.

Before the efficacy of these visits can be determined, it is important to know the length and nature of the average parole agent visit for each control case category. For this reason, the Legislature is encouraged to require CDC to report to the Legislature and to the appropriate policy and fiscal committees of the Legislature with this information.

6) Employment.

a) Assistance by CDC. The Legislature is encouraged to adopt AB 133 (Bates) (see Appendix #6), which amends current law to require, rather than authorize, CDC to assist parolees in order to secure employment. AB 133 is a two-year bill and can be heard by the Legislature after January 1988.

b) Inmate Employment Program. CDC should develop an "inmate employment program" similar to CYA's program (see section V-D). Such a program should be extended to become part of the parole program for all inmates. Specifically, CDC should implement a program similar to CYA's pilot project in East Los Angeles whereby parole agents established a partnership with job counselors from the Employment Development Department (EDD) in order to assist inmates in locating and retaining employment. According to CYA project staff, the pilot project in East Los Angeles has proven successful since EDD counselors have the expertise in working with "hard to serve clients". Additionally, EDD counselors bring with them an existing network of employment contacts, unlike most parole agents.

c) Employment "Pool" for State Jobs. Assemblyman Robert Campbell suggested that an employment "pool" be established so that parolees can be guaranteed state employment during the first year of their parole. The Legislature is encouraged to establish such a program. This program would benefit both parolees (by providing them with a salaried position and the opportunity to acquire or improve an occupational skill) and the parole division (by assisting it in performing its surveillance function). Additionally, according to Assemblyman Campbell, at the end of one year, the private sector would be more apt to hire such persons.

d) Priority for State Employment. The Legislature is also encouraged to require the State Personnel Board (SPB) to give parolees priority for state seasonal jobs, similar to the priority that is currently provided to AFDC recipients (see AB 1531 -- [Alatorre], Chapter 1291, Statutes of 1983). Seasonal work includes positions with the State Fair and Exposition, the Franchise Tax Board, and the Department of Agriculture.

Additionally, one of the benefits of seasonal employment is that SPB does not require applicants for seasonal employment to take a civil service exam. As a result, acquiring seasonal employment

would not require a long waiting period in order to determine eligibility.

e) State Employment: Training Programs. The goal of obtaining state employment for parolees could also be accomplished by requiring the State Personnel Administration to establish a training program to assist parolees in obtaining state employment.

7) Interagency Agreements. Mr. Nunn recommends that CDC's parole division establish interagency agreements with other state agencies, such as the Employment Development Department, the Department of Housing and Community Development, the Department of Social Services, the Department of Vocational Rehabilitation, and on the federal level, the Social Security Administration,. Interagency agreements would facilitate a formal relationship between parolees and agencies which would provide needed services to parolees.

VII. PAROLE PLACEMENT

A) Related Provisions of Law

1) Parole Placement. Penal Code Section 3003 (See Appendix #8) of the Penal Code provides that inmates placed on parole shall be returned to the county from which they were committed. CDC or BPT may release a parolee in a county other than the county of commitment if such a placement would be in the best interests of the public and of the parolee. Placement to another county may be based upon the following factors:

-- The need to protect the life or safety of a victim, the parolee, a witness or any other person.

-- Public concern that would reduce the chance that the inmate's parole would be successfully completed.

-- The verified existence of a work offer, educational or vocational training program.

-- The last legal residence of the inmate.

-- The existence of family with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

-- The lack of necessary outpatient mental health treatment programs.

If CDC or BPT decide to place a parolee in a county other than the county of commitment, they must place their reasons in writing.

B) Summary of Testimony

1) Parole Placement Policy. According to Mr. Veit, CDC parole division staff meets with all inmates approximately 210 days prior to release in order to determine where to place the inmate upon release. Placement is generally to the county of commitment unless factors exist which would warrant placing the parolee in a county other than the county of commitment (See VII-A of this report).

2) Parole Placement of Singleton. Upon releasing Singleton, CDC announced its plans to place Singleton in Contra Costa County. According to Mr. Veit, the parole division came to this decision because it did not believe that placement in Stanislaus County (the county where the crime occurred) would be in the best interests of the public since Singleton threatened the life of the district attorney who prosecuted on the case. Additionally, according to Deputy Attorney General Morris Lenk, CDC determined that San Diego County (the county of commitment) would not be a proper place of commitment since Singleton was tried in San

Diego by mere "happenstance" as the result of a change of venue from Stanislaus County.

CDC also made attempts to place Singleton out of state in either Florida or Nevada. Both states, however, rejected the release of Singleton in their states. CDC finally selected Contra Costa County as the county of Singleton's placement since it was the county of his last legal residence.

3) Litigation Regarding Singleton's Placement. Several lawsuits were filed by counties which sought to restrain the placement of Singleton in their communities:

a) Contra Costa County. On April 24, 1987, Contra Costa County sued CDC and San Diego County, seeking to restrain the placement of Singleton in Contra Costa County. Contra Costa was successful in receiving a temporary restraining order, and CDC sought a writ of mandate in appellate court.

b) San Francisco County. In April, CDC met with San Francisco officials regarding the possible placement of Singleton there. The City/County of San Francisco responded with a lawsuit seeking to restrain CDC from placing Singleton there. San Francisco was successful in receiving a temporary restraining order, and CDC sought a writ of mandate in appellate court as well.

c) San Mateo County. On April 30, CDC announced plans to place Singleton in San Mateo. San Mateo sought to restrain the placement of Singleton in its jurisdiction, but was not successful.

d) Appellate Court Decision: McCarthy v. Superior Court of Contra Costa County (191 Cal. App. 3d 1023). On May 8, 1987, the court of appeals issued its decision. According to Mr. Morris Lenk, the Deputy Attorney General who argued the case, the court made three major points in its decision:

i) San Diego was the County of Commitment. The court held that CDC erred in not initially considering San Diego for placement of Singleton since San Diego was the county of commitment. According to the court, statutory law which requires placement of parolees in the county of commitment includes counties which tried a case on the basis of a change of venue, such as San Diego in the Singleton case. CDC is authorized to place parolees in a county other than the county of commitment only if it determines that it would be in the best interests of the public and the parolee to place the parolee in another county.

According to Mr. Lenk, CDC chose not to place Singleton in San Diego since Singleton was only tried there by happenstance and since the placement of parolees in counties

which gratuitously accepted a change of venue would have the effect of discouraging counties from taking change of venue cases in the future.

ii) The Superior Court Lacked the Jurisdiction to Enjoin CDC. The court held that the Superior Court lacked the jurisdiction to issue the temporary restraining order since it did not have the power to prevent public officers in the performance of their official duties pursuant to statutory law. The court held, however, that CDC's decisions are subject to review to determine whether the exercise of its authority was "palpably unreasonable or arbitrary."

iii) Contra Costa County Was Not the Proper Place of Venue. The court also held that the proper forum, or venue, for hearing cases of this nature would be either in another county or in the county where the suit is brought if the case is heard by a neutral judge.

4) Community Opposition. Several communities expressed concerns regarding their lack of ability to influence CDC's decisions regarding placement of parolees. San Diego City Councilmember Judy McCarty expressed these concerns, as well as Dr. Armistead of San Francisco. Dr. Armistead also requested that the Legislature consider changing the law to require joint decision-making between counties and parole authorities regarding placement of felons.

C) Findings

1) Parole Placement. As of May 31, 1987, 33,547 persons are on parole in the State of California. 6,457 or 19% have been paroled to counties other than the county of their commitment (see Appendix #9).

D) Recommendations

1) Notification to Law Enforcement. The Legislature is encouraged to pass AB 1728 (Areias) (see Appendix #10) which would require parole authorities to notify counties within 30 days of their intent to place a parolee in the county. In situations where the paroling authority intends on placing a parolee outside the county of commitment, the bill would require the paroling authority to provide 90 days notice to law enforcement. This bill would additionally provide law enforcement agencies in such counties with the opportunity to provide the parole authority with written comment and would require paroling authorities to consider such comment when determining whether or not to place the parolee in a county other than the county of commitment.

2) Information to Law Enforcement. CDC is currently required, upon request, to provide law enforcement with a photograph and fingerprints of persons paroled within their jurisdiction (Penal Code Section 3058.5

-- see Appendix #9). According to Director Rowland, CDC complies with this requirement by sending a computer printout to each law enforcement jurisdiction that requests such notice showing monthly parolee movement into and out of their area.

The Legislature is encouraged to amend these provisions to require CDC to provide such information to law enforcement as a matter of course. Additionally, CDC should be required to provide law enforcement with additional information, such as the place of the parolee's residence and the name of the parolee's parole agent.

3) Change of Venue Clarification. The Legislature is encouraged to adopt AB 629 (Stirling) (see Appendix #10) which clarifies that "county of commitment" for purposes of release means the county where the crime was committed. This bill would have the impact of overturning a portion of the McCarthy decision (see VII-B) which interpreted "county of commitment" to mean the county from where the defendant was committed. According to Assemblyman Stirling, the policy behind AB 629 is to encourage, rather than discourage, counties from accepting change of venue cases.

VIII. MENTALLY DISORDERED OFFENDERS

A) Related Provisions of Law. (See Appendix #11)

1) Transfer to Department of Mental Health. Current law authorizes CDC to transfer mentally ill inmates to the Department of Mental Health (DMH) for purposes of treatment if DMH determines that the inmate would benefit from care and treatment in a state hospital (Penal Code Section 2684).

2) Civil Narcotic Addicts. Current law also authorizes the incarceration of persons addicted to the use of narcotics and of persons who, by reason of the repeated use of narcotics, are in imminent danger of becoming addicted to their use. There is no requirement that such persons have been convicted of a crime. These provisions of law require the incarceration of such persons at the California Rehabilitation Center for purposes of treatment (Welfare and Institutions Code Section 3000).

3) Civil Commitments. The Lanterman-Petris-Short Act (LPS) authorizes the involuntary civil commitment for a period of up to 6 months of persons who are determined to be a danger to themselves or others. These provisions of law do not require a showing that the patient is amenable to treatment (Welfare and Institutions Code Section 5150).

4) Mentally Disordered Offenders. Sections 2960-2980 of the Penal Code authorizes extended commitment of mentally ill prisoners during their parole in a mental health facility upon a finding by BPT that all of the following have been met:

   i) The parolee has a severe mental disorder.

   ii) The mental disorder cannot be kept in remission without treatment.

   iii) The mental disorder was one of the causes of, or was an aggravating factor in the commission of the crime for which the prisoner was sentenced to prison.

   iv) The prisoner was convicted of a crime in which he or she used force or violence or caused serious bodily injury.

   v) The parolee received treatment for the mental disorder 90 days or more prior to being released.

   a) Comparison to LPS. In contrast to involuntary civil commitment under LPS, the mentally disordered offender (MDO) law does not require a showing that the defendant currently poses a demonstrated danger to himself or to others.

b) Treatment. The parolee can challenge BPT's decision in superior court at which time the state must prove its case beyond a reasonable doubt. The treatment is inpatient unless the parolee can be safely and effectively treated on an outpatient basis.

c) Extended Commitment. The district attorney may file a petition with the court to extend involuntary treatment for up to one year beyond the period of parole. Extended commitment is authorized if a jury makes a finding beyond a reasonable doubt that the above criteria is met. There is no limit on the number of times a court can recommit a patient.

B) Summary of Testimony

1) Mental Health Evaluations.

a) CDC Procedure. According to Dr. Nadim Khoury, Chief of CDC's Medical Services Division, since the MDO law became effective on July 1, 1986, CDC performs mental health evaluations of each inmate within 6-8 months of their commitment to CDC. Dr. Khoury testified that CDC performs in-depth mental health evaluations upon inmates who meet any of the following criteria:

i) The inmate admits to a history of prior mental health treatment.

ii) A psychiatrist who performs the initial evaluation suspects that the inmate has a mental illness.

iii) The inmate has a history of commitments based upon incompetent to stand trial or not guilty by reason of insanity.

iv) The person who performs the educational evaluation or a correctional counselor suspects that the inmate has a mental illness.

b) DMH Procedure. According to Rick Mandella, Chief of the Forensic Services Branch with the Department of Mental Health, DMH evaluates all inmates who have been referred to DMH facilities pursuant to the MDO law or the law which authorizes transfer from CDC to DMH. DMH's evaluation consists of the following:

i) A review of the inmate's record while in prison.

ii) A review of the inmate's plea and sentencing record.

iii) A review of information from CDC's clinical and custodial staff.

iv) A mental status examination by a psychiatrist or psychologist.

v) A diagnostic test.

2) Implementing the MDO Law. According to Dr. Khoury, the reason that so few inmates are being committed under the MDO law is because of the stringent requirements of the MDO law, and not because of a lack of funding. Dr. Khoury cites substance abuse as an example of this. According to Dr. Khoury, substance abuse is not included under the category of severe mental disorders unless it (substance abuse) acts to trigger an already existing severe mental disorder. Dr. Khoury and Pat Kenady, CDC's Legislative Liaison, both testified that the Legislature should consider expanding the MDO criteria in order to encompass more prisoners, possibly to include substance abuse. District Attorney Stahl testified that the MDO criteria should be expanded to include all mental disorders.

3) Treatment.

a) Mentally Disordered Offenders. According to Mr. Mandella, DMH is equipped to accommodate mentally disordered offenders who are involuntarily committed pursuant to the MDO law. DMH is using existing mental health resources, and in addition is in the process of developing a training program for DMH staff to treat MDO commitments.

b) Effectiveness of Treatment: Study. Mr. Mandella testified that DMH is currently involved in an evaluation project regarding treatment effectiveness for patients who are committed via the criminal justice system, including persons adjudicated not guilty by reason of insanity, incompetent to stand trial, and mentally disordered sex offenders. Preliminary studies indicate a felony re-offense rate of 6-12% of such persons where the criminal behavior was caused by the mental disorder.

c) Effectiveness of Treatment: Types of Mental Disorders. According to Dr. Steven Shon, Assistant to the Director for Clinical Services, DMH is most successful at treating severe mental disorders (i.e., syhizophernia, manic depressive, psychoses). Dr. Shon testified that the mental health community is in agreement that persons who have "character disorders" cannot be treated, and as such would not meet the requirements of the MDO law.

According to Dr. Shon, persons with character disorders generally are persons with antisocial behavior who lack a conscience and are unable to differentiate between right from wrong. The only way to treat such persons is through long-term in-depth treatment accompanied by a willingness to change on the part of the patient. According to Dr. Shon, since most inmates who have character disorders are not willing to change because they do not believe

that there is anything wrong with their actions, they are generally not amenable to treatment and would not meet the MDO criteria.

d) Treatment: An Inmate's Perspective. Mr. Nunn testified that based upon his experience, inmates are not provided with mental health treatment while incarcerated even if they have a psychotic break while incarcerated. The response by the correctional system is to instead place inmates undergoing a psychotic break in a segregated housing unit which are used for inmates with disciplinary problems.

C) Findings

1) Evaluations. Although representatives from CDC testified that CDC performs extensive and thorough evaluations of all inmates, several sources have informed this staff that CDC's evaluations only consist of questioning inmates as to whether or not they have a history of mental disorders or are currently taking medication for mental disorders.

This method has been criticized since it will bypass those with mental disorders who have not previously been diagnosed as having a mental disorder. Additionally, mental health professionals concur that this method even bypasses most of those who do have a history of mental disorder since such persons generally will not admit to such a history.

2) Treatment.

a) Department of Mental Health. Mental health treatment at DMH facilities consists of individual or group psychotherapy together with medication if its determined to be clinically warranted. According to Dr. Shon, medication alone never constitutes sufficient treatment. Although medication can be very helpful or effective in curbing overt symptoms of psychosis, without a continued treatment of support, most will fall back into the mental disorder.

b) The Department of Corrections. Mental health treatment within CDC ranges from medication to individual or group therapy. According to Dr. Khoury, because of the overcrowding crisis within the state prison system, individual and group therapy programs are extremely limited. As a result, it is quite common for a mentally disordered prisoner's treatment program to consist solely of medication.

3) Magnitude of Mental Disorders Among the Prison Population.

a) Mental Disorders. DMH estimates that between 40% and 70% of the prison population, including those with personality disorders, have a mental illness.

b) Severe Mental Disorders. DMH estimates that between 5-10% of the prison population have a severe mental disorder.

4) Mentally Disordered Offender Law. CDC has evaluated 300 inmates for mental health commitment during parole, only 47 as of the date of this report have been certified and are currently being treated as inpatients in a DMH facility. CDC estimates that there are currently 340 inmates who meet the MDO criteria.

5) Treatment During Incarceration. CDC contracts with DMH for 407 beds at DMH facilities. As of June 21, 1987, 321 inmates have been transferred to DMH facilities. According to CDC, 1,671 inmates are being treated for mental disorders within state prison facilities.

6) Outpatient Status During Parole. Five thousand parolees currently are on outpatient status receiving mental health treatment as a condition of parole.

7) Substance Abuse. According to Dr. Khoury, approximately 38% of the state prison inmates have a substance abuse problem.

D) Recommendations

1) Substance Abuse Treatment Programs.

a) CDC. The Legislature is encourage to require CDC to operate a substance abuse treatment program at each of its facilities and to require participation in such programs by inmates whose offense was caused by substance abuse. Worktime credits should be provided for participation in such programs.

b) Outpatient Treatment as a Condition of Parole. CDC should require participation in a substance abuse treatment program as a condition of parole for parolees whose commitment offense was either caused by substance abuse or in which substance abuse was a contributing factor to the commission of their offense. The program would provide additional services and supervision for parolees, such as Singleton, who may be tempted to engage in substance abuse upon release into the community.

2) Mental Health Evaluations and Treatment. At the time the Legislature enacted the MDO law, CDC testified before this committee that the provisions of the MDO law would apply to at least 2,000 inmates. At this hearing, Senator Dan McCorquodale testified that eventually 9,000 inmates would be serving commitments under this law. Such numbers appear to be a remote possibility in light of the fact that CDC does not perform mental health evaluations upon all inmates.

The Legislature is encouraged to enact AB 965 (Stirling) (see Appendix #12) which requires a mental health evaluation of all violent felons -- the only class of inmates to whom the MDO law applies. Additionally, this bill requires mental health treatment of inmates who are diagnosed as having severe mental disorders. This bill would enable CDC to

pinpoint inmates who are potential candidates for the MDO law, and it would additionally enable CDC to meet one of the requirements of the law: treatment 90 days prior to release.

3) Mentally Disordered Offender Study. CDC and DMH are encouraged to complete their joint study in a timely manner, as mandated by AB 2390 (Stirling -- Chapter 1416, Statutes of 1985). This measure contains a Legislative finding that those persons who commit serious crimes as a result of a severe mental disorder should be provided with an appropriate level of treatment in an institutional setting. In order to meet this goal, AB 2390 requires the CDC, DMH and the Department of Justice to work with an independent research agency to determine the prevalence of severe mental disorders among the state prison inmates and to evaluate the array of services available. This study is especially relevant to a determination of CDC's effectiveness in implementing the MDO law since it will compile data regarding the number of prisoners who meet the MDO criteria.

4) Expanding MDO Criteria. The Legislature should consider expanding the MDO criteria to include substance abuse. According to the California Psychological Association, although the conventional wisdom among mental health professionals is that substance abuse is not treatable, many mental health professionals agree that psychological treatment through behavior conditioning can treat substance abuse.

5) Outpatient Treatment Upon Parole. CDC should be required to order outpatient treatment of all parolees with mental disorders, as a condition of parole, regardless of whether or not such parolees meet the MDO criteria as a condition of parole. This will ensure additional services and supervision for parolees, such as Singleton, who pose a high risk to public safety.

Assembly
California Legislature

Committee on Public Safety

1100 J STREET
SACRAMENTO, CA 95814
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AGENDA

May 26, 1987
1:00 p.m. -- ROOM 447
State Capitol, Sacramento

Informational Hearing
Parole Release Policies and
Evaluations and Treatment of Mentally Disordered Offenders

I. Parole Policies and Procedures

Pre-Release Preparation and Training

Daniel McCarthy
Director
California Department of Corrections

Robert Denninger
Deputy Director, Institutions Division
California Department of Corrections

Post-Release Supervision

Edward Veit
Assistant Deputy Director, Parole Division
California Department of Corrections

Ron Koenig
Chairman
Board of Prison Terms

Paul Foster
Acting Chief Deputy Commissioner
Board of Prison Terms

Dorsey Nunn
Paralegal
Prison Law Office

Placement of Parolees

Edward Veit

Morris Lenk
Deputy Attorney General
California State Attorney General's Office

Ron Koenig

Paul Foster

II. Mentally Disordered Offenders

Dr. Nadim Khouri
Chief, Medical Services Division
California Department of Corrections

Richard Mandella
Chief, Forensic Services Branch
Department of Mental Health

Ruth Melrose
Deputy Commissioner
Board of Prison Terms

Dr. Steven Shon
Assistant to the Director for Clinical Services
Department of Mental Health

III. The Singleton Case

Donald Stahl
District Attorney, Stanislaus County

CHAIRMAN LARRY STIRLING: The hearing has been called primarily to try to get to the bottom of the public's concerns and fears about the releases of prisoners like Singleton; to find out what the scope and extent of the releases are; what the response of local law enforcement is; what the strengths and weaknesses of the McCorquodale legislation is; what Corrections does about reinserting felons into society; what Parole does about safeguarding them; what local law enforcement's response is to taking a reinsertion; and what the appropriate relationship between the state and local law enforcement ought to be.

The Singleton release highlights a lot of the facts about our correctional system and the reinsertion into the public. First of all, there's an incredible lack of information on the part of local law enforcement and local elected officials as to how many felons are being let out, what conditions they're being let out under, and what the public response should be. It also highlights the weakness of the psychiatric review; skills that are available in the psychiatric community when a person can be released and certified sane and not be believed, or be certified, incorrectly, that he is safe and not be credible in that regard. Also, it points out the weakness in the local elected officials' knowledge of the process and their confidence in local law enforcement to protect the public, either by their local police or sheriff or by our parole officers.

And, finally, it raises the question -- the ultimate question -- that mankind has been struggling with for a number of centuries: is there really (inaudible) correction in correction? When people finish serving their terms, are they going to be reinserted into society? And if so, how? Is it possible to do it? And what should we be undertaking at the state level to ease that reinsertion into the system?

With us, today, are a number of people who are competent to answer those questions and to raise other questions, and so the primary purpose of this informational hearing is to adduce information, which may or may not result in legislative initiative by the members.

Members of the committee on this side are in the Ways and Means Committee right now, and they have been called and told that we are undertaking a hearing. And as soon as they're done with that difficult and tedious job, they will be up here to participate.

Our first witness, today, is Mrs. Judy McCarty, who is Councilwoman in the City of San Diego. Mrs. McCarty has to catch a plane and has asked to be taken out of turn. Mrs. McCarty?

COUNCILWOMAN JUDY McCARTY: Thank you, Assemblyman Stirling. I am representing myself here, today, although I am the elected Councilwoman for the Seventh District of the City of San Diego.

San Diego figured prominently in all the publicity, because the city was concerned that Mr. Singleton would be released in that community. We were concerned not only for the safety of the public, but also for what it would do for the whole process of change of venue, and whether or not that would be jeopardized by a city, who agreed to a change of venue, suddenly having to take on the criminal.

The problem is that Mr. Singleton is only the spotlight of this whole problem and your committee, thankfully, will hopefully come up with some ways in which parole, probation, law enforcement, elected officials, all of the people involved in situations like this can be knowledgeable about what can be done, what should be done, and in a way to prevent this sort of thing from happening so that the public can feel assured that law enforcement can protect the public safety when someone is paroled.

I think that is the great concern: a lack of confidence in the law enforcement system. So I would urge your committee to propose solutions and bring them forward to the local communities. I also will return to San Diego and ask our police and law enforcement to come up with solutions which we will be happy to suggest to you.

CHAIRMAN STIRLING: Thank you, Mrs. McCarty. One of the other things that Singleton taught us was that it's real easy for local elected officials to posture because they're responding to the anxieties of their citizens. But it also showed that they were not knowledgeable about how the reinsertion process occurs, and that they did not have adequate confidence in local law enforcement or the parole relationship to protect their public.... Can you make a presentation? Okay.

Corrections today has sent Dr. Khouri and Jim Coffman to represent their position. Dr. Khouri? Mr. Coffman? The current Director of Corrections is retiring and a new Director of Corrections will be confirmed...you estimate when?

DR. NADIM KHOURI: My name is Dr. Khouri. I'm the Chief of Health Services for the Department of Corrections. Just to help understand what our coordination with the Board of Prison Terms has been in regard to the mental health area, let me mention a few areas that we work with the Board of Prison Terms in that regard. As you might all know, the McCorquodale bill, which is...Penal Code 960-80...is basically the focus of what we're doing, mostly today.

Basically, the law specifies criteria for the certification of the people who are violent offenders with severe mental illnesses. And how can the society be protected in that regard where they're not released without being committed to the Department of Mental Health for mental health treatment? The criteria that the law sets in hand is that the crime has to be a forced violence or great bodily injury. The inmate has to have severe mental disorder. That severe mental disorder has to be aggravated or the cause of the crime itself. That the mental illness is not in remission or cannot be kept in remission without treatment. That the inmate himself, or patient, does have 90 days of treatment before his parole.

But, usually, what happens in regard to the (inaudible) Department of Corrections, all inmates are evaluated to see if they meet the criteria before they're released, and that is done even before six months or eight months. And the new commitment -- we do it early on in the first day of the commitment itself (inaudible). And we worked out with the Board of Prison Terms where the CDC psychiatrist does certify that person where DMH has an evaluation (inaudible) mental health, our evaluation from the local institution, come to the CDC Chief Psychiatrist where he recommends certification to Board of Prison

Terms. And then, second to that, they will have a hearing, and the hearing will be done by the Board of Prison Terms with the psychiatrist from the California Department of Corrections testifying about the reason why he recommends certification for that individual. If they don't decide one way or another to commit that person....

CHAIRMAN STIRLING: Dr. Khouri, I think it would be more instructive if you kind of gave an example of what a typical felon went through coming out of the process, rather than a kind of generic one. For example: do you happen to know how Mr. Singleton was evaluated coming out? What the process was?

DR. KHOURI: Okay. I can tell you in general (inaudible) because Singleton -- I cannot go to specifics because it's privileged information as far as....

CHAIRMAN STIRLING: I understand that....

DR. KHOURI: ...patient relationship.

CHAIRMAN STIRLING: ...but just the steps that they go through and that sort of thing.

DR. KHOURI: I'll give you an example. Since July 1, 1986, when the law became effective (inaudible). All cases before release -- 90 days before that even effective day, we start evaluating all the cases in regard to their mental illness and in regard to meeting the criteria. Singleton was one of those cases that we were evaluating as such in there. There was a lot of evaluation on him; a lot of....

CHAIRMAN STIRLING: Now, this evaluation was pursuant to the McCorquodale legislation?

DR. KHOURI: Yes. Yes.

CHAIRMAN STIRLING: Alright.

DR. KHOURI: And the evaluation (there is a criteria, as I mentioned before) that this person has to meet the criteria. Singleton....

CHAIRMAN STIRLING: Okay. I'm sorry. Could you go over the criteria again, slowly, so everybody hears it.

DR. KHOURI: Yes. The criteria for the certification. Again, it's a crime where it is a forced violence or great bodily injury; there is a severe mental disorder; that that severe mental disorder was an aggravating cause or the cause of the crime; that the mental illness is not in remission and cannot be kept in remission without treatment; and that the patient has 90 days of treatment before parole. All of these criteria....

CHAIRMAN STIRLING: That's 90 days of treatment or 90 days to go for treatment?

DR. KHOURI: Ninety days treatment before his parole. That he was sick, was mentally ill, and he was provided treatment for 90 days before his parole.

CHAIRMAN STIRLING: Okay.

DR. KHOURI: Now, in the case of Singleton. This person did not meet all these criteria, or one or another of the criteria, itself, and usually the cases...in any other case, the case would be referred to the Board of Prison Terms where they certify him and place him at DMH. If the person appeals, it goes to the Superior Court, and the Superior Court makes a judgement about if he should go to mental treatment or not. If that happens, the decision was made: yes, he will go. Second to that, the Board of Prison Terms will have a hold -- a policemen's hearing to ascertain whether this treatment may be offered as an outpatient or inpatient treatment, and this... basically, the hearing involves the California Department of Corrections, the Parole Division, and the Department of Mental Health. That's one of the....

CHAIRMAN STIRLING: Which of the criterion, under the McCorquodale legislation, did this particular prisoner not meet?

DR. KHOURI: He didn't meet the severe mental illness that year.

CHAIRMAN STIRLING: And how is that evaluated?

DR. KHOURI: I can't...if you see me reluctant, I...you ought to understand that this is privileged....

CHAIRMAN STIRLING: No, just the mechanics of it; you don't need to talk about his case, but how would you....

DR. KHOURI: Severe mental disorder has a definition, and it is defined in the law. The specific definition in that McCorquodale bill, that says what is a severe mental disorder, and regarding that person...he did not meet that specific criteria.

CHAIRMAN STIRLING: And does the definition in the legislation meet the clinical definition of mental illness?

DR. KHOURI: Yes, it does. Severe mental illness, yes.

CHAIRMAN STIRLING: So it is paralleled with the professional standards.

DR. KHOURI: Yes.

CHAIRMAN STIRLING: Okay. Go ahead, sir.

DR. KHOURI: That's one of the areas. The other area that we work with the Board of Prison Terms is if a person who is on parole and we find that he has some psychiatric illness that has nothing to do...recent psychiatric illness, during his parole, we can get that person...under jurisdiction of the Board of Prison Terms, we can get that person as a "psych" attention to be returned to prison to be treated or to be referred to the Department of Mental Health for treatment through the parole outpatient clinic that we have.

CHAIRMAN STIRLING: How many people have you carried out such an evaluation on since the legislation has been in effect, and how many people have you made a civil commitment on?

DR. KHOURI: In regard to the McCorquodale bill you mean?

CHAIRMAN STIRLING: Yes.

DR. KHOURI: Okay. There's 300 evaluations that were done in the Department of Corrections regarding (inaudible). We have, at this moment, and I'm not accurate as of exactly the time...two weeks...there were about 37 male and 1 female at DMH second to that certification process.

CHAIRMAN STIRLING: Okay. So out of 60, how many felons do you have now?

DR. KHOURI: Sixty-three thousand.

CHAIRMAN STIRLING: Out of 63,000 felons, you have evaluated 300 and 37 have ended up in Atascadero?

DR. KHOURI: Yes.

CHAIRMAN STIRLING: Alright. Is there a reason you haven't done more?

DR. KHOURI: These are people who we see that they meet the criteria. That's why the evaluation went to them. There is...you call the early screening when you look at it and does he meet the criteria or not? And then you go detail on the psychiatric evaluation....

CHAIRMAN STIRLING: Does he get screened...when I say "he" it's 95% males in there anyway. Does he get screened when he comes into the facility, or does he get screened because he comes to the attention of the correctional officers because he is acting out in some way?

DR. KHOURI: No, there is a lot of ways of how we do a psychiatric evaluation, and let me mention that, if I may.

CHAIRMAN STIRLING: Would you? Thanks.

DR. KHOURI: An order for a complete psychiatric evaluation, or any psychiatric evaluation, can come from (inaudible) by somebody where....

CHAIRMAN STIRLING: Doctor, you're going to have to speak just a little bit slower. I have a little trouble picking up here.

DR. KHOURI: I'm sorry. A referral for complete psychiatric evaluation can come from one or different ways, and let me mention some examples for them. History of psychiatric hospitalization. A person was ill at one time; he was in a mental health institution in the county or state. That's one thing that we look for in the history.

CHAIRMAN STIRLING: Is that picked up on interview when they are committed to the facility or what?

DR. KHOURI: Yes. On initial evaluation. Another area we look at is....

CHAIRMAN STIRLING: Well, if he doesn't tell us about it, we don't know it?

DR. KHOURI: No, no, no. We have a past history. We can ask for a past history on every inmate that we have reason to believe (inaudible) as any physician or any psychiatrist; whenever you see a patient and you feel there is a mental illness, you want to know the history of that mental illness, and that's the time you ask for more detail on that.

Another area where he is incompetent to stand trial, if we have a sentence where it says "incompetent to stand trial" history, that's another clue that we can give our psychiatrists to look for. Not guilty by reason of insanity, that's another way to look at it. From that obtained during the education evaluation at the reception center, where a person gets evaluated and the basic...they pick it up that there is some mental illness or something that tells them there is something wrong in there. Some from referral by inmates where inmates ask for psychiatric help themselves in there.

CHAIRMAN STIRLING: Doctor, if the thing that causes that particular inmate to have their problems, such as an alcoholic event or drug event or stress event that is related to something that doesn't replicate itself inside the correctional facility, how do we know that they're not going to react that way when, once again, they have the alcohol, drugs, or see their wife...their spouse?

DR. KHOURI: I think what we're talking about is severe mental illness. You will rarely see alcohol or drugs affect the people to the extreme mental illness, and I'm not expert in the mental health area, that's why I have Dr. Zil with me, just to address that issue...and yes, I have some psychiatric background but....

CHAIRMAN STIRLING: Okay, can we go to him and ask him that question, then? In other words, recently an ex-felon on parole was shot and killed in the City of La Mesa in the act of raping one of my constituents by a La Mesa police officer. He was not considered at all under Mr. McCorquodale's legislation, and the argument that Corrections gave at the time was: "well, he had never tried to create the same crime inside prison." Well, he was in prison for rape, so it's not likely to replicate the same opportunities in there. I don't see how you can make an evaluation as to what his conduct is likely to be after he gets out when the situation that causes that conduct is not there in prison.

DR. KHOULI: You are right in that assumption because what...in mental illness, there is the environmental impact that can cause people to react the way they react in there. And, even in the mental diagnosis, we look for that as one of the axis of the diagnosis, itself, in there, so depending on different situations....

CHAIRMAN STIRLING: Okay, so here's the situation. For example -- and I am told and I don't know this --Mr. Singleton's problem was that the prosecution said he was drunk when he carried out this heinous crime. Was there an opportunity for him to become drunk in prison? Well, I shouldn't say Singleton, but anybody like that. If drunkenness or alcoholism was their problem, how do you replicate that in a psychiatric evaluation to determine

that they're not going to do that the first time they get away from their parole officer outside? You want to try that one?

DR. JOHN ZIL: My name is Dr. John Zil. I'm the Chief Psychiatrist for the Department of Corrections Central Office. First I would like to point out that, as you know, criminality that's related to substance abuse, including alcoholism, is not a criteria under McCorquodale's bill, so if that were the only so-called "mental impairment" then that....

CHAIRMAN STIRLING: Okay. It's not a criteria, and should it be? Senator McCorquodale, did you hear this answer?

SENATOR DAN McCORQUODALE: No, I missed that.

CHAIRMAN STIRLING: Alcohol or drug related...well, why don't you say it again, sir.

DR. ZIL: Well, the manner in which the McCorquodale bill, or law, currently reads is that if substance abuse, including alcoholism, was the only mental impairment that was involved with criminality, then that was not a sufficient criterion to certify under this law to the Board of Prison Terms for treatment as a condition of parole.

CHAIRMAN STIRLING: So now we're caught in a situation where if the person's crack, or alcohol, or whatever the substance abuse is, is the thing that sets him off, that even if you knew that and you knew full-well that somebody of this ilk would get out, and the first time they got drunk again could pull the same stunt, there is nothing you could do about it under current law.

DR. ZIL: That is correct.

DR. KHOURI: There is Penal Code 2690 just to add to that in there...if we felt, without the McCorquodale bill, if we felt that any person has some kind of mental illness where he can be dangerous to society or gravely disabled, before his release, we can use that (inaudible) to commit to mental treatment.

CHAIRMAN STIRLING: Under prior existing law.

DR. KHOURI: Exactly.

CHAIRMAN STIRLING: How many people have you evaluated under prior existing law? How many have you committed under prior existing law?

DR. KHOURI: I don't have the exact figures, but I know that we did that and we did succeed in some of the....

CHAIRMAN STIRLING: Ten, fifteen, five hundred?

DR. KHOURI: I think you talk about within the hundred.

CHAIRMAN STIRLING: Okay. Could you make that information available to the committee?

DR. KHOURI: Yes.

CHAIRMAN STIRLING: Alright. Doctor, do you care to go on?

DR. ZIL: Pardon?

CHAIRMAN STIRLING: Do you care to go on?

DR. ZIL: You asked for an opinion and I was going to indicate that, really, I'm not in a position to render an opinion on....

CHAIRMAN STIRLING: On whether it should be within the ambit of the law?

DR. ZIL: Not at this point. Of course, we would be glad to analyze it through the bill analysis process.

CHAIRMAN STIRLING: Okay. Thank you. Alright, Doctor?

DR. KHOURI: Some other areas we look at is referral by correction counselor, where correction counselor refers the patient, or inmate, to a psychiatrist during the process of classification, through the process of close contact with the inmate himself in there.

Some other areas, we have record of past Department of Mental Health or BDS department treatment, where we order it and we get to know that this person has some mental illness in there somehow. And during all the initial evaluation at the reception center, we do a lot of comprehensive educational background, we do psychological testing...these are areas where we can pick up, early on, if there is any mental illness in there. And sometimes the patient will tell us that "I am on so-and-so."

CHAIRMAN STIRLING: Okay. In your judgement, if Corrections had more resources, would there be more people evaluated than the 300 under the McCorquodale legislation? And, would there be more people committed than the 37?

DR. KHOURI: I don't think it's a matter of number in that regard. No. I think it is related to the number of people who meet that criteria. This is one of those mandates where it is top priority for the department, and we concentrate on it heavily.

CHAIRMAN STIRLING: Alright. Are you in a position to recommend, on behalf of the department, any broadening or changing of the criteria?

DR. KHOURI: No, I'm not in that position.

CHAIRMAN STIRLING: Is anybody in the department here in a position to talk about it? Mr. Kenady? Mr. Kenady? If two-thirds of the fellows we are letting out are going to commit serious felonies again, it seems like, to me, there's something wrong with the....

MR. PAT KENADY: Well, Mr. Chairman, the McCorquodale bill and the Lockyer bill was before this committee several years ago, and as part of the

negotiations to get the bill out of this committee, it was somewhat narrowed. If you look at the prior versions of the bill (between the Lockyer bill and the McCorquodale bill), they were somewhat broader. I think the answer is that there can be some broadening of that criteria if there is legislation that will broaden it, but ultimately,...ultimately, you run up to some constitutional legal criteria as to how far can you make a mental health commitment proceeding to cover cases that you have in mind...and ultimately, you cannot substitute that for a sentencing law. So while we were advocating a broader bill coming into this committee, it was narrowed somewhat, and I think that issue is always subject to revisitation as far as the actual scope.

CHAIRMAN STIRLING: Does the administration now...I know they did, but do they now support broadening it to include mental disorders that are triggered by substance abuse?

MR. KENADY: That issue has not come up, and I'm not sure...we would have to do some research as far as the constitutionality of that as far as substance abuse. That has not been the main thrust of the legislation in the past. It's been based on mental illness, disease, or disorder. The issue you are talking about would cover many, many thousands of people, not only in prison, but county jails and state hospitals. We'd have to look at that.

CHAIRMAN STIRLING: Alright. Thank you, sir. Why don't you just remain there.

SENATOR McCORQUODALE: Mr. Chairman.

CHAIRMAN STIRLING: Senator McCorquodale, and welcome.

SENATOR McCORQUODALE: Thank you. In trying to address this bill, it was my understanding, though, that we were able to...that the wording...if the person has a severe mental disorder that is triggered by alcoholism...by alcohol, not alcoholism...but triggered by alcohol...if that triggered the mental disorder and you could get facts in that regard, that the bill would apply.

DR. ZIL: That is a correct distinction. If...what I said, or indicated, was that alcoholism or substance abuse, itself, is not (inaudible -- coughing). However, if other mental illness -- such as schizophrenia -- is present and alcohol or crank, or whatever exacerbates it, the substance abuse does not eliminate, or negate...is not a negating criterion in that respect, so that individual would be eligible for certification.

SENATOR McCORQUODALE: (inaudible) it might not have made any difference in the case that you were discussing, but in that fine line there is...if the alcohol or if the substance abuse triggers the severe mental disorder, then that could be the basis for them being included.

CHAIRMAN STIRLING: Well, just taking this as an example, it is my understanding that he was drunk when he did it. What he did was horrible and only a sick person would do it. And it seems to me then that that's the kind of thing that ought to be screenable under a mental health analysis. If the guy is going to act out seriously when he is drunk, then that ought to be grounds to put him in Atascadero until he is cured of his alcoholic addiction and his tendency to do horrible things when he is under that situation.

Okay. Dr. are you completed?

DR. ZIL: Yes.

DR. KHOURI: No, not yet.

CHAIRMAN STIRLING: Could you stand by please? Mr. Coffman is here to...on behalf of Corrections to discuss, briefly, the prerelease preparation and training issue. Welcome, sir.

MR. JIM COFFMAN: Mr. Chairman, I'm Jim Coffman. I'm a Program Administrator with the Program Development Unit in Headquarters. Basically, I'd like to go back to something Dr. Khouri alluded to earlier, in that the prerelease programming in the department really starts at the time, or prior to the reception of the inmate into the department. One of the processes that is an ongoing process with our operation is an evaluation process, which very often results in referrals to various medical or psychiatric authorities for...

CHAIRMAN STIRLING: When you say "very often," how often is "very often"?

MR. COFFMAN: In...I was a correctional counselor for an extended period of time, and during the time I was a correctional counselor I would say that I was making referrals to the psychiatric department or the medical department several a month via classification committee hearings.

CHAIRMAN STIRLING: And you had a caseload of what?

MR. COFFMAN: My caseloads ran anywhere from as low as 60 to as high as 250 cases.

CHAIRMAN STIRLING: So you were referring what? Ten percent of your caseload?

MR. COFFMAN: Over a period of time there would have been a substantial number of referrals. Now, those had been screened by psychiatric and medical-technical assistants to see if there was need for further ...

CHAIRMAN STIRLING: Under McCorquodale, under the facts the department has indicated, their...they've got 37 out of 300 screens out of 67,000 felons. It doesn't match.

MR. COFFMAN: Well, the referrals would have been for a variety of reasons. If for one reason or another I felt there was a need for some medical or psychiatric evaluation to take place as a result of any case factors that I had observed as a counselor reviewing the case, then I would make a referral to the department for proper evaluation.

My attitude was that it was not my role, as a counselor, to make that kind of determination, and how many of those actually resulted in any actual treatment (inaudible) kicking in, I really can't say. I do know that part of the evaluation process takes place at the time of reception. It is based, very often, on information that is contained in the probation officer's report; that's part of the evaluation process at the reception centers, and takes place

at the time we receive an inmate at a new institution, before initial classification and any classification committee hearings take place.

CHAIRMAN STIRLING: Alright.

MR. COFFMAN: So, that is kind of an ongoing process. If at any time, during the commitment, we feel a referral like that is necessary, then we have that mechanism in place where we can make that referral.

CHAIRMAN STIRLING: But you could be overruled by a psychiatric staff member?

MR. COFFMAN: Yes, sir.

CHAIRMAN STIRLING: Are there any changes that the department is recommending in the McCorquodale legislation? Or any of the psychiatric referral legislation?

MR. COFFMAN: I'm not really familiar with the legislation, and I think Dr. Khouri or his staff would be better able to comment on that.

CHAIRMAN STIRLING: Okay.

MR. COFFMAN: Basically, the prerelease program...I mentioned that it really starts there...I think the whole thrust of our reentry program, or prerelease program, for inmates throughout the department is job oriented. Very often, what we're interested in doing is bringing people into the system; putting them through a basic training program that's going to make them more competitive in the job market. And, much of our activity, I think, is geared toward that educational activity.

CHAIRMAN STIRLING: Is prerelease training mandatory?

MR. COFFMAN: The prerelease, the reentry part of it, the evaluation processes are...I wouldn't say mandatory, but I would say that each inmate is subjected to that kind of evaluation process. That part of it cannot be avoided. We have an academic portion of the prerelease activity that is not mandatory: the inmate can take advantage of it or not take advantage of it. It's....

CHAIRMAN STIRLING: Why should it be mandatory in your judgement?

MR. COFFMAN: I don't think this particular part of it should be mandatory. It's primarily an educational operation that has to do, again, with job oriented situations: interviewing for jobs, basic academic and work skills. A lot of it is informational and it takes place within a three-week process just prior to the inmate's release.

CHAIRMAN STIRLING: What percentage of the inmates, would you estimate, participate in that kind of training?

MR. COFFMAN: I really don't have any figures. I would say that...I really can't comment on that.

CHAIRMAN STIRLING: Did Mr. Singleton participate in that kind of training?

MR. COFFMAN: I don't know.

CHAIRMAN STIRLING: Go ahead, sir.

SENATOR McCORQUODALE: Mr. Chairman?

CHAIRMAN STIRLING: Yes, Senator McCorquodale.

SENATOR McCORQUODALE: I wonder if I might ask, one of the reasons...going back to the issue of alcohol addiction...one of the reasons we didn't originally put that into the bill was mental health sort of opted out in that saying that they weren't able to treat alcoholism. Is there anybody in your opinion that would be appropriate to treat alcoholism in this state if we had a companion bill to 1296 that said, "okay, if you're under the influence of alcohol, and you do the same type of thing, and you're shown to be addicted to alcohol or substance abuse, any alcoholic substance, that you could be transferred for treatment. Is there anybody that you feel would meet the Constitutional test of being able to treat and legitimize the transfer of a person to that department for treatment?

MR. COFFMAN: I have approximately twenty-five years of experience in the Department of Corrections, and I would say a substantial part of that experience involves working with people who are addicted to alcohol or drugs or various other substances, and frankly, with some exceptions, I have real reservations about really cosigning any treatment program for any substance abuse. I would say that, of the programs I've dealt with, the ones that I'm most comfortable with are some of the tried-and-true programs like Alcoholics Anonymous and a few of those that use that regimen or approach.

The problem of substance abuse is a very difficult problem and I'm not sure that there is any program or treatment approach that I have real confidence in.

CHAIRMAN STIRLING: Mr. Campbell.

ASSEMBLYMAN CAMPBELL: You may have covered this earlier. Just a question: do you track the number of inmates that go through training programs and what percentage of those return to prison versus those that don't...that aren't in programs, etc? I understand there's a general response. Then I'd like to make a statement.

MR. COFFMAN: Departmentally, we maintain statistics on recidivism. It's sometimes very difficult to define that term to everybody's satisfaction, but very often we've attempted to follow the basic return statistics and try to tie those statistics to contributing factors such as alcohol abuse and that sort of thing.

CHAIRMAN STIRLING: He specifically asked whether you track whether they went through prerelease training and whether they were recidivist or not. That was what he asked. In other words, if you say, if 1,000 people leave, do you get 900 of them back under the general population, and of the same 1,000,

if there were 500 of them that had gone through some training programs, work entry programs, etc., what percentage of those return versus the overall population? In other words, does it work?

MR. COFFMAN: We have tracked those kinds of statistics in the past. I'm not familiar with them. I'm not sure what's in place at this point in time.

ASSEMBLYMAN CAMPBELL: No one keeps track of those?

MR. COFFMAN: I think they do, but I'm not sure.

CHAIRMAN STIRLING: Could you send us the information where you have attempted to track that?

DR. KHOURI: I don't want to give the opinion that only 300 were evaluated for that.

CHAIRMAN STIRLING: I thought that's what you said.

DR. KHOURI: Let me correct that. All inmates are evaluated for violence, but the 300, they had the force violence but they didn't meet the other criteria in there. So that's the difference between the 300 and all other inmates we screen. We screen all inmates for force violence.

CHAIRMAN STIRLING: Mr. Campbell?

ASSEMBLYMAN CAMPBELL: It just seems to me that if what I hear is right, I'm not sure these statistics are right, in the past that nine out of ten, or eight and a half, return to prison. It seems to me that one of the problems we've got is that a person hasn't got a job because the first thing you find out on someone's employment form is if they had an arrest record. If they say, "yes," they don't get a job.

Have we looked at...some countries, for example, do have a program where there's a pool, when you come out of prison you go to work for a state, there's a state program for a year. You obviously have parole, etc., but you're learning another skill, you're getting paid a salary, so there's another year of watching someone with some gainful income coming in, and then it would seem that the private sector may look at that and look at what's happening in terms of that person's work product, and may be more apt to hire that person. It seems to me that no matter what you do in prisons, no matter how many people you train, that they all return back to prison because they can't get a job. Then you might as well leave them there in the first place. I don't understand what we're doing to correct that in terms of the process. Have we experimented in those lines at all?

MR. COFFMAN: We have a variety of things that are in progress at this point in time, I think, to address that problem. One of those areas I'm directly involved in. We're attempting to put together what's called a Dictionary of Occupational Titles, in essence a job bank, which will help us relate the type of work activity that an inmate is involved in in prison with the type of potential work activity he might be involved in in the community.

CHAIRMAN STIRLING: There's no state employment program...to answer Mr. Campbell's question, is there any state employment program that once they leave Corrections we put them to work in a regular job so they can see what a regular job is like?

MR. COFFMAN: Well, we have work furlough units in place that are, in essence, that type of program. They're very limited and they deal with a very limited group of inmates that are generally the less violent, the more desirable type of inmate.

CHAIRMAN STIRLING: But the answer to Mr. Campbell's question is, "No, we don't particularly employ them in a state kind of a job after they get out to see how."

MR. COFFMAN: Not in a state job, but we do employ them in private industry and house them in work furlough units.

CHAIRMAN STIRLING: We don't even employ them all in prison industries do we? Every time I carry the bill we have two groups in opposition, only two, management and labor, to stop all those.

Mr. Campbell?

Alright, thank you Mr. Coffman.

Yes, sir?

MR. ZELTNER: Before Mr. Coffman leaves...Mr. Coffman said earlier that recidivism is rather difficult to define. Can you tell me what the general definition is? Does it include people who are on parole and come back for any reason, or does it include only those people who come back for the same type of crime?

MR. COFFMAN: I've been in this business a long time. The last time I heard anybody really attempt to define it, they were looking at a criteria of a parolee still being on the street after a two-year period of time. If they were still on the street after a period of two years they were successful. If they were not on the street after a period of two years, they were a recidivist. I haven't heard anything newer than that.

ASSEMBLYMAN PAUL ZELTNER: It was also indicated that the rate of recidivism is probably rather high. Would you say that this might be attributed to the quality of supervision while they are on parole. That's a loaded question, I understand, but I'll ask another one to follow it up.

MR. COFFMAN: No, sir. I can't say that I have followed the statistics as closely as, perhaps, I should have, being in this business all these years, but I have to say that with the change in the inmate population over the same period of time, with the more violent offender, with the longer and more sophisticated patterns of criminality, the fact that the recidivism rate, or the return rate, hasn't really gone much higher than it has, I think, is attributable to the fact that they are getting good supervision in the community. It's not good enough, but perhaps when you consider the change in the inmate population, the nature of the inmate, the problem we're up against,

the numbers involved, I think there's a good case to be made for the effectiveness of some of the measures that we've attempted.

ASSEMBLYMAN ZELTNER: Alright. Do you have ideas...?

MR. COFFMAN: The crowdedness, the miserableness of the state prison system.

ASSEMBLYMAN ZELTNER: Do you have any idea of the average caseload of, let's say, the average parole agent?

CHAIRMAN STIRLING: We'll have Mr. Read up here in a second to answer that.

Mr. Areias, for a question?

ASSEMBLYMAN RUSTY AREIAS: Mr. Coffman, I want to make sure that I understood your question correctly. The two-year threshold that you referred to, are we to believe that the recidivism rate that has been well-chronicled is the result of recent events; that the one-third that have not returned includes people who have not returned to the state facility for a two-year period. Is that correct?

MR. COFFMAN: I'm not sure they're using that as a criteria at this point in time.

CHAIRMAN STIRLING: Mr. Areias, let me get you an accurate answer. He admitted that he hadn't looked at it lately. Let's get you an accurate answer, and if we could ask the staff to check on that and get back to us before the hearing's over, we'll get you an answer to it.

Any other questions for these gentlemen?

Thank you very much for taking the time. We appreciate it.

Next is the post-release supervision, Mr. Ed Veit, Mr. Ron Koenig, Mr. Paul Foster, and Dorsey Nunn. Mr. Koenig has to go first because he has to leave. While they're coming up I just wanted to point out, ladies and gentlemen, the data on the right hand side of the room up here, the estimated parole population of 1990, three years from now, Los Angeles County, 21,264; San Diego County, 3,234; Orange County, 2,342; 3,000; 3400; 2400; 1900; 1500; 2500; 1200; 2000; and on and on. You might look at that and understand how important it is first to understand this process and get a lot better at it. Okay, Mr. Koenig.

MR. RON KOENIG: Mr. Chairman and members of the Public Safety Committee, I'm Ron Koenig, Chairman of the Board of Prison Terms, and I have with me today two members of my staff: Ruth Melrose, who is a Deputy Commissioner for the Board of Prison Terms, worked extensively with the California Department of Corrections and Mental Health Department on the Mentally Disordered Offender Board procedure, and also Mr. Paul Foster, who is the Chief Deputy Commissioner and has been with the Board fourteen years and has worked extensively with both the indeterminate and determinate system.

We are pleased to have the opportunity to provide you with information about the Board of Prison Terms' policies and procedures regarding indeterminate and determinate sentencing and the mentally disordered offender program. As you know, there are 63,000 inmates in the institution today, of which 6,200 more or less, or approximately 10%, are life prisoners convicted of first degree murder, second degree murder, kidnapping, etc. The determination as to whether they receive a parole date is a responsibility of the Board of Prison Terms. They are serving indeterminate sentences, much like the sentencing system in effect prior to 1977. Indeterminate became a sentencing procedure in 1917, and at that time California turned away from its program of punishment and embraced rehabilitation as a focal point of its criminal justice system.

CHAIRMAN STIRLING: Can I ask, sir, what percentage are indeterminate and what percentage are determinate?

MR. KOENIG: Indeterminate is the life prisoners, that's 10% of the total population, or approximately 10% of the total population.

CHAIRMAN STIRLING: And all the rest are determinate sentencing?

MR. KOENIG: All the rest, about 57,000, are determinate sentencing prisoners.

CHAIRMAN STIRLING: Thank you, sir.

MR. KOENIG: For sixty years the Adult Authority, subsequently the Board of Prison Terms, individually addressed each sentenced prisoner, focusing on the criminal himself, ascertaining his personal readiness to return to society.

In January, 1977, the California Legislature redirected its intent in criminal law and declared that the purpose of imprisonment for crime is punishment. Therefore, we have today the determinate sentencing system.

With the enactment of Senate Bill 42 and Assembly Bill 476, the determinate sentence law became operative July 1, 1977. Since then, the determinate sentencing law has been the subject of continued analysis and refinement, and the Mentally Disordered Offender Bill, passed in 1986, is just another continued method of altering in order to refine the determinate sentencing law. The determinate sentencing law reduced the responsibility of the Board of Prison Terms to, first, consider life prisoners for parole, second, to conduct parole revocation hearings for parole violators, and third, to review all sentences by our superior courts for disparity.

Release from prison is mandatory for the determinate sentencing prisoner, and what this means is that all prisoners not sentenced to life are released by operation of law without any review by the Board of Prison Terms.

That's basically our responsibilities as part of this system.

CHAIRMAN STIRLING: Excuse me, sir, but don't you evaluate them on release for how long they'll be on parole?

MR. KOENIG: No, we don't make that determination.

CHAIRMAN STIRLING: Who makes that determination, the Department of Corrections?

MR. KOENIG: Yes. The Department of Corrections under the Parole Division. We evaluate when and if they violate the law or are charged with a violation of the law after they are on parole.

CHAIRMAN STIRLING: I see. Are you finished?

MR. KOENIG: Yes, I'm finished.

CHAIRMAN STIRLING: Any questions? Is Mr. Veit here?

MR. EDWARD VEIT: Right here.

CHAIRMAN STIRLING: Mr. Veit, you've got the tough job today. Tell us about the policy of post-release, the post-release mechanism, the policy of placement, and the post-release supervision program.

MR. VEIT: Okay. It's a pleasure to testify, Chairman Stirling and members of the Committee. One of the things I'd like to start out by saying is, getting to the scope of what the problem is, last year there were over 32,000 felons released on parole in the state of California. Twenty thousand of those were newly-released parolees, the other 12,000 were re-releases to parole. I think that gives you an idea of the magnitude of the problem, which goes along with the determinate sentence law. Back in the indeterminate sentence law days we had not nearly that kind of turnover, and that gives you an idea of where we are.

CHAIRMAN STIRLING: Wait, Mr. Veit, I don't understand. Why does that create turnover? In the old days they stayed in until they shaped up and now they go on out and commit crimes?

MR. VEIT: That's right. That's right. You had a lot more of them in for a lot longer lengths of time. The period on parole today is also much shorter for some people.

Let me go back and restate our policy in the Division. First of all, our primary concern is community protection, and that is stated in our policy. We look first at whether that parolee can be maintained in the community with safety to that community. If he can't, he's removed immediately by the parole agent and referred to the Board of Prison Terms for a revocation hearing.

Let me walk you through the process of release to parole. Approximately 210 days prior to a person's parole date, and I'm talking about a determinate sentence case now, the case is referred from the institution out to a parole region in the state. A determination is made by a regional staff member at that point in time as to what county that person should be referred to for parole placement. The law, and our policy, focuses on return to the county of commitment, absent certain other exceptions, and I'll state those in a moment. Most people in the state are returned to their county of commitment for their parole period. The exceptions to that policy are the need to protect

the life and safety of a witness or some other person that was connected to the crime, public concern that would reduce the likelihood of the success of the person's parole in that particular area, the verified existence of a job program or unusual training opportunity in another county, the last legal residence of the inmate being in another county other than the county of commitment, and the existence of a family in another county that would provide strong support for that person's program in another county other than the county of commitment. The final reason would be the unavailability of a parole out-patient program in the county of commitment. Those are the exceptions to the policy of return to the county of commitment.

As I indicated, the regional person refers that case down to a unit. The parole agent getting the case assigned to them goes out and investigates the proposed program, which may include residence, may include a possible job offer, other things that that particular individual needs to succeed while on parole. You have to realize that many of these persons are at the end of the criminal justice pipeline. They have come through a number of other systems before they ever reach the Department of Corrections, so many of them are what we call "no-resource cases." They have no family members, they have no friends, they have no jobs. So, it's a job for the parole agent to go scrape up a residence for them. It may be simply a hotel room for a few nights to try and find them a job before they hit the street, and then the parole system and the supervision begins.

As I mentioned previously, and I think it's important to state this, there's a lot of concern about the numbers of people being returned as parole violators. I want to give you several pieces of information which I think are important to you. First of all, last year, 1986, there were some 36,000 parolees that were arrested by parole agents and law enforcement officers. I'm sorry, 30,000.

CHAIRMAN STIRLING: You released 37,000 and rearrested 30,000?

MR. VEIT: That's right. As I indicated in the beginning, community protection is the prime concern that we have. Thirty thousand arrests, 7,000 of those -- or a few over that -- were by parole agents. The remaining 23,000 were by law enforcement agents.

CHAIRMAN STIRLING: I got the math wrong. It's 32,000 released and 30,000 rearrested.

MR. VEIT: Right. Thirty-two thousand felons. Right. One of the things I think it's important to focus on is that 7,000 arrests that were made by parole agents, there are less than 700 parole agents in this state, and they take people out of the community as quickly as they discover parole violations or crimes or both.

One of the important things that has happened over the last number of years is that the arrest rate for parolees for crimes of violence or crimes against persons has dropped. It's dropped substantially, from 23% down to about 15%. These are the crimes where people have a gun shoved in their ribs, have a knife put at their throat, they're the crimes that the community is most concerned about. At the same time....

CHAIRMAN STIRLING: I'm sorry, sir, I'm not following. Initially, you said there's 32,000 released, 30,000 rearrested, but then this figure you just gave us was there is a reduction in rearrests from 27,000 to 23,000. That's like 90%.

MR. VEIT: No, I'm sorry. The rate of arrest for parolees for crimes of personal violence is dropped from 23% to approximately 15%.

CHAIRMAN STIRLING: What are the majority of the 30,000 arrests for if they're not personal violence?

MR. VEIT: Drug violations, other parole violations, minor crimes.

CHAIRMAN STIRLING: Are they what some of our colleagues here call technical violations?

MR. VEIT: Yes, very definitely.

CHAIRMAN STIRLING: The police are rearresting them for technical violations?

MR. VEIT: Well, the police and ourselves. As I indicated, we arrest some 7,000, and the rest of the law enforcement agencies in this state arrested some 23,000.

CHAIRMAN STIRLING: Okay, so the ones that are arrested for crimes of personal violence is how many of the 32,000?

MR. VEIT: I have the rate only because I go by rate. From 23% down to 15%.

CHAIRMAN STIRLING: Fifteen percent. So it's 15% of 32,000, folks, and so the difference between 15% and the 30,000 number are technical violations of the parole?

MR. VEIT: No, there are other people who are arrested for other crimes. Other felonies and misdemeanors. I think the important point that I was trying to make is that crimes against persons, or crimes of personal violence, the rate is down and it's our strong belief that reflects early intervention by agents to pull them out of the community for lesser offenses, get them back inside before they commit those more serious felonies.

CHAIRMAN STIRLING: Or Mr. Veit, with all due respect, it could be that your caseload is so large that your officers are not catching them and they're simply going unreported and unarrested.

ASSEMBLYMAN ZELTNER: Mr. Veit, that statement by the chairman brings up my question and that is, how many people do you have on parole in the state now?

MR. VEIT: 36,000.

ASSEMBLYMAN ZELTNER: That's counting those coming and going and....

MR. VEIT: That's a little static.

ASSEMBLYMAN ZELTNER: You have 700 parole agents that divide that 36,000 as their responsibility?

MR. VEIT: Yes. Our caseload...you had asked an earlier question, Assemblyman Zeltner, on caseload size. We're budgeted at 52 to 1. However, we work on a workload concept, not unlike law enforcement. We have, probably, more work than we can accomplish also. So what we do is we do a risk and needs assessment on every individual that's coming out on parole. And if that person's risk is a 7.5 or above, and the top of the score is 10, we assign him to what we call a high control caseload. That agent may be supervising only 15 or 20 people. At the other end of spectrum we have people which are assigned to what we call minimum supervision caseloads. That may be 100 to 1, and those are the cases in which we've said, "Okay, there's less risk to the community and therefore we're going to take the resources that would normally go evenly if you spread them that way and assign it to the high control cases. We think that's the way to do the job, focus on those folks that are out there on parole that are the most dangerous to the community.

ASSEMBLYMAN ZELTNER: Am I correct in saying that your priority is established on the basis of a constant need to differentiate between classifications of parolees and at the same time your caseload is obviously limited by the amount of money you have to hire parole agents, so when you say fifteen, that's not an ideal caseload for the people handling that type of parolee, is it?

MR. VEIT: Not necessarily, though we feel that if you have a 15 to 1 caseload, one agent for 15 high control cases, that they can provide pretty good supervision with that kind of a ratio. And we've had experience over time with that particular model and it works.

ASSEMBLYMAN ZELTNER: Thank you.

ASSEMBLYMAN AREIAS: Yes, Mr. Veit, can you tell me how the need to manage the prison population and the effect good time provision in the law has had on...what effect has it had on the recidivism rate in your mind, from your experience?

MR. VEIT: I don't believe that the good time law as far as parole violators has had any effect on the recidivism rate. The recidivism rate, at the end of two years, and I believe Chairman Stirling asked the question, runs around 57%...and that's at the end of two years. About 33.7% of that are what we call the technical violators, and the rest are new commitments. I don't think that people that are on parole look at the good time, work time laws when they violate parole or commit a new crime. I think they have another agenda.

ASSEMBLYMAN AREIAS: I think maybe you're missing the point of my question. What I'm saying is if, at time of pronouncement, a person is given a certain sentence -- hypothetically let's say fifteen years -- and as a result of pretrial incarceration -- say a year -- that person is out in six years...back out on the street...parole. Is that having an adverse effect on the recidivism rate? That's my question.

MR. VEIT: Not so far as I know. I have no knowledge if it does.

ASSEMBLYMAN AREIAS: How long have you been with the department?

MR. VEIT: I've been with the Department for 27 years.

ASSEMBLYMAN AREIAS: And it's your feeling that it does not have an adverse effect, then, that if those people were to...if certain types of violators were to complete their full term without good time, that it would not adversely affect the recidivism rate?

MR. VEIT: Not in my opinion.

CHAIRMAN STIRLING: Mr. Areias, Mr. Longshore was next, then Mr. Campbell. Were you on that point, Mr. Campbell?

ASSEMBLYMAN CAMPBELL: I was just going to point out that good time was to make people behave in prison, not once they're out. That's a whole different reason for it, a different rationale.

CHAIRMAN STIRLING: I wish it had a different name besides good time. Mr. Longshore?

ASSEMBLYMAN LONGSHORE: To clarify a point, you said the technical arrests for parole violation, would that not be the 7,000 that your parole agents actually pick up? Or would it be also a part of the 23,000 that the police departments all pick up?

MR. VEIT: Our agents perform arrests of all types of offenders. If it's a more serious crime oftentimes we call in the police and they either make the arrest or we go with them, certainly. I don't know that you could specify the types of arrests that agents make, though I will say this: they do take off the street a large number of parole violators who have misused or abused drugs. That's one of primary focuses we have. We do over 300,000 urinalysis tests each year, and oftentimes, parolees are called into the office. If they're found to have had a positive test they are immediately placed in custody and then we go forward from there, so many of those arrests are like that.

ASSEMBLYMAN AREIAS: The difference here, then, being that the 23,000 would normally be new offenses?

MR. VEIT: Yes, they would probably be...they would certainly be crimes. They might be misdemeanors, they might be felonies. Some of the violations that I categorized were also crimes. Oftentimes, a person will serve a local sentence for a misdemeanor and also be given a revocation of sentence by the Board of Prison Terms.

CHAIRMAN STIRLING: Mr. Campbell?

ASSEMBLYMAN CAMPBELL: Probably a question you can't answer. You can give me an educated guess. You've been there 27 years. If a person had a job, was gainfully employed once they left prison, could you give me a guesstimate as to what percentage of those, reduce it by 50, you say 57% of return, would

that be reduced by half if the person had a job that paid a decent income once they got out of prison so they could maintain their home, buy food, a place to stay, etc? Could you give me an estimate, a guess? That may be a part of the problem of returning, you can't live on working in a service station or washing cars, or whatever the case might be.

MR. VEIT: It is, and will be, strictly an estimate. I would guess that if you could place each parolee, at the time of their parole, and it's just a job that pays a wage and will support them, food and clothing, shelter, what we might be able to reduce it by at least 25% to 35%. I think that is a problem.

Some of the things that have happened over time, of course, is that we're still releasing people today with the same $200 we were giving them five or six years ago. It doesn't give them the same start. It gives them hardly any start at all, to be honest with you.

Economic times are tough in some areas of the state, even though the statewide picture looks bright, so the people who return to some of the areas in the state suffer accordingly when they go out to look for work, and of course one of our policies, as indicated, I think, earlier in testimony is that people do have that record staring them in the face, and one of the things that we are obligated by policy to tell employers, if it presents a risk to their property or their person, is that the person is on parole. We give the parolee an opportunity to do that first, but if they choose not to do it, we're not going to let a drug abuser, for instance, work in a hospital lab without the owner of that lab knowing it.

Other things like that...and I think that has to be done for the overall protection of the community.

CHAIRMAN STIRLING: Thank you very much. Mr. Leslie and then Mr. Areias.

ASSEMBLYMAN LESLIE: I just want to go back and clarify a number. Some 32,000 are released. What period of time was that?

MR. VEIT: Well, 32,000 released, 30,000 rearrested, but I'm just...this is for the calendar 1986, and I was talking about felons. There were 32,265 released from January 1, 1986 through December 31, 1986. We calculate that to be about 87 a day.

ASSEMBLYMAN LESLIE: Sir, there are now 36,000 now on parole?

MR. VEIT: Yes, but that includes felons and non-felons both. We had a small non-felon population, civil addicts, which are in addition to our felon population. Our felon population right now is about 34,000. The civil addict population is running about 1,500, if I remember correctly.

ASSEMBLYMAN LESLIE: Sir, I don't understand something. It sounds like people are on parole then, for the most part.

MR. VEIT: About 36% of them get discharged at the end of one year. The last time I checked the figure that's about right. The others go on and

serve an additional year or perhaps even an additional two years. Most people who are on parole today are on what we call a three-year parole. At the end of one year, we review the case. If the person has behaved himself and doesn't pose an unusual threat to community safety because of the notoriousness or the seriousness of the original commitment offense, we allow them to discharge. If we feel they should be continued on parole, a report is made to the Board of Prison Terms, and they make the decision as to whether that person should be retained on parole.

ASSEMBLYMAN LESLIE: I wonder if...is there any research done on...well, you say recidivism is a two-year period, but from the numbers it appears that most people are off of parole after about a year. I wonder, on the rearrest of those people that fall into the recidivism category, how many of those are rearrested during the first year, when they're still on parole, and how many are released...

MR. VEIT: Well, I don't have those figures with me, Assemblyman Leslie, but I can tell you that the failure rate is highest in the early period of parole. In other words, the first six months, and then the second six months, and it tends to decline as the person is on parole longer and longer, is out in the community longer and longer. That's because generally they've had some success. Not always, of course, because as I indicated....

ASSEMBLYMAN LESLIE: Not very many of them have success, though. Just 2,000 of them.

MR. VEIT: Right.

CHAIRMAN STIRLING: Okay, Mr. Areias.

ASSEMBLYMAN LESLIE: That answered my question. It would be fair to characterize this as a revolving door, as I've heard it described in the movies, at least. I mean, they're just coming out, they're going back in, they're on parole for a year, and it's just a circling door.

MR. VEIT: Well, as I indicated, there are a considerable portion of them that do discharge successfully at the end of the first year, so for those people at least, they did complete a year on parole, they didn't commit a new crime or a parole violation and they are being discharged. Now, it's true, we don't do a lot of follow-up on those cases, so I can't tell you what happens at the end of five years, so some of them may be back by that time. All I'm saying is that some of them at least have had the capacity of doing that year on parole and then getting off and going forward.

CHAIRMAN STIRLING: Thank you, Mr. Areias.

ASSEMBLYMAN AREIAS: Yes, Mr. Veit, backing up to the application of good time again, can you tell me, in the law, what types of behavior and involvement are required for an inmate to obtain credit for good time or good behavior?

They have to be involved in a work program, is that correct?

MR. VEIT: They have to be involved in a work program if one is available, or be available for it. And they have to behave themselves, remain disciplinary free, basically.

ASSEMBLYMAN AREIAS: Work or an education program?

MR. VEIT: Right. Work or education.

ASSEMBLYMAN AREIAS: Now, a number of years ago, I was at Soledad, in my district, and at that particular time I think there was an inmate population of roughly 6,000, and the designed capacity of that facility is about 2,700. And if my memory serves me correctly, there were 1,000 different inmates that had signed up for education programs but they had no education, they had no capacity in the program for it, and another 500 wanted some type of meaningful work but there was no meaningful work for them. Would those people, having demonstrated a will to involve themselves in an education program or a work program, qualify for good time even though there was no...?

MR. VEIT: They still get credit, some credit.

ASSEMBLYMAN AREIAS: What does some credit mean?

MR. VEIT: I believe that they get a reduced amount of credit if they're available, versus the fact that if they are working or engaged in a program full-time....

CHAIRMAN STIRLING: I don't think so, Mr. Areias. Corrections can correct me on this, but one of the requirements, when we put that bill out from the liberal aspect of our Legislature, was, well it's not fair. If you don't give them any jobs, then they can't get out. So they demanded that, if the prisoners were ready, willing, and able to work, they got full credit.

ASSEMBLYMAN AREIAS: Whether there was a job available or not?

MR. VEIT: I'll stand corrected on that.

CHAIRMAN STIRLING: I'm not the expert on that. We'll get it from Corrections. Go ahead, sir.

ASSEMBLYMAN AREIAS: What is the situation now, in the system, you've got roughly, what, 64,000 inmates in the system?

MR. VEIT: Yes, that's correct.

ASSEMBLYMAN AREIAS: How many inmates system-wide have signed up for either education or work detail and there's no work or education facilities or staff to teach those inmates?

MR. VEIT: I can't comment on it because I don't have that data.

ASSEMBLYMAN AREIAS: Can someone from the department answer that question?

CHAIRMAN STIRLING: Mr. Kenady, why don't you just rest up here with us. We'd be glad to have you. Here's a chair.

MR. KENADY: I heard part of the question, Mr. Areias.

ASSEMBLYMAN AREIAS: My question is, system-wide, of the 64,000 inmates, how many have signed up for either work programs or educational programs and are not engaged in either activity, for whatever reason?

MR. KENADY: Okay, on education, I don't think there is a waiting list. On jobs, because of various limitations on job creation and industry and labor limitations, we have a waiting list of about 4,000 on any one day.

ASSEMBLYMAN AREIAS: A waiting list of 4,000?

MR. KENADY: Right.

ASSEMBLYMAN AREIAS: And how many inmates, system-wide, are involved in one type of educational program or another, of the 66,000 inmates?

MR. KENADY: Education I can't give you, but a total figure, I think, about 85% are programmed either through job, vocational, or education programs.

ASSEMBLYMAN AREIAS: And receiving credit for good time as a result of that?

MR. KENADY: Yes, well, it is called work time, inmate work training program. Good time doesn't apply, except to a very few who are vested under the old law.

ASSEMBLYMAN AREIAS: I see.

MR. KENADY: So the critical area is job creation, expansion of prison industry, support jobs to match our population.

CHAIRMAN STIRLING: Okay, Mr. Veit, where this 27 years was corrected, is you get one-third if you're ready, willing, and able but there's no program available. I did not remember that was the deal that was cut eventually.

Okay, Mr. Veit, under parole conditions can you assign your parolees to take alcoholic rehabilitation programs or drug rehabilitation programs. Are those programs...do you do that, and are those programs available?

MR. VEIT: Yes, the programs are available and oftentimes that is a condition of parole, that they do attend one or both of those programs. Now, we have some in-house programs ourselves. We run TREXON programs in several of our areas of the state. We also run ANTABUSE programs, which are for the alcoholics. In addition to that, we do use community programs wherever they are available and assign the parolees to go to those programs.

CHAIRMAN STIRLING: Are parolees on welfare when they come out?

MR. VEIT: They can be. They often are.

CHAIRMAN STIRLING: Is Medi-Cal available to them?

MR. VEIT: Yes, it can be.

CHAIRMAN STIRLING: Then, can you tell them as a condition of parole, then, to take advantage of the Medi-Cal alcoholic rehabilitation, alcoholic treatment programs and all that?

MR. VEIT: Yes, we could.

CHAIRMAN STIRLING: Thank you. Mr. Veit, one more question being asked by a secret source. Is Mr. Singleton under guard 24 hours a day by parole officers?

MR. VEIT: He is currently under supervision 24 hours a day by parole officers.

CHAIRMAN STIRLING: And if that is true, were local police necessary to protect him?

MR. VEIT: Yes, there are two aspects to the supervision. One is the parole supervision, which we are responsible for. The other aspect in that case is the public safety, or keeping the peace kind of role, and that's the responsibility of the law enforcement agency in the area.

CHAIRMAN STIRLING: Just a comment on that, ladies and gentlemen. If Mr. Singleton were sentenced today, on the high side he would have earned 73 years in the state prison, and even with 100% off for good time, it would have been 35 years in a state prison and he would have been an old, old gentleman before he was allowed out, so this Legislature, the men and women that you've been dealing with for the last several years, have seen fit to lengthen those particular sentences.

Yes, Mr. McCorquodale?

SENATOR McCORQUODALE: When a person goes out on parole, are there certain conditions that are mandatory? Is there a base that we would expect everybody that's on parole to follow , regardless of what they're on parole for?

MR. VEIT: Yes.

SENATOR McCORQUODALE: What are those?

MR. VEIT: Well, they're to keep their agent informed as to their whereabouts. That includes residence and also employment and their efforts to seek employment. They're subject to search by a parole agent or by any law enforcement officer, and that includes their person, their residence, their vehicles if they have any. They're subject to advising their agent if they leave their county of residence for any protracted period of time. Those are the standard conditions and in addition to that, if the person has had a problem with alcohol, there may be a condition that he will be required to totally abstain from the use of alcohol. If they've had a problem with drugs, they'll be required to participate in antinarcotics testing, and that's a

fairly common condition. If they've had a mental health problem or some kind of a psychosis, they will be required to attend a parole outpatient clinic, and we have about 5,000 parolees that do attend outpatient clinics, and those are the more typical ones, Senator.

SENATOR McCORQUODALE: If that parole officer has fifty cases that he's carrying, how many times a month would he come into contact with each one of those?

MR. VEIT: Well, the controlled service case, and that's what you're talking about, is the average, he would probably come into contact about twice a month with that person on a face-to-face contact.

SENATOR McCORQUODALE: In his office or at the other person's?

MR. VEIT: That would be at a field location.

CHAIRMAN STIRLING: Thank you. Mr. Longshore?

ASSEMBLYMAN LONGSHORE: Some of these folks have had drug problems outside. Do they have any drug problems on the inside?

MR. VEIT: I really am not an expert on the institution program.

ASSEMBLYMAN LONGSHORE: Well, is that part of the conditions, that they be absolutely drug-free prior to release?

MR. VEIT: No, I don't believe it is.

ASSEMBLYMAN LONGSHORE: Thank you.

CHAIRMAN STIRLING: Alright, thank you, Mr. Longshore. Any more questions for these gentlemen? Alright, thank you very much, sir, for...yes?

ASSEMBLYMAN LESLIE: I believe I do. Maybe, Mr. Stirling, you could advise me if another witness will be coming up later that would be better to answer this, but could you discuss for a minute the recent M-2 program study that was done and the Department's reactions to that? Are you the right person to ask about that?

MR. VEIT: Probably an institution person could better address it, Assemblyman Leslie, however I will say this: M-2, from a parole perspective, is a valuable program. They do provide assistance with parole programming in the community and we certainly feel they are a benefit to people on parole.

ASSEMBLYMAN LESLIE: Can I ask my colleagues, is everyone pretty generally familiar with what the M-2 program is?

The M-2 program is a matching program where people from the outside of the prison will make a commitment to go in and visit with prisoners during the course of their incarceration, giving them some contact with the real world on the outside. Maybe Assemblyman Vasconcellos would call it an opportunity to increase their self-esteem, I don't know. But the results have been very remarkable and there's just been a study released within the last month by the

Department of Corrections which discusses the M-2 program. There's two paragraphs that I'd like to read. I think that they would impress you.

"The M-2 program participation significantly increases parole success among male inmates. At six months..." and the witness had indicated this was the most likely period when they are going to fail; "...at six months, 77.4% of the M-2 inmates who had received 12 or more visits had successful parole records, compared to 46.3% of the eligible inmates who received no visits. At twelve months the comparison is 63.7% versus 35.8%. At 24 months it's 58.9% versus 31.3%." So it's clear from this study that those people that had received the visits from the outside had substantially higher successes in parole. The second paragraph I wanted to read is this:

"For males, M-2 participation decreases the most serious parole failures, as well as the less serious. At 24 months, 55.3% of the no-visit inmates had returned to prison through parole revocation or new court commitments. By comparison, the rate of return to prison for inmates with 12 or more visits was 39.1%."

The reason I mention this is that there is a request in the budget, which will be before the Ways and Means Committee, at the present time to provide an augmentation to the state budget of $176,000 for M-2 so that it can be provided for two additional facilities, and I'm sorry I can't decode the initials but it's CIW and CRC...

MR. VEIT: California Institution for Women and California Rehabilitation Center at (inaudible)....

ASSEMBLYMAN LESLIE: For women?

MR. VEIT: No, it's for both men and women.

CHAIRMAN STIRLING: Okay. In any event, it sounds as though the M-2 program is a program that is providing something to prisoners that they're not able to get through all of the various other programs like work and education and so forth. This is giving them something inside that is making a significant difference. I'm wondering if you know if the Administration is supportive of this augmentation of the budget, based upon the Department's own report?

MR. VEIT: I don't, but Mr. Kenady may.

MR. KENADY: I don't believe we have a position on it. It came up last Thursday, before Senate Sub 2. I do not believe we have a position on it at this time.

CHAIRMAN STIRLING: One more question, Mr. Veit, and then I'll go to Mr. Zeltner here. Once again, a secret request. Are you at liberty to tell us where the Singleton case is right now and what you intend to do about it?

MR. VEIT: Well, he continues to be on parole in Contra Costa County, and that's where the program is going to continue.

CHAIRMAN STIRLING: Then you're not at liberty to say anything else about it? Alright, thank you sir. Mr. Zeltner for a question, then we'll excuse these gentlemen.

ASSEMBLYMAN ZELTNER: Yes, perhaps Mr. Kenady would be the best one to answer, as it relates to the M-2 program. Was that administered to the whole spectrum of classifications of inmates or was that limited in scope?

MR. KENADY: I cannot answer that specifically, Mr. Zeltner. I think as a practical matter, some of the more violent crimes it's difficult to make the match, but I do know of cases where there was a violent crime where there has been an M-2 match, but generally it's more difficult to find someone in the community who will work with a violent offender.

ASSEMBLYMAN ZELTNER: Alright. Thank you, sir.

MR. VEIT: Chairman Stirling?

CHAIRMAN STIRLING: Who spoke? Oh, you're going to stay with us, Mr. Veit.

MR. VEIT: Oh, all right.

CHAIRMAN STIRLING: So, if I could excuse Mr. Koenig. Thank you so much, sir. Did you have anything in addition to Mr. Koenig's testimony?

MR. PAUL FOSTER: Most of what I was prepared to speak about Mr. Veit has covered. I just want to reiterate that the Board of Prison Terms has four areas of responsibility. Just to clarify this.

CHAIRMAN STIRLING: Not at length.

MR. FOSTER: No. We're responsible for paroling lifers, we have the authority and responsibility to revoke paroles of old parolees, we have the authority and responsibility to place the conditions of parole and length of parole and then the MT, MBO functions. Those are our four areas that we cover. So most of what you've discussed so far this afternoon basically falls under Corrections and the Parol Division, but that's the scope of our authority, which has been lessened since the (inaudible).

CHAIRMAN STIRLING: Thank you, Mr. Foster. A large number of Californians are used to the old parole system of indeterminate sentencing, and so when the criticism comes up that so and so got out, the first thing they do is ask me, "Who in the hell appointed the Parole Board and what am I going to do about getting rid of those guys?" It's a little hard to explain that we have this unique system in California. Thank you so much.

Mr. Veit, you're in the next section, but could I turn to Mr. Dorsey Nunn now and let him testify. Mr. Nunn, as a paralegal with the Prison Law Office...he has told me never to use the initials by themselves. Mr. Nunn, could you tell us a little about yourself and your qualifications to testify, and you need to pull the microphone up a little closer.

MR. DORSEY NUNN: First of all, I've been working at the Prison Law Office for approximately five years. Prior to working at the Prison Law Office, I served three years parole. In addition to three years parole, I served essentially ten years of prison time. I was convicted of first-degree murder under the murder-felony rule. Under the Department of Corrections, I went from the sixth grade through two years of college, and an additional two years of college for my parole.

CHAIRMAN STIRLING: Just pull that microphone a little close.

MR. NUNN: In addition to listening to what a lot of the department officials that you've invited said, it seemed like you're being terribly misled.

The service, as I know them, since I do have a lot of friends still remaining within the Department of Corrections, the assistance that they get when they're paroled is very limited. The ninety-day to six-month period that they have a prerelease program is a joke. I think it endangers my friends as well as society at large.

When I was paroled, I was walked to the gate, given $200. I didn't know how I was going to get home, I didn't know where I was going to go initially. When I showed up to the Parole Division....

CHAIRMAN STIRLING: What year was that?

MR. NUNN: 1981.

CHAIRMAN STIRLING: When was the law passed that said that people had to be paroled to the county of commitment.

MR. NUNN: Approximately 1982.

One of the reasons that I selected to be paroled to Alameda County was because I was concerned I wasn't fit to get out at that point. I was having extremely violent reactions to the situations at San Quentin, to the constant confinement, the constant violence. I thought I deserved services. A number of questions which you all hit upon, what mental services are available to prisoners. With your liberty hanging in the balance, how much information are you going to reveal to a person who is possibly going to be responsible for retaining you in prison where people are being killed?

When I got out, I was on outpatient clinic status. One of the things that I did was circumvent the situation and went and found me somebody in the community that was qualified to administer the services because there was literally no trust.

The average person that was in prison with me that committed very violent offenses essentially got group therapy once a week. He'd sit there, and the person wasn't a psychiatrist or a certified psychologist. He was a mental health caseworker. And he'd sit there and he'd conduct a group therapy where everybody sat around, for the most part, remained quiet or talked about very superficial matters. There was no direction in terms of group therapy. Perhaps the mental service that I valued the most was presented to the

institution by somebody independent of the institution itself, where they had the status of confidentiality among clients, where you could go to them with a problem, you could discuss it.

The mental health services being performed by the Department of Corrections were by San Quentin staff. I doubt if any prisoners inside of San Quentin ever trusted anybody to do anything about it, because there were incidents of a person being committed to the Department of Corrections for a very violent crime, getting angry, then winding up in a security housing unit or locked up further by the Department of Corrections instead of being serviced.

CHAIRMAN STIRLING: Mr. Nunn, could I ask, the Prison Law Office....is that the name of the organization you work for, the Prison Law Office?

MR. NUNN: Yes, it is.

CHAIRMAN STIRLING: Who sponsors that?

MR. NUNN: We are privately funded.

CHAIRMAN STIRLING: Do you have a legislative package?

MR. NUNN: No, we don't.

CHAIRMAN STIRLING: And where is the office now?

MR. NUNN: The office is located right out in front of San Quentin. We've also got an office located in front of Davis-Reversi. And we've also got an office located in front of CIW.

CHAIRMAN STIRLING: So you don't sponsor legislation to try to correct some of these issues that you're raising? Your point about the security of the information is a good one.

MR. NUNN: Yeah, I think that you're beating a dead horse if you say you're going to put all these services into the institution and not know if anybody's going to go there and honestly trust the person who's there to help them.

CHAIRMAN STIRLING: So there's no state assistance for the Prison Law Office at all.

MR. NUNN: No state assistance. I think if we got any state funds it would come as a result of recouping for the cost of litigation when we sue the Department of Corrections.

CHAIRMAN STIRLING: Are you familiar with the Friends Outside organization?

MR. NUNN: I'm familiar with the Friends Outside, and, too, most progressive organizations within the state.

CHAIRMAN STIRLING: Do you think they're a good organization?

MR. NUNN: Yes, I do. Yes, I do, along with the M-2 program. When it initially started off, they started off providing services from religious organizations. I don't know how popular they are now since the Department of Corrections have supported them to a large extent. They were there to visit. They were there to give you support. They were there to listen. If you did have a problem you would have at least one person around you that was normal enough to really feed back on. As it stands now, you stick people in prison and they really don't have any place to get any feedback from unless you get it from friends and your loved ones. You don't necessarily treat somebody who's beating you at that particular point.

San Quentin has got a very serious problem. The rest of the Department of Corrections has got a very serious problem, and I think that unless Singleton, maybe it's some benefit the society can get overall. The thing that we've got going now is probably just being pissed at Singleton. But in the meantime you've got thousands and thousands of people that you're releasing with no services whatsoever. That $200 is simply not enough when you get out. In fact, at our organization, we often take people who don't know where they're going and take them home. These are the dangerous felons that you are releasing on a pretty consistent basis.

In terms of the services that were developed, given to me by the Parole Division, essentially the services that I received from the Parole Division was $10 worth of (inaudible) tickets and directions on how I could find my house in Oakland. That was the service. Every once in a while I showed up, peed in the bottle, took the test, that was it, in terms of real services.

I asked for a job when I initially got out, because I felt like if I was going to make it, I would need employment. There were no employment services there. The question, when I got out, every time that I asked for any particular service, they would tell me something about Proposition 13, which I was unaware of. They would say, we cut this and cut that, we can no longer assist you. If I hadn't had an alternative system in place, I would have failed. And I think I would have failed. It would have been costly to me, my family, and the State of California.

CHAIRMAN STIRLING: If you didn't have who in place?

MR. NUNN: An alternative system of friends, of supportive people around who were willing to give me a chance. When you ask about employment when you get out of prison, I think the thing that I focus on Singleton the most is that he is an exaggerated version, but the dislike, the resentment, and the discrimination is throughout. The average person doesn't get out of prison and go directly to work. That is not even realistic.

CHAIRMAN STIRLING: Well, Mr. Nunn, I guess it's a chicken and egg issue. It's real hard for the public to vote for more money and more programs when two-thirds of the fellows that are getting out re-victimize those very people they would like to have vote for more programs. How, in your opinion, do we break that cycle.

MR. NUNN: In my opinion, you probably got yourself in trouble in 1977 when you went to a real strong statement that the primary purpose for

incarceration is punishment. From that point, I think, instead of putting your money into books and educational programs you put it into barbed wire and bullets. More than just a vote down here, it also reflected an attitude within the Department of Corrections which is important. You set the trend on how prisoners are treated within the Department of Corrections. You set trends on what programs are available through the Department of Corrections.

I know I'm the exception at this particular point. The friends who will get out of prison behind me will not have two years of education to start off with or an opportunity to go find a job. They will not have that anymore.

You talked about educational programs. We damned near have to sue to get educational programs in the maximum security parts of your major prisons.

CHAIRMAN STIRLING: Let me ask you, Mr. Nunn. You're asserting, then, that a support infrastructure for the person coming out is important. In your opinion, do the prison gangs provide such a support infrastructure for the people who are leaving prison, then, to become prison gang members outside?

MR. NUNN: Yeah. My opinion would be that, in terms of when I initially got out, if I needed some real services, if I was willing to take the kiss of death, I could have got a lot further a lot faster with them than I could going through the Parole Division. They had a job, whether it was illegal or not. They had employment. If I needed food, they had food. You didn't have that to offer. When you say the prisoners are eligible for welfare assistance, eligible for Medi-Cal; that information you basically can't get from the Parole Division when you walk in. When I walked in, they didn't even know who I was or what I was doing there. They didn't have any idea that I had even been released.

CHAIRMAN STIRLING: That was before Mr. Veit was in charge, I'm sure. Any other testimony you'd like to give to us, sir?

MR. NUNN: I think that you need to broaden your focus a lot, and perhaps focus on how much money you're actually spending. You say the taxpayers are getting mad? I think within the last ten years, you've spent $3 billion on the question, so whether they get mad or not, you're still spending the money. You're spending it on inadequate services.

CHAIRMAN STIRLING: Alright, sir. Mr. Leslie's got a question for you, but may I just ask before you leave, would you give us a series of written recommendations for the Committee and send them to us, to Mrs. Goodman?

MR. NUNN: Sure I will.

CHAIRMAN STIRLING: Thank you. Mr. Leslie?

ASSEMBLYMAN LESLIE: I believe that you at least implied that your personal success was based upon what you called an alternative support system, which was translated into friends on the outside that apparently cared enough about you as a human being that they were willing to support you and work with you. Is that right?

MR. NUNN: That's true. My friends essentially directed me to Cal State, Hayward, directed me to the Student Loan Department, directed me to a whole bunch of alternatives that I was unaware of. As a prisoner doing a ten-year gap, I didn't even know that gas had gone up. I got out thinking that gas was thirty cents a gallon. There was nobody giving me any particular information to survive. I didn't know how to shop. I was arrested at nineteen. They took about a year and, essentially, spent a lot of time helping me over rough spots that I didn't know about.

The Department of Corrections was not there. The Board of Prison Terms was not there. The Parole Division was not there. If I had been an extremely violent person and not thinking, I would have been in trouble and somebody else would have been in trouble. I think that's the part that grieves me the most, that I'm quite sure everybody's probably pissed at Singleton, but the reality of it is that there's thousands of people being released that we're not even seeing, that have not received any psychiatric treatment, have not received just humane treatment, period. We're going to release them back into the community, and I think we're doing a lot of bad and a lot of danger to everybody.

ASSEMBLYMAN LESLIE: The question I have is, if services were there -- let's say there was someone there, because they were a civil servant, employee of whatever department, and could have told you which line to stand in here or there -- that still wouldn't make them your friend. But you're saying your personal success was a dimension that you're not going to get at a counter at a governmental agency even if the data were there. There is some personal element to your success that I think applies to others.

MR. NUNN: Even beyond the personal, if you just said, I'll put it systematically, if there were somebody there telling me where to go, it would have been a help. I'm saying that right now you can't find friends for 60,000 convicts. I don't even expect the state to even get into that. But how about a little bit of direction, a little bit of structure in the program? That, right there, is a key element, and I think that that is missing right now. I think people are being released. I think the Department of Corrections is misleading you about what programs and services we have available. You have paper programs.

ASSEMBLYMAN LESLIE: Did you have visits when you were in prison?

MR. NUNN: Sure I did. I had visits.

ASSEMBLYMAN LESLIE: Without being too specific, what was the nature of the visitors? Were they family or good friends?

MR. NUNN: They were family. They were friends.

CHAIRMAN STIRLING: Correctional officers.

MR. NUNN: Yeah, that later came to work for me. Yes, yes. There was a little bit of everybody.

ASSEMBLYMAN LESLIE: Thank you.

CHAIRMAN STIRLING: Thank you. Along that line, I just want to tell you that one day I was in Vacaville State Prison with Dan McCarthy, and I had just heard that he was going to retire. I said, "Dan, before you leave, can you tell me what works"?

He said, "Sure, I can tell you what works. What makes a difference whether the guy's going to come back here or not is if he's got somebody outside that cares." And that's from the Director of our California Correctional System.

Okay, thank you very much, Mr. Nunn. I'd appreciate your recommendations in writing.

Our next group of witnesses, under Placement and Parolees, still led by Mr. Veit, who's going to stand. We've pretty much covered most of the information. Morris Lenk, Deputy Attorney General, and Mr. Tim Armistead from Mayor Feinstein's office.

Mr. Veit, if you'd just stand by for any question that might come up. Mr. Lenk, you have the floor.

MR. MORRIS LENK: Thank you, Mr. Chairman. My name is Morris Lenk. I'm a Deputy Attorney General of the State of California, and my appearance was requested here today to discuss the civil lawsuits that have been filed against the Department by various county governments, which led to the Court of Appeals decision in McCarthy vs. Superior Court. The background on this is that on April 24 of this year, the County of Contra Costa sued the Department and named individuals, including Mr. Veit, seeking to restrain the placement of Lawrence Singleton in Contra Costa. They sought a temporary restraining order prohibiting the Department from putting him in the community. They were granted that temporary restraining order, and we sought a petition for writ of mandate out of the Appellate Court.

Approximately five days later, Mr. Singleton was removed into San Francisco on a temporary basis because he had been excluded from Contra Costa, and San Francisco also went into court and sought a temporary restraining order.

Having reviewed the two pleadings filed by Contra Costa and San Francisco, I can tell you that they were virtually identical, simply replacing Contra Costa with San Francisco, and made the same sorts of allegations of irreparable harm to the community if Mr. Singleton were placed there. The San Francisco lawsuit in the Superior Court was successful, a temporary restraining order was issued, and the next day we also brought that matter to the Appellate Court via a petition for writ of mandate.

Two days after that, on April 30, Mr. Singleton was apparently placed in San Mateo for a limited time, and San Mateo also went into court, again filing the same legal pleading, challenging the Department's placement of Mr. Singleton in that community. The San Mateo lawsuit was not as successful from the County's perspective, in that no temporary restraining order was issued, but severe restrictions were placed on the Department's ability to bring Mr. Singleton into the community.

On May 8 of this year the Court of Appeals issued its decision in McCarthy vs. Superior Court. They essentially reached three conclusions. First, that the Department had erred in not considering San Diego as the county to which Mr. Singleton should have been returned because that was the county of commitment, where he was tried on a change of venue.

CHAIRMAN STIRLING: Was the City of San Diego a coplaintiff in that suit?

MR. LENK: The City of San Diego has been sued as a defendant, or respondent, by the County of Contra Costa in litigation which is currently pending before the Contra Costa Superior Court.

CHAIRMAN STIRLING: So they're a codefendant, not a coplaintiff?

MR. LENK: Correct.

The Court of Appeals concluded that Contra Costa should be considered. It was the Department's position, through the Attorney General's office, that that was not wise public policy, that the change of venue in Contra Costa was simply...the change of venue, excuse me, to San Diego was simply happenstance and that counties would be reluctant to accept change of venue cases in the future if they knew that a defendant was likely to return to that community as a parolee.

The second aspect of the Court of Appeals decision concerned the propriety of injunctive relief, and the Court of Appeals concluded that temporary restraining orders of the sort obtained by San Francisco and Contra Costa were improper, that the Department of Corrections had the authority to place these parolees without being subject to interference by local county governments.

The third aspect of the decision concerned our change of venue motions that were made on behalf of the individually named defendants, and the Courts of Appeals concluded that either the venue should be changed to a neutral county or a neutral judge should be brought in to hear these cases. The Court of Appeals decision is now final. On May 11 San Francisco's petition for review was denied by the California Supreme Court, and on May 19 Contra Costa's was also denied.

As I said, there is still pending litigation concerning the Department's decision to place Mr. Singleton in Contra Costa County.

CHAIRMAN STIRLING: Alright. Thank you, sir. Any questions for the Attorney General? Alright, thank you very much. We appreciate your willingness to testify.

Mr. Armistead, from the Mayor's Office, City of San Francisco, city and county essentially. Mr. Armistead, these are proximity mikes. You have to pull them real close.

DR. TIMOTHY ARMISTEAD: Mr. Chairman and members of the Committee, I'm Dr. Timothy Armistead. I'm a criminologist with Mayor Feinstein in San Francisco and in that capacity, I assisted with what eventually became our

unsuccessful brief in the Singleton case. The rest of my remarks are written, because I am testifying in behalf of the Mayor, not on my own behalf.

CHAIRMAN STIRLING: With all due respect to the Mayor, how many pages of written testimony.

DR. ARMISTEAD: Very brief. Probably three minutes, and I would like to be able to read them to you because of that.

She writes that the case of released rapist Lawrence Singleton has had a lot of public attention recently, but as notorious as he and others like him are, there's a larger issue, California's Criminal Justice System and whether it's working.

Lawrence Singleton aside, are those released from California prisons succeeding in their paroles or are they out there committing new crimes and creating new problems for the public? In my opinion, the answer is obvious. Under the present DSL system, they are serving inadequate sentences and then they are turned loose with little regard for public safety and with too few programs to help assure their success in returning to society.

Of all California counties, San Francisco has the highest number of parolees per capita. We have 198 parolees per 100,000 population. Our small, densely populated city now has more than 1,500 parolees within its boundaries, most of them living in three, very closely circumscribed neighborhoods: The Tenderloin, South Market, and the Mission District. In the last few weeks, we've seen the addition of about 60 new parolees, bringing the total to close to 1,600.

Among our population of parolees are 59 registered sex offenders. Many, and perhaps most, parolees commit new crimes, as you've heard other testimony indicate today. According to academic studies, about 40% of parolees on the average are sent back to prison, not join, not probation, not re-parole, for new offenses, or parole violations within a year after their release. The Rand Study, a few years ago, indicated that within two years, 72% of their cohort of California felons was re-arrested.

We think that that's the tip of the iceberg. A recent effort by the San Francisco Police Department illustrates the difficulties that we're having and that other large urban centers are having. On March 31, before we knew anything about Lawrence Singleton, San Francisco Police and regional parole authorities jointly launched a very tightly, secretly kept program called the Parole Offender Strike Team. Its purpose was to locate and apprehend known parole violators who were believed to be residing in San Francisco but for whose apprehension the parole authorities in our region had inadequate resources. In 23 working days, 12 of our police officers on the team, assisted by 1 parole agent...I believe 1...arrested 114 parole violators. We kind of expected that. What we didn't expect is that during that same period, another 50 or so parole offenders would be arrested by the same strike team for other crimes, offenders we hadn't even targeted. Our officers almost literally stumbled across them committing new crimes, sometimes in concert with the parole offenders that we had targeted.

The figures are interesting. What's striking to me is what we found among these offenders who, under normal surveillance by us and by the parole authorities would, in all likelihood, not have been apprehended. One offender that we apprehended was being hunted by the Los Angeles Police Department for three homicides. He was found and arrested in our Tenderloin district and is now facing trial in L.A. for those killings. Another was a suspect in 10 bank robberies. Another parolee was caught carrying four packages of hand-rolled cigarettes dipped in a narcotic and with two robbery notes all ready to go.

Trying to pick up a parole violator who had been targeted in an Ingleside District residence, our police officer saw four or five people jump out of a back window of that residence and another one crash through the front window. They arrested the parolee and his brother, who had not been targeted, and found $10,000 worth of stolen camera equipment which had been taken in an earlier $50,000 burglary in Burlingame. The strike team reports that, of the 160 some parolees arrested, 137 had prior narcotics records, either using or selling. About 15% were caught with weapons on them. With these 164 parolees off the streets due to our unusual measures, in the space of one month the City has seen a down trend in those areas in homicide, robbery, and burglary. We can't say for sure that the arrest of these parolees was responsible, but we believe it was because it was quite a nose-dive.

These figures exemplify the by now common finding that a minority of California's offenders account for a majority of arrests and convictions for serious crimes against persons. The issue before us, in the Mayor's opinion, is that there must be developed a better state and local partnership for dealing with serious offenders. The specter of a state official knocking on the door of a small town police chief to announce the dumping of a heinous criminal on parole must not be repeated. We urgently need the following reforms:

1) Laws that give state authorities more discretion to treat and retain offenders whose crimes are associated with mental illness, character and personality disorders which are not now included in the statutes, and substance abuse. Let's not forget that Larry Singleton was well known for antisocial behavior while he was drinking. Should we really have to hope that he always will take his Antabuse?

2. Laws that require joint state and county decisionmaking in parole release. We need to coordinate our efforts at programming and surveilling parolees. There should be no more pretense that an already overburdened state parole authority can supervise and surveil parolees without significant local assistance and consultation.

3. Lastly, laws that make career criminals pay a heavier price for their lifestyles. In this regard, we should carefully consider a revision of D.S.L. to incorporate public protection as a purpose of imprisonment.

Thank you very much.

CHAIRMAN STIRLING: Thank you, Dr. Armistead. In that regard, I have to tell you I congratulate the Mayor and the City and County of San Francisco; however, I have to tell you, in all the years I've sat on this committee, I have never heard any testimony from your city to support any of the strengthening of sentencing or any of the efforts on prison industries or anything else, so I welcome this kind of attitude, and I would hope that that would be expressed here in the policy committee more often.

Okay, thank you, gentlemen, for testifying.

SENATOR McCORQUODALE: And I would feel a lot safer acting on that from San Francisco if the Board of Supervisors would approve such a policy position. I have a feeling that the Board of Supervisors might, absent the fear of Singleton, three weeks from now....

DR. ARMISTEAD: The Mayor has every intention of putting together a legislative packet which would....

CHAIRMAN STIRLING: You should pass on to her that we would welcome it. Thank you, sir. Thank you, gentlemen.

Mr. Longshore?

ASSEMBLYMAN LONGSHORE: Before you go, I would like to ask a question of the gentleman who's been here so long. The implication here is that drug abuse is prevalent in this group of people. In effect, what he's saying, he said there should be stronger case for counselling prior to release for prior addiction. That would imply that we have a problem of controlling drugs within our institutions. Do you have any knowledge of that?

MR. VEIT: No, sir, I don't.

ASSEMBLYMAN LONGSHORE: Is there anybody here who can answer that question?

CHAIRMAN STIRLING: We'll get somebody up here. Mr. Kenady?

MR. KENADY: Yes, Mr. Longshore, we do have a problem with...in the institution, we do have contact visits and that is an avenue for the introduction of contraband, including drugs. We have various strategies to deal with that. One of the strategies is that on visitation days, we have random searches to try to reduce the flow. Once a person has been found in possession of controlled substances in the prison system, he's either subject to criminal prosecution on the outside or subject to loss of accumulated work time credits for this conduct, but it is a problem that we are always working on. But just as in society, we have this controlled substance coming in.

ASSEMBLYMAN LONGSHORE: One more question, if I may. I also understand that there's no condition of parole which requires a man to be drug-free. Is that correct.

MR. KENNEDY: No, that's not.

CHAIRMAN STIRLING: Mr. Veit can speak to that issue.

ASSEMBLYMAN LONGSHORE: That was the implication that we got here.

MR. VEIT: No, I'm sorry if I led you that way. It was wrong. What I said was that I know of no condition that a person in an institution be drug-free at the time of release. I thought that's what you had asked me.

ASSEMBLYMAN LONGSHORE: That was my question.

MR. VEIT: Okay. We require, when a person is on parole, he is to be kept drug-free. If we find that he is using, his parole will be violated and he'll be returned to prison.

You have to go to the situation on (inaudible) where you have a term that's set by the Legislature, and a net term that's reduced by credits as authorized by the Legislature. So, the discretion to release him or not release him, I don't think, would allow for the condition. Now, once he's on parole, we have the authority under current law to require certain conditions, so the answer is "no" as to getting out, but as a condition to remaining on parole we can enforce that. But the way the law is now he is going to go out.

ASSEMBLYMAN LONGSHORE: Drug free or not.

MR. VEIT: Right.

CHAIRMAN STIRLING: Alright, thank you, gentlemen, very much. Mr. Armistead, you might be interested in the Presley Institute, which is getting under way, which is designed to try to get at some of this stuff.

Alright, next, under the Mentally Disordered....

UNIDENTIFIED SPEAKER: Mr. Chairman, I'm sorry....

CHAIRMAN STIRLING: I'd like to move along on the agenda if I could. Alright, Mentally Disordered Offender, we got a floor session of four: Richard Mandella, Ruth Melrose, and Dr. Steven Shon.

Alright, Mr. Mandella. Mr. Mandella, I have a bill pending before the Ways and Means Committee at this very minute that requires all the incoming felons to get mental health evaluations and the Administration is not supporting that measure and I'm sure interested in knowing why.

MR. RICHARD MANDELLA: Let me first say that I'm Rick Mandella, with the Department of Mental Health, and I appreciate the interest of yourself, Chairman Stirling, and the members of the committee in the interrelationship between the Mental Health and Criminal Justice systems. Those constitute the two mechanisms that our society has for social control and the mentally disordered offender mechanism is one of the vehicles that connects those two.

In terms of the mental health connection with the Department of Corrections, you asked about your bill in particular. That bill constitutes a requirement that the Department of Mental Health provide evaluation and treatment of mentally ill prison inmates and through reimbursement with the Department of Corrections. My understanding is the Administration is not in support of that bill in light of significant cost factors involved in providing treatment for that population.

CHAIRMAN STIRLING: May I ask what the cost was if we let them out nuts?

MR. MANDELLA: I'm sure that there's significant factor of potential for....

CHAIRMAN STIRLING: It appears to me the Administration hasn't bothered to find out what the actual costs of not doing it is, and I'm frankly shocked that they haven't.

Alright, go ahead sir.

MR. MANDELLA: In terms of the evaluation of mentally ill individuals, the evaluation process which the Department of Mental Health engages in for mentally disordered offenders consists of one in which those prison inmates who have been identified by the Department of Corrections and referred as potential MDO's are then evaluated. That evaluation consists of a review of the individual's records within the Department of Corrections, including the arrest report and probation report, as well as a review of the court transcript for pleading and sentencing to determine if the crime involved has some connection with the mental disorder.

Also, any of the Department of Corrections reports for various violations will also be reviewed, and in that context, then, an overall impression is developed from the records maintained by the Department of Corrections. In addition, there's a review of information coming from the clinical staff and custody staff of the Department of Corrections and also the individual, obviously, himself or herself, is interviewed to accomplish a mental status examination in which there's a review of the person's emotional structure and thinking process, of their ability to concentrate, that type of thing, to determine the presence of a severe mental disorder.

Those evaluations, though, as I mentioned, only occur if the person is either referred from the Department of Corrections or if the individual is already placed in a state hospital pursuant to Penal Code Section 2684. Every individual in that context that reaches the end of a determinate term is evaluated to determine if he or she meets the criteria under MDO.

CHAIRMAN STIRLING: I'm confused, then. First of all, the Department of Corrections at any time can refer to you a felon and say, "Look him over and decide if he's nuts," and then take him?

MR. MANDELLA: There's...under MDO, or you're interested in the Mentally Disordered Offender, correct?

CHAIRMAN STIRLING: No, just generally.

MR. MANDELLA: For those that are mentally ill, they can be transferred under existing law, Criminal Code Section 2684, for treatment in a state hospital.

CHAIRMAN STIRLING: They can only stay there as long as they would have stayed in prison.

treatment for that population.

MR. MANDELLA: That's correct.

CHAIRMAN STIRLING: Whether they're well or not, you send them back to Corrections and they kick them loose?

MR. MANDELLA: No, if they're already in a state hospital under CC 2684, and they reach the end of their determinate term, all of those individuals are evaluated by the Department of Mental Health to determine if they meet commitment criteria under the Mentally Disordered Offender placement process.

CHAIRMAN STIRLING: Are you a psychiatrist?

MR. MANDELLA: No.

CHAIRMAN STIRLING: Okay. Under the McCorquodale legislation, how many of the McCorquodale referees have they given you? How many people under Mr. McCorquodale's legislation.... By the way, ladies and gentleman, I admire the Senator for his effort in this regard. The law, as he initially proposed it and as he fought for it, was much broader and much more protective, but he had to take substantial reductions in the scope of it to get it into law, but if it hadn't been for his leadership and his courage, we'd be a lot worse off today, and I thank you for that, Senator. Under the Senator's legislation, how many people have Corrections sent to you for...?

MR. MANDELLA: There are currently placed under the MDO mechanism, 46. Forty-four of those are at Atascadero State Hospital, two at...

CHAIRMAN STIRLING: And they will stay with us until they are cured, or do they go out when their term is up?

MR. MANDELLA: Under the MDO mechanism, it actually consists of two phases which constitutes the authority to retain the individual for treatment. Under the first phase, the parole authority is used and the Board of Prison Terms placed the individual in the mental health system for treatment as a condition of parole. At the conclusion of parole, it's possible to continue the person in treatment if the local prosecutor goes to the local Superior Court. A court hearing is held, and if the court determines that the individual continues to meet the criteria under MDO, then the individual can be renewed for treatment. And that process can be continued and, in effect, the person could stay in the hospital system indefinitely.

CHAIRMAN STIRLING: So that's in effect a civil commitment?

MR. MANDELLA: Yes.

CHAIRMAN STIRLING: Alright. And how many people do you have that are beyond their prison term?

MR. MANDELLA: Since we're so early on in the mechanism, no one's beyond the parole period.

CHAIRMAN STIRLING: Alright, thank you. Did you have a question, Senator?

SENATOR McCORQUODALE: I was just going to say that even though the numbers at this point seem small when you compare that with the total population and if you use the same ratio, you're looking at, of that 67,000 people that are in prison now, almost 9,000 of them will ultimately end up in this program for some length of time, considering that 300 have been referred and around 40 have, through the screening process, got transferred to the state mental hospital. Ultimately the potential of this number is that you're taking out 8,000 to 9,000 people that would be mentally ill and might go back out to do violent crimes.

CHAIRMAN STIRLING: Alright, that's an incredible tribute to you, Senator, and to your leadership. Is it true that you're still closing down state mental health hospitals?

MR. MANDELLA: No.

CHAIRMAN STIRLING: You're not closing them down?

MR. MANDELLA: No.

CHAIRMAN STIRLING: Are you going to have the capacity of taking care of all Mr. McCorquodale's children coming out of here?

MR. MANDELLA: We're in the process of planning for development of state hospital resources to accommodate the needs of mentally disordered offenders.

CHAIRMAN STIRLING: Are we developing the professionals and the technology to handle these misfits?

MR. MANDELLA: The criteria themselves, as they exist now, relative to the individuals having a severe mental disorder, are intended to insure that existing mental health treatment techniques are capable of effectively dealing with this particular population.

In addition, we also developed a training program for both state hospital programs and community program staff who will eventually receive these individuals in terms of their transition to the community.

CHAIRMAN STIRLING: Is there any university that is researching the skills necessary for you to treat these misfits?

MR. MANDELLA: I'm not aware of specific research programs with this particular population.

CHAIRMAN STIRLING: Are you carrying out major research in that regard?

MR. MANDELLA: There's a research program to determine the effectiveness of existing mental health treatment techniques to treat those individuals who are sex offenders and who do not have a severe mental disorder, and that program was established....

CHAIRMAN STIRLING: So that's just sex offenders. So the broader array of people that mangle and murder and all that sort of stuff is not being studied by anybody.

MR. MANDELLA: Perhaps the universities are. I'm not aware of them.

CHAIRMAN STIRLING: It seems to me that it would be appropriate for you guys to put a request in to the University of California to get to work on something like that. That would be a major contribution to the future of the world instead of some of the nonsense...I'm sorry...some of the other projects they work on.

MR. MANDELLA: Okay. We are involved in an evaluation project of the treatment effectiveness of patients who are committed through various mechanisms who are involved in the criminal justice system, including the mentally disordered offenders, not guilty by reason of insanity, incompetent to stand trial, and the remnant of the mentally disordered sex offender population.

CHAIRMAN STIRLING: You heard Mr. Leslie's question today about what works. That's what the people of California are asking for. They know that kissing them and setting them free and patting them doesn't work. They also know that stacking them in there like cord wood doesn't work. They want to know what works, and they're willing to pay the time and the money to use what works because, after all, they want to be protected. So it seems a shame that we don't know, that we either don't have the evaluation programs in place or we don't know what the results are.

MR. MANDELLA: Well, as I said, we are developing an evaluation program for a series of individuals who are mentally ill and involved in the criminal justice system to determine the effectiveness of mental health treatment in preventing subsequent criminal activity. In terms of preliminary data, it looks like that might be in the realm of 6% to 12% of felony re-offense rates for those people who were placed in the mental health system for felonious behavior and where the behavior had a causal connection with mental disorder, but that's very preliminary and an in-depth research project will be providing some....

CHAIRMAN STIRLING: You've got an 80% success rate?

MR. MANDELLA: That's what preliminary data indicates.

CHAIRMAN STIRLING: Hell, we ought to give you some more dough then. I chaptered AB 2390 in 1985, which required CDC and DMH to find out how many of the guys in prison are mental problems. What's the status of that?

MR. MANDELLA: The Department of Corrections has let a contract with a research agency to conduct that study to determine the prevalence of severe mental disorders amongst the prison inmate and parolee population and also to look at the array of treatment services which are available, including treatment resources within state correctional facilities, treatment resources in terms of transferring individuals to the state hospital so....

CHAIRMAN STIRLING: Are they coordinating that with you?

MR. MANDELLA: Yes.

CHAIRMAN STIRLING: Are you involved in the study and evaluation?

MR. MANDELLA: We're on the technical advisory committee for the Department of Corrections along with some other representatives.

CHAIRMAN STIRLING: I was going to say I'm surprised you didn't veto the bill. I'm looking forward to the results. Okay, other testimony, sir.

MR. MANDELLA: Unless you have other questions.

CHAIRMAN STIRLING: Alright, any other questions from members of the committee?

Alright, Mrs. Ruth Melrose, Deputy Commissioner, Board of Prison Terms.

MS. RUTH MELROSE: Good afternoon. Thank you for asking me to be present this afternoon. I think that Dr. Khouri covered the area of the criteria that are used under the McCorquodale, the MDM statutes, so I won't reiterate that. Perhaps, however, you'd be interested in the numbers from the Board of Prison Terms' perspective.

Each group that comes before you gives you a slightly different set of numbers, as we see the individuals during a different state of the process. To date, 71 prisoners have been certified to the Board of Prison Terms by a chief psychiatrist at the Department of Corrections. Of these, eight are just in the initial stages of review. One is out for mandatory evaluation. Fifty-six of the individuals were found to meet the criteria and the special condition of parole has been ordered. In the case of six individuals, they were found not to meet the criteria, and in five of these six cases, the reason for the decision was there had originally been nonconcurrence by the evaluating psychiatrist and psychologist at DMH and CDC. There's a statutory mandate that the Board then hire independent evaluators, and those evaluators rejected the....

CHAIRMAN STIRLING: Are these psychiatrists?

MS. MELROSE: They're either psychiatrists or psychologists with five years of experience. I think the requirements are set forth in 2978. It's a list that's developed jointly by CDC and DMH...

CHAIRMAN STIRLING: Have you discovered any pattern of whether the correctional folks find one way and the outsiders find another way?

MS. MELROSE: No. Well, I think, if you ask is there any pattern; in the six cases, now you're talking about six, I'm not sure that's a statistically valid sample. But of the six cases in which they actually got to the board and in which there was nonconcurrence, in five of those cases the independent evaluators were not unanimous.

Now, the way the Statute works, it's kind of a....

CHAIRMAN STIRLING: Wait a minute. The individual evaluators were not unanimous?

MS. MELROSE: Yeah, and that's required. If one found yes and one found no, they'd be out. The Board could not make the finding. It required both making an affirmative finding....

CHAIRMAN STIRLING: My own experience has been, every time I checked, the outside guys were always on the side of the crook.

MS. MELROSE: Well, it's gone both ways.

CHAIRMAN STIRLING: That's the way it looked. Okay, anything else?

MS. MELROSE: No, I don't believe that there's anything, unless you have questions that I need to cover.

CHAIRMAN STIRLING: Alright. Ms. Melrose, do you think that the state law in terms of mental health as regards prisoners is adequate?

MS. MELROSE: The Board has no position in that area.

CHAIRMAN STIRLING: Good answer. Alright. Thank you so much.

Dr. Steven Shon, Assistant to the Director for Clinical Services, Department of Mental Health. How are you, sir?

DR. STEVEN SHON: Fine, thank you, Mr. Chairman. I'd like to just briefly say that as you know Senator McCorquodale's bill has come into existence over the past year, and we in the Department of Corrections are both attempting the best possible speed to operationalize it. There are obviously some rough spots. We have had regular meetings. We have a memorandum of understanding between our two departments that covers not only the 2960 commitments but the other types of commitments that come over to us from the Department of Corrections.

I might just say that we take, as Mr. Mandella referred to, a group of prisoners who are mentally ill who can be referred at any time to our department under 2684, Penal Code Commitment 2684. We treat those individuals in our hospital. We have a contract with the Department of Corrections to treat 407 at any point in time...

CHAIRMAN STIRLING: Dr. Shon, what I don't understand is why a man that hacks the arms off a fifteen year old girl is not crazy. That's what I don't understand.

DR. SHON: Well, I think that what we're looking at here is an issue where you look at the crime and determine that only somebody who's crazy could have committed that kind of a crime. And there is really more..., and I think we have to be careful of that kind of circular process. Somebody who committed that crime must be crazy, they're crazy, and that's why they committed the crime. And those two are really not connected. Individuals who have committed crimes have done a number of different things that we would all find distasteful and would not be considered to be mentally ill, certainly severely, mentally ill. They had....

CHAIRMAN STIRLING: Well, don't you see that's why the public outrage is so significant here? The public believes that he's got to be nuts to have done something like that.

DR. SHON: That's correct, and yet we see criminal patterns in individuals who, throughout their lives have done things, attacked people, disfigured people, hacked people up, and in no way, shape, or form have ever had a history or diagnosis of mental illness. I don't know the Singleton case in depth, but I understand there has been no past history of anything that we would look at as any kind of severe mental illness.

I think this gets into the issue of referrals from Corrections and this issue of "severely mentally ill." What are we talking about and who can we really treat. It gets into some of the issues about why we're so successful with some groups and some of the questions that other assemblymen ask.

I think we, in the field of psychiatry and mental health are most successful in treating those individuals who have a severe mental illness, somebody who we would call psychotic, somebody who most people would consider crazy. They may be hearing voices, have incredibly false beliefs, believe that they are the second reincarnation of Christ, or carrying out the Lord's will or the Devil's will, or what have you. These individuals have delusions, hallucinations, either auditory or visual, what have you.

CHAIRMAN STIRLING: So what it boils down to is that the professionals have a narrower view of what's crazy than the rest of us.

DR. SHON: Well, yes. Severe mental illness. Those are the folks that we are most successful at treating. When you get into individuals that are more the character disorder type, and I think that this is debatable....

CHAIRMAN STIRLING: Wait. There's a difference between mental disorder and character disorder?

DR. SHON: Well, that's what I'm trying to define for you. They were talking about severe mental illness. Now, what are we looking at? The folks that I just described would tend to be considered schizophrenic, who would tend to be considered manic depressive, either severe depressions or severe mania where they're acting out on very grandiose kinds of beliefs and so forth, those are the folks that we're best able to treat. We often treat them with medication. There is a biological basis, usually, for this type of behavior. Frequently, drug use kicks off this kind of behavior and so forth.

Now, when we look at character disorder types of individuals we're talking about individuals who have more of a long term persistent characteristic of an individual personality that usually has its roots very early in childhood and are considered maladaptive.

Now usually these individuals, and their disorder in themselves, don't usually cause distress for the individuals, although they're actions may then have consequences which cause distress. Many of the folks in prisons are character disorders, have what might be labeled as an antisocial personality or something along this line, and to define that a little more clearly, these are individuals who, for instance, lack empathy. Most people would see somebody

injured in an accident, would feel for them, try to help them. These may be individuals who have no feeling for another, that could harm somebody and have no remorse, no feeling at all. These are individuals in terms of an antisocial type of character, who would lack what we call a superego, most commonly called a conscience. There's no real differentiation between right and wrong. That has no meaning. The most important thing is, "I hope I don't get caught."

Those are the kinds of things. Now, for somebody with a character disorder, there are all kinds of personality disorders. These are types of individuals who usually require long term in-depth treatment, and the key to that kind of treatment is a willingness to change.

People go into psychoanalysis, for example, four days a week for years in order to try and change some of the character traits within themselves, and spend a lot of money and a lot of time, but the main thing in that is that they have a tremendous interest in changing themselves otherwise they wouldn't spend that time and that money.

Many of the individuals, most individuals, who have character disorders aren't willing to do that. They don't see that what's going on with them is particularly wrong, and those are the folks that we have the most difficulty treating. They aren't coming to you with overt symptoms that you can treat such as hallucinations, delusions, which there are biological interventions and so forth that are much more successful, and without that willingness to change, and I've treated a number of those people, or had those people referred to me when I was in clinical practice, referred as a condition of parole. Many would come to my office, the first day, and say, "I'm only here because the judge told me to be here." I'll make the diagnosis of the character disorder. They're not interested in treatment, they're not interested in changing, and often, in fact, the majority never came back until I had to write a letter at the end of three months or six months to the court telling them how successful treatment was and then they'd come back and might be very angry that I'm going to say they didn't come, want me to say something else.

So, this is the problem with treating individuals with character disorders. We are most successful in the people that we take as 2684s, and those who are under the 2960 criteria are essentially people who are psychotic. Now, if they had a drug.... For example, you're talking about somebody such as Singleton, or other individuals who have used drugs and that kicks off the psychosis, they are appropriate. We will take them. They can come as a 2684 or a 2960, because they have met the criteria of severe mental illness. Usually, though, they're often tried and attempted to be adjudicated by their attorneys as not guilty by reason of insanity. We have a number of those folks in our institutions.

That's the difference in....

CHAIRMAN STIRLING: The Catch 22 is that we want them sane enough that we can convict them and once we get them in there, we want to show that they need mental health treatment.

DR. SHON: Yes, that is a problem.

CHAIRMAN STIRLING: Alright, do you have any recommendations to the Legislature either on the administration of Mr. McCorquodale's legislation or other mental health?

DR. SHON: Well, I'd just like to say that I think that we will see the numbers climb with the 2960 mechanism as we have our procedures more clearly defined. We've had a number of meetings with the Department of Corrections just recently, and we are clarifying and modifying some of our procedures, so I think that we will see the effectiveness of that program in the coming years.

CHAIRMAN STIRLING: Senator?

SENATOR McCORQUODALE: Do you have any suggestions of how to deal with a person who is an alcoholic or a drug user who commits this crime in connection with the dependency and it's also a violent crime and their dependency is not changed while they're in prison? How do you deal with those?

DR. SHON: I think that that's a problem even on our side. A lot of our folks use drugs or get into alcohol, and it certainly aggravates their illness. I think what we need is to look at some of the most effective drug and alcohol treatment programs and try to incorporate them into our systems, both while they may be in our institutions and while they're out of our institutions. It's a difficult problem for society, it's the same problems in our institutions, that unless we begin to look at those and find the most effective programs and begin to try and utilize them, incorporate them, we're still going to be stuck with the same problem.

SENATOR McCORQUODALE: The big difference between these folks and the ones in society, maybe the only difference, is that they got caught and the others haven't. But in theory, these folks have done violence to somebody. They're either alcohol addicts, or drug addicts, and they've done violence. Maybe in robbing to get money for their dependents, but if that's not changed, it seems to me that it's just as sure they're going to go back out and the potential for violence is just as strong with them as it is for the schizophrenic.

DR. SHON: I would agree.

SENATOR McCORQUODALE: So it seems like this is a gap that we have to fill. It's more difficult because society hasn't quite moved to the same definitions, I guess, that we have for mental illness versus addiction. But it always strikes me, and I keep asking the ACLU folks to explain to me how people drew up a constitution which would prevent us from holding and detaining people who are clearly mentally ill and that's all we're doing is detaining them in a reasonably...at least we feed them and give them shelter, clothing, and some care, when those same people who were drawing up the Constitution were burning them as witches at the time. So how do we say that that society created this inability to deal with the folks here. I haven't figured that one out yet.

CHAIRMAN STIRLING: Thank you, Senator. Dr. Shon, is medication alone ever sufficient for patients having mental disorders which require medication?

DR. SHON: No, medication alone is not the answer. Medication is very effective, most of the time, in curbing the overt symptoms of the psychosis, but without a continued treatment program and support system, most people will fall back into the depths of mental illness without supervision and support.

CHAIRMAN STIRLING: Sir, do we have recommendations from the Department on McCorquodale legislation. Any changes, any improvements?

DR. SHON: None.

CHAIRMAN STIRLING: You're happy with it the way it is. You want to work with it for a while and see how it shakes out, is that the position?

DR. SHON: Administratively, both departments, the Department of Corrections and the Department of Mental Health, are working together to ensure a very smooth process by which mentally ill individuals can be identified and placed under Mentally Disordered Offender.

CHAIRMAN STIRLING: I have to tell you that my overall impression of the Department of Mental Health has been very good, especially on the CMH follow-up in San Diego. I'm very impressed with the quality of testimony we've gotten here today. I don't see why in the world you're not supporting legislation requiring them all to get mental health evaluations, just so we know going in who they are, what they are.

Okay, thank you very much, ladies and gentlemen. I appreciate it.

Next, I'd like to have Mr. Donald Stahl. Sir, are you still here? Please come forward, and also Mr. Don Novie from CCPOA.

MR. DONALD STAHL: My name is Donald Stahl. I'm District Attorney of Stanislaus County. I've been in that position since 1973. Before that I was with the U.S. Attorney's Office and I was a deputy district attorney in the federal courts and I was a legal officer in the United States Navy, so for about the past 25 years or so I've been engaged in this.

I came here as the person who Larry Singleton wants to be next to when he gets out of prison. Thankfully he is not next to me, at least I don't think so. Also, he became more explicit the freer he got or the closer he got to freedom. He said that he wanted to tell me that a poor man is a dangerous man. So he comes out bitter, vengeful, and unrehabilitated. He's not ready, we're not ready.

With that, there is no particular area of expertise that I have to offer, but I'm here to answer any questions that I can.

CHAIRMAN STIRLING: I've got a couple for you, just to start off, if you want me to do that sir.

MR. STAHL: Sure.

CHAIRMAN STIRLING: Do you know why Judge Moss gave him in the mid term rather than the upper range?

MR. STAHL: He did that so that he could aggravate with respect to other factors. He felt, for example, that the crime of mayhem was included in the crime of attempted murder, that the mayhem, the cutting off of the arms, was the means by which death would be brought about, and so he gave no sentence on mayhem and he packed it into the attempted murder.

He felt also that in other aspects -- for example, the great bodily injury three-year enhancement -- if he were to have given the aggravated term there, it might deprive him of using that fact for the intentional infliction of a great bodily injury. So he was very careful, I think, in balancing the use of facts so that no fact was used more than once in the accumulation of the sentence.

CHAIRMAN STIRLING: Because he was afraid he would be overturned?

MR. STAHL: He was afraid he would be overturned because it's probably one of the most complex areas in the law and it's the subject of more appellate work, probably, than any other subject in the criminal law. It's a very delicate subject. I did not agree 100% with the reasoning that Judge Moss engaged in reaching fourteen years, four months. I thought it could be fifteen years, four months. But I certainly could not fault him on that, and he certainly presented a reasonable position which was validated and upheld by the Appellate Court. So he was certainly proved in our legal system to be quite correct in his sentencing.

CHAIRMAN STIRLING: Sir, did you have occasion while this man was in prison to encourage the Department of Corrections to give him some mental evaluation?

MR. STAHL: As a matter of fact, I did. In October of last year, I contacted the Department of Corrections, the warden and the associate warden of the Men's Colony, San Louis Obispo, and I questioned them concerning his attitude, because at that time I had heard that he had threatened me, that he had used very intemperate language with regard to Mary Vincent, who was the victim, the young girl whose arms were chopped off, and that I felt under the circumstances, he should be counseled, and I felt very strongly on that. I asked myself the question, how rehabilitative is he? And every indication was that in every factor along the line that he was not rehabilitated in the least.

CHAIRMAN STIRLING: If he were issuing those kinds of threats, why was he accumulating good time?

MR. STAHL: This is something that I think they would have to answer. I don't know. I'm not there in the institution. I've been advised that he participated in the educational programs. He taught English to other inmates during the period from 1982 onwards, and thus made himself available for these credits. I think the thing that stopped me about Singleton is that I really don't believe that Lawrence Singleton is of sound mind today, and I don't think he was of completely sound mind back in 1978 when these crimes were committed. Any look at his social history would indicate that he nas far more than a character disorder, particularly in the latter years of 1986 and 1987. I have numerous reporters tell me that there was no doubt in their minds that Singleton believed the most bizarre interpretations that would point to his innocence. He had tried himself day after day, year after year, during his

period of incarceration, and he found himself innocent every day. And yet the trial had to go on the next day, and the day after that, and the day after that. And he's still doing it.

His stories change, according to the news reporters. First he's unconscious when this occurs. At another time he's not even there. At another time, he is in Sparks. His wife could say this, or someone else could say that, or five witnesses, and I guess what I'm getting to is that he is a very, very bizarre individual. He was then, I think as you correctly observed not everybody approaches a young woman with an axe and leaves here in that condition. His social situation then certainly involved alcohol, but it didn't result completely from alcohol in a cause and effect relationship.

CHAIRMAN STIRLING: Did the defense try an insanity plea?

MR. STAHL: No, the defense did not try an insanity plea. The defense gave very little defense at all, frankly, and I think that was due to a very good investigation on the part of the local authorities and from the Contra Costa authorities who assisted. I think the thing that impressed me about Singleton was that he has, over the years, adopted one story after another, in absolute sincerity, believing in it, so to this day he lives, I believe, in a different world from the rest of us.

I was very much aware of that as the reporters would play back videotapes and they would tell me what his latest versions were, and I would carefully ask them, because I have somewhat of a stake in this, I would ask them, "Well, do you think he believes in his innocence"? They came back unanimously saying, "Indeed he does believe in his innocence." And that comes very strange to me because we, over a four-week period of time, put on a very close case of evidence that legally locked him in and tied him up, and a soundly thinking person would have appreciated the position that he was in. He did not. At least he did not at that time. That's reporting it subsequently.

CHAIRMAN STIRLING: You heard the testimony today in terms of what it takes to get somebody committed, to get treatment and that sort of thing. What do you think of all that testimony?

MR. STAHL: Well, I think that what you were driving at, and I know what Senator McCorquodale feels, is that there has to be a broader base for the commitment of individuals whose crimes are of this magnitude where mental illness is a factor. And if we were to put it as a determinative conclusive factor beyond a reasonable doubt and with absolute certainty, we'll never quite reach that threshold. I think the tests should be broadened where mental illness is one of many factors, considering the dangerousness of the crime as has been indicated, the person's social history. I think it should be broadened. I trust that that is the direction that the committee is soon to indicate. I think that it's true because people like Singleton will escape one test or another, but they won't escape them all. And that's so true of so many other people who come into the Department of Mental Health and the Department of Corrections, that they frequently make it over one hurdle or another, but by the end they don't make it over them all.

CHAIRMAN STIRLING: Are you a member of the California District Attorneys' Association?

MR. STAHL: Yes, I am.

CHAIRMAN STIRLING: Are they going to sponsor legislation next year in this regard?

MR. STAHL: I hope they do. I think that there've been some things in the California District Attorneys' Association which would preclude them from coming forward with a legislative policy as fully as they have in the past, but I think they would. I know Senator Lockyer had written me concerning this. I've spoken to Senator McCorquodale. I've also spoken to Gary Condit, and we've discussed such things as distinguishing between kinds of offenders based upon crimes that they commit, in giving post-sentence credits. For example, that a person like Lawrence Singleton, with the types of crimes, all Proposition 8 heavy serious felonies, ought not to viewed by the Department of Corrections in the same light as someone who is incarcerated in the Department of Corrections for less serious crimes.

The other thing that occurred to me during the course of this was that Larry Singleton poses a great risk to society, because he has not come to terms with his own conduct, and I don't think he is in a position to be guiding himself. He was helped by the institutions, but afterwards when he's off of parole and he's back, I think we're going to see a kind of William Archie Fane relapse, and Fane, by the way, came from Stanislaus County as well.

I think that the risk to society has to be in there, and I've heard the former inmate, many of whose ideas I respected and would espouse, say that it's pretty tough coming out, and I though to myself, really, some pose a high risk and some pose a low risk, and I think those posing the high risk should be given, perhaps, more intensive care or perhaps they should be given more intensive care in the institution to prepare them.

When I called and talked with the warden and associate warden back in November of last year I was rather surprised that there had not been psychiatric intervention or counseling or any approach that might bring Singleton back to reality and place him on a firmer footing as he was to leave prison and go out in society. And that's why
I think the gentleman who sat here and spoke of it from the inmate's perspective was quite right. I think there has to be a lot of preparation mentally to get their heads screwed on right so when they walk out the door they've got a better chance.

I might also say...I'm saving things up and I know you want to get on...I might also say that the place of parole has to be determined by the Department of Corrections, by the Parole Authority. And one of the criteria should be the place that promises the greatest success for the inmate's completion of parole. And I feel that Singleton has been battered from pillar to post, and his placement in certain areas was not foreboding much success. And I was thinking in terms of Rodeo, as being a small community where he was immediately recognizable, but I think legislatively there is no absolute county to which the person should go. It's got to be up to their discretion...

CHAIRMAN STIRLING: Excuse me, you don't think a change of venue should be first in consideration, do you?

MR. STAHL: Not at all, because nobody will ever accept a Singleton case again if it's tied to that. We went down to San Diego, Mr. Chairman, as you will recall, because we had a terrible air disaster in December 1978. That was the same week we had our disaster with Singleton in Stanislaus County. San Diego was probably the only place in the state that had thought of other things while we were thinking of Singleton.

CHAIRMAN STIRLING: Alright, sir. Just one additional thing. Are you satisfied with the relationship between Corrections, Parole, and local prosecutors and the local law enforcement in handling parolees?

MR. STAHL: Yes. I think I would have to say yes. They're very dedicated people. They're trying. They have the public interest in mind. There frankly are not enough of them. They can't give services to everybody if they don't have the wherewithal to do it.

This is the crisis of our criminal justice system, Mr. Chairman, and I know you've recognized it. I've heard that throughout the afternoon. That somebody is going to pay sooner or later, and the people who always end up paying are the Vincents of the world who have their arms cut off, or the victims, and then we go progressively back from the victim to the rest of society. I couldn't agree with you more on the notion that we have to know who comes into our system when they come in, and who's going out before they go out, and if they're not ready to go out, don't put them out. They shouldn't be cast out just because there's a dollar sign or a higher price that we have to pay in dollars and cents, because they're going to pay a higher price, as you stated, later on when someone else falls victim to their crime, and that will be an immeasurable price.

CHAIRMAN STIRLING: Alright, sir. Thank you very much and may we congratulate you on your efforts in that case. Thank you, sir.

MR. DON NOVIE: Mr. Chairman and members, Don Novie, President of the California Correctional Peace Officers Association.

I've been listening to this most of the afternoon. It's really amazing how Mr. Singleton can survive inside a correctional facility without great bodily harm coming to him, and I guess, serve in there, I guess he was a teacher in their education department, and I think the person was fairly sane. I think you get insane when you want to do something and you use that insanity plea, I guess, going back to the old (inaudible) school, you're responsible for your actions in this society.

Working inside these facilities for fifteen years, we've realized that these people have a tendency, such as Strelinksy, and this gentleman, and maybe Charlie Manson, to act out when it's the right time to do it. It's an unfortunate scenario. But not getting into the plane that I work in, I'd like to throw some things out here for your mindset.

Number one, when these inmates go out on parole, that means they've gone through incarceration, usually several times over. They're gone out into the streets and they've failed parole, so that means you have somebody that's a multi-failure that's going back into the prison system, like our RTC problem presently, and we have to live with that. What do we do with that? We've got

the example of San Francisco, where they went and scarfed up 130 and the crime rate went down. These are career criminals, but where is the solution? Do we keep going through this circle? No, we don't. I think that you ought to get the first and second term offender, maybe at the outside, the young kid via Scared Straight or the Squares Program at San Quentin or whatever, and grab these individuals before they get incarcerated within the system, before they become assimilated into the correctional process.

We've witnessed this over and over again. Sixty-four thousand inmates isn't enough, to be honest with you. I don't want any more, to be honest with you, but we only rank twenty-sixth per capita in the nation, Mr. Stirling. I think we're just finally starting to catch up. I think we ought to also take it at level one kids out there and frighten the hell out of them, make sure they don't go into prison, because once they get in there they're locked in. They're locked into the pressures of prison life. They're locked into the gangs. They're locked into that survival motif, and I think Mr. McCorquodale put it pretty much early on, the drug scenario has gotten worse. Up to 96%, I think you've heard this before, in Central Los Angeles, cocaine, on a return to custody. That's ridiculous. Ninety-six percent of the inmates coming back in in Central Los Angeles. That's a reflection on our society.

I don't have anything to add. It's frustrating to the peace officers that work these facilities, it's frustrating to our parole agents out in the streets, but we aren't even near the numbers.

CHAIRMAN STIRLING: Alright. Just the parole agents are members of CCPOA?

MR. NOVIE: Yes, sir.

CHAIRMAN STIRLING: Alright. And are you satisfied with the Governor's budget recommendation in terms of the number of officers coming up this year?

MR. NOVIE: It's somewhat adequate.

CHAIRMAN STIRLING: Alright, sir, thank you so much. I appreciate it.

Is there anybody else who'd like to testify in regard to this matter. If not, Mr. McCorquodale, my continuing admiration for your work in that regard and members that stayed here for the testimony, I appreciate it very much. We're adjourned.

APPENDIX #1

IF LAWRENCE SINGLETON WERE SENTENCED TODAY EXACTLY AS HE WAS IN 1979...

CHARGE	1979	1987
ATTEMPTED MURDER (mid. term)	6 years	Life with the possibility of parole
Use of Weapon	1 year	1 year
Great Bodily Injury	3 years	3 years
FORCIBLE RAPE	1 year, 4 months (1/3 mid.term consec. to attempt murder)	6 years (full consec.)
FORCIBLE ORAL COPULATION	1 year (1/3 mid.term consec.)	6 years (full consec.)
FORCIBLE ORAL COPULATION	1 year (1/3 mid.term consec.)	6 years (full consec.)
SODOMY	1 year (1/3 mid.term consec.)	6 years (full consec.)
ENHANCEMENT -- KIDNAPPING FOR THE PURPOSE OF COMMITTING SEX OFFENSES	0	3 years
TOTALS	14 years, 4 months	31 years plus life[a]

a. The life term would commence after Singleton served the determinate sentence (15-1/2 years if worktime credits were granted). Singleton would then be eligible for parole after serving 7 years of his life sentence. Therefore, Singleton would be in prison for a minimum of 22-1/2 years.

PENAL CODE SECTIONS 2931 - 2933

§ 2931. [Reduction of sentence for good behavior: Conditions.] (a) In any case in which a prisoner was sentenced to the state prison pursuant to Section 1170, or if he committed a felony before July 1, 1977, and he would have been sentenced under Section 1170 if the felony had been committed after July 1, 1977, the Department of Corrections shall have the authority to reduce the term prescribed under such section by one-third for good behavior and participation consistent with subdivision (d) of Section 1170.2. A document shall be signed by a prison official and given to the prisoner, at the time of compliance with Section 2930, outlining the conditions which the prisoner shall meet to receive the credit. The conditions specified in such document may be modified upon any of the following:

(1) Mutual consent of the prisoner and the Department of Corrections.

(2) The transfer of the prisoner from one institution to another.

(3) The department's determination of the prisoner's lack of adaptability or success in a specific program or assignment. In such case the prisoner shall be entitled to a hearing regarding the department's decision.

(4) A change in custodial status.

(b) Total possible good behavior and participation credit shall result in a four-month reduction for each eight months served in prison or in a reduction based on this ratio for any lesser period of time. Three months of this four-month reduction, or a reduction based on this ratio for any lesser period, shall be based upon forbearance from any act for which the prisoner could be prosecuted in a court of law, either as a misdemeanor or a felony, or any act of misconduct described as a serious disciplinary infraction by the Department of Corrections.

(c) One month of this four-month reduction, or a reduction based on this ratio for a lesser period, shall be based solely upon participation in work, educational, vocational, therapeutic or other prison activities. Failure to succeed after demonstrating a reasonable effort in the specified activity shall not result in loss of participation credit. Failure to participate in the specified activities can result in a maximum loss of credit of 30 days for each failure to participate. However, those confined for other than behavior problems shall be given specified activities commensurate with the custodial status.

(d) This section shall not apply to any person whose crime was committed on or after January 1, 1983. [1976 ch 1139 § 276, operative July 1, 1977; 1977 ch 2 § 4, effective December 16, 1976, operative July 1, 1977, ch 165 § 38, effective June 29, 1977, operative July 1, 1977; 1978 ch 532 § 1; 1979 ch 319 § 1; 1980 ch 676 § 254; 1982 ch 1234 § 2.] *Cal Jur 3d Penal and Correctional Institutions §§ 161–163.*

§ 2932. [Denial of good behavior and participation credit.] (a) (1) For any time credit accumulated pursuant to Section 2931 or to Section 2933, not more than 360 days of credit may be denied or lost for a single act of murder, attempted murder, solicitation of murder, manslaughter, rape, sodomy, or oral copulation accomplished against the victim's will, attempted rape, attempted sodomy, or attempted oral copulation accomplished against the victim's will, assault or battery causing serious bodily injury, assault with a deadly weapon or caustic substance, taking of a hostage, escape with force or violence, or possession or manufacture of a deadly weapon or explosive device, whether or not prosecution is undertaken for purposes of this paragraph. Solicitation of murder shall be proved by the testimony of two witnesses, or of one witness and corroborating circumstances.

(2) Not more than 180 days or credit may be denied or lost for a single act of misconduct, except as specified in (1) which could be prosecuted as a felony whether or not prosecution is undertaken.

(3) Not more than 90 days of credit may be denied or lost for a single act of misconduct which could be prosecuted as a misdemeanor, whether or not prosecution is undertaken.

(4) Not more than 30 days of credit may be denied or lost for a single act of misconduct defined by regulation as a serious disciplinary offense by the Department of Corrections. Any person confined due to a change in custodial classification following the commission of any serious disciplinary infraction shall, in addition to any loss of time credits, be ineligible to receive participation or worktime credit for a period not to exceed the number of days of credit which have been lost for such act of misconduct or 180 days, whichever is less. Any person confined in a secure housing unit for having committed any misconduct specified in paragraph (1) in which great bodily injury is inflicted upon a nonprisoner shall, in addition to any loss of time credits, be ineligible to receive participation or worktime credit for a period not to exceed the number of days of credit which have been lost for that act of misconduct, or for the period that the prisoner is confined in a secure housing unit, whichever is less. In unusual cases, an inmate may be denied the opportunity to participate in a credit qualifying assignment for up to six months beyond the period specified in this subdivision if the Director of Corrections finds, after a hearing, that no credit qualifying program may be assigned to the inmate without creating a substantial risk of physical harm to staff or other inmates. At the end of the six-month period and of successive six-month periods, the denial of the opportunity to participate in a credit qualifying assignment may be renewed upon a hearing and finding by the director.

The prisoner may appeal the decision through the department's review procedure, which shall include a review by an individual independent of the institution who has supervisorial authority over the institution.

(b) For any credit accumulated pursuant to Section 2931, not more than 30 days of participation credit may be denied or lost for a single failure or refusal to participate. Any act of misconduct described by the Department of Corrections as a serious disciplinary infraction if committed while participating in work, educational, vocational, therapeutic or other prison activity shall be deemed a failure to participate.

(c) Any procedure not provided for by this section, but necessary to carry out the purposes of this section, shall be those procedures provided for by the Department of Corrections for serious disciplinary infractions if those procedures are not in conflict with this section.

(1) The Department of Corrections shall, using reasonable diligence to investigate, provide written notice to the prisoner. The written notice shall be given within 15 days after the discovery of information leading to charges that may result in a possible denial of credit, except that if the prisoner has escaped, the notice shall be given within 15 days of the prisoner's return to the custody of the Director of Corrections. The written notice shall include the specific charge, the date, the time, the place that the alleged misbehavior took place, the evidence relied upon, a written explanation of the procedures that will be employed at the proceedings and the prisoner's rights at the hearing. The hearing shall be conducted by an individual who shall be independent of the case and shall take place within 30 days of the written notice.

(2) The prisoner may elect to be assigned an employee to assist in the investigation, preparation, or presentation of a defense at the disciplinary hearing if it is determined by the department that: (i) the prisoner is illiterate; or (ii) the complexity of the issues or the prisoner's confinement status makes it unlikely that the prisoner can collect and present the evidence necessary for an adequate comprehension of the case.

(3) The prisoner may request witnesses to attend the hearing and they shall be called unless the person conducting the hearing has specific reasons to deny this request. Such specific reasons shall be set forth in writing and a copy of the document shall be presented to the prisoner.

(4) The prisoner has the right, under the direction of the person conducting the hearing, to question all witnesses.

(5) At the conclusion of the hearing the charge shall be dismissed if the facts do not support the charge, or the prisoner may be found guilty on the basis of a preponderance of the evidence.

(d) If found guilty the prisoner shall be advised in writing of the guilty finding and the specific evidence relied upon to reach this conclusion and the amount of time-credit loss. The prisoner may appeal such decision through the Department of Corrections' review procedure, and may, upon final notification of appeal denial, within 15 days of such notification demand review of the department's denial of credit to the Board of Prison Terms, and the board may affirm, reverse, or modify the department's decision or grant a hearing before the board at which hearing the prisoner will have the rights specified in Section 3041.5.

(e) Each prisoner subject to Section 2931 shall be notified of the total amount of good behavior and participation credit which may be credited pursuant to Section 2931, and his anticipated time-credit release date. The prisoner shall be notified of any change in the anticipated release date due to denial or loss of credits, award of worktime credit, under Section 2933, or the restoration of any credits previously forfeited.

(f) If the conduct the prisoner is charged with also constitutes a crime, the Department of Corrections may refer the case to criminal authorities for possible prosecution. The department shall notify the prisoner, who may request postponement of the disciplinary proceedings pending such referral.

The prisoner may revoke his request for postponement of the disciplinary proceedings up until the filing of the accusatory pleading. In the event of the revocation of the request for postponement of the proceeding, the department shall hold the hearing within 30 days of the revocation.

In the case where the prisoner is prosecuted by the district attorney, the Department of Corrections shall not deny time credit where the prisoner is found not guilty and may deny credit if the prisoner is found guilty, in which case the procedures in subdivision (c) shall not apply.

(g) If time credit denial proceedings or criminal prosecution prohibit the release of a prisoner who would have otherwise been released, and the prisoner is found not guilty of the alleged misconduct, the amount of

time spent incarcerated, in excess of what the period of incarceration would have been absent the alleged misbehavior, shall be deducted from the prisoner's parole period.

(h) Nothing in the amendments to this section made at the 1981–82 Regular Session of the Legislature shall affect the granting or revocation of credits attributable to that portion of the prisoner's sentence served prior to January 1, 1983. Amended Stats 1986 ch 1446 § 1. *Cal Jur 3d Penal and Correctional Institutions §§ 162–165, 179, 184.*

§ 2933. [Worktime credit; Receipt; Forfeiture; Regulations] (a) It is the intent of the Legislature that persons convicted of crime and sentenced to state prison, under Section 1170, serve the entire sentence imposed by the court, except for a reduction in the time served in the custody of the Director of Corrections for performance in work, training or education programs established by the Director of Corrections. Worktime credits shall apply for performance in work assignments and performance in elementary, high school, or vocational education programs. Enrollment in a two- or four-year college program leading to a degree shall result in the application of time credits equal to that provided in Section 2931. For every six months of full-time performance in a credit qualifying program, as designated by the director, a prisoner shall be awarded worktime credit reductions from his term of confinement of six months. A lesser amount of credit based on this ratio shall be awarded for any lesser period of continuous performance. Less than maximum credit should be awarded pursuant to regulations adopted by the director for prisoners not assigned to a full-time credit qualifying program. Every prisoner who refuses to accept a full-time credit qualifying assignment or who is denied the opportunity to earn worktime credits pursuant to subdivision (a) of Section 2932 shall be awarded no worktime credit reduction. Every prisoner who voluntarily accepts a half-time credit qualifying assignment in lieu of a full-time assignment shall be awarded worktime credit reductions from his term of confinement of three months for each six-month period of continued performance. Except as provided in subdivision (a) of Section 2932, every prisoner willing to participate in a full-time credit qualifying assignment but who is either not assigned to a full-time assignment or is assigned to a program for less than full time, shall receive no less credit than is provided under Section 2931. Under no circumstances shall any prisoner receive more than six months' credit reduction for any six-month period under this section.

(b) Worktime credit is a privilege, not a right. Worktime credit must be earned and may be forfeited pursuant to the provisions of Section 2932. Except as provided in subdivision (a) of Section 2932, every prisoner shall have a reasonable opportunity to participate in a full-time credit qualifying assignment in a manner consistent with institutional security and available resources.

(c) Under regulations adopted by the Department of Corrections, which shall require a period of not more than one year free of disciplinary infractions, worktime credit which has been previously forfeited may be restored by the director. The regulations shall provide for separate classifications of serious disciplinary infractions as they relate to restoration of credits; the time period required before forfeited credits or a portion thereof may be restored; and the percentage of forfeited credits that may be restored for such time periods. For credits forfeited for commission of a felony specified in paragraph (1) of subdivision (a) of Section 2932, the Department of Corrections may provide that up to 180 days of lost credit shall not be restored and up to 90 days of credit shall not be restored for a forfeiture resulting from conspiracy or attempts to commit one of those acts; provided that no credits may be restored if they were forfeited for a serious disciplinary infraction in which the victim died or was permanently disabled. Upon application of the prisoner and following completion of the required time period free of disciplinary offenses, forfeited credits eligible for restoration under the regulations shall be restored unless, at a hearing, it is found that the prisoner refused to accept or failed to perform in a credit qualifying assignment or extraordinary circumstances are present that require that credits not be restored. "Extraordinary circumstances" shall be defined in the regulations adopted by the director.

The prisoner may appeal the finding through the Department of Corrections review procedure, which shall include a review by an individual independent of the institution who has supervisorial authority over the institution.

(d) The provisions of subdivision (c) shall also apply in cases of credit forfeited under Section 2931 for offenses and serious disciplinary infractions occurring on or after January 1, 1983. Amended Stats 1986 ch 1446 § 2.

APPENDIX #3

PENAL CODE SECTION 3046

§ 3046. [Person sentenced to life term: Statements and recommendations to be considered by board in considering parole.] No prisoner imprisoned under a life sentence may be paroled until he has served at least seven calendar years. Where two or more life sentences are ordered to run consecutively to each other pursuant to Section 669, no prisoner so imprisoned may be paroled until he has served at least seven calendar years on each of the life sentences which are ordered to run consecutively. The Board of Prison Terms shall, in considering a parole for such prisoner, consider all statements and recommendations which may have been submitted by the judge, district attorney, and sheriff, pursuant to Section 1203.01, or in response to notices given under Section 3042, and recommendations of other persons interested in the granting or denying of such parole. The board shall enter on its order granting or denying parole to such prisoners, the fact that such statements and recommendations have been considered by it. [1941 ch 106 § 15; 1955 ch 1484 § 1; 1957 ch 2256 § 60; 1967 ch 138 § 7; 1977 ch 165 § 51, effective June 29, 1977, operative July 1, 1977; 1978 ch 579 § 32; 1979 ch 255 § 23.]
Cal Jur 3d Penal and Correctional Institutions §§ 173, 176, 178; Witkin Crimes pp 1029, 1030.

APPENDIX #4

AB 1056 (KATZ)
(in pertinent part)

SEC. 2. Section 2933 of the Penal Code is amended to read:

2933. (a) It is the intent of the Legislature that persons convicted of crime and sentenced to state prison, under Section 1170, serve the entire sentence imposed by the court, except for a reduction in the time served in the custody of the Director of Corrections for performance in work, training or education programs established by the Director of Corrections. Worktime credits shall apply for performance in work assignments and performance in elementary, high school, or vocational education programs. Enrollment in a two- or four-year college program leading to a degree shall result in the application of time credits equal to that provided in Section 2931. For every six months of full-time performance in a credit qualifying program, as designated by the director, a prisoner shall be awarded worktime credit reductions from his term of confinement of six months. However, for every six months of full-time performance in a credit qualifying program, a prisoner sentenced for a violent felony, as defined by subdivision (c) of Section 667.5, shall be awarded worktime credit reductions from the prisoner's term of confinement of two months. A lesser amount of credit based on this ratio shall be awarded for any lesser period of continuous performance. Less than maximum credit should be awarded pursuant to regulations adopted by the director for prisoners not assigned to a full-time credit qualifying program. Every prisoner who refuses to accept a full-time credit qualifying assignment or who is denied the opportunity to earn worktime credits pursuant to subdivision (a) of Section 2932 shall be awarded no worktime credit reduction. Every prisoner who voluntarily accepts a half-time credit qualifying assignment in lieu of a full-time assignment shall be awarded worktime credit reductions from his term of confinement of three months for each six-month period of continued performance. However, every prisoner sentenced for a violent felony who voluntarily accepts a half-time credit qualifying assignment in lieu of a full-time assignment shall be awarded worktime credit reductions for the prisoner's term of confinement of one month for each six-month period of continued performance. Except as provided in subdivision (a) of Section 2932, every prisoner willing to participate in a full-time credit qualifying assignment but who is either not assigned to a full-time assignment or is assigned to a program for less than full time, shall receive no less credit than is provided under Section 2931. Under no circumstances shall any prisoner receive more than six months' credit reduction for any six-month period under this section ; and, under no circumstances shall any prisoner sentenced for a violent felony who is unassigned to a full-time or part-time credit qualifying program be awarded any worktime credit reductions

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(b) Worktime credit is a privilege, not a right. Worktime credit must be earned and may be forfeited pursuant to the provisions of Section 2932. Except as provided in subdivision (a) of Section 2932, every prisoner shall have a reasonable opportunity to participate in a full-time credit qualifying assignment in a manner consistent with institutional security and available resources.

(c) Under regulations adopted by the Department of Corrections, which shall require a period of not more than one year free of disciplinary infractions, worktime credit which has been previously forfeited may be restored by the director. The regulations shall provide for separate classifications of serious disciplinary infractions as they relate to restoration of credits; the time period required before forfeited credits or a portion thereof may be restored; and the percentage of forfeited credits that may be restored for such time periods. For credits forfeited for commission of a felony specified in paragraph (1) of subdivision (a) of Section 2932, the Department of Corrections may provide that up to 180 days of lost credit shall not be restored and up to 90 days of credit shall not be restored for a forfeiture resulting from conspiracy or attempts to commit one of those acts; provided that no credits may be restored if they were forfeited for a serious disciplinary infraction in which the victim died or was permanently disabled.

Upon application of the prisoner and following completion of the required time period free of disciplinary offenses, forfeited credits eligible for restoration under the regulations shall be restored unless, at a hearing, it is found that the prisoner refused to accept or failed to perform in a credit qualifying assignment or extraordinary circumstances are present that require that credits not be restored. 'Extraordinary circumstances' shall be defined in the regulations adopted by the director.

The prisoner may appeal the finding through the Department of Corrections review procedure, which shall include a review by an individual independent of the institution who has supervisorial authority over the institution.

(d) The provisions of subdivision (c) shall also apply in cases of credit forfeited under Section 2931 for offenses and serious disciplinary infractions occurring on or after January 1, 1983.

(e) The provisions of subdivision (a) which prohibit the awarding of worktime credits or provide for reduced worktime credits for prisoners sentenced for violent felonies shall only apply to those prisoners whose crimes were committed on or after January 1, 1988.

SEC. 3. Section 2933.1 is added to the Penal Code, to read:

2933.1. (a) The Legislature hereby finds and declares that any person who commits crimes resulting in the imposition of an enhanced term constitutes a serious threat to public safety and endangers the welfare of the people of California, and, therefore, should be required to serve a longer portion of his or her sentence.

(b) Notwithstanding Section 2933, any person serving a sentence in state prison which includes an enhancement or enhancements pursuant to Section 667.8, 667.85, 667.9, 667.10, 12022, 12022.3, 12022.5, 12022.7, 12022.8, or 12022.9 , shall be ineligible to receive worktime credits until that person has served a period of time in state prison equal to that amount of time of imprisonment attributable to the imposition of the enhancement or enhancements.

This section shall only apply to prisoners whose crimes were committed after January 1, 1988.

APPENDIX #5

PENAL CODE SECTIONS 2022, 2032, 2036, 2043.1, 2045.1, 2046.1, 2048.1, 2049.1, 2054, 2800, 2801, 6261, and 6264 and CHAPTER 1, STATUTES OF 1982 (AB 1403)

§ 2022. [Offenders for whom designed.] The primary purpose of the California State Prison at San Quentin shall be to provide confinement, industrial and other training, treatment, and care to persons confined therein. [1941 ch 106 § 15; 1955 ch 502 § 1; 1965 ch 343 § 1.] *Cal Jur 3d Penal and Correctional Institutions § 19.*

§ 2032. [Offenders for whom designed.] The primary purpose of the California State Prison at Folsom shall be to provide confinement, industrial and other training, treatment, and care to persons confined therein. [1941 ch 106 § 15; 1965 ch 343 § 2.] *Cal Jur 3d Penal and Correctional Institutions § 19; Witkin Crimes p 869.*

§ 2036. [Type of institution: Purpose.] The Deuel Vocational Institution shall be an intermediate security-type institution. Its primary purpose shall be to provide custody, care, industrial, vocational and other training, guidance and reformatory help for young men, too mature to be benefited by the programs of institutions under the jurisdiction of the Youth Authority and too immature in crime for confinement in prisons. [1945 ch 1454 § 1; 1951 ch 1663 § 3; 1975 ch 370 § 1.] *Cal Jur 3d Penal and Correctional Institutions § 20; Witkin Crimes p 869.*

§ 2043.1. [Purpose] The primary purpose of the state prison authorized to be established by Section 2043 shall be to provide custody and care, and industrial, vocational, and other training to persons confined therein. [1977 ch 909 § 1] *Cal Jur 3d Penal and Correctional Institutions § 19.*

§ 2045.1. [Type and purpose of prison: Authority of Director of Corrections to change.] The prison authorized to be established by Section 2045 of this code shall be a medium security type institution. Its primary purpose shall be to provide custody, care, industrial, vocational, and other training to persons confined therein. However, the Director of Corrections may designate a portion or all of such prison to serve the same purposes and to have the same security standards as the institution provided for by Article 4 (commencing at Section 2035) of Chapter 1, Title 1, Part 3 of this code. [1945 ch 75 § 1; 1959 ch 936 § 1.] *Cal Jur 3d Penal and Correctional Institutions § 19; Witkin Crimes p 869.*

§ 2046.1. [Type and purpose of prison.] The prison authorized to be established by Section 2046 of this code shall be a medium security type institution. Its primary purpose shall be to provide custody, care, industrial, vocational, and other training to persons confined therein. [1949 ch 892 § 2.] *Cal Jur 3d Penal and Correctional Institutions § 19; Witkin Crimes p 870.*

§ 2048.1. [Purpose.] The primary purpose of the prison authorized to be established by Section 2048 shall be to provide custody and care, and industrial, vocational, and other training to persons confined therein. [1959 ch 1451 § 1.] *Cal Jur 3d Penal and Correctional Institutions § 19.*

§ 2049.1. [Purpose of facility.] The primary purpose of the prison authorized to be established by Section 2049 shall be to provide custody, industrial and other training, treatment and care to persons confined therein. [1965 ch 1566 § 1.] *Cal Jur 3d Penal and Correctional Institutions § 19.*

§ 2054. [Establishing and maintaining classes for inmates by department of corrections.] The Director of Corrections may establish and maintain classes for inmates by utilizing personnel of the Department of Corrections, or by entering into an agreement with the governing board of a school district or private school or the governing boards of school districts under which the district shall maintain classes for such inmates. The governing board of a school district or private school may enter into such an agreement regardless of whether the institution or facility at which the classes are to be established and maintained is within or without the boundaries of the school district.

Any agreement entered into between the Director of Corrections and a school district or private school pursuant to this section may require the Department of Corrections to reimburse the school district or private school for the cost to the district or private school of maintaining such classes. "Cost" as used herein includes contributions required of any school district to the State Teachers' Retirement System, but such cost shall not include an amount in excess of the amount expended by the district for salaries of the teachers for such classes, increased by

one-fifth. Salaries of such teachers for the purposes of this section shall not exceed the salaries as set by the governing board for teachers in other classes for adults maintained by the district, or private schools.

Attendance or average daily attendance in classes established pursuant to this section or in classes in trade and industrial education or vocational training for adult inmates of institutions or facilities under the jurisdiction of the Department of Corrections shall not be reported to the State Department of Education for apportionment and no apportionment from the State School Fund shall be made on account of average daily attendance in such classes.

No school district or private school shall provide for the academic education of adult inmates of state institutions or facilities under the jurisdiction of the Department of Corrections except in accordance with this section

The Legislature hereby declares that for each fiscal year funds for the support of the academic education program for inmates of the institutions or facilities under the jurisdiction of the Department of Corrections shall be provided, upon appropriation by the Legislature, to the Department of Corrections at the rate of forty dollars ($40) multiplied by the total number of inmates which the Department of Corrections estimates will be in such institutions or facilities on December 31st of the fiscal year, except as provided in Section 2054.1. [1955 ch 1944 § 4; 1957 ch 2245 § 1; 1974 ch 1436 § 2, operative July 1, 1975; 1976 ch 303 § 1, effective June 30, 1976, operative July 1, 1976.] *Witkin Crimes p 871.*

§ 2800. [Creation of Prison Industry Authority] There is hereby established the Prison Industry Authority. As used in this article "authority" means the Prison Industry Authority. [1982 ch 1549 § 28.]

§ 2801. [Purposes] The purposes of the authority are:

(a) To develop and operate industrial, agricultural, and service enterprises employing prisoners in institutions under the jurisdiction of the Department of Corrections, which enterprises may be located either within those institutions or elsewhere, all as may be determined by the authority.

(b) To create and maintain working conditions within the enterprises as much like those which prevail in private industry as possible, to assure prisoners employed therein the opportunity to work productively, to earn funds, and to acquire or improve effective work habits and occupational skills.

(c) To operate a work program for prisoners which will ultimately be self-supporting by generating sufficient funds from the sale of products and services to pay all the expenses of the program, and one which will provide goods and services which are or will be used by the Department of Corrections, thereby reducing the cost of its operation. [1982 ch 1549 § 28.]

§ 6261. [Contracts for reentry work programs.] (a) To the extent that public and private nonprofit and profit corporations have available beds and satisfy the criteria specified in this chapter, the Department of Corrections shall contract with them to provide reentry work furlough programs for all inmates 90 days prior to scheduled release and who are not excluded under the provisions of this chapter.

(b) The Department of Corrections shall contract with private nonprofit and profit corporations for at least ⅓ of all reentry work furlough beds, unless the department determines these beds are not available or do not comply with this chapter. The department shall report annually in writing to the fiscal and appropriate policy committees of the Legislature of the actions performed to locate such beds or reasons for noncompliance. This provision shall not be interpreted to impair existing contracts. [1980 ch 596 § 1.]

§ 6264. [Review of inmate for consideration.] The Department of Corrections shall review each inmate for work furlough consideration at least 120 days prior to his or her scheduled parole date. [1980 ch 596 § 1.]

Assembly Bill No. 1403

CHAPTER 1

An act relating to prisons.

[Approved by Governor January 20, 1982. Filed with Secretary of State January 20, 1982.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1403, Baker. Prisons.

Existing law provides for the employment of prisoners in state prisons as part of the prison work program.

This bill would require the Department of Corrections to direct the employment of prisoners to activities which will achieve full inmate work programs and make the state prisons more self-sufficient, as specified. It would require the Director of Corrections to report to the Legislature by January 1, 1983, concerning the progress that has been made toward these goals.

The people of the State of California do enact as follows:

SECTION 1. It is the intent of the Legislature that all able-bodied prisoners in the state prisons be directed to work, inasmuch as the performance of productive work on a regular basis is the most appropriate method of successfully instilling in prisoners the values of a law-abiding and cooperative society and will improve the possibility of their reintegration into that society.

The Legislature declares that the Department of Corrections, as one of the chief goals of the operation of the state prison system, shall seek to achieve self-sufficiency of the prison system through the development of prisoner labor and skills to provide the necessities of the prisons, to teach marketable skills, good work habits, and goal orientation to prisoners, and to reduce the amount by which the prisons must be supported by taxes and thus also benefit the public at large.

The Director of Corrections shall by January 1, 1983, report to the Legislature on the progress that has been made toward achieving full inmate work programs and the self-sufficiency of the state prisons and in the report shall delineate proposals for improved self-sufficiency of the state prisons for the following three years.

APPENDIX #6

AB 133 (BATES)
AB 632 (STIRLING) and
SB 117 (LOCKYER) (in pertinent part)

AB 133 (Bates)

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature hereby finds and declares that prisoners released on parole into society should be better prepared to find employment and to lead productive and law-abiding lives. It is the intent of the Legislature in enacting this act to review an array of options that, when implemented, effective July 1, 1988, will provide inmates basic training in skills needed for successful reentry into society.

SEC. 2. Section 3004 is added to the Penal Code, to read:

3004. Effective July 1, 1988, each inmate, prior to release on parole pursuant to the requirements of this chapter, shall receive basic training in the skills needed for successful reintegration into society.

SEC. 3. Section 5060 of the Penal Code is amended to read:

5060. ~~The~~ Effective July 1, 1988, the Director of Corrections ~~may~~ shall assist persons discharged, paroled, or otherwise released from confinement in an institution of the department ~~and may~~ in order to secure employment ~~for them~~ , and for ~~such~~ these purposes he or she may employ necessary officers and employees, may purchase tools, and give any other assistance that, in his or her judgment, he or she deems proper for the purpose of carrying out the objects and spirit of this section. Repayment of cash assistance received under this section from the current, or any prior appropriation, shall be credited to the appropriation current at the time of ~~such~~ the repayment.

SEC. 4. (a) On or before April 13, 1988, the Department of Corrections shall submit to the Legislature a report on options for expanding prerelease and postrelease programs for inmates.

(b) The report shall discuss several alternatives for prerelease and postrelease programs designed to better prepare inmates for their release into society, to protect the public, and to reduce recidivism.

(c) The report shall include a discussion of goals and objectives and a range of estimated funding needs for selected options. These options shall include, but not be limited to: expanded prerelease programming at each correctional institution, establishment of an official liaison with the Employment Development Department, parolee job banks, linkages with private and public resources and agencies, and small loan programs.

AB 632 (Stirling)

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. This act shall be known and may be cited as 'The ~~Prisoner-Ward~~ Prisoner Literacy Act.'

SEC. 2. Section 2053 is added to the Penal Code, to read:

2053. (a) The Legislature finds and declares that there is a correlation between prisoners and wards who are functionally literate and those who successfully reintegrate into society upon release. It is therefore the intent of the Legislature, in enacting 'The ~~Prisoner-Ward~~ Prisoner Literacy Act,' to raise the percentage of prisoners and wards who are functionally literate, in order to provide for a corresponding reduction in the recidivism rate.

~~(b) For purposes of the Prisoner-Ward Literacy Act, 'functional literacy' means a 9th grade reading level, and an 'individualized literacy level' means the potential reading level of a prisoner or ward having an educational impairment which would prevent him or her from achieving functional literacy.~~

~~(c)~~

(b) The Department of Corrections shall determine the reading level of each prisoner upon commitment. ~~The Director of Corrections shall establish and maintain~~ The department shall report to the Legislature on or before July 1, 1988, regarding the reading levels of prisoners, the number of prisoners who are enrolled in reading programs, the recidivism rates of prisoners based upon their reading levels, the department's estimate of the amount of time it would take an average inmate to achieve a 9th grade reading level, the costs involved in implementing reading programs on a systemwide basis, the department's estimate on the amount of time necessary to establish a systemwide reading program, and any barriers which currently exist to the implementation of a systemwide reading program.

AB 117 (Lockyer)
(in pertinent part)

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2933 of the Penal Code is amended to read:

2933. (a) It is the intent of the Legislature that persons convicted of a crime and sentenced to state prison, under Section 1170, serve the entire sentence imposed by the court, except for a reduction in the time served in the custody of the Director of Corrections for performance in work, training or education programs established by the Director of Corrections. Worktime credits shall apply for performance in work assignments and performance in elementary, high school, or vocational education programs or in providing tutorial assistance to other prisoners under the supervision of a licensed instructor approved by the Department of Corrections . Enrollment in a two- or

four-year college program leading to a degree shall result in the application of time credits equal to that provided in Section 2931. For every six months of full-time performance in a credit qualifying program, as designated by the director, a prisoner shall be awarded worktime credit reductions from his or her term of confinement of six months. A lesser amount of credit based on this ratio shall be awarded for any lesser period of continuous performance. Less than maximum credit should be awarded pursuant to regulations adopted by the director for prisoners not assigned to a full-time credit qualifying program. Every prisoner who refuses to accept a full-time credit qualifying assignment or who is denied the opportunity to earn worktime credits pursuant to subdivision (a) of Section 2932 shall be awarded no worktime credit reduction. Every prisoner who voluntarily accepts a half-time credit qualifying assignment in lieu of a full-time assignment shall be awarded worktime credit reductions from his or her term of confinement of three months for each six-month period of continued performance. Except as provided in subdivision (a) of Section 2932, every prisoner willing to participate in a full-time credit qualifying assignment but who is either not assigned to a full-time assignment or is assigned to a program for less than full time, shall receive no less credit than is provided under Section 2931. Under no circumstances shall any prisoner receive more than six months' credit reduction for any six-month period under this section.

APPENDIX #7

PENAL CODE SECTIONS 3000, 3000.1, 3001, 3040, 3041, and 3053

§ 3000. [Release and period of parole] The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, as provided in this section. Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter:

(a) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170, or at the expiration of such term as reduced pursuant to Section 2931, if applicable, the inmate shall be released on parole for a period not exceeding three years, unless the board for good cause waives parole and discharges the inmate from custody of the department.

(b) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the board for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall be also applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

(c) The board shall consider the request of any inmate regarding the length of his parole and the conditions thereof.

(d) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under subdivision (a) or (b), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and subdivisions (a) and (b) shall be computed from the date of initial parole, or July 1, 1977, whichever is later, and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward such period of parole unless the prisoner is found not guilty of the parole violation. However, in no case, except as provided in Section 3064, may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of his initial parole, and, except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of his initial parole.

(e) It is not the intent of this section to diminish resources presently allocated to the Department of Corrections for parole functions.

(f) The Department of Corrections shall meet with each inmate at least 30 days prior to his good time release date, unless such release date is within 30 days of July 1, 1977, and shall provide, under guidelines specified by the Board of Prison Terms, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the Board of Prison Terms. [1976 ch 1139 § 278, operative July 1, 1977; 1977 ch 2 § 5, effective December 16, 1976, operative July 1, 1977, ch 165 § 42, effective June 29, 1977, operative July 1, 1977; 1978 ch 582 § 1; 1979 ch 255 § 17; 1981 ch 1111 § 3; 1982 ch 1406 § 2.] *Cal Jur 3d Penal and*

Correctional Institutions §§ 156, 175, 184, 194.

§ 3000.1. [Life parole for first or second degree murder offense; Discharge; Revocation] (a) In the case of any inmate sentenced under Section 1168 for any offense of first or second degree murder with a maximum term of life imprisonment, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(b) Notwithstanding any other provision of law, when any person referred to in subdivision (a) has been released on parole from the state prison, and has been on parole continuously for seven years in the case of any person imprisoned for first degree murder, and five years in the case of any person imprisoned for second degree murder, since release from confinement, the board shall, within 30 days, discharge such person from parole, unless the board, for good cause, determines that such person will be retained on parole. The board shall make a written record of its determination and transmit a copy thereof to the parolee.

(c) In the event of a retention on parole, the parolee shall be entitled to a review by the board each year thereafter.

(d) There shall be a hearing as provided in Sections 3041.5 and 3041.7 within 12 months of the date of any revocation of parole to consider the release of the inmate on parole, and notwithstanding the provisions of paragraph (2) of subdivision (b) of Section 3041.5, there shall be annual parole consideration hearings thereafter, unless the person is released or otherwise ineligible for parole release. The panel or board shall release the person within one year of the date of the revocation unless it determines that the circumstances and gravity of the parole violation are such that consideration of the public safety requires a more lengthy period of incarceration or unless there is a new prison commitment following a conviction.

(e) The provisions of Section 3042 shall not apply to any hearing held pursuant to this section. [1982 ch 1406 § 3.]

§ 3001. [Discharge from parole.] (a) Notwithstanding any other provision of law, when any person referred to in subdivision (a) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for one year since release from confinement, the board shall, within 30 days, discharge such person from parole, unless the board, for good cause, determines that such person will be retained on parole. The board shall make a written record of its determination and transmit a copy thereof to the parolee.

(b) Notwithstanding any other provision of law, when any person referred to in subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for three years since release from confinement, the board shall, within 30 days, discharge such person from parole, unless the board, for good cause, determines that such person will be retained on parole. The board shall make a written record of its determination and transmit a copy thereof to the parolee.

(c) In the event of a retention on parole, the parolee shall be entitled to a review by the board each year thereafter until the maximum statutory period of parole has expired. [1978 ch 582 § 2.] *Cal Jur 3d Penal and Correctional Institutions §§ 175, 186.*

§ 3040. [Authority to grant.] The Board of Prison Terms shall have the power to allow prisoners imprisoned in the state prisons pursuant to subdivision (b) of Section 1168 to go upon parole outside the prison walls and enclosures. The board may parole prisoners in the state prisons to camps for paroled prisoners established under Section 2792. [1941 ch 106 § 15; 1941 ch 363 § 2; 1957 ch 2256 § 57; 1977 ch 165 § 44, effective June 29, 1977, operative July 1, 1977; 1979 ch 255 § 18.] *Cal Jur 3d Penal and Correctional Institutions §§ 174, 175, 184; Witkin Crimes pp 1026, 1027.*

§ 3041. [Time when determination may be made: Setting of release dates.] (a) In the case of any prisoner sentenced pursuant to any provision of law, other than Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, the Board of Prison Terms shall meet with each such inmate during the third year of incarceration for the purposes of reviewing the inmate's file, making recommendations, and documenting activities and conduct pertinent to granting or withholding post-conviction credit. One year prior to the inmate's minimum eligible parole release date a panel consisting of at least two commissioners of the Board of Prison Terms shall again meet with the inmate and shall normally set a parole release date as provided in Section 3041.5. The release date shall be set in a manner that will provide uniform terms for offenses of similar gravity and magnitude in respect to their threat to the public, and that will comply with the sentencing rules that the Judicial Council may issue and any sentencing information relevant to the setting of parole release dates. The board shall establish criteria for the setting of parole release dates and in doing so shall consider the number of victims of the crime for which the prisoner was sentenced and other factors in mitigation or aggravation of the crime. At least one commissioner of the panel shall have been present at the last preceding meeting, unless it is not feasible to do so or where the last preceding meeting was the initial meeting. Any person on the hearing panel may request review of any decision regarding parole to the full board for an en banc hearing. In case of such a review, a majority vote of the full Board of Prison Terms in favor of parole is required to grant parole to any prisoner.

(b) The panel or board shall set a release date unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration for this individual, and that a parole date, therefore, cannot be fixed at this meeting.

(c) For the purpose of reviewing the suitability for parole of those prisoners eligible for parole under prior law at a date earlier than that calculated under Section 1170.2, the board shall appoint panels of at least two persons to meet annually with each such prisoner until such time as the person is released pursuant to such proceedings or reaches the expiration of his term as calculated under Section 1170.2. Amended Stats 1986 ch 1446 § 3.

§ 3053. [Conditions on parole.] The Board of Prison Terms upon granting any parole to any prisoner may also impose on the parole such conditions as it may deem proper. [1941 ch 196 § 15; 3d Ex Sess 1944 ch 2 § 41; 1977 ch 165 § 54, effective June 29, 1977, operative July 1, 1977; 1979 ch 255 § 24.] *Cal Jur 3d Penal and Correctional Institutions § 185; Witkin Crimes p 1030.*

APPENDIX #8

PENAL CODE SECTIONS 3003 and 3058.5

§ 3003. [Return to county from which parolee was committed or to another county; Considerations] (a) An inmate who is released on parole shall be returned to the county from which he or she was committed.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county in a case where that would be in the best interests of the public and of the parolee. If the authority setting the conditions of parole decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record. In making its decision, the authority may consider, among others, the following factors:

(1) The need to protect the life or safety of a victim, the parolee, a witness or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The last legal residence of the inmate having been in another county.

(5) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(6) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) An inmate may be paroled to another state pursuant to any other provision of law. Amended Stats 1985 ch 1419 § 2, operative July 1, 1986.

§ 3058.5. [Providing local authorities with information concerning persons on parole] The Department of Corrections shall provide within 10 days, upon request, to the chief of police of a city or the sheriff of a county, information available to the department, including actual, glossy photographs, no smaller than 3⅛ x 3⅛ inches in size, and, in conjunction with the Department of Justice, fingerprints, concerning persons then on parole who are or may be residing or temporarily domiciled in that city or county. Amended Stats 1986 ch 600 § 1.

APPENDIX #9

Felon Parole Population
County of Parole by County of Commitmenta
Indicating Same or Different
As of May 31, 1987

County of Parole	Parolees Committed By: Same County Number	Same County Percent	Different County Number	Different County Percent	Totals
Alameda	1,493	74.46	512	25.54	2,005
Amador	4	66.67	2	33.33	6
Butte	87	54.38	73	45.63	160
Calaveras	6	85.71	1	14.29	7
Contra Costa	407	62.81	241	37.19	648
Colusa	7	87.50	1	12.50	8
Del Norte	8	72.73	3	27.27	11
El Dorado	22	64.71	12	35.29	34
Fresno	783	79.25	205	20.75	988
Glenn	3	100.00	0	0.00	3
Humboldt	66	70.97	27	29.03	93
Imperial	59	83.10	12	16.90	71
Inyo	0	0.00	1	100.00	1
Kern	971	91.69	88	8.31	1,059
Kings	49	79.03	13	20.97	62
Los Angeles	12,320	91.52	1,142	8.43	13,462
Lake	19	55.88	15	44.12	34
Lassen	8	88.89	1	11.11	9
Madera	93	85.32	16	14.68	109
Marin	26	60.47	17	39.53	43
Mendocino	28	84.85	5	15.15	33
Merced	98	60.87	63	39.13	161
Modoc	6	33.33	12	66.67	18
Monterey	338	75.62	109	24.38	447
Mariposa	0	0.00	1	100.00	1
Napa	27	72.97	10	27.03	37
Nevada	8	66.67	4	33.33	12
Orange	1,034	75.92	328	24.08	1,362
Placer	19	38.78	30	61.22	49
Plumas	3	100.00	0	0.00	3
Riverside	547	64.96	295	35.04	842
Sacramento	870	73.92	307	26.08	1,177
Santa Barbara	75	36.23	132	63.77	207
San Bernardino	769	54.12	652	45.88	1,421
San Benito	4	40.00	6	60.00	10
Santa Clara	1,691	91.60	155	8.40	1,846
Santa Cruz	91	73.39	33	26.61	124
San Diego	1,690	86.62	261	13.38	1,951
San Francisco	1,290	85.43	220	14.57	1,510
Shasta	110	41.04	158	58.96	268
Sierra	0	0.00	1	100.00	1
Siskiyou	10	83.33	2	16.67	12
San Joaquin	328	65.47	173	34.53	501
San Luis Obispo	56	24.14	176	75.86	232
San Mateo	300	67.87	142	32.13	442
Solano	154	71.96	60	28.04	214
Sonoma	132	39.88	199	60.12	331
Stanislaus	303	68.71	138	31.29	441
Sutter	14	73.68	5	26.32	19
Tehama	19	95.00	1	5.00	20
Trinity	1	33.33	2	66.67	3
Tulare	207	62.35	125	37.65	332
Tuolumne	1	25.00	3	75.00	4
Ventura	340	57.63	250	42.37	590
Yolo	41	80.39	10	19.61	51
Yuba	55	91.67	5	8.33	60
Missing	0	0.00	2	100.00	2
Total	27,090		6,457		33,547

a. The county of parole is the county where the parolee resides. It may not be the county where the inmate was originally paroled.

APPENDIX #10

AB 629 (STIRLING)
AND
AB 1728 (AREIAS)

AB 629 (Stirling)

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

~~SECTION 1.~~ ~~Section 1170 of the Penal Code is~~
SECTION 1. Section 3003 of the Penal Code is amended to read:

3003. (a) An inmate who is released on parole shall be returned to the county from which he or she was committed.

For purposes of this subdivision, 'county from which he or she was committed' means the county where the crime for which the inmate was committed occurred.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county in a case where that would be in the best interests of the public and of the parolee. If the authority setting the conditions of parole decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record. In making its decision, the authority may consider, among others, the following factors:

(1) The need to protect the life or safety of a victim, the parolee, a witness or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The last legal residence of the inmate having been in another county.

(5) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(6) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) An inmate may be paroled to another state pursuant to any other provision of law.

AB 1728 (Areias)

SECTION 1. Section 3003 of the Penal Code is amended to read:

3003. (a) An inmate who is released on parole shall be returned to the county from which he or she was committed.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county in a case where that would be in the best interests of the public and of the parolee. If the Board of Prison Terms setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168 or the Department of Corrections setting the conditions of parole for inmates

sentenced pursuant to Section 1170 decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record. In making its decision, the authority may consider, among others, the following factors:

(1) The need to protect the life or safety of a victim, the parolee, a witness or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The last legal residence of the inmate having been in another county.

(5) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(6) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

(c) An inmate may be paroled to another state pursuant to any other provision of law.

SEC. 2. Section 3058.6 is added to the Penal Code, to read:

3058.6. (a) Whenever any person confined to state prison is to be paroled, the Board of Prison Terms , with respect to inmates sentenced pursuant to subdivision (b) of Section 1168 or the Department of Corrections, with respect to inmates sentenced pursuant to Section 1170, shall notify the sheriff or chief of police, or both, having jurisdiction over the community in which the person is scheduled to be released. Except as provided in subdivision (b), the notification shall be made at least 30 days prior to the scheduled release date and, in all cases, shall include the name of the person who is scheduled to be released, the terms of release, and the community in which the person will reside.

(b) When an inmate is scheduled to be released pursuant to subdivision (b) of Section 3003 to a county other than the county from which he or she was committed, the board or department shall provide written notice of that release to the sheriff or police chief, or both, having jurisdiction over the community in which the inmate is scheduled to be released. The notification shall be made at least 90 days prior to the scheduled release date and, in all cases, shall include the name of the person who is scheduled to be released, the terms of release, and the community in which the person will reside.

The law enforcement agency receiving the notice referred to in this subdivision shall have 30 days from receipt of the notice to provide written comment to the board or department regarding the impending release. Those comments shall be considered by the board or department which may, based on those comments, modify its decision regarding the community in which the person is scheduled to be released.

APPENDIX #11

PENAL CODE SECTIONS 2684 and 2962
and
WELFARE AND INSTITUTIONS CODE SECTIONS 3000 and 5150

§ 2684. [Transfers to state hospitals for insane: Authority: Procedure.] If, in the opinion of the Director of Corrections, the rehabilitation of any mentally ill, mentally deficient, or insane person confined in a state prison may be expedited by treatment at any one of the state hospitals under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, the Director of Corrections, with the approval of the Board of Prison Terms for persons sentenced pursuant to subdivision (b) of Section 1168, shall certify that fact to the director of the appropriate department who shall evaluate the prisoner to determine if he would benefit from care and treatment in a state hospital. If the director of the appropriate department so determines, the superintendent of the hospital shall receive the prisoner and keep him until in the opinion of the superintendent such person has been treated to such an extent that he will not benefit from further care and treatment in the state hospital. [1941 ch 106 § 15; 1953 ch 1666 § 10; 1955 ch 483 § 1; 1977 ch 165 § 32, effective June 29, 1977, operative July 1, 1977; 1978 ch 429 § 160, effective July 17, 1978, operative July 1, 1978; 1979 ch 255 § 14.] *Cal Jur 3d*

§ 2962. [Treatment as condition of parole; Criteria] As a condition of parole, a prisoner who meets the following criteria shall be required to be treated by the State Department of Mental Health, and the State Department of Mental Health shall provide the necessary treatment:

(a) The prisoner has a severe mental disorder that is not in remission or cannot be kept in remission without treatment. The term "severe mental disorder" means an illness or disease or condition that substantially impairs the person's thought, perception of reality, emotional process, or judgment; or which grossly impairs behavior; or that demonstrates evidence of an acute brain syndrome for which prompt remission in the absence of treatment is unlikely. The term "severe mental disorder" as used in this section does not include a personality or adjustment disorder, epilepsy, mental retardation or other developmental disabilities, or addiction to or abuse of intoxicating substances. The term "remission" means a finding that the overt signs and symptoms of the severe mental disorder are controlled either by psychotropic medication or psychosocial support. A person "cannot be kept in remission without treatment" if during the year prior to the question being before the Board of Prison Terms or a trial court, he or she has been in remission and he or she has been physically violent, except in self-defense, or he or she has made a serious threat of substantial physical harm upon the person of another so as to cause the target of the threat to reasonably fear for his or her safety or the safety of his or her immediate family, or he or she has intentionally caused property damage, or he or she has not voluntarily followed the treatment plan. In determining if a person has voluntarily followed the treatment plan, the standard shall be whether the person has acted as a reasonable person would in following the treatment plan.

(b) The severe mental disorder was one of the causes of or was an aggravating factor in the commission of a crime for which the prisoner was sentenced to prison.

(c) The prisoner has been in treatment for the severe mental disorder for 90 days or more within the year prior to the prisoner's parole or release.

(d) Prior to release on parole the person in charge of treating the prisoner and a practicing psychiatrist or psychologist from the State Department of Mental Health have evaluated the prisoner at a facility of the Department of Corrections, and a chief psychiatrist of the Department of Corrections has certified to the Board of Prison Terms that the prisoner has a severe mental disorder, that the disorder is not in remission, or cannot be kept in remission without treatment, and that the severe mental disorder was one of the causes or was an aggravating factor in the prisoner's criminal behavior. For prisoners being treated by the State Department of Mental Health pursuant to Section 2684, the certification shall be by a chief psychiatrist of the Department of Corrections, and the evaluation shall be done at a state hospital by the person at the state hospital in charge of treating the prisoner and a practicing psychiatrist or psychologist from the Department of Corrections.

If the professionals doing the evaluation do not concur that (1) the prisoner has a severe mental disorder, or (2) that the disorder is not in remission or cannot be kept in remission without treatment, or (3) that the severe mental disorder was a cause of, or aggravated the prisoner's criminal behavior, and a chief psychiatrist has certified the prisoner to the Board of Prison Terms pursuant to this paragraph, then the Board of Prison Terms shall order a further examination by two independent professionals, as provided for in Section 2978. Only if both independent professionals concur with the chief psychiatrist's certification, shall the

provisions of this subdivision be applicable to the prisoner.

(e) The crime referred to in subdivision (b) was a crime in which the prisoner used force or violence, or caused serious bodily injury as defined in paragraph (5) of subdivision (e) of Section 243. Added Stats 1986 ch 858 § 2.

§ 3000. Legislative intent

It is the intent of the Legislature that persons addicted to narcotics, or who by reason of repeated use of narcotics are in imminent danger of becoming addicted, shall be treated for such condition and its underlying causes, and that such treatment shall be carried out for nonpunitive purposes not only for the protection of the addict, or person in imminent danger of addiction, against himself, but also for the prevention of contamination of others and the protection of the public. Persons committed to the program provided for in this chapter who are uncooperative with efforts to treat them or are otherwise unresponsive to treatment nevertheless should be kept in the program for purposes of control. It is the further intent of the Legislature that persons committed to this program who show signs of progress after an initial or subsequent periods of treatment and observation be given reasonable opportunities to demonstrate ability to abstain from the use of narcotics under close supervision in outpatient status outside of the rehabilitation center provided for in Chapter 2 (commencing with Section 3300) of this division. Determinations of progress of persons committed to the program should be based upon criteria to be established by the Director of Corrections with the advice of clinically trained and experienced personnel.

The enactment of the preceding provisions of this section shall not be construed to be evidence that the intent of the Legislature was otherwise before such enactment.

(Added by Stats.1965, c. 1226, p. 3062, § 2.)

§ 5150. Dangerous or gravely disabled person; taking into custody; application; basis of probable cause; liability

When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer, member of the attending staff, as defined by regulation, of an evaluation facility designated by the county, designated members of a mobile crisis team provided by Section 5651.7, or other professional person designated by the county may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.

Such facility shall require an application in writing stating the circumstances under which the person's condition was called to the attention of the officer, member of the attending staff, or professional person, and stating that the officer, member of the attending staff, or professional person has probable cause to believe that the person is, as a result of mental disorder, a danger to others, or to himself or herself, or gravely disabled. If the probable cause is based on the statement of a person other than the officer, member of the attending staff, or professional person, such person shall be liable in a civil action for intentionally giving a statement which he or she knows to be false.

(Added by Stats.1967, c. 1667, p. 4074, § 36, operative July 1, 1969. Amended by Stats.1968, c. 1374, p. 2643, § 16, operative July 1, 1969; Stats.1970, c. 516, p. 1005, § 7; Stats.1971, c. 1593, p. 3337, § 368, operative July 1, 1973; Stats.1975, c. 960, p. 2243, § 2; Stats.1977, c. 1252, p. 4567, § 554, operative July 1, 1978; Stats.1980, c. 968, p. 3064, § 1.)

APPENDIX #12

AB 965 (STIRLING)
(in pertinent part)

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2960.5 is added to the Penal Code, to read:

2960.5. (a) The Department of Corrections shall provide for a complete psychosocial assessment of each prisoner received at the California Institution for Men and at the California Medical Facility who used force or violence, or caused serious bodily injury, as defined in paragraph (5) of subdivision (e) of Section 243, in the commission of a new crime for which he or she was committed under Section 1170. The assessment shall include, but not be limited to, a compilation of each prisoner's documented prior history of mental disorder for at least the previous five years, and a personal interview with a licensed mental health professional who has reviewed the prisoner's mental health history and test results, if any.

(b) The department shall obtain for each prisoner's file a copy of the court-ordered psychiatric evaluation prepared for purposes of trial, a copy of the discharge summary prepared by a private hospital or institution treating the prisoner for a mental disorder upon consent of the prisoner, and for prisoners returned to court by Atascadero State Hospital as competent to stand trial, a copy of the psychiatric report prepared by the hospital. The department shall transmit these records to the mental health professionals for use in performing assessments, evaluations, and treatment under this chapter.

(c) When the mental health professional performing the assessment pursuant to subdivision (a) determines that the prisoner may suffer from a severe mental disorder, the prisoner shall be referred to a psychiatrist for further evaluation. This referral shall be documented in the prisoner's record. If the evaluating psychiatrist determines that the prisoner's severe mental disorder would be expected to benefit from treatment, the prisoner shall be referred for treatment in the most appropriate secure state treatment setting.

SEC. 2. Section 2961 is added to the Penal Code, to read:

2961. The Department of Corrections may contract with the State Department of Mental Health to provide the assessments, evaluations, or treatment described in Section 2960.5; however, the Department of Corrections shall contract with the State Department of Mental Health for acute treatment.