

# BLUE RIBBON COMMISSION ON INMATE POPULATION MANAGEMENT

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FINAL REPORT  
January 1990

**BLUE RIBBON COMMISSION**  
on  
**INMATE POPULATION MANAGEMENT**



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January 29, 1990

The Honorable George Deukmejian  
Governor of California

The Honorable David A. Roberti  
President Pro Tempore of the Senate

The Honorable Robert Presley  
Member of the Senate

The Honorable Willie L. Brown  
Speaker of the Assembly

Gentlemen:

On behalf of the Blue Ribbon Commission it is my pleasure to transmit this final report containing the Commission's analysis, findings and recommendations on prison and jail overcrowding in California.

Despite an unprecedented prison and jail building program California prisons, jails and youth facilities will be more or only slightly less overcrowded than they are today. Without changes in correctional policies and practices, prison overcrowding will be a major state and local government issue into the next century.

The Commission has come to the predominant conclusion that the criminal justice system in California is out of balance. Additional punishment options must be expanded to reduce overcrowding while protecting public safety.

There are no simple answers for managing an overcrowded corrections system. However, the Commission has developed 38 recommendations in subject areas ranging from substance abuse, parole violators, sentencing, short-term inmates, construction, and community corrections. These recommendations provide a beginning for policy and program changes which will be necessary to deliberately and safely restore balance to our corrections system without compromising public safety. The Commission has suggested methods by which some of the costs of this effort may be met within existing resources. However, additional funding will be necessary and this should be a priority in the State's budget considerations.

On behalf of the Commission, please accept our appreciation for the opportunity you have provided us to work on this extremely important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Grover C. Trask II".

GROVER C. TRASK II, Chair  
Blue Ribbon Commission on  
Inmate Population Management

cc: Members of the Legislature

123706

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National Institute of Justice**

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The Blue Ribbon Commission on Inmate Population Management wishes to acknowledge and commend Senator Robert Presley (D-Riverside) for his leadership in authorizing legislation to establish the Commission (Senate Bill 279, Chapter 1255, Statutes of 1987). For a number of years Senator Presley has been recognized as the leading California legislator in the field of law enforcement, criminal justice, prison and jail issues. Serving as the Chairman of the Joint Legislative Committee on Prison Construction and Operations and the Senate Appropriations Committee, he is very concerned with public safety and aware of the potential impact of the ever increasing demand for resources to support state and local corrections and the overall impact upon the state budget. A long time supporter of public safety legislation and prison construction, Senator Presley has also shown great forethought and integrity in identifying a need to re-examine traditional correctional housing approaches and other possible methods of managing California's growing jail, Youth Authority and prison populations. The Commission members wish to extend their gratitude to Senator Presley for his support and encouragement during the life of the Commission.

The Commission also wishes to acknowledge the contributions of two additional corrections officials who, although not members of the Commission, worked diligently in continuous support of the Commission's efforts. They are:

James H. Gomez  
Former Chief Deputy Director  
California Department of Corrections

Norma Lammers  
Executive Officer  
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## **1.0 INTRODUCTION**

The California Blue Ribbon Commission on Inmate Population Management was established by Senator Robert Presley's Senate Bill 279 (Chapter 1255, Statutes of 1987). The Commission was established to examine prison and jail population projections, study options for criminal punishment, and make recommendations to the Governor and Legislature on the problems of prison overcrowding and escalating costs. The statute requires the Commission to study and make recommendations on the following:

- State prison and youth corrections population projections for the next five years;
- The estimated construction and operations costs to support those projections;
- Determination of desirable punishment options, if any, commensurate with public safety that could improve the system and reduce recidivism and violence;
- Community sanctions for new commitments and parole violators, consistent with public safety; and
- Relevant methods used by other jurisdictions in prison population management.

The report is an attempt to present the tremendous amount of information the Commission has reviewed and considered in arriving at its recommendations. Adult state corrections represents the greatest proportion of the problem and dominates this report. Increases in the number and volume of inmates sentenced to state prison, as outlined in this report, have created demanding challenges for corrections officials and a sense of urgency regarding the development of new methods of managing overcrowded prisons. Even with the construction of new prisons, institutions have been required to expand bed capacity through the use of additional program space, such as gymnasiums and dayrooms, to house inmates. These increases have affected every aspect of the management of prisons, including security, institutional programming and inmate assignments.

This focus on the adult corrections system is not meant to diminish the problems of local jails or the Youth Authority. In fact, there also exists a sense of urgency for additional methods of managing each of these populations. Where appropriate, the Commission has attempted to address all three aspects of incarceration.

The report includes a comprehensive description of the problem being experienced in California and elsewhere in the nation concerning jail and prison overcrowding; a discussion of public safety issues; a comprehensive review of proposed punishment options; and analysis, findings and recommendations on how to approach, and hopefully resolve, problems in the specific categories of substance abuse, parole violators, sentencing, short-term new commitments, community corrections, and construction.

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## **1.1 OVERVIEW**

Prison and jail crowding has been the criminal justice issue of the 1980s nationally as well as throughout California. The reasons for this population explosion are neither simple nor surprising. The public has continued to show its intolerance for criminal behavior by demanding harsher sentences. The impact of drugs and gangs and the violence spawned by disputes over sales and territory have also contributed to the exponential increase in the number of individuals in confinement. The tougher attitude of the public, legislators and law enforcement toward crime and the continued willingness to approve funds to build and operate new facilities may very well extend these trends into the twenty-first century.

While crime and arrest rates ultimately affect prison populations, there are several other policy and legislative factors which have a more direct impact on the number of individuals who are incarcerated, including sentencing, average length of stay in the institution, and parole failures that result in return to prison. Thus, the numbers incarcerated in our prisons today would appear to be as much or more the function of policies and practices in our criminal justice system as opposed to increases in crime and arrest rates.

Enhanced supervision, control and surveillance in the community could present a punishment sanction designed to expand use of options other than simple incarceration or probation. Some states have experienced measured success with similar options noting added benefits due to the ability to build in opportunities for additional customized interventions based on offender circumstances, need or historical pattern to re-offend. Increasingly, policy makers in other states are reconsidering the available options, determining that traditional probation and institutional confinement represent two extremes, and developing some middle range of additional punishment sanctions for low-risk offenders without compromising public safety. The Commission is convinced that this can be done in California.

Over the past decade, the State of California has experienced the most dramatic increases in state prison population the nation has ever witnessed, from about 22,500 in 1979 to 86,000 today. Weekly net gain to the Department of Corrections in Calendar Year (CY) 1988 averaged 177 per week. California currently has 34,000 more state prisoners than New York, the second largest prison system in the country. The state youth facilities and county jails in California have also experienced significant increases in population. The California Department of the Youth Authority (CYA) increased from 4,955 in 1979 to 8,500 today. The Los Angeles County Jail has approximately 22,900 prisoners in a county jail system with a design capacity of 13,464. Los Angeles County has more prisoners than over 45 state prison systems in the nation. At the end of 1988, local jails had 64,332 prisoners in a system designed for 43,994.

Even with a massive \$3.2 billion prison construction effort underway, the California Department of Corrections (CDC) is currently housing over 86,000 prisoners in a system designed for 50,458, or 168 percent of design capacity. There are currently 18 prisons with a bed capacity of 47,567, and community-based facilities totaling 2,891 beds. Another seven prisons are under

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construction or in design which will provide an additional 16,636 beds. Voters have approved \$1.5 billion (does not include 25 percent county matching funds) in jail bonds and counties have invested an additional \$1.27 billion which will have built 25,492 jail beds by 1990 and will finance an estimated 15,272 additional beds to be built over the next five years. Yet, county jails are approximately 135 percent of capacity today. In 1994, when currently authorized construction is completed, prisons will be more overcrowded than they are today and jails will be only slightly less overcrowded, given current population projections.

In Fiscal Year (FY) 1977-78, the annual operational cost of the local and state corrections system in California was \$826 million. By FY 1986-87, it had increased to \$2.7 billion and exceeds \$3 billion today. Without significant changes in law and criminal justice system policies and practices, inmate population projections for the future are equally dramatic:

	<u>1989</u>	<u>1994</u>	<u>Percent Increase</u>
CDC	86,746	136,640	58%
CYA	8,329	9,478	14%
County Jails	67,956	93,003	37%
Juvenile Facilities			
Halls, Camps and Ranches	<u>8,999</u>	<u>10,142</u>	<u>13%</u>
Total	172,030	249,263	45%

NOTE: Juvenile halls, camps and ranches data is the average daily population for all of calendar year 1988. County jail populations as of June 30, 1989 for comparison purposes. Population figures for CDC and CYA are as of November 5, 1989.

Using current projections, it is estimated that an additional \$5.22 billion would be necessary to build sufficient prisons, jails and state youth facilities to meet the demand by 1994.<sup>1</sup> CDC alone estimates that it must build approximately 39,000 additional prison beds at an estimated cost of \$3.5 billion by 1994 just to stay at what it considers to be a manageable level of overcrowding of 130 percent of capacity. CDC further estimates an annual operational budget of approximately \$4 billion by FY 1994-95, approximately \$1 billion more than the entire local and state corrections system costs today.

## **1.2 PREDOMINANT CONCLUSION**

Given the foregoing overwhelming numbers and after taking much expert testimony, the Commission, in its considerations, came to the following predominant conclusion regarding the charge given it by the Governor and the Legislature:

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**The criminal justice system in California is out of balance and will remain so unless the entire state and local criminal justice system is addressed from prevention through discharge of jurisdiction. Judges and parole authorities lack sufficient intermediate sanctions to make balanced public safety decisions. This conclusion is supported by the following:**

- In sentencing decisions judges lack sufficient intermediate sanctions between routine probation and local or state incarceration. Judges must balance punishment, public safety and effectiveness; and, given limited resources, have increasingly selected incarceration. Similarly, parole authorities lack sufficient intermediate sanctions when making decisions regarding parole violators. Parole authorities must now choose between continuing a parole violator on parole or returning him to prison for up to one year. They must also balance punishment, public safety and effectiveness; and, given limited resources, have dramatically increased re-incarceration as their choice.
- The Commission has determined that insufficient prevention efforts, intermediate sanctions and programs for those incarcerated exist; and as a result, there are offenders incarcerated and on probation who judges and parole authorities would, and should, manage differently if these additional sanctions were available.
- The Commission further concludes that it is in the state's interest to fund, regulate and monitor the expansion of these additional intermediate options in an effort to reduce the rate of increase of state prison and jail populations without compromising public safety.

### **1.3 MAJOR FINDINGS AND RECOMMENDATIONS**

The Commission has developed many findings and recommendations presented later in this report. However, the following are certain major findings and recommendations that the Commission wishes to highlight.

#### **1.3.1 Major Findings**

The following are the most significant Commission findings on overcrowded prisons, youth and jail facilities.

- State and local corrections must be viewed as a system in developing corrections policy. Prison overcrowding is contributed to by probation underfunding and jail overcrowding and underfunding. The corrections system is presently lacking sufficient integrated strategies to manage probation, jail and prison populations.

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- Court ordered population caps on 18 county jails in California (accounting for 73% of the jail population) are contributing to prison overcrowding because jails no longer retain state parole violators as they once did.
  - An increasing share of the state general fund budget is allocated to corrections, from about 2 percent in FY 1981-82 to over 6 percent in FY 1989-90.<sup>2</sup>
  - Without significant changes in correctional policies and practices, it is estimated that by 1994 CDC, CYA and local jails will require approximately \$5.2 billion in additional funding for construction of facilities. CDC alone will require approximately \$3.5 billion to construct 39,000 beds to achieve a targeted 130 percent of capacity by 1994. It is estimated that CDC's FY 1994-95 annual operating budget will be approximately \$4 billion (excludes bond payments).
  - In 1994, when currently authorized construction is completed, prisons will be more overcrowded than they are today and jails will be only slightly less overcrowded, given current population projections.
  - The relationship between public safety, recidivism and drug abuse is undeniable and significant. Drug and alcohol abuse is a major contributor to the increase in parole violators and new commitments to CDC, CYA and local corrections. However, CDC has very few drug and alcohol treatment programs in its prisons, or available to parolees to intervene with this major contributor to criminality. There is presently no legislative mandate nor adequate resources for the corrections system to do anything significant with substance abusers while they are confined.
  - There is substantial inmate idleness due to a lack of programming and work opportunities and the resources to fund such ventures. Unemployment is a major problem among parolees and contributes to their likelihood to recidivate.
  - The number of parole violators returned to prison has increased disproportionately to parole population increases in recent years and is a prominent contributor to increases in prison populations. There were 1,011 parole violators in 1978, which increased to 34,014 in 1988 and is projected to increase to 83,000 by 1994. California appears to be returning significantly larger numbers, and a greater percentage, of parolees to prison than other states. CDC parole unit offices are making decisions inconsistently because standardized criteria has not been established. Parole agents lack intermediate sanctions between returning a minor parole violator to prison or continuing them on parole, which contributes to the high return to prison rate.
  - The Commission has developed a continuum of punishment options for consideration by policy makers and practitioners. This consists of population management and punishment options from pre-adjudication through discharge from
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parole. From its review of these punishment options, the Commission has concluded that intermediate sanctions are substantially lacking in California.

- There were approximately 46,000 new commitments and parole violators released from prison in 1988 who served one year or less in prison. Of this number, 32,000 had served six months or less, while 20,000 had served three months or less. The Commission questions the public safety value and cost effectiveness of such very short stays in prison if other intermediate sanctions were available. Intermediate sanctions other than prison and county jail which could reduce costs without reducing public safety have not been sufficiently used to date.
- Certain individuals with no history of violence and non-career criminal offenders are likely target populations for intermediate sanctions or punishment options other than incarceration. These include the short-term stay new commitment (less than one year with emphasis on those serving less than six months with CDC), the substance abusing offender, parole violators returned to prison for less than six months, particularly technical violators, and some less serious juvenile offenders.
- The proliferation of sentencing and enhancement laws as developed by the Legislature has resulted in a "piecemeal" approach to sentencing, without attention to any precise sentencing structure. The result has been the development of an extremely complex system which now has become very difficult to administer.

### **1.3.2 Major Recommendations**

The Commission has formulated approximately 40 recommendations which are presented in the Analysis, Findings and Recommendations section of this report. The following are the major recommendations of the Commission. These are presented more thoroughly in the above-referenced section.

- The Commission recommends the Legislature adopt a Community Corrections Act to provide state funds to localities through grants and contracts, to significantly expand public or community based intermediate sanctions or punishment options such as electronic surveillance, house arrest, intensive probation supervision, work furlough, mother-child programs, community service, victim restitution centers and programs, community detention, and substance abuse residential and non-residential treatment programs. The target offender population for this Act would be very short-term new prison commitments, some less serious juvenile offenders, and certain parole violators and offenders who would otherwise be sentenced to county jail. The goal of this act would be to enhance community responsibility for their offenders and to maintain public safety by dealing with some of the causes of recidivism.

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- The Commission recommends that CDC, CYA and local corrections also significantly expand their intermediate sanctions or punishment options for parole violators through the regular state budget process.
  - The Commission recommends the creation of a Sentencing Law Review Commission consisting of representatives of all segments of the criminal justice system to review and make recommendations to the Governor and Legislature regarding certain adult and juvenile sentencing issues including: clarification and simplification of the state sentencing structure; the efficacy of establishing a sentencing grid or guidelines incorporating local and state punishment options; establishing an ongoing monitoring process to review the effects of existing or revised sentencing laws and advising the Governor and Legislature; and the effects of jail population caps on public safety, prisons and jails.
  - The Commission recommends that CDC, CYA, the Board of Corrections and local correctional agencies should immediately develop and implement a state and local corrections substance abuse strategy to systematically and aggressively deal with substance abusing offenders while they are under correctional supervision, because this is perhaps the most significant contributing factor to prison and jail overcrowding.

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## 2.0 PUBLIC SAFETY

The issue of public safety has been paramount in the development of recommendations by the Blue Ribbon Commission on Inmate Population Management. The statute creating the Commission required it to examine the correctional system in California, study options for offender punishment and make recommendations while considering public safety as a major issue. The authorizing statute specifically references public safety as a serious Blue Ribbon Commission consideration. The following excerpts demonstrate the priority of this consideration:

- *"It is the intent of the Legislature that public safety shall be the overriding concern in examining methods of improving the prison system, reducing costs, heading off runaway inmate population levels, and exploring punishment options."*
- *"These options, alternatives and proposals should be recommended by the Commission only if it is convinced that each such proposal will not result in significant lessening of public safety, increase in crime rates or added violence within the prison system or on the outside."*
- *"Determination of desirable alternatives or punishment options, if any, commensurate with public safety while reducing recidivism and prison violence."*
- *"Public safety shall be the primary consideration in all conclusions and recommendations."*

Additionally, Governor Deukmejian addressed the issue of public safety concerns in his signing message to the Senate regarding Senate Bill 279, as follows:

- *"The Commission can perform a positive service if it suggests methods by which incarceration would be achieved more economically, or recommends alternative methods which would absolutely insure that public safety is protected," and*
- *"Finally, while the cost of maintaining our prison system must be of concern, the vastly more important concern must be the protection of public safety."*

Over the last decade, the public has been persistent in sending a strong message to California lawmakers to uphold high standards of law and order through passage and enforcement of laws which mandate tougher criminal penalties, provide recourse for victims of crime and authorize funding for more prison and jail construction. The Governor, the Legislature and the Blue Ribbon Commission have a responsibility to continue to acknowledge this message by making a critical assessment of public safety and cost effectiveness in the development of any and all criminal justice system responses.

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The Commission has concluded that public safety may be defined in several ways beginning with an expectation that each individual citizen be able to live a violence-free and crime-free existence. This leads to individual expectations for immunity from being a crime victim with an inherent responsibility that the community or society as a whole protect its members. Expectations for maintaining public safety are susceptible to the changing definitions imposed by public demand. While treatment-oriented probation supervision as administered in the 1960s was perceived as an adequate method of maintaining public safety at that time, present-day philosophy mandates more stringent controls. Finally, it is generally concluded that public safety is influenced by and protected through the existence and imposition of sanctions or punishment.

## **2.1 PUBLIC SAFETY AND PUNISHMENT OPTIONS**

Punishment for convicted offenders in California consists of two predominant sanctions: incarceration and probation supervision. These are the two extremes of the punishment continuum. Because of underfunding and large caseloads, probation supervision following release from jail or in lieu of incarceration today is mostly monitoring for re-arrest or unsupervised community release. Incarceration is the other extreme resulting in very large inmate population increases in jails and prisons.

In the course of fulfilling its mission, the Blue Ribbon Commission has concluded that the expansion of intermediate community sanctions or punishment options is desirable. This is based upon a belief that the responsibility for corrections must be shared by each community and on the notion that correction of offenders occurs more efficaciously in the community than in prison. In doing so, the Commission has identified a broad range of punishment options which span the criminal justice process from pre-trial detention through parole supervision (see Punishment Options Section 4.0). Intermediate sanctions such as electronic surveillance, house arrest, intensive probation supervision, community detention, victim restitution and community drug treatment programs are being recommended by the Commission for expansion. This has been done in the belief that these recommendations will increase, not reduce, public safety.

Critical to improved public safety is the need to reduce criminality among those in the entire correctional system. The level of reported crime during the past five years has generally been stable, although recent data reveals a moderate increase in the number of reported crimes. However, felony drug law arrests during the same period have increased by over 100 percent. Jail and prison populations are recycling at unprecedeted rates, in large part due to increased use and detection of drugs.

Well-planned intervention programs aimed directly at lowering recidivism, especially through reduced drug usage, offer the strong likelihood that crime among parolees and probationers can be decreased. Recent studies have shown that voluntary and involuntary participation in drug programming alike can result in marked reduction in drug usage and that criminality can be greatly reduced (see Substance Abuse Section 5.1). Comprehensive programs which provide a highly structured series of intermediate sanctions, which range from supervision to residential

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restrictions to local or state custody, would more effectively reduce crime than the present system.

Enhanced supervision, control and surveillance in the community could present a punishment sanction designed to expand the use of options other than simple incarceration or probation. Some states have experienced measured success with similar options noting added benefits due to the ability to build in opportunities for additional customized sanctions. Thus, sanctions may be based on offender circumstances, need or historical pattern to re-offend. Increasingly, policy makers in other states are reconsidering the available sanctions, determining that traditional probation and institutional confinement represent two extremes. They have developed a middle range of additional punishment sanctions for low-risk offenders without compromising public safety. It is the Commission's belief that this can be done in California.

Public safety is not being adequately served by California's present method of responding to criminal sentencing with either routine probation or incarceration without a balance of intermediate punishment sanctions. With a continuum of punishment options, more offenders could be handled locally with supervision levels customized according to both the offense and the offender's amenability to behavioral change. Judges and parole authorities should have more than the two current extremes available to them in considering punishment and offender potential for change.

The Commission has determined that public safety is being compromised in the long term by the lack of an array of punishment options. The practice of locking up many new prison commitments and parole violators for up to 12 months with little programming or efforts to deal with their behavior is very short term, with only a temporary assurance for public safety. Intermediate sanctions provide opportunities to manage offender behavior and to introduce interventions for sustaining long-term behavioral change.

## **2.2 THE ROLE OF PREVENTION**

Public safety would be further enhanced for future generations if Californians also address crime and delinquency prevention. Although the prevention of crime and delinquency is broader than the scope of the Commission's mandate, it is critical to acknowledge and recognize its importance in planning for future correctional needs. Prevention efforts presently in existence throughout the state and nation have been operated through the efforts of private organizations and through the combined efforts of law enforcement and probation departments. Without prevention programs and strategies, the justice system would surely suffer even greater increases in caseloads and volume of work. Most offenders come before the criminal justice system with unmet needs, many severely deficient in educational, emotional, health, or other areas of personal development. Prevention efforts remain the primary resource for having a positive impact on individuals who might otherwise be committed to jail or prison.

Preventing crime and delinquency requires a broad variety of philosophies and approaches. Primary prevention focuses on strategies to address very young target populations not yet

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identified as at risk. For example, good education, health care, shelter, nutrition, recreation, and employment opportunities represent forms of primary prevention. Unemployment and the lack of a formal education are significant contributing factors to the level of criminal conduct in contemporary society. A well-educated and working population are much less likely to be involved in crimes such as robbery, the trafficking of narcotics and other illegal drugs, and certain property crimes such as burglary.

To the extent that public funds are effectively spent on prevention of crime by providing a strong educational system and meaningful employment opportunities, the objectives of public safety and reduced prison and jail populations will be better served.

Secondary prevention, or intervention, targets individuals who are at risk, defined by some unofficial contact with agencies representing health and human services, law enforcement or schools. "At risk" may be defined as youthful status offenders, runaway children, and adults identified from domestic violence intervention or efforts to reduce high school dropout rates and truancy.

Tertiary prevention is the imposition of mandatory treatment and rehabilitation following an initial delinquent or criminal act. At this stage, prevention includes both an official response from the justice system and other constructive measures to deter future criminal or delinquent activity.

Program options for prevention focus on primary and secondary prevention, concentrating on activities that occur prior to the official responses of the justice system and other community service agencies. The emphasis is on treatment, counseling, education and other intervention approaches with minimal, if any, supervision. Prevention approaches have historically targeted juveniles through use of primary prevention activities. Examples of primary prevention include school-based substance abuse curriculum, social skills, life skills courses, parenting skills development, tutoring and mentor programs, boys' and girls' clubs, YMCA, YWCA, scouting programs, and Big Brother or Big Sister programs. Examples of secondary prevention, or intervention, include police diversion, substance abuse counseling or treatment, counseling for children of divorce, child abuse programs, domestic violence shelters, counseling for victims and perpetrators, and special education programs for the learning disabled or developmentally disabled student.

Primary and secondary prevention programs are provided through federal, state, local, public and private organizations. Prevention today may focus on drug and alcohol education and awareness, providing shelter and work for the homeless, intervening in domestic violence, and ensuring that students complete their education. However, many of those individuals for whom these services and activities are ineffective or unavailable will become involved in the juvenile and/or adult justice system. Although prevention efforts can be far reaching and effective, additional measures must be taken to accommodate the public's demand for holding offenders accountable.

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## **3.0 DEFINITION OF THE PROBLEM**

Inmate population management is a complex issue influenced by several interrelated factors. This section of the report presents a discussion of the factors considered by the Commission which led to many of its recommendations.

During the past decade California has experienced an increase of over 268 percent in the number of adults in state prison and approximately 71 percent increase in the number of youthful offenders in the California Youth Authority. Drug usage has been a major contributing factor to increases in criminal activity, arrests, resulting convictions and ever-increasing numbers of individuals returned to state prison for parole violations. The number of sentences to state prison has nearly doubled since 1975, while the use of straight probation as a disposition has decreased significantly. The major factor contributing to CYA's institution population increase has been increasing length of stay. Among other factors, court delays and the increased use of incarceration as a primary punishment option have resulted in overcrowded jails and court-ordered population caps in 18 local jails. In order to understand the impact of these and other factors upon the issue of population management a more thorough analysis is in order.

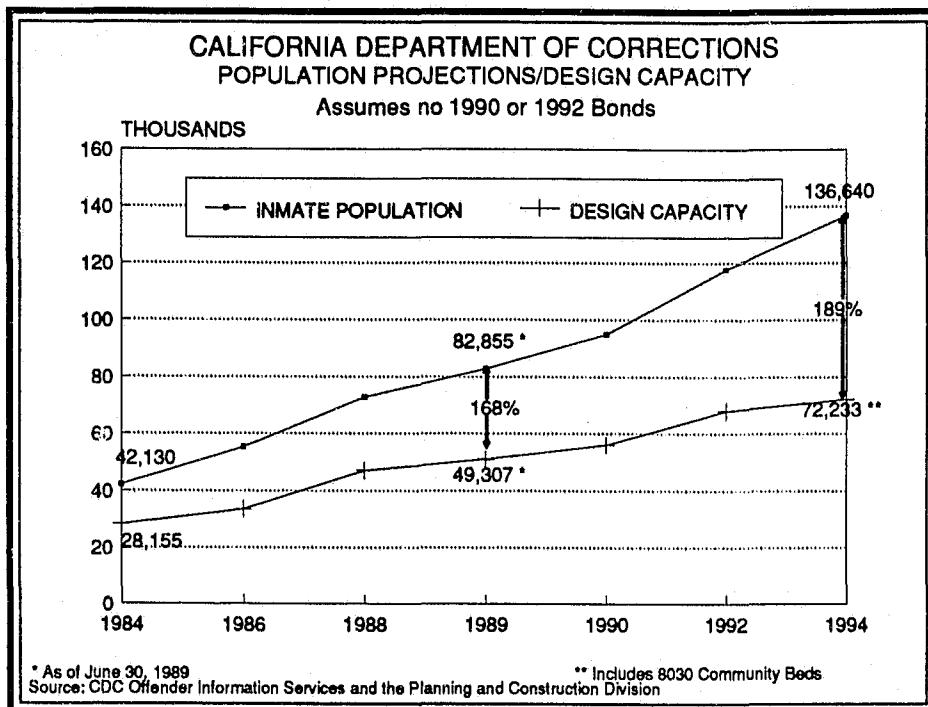
This section begins with a discussion of prison, jail and Youth Authority population projections through 1994 and the related construction and operations cost implications of those projections. That is followed by a discussion of some of the contributing factors or reasons for the enormous population increases experienced over the past decade or so and projected for the future. The next areas discussed are brief presentations on crime trends, California as compared to other states, offender demographics, violence and recidivism. The section concludes with a discussion of potential target offender populations for punishment options.

### **3.1 POPULATION PROJECTIONS, RELATED CONSTRUCTION AND OPERATIONS COST IMPLICATIONS**

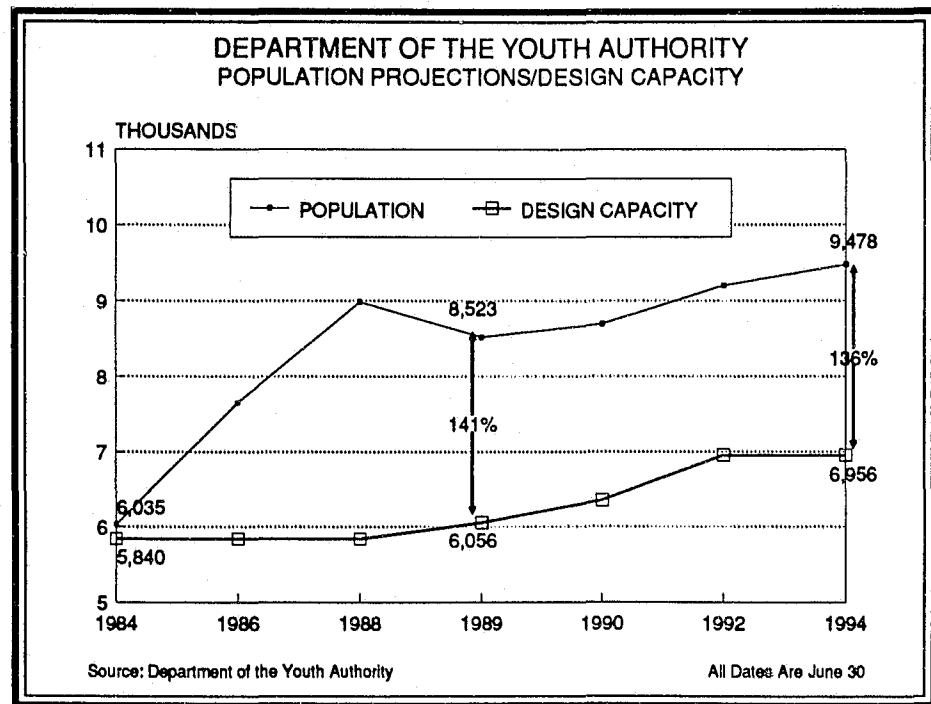
Charts 3-1, 3-2, and 3-3 demonstrate that population increases over the past few years have been very dramatic for the California Department of Corrections (CDC), California Department of the Youth Authority (CYA), and jails. The charts also show that projections for the future are even more dramatic. Prison populations are projected to increase from over 86,000 today to over 136,000 by 1994. CYA institution population is projected to increase from approximately 8,500 today to approximately 9,500 by 1994. County jails are projected to increase from almost 68,000 today to 93,000 by 1994. CDC, CYA and jails are all overcrowded, meaning they have many more inmates than design capacity. CDC is currently at 168 percent of design capacity, while CYA is at 141 percent, and the average daily population of county jails is at 135 percent of design capacity.

Over the past decade, California has been involved in an unprecedented prison and jail building program. CDC is currently involved in a \$3.2 billion building program. As of December 1989, they had completed 24,362 beds and have an additional 12,940 under construction or in design, for a total of 37,302 new beds. CYA has an authorized and funded building program totaling

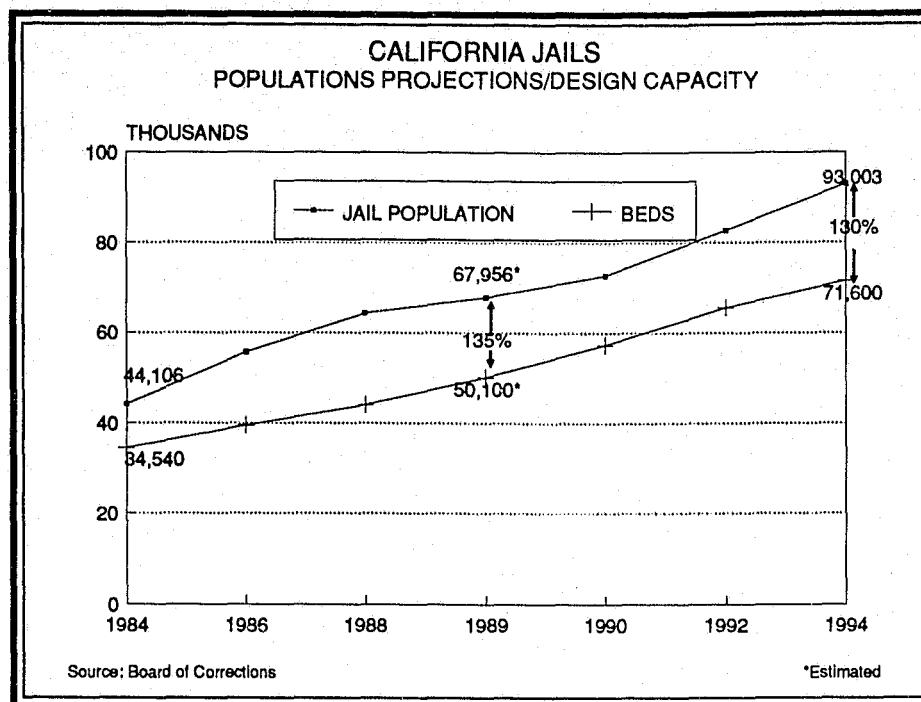
\$83 million, of which 216 beds have been completed and 900 are under construction or in design, for a total of 1,116 new beds. New local jail construction will have increased jail capacity by 25,492 new beds by 1990 with another estimated 15,272 under construction or in design for a total of 40,764 new beds with a state bond funding level of \$1.5 billion and county expenditures of \$1.27 billion.



*Chart 3-1*



*Chart 3-2*



**Chart 3-3**

	Authorized Construction			
	Beds Completed	Under Construction/ Design	Total	Cost (In Millions)
CDC	24,362	12,940	37,302++	\$3,200
CYA	216	900	1,116	83
Jails	<u>25,492</u>	<u>15,272</u> +	<u>40,764</u>	<u>2,770</u>
Total	50,070	29,112	79,182	\$6,053

+ (by 1990)

++ As of December 31, 1989

Source: CDC,CYA and Board of Corrections

Upon completion of these 79,182 beds with an expenditure of over \$6 billion and assuming no additional funding for construction or changes in criminal justice system policies or practices, California's prisons will be more overcrowded and jails and youth facilities will be only slightly less overcrowded in 1994 than they are today. CDC will be at 189 percent versus 168 percent capacity today, while CYA will be at 136 percent versus 141 percent today, and jails overall will be at 130 percent versus 135 percent today.

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In order to thoroughly understand the construction and operation cost implications as impacted by increased population, a thorough understanding of institutional capacities and operation is needed. The following definitions are relevant to a discussion of institutional capacities:

**Design Capacity** is defined as the number of inmates that planners or architects intended for the facility.

**Operational Capacity** is the number of inmates that can be accommodated based on a facility's staff, existing programs and services (also referred to as "standard of capacity").

**Rate of Occupancy** is the number of inmates a facility houses divided by the design capacity of the facility, expressed as a percentage.

The Department of Corrections has established standards of manageable operational capacity. "Manageable" is defined as the ability to administer all programs while maintaining low incident rates. Standards of capacity range from 100 percent of design capacity to 130 percent, depending upon the type and classification of inmate. The current rate of occupancy of California prisons averages about 168 percent.

A prison's design bed capacity typically represents the number of inmates that the prison is designed to house. Usually, however, some additional inmates can be accommodated on a long-term basis through changes in operations of the prison. For example, selective double-ceiling can increase bed capacity with minimal strain on support services and programs by scheduling multiple shifts in areas such as dining, recreation and industries. Although prison overcrowding is considered undesirable (because of stress on staff and potential management problems), CDC has found that some degree of overcrowding is possible and is, in fact, manageable even over the long term. The degree of overcrowding that an existing or new institution can tolerate varies depending on the characteristics of inmates to be housed (i.e., in security level and special needs), the characteristics of the physical plant, level of staffing and additional program and support services.

Through experience, CDC has determined the manageable levels of overcrowding both for existing and new prisons. With a few exceptions, CDC has determined that the long term systemwide level of overcrowding in existing and newly constructed prisons should not exceed 130 percent of the design bed capacity. It is anticipated, however, that new prisons may tolerate overcrowding more easily because they are better suited to accommodate inmates beyond design bed capacity. For example, modern physical plants, housing units with adequate spaces for inmate employment, academic education programs and recreation will support overcrowding more readily than the limited space at an old institution.

By comparison, jails with over 100 beds are generally considered crowded when their average daily population (ADP) exceeds 90 percent of its design capacity. A small jail, 100 beds or less, is considered crowded when the ADP exceeds 80 percent of capacity. The reasons for the difference are:

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- Jail populations vary greatly during any week, rising up to 25 percent over ADP on the weekends when courts are closed.
- Jail administrators are required to separate various types of classifications of offenders (males, females, violent, non-violent, sentenced, unsentenced, etc.) within one or two facilities rendering some empty beds in one housing unit unusable for certain inmates.

The current rate of occupancy of California jails averages about 135 percent. However, the range of overcrowding may be a more enlightening figure since a bed vacancy in a rural county bed in Northern California is neither under the control of, nor readily accessible to Los Angeles County with its roughly 200 percent crowding.

The Department of the Youth Authority policy is that youthful offender facilities should be operated at no more than 100 percent of design capacity and crowding is not acceptable for extended periods. As CYA facilities have become crowded, maintenance problems have escalated, food preparation and feeding times have been extended, individual body space is severely restricted and school or trade areas have expanded beyond the physical capacity of the buildings. The current rate of occupancy of Youth Authority institutions averages about 141 percent.

Absent any significant changes in criminal justice policies or practices, it is estimated that the following additional construction funding will be necessary to meet population demands in CDC, CYA and local jails by 1994.

#### Additional Construction

	<u>Building to % of Capacity of</u>	<u>New Bed Shortfall</u>	<u>Cost (In Millions)</u>
CDC	130%	39,000	\$3,500
CYA	100%	2,522 *	\$ 227
Jails	100%	<u>21,403</u>	<u>\$1,490</u>
Total		62,925	\$5,217

\* CYA will continue to propose a mix of legislation, construction, alternative programs, and temporary crowding to manage the 2,522 bed shortfall. The proposed mix has not been determined. This figure is based on the assumption that the entire shortfall would be met by construction.

Source: CDC,CYA and Board of Corrections

The operational costs for Corrections in California have increased consistent with population increases. Table 3-4 demonstrates that, as a segment of overall criminal justice expenditures in California, corrections is consuming a greater proportion of the total, from 27 percent in 1982-83 to 33 percent in 1987-88.

**CALIFORNIA CRIMINAL JUSTICE EXPENDITURES**  
**(In Millions of Dollars)**

	FY 72/73 \$	FY 72/73 %	FY 77/78 \$	FY 77/78 %	FY 82/83 \$	FY 82/83 %	FY 86/87 \$	FY 86/87 %	FY 87/88 \$	FY 87/88 %
Total	1,612	100	2,888	100	5,355	100	8,370	100	9,087	100
Law Enforcement	904	56	1,578	55	2,981	56	4,243	51	4,509	50
Prosecution	58	4	149	5	281	5	415	5	453	5
Public Defense	25	2	55	2	112	2	186	2	213	2
Courts <sup>1</sup>	160	10	279	10	516	10	826	10	898	10
Corrections	465	28	827	28	1,465	27	2,700	32	3,013	33
Jails	87		155		346		622		713	
Probation	156		270		391		535		549	
Prisons	140		277		496		1,216		1,410	
CYA	82		125		232		327		340	

<sup>1</sup> Includes Court and court-related costs

Source: Bureau of Criminal Statistics and Special Services

**Table 3-4**

Table 3-5 demonstrates that the entire Youth and Adult Correctional Agency (YACA) budget was about \$595 million in 1981-82 and increased to \$2.08 billion in Fiscal Year 1989-90. CDC expenditures are the vast majority of that sum at \$1.75 billion. CDC projects that its operations budget will increase to approximately \$4 billion annually by Fiscal Year 1994-95 and staff employed by the Department will increase from about 25,000 today to over 40,000. Some segments of the YACA budget depicted here, such as the Board of Corrections (BOC) portion, do not reflect expenditures based on income from sources other than the California general fund. For example, certain divisions within the BOC are supported by the penalty assessment fund and construction bond support monies. Not represented in this chart are the annually required bond interest payments for bonds issued in support of new prison construction. The state raises money by issuing financial securities (bonds) to finance many different types of capital improvements, including prisons and jails. This spreads the cost of the project over time, consistent with the projected life of the capital improvement. CDC estimates that for the initial capital outlay for each new bed, an additional equal amount in interest is paid over the next 20 years to repay the bonds used to finance the initial construction.

Chart 3-6 demonstrates that the Youth and Adult Correctional Agency's share of the State General Fund Budget in Fiscal Year 1989-90 is 6.1 percent. This is an increase from approximately 2 percent in 1981-82. Chart 3-7 demonstrates that during those same years the annual percentage increases for YACA has doubled the percentage increases for education and health and welfare.

**YOUTH AND ADULT CORRECTIONAL AGENCY  
BUDGET TRENDS\***  
**(In Millions Of Dollars)**

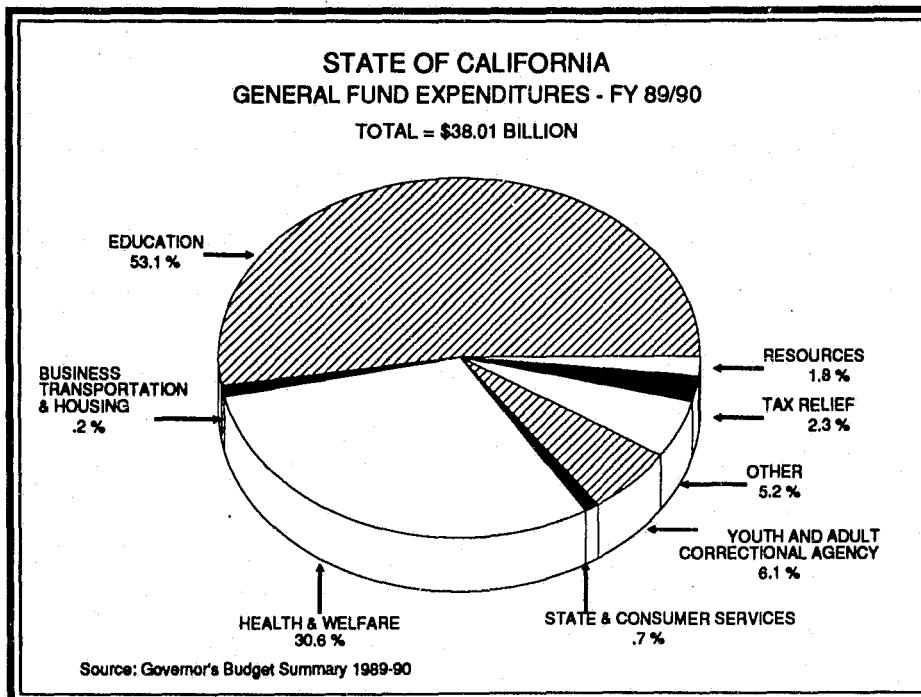
	FY 81/82	FY 83/84	FY 85/86	FY 87/88	FY 89/90
CDC	419	580	937	1,340	1,766
YA	167	178	228	264	297
BPT	6	6	7	9	12
YOPB	2	2	3	3	3
BOC	.5	.3	.4	.5	.5
YACA/SEC				1	.9
PRESLEY INSTITUTE				.1	.4
YACA TOTAL	594.5	766.3	1,175.4	1,617.6	2,079.8

\* DOES NOT INCLUDE LOCAL ASSISTANCE

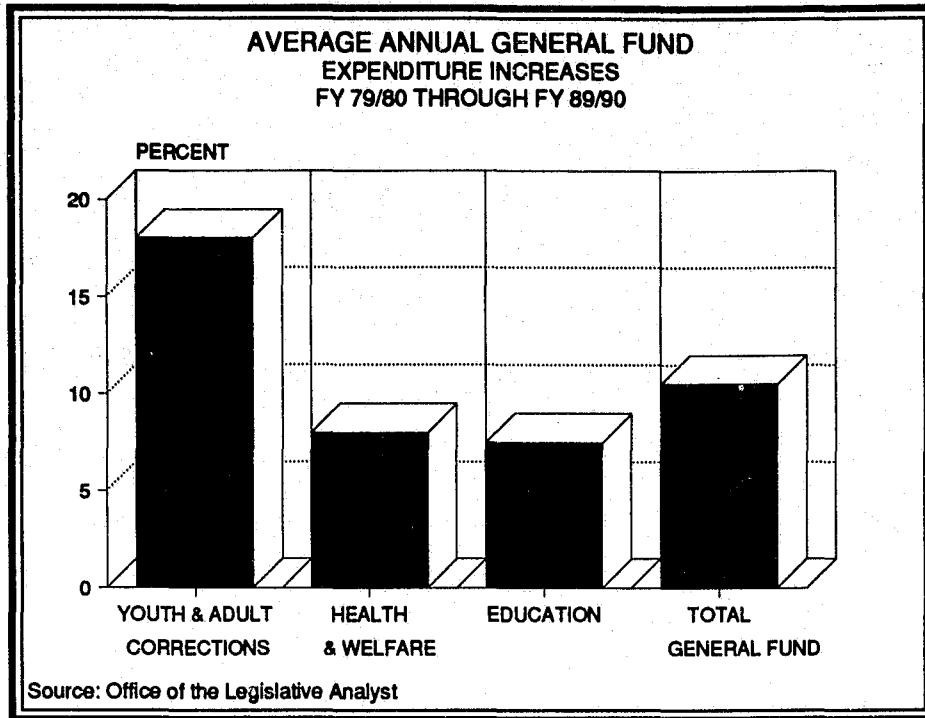
Source: Youth and Adult Correctional Agency

**Table 3-5**

**Chart 3-6**



These projections of population and costs are only available for the period through 1994. It should be noted that in recent years CDC prison and Board of Corrections jail population projections have been fairly accurate for the following year or two but the five-year projections



**Chart 3-7**

have always proven to be less than actual because of law changes and other factors, particularly in periods of growth. Therefore, the numbers presented here are most likely conservative unless there are changes in criminal justice and corrections policies and practices to reverse or mitigate these trends. On the other hand, CYA population projections have recently been revised downward as a result of the implementation of programs designed to reduce the institutions population and changing Youthful Offender Parole Board practices. This long-term unreliability shall always remain a feature of population projections, as projections methodology cannot factor in such things as future influences including drug epidemics, changes in public attitudes, judicial sentencing practices, changes in penalties or the evolutionary changes in types of crimes committed. Local corrections budget projections have proven impossible because little aggregated data is available regarding jail or probation population profiles or trends. Lacking such data, budget projections cannot be developed with any level of accuracy.

### **3.2 CALIFORNIA IN A NATIONAL CONTEXT**

California is among the majority of states facing severe prison overcrowding. Although California is unique in many ways in terms of size, population, demographics, and particulars of its criminal justice system, it is useful to review the status of overcrowding here compared to other states. The Blue Ribbon Commission reviewed considerable information for the purpose of making such comparisons. Because Texas and New York share broad similarities with California in terms of prison crowding, state population and/or demographics, the Commission sought comparisons with these two states in some instances. California has 34,000 more state

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prisoners than the state of New York, the second largest prison system in the nation. Overall, given this prison population, one would think California would be significantly higher than other states in incarceration rate and other factors increasing imprisonment. This is not the case.

Although California has the largest prison population in the nation, an analysis of the ratio of state prison inmates to state population<sup>3</sup> reveals that California ranks 16th in its prison incarceration rate compared to all states nationwide. Comparing the total number of individuals under all forms of correctional control, including prison, jail, juvenile hall, probation or parole, to state crime rates further reveals that California ranks 25th in comparison to all other states.<sup>4</sup>

Among the factors which drive overcrowding in prisons are crime rates and arrests. Crime rates are typically reported "per 100,000 population" in order to make reasonable comparisons across states with widely disparate populations. California has the largest state population as well as the largest prison population. Crime rates describe reported crime, regardless of whether the incident resulted in an arrest or further action. According to 1987 data analyzed by the National Council on Crime and Delinquency (NCCD), the crime and arrest statistics reported to the Federal Bureau of Investigation (FBI) for those years indicated California's standing nationally as follows:

- California ranks 8th in crime rate for index crimes (which include homicide, rape, robbery, aggravated assault, burglary, larceny, arson, and motor vehicle theft) following Florida, the District of Columbia, Texas, Arizona, Washington, Oregon, and New Mexico.<sup>5</sup>
- California ranks 1st in number of adult felony arrests with 288,822, nearly double the number in New York, the second ranking state with 146,861. Texas had 138,086 arrests, and Florida, the fourth ranking state, had 126,680. The average number of arrests in the remaining states was about 30,000.<sup>6</sup>

While crime and arrest rates affect prison populations, there are several other factors which have a more direct impact on incarceration, including sentencing, average length of stay in the institution, clearance rates, and parole failure that results in return to prison. Guided by policy and legislation, these indicators may contribute to prison population trends more dramatically than crime or arrest rates.

California's parole revocation practices have been governed by intensive efforts to maintain public safety and monitor drug usage. Improved technology in drug testing, combined with fewer resources available for community drug treatment, have contributed greatly to revocation rates. The lack of intermediate sanctions has also resulted in more violators being returned to prison. Further, California revocation rates are influenced by an inability to house parole violators in local jails as a result of court-ordered jail population caps in many counties. It is difficult to make reliable comparisons of parole populations and parole revocation rates among the states because parole systems vary considerably in terms of structure and areas of responsibility. Some states, for example, combine parole with probation, which tends to invalidate comparisons of success rates; and states that don't have overloaded court calendars

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tend to prosecute parolees who commit new offenses, sending them to prison with new terms rather than recommitting them as parole violators.

In 1988, prison overcrowding was a concern to state officials, courts and prison administrators in a majority of states, including California. California has the largest prison population in the country and a corrections system which is managing over 86,000 inmates. Compared to other states, California ranks first in overcrowding in absolute numbers but not in the rate of incarceration.

- California ranked 16th in terms of the prison incarceration rate. The rate is 242 per 100,000 compared to 1,197 in the District of Columbia and 60 for Minnesota. New York and Texas were ranked 20th and 19th at 229 and 231 per 100,000 respectively.<sup>7</sup>

It is difficult to make a precise determination of the extent of crowding in other state correctional systems because of the absence of uniform measures for defining capacity. Some states measure capacity in terms of how much space is available to house inmates. Other states consider factors such as availability of programs and services and the ability of staff to operate an institution. California bases its measure of capacity primarily on its ability to provide services to inmates. Using that measure, California was about 65% over its rated capacity in 1988. A Bureau of Justice Statistics (BJS) study of prisoners in 1988 indicated that other states averaged about 23% over rated capacity. These ratings, however, are based on somewhat inconsistent standards of measurement. The federal system was estimated to be operating at 72% over capacity.<sup>8</sup>

Comparisons of prison population do not generally take into consideration the numbers of people under other forms of correctional control, such as jails, juvenile facilities, probation and parole. The National Council on Crime and Delinquency (NCCD) developed a useful ratio between total number of people under "control" and state crime rates. When this ratio was applied to each state, California ranked 25th.<sup>9</sup> When total number of arrests were factored into the equation, California appears even less punitive and descended to rank 39. A similar analysis was done using a ratio of people imprisoned to index arrests. According to NCCD, "In some ways the imprisonment to arrest ratio is a superior measure of punitiveness in that it reflects the use of the most punitive sanction given the number of arrests made in that state for serious crimes."<sup>10</sup> Using this measure, California descended to rank 42, making it one of the least punitive states.<sup>11</sup>

In summary, California ranks as follows when compared to other states:

- 1st in number of state prisoners;<sup>12</sup>
  - 1st in number of adult felony arrests;<sup>13</sup>
  - 8th in crime rate for index offenses;<sup>14</sup>
  - 16th in prison incarceration rate per 100,000 population;<sup>15</sup> and
  - 42nd in NCCD's measure of imprisonment to arrest ratio.<sup>16</sup>
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### **3.3 FACTORS CONTRIBUTING TO PRISON AND JAIL OVERCROWDING**

There are many factors contributing to prison and jail population increases. Some are very clear and tangible and subject to statistical analysis. Others are less clear and tangible but very real in their impact.

The tangible contributing factors include increases in drug arrests, mandatory prison sentencing practices, increased sentences for certain offenses, and increased numbers of parole violators returning to prison. Similarly, there has been increased public demand for judicial accountability which has resulted in changes in the increased use of prison and jail sentences. Another tangible factor is that court delays may be contributing to jail overcrowding. Due to credits for time spent in jail, court delays could also be contributing to reducing prison populations by reducing length of stay in prison. The fact that legislators and other public officials continue to be willing to allocate increased funds for operations of law enforcement, prosecution and corrections is a factor in increasing the incarcerated population in the state. The same is true of construction funding in the form of bonds that have passed with increasing voter majorities over the last decade. Court-ordered population caps in 18 jails in the state also contribute to prison overcrowding.

The intangible contributing factors include the fact that the public, legislators, judges, law enforcement and others have individually and collectively exhibited a much tougher attitude toward crime and its perpetrators. This attitude and its resulting actions have contributed to many of the tangible factors such as tougher laws, approval of funds for operation and construction of prisons and jails, increased numbers of parole violators going to prison and increased sentencing to jail and prison. In turn, this has caused a need for additional criminal justice and judicial resources. CDC, with resources from the Governor and Legislature, has been able to successfully mitigate many of the negative impacts on inmates resulting from overcrowding. This has helped to minimize major law suits regarding constitutional conditions of confinement which have placed population caps on many prison systems in other states and county jails in California. If operations or construction funding becomes less available, the litigation potential will increase.

Finally, prison and jail population increases are also a likely result of a lack of intermediate sanctions or punishment options for judges, custody and parole authorities in making punishment decisions.

The balance of this section presents a discussion of those tangible contributing factors referenced above and their contribution where quantifiable to prison and jail population increases.

#### **3.3.1 Drugs**

Drug offenders are an increasingly significant contributing factor to criminal activity and prison and jail population increases. Drugs and their contribution to prison population are quantified

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more extensively in the Analysis, Findings and Recommendations section of this report. Drug arrests in California declined significantly in 1976-77 as the result of decriminalization of marijuana. Drug arrests remained steady until about 1983 when they began a rapid increase. In 1987, 29.5 percent of all felony arrests in California were for drug law violations, up from 17.7 percent in 1982. The number of people in state prison for drug law violations increased from 2,090 in 1980 to 19,908 on June 30, 1989. New drug law offenses are primarily for cocaine, including crack, and methamphetamines. Based upon the latest arrest data, there is little evidence to indicate that the present drug epidemic will subside in the immediate future. For the first time since decriminalization of marijuana in 1976, adult felony drug arrests for 1988 (158,510) surpassed arrests for property offenses (152,992) during that same period.<sup>17</sup>

As further evidence of the significance of drug usage, felony drug arrests increased 116 percent from 73,318 in 1983 to 158,510 in 1988. In 1988, 33.7 percent of all adult felony arrests were for drug crimes. In addition, other facts lead to the conclusion that drugs are also a factor in other crimes. For example, in a 1988 National Institute of Justice (NIJ) sponsored Drug Use Forecasting Project involving San Diego and Los Angeles, over 70 percent of arrestees for all types of crimes tested positive for drug use (excluding marijuana) at the time of the arrest. (See Chart 5-1 on page 69). Similarly, once offenders are released on parole, drugs are identified by the Board of Prison Terms as the primary reason for parole revocation. (See Chart 5-4 on page 71). In addition to committing drug offenses, drug abusers commit other types of crimes while under the influence of drugs, and are revoked on parole due to drug violations. Thus, drug abuse is the single factor most contributing to the "revolving door" of crime, arrest, incarceration, release and an eventual return to criminal activity.

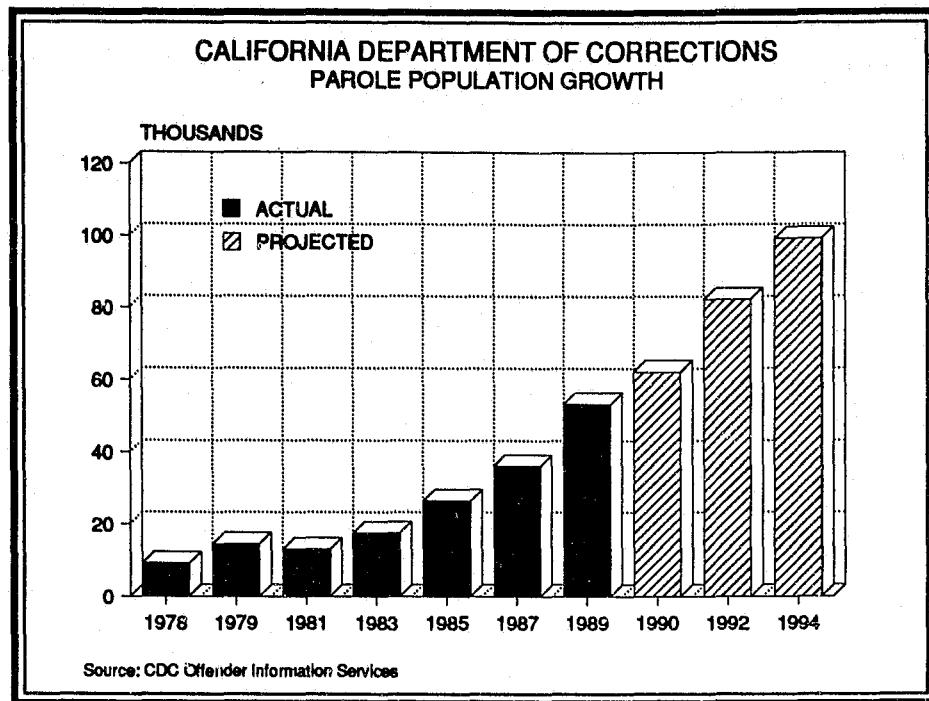
### **3.3.2 Parole Violators**

Parole violations are a significant and dramatically increasing contributing factor to prison population increases. Parole violators are those returned to prison by parole authorities for a violation of their parole conditions or a violation of law which parole authorities have found to occur based on administrative review and a "preponderance of evidence" finding. California leads the nation by a significant margin in the number of parole violators returned to prison. Parole violators are discussed in greater detail in the Analysis, Findings and Recommendations section of this report. The felon parole population increased from approximately 9,000 in 1978 to in excess of 55,000 today and is projected to increase to almost 97,000 by 1994. (See Chart 3-8) Parole violators returned to prison in 1978 totaled 1,011, increased to 34,014 in 1988, and are projected to increase to over 83,000 by 1994. Thus, the parole population is increasing at a rate far exceeding prison population and parole violators returned to prison are accelerating at a rate far exceeding the increases in the parole population. In 1978, parole violators accounted for 8 percent of the admissions to prison. By 1988, this had increased dramatically to 45 percent. As of August 31, 1989, parole violators returned to custody represented about 16 percent, or approximately 13,500, of the CDC inmate population.

Parole violators represent not only a state prison population increase impact but also a processing problem in that over 81 percent of all parole violators spend less than six months in prison; over

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52 percent spend less than three months. Contributing to the problem, jail overcrowding has greatly limited the placement of parole violators within local jails. Parole violators at one time spent their entire revocation period in local jails. Ever increasing numbers of parole violators are now returned directly to prison while awaiting revocation proceedings. The parole revocation rate in 1977 was 3.5 percent and the rate increased to over 33 percent by 1988 (See Time in Prison Chart on page 42).



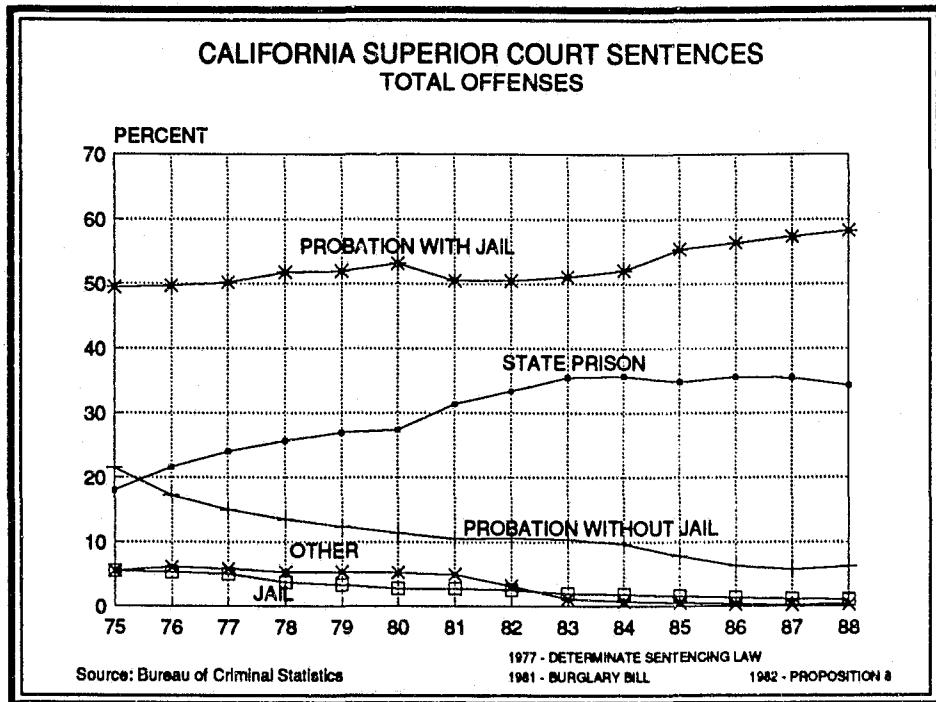
*Chart 3-8*

### 3.3.3 Sentencing Dispositions

The courts have significantly increased the use of incarceration in sentencing offenders, thus increasing prison and jail populations. Although probation and probation with jail are the disposition used most frequently by the courts, increasing numbers of felons are being confined in this state's jails and prisons. In 1975 state prison represented about 18 percent of all superior court sentences and had increased to about 34 percent by 1988. Sixty-six percent of all felons sentenced by Superior Court were retained in local jails or on probation. Probation with jail was about 50 percent of all dispositions in 1975 and had increased to almost 60 percent by 1988. Of those granted any form of probation by the court, the percentage who have jail as a condition had increased from 56 percent to 86 percent during that period. For the same time period, grants of probation without jail decreased from about 22 percent to about 6 percent. Jail without probation also declined slightly in this time period. (See Chart 3-9, next page)

Since probation with jail is currently the primary disposition for felony offenses, it is important to note that the function of probation as a basic sanction has changed during the last decade. Probation now most frequently follows a period of time in jail. Impacted by a lack of adequate resources, the function of probation and community supervision has been greatly hindered by

increased caseloads and decreases in staffing. In spite of this, influenced by efforts to continue to maintain public safety, probation does serve as a community punishment option. Probation has evolved to now function with greater emphasis upon accountability and adherence to court orders, including jail, fines, community service or restitution. Probation in most felony cases is no longer a grant of deferred sentencing reliant upon simple good behavior; instead it has continued to emerge as a method of imposing community-based sanctions. With adequate resources, probation has proven an effective method of holding select offenders accountable through intensive community supervision and programming.



*Chart 3-9*

### 3.3.4 Court-Ordered Jail Population Caps

Litigation is a common by-product of jail crowding. When average daily populations significantly exceed a jail's design capacity, support services and systems can not always keep up with the needs for increased numbers of meals, clean clothing and bedding, medical care, inmate visiting, and maintenance. Spaces to provide exercise become filled with beds. In many of these cases, courts have intervened by placing a "cap" on the jail, a maximum number of inmates the court feels the facility can accommodate and still maintain a constitutional level of service.

There are 18 county jails in the state that have court-ordered population caps. These jails combined constitute 73 percent of all the jail average daily population in the state. Virtually all major metropolitan jails are under court order.

These court-ordered jail caps contribute to prison overcrowding in two ways. First, the county jails, in trying to meet the demands for limited jail space and maintain their population limits,

have increasingly demanded that CDC remove its parole violators from jails in very short periods of time. Most counties, particularly urban counties, now require parole violator removal from jail to prison in three to five days or less. This is in marked contrast to just a few years ago when most violators spent their entire revocation stay in jail with counties being reimbursed by CDC. Table 3-10 shows the county jails with court-ordered population caps.

The second less tangible way in which jail overcrowding contributes to prison overcrowding is in judicial sentencing decisions. Some judges report they are sentencing greater numbers of offenders to state prison as opposed to county jail because they are considering local jail overcrowding problems and the fact that court-ordered population caps are resulting in early releases from jails. Sentencing convicted criminals to state prison has often become the most appropriate secure confinement option available to judges.

COURT-ORDERED POPULATION CAPS	
1989	
1. LOS ANGELES -----	21,867
2. SAN DIEGO -----	4,490
3. ORANGE -----	4,049
4. ALAMEDA -----	2,891
5. SACRAMENTO -----	2,397
6. SAN BERNARDINO -----	2,261
7. SAN FRANCISCO -----	1,697
8. FRESNO -----	1,670
9. RIVERSIDE -----	1,629
10. TULARE -----	965
11. SONOMA -----	691
12. SOLANO -----	498
13. SAN LUIS OBISPO -----	381
14. BUTTE -----	303
15. MARIN -----	273
16. HUMBOLDT -----	203
17. YOLO -----	182
18. NAPA -----	145
<b>TOTAL-----</b>	<b>46,572*</b>

\* These jurisdictions account for 73% of Average Daily Jail Population  
Source: Board of Corrections

*Table 3-10*

### **3.3.5 Mandatory Prison Sentencing and Increased Sentences**

Since the change to the Determinant Sentencing Law in 1977, there have been continuing increases in the length of sentences for specified crimes. There have also been increases in mandatory prison sentences for specified crimes in response to a proliferation of new sentencing bills. These changes have been advocated by the public, legislature and criminal justice officials. These are contributing to the increasing prison population as these longer sentence inmates aggregate in prison. (See Table 5-11, Section 5.4)

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### **3.3.6 Court Delays**

Court delays are contributing to jail overcrowding in many jurisdictions. According to Department of Corrections data on new commitments, increases in the average length of pre-prison confinement credit in local jails statewide has continued to increase in recent years, from 4.0 months in 1978 to 7.9 months in 1988, almost a 100 percent increase. This increase does not accurately reflect the significant wide variance of length of stay from county to county. In addition, the total numbers of individuals held in jail awaiting disposition have increased.

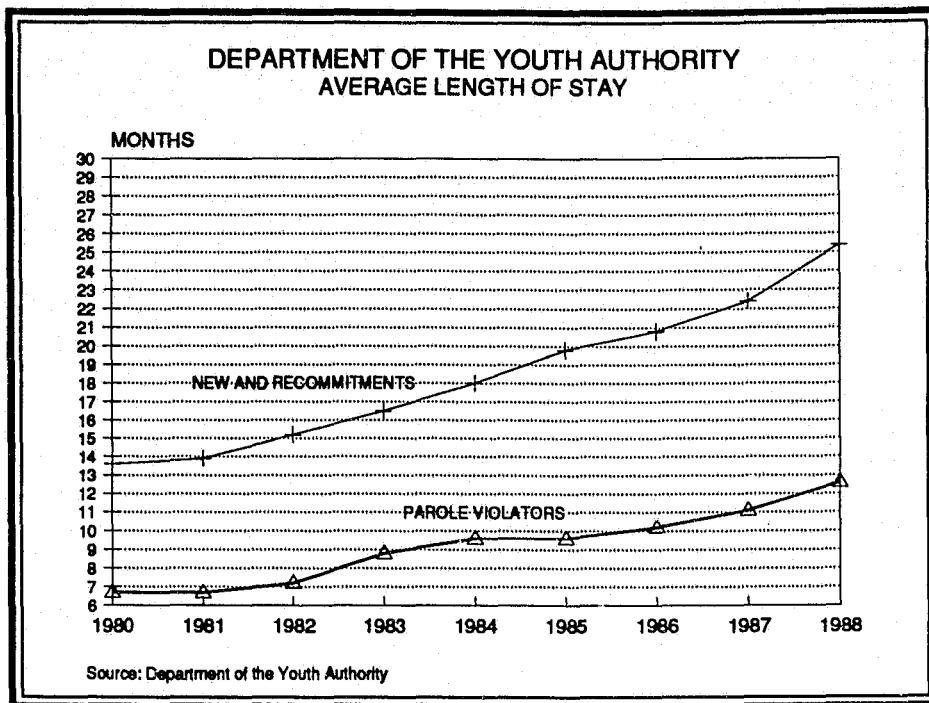
Increased pretrial detention and court delays affect space available for offenders sentenced to jail. Because of pretrial detention pressures and a court-ordered population cap, offenders sentenced to 30 days in jail in Los Angeles County are now serving only one day and being released. Because of increased pretrial populations in local jails, CDC parole violators must now be moved rapidly from local jails to state prison, thus contributing to prison overcrowding. On the other hand, due to good time credits, the longer the pretrial detention in local jails, the less time a sentenced offender will serve in state prison. (See Sentencing Recommendation #2, Section 5.3).

### **3.3.7 Youth Authority Length of Stay**

The major factor contributing to CYA's institution population increase has been increasing length of stay of those cases under the jurisdiction of the Youthful Offender Parole Board (YOPB). CDC inmates confined in Youth Authority facilities under Welfare and Institutions Code 1731.5(c) (commonly called "M-cases") are serving determinate terms. They are not under the jurisdiction of the YOPB and are not included in the following discussion. As Chart 3-11 indicates, the average length of stay for CYA's population, parole violators as well as first admissions and recommitments, has been rising. In 1980, the average length of stay for first admissions and recommitments was 13.6 months and by 1988 it was 25.4 months. Since 1980, the average length of stay for CYA parole violators who were returned to custody has also been increasing, from a low of nearly seven months in 1980 to a high of almost 13 months in 1988. Beginning in 1988, however, the YOPB began giving shorter parole consideration dates, fewer time adds and more time cuts. As a result, the average length of stay has begun to decline slightly.

In 1988, for all offenses except murder, CYA wards served more time on the average than CDC inmates for the same offense. Unlike adult prison commitments, whose terms are determinate, CYA commitments are for an indeterminate term. The maximum time a juvenile might serve is limited by law to the maximum term an adult could receive for the same offense. But many adults receive a term which is less than the statutory maximum for the offense, and adults are able to earn good time credits which reduce actual time served. Length of stay for youthful offenders, on the other hand, is governed greatly by the statutorily defined mission of CYA to train and treat wards and is a result of the YOPB's individual evaluation of each case and their determination when to order parole. Since this determination is based on a variety of factors, including the ward's prior delinquent record and progress in treatment and training programs, length of stay would not necessarily be similar to that which an adult would serve for the same offense.

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*Chart 3-11*

The Commission reviewed this data and did not reach consensus on a recommendation whether youthful offenders should serve more or less time than adults.

### 3.3.8 Summary of Contributing Factors

Prison overcrowding in the last decade is not just a function of more crime or more arrests. In California, drugs and parole revocation have had a more visible impact on prison population increases. The rate of felony drug law violations has been increasing, and more than 70 percent of all arrestees test positive for drug use, excluding marijuana. Other estimates of drug abuse among offenders are even higher.

Drugs also contribute to parole revocation, which affects the return-to-custody rate. Both drug offenses and drug-related causes account for increasing numbers of parolees returning to CDC custody. The impact on prison admissions is staggering, with parolee returns now accounting for almost half of all admissions. Parole violators represent about 16 percent of the average daily population due to their high turnover; over 81 percent remain in custody for only six months or less. This short stay severely taxes the personnel, processing and bedspace resources of CDC institutions, which were built and programmed for long-term inmates.

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### **3.4 OFFENDER DEMOGRAPHICS AND OFFENSE PROFILE**

The demographic and offense profile of CDC inmates and CYA wards has been changing as overcrowding has occurred. First, the racial/ethnic mix, as shown in Charts 3-12 a & b has shifted. Based upon available data in 1981, the numbers of whites and blacks in California prisons was relatively equal, and Hispanics represented about one-fourth of the prison population. In recent years, the proportion of ethnic minorities in prison has increased. The proportion of Hispanics increased from 24 percent in 1981 to 28 percent in 1989, reflecting a similar increase of their proportion in the general population in California. The proportion of whites in prison has dropped from 36 percent in 1981 to 30 percent in 1989 reflecting, to some extent, a moderate decrease in the proportion of the general population. The "other" group in prison has nearly doubled from two percent to five percent despite a relatively mild increase in proportion of the general population. The proportion of blacks in California has remained steady at 7.5 percent over the last eight years and the current proportion of blacks in prison is 36.9 percent, making blacks the current ethnic majority among prison inmates.

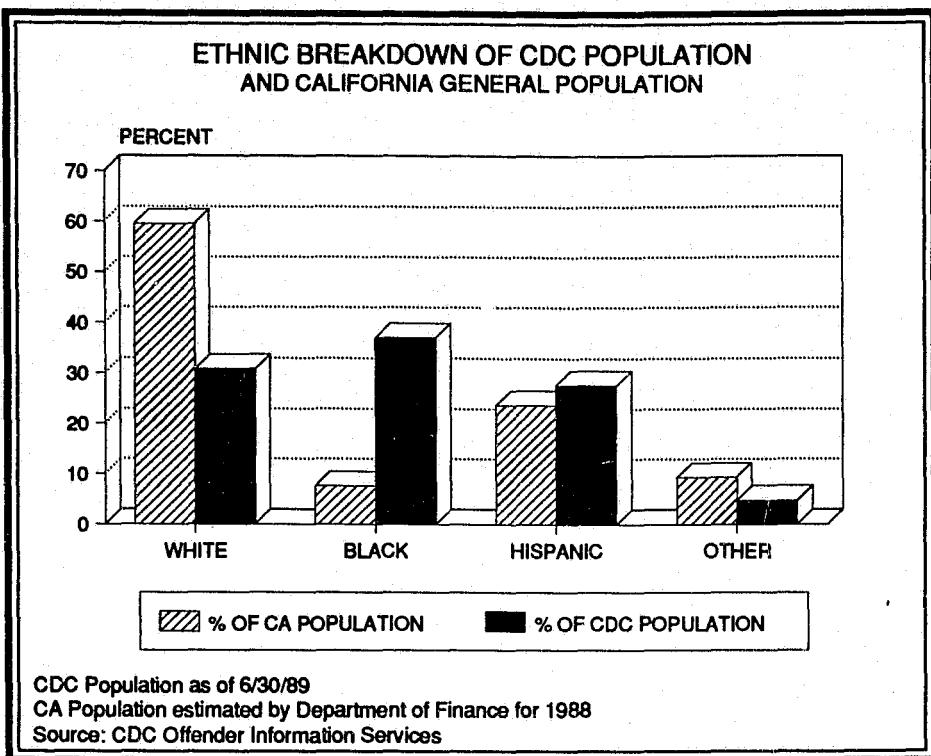
Charts 3-12 c and d provide a CDC and CYA incarcerated cohort rate per 100,000 in the California general population. For example, on June 30, 1989 there were approximately 6,000 black males in CDC institutions for each 100,000 black males in the 20-49 age group in the general population. Since the age group housed in CYA institutions ranges from 15-24, there is some overlap in the indicated comparisons with the general population, but the overlap has no significant bearing on the ethnic proportions. The number of blacks in prison and in the Youth Authority as compared to the number in the general population requires additional research in order to draw specific conclusions regarding this disparity. The overall change in the ethnic and racial population profile has created a need for additional staff training in order to accommodate the needs of a changing inmate profile.

Trends in offender demographics have a corresponding effect on ethnic group victimization rates. An estimated five-sixths of Americans will be victims of attempted or completed violent crimes during their lifetimes, but the risk level varies with race. The risk of victimization is considerably greater for blacks than whites because crime tends to be intraracial. Offenders focus their criminal activities on those of their own race or ethnic group. For example, one out of 30 black males and one out of 132 black females will be homicide victims. This compares with one out of 179 white males and out of 495 white females who will become homicide victims.<sup>18</sup>

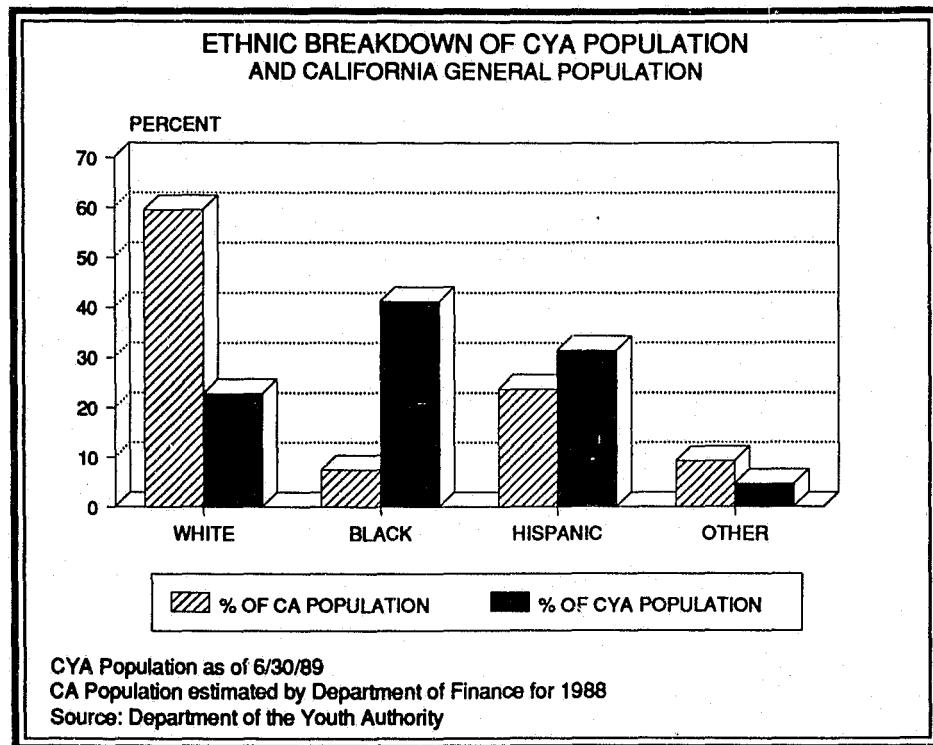
Hispanics are twice as likely as whites to be victims of robbery, and blacks are nearly three times as likely to be robbery victims. Twenty-three out of 1,000 Hispanic households are annual victims of motor vehicle theft, compared with 22 out of 1,000 black households and 13 out of 1,000 white households.<sup>19</sup>

The female felon population in California, although only 6.8 percent of the total inmate population, has been growing at a greater rate than its male counterpart. As a group, females increased nearly 303 percent over the past decade, from 1,243 in 1979 to 5,459 in 1989, compared to a 253 percent increase in male inmates during the same period. As of June 30, 1989,

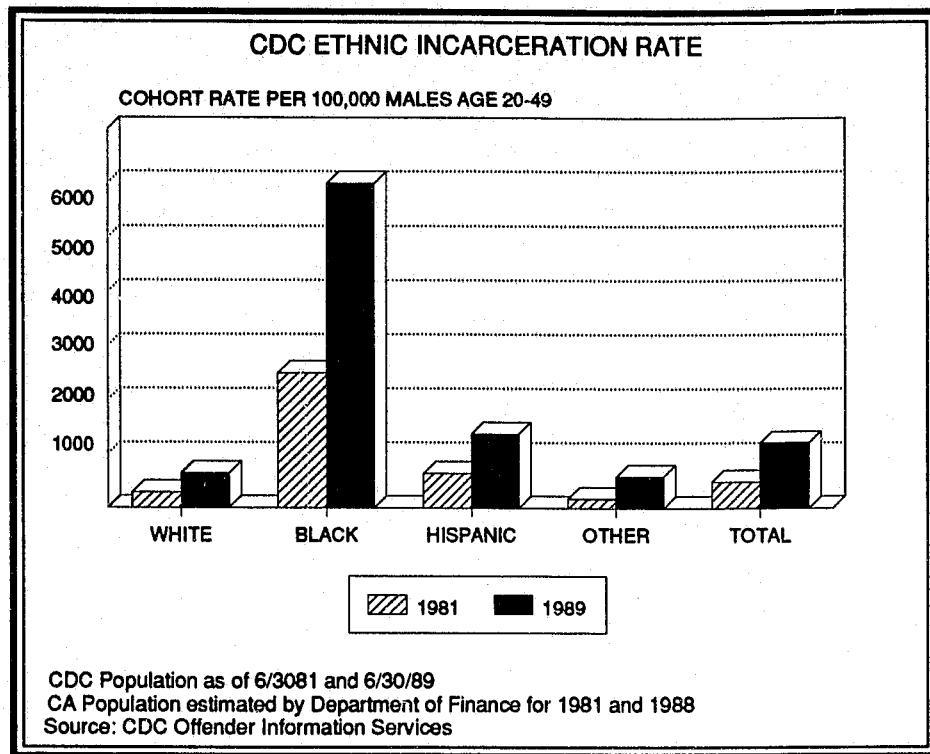
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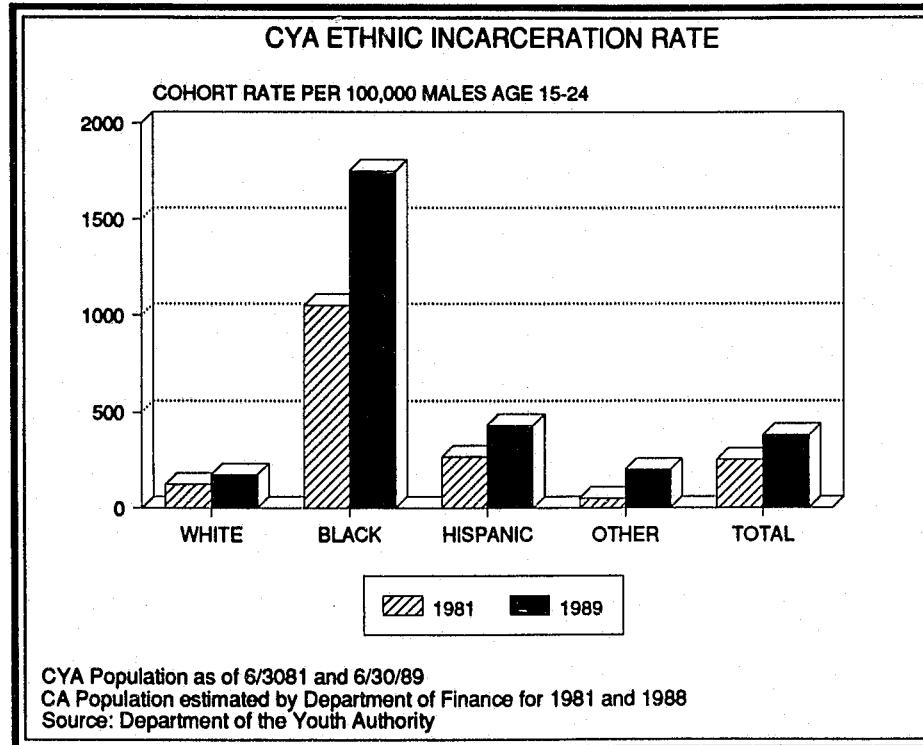
*Chart 3-12a*



*Chart 3-12b*



*Chart 3-12c*



*Chart 3-12d*

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35.5 percent of female inmates in state prison were convicted for property offenses, 34.2 percent for drug offenses, 27.1 percent for violent offenses, and 3.2 percent for other offenses. The racial/ethnic composition of this population closely resembles the overall prison population; 34.3 percent are white, 35.3 percent black, 22.7 percent Hispanic and 7.6 percent of other racial or ethnic origin. Similar to black men, black women are disproportionately represented in the prison population.

Historically, because women have accounted for only a small portion of the prison population, their particular needs have not necessarily received the level of attention of the predominant male inmate population. Until recently, institutions primarily focused on programs relating to male inmates. Issues such as adequate health care (especially prenatal care), education, employment readiness, substance abuse treatment, and maintaining mother-child relationships continue to challenge CDC.

A 1988 study done by the US Department of Justice found that over 70% of incarcerated adult females nationwide are mothers with dependent children under the age of 18, and that prior to incarceration, the majority of these women had legal custody of their children. It is expected that this statistic is indicative of California's female offender population. One of the most serious problems facing female inmates and correctional staff alike is the separation of incarcerated women and their children. Child development experts agree that unwanted separation between mothers and their young children may lead to emotional, psychological and physical trauma for the children.

The isolated locations of most California prisons often makes it difficult for prisoners to receive consistent visits from their children. Also, relatives and foster parents are often reluctant to allow children any contact with their incarcerated mothers. CDC currently operates five community Prisoner Mother-Infant Care programs throughout the state, which are just beginning to address this issue. Sixty women were housed in these programs in 1989.

In order to better understand the special needs of the female offender population and assist in correcting any deficiencies which may exist in California's correctional system, more extensive statewide data needs to be regularly compiled and reviewed. Additionally, specialized programming for female offenders within institutions and in the community needs to be developed and expanded, as appropriate.

It is particularly interesting to note that 63 percent of all CDC inmates are from Southern California, 38.5 percent from Los Angeles County alone. This distribution has implications for placing institutions and inmates. It presents a persuasive case for concentrating bedspace in and around the Los Angeles area.

The offense profile for CDC inmates has also been changing. The population in 1989 consisted of a larger proportion of property and felony drug law violators and a smaller proportion of violent offenders compared to 1979. Approximately 44 percent of CDC inmates in 1989 were serving sentences for violent offenses, down from 62 percent in 1979, and 28 percent of CDC inmates in 1989 were serving sentences for property offenses, up from 24 percent in 1979.

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Twenty-four percent of the inmates in 1989 were serving sentences for drug offenses, up from 10 percent in 1979.

The CYA institution population has remained approximately 96 percent male in recent years. Of the June 30, 1989 male population, 46.4 percent had been committed for violent offenses, 32.9 percent for property offenses, 14.8 percent for drug offenses, and 5.9 percent for other offenses. Of the females, 51.9 percent had been committed for violent offenses, 23.5 percent for property offenses, 20.8 percent for drug offenses, and 3.8 percent for other offenses. Of the female population, 22.8 percent are white, 41.1 percent black, 31.4 percent Hispanic, and 4.7 percent of other racial or ethnic origin. These figures reflect an increase in the proportion of ethnic minorities and an eight-fold increase in the proportion of drug offenders since 1980.

These trends affect inmate population management in terms of changing staff and bedspace needs. For example, the growth in female commitments and the increasing presence of felony drug law violators in the inmate population are indications of changing institutional needs.

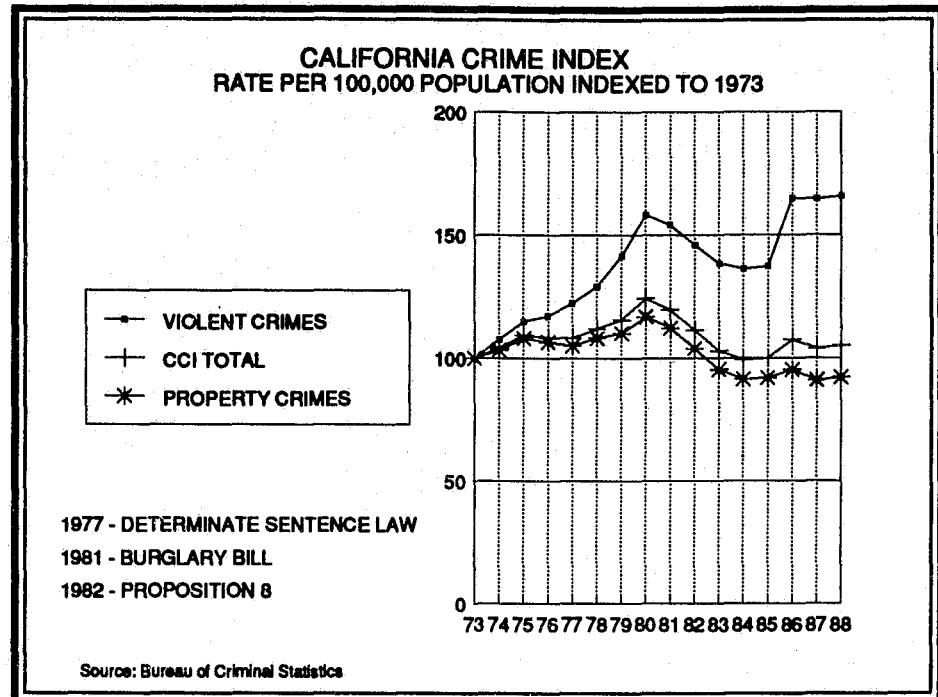
### **3.5 CRIME AND ARREST TRENDS**

Crime and arrest rates have a direct impact on the criminal justice system and ultimately on jails and prisons. With increasing institutional populations, it is reasonable to assume that crime and arrest rates, combined with a California population that has steadily increased from 24,267,000 in 1981, when the increases in prison population began, to 28,314,000 in 1988, are among the factors driving prison population growth. However, in California these factors do not fully explain prison population increases.

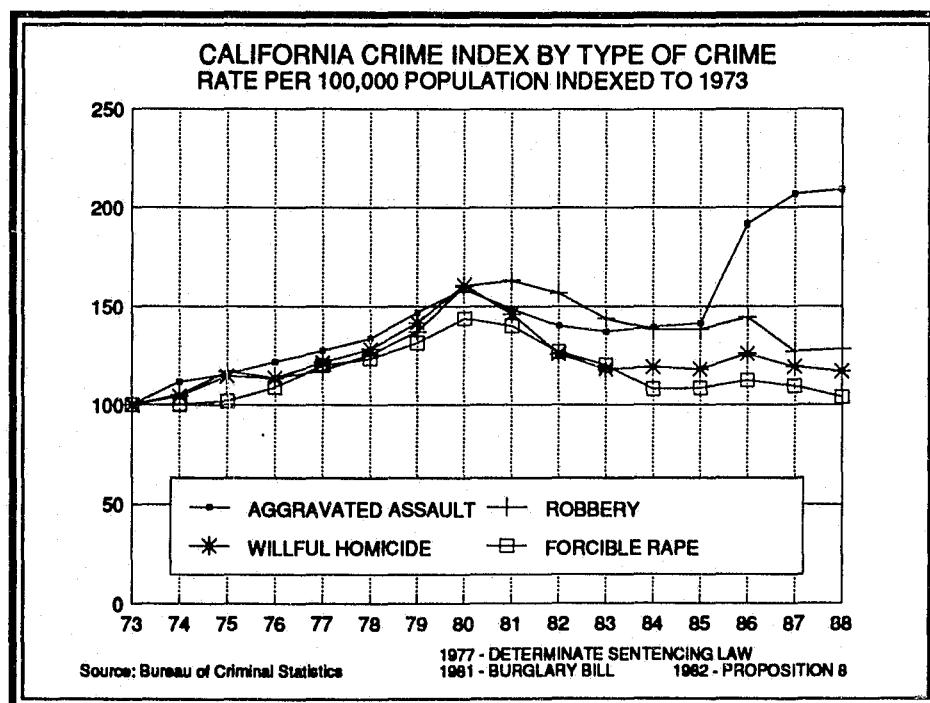
First, consider the reported adult crime rate trends for violent and property crimes in Chart 3-13. From 1973 through 1980 the California overall crime rate increased gradually and then declined gradually between 1980 and 1985. After 1985 the rate for property crime increased slightly and leveled off to a 1988 rate of 2,379 per 100,000 population. This rate is somewhat lower than the rate before 1983 and substantially lower than the 1980 rate. In contrast, violent crime took a dramatic upward turn between 1985 and 1986, leveling off in 1988. However the Bureau of Criminal Statistics (BCS) indicates this one year shift was entirely attributable to domestic violence being classified as aggravated assault, a violent crime. If you extract aggravated assault from the violent crime category, it remains virtually static from 1983 to today. However, during the first six months of 1989, preliminary data show the number of reported homicides was up 11.3 percent, robbery was up 13.4 percent and motor vehicle theft was up 13.5 percent compared with the same period during 1988.

A review of the detail of the California Crime Index (CCI) property and violent crime rate information in Charts 3-14 and 3-15 reveals a mixture that results in an overall stable crime rate in both areas since 1983, with the exception of the aggravated assault increase between 1985 and 1986. In the area of property crimes, motor vehicle theft has experienced a major increase beginning in 1985; but a corresponding decrease in burglary has kept the overall property crime rate relatively stable.

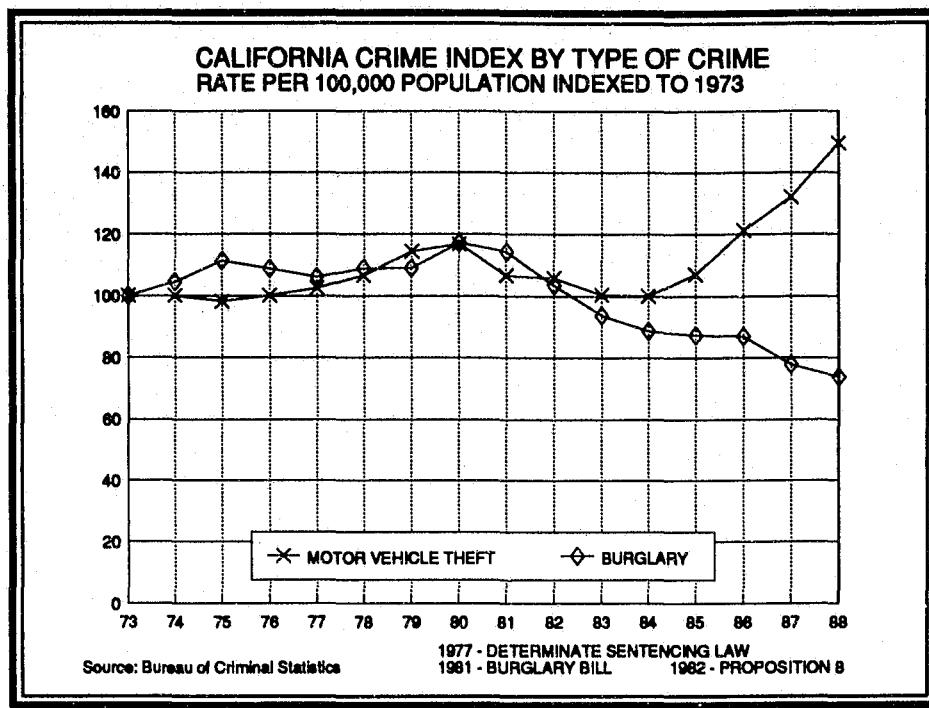
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**Chart 3-13**



**Chart 3-14**



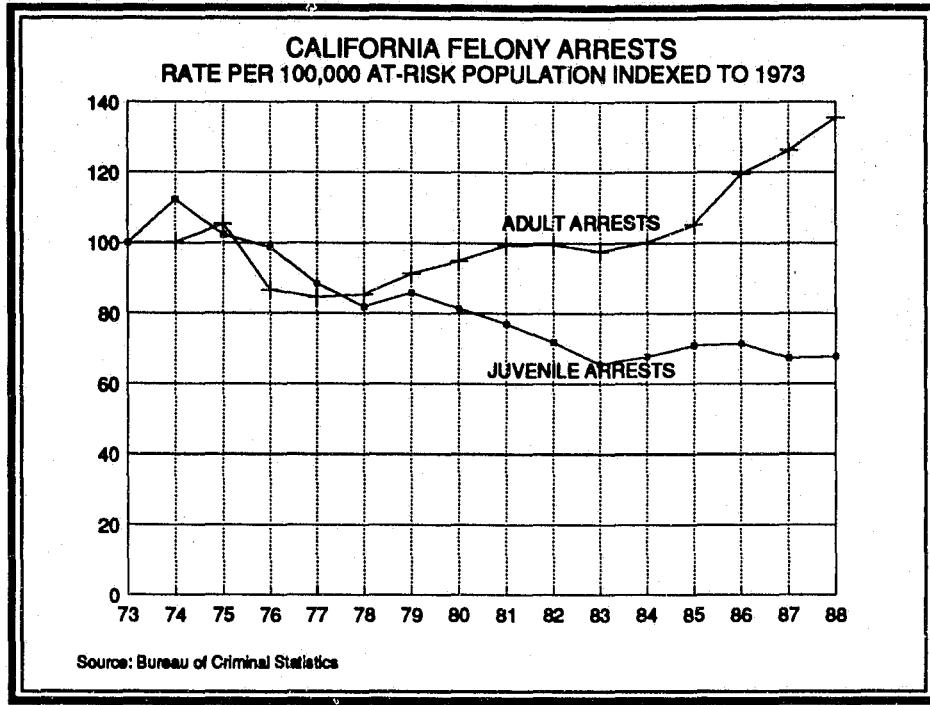
**Chart 3 -15**

A review of adult and juvenile arrest rates since 1973 reveals an overall decrease in juvenile arrests of at-risk individuals (18 years old and under) beginning in 1979. (See Chart 3-16) Comparatively, the adult arrest rate increased significantly during the same period.

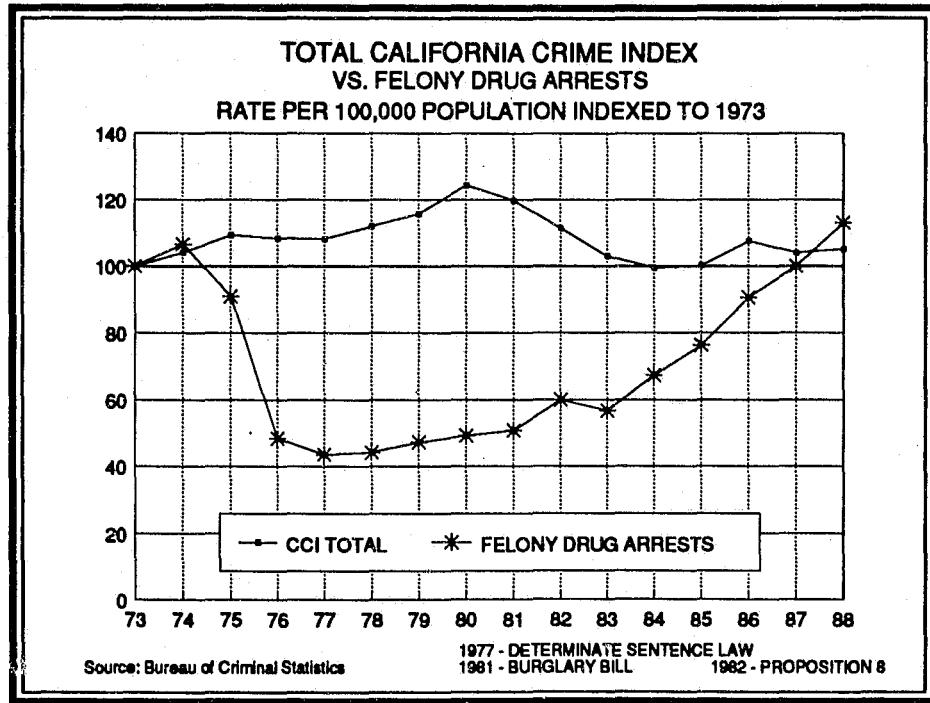
Chart 3-17 presents a comparison of the California Crime Index rate per 100,000 for all crimes and felony drug arrests. This is shown to highlight drug arrests when compared to the overall crime rate. Drug crime, arrests and dispositions are playing an ever increasing role in the California criminal justice system and thereby its incarcerated population. The major drop in drug arrests in this chart in the mid-1970s is the result of decriminalization of marijuana. The increases since 1983 have been primarily cocaine and methamphetamine related arrests.

Chart 3-18 shows California's rate of prison incarceration was at an all time low of 89.9 per 100,000 state population in 1977 and steeply increased to 265.8 per 100,000 by 1988. This increase corresponds directly with the enactment of the Determinate Sentencing Law in 1977 and its subsequent enhancements.

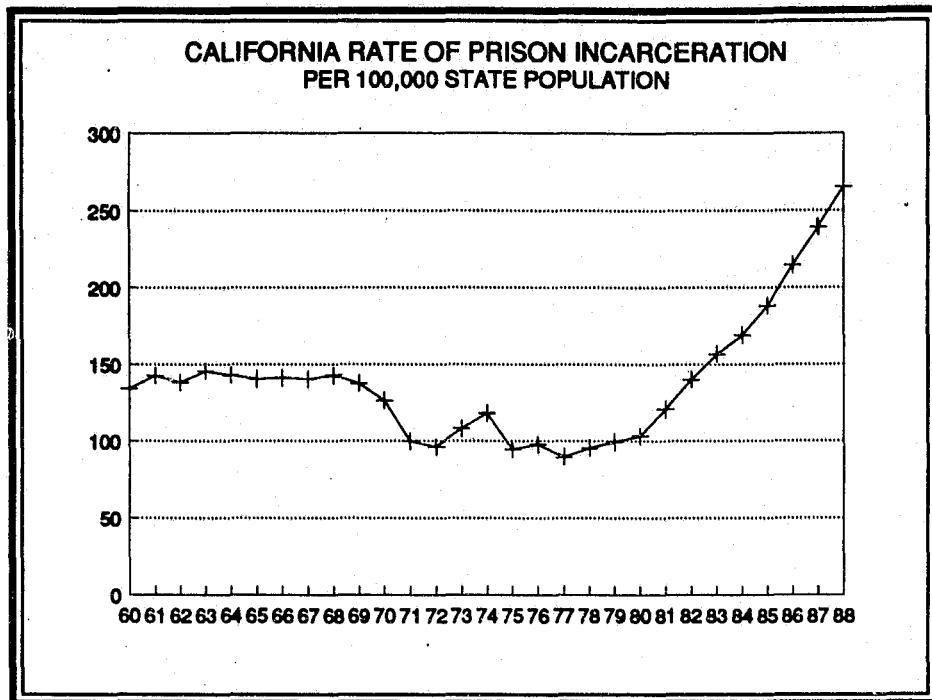
It would appear that overall crime rates have remained relatively stable despite a period of significant increases in prison and jail populations. However, drugs have played an ever-increasing role in arrests and dispositions.



*Chart 3-16*



*Chart 3-17*



*Chart 3-18*

### **3.6 VIOLENCE IN CDC AND CYA INSTITUTIONS**

Violence in CDC has increased in real numbers but has decreased when considered as a rate per 100 average daily institution population (ADP). Table 3-19 shows that the number of assaults in CDC in 1978 was 517, or a rate of 2.5 per hundred ADP. This gradually increased to a high of 1,882 assaults and a rate of 4.7 in 1984 when it started a decline in rate to a low of 2.9 per 100 ADP in 1988. In 1988, the actual numbers of assaults decreased for the first time, dropping from a high of 2,155 in 1987 to 2,041. The decrease in rate while experiencing an increase in actual assaults is a function of the fact that the inmate population increases far exceed the increases in violence. This is significant given the level of overcrowding CDC has experienced in these years.

The most recent data available reveals that assaults have increased in Youth Authority facilities during the past ten years as crowding increased, from a rate of 12.8 per 100 ADP in 1978 to 24.3 per 100 ADP in 1986 (see Table 3-20). Typically, youthful offenders in CYA facilities are involved in programs from early morning through the evening, allowing continual interaction with other offenders and staff. When assaultive incidents occur, staff rely on the least restrictive force necessary to control the disturbance and to ensure their own and the offenders' safety.

Serious, life-threatening violence in CYA facilities has not increased. The rate of assaults with a weapon have actually declined, and no staff or ward homicides have occurred since 1978.

**CALIFORNIA DEPARTMENT OF CORRECTIONS**

**STATEWIDE ASSAULT\* INCIDENTS  
AND RATE PER 100  
AVERAGE DAILY INSTITUTION POPULATION**

	NUMBER	RATE
1978	517	2.5
1979	698	3.1
1980	775	3.3
1981	927	3.5
1982	1,105	3.6
1983	1,338	3.7
1984	1,882	4.7
1985	1,788	3.9
1986	1,889	3.6
1987	2,155	3.4
1988	2,041	2.9

\*Does not include sexual assaults.

**Table 3-19**

**DEPARTMENT OF THE YOUTH AUTHORITY  
ALL ASSAULTS AND RATE PER 100  
AVERAGE DAILY INSTITUTION POPULATION**

	NUMBER	RATE
1978	565	12.8
1979	651	13.2
1980	858	11.0
1981	625	11.0
1982	780	13.4
1983	1,030	17.5
1984	1,048	17.2
1985	1,437	21.6
1986	1,867	24.3
1987	N/A*	N/A*
1988	N/A*	N/A*

\*A 1987 change in the Disciplinary Decision Making System caused the 1987 and 1988 data to be not comparable to prior years.

**Table 3-20**

### **3.7 RECIDIVISM**

Although recidivism has been the subject of academic review for some time, a universally accepted definition does not exist to date. In spite of this, it is widely accepted that substance abuse is a major contributor to recidivism and that recidivism rates are high. The issue of recidivism is worthy of more intensive annual study by the Department of Corrections and other criminal justice agencies.

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Lacking a better source of data on the issue, recidivism as discussed here for CDC and CYA is essentially a measure of the success of offenders on parole as they are tracked for up to two years after release. This measure does not take into consideration other forms of local incarceration or detention and only takes into consideration one aspect of recidivism. For purposes of this analysis, parolee failure is a return to custody by the courts or parole authorities. Given this measure, both CDC and CYA have experienced substantial increases in the rate of recidivism. For the two-year follow-up period, CDC's recidivism rate increased from 35.9 percent in 1978 to 60.0 percent in 1985. CYA's recidivism rate for the same period increased from 44.5 percent to 58.4 percent. In both CDC and CYA, the predominant reasons for increased recidivism have been substance abuse, the commission of new crimes and violations of terms of parole.

These increases in recidivism rates can be attributed to some contributing factors which are also identified in the Parole Violator section of this report. In California, CDC and CYA parole agents have referred significantly more parolees to the Board of Prison Terms (BPT) and Youthful Offender Parole Board (YOPB) as the result of increased monitoring for violations and a greater orientation toward community protection. Increases in drug usage and fewer community resources have left few alternatives to parole officers. As a result of jail overcrowding, parole agents no longer have the option of using jails for short-term incarceration of parolees at risk of revocation. Finally, unlike other states, the California prison system and the California Youth Authority do not operate under court-ordered population caps restricting the number of individuals which can be incarcerated.

### **3.8 OFFENDER TARGET POPULATIONS FOR PUNISHMENT OPTIONS**

The Blue Ribbon Commission spent considerable time discussing criteria for offender eligibility or ineligibility related to various punishment options. This consideration has included the assessment of public safety. In its review of the foregoing data and additional information presented in this section, the Commission began to identify potential populations in prison, Youth Authority facilities, and jails which could be considered for service by a different set of punishment options or intermediate sanctions if they were established. This was not an exhaustive review in that data gaps exist, particularly in the area of jail and probation information. Clearly, the final decision on matching a punishment option, including incarceration, with an offender is a judicial decision in the instance of a new commitment and the decision of parole authorities in the instance of a parole violator. However, for purposes of determining whether there is the potential of certain offenders being served by a set of punishment options other than incarceration, the Commission has developed the following. The potential target populations are discussed in three categories: prisons, Youth Authority, and jails.

#### **3.8.1 Prisons**

The following is a summary profile of classes of offenders and eligibility factors of potential target prison inmates for consideration for the series of intermediate sanctions or punishment

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options discussed in the Punishment Options section of this report and the Community Corrections segment of the recommendations section.

## **CLASS OF OFFENDER**

These are the two categories or classes of offenders the Commission is suggesting should be considered for intermediate sanctions implemented through state prison operations or a Community Corrections Act.

**Short-Term New Commitments** - Inmates who are currently serving one year or less, with special emphasis on those serving six months or less, in state prison from the date of admission.

**Short-Term Parole Violators** - Parole violators returned to prison serving one year or less, with special emphasis on those serving six months or less.

## **ELIGIBILITY FACTORS**

The following are eligibility factors which would be used to further screen those offenders who fall in the above classes. Only those meeting these criteria would be considered eligible for intermediate sanctions.

**Drug Abusers** - New commitments and parole violators who require drug management, intervention, and treatment.

**Non-Violent Offenders** - Only non-violent offenders should be considered for intermediate sanctions. This should include a review of commitment offense, circumstances of the crime, as well as criminal history.

**Criminal History** - A career criminal as defined within Section 999 of the California Penal Code and as governed by sentencing criteria in Penal Code Section 1170 should not be eligible for consideration for intermediate sanctions or punishment options other than imprisonment.

**Property Offenders** - Priority should be given to property offenders.

From the perspective of the Commission, it is questionable as to whether long-term public safety is being served or enhanced by certain non-violent new commitments or parole violators going to state prison for less than one year. It is even more questionable for these offenders to serve as little as three to six months in state prison. However, in ever-increasing numbers this is occurring. Table 3-21 shows that in 1988 over 81 percent of all parole violators released from prison had spent less than six months in prison and over 52 percent had spent less than three months. Of those new commitments released from prison, 56 percent spent less than one year in prison, 26 percent had spent less than six months and 16 percent less than three months. If there

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**CALIFORNIA DEPARTMENT OF CORRECTIONS**  
**TIME IN PRISON BEFORE RELEASE \***  
**(Excluding Jail Credits)**

Cumulative Totals Released to Parole During Calendar Year 1988

Months in Prison	% of Releases	
	PV-RTC	New Commitments
3.0	52.4%	15.9%
6.0	81.5%	26.3%
9.0	90.7%	40.0%
12.0	93.5%	56.4%

Source: CDC Offender Information Services

\* Male Inmates Only

*Table 3-21*

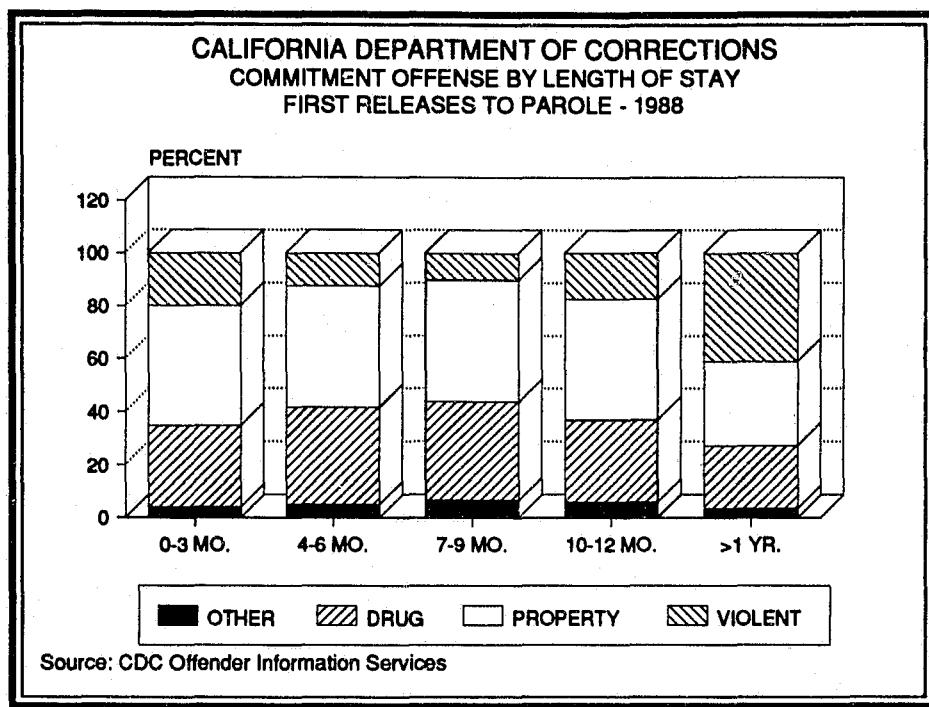
were reasonable and safe intermediate sanctions, including community detention, to deal with these populations, the benefit to public safety through brief commitments to prison becomes increasingly questionable. In this regard, the Commission believes that some distinction should be made between the short-term public safety realized from placing offenders in prison for three to six months with no programming versus the long-term public safety which may be realized by placing an individual in an intermediate sanction such as a victim restitution program, community service or a drug treatment program in which the offenders would be required to confront the reasons for their criminal behavior and understand the impact of their crime on their victims.

In 1988, there were approximately 5,000 new commitments released from prison who had served three months or less, about 8,000 who had served six months or less and 18,000 who served one year or less. During that same year, there were about 15,000 parole violators released who had served three months or less, 23,000 served six months or less and 28,000 served one year or less. If only those offenders serving three month or less are considered, there would have been a pool of about 20,000 potential candidates for consideration for intermediate community sanctions released from prison last year. If six month or less candidates are considered, the pool increases to approximately 32,000, and if the pool includes those serving one year or less it increases to 46,000 inmates.

The effect on prison bed years of these populations serving terms in other punishment options would be far less because of the short length of time spent in prison per inmate. For example, if all 20,000 inmates serving three months or less last year had been placed in intermediate sanctions it would have reduced bed demand by a maximum of 5,000 prison beds (20,000 inmates x 3 months/12 months = 5,000 bed years).

This analysis could be further broken down to one, two, four or five months. For example, there were about 3,000 new commitments and approximately 2,400 parole violators, or 5,400 offenders who served one month or less in state prison in 1988. While recognizing that state prison does serve to protect the public, many of these individuals could be held accountable using other cost-effective punishment options resulting in opportunities to house more serious offenders.

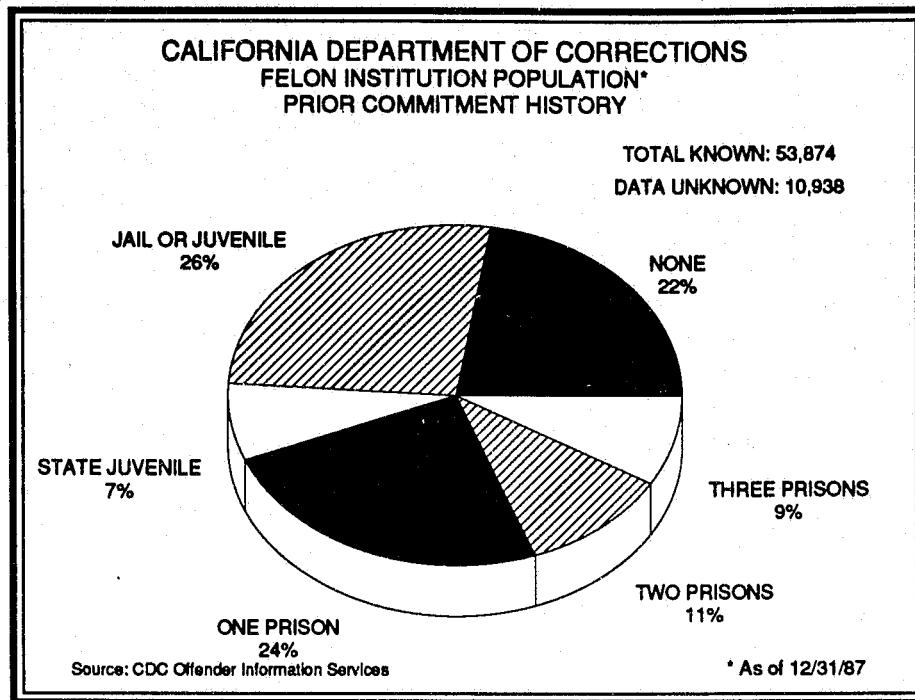
In terms of length of stay and commitment offense, Chart 3-22 presents the commitment offense by length of stay for first releases to parole in 1987. This data indicates that violent offenders properly represent the largest single category for length of stay in excess of one year. Conversely, drug offenders are mostly represented in the categories of six months or less and are the smallest number serving over one year. Property offenders far exceed each of the other groups, in all the categories of less than one year.



**Chart 3-22**

Criminal history would serve as a limiting factor in considering potential candidates for punishment options. Chart 3-23 shows that in 1987, 22 percent of all state prisoners showed no prior commitments, 26 percent with prior jail or local juvenile records only, 7 percent with state juvenile records, and 44 percent with one or more prior prison convictions. Criminal history would not eliminate all candidates, depending on the level of history considerations.

As indicated elsewhere in this report, drug abuse among offenders is a major contributor to their criminality and to prison populations. In 1989, 24 percent, or 20,000 inmates had drug violations



*Chart 3-23*

as the primary commitment offense. Of this number, about 6,000, or 7.2 percent of all prison inmates were incarcerated for drug possession as the primary commitment offense. The drug abusing parole violator is also a major problem. There were approximately 18,700 parole violators returned to prison for drug violations in 1988. Currently, there is little in the way of drug intervention or programming available in prisons for this population. A concentrated, hard-hitting and continuously escalating series of intermediate sanctions and prison programs could serve to intervene with this behavior.

### **3.8.2 Youth Authority**

Two principal target populations of youthful offenders currently in CYA facilities could be considered for intermediate sanctions: the less serious non-violent offenders from juvenile courts and technical parole violators. In addition, since every youthful offender must eventually be reintegrated into society, the last 120 days of each offender's institutional stay could be an opportunity to use intermediate sanctions to facilitate re-entry to the community.

In 1988, approximately 1,550 wards were committed to the CYA from juvenile courts for less serious offenses under Welfare and Institutions Code 707(a). Although these "707(a) offenders" may have been committed to the CYA for less serious offenses, they tend to have extensive prior records. At the time of commitment, they have an average of more than 11 arrests, and 86 percent have at least four sustained petitions. They are regarded as having exhausted local resources. A short-term fixed period of intensely programmed incarceration in the CYA with approximately 12-14 hours per day spent in school, substance abuse treatment, public service or

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other program activities would be appropriate for some of these offenders if it were allowed by law. The CYA estimates that if it were available to them, the courts would choose this option rather than a regular CYA commitment for about half of the 1,550 eligible cases each year.

The total number of CYA parole violators returned to institutions without a new court commitment increased from 473 in 1980 to 1,456 in 1986, then declined to 1,014 in 1988. The reasons for return have also changed dramatically. In 1980, 29 percent were returned for violating conditions of parole; the remainder for new law violations. In 1988, 55 percent (558 cases) were returned for violating conditions of parole (mainly positive drug tests, gang activity or being absent without leave).

### **3.8.3 Jails**

Centralized data on jail population profiles is extremely limited making it very difficult to assemble jail inmate information for analysis and the Commission has been handicapped by that in its review. Elsewhere, the Commission is recommending that a Corrections Management Information System be established to provide state level information on jails and probation. However, based on limited data available, it would appear that target jail populations which might be appropriate for intermediate supervisory management options would include pre-trial detainees, non-violent jail inmates leaving for state prison with one year or less to serve, certain drug abusers, certain drunk drivers, mentally ill offenders and lesser property offenders on a case-by-case determination basis.

In the area of pre-trial detention, there was some limited information from the Board of Corrections indicating that pre-trial detainees had increased from 46 percent of the jail population in 1976 to 49 percent in 1988. In 1988, the average preprison jail confinement time with credit was 7.9 months; an increase from 4 months in 1978.

## **3.9 CONCLUSION**

The Commission has concluded that California presently administers a criminal justice system out of balance. Substance abuse is a major contributing factor to criminal activity and the increase in adult and youthful offender populations. While the system has gained some success at incarcerating violent offenders and career criminals for longer periods of time, jails and prisons are being used to house an increased number of convicted offenders, including substance abusers, for short periods of time. Given the priority for prison space in regard to the protection of public safety, the Commission has concluded that additional intermediate sanctions must be developed to manage specific targeted populations through the use of highly structured programs as outlined within this report. The Commission has focused on the questionable benefit of incarcerating individuals in prison for one year or less, as compared to the use of such sanctions as drug treatment or community detention.

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## **4.0 PUNISHMENT OPTIONS**

This section presents a summary of an extensive body of work prepared by the Commission on punishment options. The Commission compiled punishment options or sanctions from throughout the state and nation to determine how offenders were being punished and what program services were being provided. The Commission obtained information from research data, survey, and testimony to identify options which range from prevention to return to the community from prison.

Based upon its review of the array of punishment options which exist, it became apparent to the Commission that incarceration is but one of an extensive set of potential sanctions which could be imposed upon offenders. When one considers that these options can be used alone or in combination (e.g., intensive probation supervision with a community service requirement and satisfactory progress or incarceration for a specified period), then the potential number of options becomes extensive.

Individual law breakers are primarily responsible for the overcrowding which exists in the criminal justice system today through actions they have decided to take themselves. The criminal must take personal responsibility for his decision to commit felonies before any meaningful rehabilitation can begin. For offenders who make the decision to modify their behavior, a strong effort must be made and supported at all levels of the criminal justice system from arrest through final discharge to assist offenders in this effort. The treatment employed, whether diversion, alternative sentencing, or incarceration, should be paid for, or at least contributed to, by the offender in order to maximize the effect on behavior and reduce the catastrophic future drain on private and public funds in support of the burgeoning criminal justice problem.

The Commission further concluded that for over a decade California has increasingly relied upon incarceration as its punishment option of choice. Since 1975, California has experienced not only a dramatic increase in felony convictions, but also a marked shift in terms of its reliance upon incarceration.

First there were a series of changes in California's sentencing structure, starting with the move from indeterminate to determinate sentencing in the late 1970s. Mandatory sentences for some crimes have also increased, particularly related to possession of a firearm and acts of violence. In addition, residential burglary penalties increased resulting in more prison commitments.

Second, the primary option other than prison has undergone considerable change in the past decade. The other option of choice, probation, has changed from "straight" probation which is simply community supervision with some brokering for services or referrals for training and employment. Today, probation supervision is largely a matter of monitoring for re-arrest or compilation of presentence reports. According to informal reports from the field, probation officers in many jurisdictions carry caseloads which permit only minimal contact with the probationer. In addition, in recent years probation sentences also include a stay in jail prior to release

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for supervision in the community. Probation or probation with jail are the predominant forms of correctional supervision in California, since up to 66 percent of convictions do not result in a prison term. However, probation today is not the same as straight probation from 10 years past, but a combined term in jail with probation following.

By 1988, state prison convictions represented just over 34 percent of all superior court felony convictions, compared to about 18 percent in 1975. Probation with jail had increased from about 50 percent to 60 percent. For the same period superior court sentences to straight probation declined from about 22 percent to approximately 6 percent. Collectively, prison, probation with jail, and jail represented 94 percent of all Superior Court sentences in 1988, up from 78 percent in 1975.

When one couples this increased use of incarceration with the tremendous increase in parole violators being returned to prison by parole authorities, then the reasons for tremendous prison and jail population increases become more obvious.

This increasing reliance upon incarceration has resulted in unprecedented increases in prison and jail populations and, despite a decade of construction resulting in almost 48,000 new prison, youth authority, and jail beds, the corrections system in California has become increasingly overcrowded. Billions of yet uncommitted additional dollars for construction and operations will be necessary over the next few years just to meet population projections for 1994.

Considering its review of punishment options, the Commission finds that increasing the number of prison and jail beds alone is not the only means of responding to a growing offender population. As states across the country have encountered growing demands for prison and jail space, there has been a revival of innovative programming and supervision. Technological advances have introduced electronic surveillance for monitoring offenders closely in their communities; intensive probation and parole supervision have restored the concept of small, manageable caseloads and frequent, meaningful contact between the offender and his probation or parole officer; and community-based drug and alcohol recovery programs report that ex-offenders declare treatment to be far more demanding and difficult than doing time in an institution.

Current jail and prison overcrowding has forced policy makers and practitioners alike to reconsider punishment options other than straight time in jail or prison. This does not mean that California should move toward a wholesale relaxation of incarceration as a punishment option. But it does strongly suggest that there are increasing indications that adequate control and supervision outside of confinement is not only possible but can be more cost effective and purposeful for certain offenders. Highly structured programming incorporates both accountability and possibilities of behavioral change for the offender.

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California now principally employs punishment options or sanctions that represent two extremes in terms of both supervision and punitive value. Incarceration is clearly the most punitive and entails the maximum level of supervision and control. In contrast, probation supervision in California today is often little more than unsupervised community release and monitoring for re-

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arrest because the underfunding of probation frequently results in unmanageable caseload sizes. It is the Commission's view that intermediate sanctions or punishment options should include at a minimum the following: electronic surveillance; house arrest; intensive probation and parole supervision; specialized parole and probation caseloads; work furlough; community service victim restitution centers and programs; community detention options; residential and non-residential substance abuse treatment programs; and other community-based programs in both the private and public sectors.

It is the Commission's recommendation that the Legislature and Governor adopt a Community Corrections Act with state funding to encourage the development of intermediate sanctions by local government for certain offenders. CDC and CYA should, through their regular budget processes, establish intermediate sanctions for certain parole violators who would not compromise public safety in those sanctions (see Community Corrections Recommendations).

Additionally, the Commission recommends that a Sentencing Law Review Commission be established to, in part, recommend sentencing guidelines or a grid which emphasizes the expansion of intermediate community sanctions (see Sentencing Recommendations).

These sanctions would provide a continuum of choices for judges and parole authorities, as well as provide options which are both substantially more restrictive and structured than present day routine probation. They would also provide several choices that include close surveillance in community settings. The Commission has concluded that these sanctions would not compromise public safety if used with discretion with the appropriate offender population. In fact, the Commission believes that these sanctions will enhance public safety over the long term with reduced recidivism.

Collectively, the proposed intermediate community sanctions or punishment options represent a continuum of graduated sanctions, an expansion of existing punitive responses that provide for: (1) rigorous offender supervision in community settings; (2) renewed emphasis on programming and structured activity, both in custody and in community supervision; and (3) meaningful programming for offenders based on individual need and the risk factors associated with continued criminal behavior and return to custody. The options also present various levels of supervision, control, structure, accountability, and cost. The Commission recommends a continuum of graduated punishment options for selected offenders such as the short-term new commitment (one year with an emphasis on six months or less), the drug abusing offender, and the parolee returned to custody for six months or less for violating terms and conditions of parole.

The punishment options presented are organized into five categories which correspond to broad jurisdictional areas. These are: (1) pre-adjudication options which are feasible prior to arrest or a court's finding of guilt or innocence; (2) post-adjudication options which can be employed after a court has found the defendant guilty; (3) custody options which result in a sentence of jail or prison confinement; (4) re-entry and parole services, options which are employed following periods of confinement in jail or prison; and (5) community based support services, made

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available to the parolee and family which can be provided by either private organizations or local sheriff, police or probation departments. In addition to the narrative which follows, Chart 4-1 provides a summary diagram of the punishment options continuum from pre-adjudication through community based support services.

## **4.1 PRE-ADJUDICATION OPTIONS**

Pre-adjudication refers to all the activities which occur before the defendant faces judgment including the arrest, filing of charges, holding in jail, and suspending judgment or sentencing. There are decisions made at every point in the juvenile and adult criminal justice processes which have direct and indirect impact on the incarcerated population in California. For example, pretrial detention policies affect jail population because an overcrowded jail is a greatly reduced resource for housing inmates with short terms. If more pre-adjudication options are available and used, jail space may be used more effectively with new potential for opportunities to confine some inmates locally rather than in state prison.

The options for pre-adjudication involve law enforcement, probation departments, the courts, prosecutors, the county jail, and private and public community-based providers. Most options permit the exercise of discretion, although formalized use of options usually includes guidelines and procedures. The intent is to carefully screen individuals for risk potential to themselves or to the community, and to determine the best possible use of available resources and the most appropriate response to the situation. Individuals for consideration for pre-adjudication options may include less serious juvenile offenders, public inebriates, the mentally ill, drunk drivers, and bad check writers. Among the options for less serious offenders are:

- **Police Diversion:** This option is currently used with juveniles and may be used instead of a formal arrest for adults. Police may counsel and reprimand the offender and agree to not file charges subject to conditions, which may include informal supervision or support services.
- **Youth Service Bureau:** Youth Service Bureaus operate in close concert with probation departments, law enforcement and schools. They develop and operate service programs designed to divert young people from the justice system; prevent delinquent behavior by young people; and provide opportunities for young people to function as responsible members of the communities.
- **Field Cite and Release:** Authorized by Penal Code Section 856.3, a law enforcement officer can issue a “promise to appear” at the arrest scene.
- **Mediation/Arbitration:** Primarily administered by private non-profit organizations or probation departments, this option focuses on conflict resolution, compromise and avoiding litigation through the intervention of an objective third party, the arbitrator.

## Populations and Cost for Selected Categories of Punishment Options

**Projected  
Population  
1994**

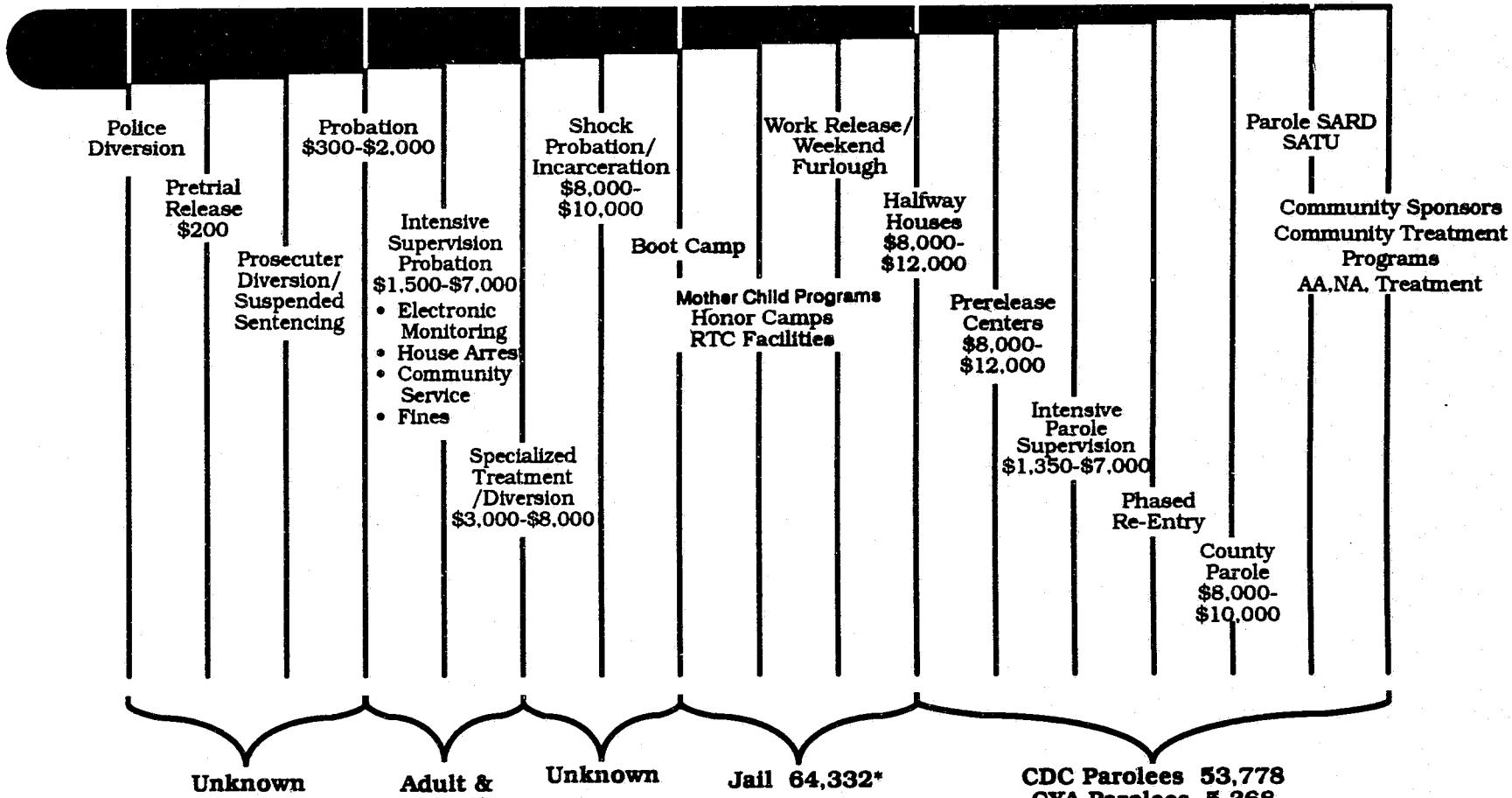
**Pre-Adjudication**

**Adult and Juvenile Probation  
(Unavailable)**

**Custody**  
**Jail** 93,000  
**CDC** 136,640  
**CYA** 9,478

**Pre-release & Parole**  
**CDC Parolees** 98,855  
**CYA parolees** 7,508

**Community Based  
Support Systems/  
Programs**



### Sources:

California Bureau of Criminal Statistics and Special Services  
 California Department of Corrections. Offender Information Services Branch  
 Board of Corrections  
 California Youth Authority  
 Joan Petersilia. *Expanding Options for Criminal Sanctioning*. Santa Monica, CA: Rand Corp., Nov. 1987

\* 1988 ADP

\*\* This is an estimate as there is no data base

- **Pre-trial Release:** Usually administered by probation departments or law enforcement agencies, this option is a systematic way of screening and releasing newly booked defendants under numerous strategies including: (1) jail or citation release; (2) bail or personal recognizance; or (3) pretrial release services/centers which offer supervised release services or centers which offer supervised release; or (4) probation officer cite and release of juveniles.
- **Station/Jail Citation:** This is the most frequently used pretrial release mechanism, under the authorization of Penal Code Section 853.6. Persons charged with misdemeanors (with certain exceptions) can, after booking at jail, be released after signing a "promise to appear" in court.
- **Referral Mechanisms for Public Inebriates:** A peace officer may place an intoxicated person, who is unable to exercise care for his own safety or the safety of others, in civil protective custody (PC 647(ff)) and deliver the person to a facility for the 72-hour treatment and evaluation of inebriates. This is an involuntary commitment for those in need of medical detoxification who have no other criminal charges and no history of violence. No criminal proceedings occur. However most counties have very limited or no social setting detoxification facilities available for peace officer referrals.
- **Referral Mechanisms for Mentally Ill:** If a law enforcement officer makes contact with someone in the field who, as a result of a mental disorder, is a danger to himself or others, rather than making an arrest, the officer may place the person in protective custody and transport the person to a "designated" mental health facility for 72-hour evaluation and treatment. PC Section 4011.6 authorizes jail personnel or judges to have an inmate suspected of a mental disorder taken to a mental health facility for 72-hour treatment and evaluation. There are very few mental health alternatives available in California counties.
- **On-Call Judges:** The two most widely used procedures are having judges on call at night and during weekends and having interviewers collect personal history information either for bail or release on own recognizance. According to 1985 Sacramento County estimates, 60 percent of all felony booking occurs on weekends and nights and the availability of on-call judges lowers the number of in custody pre-trial defendants, especially on the weekends.
- **Accelerated Charge Screening:** Reflective of the fact that 69 percent of adult felony arrests throughout California are disposed of as misdemeanors or dismissed, many jurisdictions have experimented with ways to accelerate the process of screening felony bookings for charge determination. Meeting with some success are experiments in Los Angeles and Santa Clara Counties (among others) where a police sergeant or assistant district attorney, respectively, reviews persons booked into the jail as felons on the weekend. Only the most

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obvious cases are re-booked immediately as misdemeanors, rendering them eligible for station/jail citation.

- **Release on Own Recognizance (O.R.):** Interviewers collect personal history information (criminal involvement, community and family ties) on defendants for submission to the courts prior to arraignment. Some pre-trial release units use a point scale to determine the release on recognizance recommendation that will be made to the courts.
  - **Supervised Release:** As administered by probation or sheriff's departments, these programs can be established to release accused felons from jail who would not otherwise be released through mechanisms such as O.R. Generally, the approach consists of intensive supervision with mandatory face-to-face contact at least three times a week, and mandatory drug testing for substance abusers.
  - **Pre-Trial Conference Program:** Places an on-site probation officer in Municipal and Superior Courts for immediate referrals. Information generated through program staff has resulted in reducing the number of jury trials, pre-trial hearings and formal referrals to probation.
  - **Warrants-Holds Clearance Program:** Typically, a check is made during the booking process to determine if the arrestee has any outstanding warrants or holds. If a hold or warrant exists, these additional charges are added at the time of booking. To rapidly clear holds and warrants, some of the strategies used are: (1) automatic release if not picked up by the jurisdiction issuing the hold within five days of notification; (2) misdemeanor holds with bail set at a specified amount are automatically released five days after notification; (3) recognition release unit reviews all warrants; or (4) admission to jail is refused for warrant arrests with bail set at a specified amount.
  - **Home Supervision:** This option effectively serves as supervised own recognizance release. In juvenile cases the court may impose "home supervision" through probation departments for a juvenile prior to adjudication if 24-hour secure detention is not deemed necessary (W&I 628.1).
  - **Pre-Trial Diversion:** Based upon an assessment and recommendation made by a probation officer, this is essentially postponement of prosecution, at the discretion of the prosecuting attorney in exchange for the defendant's agreement to specific conditions. In California this is authorized by Penal Code Sections 1000 and 1001. Specific diversion categories are Alcohol and Drug Diversion (PC1000.1), Domestic Violence (PC1000.6), Child Abuse and Neglect Counseling (PC1000.12), and Insufficient Funds Diversion (PC1001.60). Failure to comply with conditions may result in resumed prosecution.
  - **Informal Probation for Juveniles:** As provided for in Section 654 of the
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- Welfare and Institutions Code, this is a contract between the probation officer, minor and parent for a maximum of six months to attempt to resolve the circumstances which brought the minor to the attention of the probation officer.
- **Pre-Plea Probation Report:** In certain instances, the court may request that a pre-plea report be developed by the probation officer, complete with recommendations for sentencing based on acceptance of a plea.

## 4.2 POST-ADJUDICATION OPTIONS

Following a guilty verdict, the criminal justice system has an extensive array of punishment options other than custody. Post-adjudication options usually have some form of monitoring or supervision involving a probation officer to insure compliance with a court order or other terms of the sentence. Many of these options are viable as court ordered conditions with probation supervision of varying degrees. They may include elements of treatment, restitution, probation, correctional supervision, and community service. These options also permit a wide range of supervision and control to ensure offender accountability. Specific post-adjudication options include:

- **Community Service:** Community service is an option which may be a condition of court ordered probation, a parole requirement, or a stand-alone operation. This option presents one of few opportunities for courts to employ a degree of creativity in sentencing, oftentimes related to the specific nature of the offense. The purposes of community service are to repay society at large for criminal wrongdoing by requiring a specific form of volunteer work by the offender, and to impose punishment by depriving the offender of his liberty in terms of time and effort. The terms of community service are usually defined in terms of hours to be worked and the focus of service. Community service has been used extensively with DUI offenders, drug law offenders, juveniles, and other nonviolent offenders. Those carrying out community service typically work for nonprofit or other public service organizations. Offenders with particular skills may be required to perform a service related to the skill or expertise (i.e., laborers required to rehabilitate low cost housing). There are community based organizations which provide assistance for developing community service plans throughout California.
- **Fines:** A widely used option, an offender may pay a fine in lieu of jail, or as a condition of probation. Defendants may pay fines in installments.
- **Day-Fines:** Similar to regular fines except for a special procedure for setting the amount. The fine is established according to the offender's daily earnings, permitting greater equity in levying fines.
- **Non-Ward Probation for Juveniles:** At the discretion of the court, a ward may

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be ordered to be on probation without supervision. The court, in so ordering, may impose on the ward any and all reasonable conditions of behavior as may be appropriate (W&I 727).

- **Probation:** Traditionally, probation supervision requires one contact per month with the probationer and often one or two “collateral” contacts with the probationer’s family and/or employer. In California, probation is most often used in conjunction with some jail time rather than as a sole sanction. Straight probation is a sentence for about 6 percent of the convicted adult felons.
  - **Intensive Supervision Probation (ISP):** ISP programs have made it possible to retain some high risk offenders in the community under rigorous probation supervision. ISP usually requires as few as four monthly contacts or as many as five weekly contacts with the probationer via involvement in other services. ISP is highly structured with programming, regular and frequent contact, and sometimes electronic monitoring.
  - **House Arrest:** House arrest is a post-adjudication sentencing option imposed by the court and often used with ISP and/or electronic monitoring. Legally, the offender is confined to his residence except for employment, medical reasons, or to attend religious services.
  - **Electronic Monitoring:** A relatively recent innovation, electronic surveillance has been used increasingly to provide additional supervision and monitoring insurance for offenders in community supervision, such as probation or parole. Active devices work with telephonic robotics via computerized random calling to the offender’s residence. Passive devices operate via radio transmission in a wrist or ankle bracelet.
  - **Day Programs for Juveniles:** Day Programs (sometimes called “Day Care” Programs) are a variation of intensive supervision in which wards participate in all-day education and counseling in addition to probation supervision. Participants are returned home after the school day but are typically subject to curfew.
  - **In-Home Family Services:** This type of program provides a youth in trouble, whose home situation is considered potentially workable, with a paid child care worker. The worker is responsible for meeting the youth’s rehabilitative needs within the home setting. Five to 40 hours of service per week may be provided to the youth and the family.
  - **Specialized Probation Caseloads:** Throughout the 1980s probation services have become more specialized. In order to address the particular needs or conditions of some categories of probationers, specialized caseloads have emerged. Examples in other states include restitution or community services caseloads, alcohol or drug treatment caseloads, drinking driver caseloads, and
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- domestic violence caseloads. Generally, the specialization of the caseload is designed to help better manage probationers with similar needs, similarly at risk for violating certain conditions, or to permit acquisition of specialized supervision skills and expertise among probation staff.
- **Probation with Jail:** Probation with jail in California is the most widely used sentencing option, a combination of jail followed by probation. Currently, this option represents about 60 percent of all adult felony dispositions in Superior Court, compared to about 6 percent on probation with no jail term.

- **Restitution/Community Service:** Restitution and community service are punishment options which are usually integrated with probation or parole to compensate the victim or the community for the offense. The three types of restitution are direct monetary compensation from the offender to the victim, service to the community, or monetary compensation to the victim via the Restitution Fund.

### **4.3 CUSTODY OPTIONS**

Custody is a necessary and integral component in the continuum of punishment options. Custody is generally considered the most punitive response to crime, and is the focus of prison overcrowding issues. In the 1980s, “getting tough on crime” has been synonymous with sending more offenders to prison. As a result, prisons and jails are overcrowded and operating at basic maintenance levels with greatly reduced opportunities for formal or structured programming. This review of custody options includes a wide variety of jail and institution based programs and activities, some of which already exist in California. The following options may be implemented by local, state, adult and juvenile jurisdictions:

- **Juvenile Halls:** Juvenile halls are administered by probation departments and serve as facilities in which a minor can be held for a variety of reasons and at several different stages in the juvenile court process: pending adjudication; post-adjudication, pending disposition; post-adjudication, pending transfer to another county facility, private placement, or the CYA; or as a result of a commitment to the juvenile hall.
- **Shock Incarceration/Probation:** These options exist at both the local and state levels for adult offenders. Essentially a split sentence, shock incarceration or probation combines short periods of custody with probation, or a “shock” of custody in response to violations of conditional supervision, such as probation. Usually the length of stay ranges between 30 and 120 days.
- **Shock Incarceration of Juveniles:** This would provide the courts with the option of a determinate term of confinement and community supervision for less serious, nonviolent offenders as an alternative to a regular CYA commitment.

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- **Boot Camp:** At the state level, this option resembles some aspects of military boot camp regimentation with emphasis on physical conditioning and labor intensive work. This option is for short stay offenders, followed by intensive supervision in the community.
  - **Weekend Sentences:** Primarily used by county jails for low risk misdemeanor offenders, this option combines deprivation of freedom with community supervision. This option is primarily used in cases where the offender has strong family and community ties, is sentenced to make restitution, and has steady employment.
  - **County Work Furlough:** One of the most widely used options available to local jurisdictions is authorized under Penal Code Section 1208. This statute provides that the offender be under the custodial authority of the jail for 24 hours a day, even during employment, at which time the offender is released from the holding facility to go to work. In addition, offenders may be released to seek employment. In some jurisdictions, there are work furlough facilities in which the offender resides for the duration of his time on work furlough.

An offender may be assigned to a work furlough program by one of several ways. Judges may refer an offender for acceptability into a work furlough program, or upon admission to jail to begin serving a jail sentence, the administering agency will determine the eligibility of an offender to be placed in a work furlough program while serving their sentence. The criteria for eligibility varies from county to county. Usually, the local agency responsible for administering the program (Sheriff, Probation, Chief of Police or County Parole) determines who is eligible by a risk assessment or by classification. The administrator of the work furlough in a county may contract with private entities for services, housing, sustenance, counseling, supervision and services. Work furlough programs include random drug testing, family and drug counseling, with participation in Alcoholics Anonymous.

Additionally, the authorizing statute allows educational furlough, which may include vocational or academic training or counseling, and psychological, drug abuse, alcoholic and other rehabilitative counseling. (Penal Code Section 1208(i)).

- **State Work Furlough:** Work furlough at the state level, authorized by Penal Code Section 6260, varies somewhat from county work furlough. These programs are operated by CDC, private profit and nonprofit organizations, and county sheriffs. Programs provide housing, sustenance, and supervision to selected male and female inmates for 90-120 days prior to their parole. Work furlough programs include community employment, vocational and educational furlough, and employment preparedness counseling, in addition to various counseling programs to facilitate successful community reintegration.
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- **Work Release:** As allowed for by Penal Code Section 4024.2, work release programs are a variation of work furlough programs in that an offender performs 8 to 10 hours of supervised manual labor on public works or ways (streets, parks, schools) in lieu of one day of confinement. Some counties release prisoners from jail early to serve their remaining sentence in work release programs. Although counties set specific criteria for their programs, the generally targeted offenders are low risk (traffic violations, suspended licenses, drunk drivers).

According to a 1988 survey of California counties, 45 of the counties responding had either work furlough or work release programs or both. Of the 45 programs, 25 are administered by the Sheriff Departments, 19 are administered by Probation Departments, and one by a County Department of Corrections.

- **Pregnant Addicts in Jail:** These programs provide residential treatment for drug addiction to pregnant women in lieu of incarceration in local jails. Generally, a judge may contact a private drug treatment provider to request screening for program placement eligibility prior to sentencing. Program staff conduct the screening, and if eligible, accompany the program candidate to court for the sentencing hearing. Treatment may require as many as 12 to 18 months in a highly structured program with counseling, parenting skills development, and preparation for school or work.
- **Regional Youth Educational Facilities:** A pilot short-term intensive program for juvenile court wards from San Bernardino and Riverside counties has been operating since July 1985. It is a residential program for 16 and 17 year old status offenders who are in juvenile halls awaiting out-of-home placement, and who are not appropriate for commitment to CYA.
- **Probation Camps, Ranches, and Schools for Juveniles:** These facilities are generally considered the last local correctional alternative prior to a CYA commitment. The average camp program lasts six months, although much variation exists. Typically, youths spend most of their time in academic training, recreational activities, off-grounds activities, and work details.
- **County Industrial Farms and Honor Camps:** As administered by sheriff or probation departments, these are minimum security county facilities with work furlough, education, and drug treatment programs. The county industrial farms and honor camps are for offenders sentenced from one to five years who usually spend the first 90 days in jail.
- **Mother/Child Programs:** These programs are for women inmates who are pregnant or have children under the age of six, and are operated by private vendors in secure state-operated facilities in the community. The programs enable eligible mothers to remain with their children while in custody, participat-

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ing in parenting and family skills classes and work furlough near the completion of their sentences. These programs exist for CDC and CYA inmates presently and could be expanded to include local jail and youth camp populations.

- **Therapeutic Community Programs:** In some counties, the sheriff's department contracts with private vendors and the probation department to provide drug treatment for drug abusing offenders in a therapeutic community model. These programs offer education, counseling, and positive role modeling.
- **Restitution Centers:** As authorized by statute, CDC, CYA, local jails, and probation may implement facilities to operate as community residential programs where offenders may reside, leaving only for work or legitimate appointments. Earnings are divided among the victim, offender, and the Department for operational expenses. CDC is currently planning to open a facility in the Los Angeles area by the early 1990s.
- **Wilderness Challenge Programs:** These 30-90 day residential wilderness experience programs are operated by private organizations or probation departments and are designed to present youth with physically and mentally challenging, yet achievable tasks. They merge traditional casework methods with an outdoor survival experience designed to teach responsibility, build self-esteem, and develop decision making skills. These can and should be implemented at the state and local levels.
- **State Prison with Programming:** A variety of programs and activities exist throughout the California prison system. Generally, the variety is relatively comprehensive but the availability to inmates is severely limited because of the size of the population. Most programs should be expanded or modified to open opportunities for greater inmate participation. Incentives need to be established for inmate participation in those programs for which they do not currently receive good time credits or pay, such as drug treatment, alcohol treatment, and sex offender treatment. The following treatment and training programs are available in CDC facilities, and the numbers in parenthesis are the approximate number of offenders participating in these programs at a given time:
  - Substance Abuse Self-help Groups or programs such as Narcotics Anonymous or Alcoholics Anonymous (3,300)
  - Psychiatric-Intensive Treatment Programs (number not available)
  - Sex Offender Treatment (100)
  - Apprenticeship Programs (250)
  - Academic Education Programs (5,600 in full time programs)
  - Vocational Education Programs (6,250)

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- Prison Industries (7,000)
  - Institution Support Work Assignments (26,000)
  - Other Programs, such as Arts-In-Corrections and M-2 Sponsors (9,000)
- **Youth Authority Training and Treatment Programs:** Commitments to the CYA are for an indeterminate term (not to exceed age 21, 23 or 25, depending on the court and offense). The Youthful Offender Parole Board (YOPB) recommends treatment programs and determines when to order parole. The primary mission of the CYA is to provide services directed toward reducing the criminal behavior of wards committed to its custody. The YOPB may extend a ward's parole consideration date within statutory limits, if they believe the ward needs additional treatment or training. The juvenile justice system has maintained indeterminate sentencing, and mandatory (rather than voluntary, as for adults) programming for CYA wards. The availability of appropriate treatment programs may determine, therefore, how long a ward is confined. CDC inmates confined in Youth Authority facilities under Welfare and Institutions Code 1731.5(c) (commonly called "M cases"), however, are not under the jurisdiction of the YOPB; their terms are determinate. The following treatment and training programs are available in CYA facilities, (except where otherwise noted the numbers in parenthesis are the number of offenders participating in these programs at a given time):
- Substance Abuse Programs (1,820)
  - Intensive Psychiatric Treatment (134)
  - Specialized Counseling Programs (135)
  - Highly Structured Programs for Intractable Offenders (332)
  - Sex Offender Treatment Programs (80)
  - Employability Skills Development (all offenders)
  - Academic Programs (6,829)
  - Vocational Training (3,000)
  - Work Experience (2,225 including 1,586 in forestry camp program)
  - Private Industry Work Training (Free Venture) (79)
  - Impact of Crime on Victim Classes (1,874 participated in past year)
  - Pre-Parole Planning (all offenders participate prior to release)
  - Special Education (567)
  - Community Volunteers (including M-2 and VIP) (4,287)
  - County Contracted Programs (85)
- **Pre-Release Programming:** In many states inmates routinely participate in pre-release programming up to six months prior to release. The intent is to develop
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- plans for release, focusing on employment, residence, return to family, and enrollment in courses or supportive programs in the community to facilitate re-entry.
- **“In Lieu of Revocation” Programs:** CYA operates a program which is an alternative to revocation of drug and alcohol abusing parolees. The 90-day residential program includes forestry work experience, substance abuse education and treatment, wilderness experience, literacy training, regular high school classes, and life skills training.
  - **Return to Custody Facilities:** These state, county, and privately run facilities provide housing, sustenance, and supervision for some parole violators. The facilities are designed for the relatively short-stay typically served by these parolees.

#### 4.4 RE-ENTRY AND PAROLE SERVICES

Re-entry and parole services have been developed to facilitate the inmate’s transition from institutional life to return to the community. They have been designed to offer support as well as supervision during this period with emphasis on both public safety for the community and successful parolee reintegration in the community. Housing and employment needs remain the greatest challenges facing the parolee and parole officer and many parole services focus on these and related needs. Options include:

- **Parole Under State or County Supervision:** Parole supervision follows release from prison or jail. Parolees are assigned to parole officers who monitor their behavior and provide support. The state supervises parolees for one year and provides different levels of supervision depending on needs and risk.
- **Re-Entry Residential Programs for Youthful Offenders:** These facilities provide services in employment, vocational training, academic education, counseling and related services for drug abusers. The average program duration is 90 days, time which would otherwise be spent in a CYA facility.
- **Drug Treatment Re-Entry Program for Parolees:** Effective drug treatment is often a process taking up to a year or more, with “aftercare” support highly recommended by many practitioners. Particularly when there is treatment in the institutional setting, it is important to continue some treatment and support in conjunction with release to the community. The purpose of re-entry treatment for parolees is to provide continuity of treatment and support as the inmate makes the transition to the less structured and supervised status of parolee. For many parolees, drug treatment during re-entry is critical for treatment and parole success. This type of program could be structured as a specialized parole caseload.

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- **Halfway Houses:** Whether state or privately operated, these facilities provide small residential settings for parolees returning to the community. Most offer support services or treatment for specific problems, like drug and alcohol abuse.
  - **Pre-Release Centers:** Pre-release centers provide a community-based secure setting for parole and re-entry planning, usually 30 to 90 days prior to scheduled release. A prototype in Montgomery County, Maryland, provides offenders with employment and housing assistance, life skills training and social skills development.
  - **Intensive Parole Supervision:** As the name implies, this is parole supervision with intensive contacts. Usually these caseloads are far less than average caseload size, with weekly face-to-face contacts between the parole agent and parolee, as well as contacts with employees, school officials, and family members. The CYA provides intensive parole supervision to some sex offenders, gang members, parolees with drug problems, and parolees with special placement problems.
  - **Intensive Re-Entry Parole Supervision:** This program calls for intensive parole services during the first 90 days on parole for CYA wards. Early detection of problems and early intervention are aimed at reducing the number of law violations.
  - **Job Placement Program for CYA Parolees:** This program is designed to improve parolee employment performance and reduce the parole revocation rate. Job specialists provide job placement, job retention counseling and job seeking/keeping training to parolees.
  - **Jobs Plus Program:** This is a program which works on a contractual basis with community based organizations (CBOs) with offender job placement experience. Currently operational in four California communities, these CBOs meet with groups of inmates enrolled in educational and vocational programs to describe services for parolees and to ascertain individual interest. The CBOs then work closely with parolees in the community to assist with job placement. After two years this program is funded to serve 500 parolees, with plans for expansion.
  - **Parolee Detention Programs for CYA Parolees:** These programs provide short-term detention for parolees who have encountered problems maintaining an acceptable community adjustment. These programs provide services in the areas of substance abuse, community adjustment and employment.
  - **Substance Abuse Revocation Diversion (SARD):** This CDC pilot program is designed to assist parolees who are at risk of revocation. It provides maximum supervision and support to prevent return to custody, because substance abuse is a major contributing factor to parole revocation.
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- **Substance Abuse Treatment Unit (SATU):** This 90-day program targets parolees in the Fresno area who are at risk of revocation due to substance abuse. The program provides immediate treatment, counseling, job readiness training, and work furlough for adult parolees in a residential setting. SATU also has an aftercare component.
  - **Parole Outpatient Clinics (POCs):** CDC administers two programs for treatment and supervision of mentally ill parolees and their families.
  - **Community Re-Entry Programs:** This is an accelerated program for parolees during their first six months in the community. It emphasizes survival skills such as employability, social skills, and accessing housing and other assistance in the community.

## **4.5 COMMUNITY BASED SUPPORT SERVICES**

Community based support services may be provided by private vendors as well as police, sheriff, and probation departments. Services may include employment, housing, substance abuse treatment, and a host of other programs. Usually these are integrated with probation and parole supervision. Sample programs include:

- **Youth Service Bureaus:** Youth Service Bureaus (YSBs) operate in close concert with probation departments, law enforcement and schools which develop and operate service programs designed to:
  - (a) divert young people from the justice system;
  - (b) prevent delinquent behavior by young people; and
  - (c) provide opportunities for young people to function as responsible members of the communities.

The State provides over \$2 million in funding annually (administered by CYA) for 18 YSBs. Many other YSBs are funded mainly by cities and counties.

- **Out-of-Home Placements:** Group homes, foster homes, and placements with relatives are extensively used by the courts and probation departments in California as post-disposition options for juvenile wards placed on formal probation, and are often used as an alternative to incarceration.
  - **Community Sponsors:** These are volunteers who provide sponsorship, role modeling, and support to parolees newly released to the community. These individuals act as a “big brother” and work with the parolee as a friend to address day-to-day needs and barriers.
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- **Multi-Purpose Re-educational Program:** These are long term and highly structured programs for hard-core substance abusers and felons. Some programs emphasize vocational, academic, and social survival skills development. Included are a number of programs established, operated and funded solely by religious community organizations.
- **Offender Specific Planning:** This is individualized sentencing with the input of an outside agency. Some programs provide client specific plans to sentencing courts to divert offenders from state prison.
- **Specialized Treatment:** For some offenders, treatment needs are best served in community settings rather than through incarceration. Among selected target groups are individuals with treatment or service needs related to substance abuse, domestic violence, or nonviolent sex offenses. Others provide for practical needs such as emergency shelter or housing and employment assistance. Examples include, among others:
  - **Prisoner Family Support Services:** These programs provide a vital link between state prison inmates and their families during incarceration. The program emphasis is to promote visitation by providing transportation assistance, informal counseling, and other liaison assistance between inmates and their families.
  - **Residential Drug Treatment:** Residential drug treatment programs may be appropriate for parolees with drug problems after release from prison or jail. These programs may be quite small, similar to a halfway house, or larger and more like a therapeutic community program in terms of structure and emphasis on treatment and changes in lifestyle. Most provide counseling in groups and individual sessions, as well as urine testing for some programs. These may be exclusively for parolees, or mixed parolee and other residents. Programs may be privately or publicly operated.
  - **Non-residential Drug Treatment:** Non-residential drug treatment for parolees may consist of "outpatient" services such as group counseling, individual counseling, random urine testing, family support services, or other regularly scheduled services. These programs may be operated by public agencies or private vendors. Most serve parolees as well as clients referred from other sources.
  - **Job Placement Programs:** Job placement programs are available in many communities. Parolees may receive assistance from these programs to aid in their job search, learning how to find job openings, testing

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skills, training and support for completing job applications, interviewing skills development, and sometimes in-service training or refresher courses. Most also provide direct referral assistance.

**Employment Readiness Programs:** Employment readiness programs, such as those sponsored by the Job Training Partnership Act (JTPA) provide on-the-job training and employment for a variety of individuals seeking employment. Parolees may receive assistance from employment programs during the development of a pre-release plan or immediately upon release from the institution or jail. These programs usually conduct some form of screening and skills assessment to assist with appropriate placement.

#### **4.6 SUMMARY OF OPTIONS**

The spectrum of punishment options represents an expansion of the existing limited sentencing and supervision options currently employed throughout California. This includes both innovative programs new to California and options which exist on a limited basis and are targeted for expansion. Many of these options currently exist in California in few locations with very limited slots for offenders. It will continue to be important to expand these options to new areas throughout the state and to open up new slots to serve and supervise more offenders adequately. In particular, the options present a great expansion of intermediate sanctions. In a period of unprecedented prison population growth and facility expansion, a comprehensive continuum of punishment options presents a resource of undetermined potential. Given this potential, it is important to consider creating additional punishment options without adding supervision or programming where it is not now necessary.

The punishment options present an expanded list of choices for sentencing and parole revocation action. As such, these options could provide judges the flexibility to use intermediate community sanctions if only provided the options and sufficient information for matching offender with sanction. Parole authorities also have the authority to curtail parolee return to custody rates, if only there were other options. For both of these decision makers, punishment options present greatly expanded choices.

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## **5.0 ANALYSIS, FINDINGS AND RECOMMENDATIONS**

This section of the report presents analysis, findings and recommendations on prison and jail overcrowding in California. Specific areas addressed in this section are:

- Substance Abuse
- Parole Violators
- Sentencing
- Short-Term New Commitments
- Community Corrections
- Construction
- General

In studying prison and jail crowding in California, the Commission took into consideration historical trends in California, changes in policy and procedures and other factors that have contributed to the current prison, jail and Youth Authority crowding dilemma. Commissioners studied similar situations in other states, looked outside the state for responses which are consistent with the overriding concern for public safety and the need for punishment options other than those presently employed in California. Testimony was received from experts in the areas being addressed.

The Commission has developed several recommendations based on their research and discussions. These recommendations follow the findings and conclusions of the Commission and are presented in the next sections of this chapter.

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## **5.1 SUBSTANCE ABUSE**

### **Analysis**

Substance abuse, particularly the abuse of cocaine (including crack) and methamphetamines, is one of the major contributing factors to the Department of Corrections (CDC), Department of the Youth Authority (CYA) and local jail population increases and subsequent overcrowding.

In the California Department of Alcohol and Drug Programs' April 1989 "Five Year State Master Plan to Reduce Drug and Alcohol Abuse: Year One" it is reported that alcohol is the number one drug of use in California. It is estimated that 4 to 6 million Californians over the age of 14 drink some form of alcoholic beverage at least once a week. Approximately 2.2 million persons (7.9 percent of the State's population) are estimated to have an alcohol consumption problem.

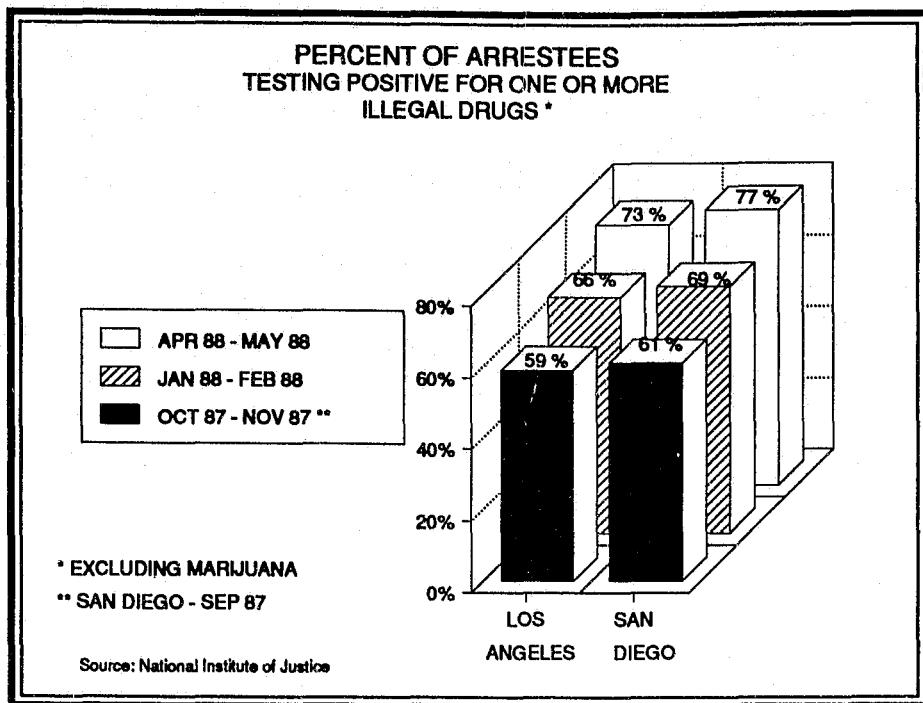
The consumption of alcohol in California is 20 percent greater than the national average. The per capita consumption for the California population 14 years of age and older was 38.8 gallons of beer, wine and distilled spirits during 1987.

Furthermore, alcohol and drug-related offenses represented 40.3 percent of all arrests in California during 1987. Of the 40.3 percent, alcohol-related arrests accounted for approximately 28 percent.

Studies show that the vast majority of persons arrested for any crime test positive for illegal drugs at the time of their arrest. The National Institute of Justice-sponsored Drug Use Forecasting Project provides insight into the relationship between drug use and crime. The data was collected through urine samples of all willing arrestees, primarily those who were charged with non-drug felony offenses. From September 1987 through November 1987, over 80 percent of the arrestees in the Los Angeles and San Diego areas who were requested to participate in the project provided urine samples for testing. As shown in Chart 5-1, results showed that 59 percent of Los Angeles arrestees and 61 percent of the San Diego arrestees tested positive for recent drug use, excluding marijuana. Only seven months later, test results from April through June 1988 showed an increase of positive results, rising to 73 percent of Los Angeles arrestees and 77 percent of San Diego arrestees.

Although cocaine is the drug of choice, California is experiencing an alarming increase in the frequency of amphetamine abuse. This is evidenced by The Drug Abuse Warning Network (DAWN) reports, which is a non-random sampling of emergency rooms and medical examiners in Standard Metropolitan Statistical Areas (SMSAs) nationally. These facilities report the number of times drugs are reported or mentioned in each emergency room or death situation. In California, there are three SMSAs reporting to DAWN: Los Angeles, San Francisco, and San Diego. Of the top six SMSAs in the DAWN system with the highest emergency room mentions for amphetamines, three are the California SMSAs.<sup>21</sup>

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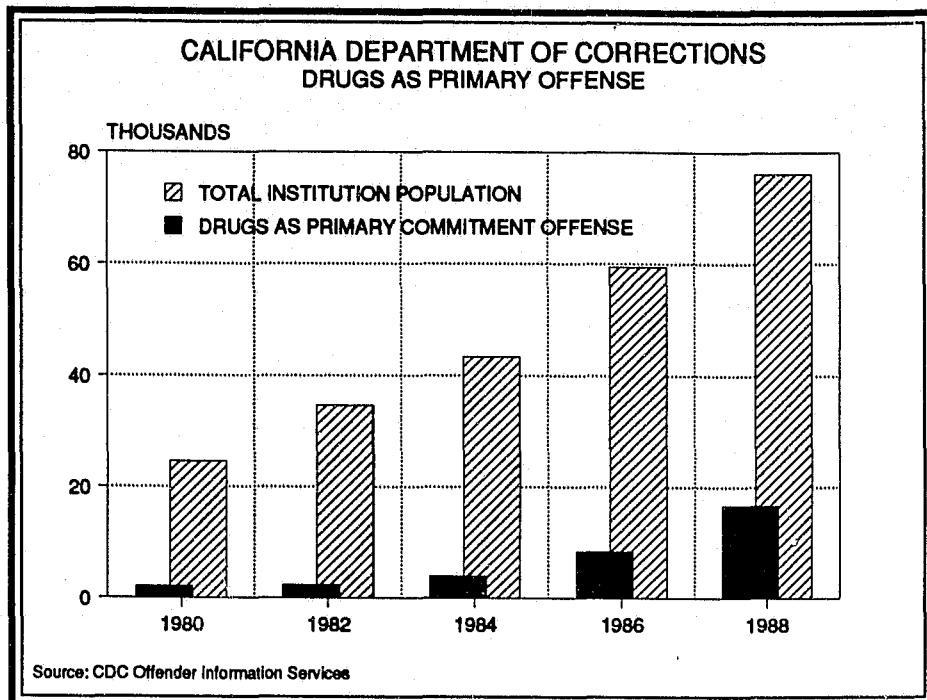


*Chart 5-1*

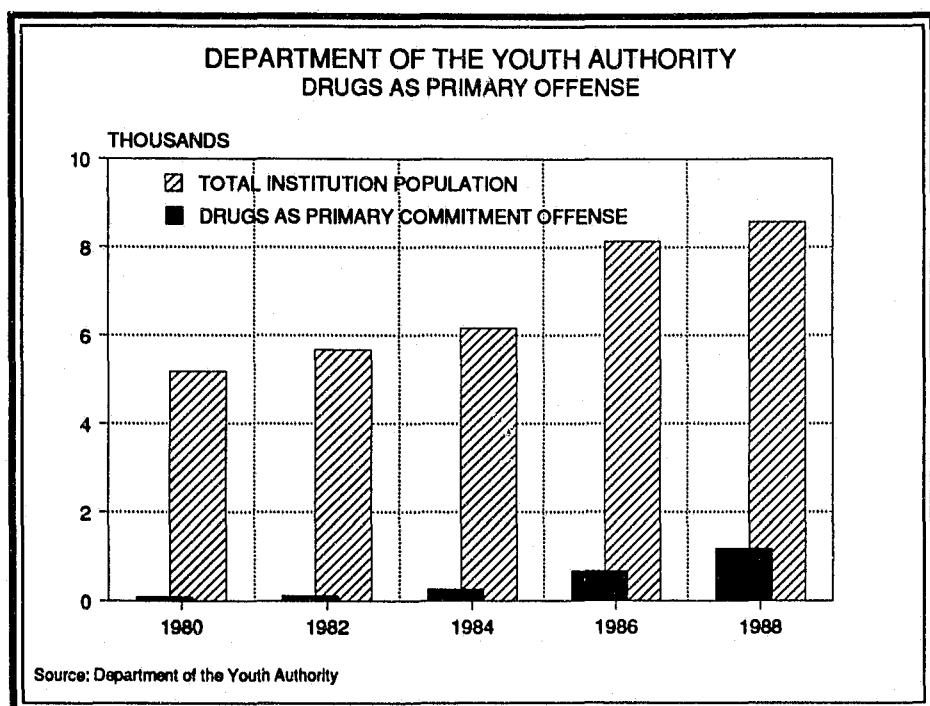
The relationship between drugs and crime is clear. Consequently, probation departments, local courts and sheriffs' departments are affected by drug abuse, as evidenced by overcrowded jails, excessive probation caseloads and a lack of sentencing options directed at the substance abuse problem. In certain cases, judges are limited by statute as to which offenders may be placed on probation and ordered to treatment, thereby leaving them no alternative other than to sentence an otherwise suitable offender to jail or prison. In other cases, judges may feel that drug treatment is warranted in lieu of incarceration, only to discover that no appropriate treatment programs are available or the waiting lists for such programs are prohibitively long.

Substance abuse is having a marked effect on the prison population. CDC has seen an increase in the percentage of its population whose primary commitment offense has been for drugs. As shown in Chart 5-2, the number of commitments with drugs as a primary offense has grown from 3,890 in 1984 to 19,908 in 1988. In 1989, 7.2 percent of the inmate population was serving a prison term with drug possession as their primary commitment offense. CYA also posted an increase, from 260 in 1984 to 1,175 in 1988, as illustrated in Chart 5-3.

Although CDC has never completed a systemwide study of drug use among inmates, several data indicators assist in understanding the extent of the substance abuse problem among inmates and parolees. Based on a representative sample study for new felon admissions during 1988 by CDC's Offender Information Services Branch, it is estimated that approximately 76 percent of the 29,551 new commitment admissions had a known history of drug use. Cocaine was reported



*Chart 5-2*



*Chart 5-3*

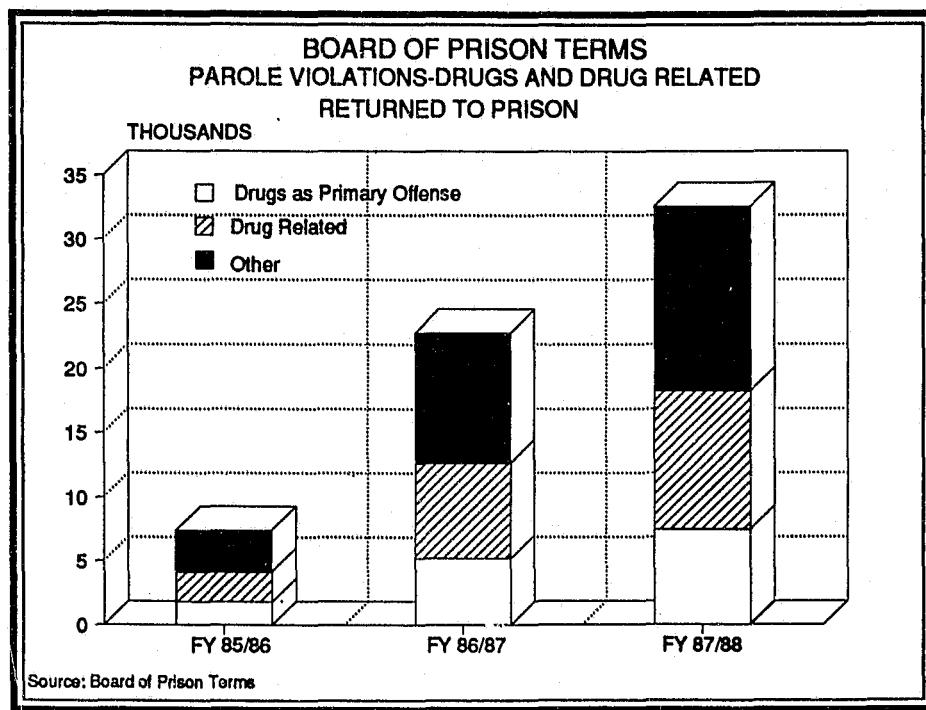
as the single most frequently abused drug. Nearly 26 percent of the new admissions had a history of cocaine use.

Substance abuse, particularly use of cocaine, contributes to the "revolving door" of state prison.

Many parolees spend a short time on parole and a short time between release and return to prison, often for reasons related to drug abuse. The lack of a support system in the community contributes to failure on parole. Increased availability of substance abuse programs may reduce recidivism and failures on parole, thereby increasing public safety. Studies have shown that some treatment programs are effective for some offenders.

Drug abuse also threatens the safety and security of CDC institutions. Substance abuse and sales in prison among inmates result in numerous violent incidents, while substance abuse rules violations result in thousands of additional prison days for inmates.

Substance abuse among parolees is a driving factor in the increasing parole revocation rate. According to Board of Prison Terms (BPT) data, in fiscal year 1988-89, drug charges were a known factor in 56 percent of all revocation actions, with drugs as a contributing factor in over 64 percent of parolees returned to custody for parole violations. Although the percentage of parole violations involving drugs has remained relatively consistent over the past three fiscal years, as illustrated in Chart 5-4, the overwhelming increase in the number of parole violations overall drives this major factor in prison population increases. The number of CDC parolees returned for drug or drug-related offenses has grown from 850 in 1980 to 18,700 in 1988.



**Chart 5-4**

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In addition, parole agents and probation officers increasingly test parolees and probationers for drug use. However, there are limited options for parole agents to use other than returning a parolee to prison when drugs are detected. Consequently, parole violators are returned to prison for very short terms, generally just long enough to interrupt their drug use and hopefully reduce their other criminal behavior. Probationers with drug violations are also returned to jail or prison, resulting in an increase in the incarcerated population.

Once incarcerated, the problems of substance abusers are not being addressed. Although it is estimated that more than four out of five inmates in the prison population have substance abuse problems, aside from self-help groups such as Alcoholics Anonymous (AA) and other twelve-step programs, there is no mandate or resources for the corrections system to deal with drug-abusing offenders. Therefore, there are virtually no drug treatment programs in our adult prisons.

Recent research findings summarize the latest results concerning alcohol and drug abuse treatment and the implications of those results for treatment programs. (Corrections Today, June 1989) Based on information about the effectiveness of drug treatment in general, it was concluded by several researchers that model programs should include treatment in the early stages of an inmate's incarceration; there needs to be a multifaceted continuum of care; treatment needs to be provided over a long period of time, increasing intensity over time; and inmates must be involved in pre-release programming.

Project REFORM is a treatment program designed to work with incarcerated inmates. Years of research in correctional environments shows the following elements, incorporated into Project REFORM, benefit such institutional programming:

- a separate unit within an institution, with access to other types of programs;
- ex-addicts as counselors;
- psychological safety in the program;
- hierarchical therapeutic programs where inmates move through levels of the program, taking on roles of increasing responsibility;
- confrontation and support groups;
- individualized counseling;
- community and relationship training;
- cardinal rules, such as the prohibition of violence and substance abuse;
- pro-social values; and
- continuity of care with outside therapeutic communities.

The Department of Corrections, in November 1989, also created a new Office of Substance Abuse Programs. The Department is committed to the development of a multi-faceted public-private comprehensive substance abuse program that strives to give balanced attention and resources to control, enforcement, education and treatment. The goals of the program are to

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further promote public safety and to improve the effectiveness of Departmental operations through the reduction of substance abuse-related problems among inmates and parolees.

According to an article from the Vanderbilt Law Review (April 1989, Vol. 42, No. 3), the most important factual conclusion concerning addicts and the demand for cocaine is "the market demand for cocaine is generated primarily by addicts, who number an estimated 2.5 to 3 million people yet who represent only a small percentage -- perhaps only 10 percent -- of the Americans who have used cocaine. Nevertheless, the addict population consumes as much as 75% of the cocaine used in the United States. A recent National Institute of Drug Abuse household survey also supports the conclusion that occasional use is falling sharply, while use among addict populations has increased. We do know that most, if not all, inmates use drugs. Without doubt, the correctional system offers the most direct contact with the addict population. Treating these addicts through a combination of custodial (residential) and supervised release (outpatients on parole or probation) offers our best hope of reducing the number of addicts and thereby the demand for cocaine and other drugs. The correctional system also offers a major feature not found in private treatment programs: legally required treatment." A recent article in Criminology (Vol. 27, No. 3, August 1989) by UCLA provides strong statistical evidence that there is no difference between the treatment outcomes of those who voluntarily seek treatment and those who are legally induced to seek it.

The Department of Corrections, Department of the Youth Authority and the Board of Corrections have individually responded to the problem of substance abuse. However, there is a need for a collective state and local corrections effort to establish a comprehensive statewide effort to initiate a coordinated corrections drug abuse management strategy.

## **Findings**

- Substance abuse is a problem that originates within the community.
  - Arrests for drug law violations are increasing at a high rate for juveniles and adults.
  - According to the California Bureau of Criminal Statistics, in 1988 narcotic arrests accounted for 67.6 percent of the total drug law violation arrests in California.
  - In the five-year period from 1983 to 1988, the juvenile felony narcotic arrest rate in California grew by more than six times. In the same five year period, the adult felony narcotic arrest rate grew by more than three times.
  - The number of CDC commitments with drugs as a primary offense has grown from 3,890 in 1984 to 19,908 in 1989. CYA has also shown an increase, from 260 in 1984 to 1,175 in 1988.
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- Narcotic and dangerous drug use is growing and is one of the most significant contributing factors in the increase in California jail and prison populations, evidenced by the fact that over three-quarters of the new commitments to prison have a history of drug abuse.
  - An array of prevention, education and treatment programs are necessary at all levels, including probation, jails, prisons, and parole and re-entry.
  - There are limited options for parole agents, other than return to prison, when drugs are detected. As indicated previously in the report, parole violators are returned to prison for very short terms and then returned to the same negative influences and anti-social lifestyle.
  - There are limited options for probation officers when drug use is detected.
  - Once incarcerated, the problems of adult substance abusers are not being addressed. CYA is providing treatment for youthful substance abusers on a far more extensive basis than adult corrections.
  - There is a need for a collective state and local corrections effort to initiate a coordinated corrections substance abuse management strategy.

## **Recommendations**

The Commission makes the following recommendations regarding substance abuse:

**Recommendation #1: The Department of Corrections, the Department of the Youth Authority, the Board of Corrections and local correctional agencies should immediately develop and implement a state and local corrections substance abuse strategy to systematically and aggressively deal with substance abusing offenders while they are under correctional supervision.**

**A state and local advisory council should be appointed to monitor the development and implementation of the strategy, coordinating its efforts with the Governor's Policy Council on Drug and Alcohol Abuse. The Legislature should provide the resources necessary to implement this effort.**

**The major components of the strategy developed by state and local corrections officials should include:**

- **The development of programs to ensure that every drug abuser, while under supervision of the state or local corrections system in California, be required to participate in a drug program to confront the drug abuse that contributes to their criminality.**
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- **A state and local strategy that identifies the responsibility for and the drug programs which should be implemented in local probation and jails, and subsequently in state prison and parole.**
  - **A strategy by which the corrections substance abuse programs should be co-ordinated with substance abuse efforts among other entities of the criminal justice system and other substance abuse programs.**
  - **Monitoring and evaluation to determine drug abuse program effectiveness.**
  - **A statewide correctional substance abuse strategy for enforcement, prevention, education, intervention, and treatment. This should include both community and prison-based programs.**
  - **The emphasis should be on community-level programs for short-term stay inmates and short-term parole violators with a year or less to do in state prison, with major emphasis on those serving six months or less in prison.**

A state and local corrections strategy for responding to substance abuse and related problems can serve as a guide for responding to drug abusing offenders who are on probation, in jails and prisons, or on parole. These offenders are constantly recycling in our local and state corrections systems as arrests, probationers, prison and jail commitments, and parole violators. While these offenders are under corrections system supervision, they should be aggressively made to confront their problem in the hope that perhaps they will change. The corrections system should be given the mandate and resources to require offenders to work on their drug abuse problem.

There must be a re-examination of educational approaches in both state and local corrections. Traditional academic curricula should be augmented with courses of study which emphasize fundamental lifestyle issues, survival skills and substance abuse-related issues, including relapse prevention. The Board of Corrections can develop guidelines or criteria for use by local corrections officials in implementing drug enforcement, education, prevention and treatment programs as part of certain jail or work furlough programs. CYA should continue in its present efforts to expand drug abuse programming while concentrating more on establishing linkages between institutions and paroles.

In order for a corrections substance abuse strategy to be effective, it must include long and short-term support systems by locating and establishing ties to the community while providing for coordination with community resources. To accomplish this, inmates must have available pre-release programs with emphasis on re-entry into the community, including establishing strong linkages with parole. Since homelessness and joblessness contribute to failure on parole, pre-release programming must provide training to

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inmates regarding fundamental coping mechanisms and survival skills. Parole agents need to have available the resources to assist parolees to obtain and maintain adequate housing and employment.

To assist in this effort, the Commission recommends the establishment of an advisory council comprised of representatives of state and local corrections, substance abuse program representatives, community representatives and others as deemed appropriate. The council's objective should be to integrate and coordinate individual substance abuse plans from each corrections agency into an overall state strategy.

The council must also coordinate its recommendations with the Governor's Policy Council (GPC) on Drug and Alcohol Abuse which was created as a result of passage of SB 2599 in 1988. In conjunction with the creation of the GPC, the legislation sets forth a long-range goal of a five-year master plan to eliminate drug and alcohol abuse in California. The GPC is charged with the review and consideration of all goals set forth in the state master plan. A state and local advisory council would serve in the same capacity to the correctional substance abuse strategy as the Governor's Policy Council serves to the state master plan.

The Chairman of the Governor's Policy Council on Drug and Alcohol Abuse has established three committees: prevention, law enforcement, and treatment, to assist the Council in the wide range of drug and alcohol abuse-related issues which are to be addressed in the State Master Plan. The Chairman of the Treatment Committee has established a new subcommittee to deal specifically with offenders (including inmates in county jails and state institutions, probationers and parolees) with substance abuse-related problems. This subcommittee will include representatives from CDC, CYA, county probation and a representative from a major county jail.

The immediate objective of this subcommittee will be to ensure that drug and alcohol abuse treatment and intervention program needs of offenders are represented in the Council's deliberations. A long-term goal of this effort is to increase the number of offenders who are able to use and benefit from institution and community-based drug and alcohol abuse services.

**Recommendation #2: The Department of Alcohol and Drug Programs (DADP) should establish policies, procedures and funding priorities to assure the availability and use of community and institution-based drug and alcohol abuse treatment programs and services for parolees, probationers and inmates.**

All competent research data in the area of substance abuse and offender behavior concludes that substance abuse is a major contributing factor in the behavior of many offenders. Combining intensive supervision, highly structured and individualized substance abuse treatment programs and strict and frequent drug testing could serve as effective punishment and control options for certain types of offenders.

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**Recommendation #3: The correctional system should be mandated by the Legislature to develop highly structured and effective drug intervention, education and treatment programs in prison that are comprehensive in nature, with continued integrated programming for individuals released on parole. Resources should accompany this mandate.**

The Commission agreed that CDC must continue to develop and expand highly structured drug intervention programming requiring active participation on the part of each offender. The Commission further concludes that inmates should be eligible for educational good time credits or time cuts while actively participating in such a program.

As part of the corrections substance abuse strategy, comprehensive programs must be all encompassing, beginning with the offender's initial orientation into the prison system, and continuing with training and education throughout incarceration. Prior to discharge, inmates must be provided the opportunity to develop a personal plan for drug-free success upon return to society.

Individuals must be committed to active participation in a highly structured program to be successful. Curriculums and intervention techniques must set clear expectations which make demands and require decision making on the part of the offender. Programming must require responsibility and accountability for decisions made, preparing for successful assimilation into the community upon release.

Several examples of program models were reviewed by the Commission resulting in the conclusion that many of these models would function as highly structured and effective programs. An example of the type of program recommended is the therapeutic community model.

Important to the success of effective programming within an institutional setting is a need for established continuity in programming upon release to the community. In this area, institutions and parole personnel must collaborate on developing continued programming upon release to parole. Several parole-administered community programs exist within CDC which can serve as the basis for expansion.

One example of such a recommended program is the CDC Substance Abuse Treatment Unit (SATU). This is designed to address substance abuse by placing the parolee who is in violation in a 90-day residential setting in non-revoked status in lieu of return to prison. The program is three-phase; addressing treatment, job readiness and community service work furlough.

A survey conducted in April of 1988 revealed that 32 percent (2,851) of the CYA institutional population presented a substance abuse history serious enough to require placement in a full time substance abuse program. CYA institutions currently operate 26 formalized substance abuse programs with approximately 1800 beds. Approximately \$375,000 is budgeted to provide training to the counselors assigned to these programs

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and to contract with community-based substance abuse counseling experts to supplement the counseling provided by CYA staff. Three 70-bed regular program living units were recently converted to substance abuse programs.

**Recommendation #4: Community-based residential drug treatment programs should be considered as an appropriate punishment option.**

The Commission believes that the drug abuse problem must be addressed in the community or drug abuse will continue. Recognizing that the problem cannot be solved by just surveillance or institutional programs alone, the substance abusing offender must be held accountable using options within the community where the offender resides or where the offense occurred which are consistent with public safety. Subsequent legal sanctions should be used to bring offenders into community programs.

The Commission further concludes that drug abuse is a driving factor in the prison overcrowding problem. CDC and CYA should examine the expanded use of residential community drug programs. To address the needs of individual offenders, there must be an appropriate mix of residential and non-residential treatment programs in the community, combining appropriate controls with frequent drug testing.

Similarly, the Commission believes that an increasing number of community treatment programs must be available to the Board of Prison Terms and the Youthful Offender Parole Board as parole violator sentencing options in lieu of re-incarceration.

**Recommendation #5: Parole agents should be provided an array of surveillance and treatment responses for the effective management of substance abusing parolees, including:**

- **Specialized drug caseload assignments for drug abusing CDC parolees.** Parole agents would become involved with the inmate prior to release from prison and provide increased surveillance and, if needed, would ensure appropriate placement in a community treatment program. These caseloads would require lower than normal parolee to parole officer ratios.
- **Expansion of the CDC Substance Abuse Treatment Unit (SATU) and Substance Abuse Revocation Diversions (SARD) programs for substance abusing parole violators and expansion of CYA's specialized substance abuse caseloads.**
- **Development of new, and increased use of existing, residential and non-residential community drug treatment slots for parolees who are at risk of returning to prison for substance abuse.**
- **Every major metropolitan area should have a Controlled Substance Treat-**

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- ment Control Unit (CSTCU) established by CDC in existing prisons and jails or in new facilities to house parolees in numbers proportionate to the number of offenders originating from that area.**
- **Other intermediate sanctions should be developed by CDC and made available to parole agents to assist parolees who are in potential violation through substance abuse and are at risk of returning to prison.**

Currently, a parole agent faced with a substance abusing parolee has few options other than returning that parolee to prison to get the parolee's attention. As it is today, prison offers little in the way of drug treatment programs. Parole authorities indicate a need for, and a desire to use, more tools to manage substance abusing parolees prior to returning them to prison.

It is the Commission's belief that there needs to be a range of punishment options available to the parole agent for the management of the substance abusing parolee, with custody being used as the last of an escalating series of options. The Commission also finds that there are an insufficient number of options available to parole agents for parolees who are in violation and at risk of being returned to prison. These punishment options, when employed, would provide the needed tools for parole agents to better manage substance abusing parolees.

First in a needed range of changes are specialized substance abuse caseload assignments. This would benefit the parole staff by allowing the parole agent to concentrate on the type of offense rather than having cases of a diversified nature. Caseload assignments would be made on the basis of several factors, including the level of supervision based on the extent of criminal behavior, substance abuse history, etc. Parole agents would be trained in the area of drug recognition--alcohol, cocaine, amphetamines, etc.--and to focus on and specialize in the appropriate assignment of intervention programs specific to the parolees assigned to their caseload. Crucial to that training would be instruction on the psychology and physiology of substance abusers, which in turn would give agents needed insight when assessing the needs of the parolees assigned to their caseloads. These parole agents would also be trained in how to achieve accountability of their substance abusers as well as how to obtain community drug treatment services for their parolees.

If a CDC parolee fails to respond to the specialized caseload approach, the first punishment option available to the parole agent would be the CDC Substance Abuse Revocation Diversion (SARD) program. SARD is intended to intercept and divert parolees who are in violation and would otherwise be likely to continue to deteriorate, eventually being revoked. The purpose of this program is to control and reduce parolees' substance abuse. Parolee to parole agent ratio is lower than the specialized caseloads, giving the agents the opportunity to focus on parolees who are at risk of revocation. The approach is through early intervention with intensive supervision, including the in-

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creased use of community resources for treatment and services. It also includes a range of intermediate sanctions, such as house arrest, electronic monitoring and strict curfew. SARD is intended to intercept and divert parolees who are in violation and would otherwise be likely to continue to deteriorate, eventually being revoked. After satisfactory completion of the 90-day intensive supervision period, the parolee is returned to his original specialized caseload assignment or may remain in a community placement. Although SARD has several units throughout the State, it currently can only provide services to 1,800 parolees at any given time.

A parolee's continued failure to successfully confront their drug abuse would then result in placement in a more structured residential program in non-revoked status, thereby not interrupting their parole period. Several examples of program options include Controlled Substance Treatment Control Units (CSTCUs), the CDC Substance Abuse Treatment Unit (SATU), and community residential drug treatment programs.

Under the existing authority of Health and Safety Code Sections 11560-62, CDC may establish Controlled Substance Treatment Control Units (CSTCUs) in state correctional facilities, training schools or as separate facilities in order to detain parolees who are in imminent danger of addiction for a period not more than 90 days. CSTCUs may also be established in new facilities, existing prisons and jails, or be incorporated as part of Multi-Purpose Community Correctional Centers (MCCCs) (described in Parole Violator Recommendation #7). CSTCUs require participation in a drug treatment program or the parolee is revoked and returned to prison and must begin his parole period again upon release.

SATU is a 90-day residential treatment unit in the Fresno area for parolees who are in violation and would otherwise be revoked and returned to custody. Parole violators participate in intervention, education and job readiness training. SATU currently has a capacity of 50 parolees and is limited to Fresno area parolees. This program could, and should, be expanded as a residential drug treatment and management program for parolees.

Community-based residential drug treatment programs could also be used for this purpose on a contractual basis with CDC and CYA.

Because large numbers of parolees are abusers of controlled substances, there is a great need for expanding the capability of parole agents to place parolees in short-term facilities, particularly in those instances where parolees are in danger of having parole revoked due to drug abuse. Currently the system is geared toward catching the parolee in violation, but not providing them the tools to correct their behavior.

As a result of jail facilities facing overcrowded conditions and court-ordered reductions in population and/or court-ordered population limits, local jurisdictions do not have the facilities to house parole violators. This circumstance continues to increase the need for

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additional local punishment options. The Commission believes that other options can be used with a target population of non-violent substance abusers with no extensive history of criminality, who have not committed a new crime, but are in violation of parole conditions.

CYA currently provides substance abuse treatment and control to 225 parolees with histories of substance abuse at two locations, Watts and Oakland. The parole agents have been specially trained in substance abuse counseling and surveillance. They initiate contact with the wards before they are paroled and work with them intensively throughout their stay on parole. Residential placement services are also available as necessary. A \$310,000 current-year grant from the Office of Criminal Justice Planning supplements existing resources, making this program possible. At least one-third of all CYA parolees (2,500) could benefit from such services.

CYA also operates an "in lieu of revocation" program in Northern California for drug and alcohol abusing parolees with otherwise satisfactory parole adjustment. The 90-day residential program (which includes forestry work experience, substance abuse education and treatment, wilderness experience, literacy training, regular high school classes, and life skills training) is an alternative to revocation and return to a CYA institution. A similar program is being implemented in Los Angeles.

CDC and CYA should continuously attempt to identify and establish additional parole intervention programs to be used to assess parolees who are at risk of return to custody. There currently is no executive or legislative mandate for this type of funding and few resources available. Funding should be provided to CDC and CYA designated specifically for these types of programs, rather than funds being redirected from other programs.

Additionally, probation officers should also be provided a similar array of surveillance and treatment responses for the effective management of substance abusing probationers.

**Recommendation #6: Authority for judicial discretion should be expanded in the granting of probation in "unusual" cases, adding a substance abuse provision to California Rules of Court, Rule 416.**

Penal Code Section 1203(e)(1-10) sets forth criteria which prohibits the granting of probation except in unusual cases where the interests of justice would best be served if the person is granted probation. The California Rules of Court, Rule 416 cites facts which may indicate the existence of an unusual case. The Commission recommends that subsection (h) be added to Rule 416 to include as an "unusual" circumstance:

*"the fact that the crime was committed because of substance abuse problems not amounting to a defense, that substance abuse treatment will be required as a condition of probation, and that*

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*the court is convinced that the treatment has a likelihood of being successful and that the defendant will not be a danger to others."*

**Recommendation #7: The Legislature should provide resources for the re-establishment of programs within the Civil Addict Program.**

The Commission finds that, during the early to mid-1970s, the California Civil Addict Program (CAP) at California Rehabilitation Center (CRC) and its parole follow-up component was an effective tool in intervening and treating addicts who had been committed to the program.

Substance abusing offenders continue to be sentenced to CAP and receive some programming. However, the focus is no longer on treatment and programming. CRC currently houses both felons and civil addict commitments and its primary function is the incapacitation of offenders rather than treatment.

The past success of the program, as evidenced by recent research, warrants the dedication of additional resources specifically for the purpose of re-establishing the Civil Addict Program as an effective treatment program. To accomplish this, there must be increased use of civil commitment by the courts, expansion of CRC's inpatient treatment component and an enhancement of the true outpatient civil addict program.

## 5.2 PAROLE VIOLATORS

### Analysis

Parole violators returning to prison are a significant contributing factor to increasing prison populations. The number of parole violators returning to prison is increasing at a rate far in excess of increases in prison or parole population. In 1978 there were 1,011 parole violators returned to prison. In 1988 that number had increased to 34,014, and CDC projects that without changes in policy there will be in excess of 83,000 parole violators in 1994. (See Chart 5-5)

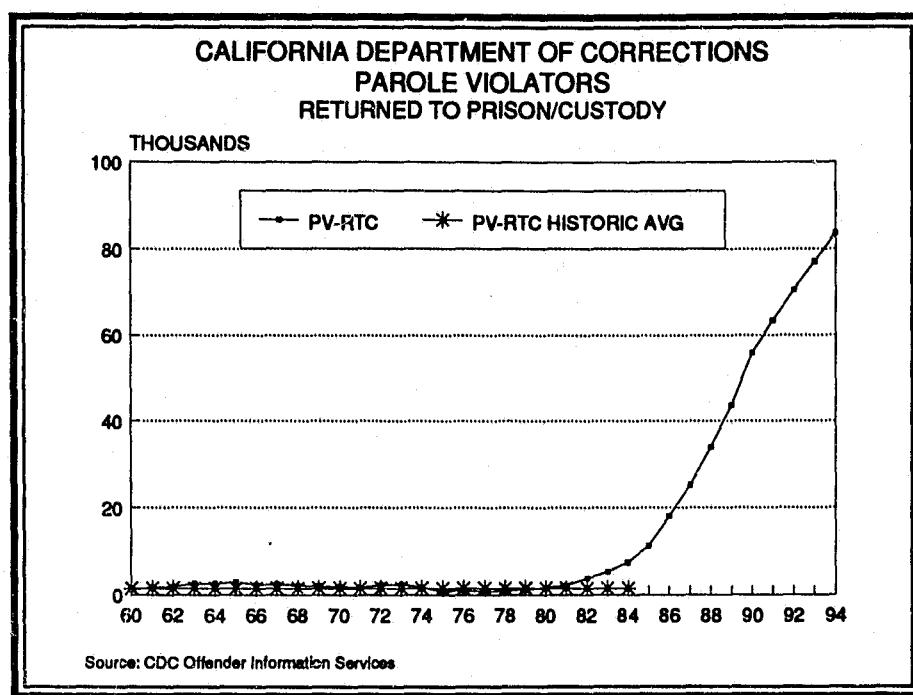


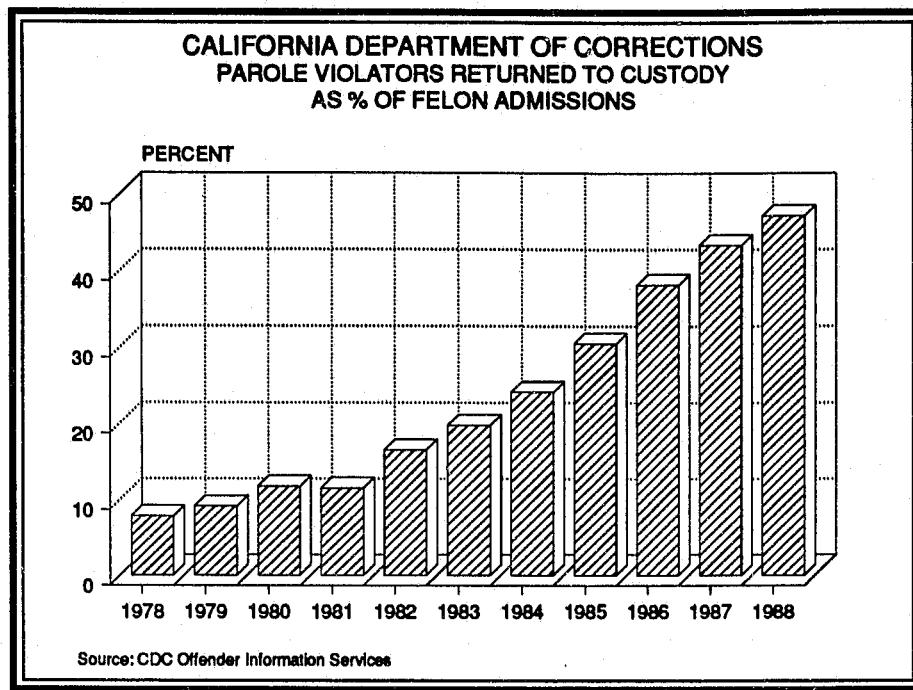
Chart 5-5

In 1978 parole violators represented approximately 8 percent of the total felon admissions to prison. By 1988, this had increased to 47 percent of the 72,023 felon inmates received by CDC. (See Chart 5-6)

The felon parole population from 1978 to 1988 grew by over 450 percent, (from 9,100 to 50,800) while parole violators increased by over 3,200 percent, from 1,011 to 34,014.

Even more dramatic is the length of time for which parole violators are returned to prison today versus a few years ago. In 1988, over 52 percent of all parole violators released from prison had spent less than three months in a prison. Over 81 percent spent six months or less in a prison. (See Table 5-9) Many of these violators were admitted to a reception center and released before they could be processed through the reception center. In 1975, the average revocation period for male felons was 18 months, today it is about four months.<sup>22</sup> There are several reasons for this.

In 1975 the indeterminate sentencing law was in effect and parole violators returned to prison often served out their full sentence. Today parole violators can only be returned to prison for a maximum of one year and non-violent parole violators are eligible for work credits to shorten their revocation term.



*Chart 5-6*

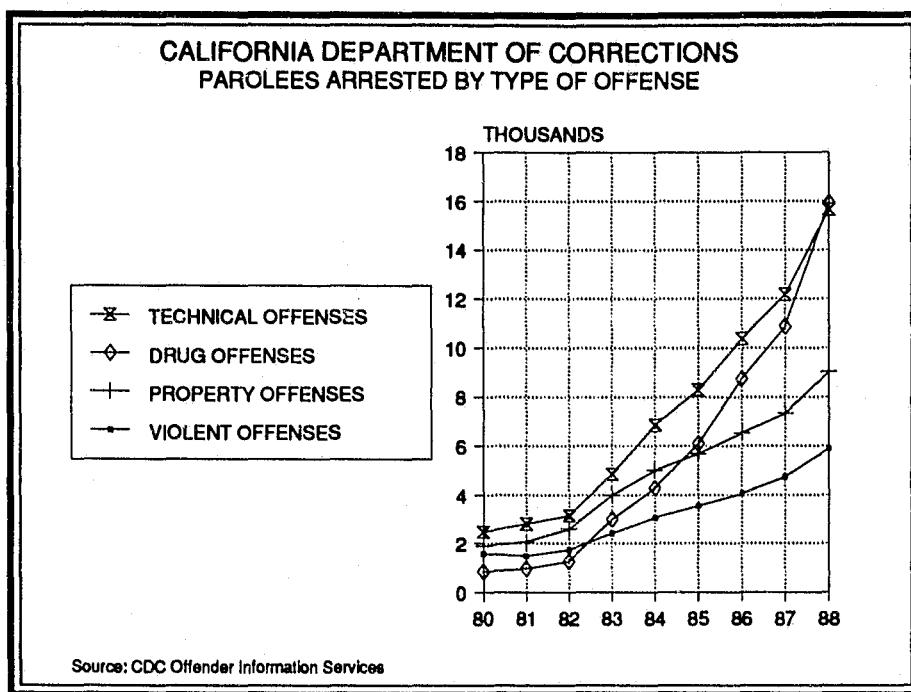
The offenses for which parole violators are returning to custody are presented in Chart 5-7, with technical offenses and drug offenses outnumbering property offenses and violent offenses. Fifty-five percent of the CYA parolees returned to institutions in 1988 were returned for violations of conditions of parole rather than for new law violations. CDC has experienced its most significant increases in the area of drug violations and technical violations. Drug violators increased from 850 in 1980 to 18,700 in 1988, exceeding technical violations for the first time. According to the Board of Prison Terms (BPT), in 1987 drugs were a known factor in nearly 55 percent of all revocation actions.

The Board of Prison Terms classifies parole violations into three distinct categories.

1. **Technical Violations:** This is a violation of the parole process and exclusive of any criminal statutory reference; i.e., non-criminal in nature. Examples include such violations as consuming alcohol in violation of a special condition of parole, absconding parole supervision, and failing to inform the parole division if arrested. The BPT has recently redefined the term "technical violation" so that it does not include any criminal conduct. This redefinition has resulted in the issuing of new parole violation offense codes which designate technical as being a violation of the parole process, separate and distinct from other offenses which are criminal in nature.

**2. Criminal Violations Not Prosecuted in the Criminal Court System:** These are parole violations which involve criminal activity referenced by statute but not prosecuted in court, usually because there is insufficient evidence to support a verdict of guilt beyond a reasonable doubt, or the prosecutor defers to the BPT because the subject is on parole and in all probability would receive an equal or greater incarceration through the parole system.

**3. Criminal Violations which are Prosecuted in the Court System:** These are parole violations involving criminal conduct which are processed concomitantly through the criminal court (sufficient evidence available) as well as the parole revocation process. Often these criminal prosecutions result in new prison commitments as well as parole violations with a return to custody ordered.



*Chart 5-7*

CYA and the Youthful Offender Parole Board (YOPB) generally define a technical violation as any violation of a condition of parole which is not charged as a law violation. There is currently no consistent definition of the term "technical" among correctional agencies and parole authorities for reporting and data classification purposes.

Parole conditions are classified as general and special. General parole conditions are uniform conditions of parole which apply to all parolees. They pertain to matters such as reporting to a parole agent, residence requirements, travel restrictions, parole agent instructions, criminal conduct, weapons, and the requirement to sign conditions of parole. Special parole conditions apply to specific parolees when it has been determined that the special conditions is needed for successful adjustment on parole. Some of the most common special conditions are anti-narcotic testing, attendance at parole outpatient clinic, and total abstention from the use of alcohol.

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There are several reasons for the major increase in parole violations:

- Parole agents have few intermediate community sanctions for violating parolees. The choice is to return a parolee to prison or continue on parole with few intermediate choices.
- CDC has emphasized the law enforcement aspect of the parole agent's duties as opposed to the parolee services function.
- Parolee drug use has increased significantly and parole agents have the use of improved drug testing technology.
- With the advent of determinate sentencing, inmates no longer have to demonstrate they have a plan which presents how they will succeed on parole. Pre-release programming in prison is not mandatory.
- Prisons and the parole division are severely lacking in drug intervention and treatment programs for offenders.

Parole violators constitute approximately 16 percent of the prison population on any given day. That is equal to about 13,500 inmates based on today's prison population.<sup>23</sup> With the increasing demands for public safety and the lack of intermediate options, parole agents are opting to return the parolee to prison.

During the 1970s prior to the enactment of the Determinate Sentencing Law, approximately 52 percent of all parole violators submitted to the Board of Prison Terms for revocation consideration were revoked and returned to custody. Following implementation of determinate sentencing, the percentage of revocations increased to approximately 96 percent in 1988. The reasons for this dramatic increase are as follows: 1) the policies and procedures for processing parole violators were distinctly different from today's practice. Many cases were brought before the Board in the early stages of maladjustment, rather than after intermediate steps to interrupt behavior had been exhausted; and 2) there were alternative return to custody programs available which were presented to the Board with a recommendation from the CDC Parole Division to continue on parole.

Additionally, with the enactment of determinate sentencing, policy changes occurred which provided the Parole Division with more discretion in reporting parole violations to the Board. For example, prior to determinate sentencing, all felony violations, any possession of drugs (including marijuana), and any parolee at large had to be reported to the Board and could not be disposed of at the Parole Division level. This, in part, explains the difference in revocation rates, in that prior to determinate sentencing, the Board reviewed cases which included a much wider variety of violations. There were also more sentencing options available, and the violations were less severe because they were often presented before serious behavior patterns developed. Today, because all violations are not reported to the Board, cases submitted for revocation are reflective of more serious or chronic negative behavior. Intermediate sanctions are not available

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and, in the interest of public safety, the Board revokes parole and returns to custody a large percentage of the cases submitted.

In the past, CDC parole agents were able to house parolees who were at risk of revocation in county jails for short periods of time rather than to return them to prison. However, with court-ordered jail population caps and/or court-ordered population limits in a number of jurisdictions, this option is no longer available. Most urban jails now will hold parolees no more than 3-5 days. Choices are to return the parolee to prison or continue on parole. Lacking other options, parole agents are taking the appropriate public protection step and returning the violator to prison.

Another factor contributing to the increase in the parole violator population is that the CDC Parole Division has limited established criteria for determining whether or not a parolee should be continued on parole or revoked. This has resulted in a wide variance of decisionmaking among the individual parole units, particularly in the area of drug and technical violations. When parole violations are referred to BPT, approximately 96 percent are revoked. This, compounded by the fact that only approximately 25 percent of the violators referred by the CDC Parole Division to BPT are mandatory by statute, is indicative of the need for established guidelines for both the Parole Division and the BPT. For example, in 1988 the CDC Parole Division did a study in which a number of parole violators who had been revoked and returned to prison were reviewed again by about 20 parole unit supervisors. In that review, approximately 15 percent of the violators would not have been violated by the reviewing supervisors, and another 14 percent only some supervisors would have violated.

One management option available to parole agents is the ability to shift parolees to the necessary level of supervision, from minimum supervision to high control. Yet with the growing problem of substance abuse, specialized caseloads have become necessary and need to be expanded.

Finally, inmates are not receiving needed pre-release programming in prison designed to provide them with tools and skills to complete their parole period successfully. Participation in current pre-release programs in the institutions is voluntary and lacks the necessary components such as job seeking and keeping skills, drug education and treatment, and family coping skills. In 1988, only 4 percent of the male population participated in pre-release programs.<sup>24</sup> CDC pre-release programs are being modestly expanded and refined but require major continued increases.

## Findings

- In the ten-year period from 1978 to 1988, CDC parole violators as a percent of total felon admissions had increased from approximately 8 percent to 47 percent.
  - Drug abuse is a major contributing factor to the CDC parole violator problem and the primary reason for revocation.
  - CDC drug parole violations (drug or drug-related revocations) increased from 850 in 1980 to 18,700 in 1988.
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- Of the CDC parole violators returned for technical violations, drugs were a known factor in well over 50 percent.
  - Parole agents have few, if any, intermediate punishment options available for parolees who are at risk of revocation. Choices are to return the parolee to prison or continue on parole.
  - CDC Return to Custody facilities (RTC), Substance Abuse Revocation Diversion (SARD), and the Substance Abuse Treatment Unit (SATU), address the parole violator problem while also responding to the drug abuse problem.
  - CDC is finding it increasingly difficult to develop new facilities to site these types of programs due to community resistance.
  - Inmates are not receiving needed pre-release programming in prison to assist in completing their parole period successfully. In 1988, only about 4 percent of the CDC male inmate population participated in pre-release programs.
  - From December 31, 1980 to June 30, 1989, the number of individuals on parole increased from 13,019 to 53,778. In order to accommodate this increase, CDC has increased the number of community parole offices from 54 to 107 in that same period. In order to provide services to a 1994 projected parole population of 96,575, CDC may need to establish as many as 50 new parole offices over the next five years.

## Recommendations

The Commission makes the following recommendations in the area of parole violators:

**Recommendation #1: The Board of Prison Terms (BPT) and the Youthful Offender Parole Board (YOPB) should establish clear guidelines governing criteria used by CDC and CYA Parole Divisions to assist them in making parole decisions. Additionally, CDC must develop specific and consistent criteria to be used in determining which parolees should be continued on parole and which should be referred to the BPT.**

Currently, parole staff is given considerable discretion as to which parole violators are referred to the BPT for revocation action, resulting in a wide variance of decision-making among the individual parole units. Only approximately 25 percent of the referrals to BPT made by the CDC Parole Division are mandatory referrals, according to regulations. About three-quarters of CDC Parole Division referrals to BPT are sent at the discretion of the parole division. CDC Parole Division has very limited guidelines as to when a parolee's behavior warrants referral to the BPT. CDC must proceed with implementing a consistent decision-making criteria for referrals to BPT.

Further, as 96 percent of the parolees who go before the BPT are administratively

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revoked and returned to custody, the CDC parole division must clarify and establish additional guidelines for which violators they will refer to the BPT.

Although YOPB revocations have decreased from 20 percent of the CYA institutional population in 1986 to 14 percent in 1988, the number of technical violations has continued to increase over the years. Similarly, the YOPB must establish additional clear guidelines to assist parole agents in rendering recommendations for revocations.

**Recommendation #2: CDC, BPT, CYA and YOPB should adopt a uniform definition of the term "technical" in referring to parole violations for data collection and reporting purposes.**

Current practice among CYA, CDC, YOPB and BPT with regard to the operational definition of "technical violation" concerning parole violators is inconsistent. For the purpose of clarity and consistency among correctional agencies and parole authorities, development and implementation of a uniform definition of "technical" violations should occur.

The Commission suggests that parole violators be classified into three categories: 1) adjudicated, or parole violators sentenced by the court for a new crimes; 2) administrative, determination by a parole board that a law violation has occurred but not adjudicated; and 3) technical, a status violation or a violation of terms and conditions of parole, but not covered by either 1) or 2) above. Adjudicated and administrative violators may be further subclassified according to the actual criminal conduct.

**Recommendation #3: Prior to release on parole, CDC inmates should be provided the opportunity and encouraged to develop a personal parole plan and participate in an intensive pre-release program designed to assist in a successful reintegration into society. The programming should include, at a minimum, drug counseling and education, job seeking skills, work ethics, and family counseling.**

Under the indeterminate sentencing law prior to 1977, CDC could, and did, require a parole plan and pre-release programming as a condition of being released to parole. This is not possible under determinate sentencing, as inmates have a date they leave prison, regardless of in-prison programming.

The majority of inmates suffer from a lack of preparation for return to the community, which eventually serves as a contributing factor to the problem of the parole violator. Currently, pre-release programming incorporates only a cursory review of job seeking and maintenance skills. Further, there is little substance abuse education or job placement assistance available.

The Commission asserts that all of these components are necessary for an inmate's successful reintegration into society. Additionally, there should be emphasis on locating and maintaining housing, employment skills, family support, community support, and

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special needs such as drug/alcohol treatment. Since most parole violators are returned to prison for only a few months, the problem of reintegrating the parole violator into the community becomes paramount immediately upon arrival at the institution. The shortness of stay presents a challenge to the system to assist each individual to maintain some continuity with family, community and job opportunities during the brief period between violation and return to parole.

A pre-release program must be designed to encourage parole violators to start making concrete plans for release immediately upon return. Currently, pre-release programs within the institution inadequately prepare the inmate for successful completion of their parole supervision period.

The Commission feels there is a necessity to make available to all inmates an opportunity to develop a plan prior to release. Development of a parole plan can be a product of participation in programming based upon a curriculum involving components such as parolee employment readiness training (how to find a job, work ethics, grooming, etc.), family counseling, and substance abuse education. The development of pre-release programs must involve collaboration between the prisons, parole division, and community service providers in order to provide for continuity upon release.

**Recommendation #4: CDC and CYA should develop a series of intermediate options to make available to parole agents for parolees who are in violation and at risk of returning to prison. (See Recommendation #5 under Substance Abuse)**

The Commission finds that there are an insufficient number of intermediate options available to parole agents for parolees who are in violation and at risk of being returned to prison. There needs to be a range of options available, with custody being used as the last of an escalating series of management options.

As a result of jail facilities facing overcrowded conditions and court ordered reductions in population and/or court ordered population limits, local jurisdictions do not have the facilities to house parole violators. This circumstance continues to increase the need for additional local punishment options. The Commission believes that other options can be used with a target population of non-violent offenders, substance abusers or offenders without an extensive history of criminality who have not committed a new crime but are in violation of parole conditions. Recommendations for substance abusing parole violators are presented in Recommendation #5 under Substance Abuse.

CDC should also focus on expanding the use of other efforts including local governmental or community-based programs for management of "at risk" parolees. These include intensive parole supervision, community services, psychiatric services, house arrest, electronic monitoring, residential and non-residential drug programs and community detention centers. In this way, CDC may be able to more effectively manage a burgeoning parole population resulting in additional institutional bed space being available for housing of more serious offenders. The Commission is recommending the

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Legislature adopt a Community Corrections Act to expand these programs at the community level for parole violators.

Similarly, the Youth Authority should continue existing efforts to expand the number of special programs used to reduce the number of parole violators returned to institutions. Expansion of these programs could act to avoid reincarceration of some parole violators and could result in substantial additional bed savings.

The CYA "In Lieu of Revocation" programs intervene with parolees at high risk for revocation. The Commission believes that funding should be directed toward the expansion of programs similar to these.

**Recommendation #5: The role of parole agents should be balanced between parole service and law enforcement functions.**

A balanced approach of law enforcement and service is required. Parole agents must be able to provide service assistance to parolees, such as locating housing, employment and referral to family counseling services when needed. Referral to drug treatment and intervention programs must be coupled with the drug detection methods now used by parole agents.

With growing concerns over the issue of public safety, the role of the CDC parole agent in recent years has evolved from a balance between law enforcement and service broker to more strictly law enforcement. The Commission believes there is a need to maintain the parole agent's service element for parolees to assist in their reintegration process.

**Recommendation #6: The Legislature should require, as a component of state bond funding for local jail construction, that jail space be set aside for housing state parole violators.**

One of the options formerly available to parole agents was the ability to house parolees in local jails prior to revocation for parole violations. This provided parole agents with opportunities to manage cases locally. At present, all parole violators are returned to prison due to a lack of bed space in jails. The Commission finds that it is essential for parole agents to have the option of short-term detention in local jails pending investigation of a parolee for determination of revocation. CDC would continue as it now does to reimburse the county for operating costs of housing parole violators.

The Legislature should statutorily establish that as a requirement for receiving jail bond funding, counties should be required to dedicate certain jail beds for use by the state for parole violators. By using this option, a number of revocation cases may be disposed of through local incarceration rather than through return to prison for a few weeks.

**Recommendation #7: The number and capacity of state funded publicly and privately operated urban Return to Custody (RTC) facilities and Multi-Purpose Community**

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**Correctional Centers (MCCCs) should be significantly expanded to house both youthful and adult parole violators.**

Community detention must be one of the options available to manage parole violators, short of returning them to a prison which is usually very distant from the offender's community.

"Return to Custody" (RTC) refers to community correctional centers for parole violators under contract with CDC. The Commission finds that there is a need for more RTC programs, which are supervised residential facilities for qualified parole violators. All RTC programs must include the opportunity to participate in pre-release planning, drug and alcohol counseling, individual and family counseling, literacy programs, employment readiness and life skills training. Appropriate RTC inmates should be given access to employment, educational and/or treatment programs in the community, to further integrate them to society, and enhance positive community adjustment.

In light of the burgeoning increase in the number of adult parolees, Senate Bill (SB) 1591 (Presley) (Chapter 1450, Statutes of 1987) was passed authorizing CDC to enter into long-term contracts with localities for the operation of RTC facilities, including costs and overhead. SB 1591 beds offer the Department cost-effective alternatives to developing housing for the existing parole violator return-to-custody (PV-RTC) population.

CDC has plans for establishing approximately 5,000 additional RTC beds over the next two years. However, none of these are in urban areas. Urban area RTCs are an essential tool for CDC's parole violator problem.

In addition, Legislation should be enacted to provide authority for CDC to establish urban area Multi-Purpose Community Correctional Centers (MCCCs) where parole violators can be detained while the revocation process is pending, rather than immediately moving them to prison reception centers. If implemented as a long-term solution, MCCCs would make it possible for the parole agent to retain contact with the parolee in his community, allowing the agent to explore options other than filing violation charges during the initial week of detention.

The legislation should provide for the establishment of these MCCCs within or near every major urban area in direct relationship to the proportional number of persons committed to state facilities. MCCCs could be established at existing institutions in major urban areas by building new facilities or converting existing facilities. The MCCC would serve as a staging facility for placement in private RTC centers (and SB 1591 facilities, if built). Those parole violators having less than three months to serve at admission or those not eligible for placement in private RTC centers could remain at the MCCC until returned to parole.

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Multi-Purpose Community Correctional Centers should be constructed based on a state prototype for size and program. These facilities should be designed with a capacity

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consistent with the community's needs and should be capable of providing secure and non-secure housing and program space. This would allow them to be used for a variety of program and housing purposes such as drug treatment, work furlough, mother-infant, pre-release programs, community service, victim restitution, and others. These Multi-Purpose Community Correctional Centers could be used to house parole violators as well as very short-term new commitments and could be operated by the state or by local governments at state expense.

The Commission believes that Return to Custody facilities and Multi-Purpose Community Correctional Centers placed within major urban communities are consistent with the philosophy that the offenses and the offenders originate from the community and are a community responsibility. Establishing secure Multi-Purpose Community Correctional Centers within these communities could serve to house jail inmates, short-term prison inmates and parole violators, rather than being returned to prison for short periods of time. Such community correctional facilities can serve as an effective tool for managing these populations and assist in successfully preparing the offender for reintegration into the community.

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## **5.3 SENTENCING**

### **Analysis**

Sentencing decisions have long been a function of statutory rulings and judicial discretion. During the 1970s there were growing concerns over disparity in sentencing owing largely to statutes which gave judges relatively unfettered discretion. In response, states began to study the extent to which disparity was occurring, created commissions and task forces to review sentencing practices, and enacted sentencing reform either legislatively, by judicial administrative action, or through selective individual changes in sentencing code.

Over the last decade, most states and the District of Columbia have re-examined their sentencing laws and the impact of those laws on the criminal justice system. Problems of sentencing disparity, as well as an increased public demand for punishment of offenders over rehabilitative goals, have prompted legislators to tighten their control over the sentencing process, while continuing to struggle with the issue of prison crowding. In an attempt to resolve these and other issues concerning sentencing law, a variety of sentencing policies have evolved throughout the United States over the last 10 to 15 years.

Ohio completely revised its criminal code in 1974, establishing a uniform system of penalties with four classes of offenses, each with a variable minimum and fixed maximum sentence. The criteria used for the revised code included the offense, offender characteristics and needs, and offender capability to pay a fine. The Ohio State Bar developed sentencing guidelines which are applied by use of a grid matrix to structure decisions and reduce disparity. When an offender is sentenced to incarceration, no actual sentence range is given and time served is determined by the parole board somewhere between the minimum and maximum term.

Washington's Sentencing Reform Act of 1981 substantially changed that State's previous indeterminate sentencing structure to a presumptive system. The legislation created a Guidelines Commission to develop the specific provisions of the bill, which included a study of sentencing and sentencing guidelines and a presentation of recommendations to the state legislature.

There are four general sentencing practices used throughout the nation: indeterminate, determinate, mandatory and presumptive. In addition, many states are developing sentencing guidelines in a grid matrix to facilitate decision making by the judiciary. These practices and guidelines are described briefly below.

**Indeterminate**--Indeterminate sentencing policy is structured to permit the court to set upper and lower limits on the time to be served. The actual release date is determined subsequently by a parole authority.

**Determinate**--Determinate sentencing policy permits the court to specify a fixed term of incarceration. There is no discretionary parole decision making.

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**Mandatory**--Mandatory sentencing is used for selected offenses and/or offenders and circumstances, requiring the court to impose custody and specified sentence length without the possibility of other options.

**Presumptive**--Presumptive sentencing is statutorily defined sentence length for each offense or class of offense, to which sentencing judges must adhere except in mitigating or aggravating circumstances.

Sentencing policy varies from state to state and has a direct impact on prison population. It also represents the enabling mechanism or constraint for implementing a continuum of punishment options.

Sentencing is more an art than a science. The fact that states undertake a periodic review of sentencing policy and practice affirms the changing nature of the state of the art. Lawmakers and the judiciary must remain sensitive to public safety, changing crime trends, budgetary constraints, and shifts in public attitudes.

Many states have drafted sentencing guidelines which are simplified in a grid matrix which takes into consideration offense and offender history to facilitate uniform and multi-option sentencing. Some grids have built-in information for consideration which extends sentencing decisions to include an array of community based punishment options, such as short-term jail incarceration, probation and mandatory participation in specified programs.

In recent years most states have included in their re-examination of their sentencing laws and practices an assessment of the impact on the criminal justice system. California revised its indeterminate sentencing law in 1976 and became a primarily determinate sentencing state, with presumptive ranges. Since the determinate sentencing law (DSL) was adopted in 1976, there have been increasing changes which have resulted in more mandatory sentencing, increased penalties for certain categories of burglary, harsher response to domestic violence, stiffer penalties for drunk driving offenses and longer sentences for rape. Sentence enhancements have also been added for using a gun during a crime.

Juveniles in California continue to be sentenced under indeterminate policy with statutory maximums to permit more individualized programming and to create an open-ended length of stay for treatment purposes. Aside from homicide, Youth Authority wards now serve more time on the average than CDC inmates for every single category of offense. For example, in comparing length of institutionalization for first time parole releases in 1988, CYA wards were incarcerated for 37.5 months for robbery, while CDC inmates served 28.7 months. Auto theft offenders in CYA were incarcerated for 26.4 months, compared to 17.7 months for CDC inmates.<sup>25</sup>

Participants in the California criminal justice system report that the current sentencing structure is complex and difficult to administer. DSL has been criticized for its extreme rigidity and complexity. Under DSL, sentencing decisions are based on mathematical calculations rather than individual offender and circumstances. There are no allowances for differentiating between

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worst case and usual case scenarios, nor sufficient flexibility to respond to emotionally disturbed or mentally retarded offenders. The opportunities for modifying sentencing policy to manage state commitments are severely limited by the narrow constraints of DSL. The tendency to continue legislating more severe sanctions, mandatory prison time for more offenses, and the absence of parole release discretion have all contributed to a comparatively inflexible sentencing structure in California. These changes have also contributed to the prison population, with longer sentences for some categories of offenders and increased reliance on prison compared to intermediate sanctions.

## **Findings**

- The Blue Ribbon Commission finds that the present structure of indeterminate and determinate sentencing, with indeterminate for more violent offenses, is appropriate for adults and that the use of indeterminate sentencing is appropriate for the rehabilitative and training efforts directed toward youthful offenders.
- The current sentencing law in California has been the result of over ten years of piecemeal changes and has become overly complex and in need of modification and clarification.
- A review of sentencing structure will show that determinate sentencing for adults and indeterminate sentencing for youthful offenders results in youthful offenders being incarcerated for longer periods than adults for the same crime.
- The current sentencing law does not provide for equal consideration of intermediate sanctions.
- Recent changes in sentencing laws have made state prison the mandatory result of offenses that were once jail or probation sentences; for example, certain categories of burglary and motor vehicle theft. This has contributed to prison population increases.
- The State and local criminal justice systems are inextricably intertwined, and any review of sentencing procedures must consider the criminal justice system as a whole. Delays throughout the system, particularly pre-trial delays at the local level, contribute significantly to jail overcrowding, which in turn impacts prison overcrowding. As an example, pre-prison confinement time with credit has almost doubled from 4 months in 1978 to 7.9 months in 1988.
- The goal of sentencing should be to protect the public and provide the opportunity for fundamental offender lifestyle changes. Whenever possible, without compromising public safety, the offender should remain in the community through intermediate punishment options using local, community-based programs.

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## **Recommendations**

The Commission makes the following recommendations regarding sentencing:

**Recommendation #1: A Sentencing Law Review Commission consisting of representatives of all segments of the criminal justice system should be established to review and make recommendations to the Governor and the Legislature regarding the following adult and juvenile sentencing issues:**

- **Clarification and simplification of the State sentencing structure;**
- **Establishment of an ongoing monitoring process to review the effects of existing or revised sentencing laws and advising the Governor and Legislature;**
- **The efficacy of establishing sentencing guidelines or a sentencing grid incorporating local and state punishment options;**
- **The effects of court-ordered jail population caps on public safety, prisons and jails;**
- **Expansion of balanced intermediate sanctions for both adult and juvenile correctional programs; and**
- **Consideration of the financial and administrative impact that sentence structure changes will have on the California Department of Corrections, the California Department of the Youth Authority and local jail populations.**

In view of the time constraints under which the Blue Ribbon Commission has operated, a thorough review of California's sentencing structure addressing the issues listed above was not possible. The proposed Sentencing Law Review Commission, if established, could take the time necessary to deliberate and to address this very complex and delicate issue.

The proliferation of sentencing and enhancement laws as developed by the Legislature has resulted in a "piecemeal" approach to sentencing, without attention to any precise sentencing structure. The result has been the development of an extremely complex system which now has become increasingly difficult for defense attorneys, prosecutors and the judiciary to administer. This proliferation of sentencing laws is also responsible for a portion of the State's jail and prison population increases. The Sentencing Law Review Commission should be comprised of representatives of all segments of the criminal justice system including law enforcement, legislators, judges, prosecutors, the defense bar, state and local corrections executives, victims, public members, and

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**Chairpersons of the Assembly Committee on Public Safety and the Senate Judiciary Committee.**

The Commission finds that county and state criminal justice and corrections systems are inextricably intertwined and that sentencing law changes will most certainly impact both. For example, as local jail facilities have become increasingly overcrowded in recent years, and been placed under court-mandated population caps, they have become unable to house state parole violators for any appreciable period of time. This inability to house state parole violators at the local level has exacerbated the state's prison overcrowding problem, as these individuals must now be housed in state prison facilities. Due to the close relationship between the county and state, it is necessary that a Sentencing Law Review Commission consider the sentencing issues described above as part of the criminal justice system as a whole.

The financial and administrative impact of sentence structure changes on CDC, CYA and local jail populations should be considered throughout the Sentencing Law Review Commission's deliberations so that simplification and clarification does not result in a net increase in the incarcerated population.

The Commission concludes that a Sentencing Law Review Commission can also deliberate and offer guidance to the Legislature and the Governor regarding the use of additional punishment options as part of determining the efficacy of establishing sentencing guidelines or a grid.

**Recommendation #2:** The California Judicial Council should be requested to prepare specific strategies and recommendations for the Governor and the Legislature regarding how best to make the California courts more effective and eliminate unnecessary delay in the processing, trial and disposition of civil and criminal cases, including but not limited to:

- **Use of strict time standards for the processing of civil and criminal cases in all courts;**
  - **Court monitoring of time standards;**
  - **Court and individual judicial management of court calendars, cases and trials;**
  - **Implementation and expansion of innovative technological options such as video arraignment and electronic recording;**
  - **More effective and efficient use of existing court resources and facilities;**
  - **Provision of adequate judicial resources, both permanent and adjunct; and**
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- **Development of formalized standards for mechanisms that expedite decision making regarding pre-trial detention and pre-trial release.**

Jail overcrowding is partly due to increases in the total number and length of stay of California's pre-trial jail population. Approximately 49 percent of the jail population is comprised of pre-trial detainees. Because most metropolitan jails are under court-ordered population caps, they are unable to make bed space available for other detainees, such as local parole violators. Parole agents are then unable to house parole violators locally while investigating options other than incarceration. Therefore, they must immediately return the parole violator to prison.

Compounding the problem are court delays, which cause the pre-trial detainee population to "back up." The Commission's position on court delays is reflected in the May 1989 report of the Commission on Trial Court Performance Standards, which states:

*"A trial court should meet its responsibilities to everyone affected by its actions and activities in a timely and expeditious manner (i.e., one that does not cause delay). Unnecessary delay engenders injustice and hardship. It is a prime cause of diminished public trust and confidence in the courts."*

Court delays have caused the pre-prison confinement time with credit to increase from 4 months in 1978 to 7.9 months in 1988. This further compounds prison population management problems by shortening the amount of time the offender spends at CDC after sentencing.

The Commission believes that justice must be first and foremost as a goal in the judicial system. However, the Commission finds that the delays in the actual trial process and sentencing process are excessive. Defendants awaiting disposition on criminal charges critically impact length of stay in county jails. Consequently, it is essential to expand and improve pre-trial release and detention mechanisms to safeguard the public and relieve burgeoning jail populations. The Commission believes the release process for pre-trial detainees should be reviewed so that mechanisms expediting release are utilized to the fullest extent possible and ultimately standardized.

The study "On Trial: The Length of Civil and Criminal Trials" indicates that of the three states included in the study, California's criminal trial time in the three courts studied was substantially longer than trial times in two of the three courts studied in each of the states of New Jersey and Colorado.<sup>26</sup> (Table 5-8)

The Commission recommends that the causes of unnecessary delays be identified and, where feasible, resolutions to these causes be immediately adopted.

Delay reduction projects, such as those mandated by the Trial Court Delay Reduction Act of 1986 (California Government Code Sections 68600 et. seq.) need to be expanded

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### How Long Are Criminal Jury Trials in Each Court?\*

Court**	Median Court Hours
Elizabeth, NJ	6:20
Paterson, NJ	7:20
Golden, CO	8:10
Monterey, CA	9:27
Denver, CO	10:50
Colorado Springs, CO	10:54
Jersey City, NJ	12:09
Marin Co., CA	17:44
Oakland, CA	23:16

\*Calculated from all cases tried to jury verdict. They do not include jury deliberation time.

\*\*Courts are listed from shortest to longest by median criminal jury trial time.

*Table 5-8*

throughout the superior and municipal courts of the State of California and should be implemented for criminal cases. Particular attention needs to be given to the length of *voir dire* or jury selection process, especially in criminal cases. The use of felony plea certifications and other programs in which defendants plead guilty to felonies at the municipal court level should be reviewed for statewide applicability. The adoption of strict non-continuance policies should be embraced by all trial courts in California. Further, the use of expanded court hours needs to be considered. (See Section 3.3.6 Court Delays)

The recommendations addressed here are interconnected and require adequate resources to implement. For example, in order to eliminate delays between conviction and the imposition of intermediate sentencing options, probation departments will need sufficient personnel to quickly prepare proper pre-sentence reports. Additionally, if courts are to reduce unnecessary delay, there must be sufficient judicial resources to preside over trial and pre-trial proceedings. Attention should be given to providing sufficient permanent judges, timely judicial appointments, authorizing adjunct judicial positions, and adequate staffing for court support services. The Commission believes that the costs attendant upon such changes would be more than compensated for by the reduction in jail and prison costs.

#### **Recommendation #3: The current general structure of determinate and indeterminate sentences should be retained for adult offenders.**

Although California has primarily adopted a determinate sentencing structure, specified crimes which are punishable by life imprisonment (i.e. murder first and second degree) remain indeterminate. At a minimum, the Commission believes that the current general mix of determinate and indeterminate sentences should be retained. The Commission

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suggests that a Sentencing Law Review Commission may more thoroughly examine the expansion of the use of indeterminate sentencing for additional violent offenses.

During the Legislature's development and passage of SB 42 (1977) which redefined California's current sentencing structure, the continuance of indeterminate sentences for specified crimes was maintained to ensure that the Board of Prison Terms was able to protect society by maintaining adequate control over the appropriate amount of time served by these serious offenders. The Commission concurs with this principle in the belief that violent offenders should be retained as necessary to provide for the protection of public safety and recommends that those crimes currently designated as punishable by indeterminate sentences remain indeterminate.

Youthful offenders presently committed to the California Youth Authority are governed by a system of indeterminate sentencing with statutory maximums. This present structure is essential and a necessary part of the Youth Authority's mission to train and treat wards committed to their custody.

**Recommendation #4: Intermediate sanctions should be developed and expanded for certain targeted short-term offenders who are serving less than one year in prison, and used by sentencing authorities in lieu of incarceration. Examples of intermediate sanctions which could be employed without reducing public safety with specific target populations include:**

- **Expansion of the use of fines, victim restitution programs and centers and victim/offender reconciliation as a sole sanction or in concert with other punishment options;**
- **Assessment of fines, particularly the Day-Fine System, to determine the feasibility of implementation in California as a sentencing option;**
- **Expanded use of community service as a sanction;**
- **Expanded use of house arrest and electronic monitoring;**
- **Expanded use of intensive probation supervision caseloads; and**
- **Expanded use of residential and non-residential substance abuse treatment programs.**

In California as well as nationwide, prisons have historically been designed and operated to house inmates serving medium to long-range sentences ranging in length from one year to life. As the result of present sentencing practices in California, approximately 56 percent of all new commitments first released to parole in 1988 served a year or less in state prison. These inmates are not necessarily well served by a large, state-wide prison system, that was not traditionally or historically designed for short-term inmates. With

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a current population of over 85,000 CDC inmates, short-term state prison inmates must compete with an exceptionally large pool of inmates for jobs and other programs. Due to their relatively short prison stay, these inmates are often released to parole before they become reachable on waiting lists or become eligible for many programs.

It is also the philosophy of the Commission that imprisonment is only one form of punishment. The Commission recognizes that there exists in California and throughout the United States an array of punishment and management options that collectively allow the criminal justice system to make offenders accountable for their crimes. These options are a much needed component and are an integral part of the inmate population management process. Further, it is the consensus of the Commission that there are segments of the inmate population for whom incarceration in jail, prison or the Youth Authority is very appropriate and necessary, such as the violent offender and career criminal. However, for identified short-term target populations, expanding intermediate sanctions would enhance public safety by tailoring the punishment sanction to the offender's crime and circumstances.

During the past two decades, there has been an increasing public demand for holding offenders accountable through the use of monetary penalties and victim restitution. It is the belief of this Commission that certain low-risk, non-violent offenders would be better held accountable by being required to pay a fine and/or restitution, by participating in a victim impact/offender reconciliation program, and/or performing community service as a part of a grant of probation and/or coupled with a period of incarceration. Penal Code Section 6220 (Added by Statutes of 1984) authorizes the establishment of Restitution Centers by CDC. Currently, there is a pilot project planned for a 100-bed center in the Los Angeles area proposed to open in early 1990.

It is also this Commission's conclusion that sheriffs' departments, probation departments, and CDC and CYA parole divisions can effectively use house arrest and electronic monitoring with certain non-violent offenders and parole violators. This sentencing option, coupled with intensive supervision and participation in highly structured programming, can act to effectively manage certain offenders in the jail or prison population. This local sentencing option also provides opportunities for offender participation in work, family support and restitution payments while maintaining supervision at a level adequate to maintain public safety.

According to the practices of probation departments statewide and the results of numerous studies, intensive probation supervision with reasonable caseload standards has proven both cost effective and efficient as a tool for managing certain offenders, particularly substance abusers. Intensive probation supervision with a requirement for participation in a highly structured drug treatment program and testing regimen can be used to manage certain substance abusers within the community. The Commission supports the expanded use of intensive probation supervision as a local punishment option for use in sentencing and in managing certain offenders who would otherwise be sentenced to jail, prison or the Youth Authority.

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Short-term stay inmates and parole violators will be returning to the community within a relatively short period of time after placement in prison. It may be more appropriate that these individuals be directed into community sanctions administered by state or local authorities, including secure confinement facilities. In addition, community sanctions may include work furlough programs, non-secure drug intervention programs and other types of punishment options as set forth in the punishment options section of this report. These types of punishment options or community-based sanctions can be used not only in lieu of incarceration in state prison, but may prove to be more effective methods of increasing offender accountability in the community.

**Recommendation #5:** Legislation should be enacted to allow the courts an optional disposition for juvenile offenders currently committed to the CYA for less serious offenses defined by Welfare and Institutions Code 707(a). This option would allow a short term fixed period of intensively programmed incarceration (including education, substance abuse counseling and public service) in the CYA followed by intensive community supervision.

Approximately 1,550 wards were committed to the CYA from juvenile courts in 1988 for less serious offenses as defined under Welfare & Institutions Code 707(a). Although these 707(a) offenders have been committed to the CYA for less serious offenses, they tend to have extensive prior records. At the time of commitment, they have an average of more than 11 arrests, and 86 percent have at least four sustained petitions. They are regarded as having exhausted local resources. A short term fixed period of intensively programmed incarceration in the CYA (with approximately 12-14 hours per day spent in school, substance abuse treatment, public service, and other program activity) would be appropriate for some of these offenders, if allowed by law. Careful review of individual cases by the courts would be necessary to select those offenders who could benefit from this option without reducing public safety. The CYA estimates that, if available to them, the courts would choose this option (rather than a regular CYA commitment) for about half of the 1,550 eligible cases each year.

## 5.4 SHORT-TERM NEW COMMITMENTS

### **Analysis**

The California Department of Corrections (CDC) is experiencing a unique shift in its prison population profile. The parole violator as a population phenomenon is described elsewhere in this report. The short-term new commitment is another unique category of inmate that the Commission has identified for special recommendations.

Table 5-9 shows that 56.4 percent of all inmates first released to parole in 1988 served twelve months or less in prison and that 26.3 percent spent six months or less in prison. This excludes parole violators and represents only new commitments being released from prison for the first time. There were 64,400 releases in 1988, of which about half were parole violators and half new commitments released for the first time. Therefore, approximately 18,000 new commitments released last year spent less than one year in state prison and approximately 8,000 were in state prison for less than six months.

**CALIFORNIA DEPARTMENT OF CORRECTIONS**  
**TIME IN PRISON BEFORE RELEASE\***  
**(Excluding Jail Credits)**

Cumulative Totals Released to Parole During Calendar Year 1988

Months in Prison	% of Releases	
	PV-RTC	New Commitments
3.0	52.4%	15.9%
6.0	81.5%	26.3%
9.0	90.7%	40.0%
12.0	93.5%	56.4%

Source: CDC Offender Information Services

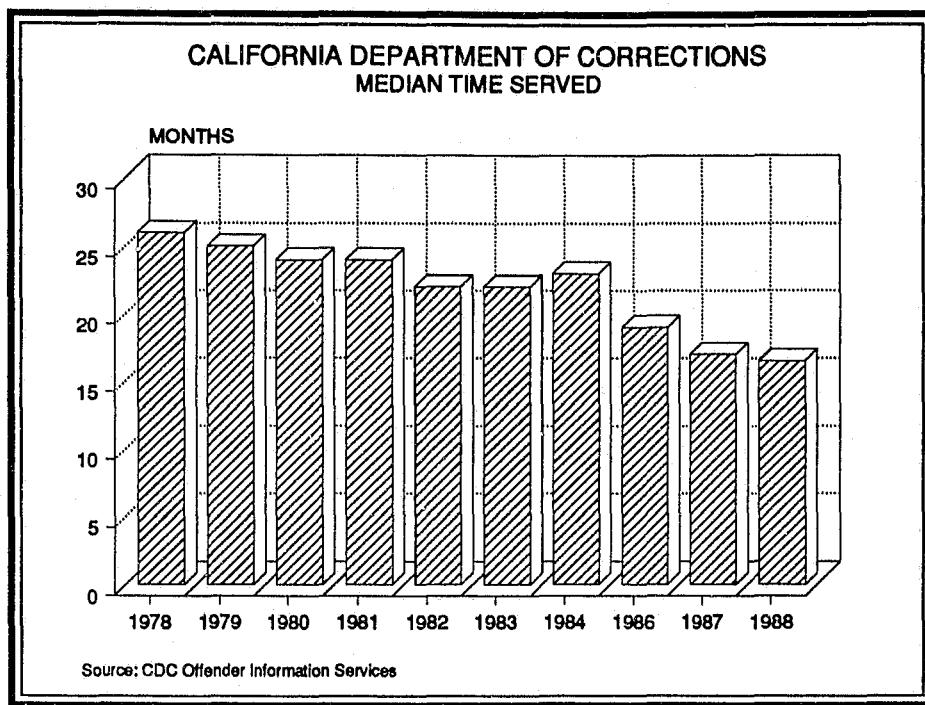
\* Male Inmates Only

**Table 5-9**

Incarceration of this unique prison population has resulted in a decline in the overall median time served for new commitments, as shown in Chart 5-10. In 1974 the median time served in state prison by male felons before the first release to parole was 35 months, by 1988 that had declined to 16.5 months.

There are many reasons for the rapid and recent growth of the short-term new commitment population. For example, Senate Bill 200 (Rains) (Chapter 1297, Statutes of 1982) which became operative on January 1, 1983 provides that all residential burglaries be punished as first degree burglary, in the past first offenders would have probably been sentenced to jail or probation. Other reasons for this population shift include:

- The amount of pre-confinement time served in local jail is credited against an inmate's sentence when he is admitted to prison. The average pre-prison confinement time credit received by CDC inmates was 7.9 months in 1988, which was nearly double the pre-prison confinement credit of 4 months in 1978.
- Approximately 50 percent of all new commitments to CDC in 1988 were sentenced to two years or less, up from 40 percent in 1982. If one reduces these sentences by the 7.9 month average jail pre-prison confinement time credit and then considers the state prison work incentive credit of up to 50 percent time off the remaining sentence, the time served in prison for this group will be in the range of six to twelve months.



*Chart 5-10*

The reduction in average time served is attributable to the above two factors, coupled with an increasing CDC intake of short-term inmates who, ten years ago, would have received probation or probation with jail. California has become more punitive and is sentencing offenders to prison for more types of crimes than in the past.

It is important to note that this does not mean that persons are receiving shorter sentences for the crimes they commit today than they would have received for the same offenses ten years ago. Certain crimes, including rape and voluntary manslaughter, are receiving longer sentences now than they were ten years ago. Many other crimes are receiving approximately the same sentences, and some crimes are receiving shorter sentences than ten years ago. However, most inmates are serving less time in prison, due to the effect of Senate Bill 200. Within the overall

CDC inmate population, however, there has been an increase in the number of individuals sentenced for longer periods of time.

Although this section focuses on the problems created by the short-term new commitment, the category of CDC inmate who is being incarcerated for longer periods of time than in the past, as illustrated in Table 5-11, is also increasing. As of December 31, 1988, approximately 19 percent of the CDC inmate population had been incarcerated for five years or longer, as compared to about nine percent in 1982. As a result of the increase in the number of inmates currently incarcerated for five years or longer, and despite the number of short-term new commitments, the mean (average) time in prison for all new commitments currently incarcerated has continued to increase, from 1.7 years in 1982 to 2.3 years in 1988.

TIME IN PRISON SINCE ADMISSION FOR MALE FELON PRISON POPULATION ON DECEMBER 31ST (EXCLUDING PAROLEES RETURNED TO CUSTODY)						
Number of Years In Prison	Dec. 31, 1982		Dec. 31, 1985		Dec. 31, 1988	
	#	%	#	%	#	%
Total	30,713	100.0	40,811	100.0	58,501	100.0
Less than 1 Year	13,290	43.3	15,977	39.1	22,633	38.7
1 to 1.9 Years	7,323	23.8	7,688	18.8	10,068	17.2
2 to 4.9 Years	7,245	23.6	11,780	28.9	14,493	24.8
5 years or Longer	2,855	9.3	5,366	13.1	11,307	19.3
Mean Time in Prison (in Years)		1.7		2.0		2.3

Source: California Department of Corrections

*Table 5-11*

The Department of Corrections is organized in education and work programs, custody, and other operations for a longer term inmate. In accomodating the short-term new commitment, CDC is handling an inmate population profile that more closely resembles a local jail population.

## Findings

- The Commission questions the appropriateness of sending new commitments from county jail to state prison with less than six months to serve of a sentence. There were over 8,000 of these types of commitments in 1988. The public safety cost and punitive benefits of such an action become lost in the mere processing of such inmates through the prison system.
- Pre-sentence and pre-trial delays are contributing significantly to reducing the length of time served in prison and are contributing to an average jail pre-trial

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population of 49 percent. Average pre-prison confinement time with credit increased from 4 months in 1978 to 7.9 months in 1988. This is also contributing to the jail overcrowding problem.

## **Recommendations**

After review of the issues regarding short-term new commitments the Blue Ribbon Commission recommends that:

**Recommendation #1: The California Department of Corrections should develop a highly accelerated reception, classification and educational assessment process which can be used to conduct adequate security needs and risk assessments of short-term inmates, moving them to appropriate housing as rapidly as possible.**

The California Department of Corrections has employed a comprehensive classification system which makes determinations based on factors including criminal history, length of sentence and propensity for violence. Depending on the scores, inmates are classified according to various levels. Similarly, determinations are made regarding educational and programming needs. CDC's recent experience with an increase in the number of inmates has lengthened this process to longer periods of time ranging from one to three months, depending upon the circumstances and institution. It must be noted that this process as established is crucial to the maintenance of security and safety within the institutions. Nonetheless, opportunities may exist to establish a separate, accelerated process of classifying certain low risk short-term offenders with no history of violence. Where possible, such an initiative should be employed to accelerate the housing and placement of short-term offenders and placement in programming or educational initiatives which may benefit them during their brief period of incarceration.

**Recommendation #2: The Department of Corrections should establish a series of specialized, intensive, high impact, short-term, in-prison programs designed to prepare the inmate for a successful return to society.**

In light of the fact that many short-term inmates are now being incarcerated within the Department of Corrections, CDC must reassess the traditional methods of programming education and work. In conjunction with a highly accelerated reception and classification procedure, short-term programs should be established to prepare individuals for re-entry to society. At present, many short-term inmates have little opportunity to participate in many program opportunities because these are structured for the traditional longer-stay prison commitment.

In light of the fact that substance abuse is a major contributing factor in criminal behavior, short-term offenders should be provided the opportunity and encouraged to participate in highly individualized, intensive substance abuse programming during their brief periods of incarceration. Similarly, traditional efforts toward pre-release program-

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ming should be amended to afford short-term offenders an opportunity for involvement in such program efforts from shortly after reception through their entire period of brief incarceration.

Short-term inmates now experience periods of idleness and non-productivity which may only further contribute to their continued participation in a life of crime. This particular type of individual may benefit from such highly individualized and intensive short-term programming efforts.

**Recommendation #3: Additional intermediate sanctions for short-term new commitments should be established. (See Recommendation #4 under Sentencing)**

Short-term stay inmates will be returning to the community within a relatively short period of time after placement in prison. In light of the fact that many short-term stay offenders remain within the confines of the Department of Corrections for as little as a few days to a few months, it may be more appropriate that these individuals be redirected into intermediate sanctions administered by state or local authorities. (See Community Corrections Recommendations) Inclusive in these intermediate sanctions or punishment options should be secure confinement facilities similar to the multi-purpose community correctional centers mentioned in the construction section of this report. Secure facilities can be established which provide programming or treatment primarily focusing on the issue of substance abuse.

In addition, opportunities exist for the establishment of work furlough programs, non-secure drug intervention programs and other types of punishment options as set forth in the punishment options section of this report. These types of punishment options or community-based sanctions can be used not only in lieu of placement within state prison, but may prove to be more effective, accountable methods of holding individuals responsible for crimes committed while in that community. Such punishment options may serve to slow the rapidly increasing violation rate of parole violators by establishing community-based programs which help to stabilize parolees allowing them to adjust to a return to society as opposed to a return to state prison for but a brief period of time.

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## **5.5 COMMUNITY CORRECTIONS**

### **Analysis**

The Blue Ribbon Commission has determined that insufficient intermediate punishment options, including public, private, and community-based initiatives, are available to the judiciary, custody and parole authorities when these entities are determining sentences for a new offense, custody management options, or options for parole violators. (See Punishment Options Section.) California counties have experienced difficulty establishing punishment options as they struggle to operate with declining local budgets and overcrowded local facilities. Currently incarceration, usually in state prison, may be perceived as the only viable public safety option. The judiciary, custody and parole authorities have indicated there are some offenders which might be more responsive to intermediate punishment options other than incarceration, without compromising public safety. It must be noted that the community corrections option described here does not supplant current state-operated community corrections programs, but is in addition to any currently operating programs.

Community corrections, as defined by the Commission, is a punishment option consisting of a highly structured and specific set of correctional programs which target select nonviolent offenders who, in the absence of other appropriate intermediate sanctions, would otherwise be confined in or sentenced to jail, prison, or the California Department of the Youth Authority (CYA). Managing these offenders in the community through intermediate sanctions should enhance public safety by dealing with long-term behavior problems and intervening with the offenders' behavior more cost effectively than prison incarceration. Community corrections programs may be state or locally operated. Community corrections programs can be structured to be more effective than incarceration in some instances, by holding offenders accountable for their crimes and responsible for their behavior. Through these programs, offenders can be required to:

- provide community service and restitution to their crime victims, participate in community service programs, and/or interact with their crime victim;
- modify the behavior which is contributing to their criminality, such as substance abuse;
- acquire academic skills in reading, writing and math and/or acquire vocational skills leading to employment possibilities; and
- maintain employment while supporting and keeping the family intact.

Those offenders given a community corrections option face the likelihood of incarceration or other sanctions if they do not properly use the option provided them. The judiciary, custody or

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parole authorities would be the determining agent to incarcerate depending on the type of nonresponding offender--new commitment, in-custody offender or parole violator.

The Public Agenda Foundation, a nonpartisan, not-for-profit research and educational organization that specializes in exploring public understanding of complex policy issues, looked at the views of more than 400 Alabama residents on prison overcrowding and alternatives to incarceration. Using newly-developed research techniques, the Public Agency study was designed not only to measure people's initial views about crime, prison overcrowding and sentencing, but also to determine what their views would be if they understood more about the issues. Respondents were first asked to fill out a detailed questionnaire on their attitudes about crime, the state's criminal justice system and alternative sentences. They then watched a video that discussed the problem of prison overcrowding and described five alternative sentences. Respondents were asked to choose appropriate sentences for 23 offenders who crimes ranged from petty theft and joyriding to rape and armed robbery. When initially asked to decide whether these offenders should be put in prison or on probation, respondents chose prison for 18 of the 23. When asked again after seeing the video on alternatives, respondents chose prison for only four offenders. Given Alabama's historical conservatism on criminal justice and other issues, it is reasonable to expect similar results in other parts of the country.

In addition to the Alabama study, a 1989 study sponsored by the American Justice Institute showed that California residents, after briefings describing available punishment options, were less likely to select incarceration as the preferable punishment option. Study participants were given 25 different crime scenarios and asked to select the preferable punishment option. Initially, incarceration was selected in 63 percent of the responses. Subsequent to the briefings, incarceration was selected in 27 percent of the responses. This is an indication of the public's willingness to consider alternative punishment options for California, if properly informed about those options.

The Commission agrees that a Community Corrections Act must provide a spectrum of local sentencing and punishment options which result in reducing the rate of offenders being sent to institutions without reducing public safety or increasing crimes. These punishment options shall be administered targeting a select number of nonviolent jail, California Department of Corrections (CDC) and CYA offenders including pre-trial offenders, misdemeanants, substance abusers, parole violators, short-term inmates, inmates eligible for pre-release, and wards nearing the end of commitment. The local sentencing and punishment options may include the use of pre-trial programs, secure community housing, intensive parole or probation supervision, electronic monitoring, house arrest, residential and nonresidential substance abuse treatment programs, mother-child programs, victim restitution centers or projects, community service, work furlough, and specialized probation and parole caseloads.

In recent years, two major factors are contributing significantly to state prison population increases. These factors are parole violators and new commitments with short terms (less than one year) in state prison. Each of these factors is a fairly recent phenomenon in the California corrections system. There were over 46,000 parole violators and new commitments released from prison least year who spent one year of less in state prison; 32,000 of these spent less than

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six months and 20,000 spent three months or less. For more detail on the target offender population for community corrections, see the target offender population section of this report, Section 3.8. The Commission has determined that nonviolent parole violators and short-term new commitments are among the appropriate target groups for community corrections. Although CDC presently administers over 1,500 community re-entry beds, much more needs to be done to expand programs like return-to-custody and mother-infant programs.

Another factor which affects prison and jail overcrowding is the relative scarcity of other punishment options which offer the same measure of public safety as incarceration, at least during confinement. Probation resources have been declining, while probation caseloads have been increasing, rendering this present form of supervision both unrealistic and meaningless for all but the lowest risk offenders. Somewhere between probation and prison or jail are a wide array of intermediate community sanctions, many of which are operating with success in other states. The Commission advocates the immediate need for California to undertake a systematic expansion of these intermediate punishment options. It also recognizes this is only possible if there is state support for local jurisdictions to develop and expand these options. The Commission's community corrections recommendations present a model for providing state level support and funding through a combination of approaches which is both safe and equitable. The proposed Community Corrections Act would be a hybrid version of community corrections funding mechanisms used in other states.

The Commission recognizes three relevant factors which have direct impact on the extent to which punishment options will expand and relieve overcrowding: (1) the responsibility of managing offenders in the community must ultimately reside with local county justice system agencies; (2) resources for local offender management are not only stretched in many jurisdictions but could not accommodate the recommended expansion of services and supervision for more offenders without state funding; and (3) the expansion of locally operated punishment options must provide an incentive for local agency participation, as well as cost savings to the state for each state bed not filled or built. Indeed, the primary reason for the underdevelopment of intermediate community sanctions is the lack of sufficient funding or incentives at the local level. Courts simply do not have choices other than probation, probation with jail, or state prison for sentencing options. To a limited degree, there are relatively isolated instances where electronic monitoring, substance abuse treatment, or intensive probation supervision are available. However, the financial and personnel resources for these additional controls and services at the community level have been steadily declining for years.

In addition to the reality of current and projected prison overcrowding in California are the fiscal ramifications associated with this phenomenon. At 168 percent of prison capacity, the current average annual cost to house an inmate in CDC is \$19,874.<sup>27</sup> This figure is relatively low due to the economies realized with severe overcrowding. In fact, the cost of overcrowding beyond 100 percent of capacity in California prisons is calculated to be \$11,200 per inmate per year, far less than the average cost per inmate. The average annual cost to house a ward in CYA was \$28,224 for fiscal year 88/89, a figure higher than CDC's costs due to the level of programming in CYA facilities.<sup>28</sup>

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Another factor for long term consideration is the cost to construct new prison beds. Presently, CDC estimates that it costs \$50,000 in initial capital outlay for each new minimum security bed plus an additional \$50,000 in interest over the next 20 years to pay off the bonds used to finance the initial construction. The cost of a minimum security bed is presented here because offenders eligible for community corrections programs would be minimum security inmates.

Whether placing an offender in an existing state prison facility or building to house future offenders, the state is spending an increasing percentage of its budget on incarceration. For the same expenditure or less, the Commission recommends CDC and CYA shift some of this expenditure to support intermediate sanctions in the community which will not result in reduced public safety.

In analyzing past community corrections initiatives within California, the Commission concluded that any Community Corrections Act must go beyond the past application of just straight probation supervision as the primary mechanism for holding offenders accountable. While probation must play an appropriate role in any future community corrections initiative, it is the Commission's position that California's previous experience in subsidizing local probation departments to manage offenders within the community lacked structure and lacked effective measures for safeguarding public safety. Counties were funded primarily upon their ability to retain offenders in the community, without regard to type or seriousness of offense. Probation supervision was administered inconsistently within each county, ranging from the use of highly structured intensive supervision techniques to the use of cursory supervision with therapeutic treatment. Additionally, probation subsidy, as it was known in California, failed to recognize the role of law enforcement and local custody facilities in managing this offender population and maintaining public safety.

Passage of Assembly Bill 90 in 1978 created the County Justice System Subvention Program (CJSSP), with objectives to develop, maintain, and expand criminal justice services to adult and juvenile offenders, as well as to promote crime and delinquency prevention. One of the program goals was to increase the rate of retaining offenders in the community, thereby reducing the commitment rate to state institutions. The California Youth Authority administers the program.

A 1982 evaluation of CJSSP noted that the program goals were ambitious and all-encompassing, and funding support did not match the magnitude of the intended impact on the justice system. Funding from CJSSP, \$67.3 million in fiscal year 1989/90, is primarily directed to supporting and maintaining existing services (provided by probation, district attorneys, sheriffs and public defenders), rather than to developing pilot or demonstration programs for supervising more offenders in the community.

In considering the need to establish a community corrections initiative within California, the Commission considered public safety to be the overriding concern. In examining the viable functioning of a Community Corrections Act, the Commission determined that local jail and state prisons presently house certain offenders which might effectively be punished in the community through the use of other sanctions. It is the Commission's position that public safety

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can be ensured and managed effectively through the implementation of intermediate community sanctions administered locally if limited to a number of nonviolent offenders, who, in the absence of other appropriate intermediate sanctions, would otherwise be sentenced to jail, prison or CYA. Nonviolent offenders are limited by definition as those individuals having no prior history of violence or repeated convictions for crimes posing an immediate threat to public safety. It is the Commission's conclusion that such local management of nonviolent offenders would provide maximum opportunities for incarceration of those offenders posing a more serious threat to public safety.

## Findings

- Crime originates within the community, therefore there is an inherent responsibility for each community to exercise punishment options and manage the offender population locally to the extent that public safety is maintained.
- There is an economic and practical need to support the development and maintenance of a broad spectrum of punishment options and services for offenders, giving sentencing authorities options beyond state incarceration and traditional probation and parole. Today's community corrections measures have benefited from the cumulative experiences and varied applications of California and other states.
- A need exists within California to enact a Community Corrections Act in order to facilitate the development and expanded use of intermediate community sanctions or punishment options within local communities.
- Community Corrections should play an integral role in reducing the rate of increase of jail, prison and youth authority commitments.
- Consistent with the Commission's view of public safety, a Community Corrections Act must have stringent guidelines which promote accountability for public safety. Legislation authorizing a Community Corrections Act must establish specific highly structured community corrections programs, and the state must establish clear guidelines for program operations.
- The Community Corrections Act must establish clear lines of authority for state and local jurisdictions in terms of responsibilities by offender type and funding relationships. In addition, any authorizing statute must require thorough monitoring, evaluation and control mechanisms.

## Recommendations

The Commission makes the following recommendations regarding Community Corrections:

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**Recommendation #1: Legislation should be enacted to establish a Community Corrections Act, thereby creating a partnership between state and local government to significantly expand intermediate community sanctions for offenders. The goal of the act should be:**

**To enhance public safety by encouraging the development and implementation of highly structured intermediate community sanctions between traditional probation and incarceration. Such sanctions should function as punishment, as well as provide the offender with the opportunity through programs, training and work to change their criminal behavior.**

The Blue Ribbon Commission has concluded that the long term remedy for prison overcrowding in California is neither as simple as only building more institutions nor as foolhardy as making broad indiscriminate decisions not to incarcerate as many offenders.

The Commission has examined the historical evolution of overcrowding in California and identified some of the major contributing factors. It has identified certain categories of offenders for whom incarceration is mandatory and should remain so. It has also identified certain non-violent parole violators and the short-term stay inmates (less than one year with an emphasis on six months or less) as candidates for sanctions other than state prison. The Commission reviewed the responses of other states to similar problems and learned of a wide variety of sanctions which present a graduated continuum between minimal supervision probation and secure confinement in state prison. Furthermore, the Commission has determined that California must reassess its reliance on the limited options currently available (with minor exceptions in some jurisdictions). The state should provide both the incentives and support necessary for local jurisdictions to participate in the redistribution of responsibility for California's offender population.

**Recommendation #2: The target population for community corrections should be as follows:**

**A. CDC Commitments**

- 1. Short-term new prison commitments serving one year or less with emphasis on those serving six months or less.**
- 2. Parole violators returned to prison with emphasis on those serving six months or less.**

**B. CYA Commitments**

- 1. Some less serious non-violent offenders from juvenile courts.**
- 2. Technical parole violators.**
- 3. Offenders transitioning out of CYA (last 120 days).**

**C. Jail commitments or pre-sentence detainees.**

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- D. The community corrections target population specified above should be further limited to nonviolent property offenders including drug abusers. Emphasis should be on first time offenders and those without a significant criminal history.**

In the course of its deliberations, the Commission began to identify potential populations in prison, Youth Authority facilities, and jails which might be considered for service by a different set of punishment options or intermediate sanctions if they were established. For a complete analysis of these populations, see Section 3.8, Offender Target Populations for Punishment Options.

Management of these offenders in intermediate sanctions in their community of offense should not reduce public safety and may be equally effective and as cost effective as prison incarceration in intervening with the offenders' behavior.

**Recommendation #3: The Commission recommends that the Governor and Legislature adopt a Community Corrections Act which should consist of the following three major components:**

- A. The first component of the recommended act will provide that CDC and CYA will contract with counties which volunteer to have committed to their custody or supervision targeted state commitments in state approved community corrections programs. This contractual arrangement shall consist of the following:**

- 1. CDC/CYA shall contract for slots presented in a CDC/CYA approved local community corrections program plan (e.g., 50 slots - intensive probation supervision; 50 slots - community detention; 50 slots - specialized probation caseload for drug abusers; 50 slots - non-residential drug treatment; and 100 slots - residential drug treatment).**
- 2. CDC/CYA shall pay for slots at the rate of 85 percent of the average annual state cost of incarcerating an offender. This sum shall be recalculated each year by CDC/CYA based on the average annual state cost of incarceration for all prisoners for each system.**
- 3. Community corrections programs shall be specified by statute. CDC/CYA will establish guidelines for each program and monitor county programs for compliance. Programs are specified as follows:**
  - Community detention.**
  - Victim restitution centers and programs.**
  - Community service.**
  - Mother/child programs.**
  - Electronic surveillance.**

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- **House arrest.**
  - **Intensive probation and parole supervision.**
  - **Specialized probation and parole caseloads.**
  - **Work furlough.**
  - **Residential and non-residential substance abuse treatment programs.**
  - **Others identified by CDC and CYA.**
4. **Programs must meet a public safety test in terms of the targeted offender population, proposed programs, and security components. CDC/CYA will define the offender population to be served by specified programs.**
5. **Counties may use state funded base programs created for state offenders to add an increment of up to 15 percent additional slots for local offenders at local expense.**
- B. **The second major component of the recommended act will provide that state funding for construction of community corrections facilities be appropriated through state bonds or other sources. Capital outlay funding for community corrections facilities will be provided based on the following criteria:**
1. **Only those counties participating in the Community Corrections Act in all its aspects are eligible for capital outlay funding.**
  2. **Wherever appropriate, community corrections facilities must be constructed using a state developed prototypical design for purposes of economy, program and speed of construction.**
  3. **Once constructed, community corrections facilities shall be occupied at a specified percentage (e.g., 80 percent) by state offenders and allowing a portion of the facility to be used for local corrections commitments. These facilities would be operated by counties and cost of operations would be paid at the rate of 85 percent of the cost of state incarceration for each state offender.**
  4. **Construction of community corrections facilities will be funded by the state at a rate of no more than 75 percent of the cost to the state to construct a minimum security bed.**
  5. **A portion (e.g., 15 percent) of the community corrections facility capacity could be dedicated to nonsecure program space and beds for purposes of conducting certain programs such as drug treatment, work furlough, community service, etc.**
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- 6. Community corrections facilities will be used as part of an array of escalating intermediate sanctions. The facilities will have drug and alcohol, pre-release, education, victim awareness, and other programs as part of their operations, including, for appropriate inmates, access to work, treatment and education in the community.**
  - C. The third component of the recommended act will provide start-up grants to counties to fund the front-end planning, development and implementation which will be necessary to establish a successful community corrections program. Start-up grants should be provided using the following criteria:**
    - 1. Grants of 90 percent the first year, 75 percent the second year, and 50 percent the third year would be provided to plan and meet a portion of the implementation expenses of establishing a community corrections plan and programs.**
    - 2. Grants should be established based on the targeted number of community corrections slots and proposed combination of programs.**
    - 3. Grants should not extend beyond three years at which time contract funds should be sufficient to maintain the established programs.**

The following is a discussion of the three components of the Community Corrections Act set forth above.

### **Contracting with Counties**

CDC and CYA would contract with counties to supervise selected offenders committed to CDC and CYA. These offenders would include the specified target populations. A county may, for example, propose to use contractual resources for supervising 50 offenders in outpatient drug treatment, 50 in electronic surveillance, and 50 in a secure local detention facility.

CDC/CYA would pay for the local supervision of each of these offenders at a rate of 85 percent of the average monthly cost of state imprisonment. The county must propose a plan which demonstrates that public safety will not be compromised by the use of the intermediate sanctions proposed in terms of the target population, security and programs. CDC/CYA would approve the proposed plan for adults and youthful offenders, respectively. The county may use, for example, \$350 per month for drug counseling for one offender, \$75 per month for electronic surveillance, and \$1,200 per month for inpatient drug treatment. These choices are made locally. Accrued savings may be directed to expand other options.

### **Capital Outlay**

The second component is to provide resources for the construction of small and medium sized

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(100-400 beds) secure facilities to be used for holding state offenders locally with some space earmarked for local offenders. These facilities will be multipurpose facilities, including capacity for restitution centers, drug and alcohol treatment programs, pre-release centers, as well as routine detention. The construction of these facilities represents a long-term commitment to provide a local holding resource for state use. These facilities would provide a secure confinement component to the array of intermediate sanctions which would have to be available to effectively manage the targeted offender population. Counties could only receive capital outlay from this source if they were participating in the Community Corrections Act in its entirety.

A major advantage of funding this type of construction locally is the anticipated cost savings compared to CDC/CYA construction. These facilities would be built with state bond money at a cost not to exceed 75 percent of the cost to build a state minimum security bed. Secondly, with CDC's current sophistication in the development of institutional prototypes for construction, there could be considerable cost savings in developing these local minimum security resources. A prototype for small, local secure confinement could be developed by CDC once and constructed in numerous jurisdictions with reduced need for new design or architectural costs.

State prison is not the only answer to California's need for additional bed space for its offender population. In most major jurisdictions, the local jails are as crowded as state institutions, leaving no space which might be otherwise appropriate for the CDC parole violator or the short-term inmate. Therefore, there is a pressing need to expand the availability of bed space in local communities to accommodate these offenders who are being sent to state prison at a significant expense. They could, and should be confined locally for the year or less (particularly those spending six months or less) which they currently spend in state prison.

The proposed funding model would provide for capital outlay allocations at a rate of up to 75 percent of the current cost to construct a minimum security bed. This estimate is \$50,000 per bed which would allow for local construction cost of about \$37,000. Operational costs would be contractually reimbursed based on 85 percent of state cost of incarceration for each offender.

### Demonstration and Start-up Grants

The third component of the funding mechanism is the establishment of CDC/CYA grant funding for the development of new, and expansion of existing, intermediate community sanctions. The grants would provide counties with funding for administrative start-up costs or to augment underdeveloped programs for periods of up to three years with funding declining after the first year. This mechanism would resemble a Request for Proposal procedure following state prescribed criteria and requiring a local commitment to plan and develop specific community corrections options targeting specific numbers of offenders from CDC and CYA.

**Recommendation #4: Incarceration shall continue to be an option for those offenders who are unsuccessful in their participation in community corrections programs.**

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Those offenders given a community corrections option face prison incarceration or other sanctions if they do not properly use the option provided them. The judiciary, custody or parole authority would be the determining agent to incarcerate depending on the type of non-responding offender--new commitment, in-custody offender or parole violator.

**Recommendation #5: There must be participation by both state and local authorities to promote public education and awareness regarding community corrections programs.**

A Community Corrections Act must provide a spectrum of local punishment options which result in a reduced rate of offenders being sent to institutions without reducing public safety or increasing crimes.

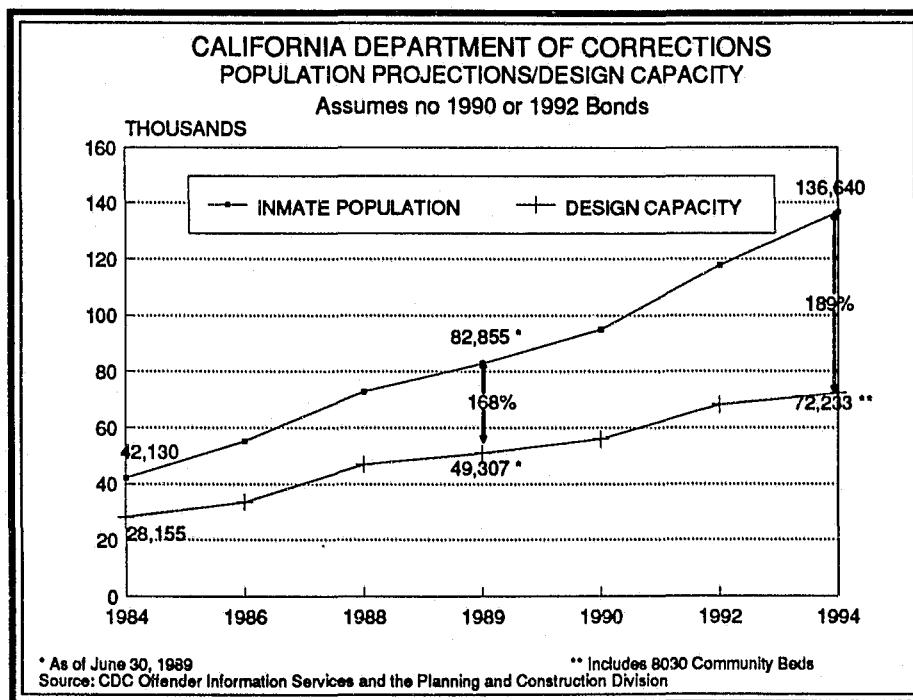
Offenders who are retained locally may be more effectively managed through the use of a broad range of punishment options. These offenders also retain their ties to family, jobs, and the community, thereby ultimately enhancing the likelihood of a successful re-integration into the community.

## 5.6 CONSTRUCTION

### Analysis

Since 1980 the State of California and its counties have authorized funding and construction of approximately \$6.053 billion to build over 79,000 new beds for prisons, Youth Authority facilities and jails in response to escalating incarcerated populations. As of June 30, 1989, this funding has added 24,362 new prison beds, 216 new Youth Authority beds and 25,492 new jail beds. Authorized, funded and under construction or design are an additional 12,940 prison beds, 900 Youth Authority beds and 15,272 jail beds. This is the most extensive prison and jail construction effort in the history of the nation. Even with the construction to date, as of September 3, 1989 CDC was operating at 171 percent of design capacity, CYA is currently operating at 141 percent of capacity and county jails are currently operating at 135 percent of capacity overall.

Until the 1980s, no new prisons or state youth institutions had been built in California for 20 years. Increases in the inmate population beginning in the late 1970s and continuing through the 1980s have severely crowded the state's correctional institutions. Chart 5-12 shows CDC population growth and the projected CDC inmate population through 1994. Chart 5-13 shows the results of the CDC New Prison Construction Program from 1984 to the present. Upon completion of all currently approved and funded construction projects, CDC will be more overcrowded in 1994 than it is today.



**Chart 5-12**

## **NEW PRISON CONSTRUCTION PROGRAM**

**DESIGN BED CAPACITY AT START OF PROGRAM - 6/30/84**  
**26,972**

### **BEDS COMPLETED AS OF 12/30/89**

500-bed additions at CCI, CCC, SCC	1,500
Mule Creek	1,700
Richard J. Donovan	2,200
NCWF	400
Avenal	3,034
CIW-SHU	100
Folsom	1,728
CMF-South	2,404
CCI-SMSC	1,000
Modulars at SQ, CMF, CCC	1,000
CMC-West	900
Corcoran	2,916
Chuckawalla Valley	2,000
Pelican Bay	2,200
Camps	1,200
<b>TOTAL</b>	<b>24,362</b>

### **BEDS UNDER CONSTRUCTION**

Wasco	2,450
Madera	2,000
Camps	70
<b>TOTAL</b>	<b>4,520</b>

### **BEDS IN DESIGN PHASE**

Los Angeles Reception Center	1,450
Los Angeles County	2,200
Imperial	2,200
Delano	2,450
Camps	120
<b>TOTAL</b>	<b>8,420</b>

**TOTAL BEDS TO BE ADDED BY- 6/30/94**  
**37,302**

**GRAND TOTAL - INSTITUTION BEDS ONLY**  
**64,094**

*Chart 5-13*

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In response to the need to house ever-increasing numbers of inmates while the new prison construction program projects are in various stages of planning, design or construction, CDC has developed an overcrowding strategy based on percentage of design bed capacity (DBC), level of security, the condition of facilities, and the programming available.

A prison's DBC typically represents the number of inmates that the prison is designed to house. Usually, however, some additional inmates can be accommodated on a long-term basis through changes in operation of the prison. For example, selective double-celling can increase bed capacity with minimal strain on support services and programs by scheduling multiple shifts in areas such as dining, recreation and industries. Prison overcrowding is considered undesirable because of stress on staff and inmates. Through program and physical modifications, CDC has managed the overcrowding that has occurred thus far. The degree of overcrowding that an existing or new institution can manage varies, depending on the characteristics of inmates to be housed (i.e., security level and special needs), capabilities of the physical plant and the availability of programs and/or work assignments.

Through experience, CDC has determined the "manageable" levels of overcrowding both for existing and new prisons. With a few exceptions, CDC has determined that the long-term systemwide level of overcrowding in existing and newly constructed prisons should not exceed 130 percent of design bed capacity. It is anticipated, however, that new prisons will tolerate overcrowding more easily because they are better suited to accommodate inmates beyond DBCs. For example, modern physical plants; housing units with adequate dayrooms; larger cells; newer equipment and dedicated spaces for inmate employment, academic education programs and recreation will support overcrowding more readily than the limited space at an old institution. Deviations in the short term from the previous policy of 130 percent overcrowding are based on special needs and behavior of inmates as well as special capabilities of various facilities.

Used as a planning tool, the concept of manageable overcrowding allows the flexibility to build fewer bed spaces than population projections otherwise indicate as necessary. This capability helps to prevent overbuilding by creating a tolerance to sudden changes in projections that can result from unanticipated factors such as legislative action or new policies. Manageable overcrowding can also provide a buffer for the period of time between population changes and prison construction completion.

Based on prison population projections in 1994 of about 136,000, it is anticipated that CDC will require an additional \$3.5 billion to construct 39,000 beds to maintain a prison overcrowding level of 130 percent. CYA would require \$227 million to construct 2,522 beds for an occupancy level of 100 percent. County jails would require \$1.49 billion to construct 21,403 beds for an occupancy level of 100 percent. This totals approximately \$5.22 billion and 62,925 new beds to meet 1994 population projections for CDC, CYA and jails.

Based on testimony received by the Commission, it appears that the construction of state adult and juvenile facilities is becoming more efficient. It would also appear that if prototypical designs were adopted by the Board of Corrections for local jails that some economies of scale

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could be realized on architectural fees and construction over the long term, as they were in state prison construction.

Siting jails, prisons and other correctional facilities often proves to be a controversial and political activity. CDC has been attempting to build one or more prisons in Los Angeles County since 1982, with heavy opposition from the individual cities and from the County itself. Finally, in 1987, the Legislature resolved the issue with a compromise bill that sited two prisons in Los Angeles County, one in an urban area and one in a rural area. However, as of this writing, construction has yet to begin on either prison, due to the complex environmental impact process built into the legislation. Sentenced offenders from Los Angeles County continue to comprise 38.5 percent of CDC's inmate population.

**After much deliberation, the Commission concluded that the prison and jail overcrowding problem should be solved through an approach involving changes in sentencing practices, adoption of a Community Corrections Act, changes in corrections practices such as parole revocation procedures, and additional construction of prisons, jails, youth facilities and community corrections facilities as necessary. Paramount emphasis should be placed on those areas that will significantly lessen the numerical impact on prison and jail populations.**

## **Findings**

The Commission developed the following findings regarding construction:

- If there are no changes in sentencing policies and correctional policies or practices, the California corrections system will require approximately \$5.22 billion to construct facilities to meet incarcerated population projections for 1994. CDC will need an additional \$3.5 billion to build 39,000 beds to reach an occupancy level of 130 percent. CYA will need \$227 million to build 2,522 beds by 1994 to reach an occupancy level of 100 percent of design bed capacity. County jails will require \$1.49 billion to build 21,403 beds to reach 100 percent.
- State prison construction is being achieved as efficiently and economically as possible.
- Opposition to prison and jail siting is a serious problem in meeting construction needs at the state and local level. For example, siting of a prison in Los Angeles County required a legislative mandate, even though 38.5 percent of CDC inmates are sentenced from Los Angeles County and construction has yet to begin on a prison in Los Angeles County.
- There is little coordination between state prison and local jail construction and population management strategies.

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## **Recommendations**

The Commission makes the following recommendations regarding construction:

**Recommendation #1: The Department of Corrections, California Youth Authority, Board of Corrections, and local correctional agencies should establish a Corrections Coordinating Council to initiate the development of a state and local strategy for inmate population management and construction. This Coordinating Council should develop and pursue implementation of policies, procedures and strategies for more efficiently managing and coordinating the state's incarcerated population at state and local levels, as well as identifying overall state and local corrections construction needs.**

**The Commission recommends the Corrections Coordinating Council should include the following issues in its ongoing effort:**

- **Methods by which prisons, Youth Authority facilities and jails can be more effectively and efficiently used, given the whole incarcerated population.**
- **Methods by which parole and probation could be better coordinated to manage incarcerated populations.**
- **Methods by which state and local cooperation in construction, financing and use could result in a more effective corrections system.**
- **Methods by which a balanced strategy for state and local responsibility in corrections could be initiated.**
- **Methods by which state and local construction needs could be determined based on a coordinated strategy.**
- **Methods by which CDC, CYA and jail construction bond requirements could be determined based on a coordinated plan.**
- **Methods by which community corrections facilities could be significantly increased.**
- **Methods by which location of community corrections facilities could be expedited.**
- **Methods which would reduce costs of prison and jail construction.**
- **Methods which would result in an improved balance between expanded intermediate sanctions and construction of facilities.**

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Prisons and jails continue to be overcrowded and will be overcrowded in the future despite California's massive construction effort. The number and type of inmates sentenced to state prison is significantly influenced by local jail overcrowding. In the past several years, CDC has seen a substantial increase in the number of individuals sentenced to state prison for periods resulting in stays of less than one year. Of inmates first released to parole in 1988, 56.4 percent served one year or less in prison. This population, many of which were previously housed within local jails, constitutes a large portion of the offenders now being sentenced to state prison.

In light of the interrelationship between jail and inmate populations and in order to better prepare for the housing of California's most serious offenders, a need presently exists for the Youth and Adult Correctional Agency to coordinate the development of a comprehensive statewide inmate population management system and construction strategy. While the Board of Corrections, the Department of Corrections and the Department of the Youth Authority have each developed construction master plans, great benefit may be gained through the integration of these after an assessment of community and inmate population management needs.

Local and state corrections agencies are not well coordinated in terms of their most efficient use of available prison and jail space, or in terms of the policies and practices of each and their effect upon the other. Given the extraordinary population increases being experienced in state and local corrections, it is important to ensure that available beds and programs are used for the most appropriate offender populations. Better coordination, problem analysis and resource utilization is essential to maximize the overall corrections system capacity.

**Recommendation #2: County governments, the Department of Corrections and the Department of the Youth Authority should examine and act upon opportunities to redesign older institutions for safety and efficiency and modify for lesser offenders.**

County governments, CDC and CYA are presently managing a number of older institutions. Although many of these older institutions may not continue to serve as maximum security institutions, opportunities may exist to renovate or redesign the facilities to be used as modified community correctional facilities. Many local facilities could be used to house less serious offenders in less secure settings while requiring participation in substance abuse or work programs. This modified incarceration might benefit many jurisdictions in effectively managing their jail populations. Similarly, CDC is presently engaged in designating certain older institutions for use in housing less serious offenders.

**Recommendation #3: The Youth and Adult Correctional Agency should examine the feasibility of converting closed military bases or leasing appropriate federal land for use as state prisons or Multi-Purpose Community Correctional Centers.**

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The federal government recently announced the planned closing of six military bases within the State of California. Each military base has established a local re-use committee to make recommendations to the federal government regarding the possible use of such sites. Plans are to be formed based on local needs, federal government needs and input from other sources deemed appropriate. Similar to the siting of any correctional facility, local support for the conversion of military bases into prisons is paramount. The Youth and Adult Correctional Agency should make every effort to obtain local support for use of a portion of the military bases as correctional facilities. A feasibility study should be conducted to determine the cost effectiveness of such a proposal.

**Recommendation #4: Local governments in major urban areas should be mandated to provide sites within the community for community correctional facilities, parole offices, prisons and jails in numbers proportionate to the number of offenders from that area in the correctional system.**

The Commission concludes that crime is a product of every community. Each community has a responsibility to manage the problem of crime, including the punishment of offenders originating from those communities. This concept is further supported in that offenders are inevitably returned to the community of origin. While the majority of California citizens believe that criminals should be punished, CDC and CYA continue to experience difficulties in obtaining sites for correctional institutions or community corrections facilities. For example, a legislative mandate was required to site a prison in Los Angeles County, even though 38.5 percent of the inmates in CDC are sentenced from Los Angeles County, but prison construction has yet to begin in Los Angeles County.

Each community should be required to provide locally designated siting or correctional zones in their general plans, proportionate to the number of offenders originating from that community. Such a requirement would effectively require local governments to actively participate in the management of crime within their community.

Locating sites for the construction of potentially 15 to 20 new prisons will present a major challenge to the Department of Corrections. While many communities have welcomed prisons and the associated benefits, others have not. A major concern of many communities is the effect that the growth associated with a prison will have on already overburdened services including schools, courts and jails, and city and county infrastructure. The administration and the legislature should explore potential financial incentives for cities and counties to accept prisons. However, good correctional practice, economy and community responsibility dictate that the state should be locating correctional facilities in or near those major urban areas which are contributing the most offenders.

The Legislature should require that county jail bond funds administered by the Board of Corrections be provided to only those counties which have approved a prison site if one is required in that county.

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**Recommendation #5: The number and capacity of state funded publicly and privately operated Multi-Purpose Community Correctional Centers (MCCCs) should be significantly expanded.**

Multi-Purpose Community Correctional Centers should be constructed based on a state prototype for size and program. These facilities should be designed with a capacity consistent with the community needs. MCCCs should be capable of providing secure and non-secure housing and program space. This would allow for use for a variety of program and housing purposes such as drug treatment, work furlough, mother-child, pre-release programs, community service, victims' restitution and others. A portion of these MCCCs would be dedicated to housing parole violators and other short term offenders, with remaining beds reserved for local use.

Multi-Purpose Community Correctional Centers should be established within or near every major urban area in direct relationship to the proportional number of persons committed to state facilities. MCCCs could be established at existing institutions in major urban areas by building new facilities or converting existing facilities.

The Commission believes that placing MCCCs within major urban communities is consistent with the philosophy that the offenses and the offenders originate from the community and are a community responsibility. Establishing secure MCCCs within these communities could serve to house short-term prison inmates, jail inmates and parole violators rather than being returned to prison for short periods of time. Such community correctional facilities would serve as an effective tool for managing these populations and assist in more successfully preparing the offender for reintegration into the community.

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## **5.7 GENERAL RECOMMENDATIONS**

This section of the report presents recommendations formulated by the Commission that are general in nature. Although they are not specific to any previously discussed topic, they were examined by the Commission and found to be within the statutory scope of the Commission and warranted consideration.

**Recommendation #1: The Commission has concluded that the function of probation in California must be expanded into a system of adequately funded, highly structured correctional supervision within the community.**

The Commission has acknowledged that in spite of trends contributing to jail and prison overcrowding, probation continues to be used by the courts as the primary sentence of choice in the majority of felony cases. Approximately 66 percent of all adult felony conviction dispositions in 1988 resulted in some form of probation, with 60 percent of cases resulting in a grant of probation with jail time and six percent receiving sentences of probation only. (See Chart 3-9) This increased use of jail as a term of probation is in part characteristic of evolutionary changes which have occurred as probation has emerged in the 1980s as more of a community punishment option. As a result of this, probation has developed into a community sanction with a greater emphasis on public safety, accountability and adherence to court orders including jail, fines, community service and restitution. Where adequate resources exist, probation departments have begun to more actively supervise convicted felons through such techniques as increased contacts and electronic monitoring. In the future, probation must continue to become a much more structured form of correctional supervision in the community. As with state parole, there is a need to balance the surveillance function of probation with the treatment function, a need which is difficult to fulfill with today's high caseloads. The Commission has concluded that the function of probation must be strengthened in this way as correctional supervision must serve as a crucial method of administering any community corrections initiative.

Although probation is the overwhelming disposition of choice in most felony cases, probation departments statewide have continued to receive increasingly smaller proportionate shares of the local criminal justice budget. By comparison, during the last 20 years, criminal justice budget increases have been as follows:

Courts	-	up 196 percent
Prosecution	-	up 179 percent
Law Enforcement	-	up 169 percent
Probation	-	up 98 percent

If converted to real dollars and adjusted for inflation, the disproportionate increase in funding becomes even more obvious. This disproportionate increase has placed a

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mounting burden on probation. All other components of the criminal justice system have expanded in size and capability to arrest, prosecute and sentence increasing numbers of individuals, with the majority of those then being placed on probation. This has occurred in spite of the fact that probation departments conduct pre-sentence investigations in the majority of cases and are involved in the supervision or monitoring of behavior in 66 percent of all adult felons sentenced by courts. While probation departments have assumed this awesome responsibility for increased monitoring of behavior, adequate resources have not been appropriated. Additionally, other elements of the criminal justice system, particularly the courts, receive various forms of state funding in support of their actions.

While probation has served to supervise convicted felons throughout California, grants of probation are a result of individualized, sometimes subjective, assessments by probation officers or the courts based upon some generally established criteria. Among the criteria considered may be prior criminal history, nature and seriousness of the offense, the likelihood of re-offending and the ability to adhere to the other requirements of probation. These assessments are not conducted as the result of any formalized, structured statewide criteria. In order to contribute to the expansion of probation into a highly structured form of correctional supervision within the community, a method of formal classification and risk assessment is needed. Such a system is needed to determine suitability for probation, treatment needs, and level of supervision. Classification and risk assessment is necessary to enhance the public safety aspects of probation and to produce a system which can more accurately focus on areas where supervision can impact offender behavior.

Similarly, a statewide system is needed to establish supervision techniques, standard terms of probation, types and levels of supervision and proven methods of modifying offender behavior. At present, some standards do informally exist, but these vary from county to county. The function of probation is influenced in some part through statewide training for all probation officers through the Standards and Training in Corrections program as administered by the Board of Corrections (BOC). Legislation is further needed to authorize the BOC to develop and oversee the administration of both a systemwide classification system and supervision standards.

The direction of fewer resources to probation departments has resulted in overwhelming increases in caseload sizes. Select probation departments have reported that in 1980 average probation officer to probationer caseload ratios were 50 to 70 per each officer. In 1989 that number has increased to 100, 200 and 400 in some jurisdictions. Given the sizes of these excessive caseloads, meaningful correctional supervision has become an unrealistic expectation. In order to effectively manage convicted felons under correctional supervision within the community, realistic caseload size standards must be developed and imposed upon probation departments as part of statewide supervision standards.

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Finally, all elements of the criminal justice system have been eligible for or have received

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state funding to enhance varying aspects of their general or state-mandated functions. This has been accomplished through such mechanisms as trial court funding initiatives or grant programs. These existing mechanisms must be expanded or new mechanisms developed to provide additional state resources directed toward probation departments in an effort to support statewide classification, supervision and caseload standards.

**Recommendation #2: The Commission endorses the development of an automated Corrections Management Information System (CMIS) which is capable of tracking the status of offenders.**

The Commission supports the joint effort of the Department of Justice, Board of Corrections and California Corrections Executive Council to develop a feasibility study regarding development of an automated Corrections Management Information System (CMIS). The system is designed to assist law enforcement, probation officers, parole agents, corrections and other criminal justice officials in immediately identifying offenders statewide and could eventually lead to a standardized offender classification system.

There is currently no automated information system which allows law enforcement or other criminal justice officials to quickly identify suspects or arrestees as parolees or probationers or to identify specific critical behavior or other problems of these individuals. This information, if expeditiously made available, could assist criminal justice officials in making decisions regarding the proper handling and disposition of suspects or arrestees. Additionally, it could assist probation officers and parole agents by quickly identifying persons who have violated their conditions of parole or probation, allowing them to take appropriate action.

**Recommendation #3: Penal Code Section 1170 should be statutorily changed to reflect the position that, "The purpose of prison is to improve public safety by incapacitating felons and as appropriate, preparing them for successful re-entry into the community by offering them a range of work experience, educational, vocational, and substance abuse programs."**

Currently, Penal Code Section 1170 states that "the purpose of imprisonment for crime is punishment." The Commission recognizes that incarceration is the sanction of choice for certain offenders for the purpose of public safety. It also recognizes that there are inmates who benefit from prison programs, such as vocational and educational training, as well as employment programs. Program participation increases chances for successful reintegration once they are returned to the community. From this standpoint, the Commission believes that Penal Code Section 1170 should be legislatively changed to reflect this position.

**Recommendation #4: There should be a high priority placed on inmate employment. Additionally, CDC should acquire legislative authorization to allow private sector involve-**

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**ment in prison-based business, such as the Free Venture Program for youth, currently operating in CYA.**

The Commission believes that the Legislature should authorize CDC to form "partnerships" with organizations from the private sector, using the CYA Free Venture Private Industry Program as a model. By implementing this model, private industry would be allowed to establish businesses within prisons designed to provide inmates with marketable job skill training and to teach work ethics essential to job retention. This would allow inmates the opportunity to earn the minimum or prevailing wage, of which portions could be used to pay for room and board, victim restitution, family obligations and forced savings.

Necessary to the success of the proposed programs would be the support of the Legislature in this venture. The Commission recommends that there be legislative support for the development and implementation of expanded work opportunities for inmates.

**Recommendation #5: To assist in their successful reintegration into society and foster a sense of responsibility, inmates should be required to save a portion of their wages earned while in prison.**

Inmates who serve six months or more in prison are given "gate money" in the amount of \$200 upon their release from prison. However, transportation costs are deducted from this amount, usually leaving the inmate with very little money with which to secure housing, purchase appropriate clothing or engage in a job search.

Currently, inmates who are employed and are earning wages are not required to save any portion of their earnings. Requiring inmates to save a portion of their earnings for use upon release would aid in securing housing and employment, thereby increasing the likelihood of a successful reintegration into society.

**Recommendation #6: State funding of Youth Service Bureaus should be expanded.**

The State currently provides approximately \$2.1 million in funding annually to 18 Youth Service Bureaus (YSBs). The CYA develops and implements standards for YSBs and administers the state funding.

Youth Service Bureaus are a key element of delinquency prevention efforts in the state. All of the YSBs share these purposes: to divert young people from the criminal justice system, to prevent delinquent behavior, and to provide opportunities for young people to function as responsible members of their communities. They develop and operate programs for less serious delinquent and pre-delinquent youth. They are designed to be responsive to local needs for youth services; including family counseling, consultation and educational programs in the schools, promotion of effective parenting, and respond-

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ing to crisis situations. A 1985 evaluation of 16 YSBs which serve over 10,000 cases annually found that they had a measurable impact in alleviating the problems for which youths were referred.

Additional state funding would enable more communities to establish and operate Youth Service Bureaus.

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## **APPENDIX**

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**Senate Bill No. 279**

**CHAPTER 1255**

An act to add and repeal Title 9 (commencing with Section 14090) of Part 4 of the Penal Code, relating to correctional facilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1987. Filed with Secretary of State September 27, 1987.]

**LEGISLATIVE COUNSEL'S DIGEST**

**SB 279, Presley. Corrections.**

(1) Existing law contains various provisions concerning the punishment of criminal offenders.

This bill would establish the Blue Ribbon Commission on Inmate Population Management. It would consist of 25 voting members, including those appointed by the Governor, the Senate Rules Committee, the Speaker of the Assembly, and the California Judges Association, and specified ex officio members.

The commission would examine matters related to the correctional system, would determine prison and jail population and cost projections, would study alternatives and options for criminal punishment, would be granted specified powers, and would make recommendations to the Governor and the Legislature.

These provisions would remain operative for 2 years, and would be repealed January 1, 1990.

(2) The bill would appropriate \$50,000 from the General Fund to the commission for purposes of the bill.

(3) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

*The people of the State of California do enact as follows:*

**SECTION 1.** Title 9 (commencing with Section 14090) is added to Part 4 of the Penal Code, to read:

**TITLE 9. BLUE RIBBON COMMISSION ON INMATE POPULATION MANAGEMENT**

**CHAPTER 1. FINDINGS**

14090. The Legislature finds and declares all of the following:

(a) In recent years, the number of convicted criminals serving time in California state prisons has dramatically increased. Since 1982, the state prison population has nearly doubled. This is the direct

result of tougher determinant sentencing laws, and it reflects the will of the public that criminals should serve time in prison.

In 1983, the State of California embarked on its first major prison construction and expansion program in nearly 20 years. As a result of these efforts, new prisons have been opened and a variety of temporary overcrowding measures have been taken. Still, the growth in prison population continues to outpace the prison expansion program. This is placing a growing burden on California's prison system and on the financial resources of the state.

Given these factors, it is necessary to reexamine traditional correctional housing approaches and to study other possible methods of housing the state's prison population. Those methods must be consistent with the need to protect the public, control crime, and facilitate the punishment, deterrence, incapacitation, and reintegration of criminals into society.

(b) The California Department of Corrections forecasts that the inmate population in state prisons will increase from its present level of 63,000 to almost 100,000 in the next three to five years. The current prison construction program will increase California's prison population to approximately 55,000 beds, but this will not be sufficient to meet the state's growing prison needs.

(c) In the past 10 years, the Department of Corrections' operating budget has doubled and by 1991, the state will spend about one-tenth of its General Fund budget to maintain its correctional system if current correctional policies continue. Current General Fund appropriations for operating the state's correctional system, now at one billion dollars, are projected to exceed two billion dollars by 1991.

(d) The problem of correctional facility overcrowding is equally critical in the Department of Youth Authority, where almost 8,500 wards are in a system that is designed for 5,840 wards. The Youth Authority population is projected to increase to 9,500 wards within the next five years. The current eighty-five million dollar Youth Authority building program will increase the system's capacity to 6,950. However, this is not enough to deal with the state's growing institution population of youthful offenders. Projections indicated that another three hundred million dollars is needed to build 2,400 more Youth Authority bed spaces by 1991.

(e) The high cost of building, maintaining, and operating prisons and youth correctional facilities, the high rates of parolees returning to custody, and the increased inmate violence require the examination of new methods, approaches, and considerations commensurate with the public's desire to be safe from criminal activity.

14091. (a) It is necessary to review California's adult and youth correctional facilities systems to examine whether there are viable alternatives and solutions to the problems of overcrowding and rising costs which exist. This title establishes a Commission on Inmate Population Management for the comprehensive review of this state's

system for dealing with state prisoner and parolee populations.

(b) It is the intent of the Legislature that public safety shall be the overriding concern in examining methods of improving the prison system, reducing costs, heading off runaway inmate population levels, and exploring punishment options. These options, alternatives, and proposals should be recommended by the commission only if it is convinced that each such proposal will not result in significant lessening of public safety, increase in crime rates, or added violence within the prison system or on the outside.

(c) The people of the State of California have shown by their repeated approval of bond measures to build new jails and prisons, through opinion polls, and other indicators that they wish offenders punished and violent offenders confined in prison for lengthy periods. The commission and its study must take this into account in its deliberations, findings, study, and recommendations.

However, new methods must be explored and new options examined commensurate with this goal if the costs and impacts of California's prison system are to remain under control.

(d) As in other areas of public policy, advancements are being made in corrections systems throughout the country and in other nations, and it is imperative that California examine that achievements and consider implementing them where they seem feasible.

## CHAPTER 2. DUTIES AND FUNCTIONS

14100. There is established the Blue Ribbon Commission on Inmate Population Management.

14101. The commission shall have 25 voting members as follows:

(a) The Governor shall appoint nine members, one of whom shall be designated by the Governor as chairperson.

(1) One of the Governor's appointees shall be a correctional officer with a rank not above lieutenant.

(2) One of the Governor's appointees shall be a district attorney.

(3) One of the Governor's appointees shall be a sheriff.

(b) The Senate Rules Committee shall appoint four members, one of whom shall have research credentials in the field of corrections, law enforcement, sociology, and related areas.

(c) The Speaker of the Assembly shall appoint four members, one of whom shall be an expert in mental health.

(d) The Attorney General shall serve as a member of the commission.

(e) The Secretary of the Youth and Adult Correctional Agency, the Director of the California Department of Corrections, the Director of the California Youth Authority, the Chairpersons of the Board of Prison Terms, and the Youthful Offender Parole Board, shall be members of the commission.

(f) The California Judges Association shall select one superior

court judge to serve as a member of the commission.

(g) The Chairperson of the Board of the Presley Correctional Research and Training Institute shall serve as a member of the commission.

14102. Vacancies that may occur shall be filled by the original respective appointing authority.

14103. Members shall serve without added compensation from the commission. Members who are current state employees, whether civil service or exempt appointees, shall be reimbursed for per diem and travel expenses by their department or agency of employment. All other members shall be reimbursed for per diem and travel expenses by the Department of Corrections. Reimbursement of expenses for all commission members shall be made for expenses incurred in performance of their functions, including time spent conducting commission affairs at the direction and approval of the chairperson.

14104. The commission shall meet regularly at the call of the chairperson, with meetings in various parts of the state.

14105. The executive director shall be appointed by the commission chairperson from employees of one of the departments of the Youth and Adult Correctional Agency. Each department shall provide professional or clerical staff necessary to carry out the work of the commission. The directors of the respective agencies in consultation with the chairperson of the commission may designate temporary staff until the executive director and permanent staff have been selected. Both the executive director and staff shall be compensated by their employer agency at their normal rate of compensation.

14105.5. All agencies of state government are directed to cooperate and assist the commission and its staff, including reasonable assignment of temporary staff support where needed.

14106. The purposes, aims, goals, and operating procedures of the commission shall include, but not be limited to, the following:

(a) Determination of the best available state prison and youth correctional facilities population projections for the next five years and longer, if feasible, and the impact of the populations in terms of construction and operational costs, and their impacts on the state budget.

(b) Determination of desirable alternatives or punishment options, if any, commensurate with public safety that could improve this system while reducing recidivism and prison violence.

(c) The commission shall study the present utilization of community correctional facilities and, if appropriate, make recommendations regarding utilization of those facilities. The commission shall study options for community-based treatment programs and community correctional facilities, for persons under the jurisdiction of the Department of Youth Authority or the Department of Corrections who violate the terms and conditions of

parole. Public safety shall be the primary consideration in all conclusions and recommendations.

(d) The commission shall study relevant methods utilized in other jurisdictions toward reducing the problems which are within its mandate.

(e) The commission shall perform other duties as may be requested by the Governor in accord with the commission's mandates.

14107. (a) The commission shall make an initial written report to the Governor, the Senate Judiciary Committee, the Assembly Committee on Public Safety, the Joint Legislative Committee on Prison Construction and Operation, the Senate Appropriations Committee, the Assembly Ways and Means Committee, and the Legislature of its activities, findings, and recommendations no later than one year after its first meeting. The commission shall make additional presentations or reports that it deems warranted.

(b) The commission shall also prepare a final written report of its findings to the Governor and to the Legislature including recommended legislation or action by the Governor's office which will promote the purpose of the commission.

14107.5. This title shall become inoperative two years after it becomes effective, and as of January 1, 1990, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1990, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. The establishment of this commission is not intended to obviate the need for additional funding for prison or youth correctional facilities construction to alleviate prison overcrowding.

SEC. 3. The sum of fifty thousand (\$50,000) is hereby appropriated from the General Fund to the commission for consulting contracts and services in direct support of the commission's research and deliberations.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The current challenge of crowding in corrections facilities requires prompt and effective action to review options for dealing with criminal offenders.

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# **BLUE RIBBON COMMISSION ON INMATE POPULATION MANAGEMENT**

## **MISSION STATEMENT**

It is the intent of the California Legislature in establishing the Blue Ribbon Commission on Inmate Population Management to review California's adult and youth correctional facility's systems to determine viable strategies to deal with problems of prison overcrowding without reducing public safety. In conducting this review, it is the mission of the Commission to:

1. Explore options for punishment alternatives commensurate with the public safety that could improve the system while reducing recidivism and prison violence.
2. Re-examine traditional inmate housing methods and approaches and to study other methods of housing.
3. Determine projections of prisoner and parolee populations for the next five years or longer.
4. Determine the impact of population growth in terms of construction, operational costs and impact upon state and local budgets and programs.
5. Study options for utilization of community correctional facilities.
6. Study options for community-based treatment programs for parole violators.
7. Study relevant methods within other jurisdictions.
8. Prepare a written report containing findings and recommendations.
9. Make recommendations for legislation which will facilitate punishment, deterrence, and incapacitation throughout the criminal justice system and reintegration into society.

Public safety will be the overriding concern of this Commission in examining methods of improving the California Correctional System. Options and proposals will be recommended by the Commission only if it is convinced that each such proposal will not result in significant lessening of public safety or increasing crime rates or violence within the prison system or on the outside.

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## BIOGRAPHIES

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## **SENATOR ROBERT PRESLEY**

Senator Robert Presley (D-Riverside), authored the Legislation establishing the Blue Ribbon Commission (Senate Bill 279, Chapter 1255, Statutes of 1987). Prior to serving in the Senate, Senator Presley completed a 24-year law enforcement career culminating as the Under Sheriff of Riverside County. He is a combat veteran of World War II and a recipient of the Bronze Star for Heroic Achievement in Action. He was elected to the Senate in 1974 and has since authored major legislation on crime, prisons, clean air, wildlife conservation, control of toxic materials and protection of children. Among other numerous awards and honors, legislation was enacted honoring the Senator through the establishment of the Robert Presley Institute for Correctional Research and Training. Senator Presley is currently the Chairman of the Legislative Joint Committee on Prison Construction and Operations, the Senate Select Committee on Children and Youth and the Senate Appropriations Committee.

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## **Grover C. Trask II**

Mr. Grover Trask was elected District Attorney of Riverside County in 1982 after serving eight years as a Deputy District Attorney. He has developed the Riverside County Victim/Witness Assistance Program, a Child Abuse-Sexual Assault Prosecution Unit, the Check Restitution-Prosecution Program, and a mediation service for consumer complaints. He is also a contributing author on criminal procedures to the California Continuing Education of the Bar (CEB) and the University of California.

Mr. Trask has been appointed to a number of Boards and Commissions, including the Advisory Board on Drug Suppression in Schools, the Governor's Statewide Task Force on Gangs, Drugs and Violence, the California Council on Criminal Justice, and the Statewide Task Force on Victim's Rights. He has held a number of positions with professional organizations, including California District Attorneys Association, Past President; Riverside County Bar Association, Chair, Legislative Committee; and National District Attorneys Association Committee on Child Support Automation, Chair.

In 1987 the Riverside County District Attorney's Office was recognized with the Governor's Award for Outstanding Victim/Witness Program. Mr. Trask was awarded the Citizen of the Year Award by Boy Scouts of America in 1988, and was honored as Prosecutor of the Year by WETIP, a nationwide non-profit criminal justice organization, in 1989.

Mr. Trask earned a B.A. degree from San Diego State University, Juris Doctor from the University of San Diego School of Law, and attended the National College of District Attorneys, University of Houston.

## **Lawrence A. Bennett, Ph.D.**

Dr. Bennett entered the correctional field as a parole agent with the California Department of Corrections in Southern California, and worked in a variety of state institutions, eventually becoming Departmental Supervisor of Clinical Psychology. Subsequently he was selected as Chief of Research for the Department, a position he held for ten years.

For three years, Dr. Bennett was Director for the Center for the Study of Crime, Delinquency and Corrections at Southern Illinois University. From 1979 until 1988, he was with the National Institute of Justice in Washington D.C. where his last assignment was as Director of the Adjudication and Corrections Division.

Dr. Bennett completed his Masters and Doctorate in psychology at Claremont Graduate School.

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### **Barbara E. Bloom**

Barbara E. Bloom is a professional consultant in the criminal and juvenile justice fields. She currently provides program development and evaluation consultation to public and private organizations interested in prisoner-family support programs and community corrections.

Ms. Bloom has fifteen years of experience working with prisoners and their families, as well as departments of corrections. From 1980 until 1987, she served as Executive Director of Centerforce, the nonprofit organization which administers visitor centers at state correctional facilities throughout California.

Ms. Bloom is nationally recognized for her work in the Family and Corrections arena and has produced conferences and authored publications on families of prisoners. She holds a Masters Degree in Social Work from San Francisco State University.

### **Ben Clark**

Mr. Ben Clark has worked in the areas of government and law enforcement for 36 years. He was elected Sheriff of Riverside County and served in that position for 24 years. Mr. Clark was instrumental in founding the Peace Officers Standards and Training (POST) in California. Most notably, he has served as Chairman of the Robert Presley Institute of Corrections Research and Training since its creation by statute in 1986.

Mr. Clark has served on a number of state and national committees and commissions, including the President's Commission on Crime.

He earned both his Bachelor's and Master's Degrees in Government.

### **Frank J. Creede, Jr.**

Frank J. Creede, Jr. was appointed to the Superior Court for the County of Fresno in 1973. He is a graduate of Stanford University and University of San Francisco School of Law. He has received numerous awards for service to the community. He has also served on numerous boards and committees for community service organizations.

### **F. William Forden**

Mr. William Forden has worked in the corrections field more than 30 years, which included 16 years as a Parole Agent and Parole Administrator for State of California Department of Corrections. He has been the Chief Probation Officer/Director for the County of Ventura Corrections Services Agency for the last 14 years.

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In 1988, Mr. Forden was named Chief Probation Officer of the year by the Chief Probation Officers of California. He is currently the Chair of the California Corrections Executives Council. His professional organization memberships include among others, the American Correctional Association, National Association of Probation Executives and the American Probation and Parole Association.

Mr. Forden earned his B.A. degree in Sociology from California State University, San Jose, an MPA from the University of Southern California, and a Criminal Justice Fellowship, Harvard Law School Center for Criminal Justice.

### **Thomas M. Jenkins**

Thomas M. Jenkins has served as Superior Court Judge in San Mateo County since 1976, including service as Criminal Presiding Judge and supervising Jail Judge since 1979. He is a member of the San Mateo Criminal Justice Council, and served as Chairman from 1984 through 1987.

Judge Jenkins has served on the California Judicial Council, the California Center for Judicial Education, the Board of Governors of the State Bar, Board of Governors of the California Judges' Association and House of Delegates of the American Bar Association. He is extensively involved as a board member for many community and non-profit groups on a national, state and local basis, particularly in the area of health, hospitals and the aging.

### **Ron E. Koenig**

Ron Koenig was appointed Member of the Board of Prison Terms on June 3, 1985. On July 2, 1985, he was named Chairman with his term to expire on March 15, 1989. He was reappointed by Governor Deukmejian on May 12, 1989; his term expires on March 15, 1993. From 1974 and until his Board appointment, he was Sheriff of Tehama County. He was originally elected Sheriff in 1974, re-elected in 1978 and again in 1982. Prior to being Sheriff, Mr. Koenig was a Highway Patrolman from 1958 until his election to Sheriff in 1974.

Throughout Mr. Koenig's career in law enforcement, he has been actively involved in the California Peace Officers' Association, California State Sheriffs' Association, Crime Resistance Task Force, and numerous civil groups.

He is a veteran of the Korean conflict, having served in the U.S. Army Airborne Division from 1953-1956.

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### **Barry Krisberg, Ph.D.**

Dr. Barry Krisberg is President of the National Council on Crime and Delinquency. He holds a Ph.D. from the University of Pennsylvania. For six years he served on the faculty at the University of California at Berkeley. He is a member of the California Attorney General's Advisory Committee on Research and Statistics.

In 1980, Dr. Krisberg directed a study for the California legislature on alternatives to incarceration. He has previously served on statewide task forces on minorities in the criminal justice system and overcrowding in juvenile correctional facilities.

### **Patricia Marrone**

Patricia Marrone has directed community-based organizations for over 15 years, served as a community organizer and lecturer, extensively researched issues related to women in prison, lobbied on criminal and juvenile justice for the Quaker-sponsored Friends Committee on Legislation for five years and worked for the Mexican American Legal Defense.

Ms. Marrone is currently Executive Director of Allied Fellowship Service, a non-profit social service agency in Oakland providing employment, housing and counseling services to people coming out of prison and jail. In addition, Allied Fellowship maintains a Mother-Infant Care residential program for teen mothers and pregnant teens.

### **Robert B. Murphy**

Mr. Robert Murphy was appointed to the Youthful Offender Parole Board by Governor Deukmejian in September 1986. He was appointed to the position of Chairman in March 1987. His present term expires in March 1991.

Mr. Murphy has spent a number of years in the criminal justice system, which includes experience as a Correctional Officer for the California Department of Corrections, three years as Chief of Police for the City of Richmond, five years as Chief of Police for the City of San Jose, and ten years as Chief of Police for the City of Petaluma until his appointment to the Youthful Offender Parole Board.

Mr. Murphy served in the United States Marine Corps and is active in a number of professional and community organizations.

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### **Christine Castillo Odom**

Christine Castillo Odom has been a Probation Officer serving Sutter County for ten years. She is active in the California Probation and Parole Correctional Association, serving as Regional Vice President in 1985. She has also served on the Advisory Committee for Standards and Training for Corrections Programs from 1983 to 1985, and served on the California Youth Authority Advisory Committee on Local Justice Training.

In 1984 Ms. Odom was selected "Line Officer of the Year" by the American Probation and Parole Association. She also received a Distinguished Service Award from the California Youth Authority and a State Attorney General's Certificate of Commendation in 1984.

Ms. Odom is a graduate of California State University Sacramento.

### **Richard Keith Rainey**

Richard Rainey has served as the elected Sheriff-Coroner of Contra Costa County since 1978, administering a law enforcement agency of over 800 employees and a budget of \$50 million. He began his career in Contra Costa County as a Deputy Sheriff in 1964 and advanced through the ranks of Sergeant, Lieutenant, and Captain before his election as Sheriff.

Mr. Rainey is a member of the California Board of Corrections and a member of the Board of Trustees of the Robert Presley Institute of Corrections. He served on the Advisory Committee to the National Institute of Corrections from 1983 through 1988.

Mr. Rainey is a graduate of California State University Sacramento, and holds a Masters Degree in Public Administration from Golden Gate University. He also served four years in the United States Navy.

### **Henry Ramsey, Jr.**

Henry Ramsey, Jr. is a Judge of the Alameda County Superior Court and a member of the California Judicial Council. Judge Ramsey earned his B.A. degree in Philosophy from the University of California at Riverside in 1960 and his law degree from the University of California School of Law (Boalt Hall) in 1963. He served as Presiding Judge of the Alameda County Superior Court in 1986 and 1987.

Judge Ramsey also serves on the Commission on Trial Court Performance Standards, a project of the U.S. Department of Justice and the National Center for State Courts. He is Vice President of the Section on Legal Education and Admissions to the Bar of the American Bar Association and president of the Council on Legal Education Opportunity (CLEO).

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Before his appointment to the Superior Court, Judge Ramsey was a Professor of Law at the University of California School of Law (Boalt Hall).

### **James Rowland**

James Rowland was appointed Director of the California Department of Corrections June 1, 1987, after serving as Director of the California Youth Authority for four years. Prior to that, he had served as the Chief Probation Officer of Fresno County for 10 years. His career started as a law enforcement officer with the San Bernardino County Sheriff's Office. In addition to law enforcement, his experience has included parole, probation, institutions and management consultation.

Mr. Rowland is the past president of the National Organization for Victim Assistance and the California Probation, Parole and Correctional Association. He has also served on numerous probation and law enforcement committees.

He has developed several programs to aid victims of crime, including victim impact statements for sentencing judges, crisis intervention services for victims, specialized restitution caseloads and specialized services pertaining to domestic violence.

He is one of two Californians selected by Harvard University to participate in a national think tank on juvenile justice and is a member of the California Board of Corrections and California Council on Criminal Justice.

### **Joe G. Sandoval**

Joe Sandoval, the Secretary of the Youth and Adult Correctional Agency, is a 34-year law enforcement veteran. This cabinet level position directs and coordinates the operation of the Departments of Corrections and Youth Authority, Board of Prison Terms, Youthful Offender Parole Board and Board of Corrections. The Youth and Adult Correctional Agency is the largest law enforcement agency in the United States.

Prior to appointment as Agency Secretary, he was Chief of the California State Police and an Area Commander with the Los Angeles Police Department. Mr. Sandoval, a graduate of the FBI National Academy, is active in many community and professional organizations. He earned a BA degree in police management from Pepperdine University and an MPA from the University of Southern California.

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### **Vincent Schiraldi**

Vincent Schiraldi, M.S.W., is the founder and current director of the Western Regional Office of the National Center on Institutions and Alternatives (NCIA). Prior to this, Mr. Schiraldi founded NCIA's New York City office. Mr. Schiraldi has been responsible for the development and implementation of the Supervised Citation Release Project, the Hawaii Youth Advocacy Project, and Client Specific Planning.

Mr. Schiraldi earned his B.A. in Social Psychology from State University of New York at Binghamton and a Masters Degree in Social Work from New York University. He currently serves on the Board of Directors of two non-profit criminal justice agencies and has published numerous commentaries on juvenile and criminal justice issues.

### **Mimi H. Silbert, Ph.D.**

Dr. Mimi Silbert is President and CEO of the Delancey Street Foundation, an internationally acclaimed residential treatment center for former felons and substance abusers serving 800 adults and juveniles in San Francisco, Los Angeles, New Mexico, New York, and North Carolina. She has also directed several clinics, taught at UC Berkeley and CSUSF, trained over 30 police, sheriff's and probation departments, and directed the evaluation of over 100 national projects, such as the New Mexico Correctional Master Plan, and the largest study in the country on prostitution, for NIMH.

Dr. Silbert holds masters and doctorate degrees in Psychology and Criminology from University of California at Berkeley, and has published monographs, book chapters, and numerous articles in professional journals. Her work has been extensively covered by the national media, and she is listed in 15 editions of Who's Who. She was a featured "Person of the Week" on ABC World News Tonight, received a Presidential Appointment to the National Institute of Justice, Gubernatorial Appointment to the Board of Corrections, a California Senate and two Legislative commendations, and three Mayoral Proclamations for Mimi Silbert Day in San Francisco.

### **Gary H. Tatum**

Gary Tatum entered law enforcement in October 1958 with the City of Palo Alto after spending 5 years in the United States Navy.

In May 1977, Mr. Tatum moved to Vacaville to become that city's Chief of Police.

Mr. Tatum has a BA degree in history and a minor in political science from the College of Notre Dame. He is a graduate of the 101st session of the FBI National Academy. He is past president of the California Police Chief's Association, and past president of the Police Chief Section and

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member of the Board of Directors of the League of California Cities. He is also a past president of Vacaville Rotary Club and the Napa-Solano United Way. He is active in community affairs. He holds a teaching credential and has taught at both the high school and community college level as well as POST sponsored courses.

### **C.A. Terhune**

C.A. (Cal) Terhune is Director of the California Youth Authority (CYA), being appointed to that position by Governor Deukmejian on June 29, 1987. He holds a Masters Degree in Social Work from the University of California at Berkeley. Since his CYA career began in 1955, Mr. Terhune has been a parole agent, departmental budget officer, parole executive, assistant superintendent, superintendent of four CYA institutions, deputy director of the Parole and Institutions Branch and deputy director of the Institutions and Camps Branch before being named to the department's top job.

Besides the California Council on Criminal Justice, Mr. Terhune serves on the Board of Corrections, the Governor's Policy Council on Drug and Alcohol Abuse, and the Presley Institute of Correctional Research and Training. He is a member of the California Correctional Executives Council, the California Probation, Parole and Correctional Association and the American Correctional Association (ACA). He serves on the Board of Delegates and the national Juvenile Corrections Advisory Committee of the ACA.

Mr. Terhune served in the United States Marine Corps.

### **Brian Taugher Commissioner Designee**

Brian Taugher has served as Special Assistant Attorney General, Office of the Attorney General, Department of Justice, from 1983 to the present. While serving as Chief Counsel to the California Board of Prison Terms from 1975 to 1980, he was the primary author of the amendatory legislation revising the Determinate Sentence Law of 1976.

Mr. Taugher has been an Adjunct Professor of Law at the University of the Pacific, McGeorge School of Law, since 1976. He is a graduate of McGeorge School of Law and a graduate of Georgetown University, School of Foreign Service.

### **Willard Voit**

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Mr. Willard Voit has been active in community and law enforcement issues for a number of years. He is currently on the Board of Directors and is Past President of the Orange County

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**Sheriff's Advisory Council. He was also a Governor appointee to the State Department of Public Safety Advisory Committee, which recently submitted its report to the Governor.**

Mr. Voit has been appointed to a number of boards, including the Braille Institute of America, current vice-president; Multiple Sclerosis Society, Board of Directors; and Athletes in Action, Board of Directors. He also serves on the Board of Directors of the University of California at Irvine Medical Foundation and the Board of Directors of Paradigm Ministries.

### **Thomas V.A. Wornham**

Thomas Wornham is an investment manager/broker from San Diego County who has served on numerous educational and correctional Boards and Commissions at local, state, and national levels during the past 25 years, including the Board of Governors, California Community Colleges, the State of California Board of Corrections (2 terms), and the Board of Directors, California Prison Industries Authority.

Mr. Wornham was Executive Director of the nation's largest Ex-Offender Re-Entry Program for 10 years, working with over 90,000 clients during this period of time. He is a strong advocate of private/public partnerships to advance criminal justice solutions, who believes that the offender should contribute substantially to their own cure or re-entry through confinement or other alternatives.

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# **BLUE RIBBON COMMISSION ON INMATE POPULATION MANAGEMENT**

## **MEETING SCHEDULE**

### **CDC Orientation Sessions**

July 25, 1988

- California State Prison, Folsom

July 29, 1988

- California State Prison, San Quentin

August 5, 1988

- California Institution for Men, Chino

### **CYA Orientation Sessions**

August 30, 1988

- Youth Training School, Chino

September 1, 1988

- Preston School of Industry, Ione

September 7, 1988

- Ventura School, Camarillo

September 27, 1988

### **First Subcommittee Meeting Sacramento**

September 28, 1988

### **FIRST COMMISSION MEETING Sacramento**

- *Initial Orientation and Swearing in Ceremony*

October 25, 1988

### **Fact Finding Meeting Sacramento**

November 15, 1988

### **Second Subcommittee Meeting San Diego**

November 16, 1988

### **SECOND COMMISSION MEETING San Diego**

- *Subcommittee Issue Papers presented and adopted*

December 9, 1988

### **Fact Finding Meeting with Presentations Costa Mesa**

January 31, 1989

### **Third Subcommittee Meeting Monterey**

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February 1, 1989	<b>THIRD COMMISSION MEETING</b> <b>Monterey</b> • <i>Subcommittee Issue Papers presented and adopted</i>
February 24, 1989	<b>Fact Finding Meeting with Presentations</b> <b>Vacaville</b>
March 14-15, 1989	<b>FOURTH COMMISSION MEETING</b> <b>San Francisco</b> • <i>Commission Findings and Recommendations Papers presented and preliminary recommendations formed</i>
April 12-14, 1989	<b>Fact Finding Meeting with Presentations</b> <b>Sacramento</b> • <i>Commission findings and recommendations issues discussed and preliminary recommendations formed</i>
May 23-25, 1989	<b>FIFTH COMMISSION MEETING,</b> <b>San Jose</b> • <i>Commission findings and recommendations reviewed and preliminary recommendations formed</i>
June 26-28, 1989	<b>SIXTH COMMISSION MEETING</b> <b>Sacramento</b> • <i>Commission findings and recommendations reviewed and preliminary recommendations formed</i>
August 23-25, 1989	<b>SEVENTH COMMISSION MEETING</b> <b>Marina del Rey</b> • <i>Distribution of Draft Preliminary Report for review by Commissioners</i>
September 28, 1989	<b>Preliminary Report Presented to</b> <b>Governor and Legislature</b>

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October 10-12, 1989

**EIGHTH COMMISSION MEETING  
Palm Springs**

- *Review and discussion of draft Final Report*

December 18, 1989

**NINTH COMMISSION MEETING  
Sacramento**

- *Review and discussion of draft Final Report*

January 1990

**Final Report Presented to Governor  
and Legislature**

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# **BLUE RIBBON COMMISSION ON INMATE POPULATION MANAGEMENT**

## **LIST OF PRESENTERS**

**September 27-28, 1988  
Sacramento**

**Robert Presley, Senator  
California State Legislature  
*ORIGIN AND PURPOSE OF BLUE RIBBON COMMISSION***

**October 25, 1988  
Sacramento**

**Arlene Sauser, President  
Chief Probation Officers Association  
*PROBATION MANAGEMENT ISSUE***

**Cheryl Stewart, Principal Program Analyst  
Legislative Analyst Office  
*CALIFORNIA DEPARTMENT OF CORRECTIONS BUDGET AND COSTS ISSUES***

**Robert Griswold, Chairperson  
Criminal Justice Consortium  
*CALIFORNIA CORRECTIONAL ISSUES***

**Craig Meacham, President  
California Police Chiefs Association  
*POLICE ADMINISTRATION IN CALIFORNIA***

**Gary Mullen, Executive Director  
California District Attorney's Association  
*DETERMINATE AND INDETERMINATE SENTENCING LAWS***

**James Callas, Commander, Custody Division  
Los Angeles Sheriffs Department  
*LOCAL JAIL MANAGEMENT AND OVERCROWDING***

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**Loren Warboys, Staff Attorney**  
Youth Law Center  
**JUVENILE INCARCERATION RATES**

**Michael Lerner, Ph.D., President**  
Commonweal Associates  
**BACKING DOWN THE JUVENILE JUSTICE SYSTEM**

**November 15-16, 1988**  
**San Diego**

**Cecil H. Steppe, Chief Probation Officer**  
San Diego County Probation Department  
**MANAGEMENT OF CAMPS, ELECTRONIC SURVEILLANCE, AND OFFENDER PROGRAMS**

**James Austin, Director of Research**  
National Council on Crime and Delinquency  
**PRISON POPULATION PROJECTIONS, CROWDING AND 1988 NATIONAL COMPARISONS**

**December 9, 1988**  
**Costa Mesa**

**Bobbie Huskey, Consultant**  
Huskey and Associates, Inc.  
**COMMUNITY CORRECTIONS ACTS**

**Jerome Miller, President**  
National Center on Institutional Alternatives  
**DEINSTITUTIONALIZATION AND ALTERNATIVES TO INCARCERATION**

**Joan Petersilia, Consultant**  
RAND Corporation  
**SENTENCING OPTIONS AND COSTS FACTORS**

**Joel Philips, Consultant**  
Education, Management and Training Associates, Inc.  
**NATIONAL REVIEW OF OTHER STATE COMMISSIONS FORMED TO ADDRESS OVERCROWDING**

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**James Rasmussen, Chief**

Bureau of Criminal Statistics and Special Services, Department of Justice  
**CORRECTIONS MANAGEMENT INFORMATION SYSTEM (CMIS)**

**January 31 - February 1, 1989**  
**Monterey**

**Chase Riveland, Secretary**

Washington Department of Corrections

**WASHINGTON PENAL SYSTEM AND IMPACT OF ABOLISHING PAROLE**

**Frank Russell, Parole Administrator,**

California Department Of Corrections, Parole Division

**SARD AND COMMUNITY SUPERVISION OF SUBSTANCE ABUSING PAROLEES**

**M. Douglas Anglin, Ph.D.**

UCLA

**DRUG ABUSE, TREATMENT PROGRAMS AND THE CALIFORNIA  
REHABILITATION CENTER**

**February 24, 1989**  
**Vacaville**

**California Youth Authority Ward Panel**

**DISCUSSION OF INSTITUTION PROGRAMS**

**California Department Of Corrections Adult Panel**

**DISCUSSION OF INMATE IMPACT ON INSTITUTION MANAGEMENT**

**Stephen Maggetti, Pathway Society**

**PERSONAL EXPERIENCE IN THE CRIMINAL JUSTICE SYSTEM**

**George Nelson, President**

National Corrective Training Institute

**BEHAVIOR TRAINING TECHNIQUES**

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**March 14-15, 1988**

**San Francisco**

**Lynne Cannady, Consultant,  
EMT, Inc.**

***OVERVIEW OF COMMUNITY CORRECTIONS AND SENTENCING PRACTICES***

**Norma Lammers, Executive Director  
Board of Corrections**

***JAIL POPULATION PROJECTIONS, POPULATION CAPS, CONSTRUCTION  
AND DESIGN STANDARDS***

**Chuck LaBue, Blue Ribbon Commission Staff  
California Department of Corrections**

***OVERVIEW OF DATA RELATING TO PROJECTION OF COSTS AND DESIGN***

**Gregory W. Harding, Deputy Director,  
Evaluation and Compliance Division,  
California Department of Corrections  
*GOVERNOR'S INMATE WORK PROGRAM PROPOSAL***

**Gayle J. Campora, Blue Ribbon Commission Staff  
California Department of Corrections  
*OVERVIEW OF SUBSTANCE ABUSE***

**Robert Anderson, Re-Entry Coordinator  
Parole and Community Services Division  
California Department Of Corrections  
*PAROLE VIOLATORS RETURNED TO CUSTODY***

**April 12-14, 1989**

**Sacramento**

**Daniel Vasquez, Warden  
San Quentin State Prison**

***MULTIPLE ALTERNATIVE RESOURCES FOR MANAGING PAROLE  
VIOLATORS***

**Denise Dull, Community Resource Manager  
San Quentin State Prison  
*ALTERNATIVE RESOURCES FOR PAROLE VIOLATORS***

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**Dick Welch, Chief, Offender Information Services  
California Department of Corrections  
STATE INMATE POPULATION PROJECTIONS**

**Don Saylor, Deputy Director  
Administrative Services Branch  
California Youth Authority  
REVIEW OF CYA CONSTRUCTION PLAN**

**Kevin Carruth, Assistant Deputy Director  
Planning And Construction Division  
California Department of Corrections  
CALIFORNIA DEPARTMENT OF CORRECTIONS CONSTRUCTION PLAN**

**Robert Anderson, Re-Entry Coordinator  
Parole and Community Services Division  
California Department of Corrections  
CALIFORNIA DEPARTMENT OF CORRECTIONS INMATE CLASSIFICATION  
SYSTEM**

**Steve Van Dine, Chief  
Bureau of Planning and Research  
Ohio Department of Rehabilitation and Corrections  
OHIO SENTENCING STRUCTURE**

**Theresa Taylor, Consultant  
Senate Judiciary Committee  
California Legislature  
CALIFORNIA SENTENCING STRUCTURE**

**Susan Aguilar, Legislative Advocate/  
Deputy District Attorney, Sacramento County  
CALIFORNIA SENTENCING STRUCTURE**

**May 23-25, 1989  
San Jose**

**Al Gomez, Warden, Avenal State Prison,  
R.E. Doran, Warden, Sierra Conservation Center,  
Eddie Myers, Warden, Correctional Training Facility,  
Greg Zermenio, Superintendent, Fred C. Nelles School,**

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**Richard Tillson, Superintendent  
Northern Reception Center (Sacramento), and  
Ron Chun, Parole Administrator, Region II,  
ROUNDTABLE DISCUSSION OF CORRECTIONAL ISSUES**

**Robert Anderson, Re-Entry Coordinator  
Parole and Community Services Division  
California Department of Corrections  
SHORT-TERM STAY INMATE**

**Joel Phillips, Consultant  
Education, Management and Training Associates (EMT),  
PRIVATIZATION ISSUES**

**Sterling W. O'Ran III, Blue Ribbon Commission staff  
California Department of Corrections  
BLUE RIBBON COMMISSION POSITION ON PUBLIC SAFETY ISSUE**

**Franklin Zimring, Law Professor, UC Berkeley,  
Malcolm Feely, Chairman,  
Center for the Study of Crime and Society, and  
Sheldon Messenger, UC Berkeley  
ACADEMIC PANEL DISCUSSION ON CORRECTIONS ISSUES**

**Max Zeigler, Blue Ribbon Commission Staff  
California Youth Authority  
INMATE/WARD LENGTH OF STAY**

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## **GLOSSARY OF TERMS USED IN REPORT**

**ADMISSIONS:** New commitments, parole violators with new terms, and return-to-custody cases.

**AVERAGE DAILY POPULATION:** The average population per day for a given amount of time, usually one year.

**BOARD OF PRISON TERMS (BPT):** The state agency which has jurisdiction over the release to parole of inmates sentenced to indeterminate terms, parole revocation of all felons, and reviewing all prison sentences.

**CALIFORNIA DEPARTMENT OF CORRECTIONS (CDC):** The state agency which has jurisdiction over the California prison and parole system and the California Rehabilitation Center.

**CALIFORNIA REHABILITATION CENTER (CRC):** An institution operated by the California Department of Corrections which is designated for the Civil Narcotic Addict (CNA) program.

**CALIFORNIA YOUTH AUTHORITY (CYA):** The state agency which provides institutional training and parole supervision for the most serious juvenile and young adult offenders.

**CAREER CRIMINAL:** Multiple and repeat felony offender responsible for disproportionate amount of serious crime.

**COMMITMENT RATE:** The number of persons being committed to a correctional facility during a specified time period per 100,000 population.

**COMMUNITY-BASED FACILITIES:** County, state, and privately contracted facilities which are located in local communities; includes inmates in work furlough and prisoner-mother programs, and parole violators returned to custody (PV-RTC's) who are serving revocation time in county jails.

**CORRECTIONS:** Those agencies or facilities concerned with the custody, confinement, supervision or treatment of alleged or adjudicated offenders.

**DESIGN BED CAPACITY:** Typically represents the number of inmates or wards a facility is designed to house.

**EARNED TIME:** Reduction in the term of sentence on a day-for-day credit for inmates performing in work assignments and performance in elementary, high school or vocational education programs.

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**GOOD TIME:** Reduction in the term of sentence by one-third for good behavior while incarcerated.

**INCARCERATION RATE:** The number of persons in prison per 100,000 population, usually state or county population.

**INTERMEDIATE SANCTIONS:** Legal remedy for those offenders whose crime is not serious enough to send to state prison however is serious enough to not send back into the community without appropriate corrective action.

**INCIDENTS:** An event committed by an inmate in a CDC facility which is either against the law or a violation of the Rules and Regulations of the Director of Corrections.

**JAIL:** A county or municipal facility for incarceration of sentenced and unsentenced persons.

**JAIL-ORDERED POPULATION CAP:** A maximum number of offenders to be confined in a facility as determined by the court.

**JUVENILE:** A person under the age of 18.

**NEW ADMISSIONS:** People newly coming from court into CDC or CYA and parole violators with new terms.

**OVERCROWDING:** Occupancy beyond the design capacity.

**PAROLE:** A period of supervision in the community following release from a correctional institution. The conditional release provides supervision and control over offenders after they return to society.

**PAROLE VIOLATION:** The action of a parolee which violates conditions of parole or violates the law.

**PAROLE VIOLATOR WITH A NEW TERM (PV-WNT):** A parolee who has violated the terms of parole by committing a new crime and has been returned to prison with a new commitment from court.

**PAROLE VIOLATOR RETURNED TO CUSTODY (PV-RTC):** A parolee who has violated the terms of parole, been revoked from parole by the Board of Prison Terms (BPT) or the Youthful Offender Parole Board (YOPB), and returned to prison to the CYA.

**PRE-CONFINEMENT TIME CREDIT:** The time credits granted by a judge at sentencing for time spent in confinement, and the time in confinement after sentencing to the date of delivery to CYA or CDC.

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**PRE-RELEASE PROGRAMS:** Programs offered to inmates while incarcerated to assist them in preparation for release back into society as a productive citizen.

**PROBATION:** The action of suspending the sentence of one convicted of an offense and granting him provisional freedom on the promise of complying with specific conditions of the court.

**PUNISHMENT SANCTIONS:** The penalties for noncompliance with the law.

**PRISON:** A state correctional facility where persons are confined following conviction of a felony offense.

**RATE:** As used in this document, the ratio of the number of one specific group to a population base.

**RE-ENTRY PROGRAMS:** See Community-Based Facilities definition.

**REVOCATION:** Cancellation or suspension of parole by the Board of Prison Terms (BPT) or the Youthful Offender Parole Board (YOPB).

**REVOKE:** To withdraw, repeal, or cancel parole or probation.

**SENTENCE:** The penalty imposed by a court upon a convicted person.

**SUSTAINED PETITION:** The juvenile court equivalent of a conviction in adult court.

**TIME SERVED:** The sum of pre-prison confinement credits plus CDC time served.

**PROBATION VIOLATION:** Breach or infringement of the terms or conditions of probation.

**WARD:** A juvenile who, as a result of violating the law, has been placed under the jurisdiction of the juvenile court.

**YOUTHFUL OFFENDER PAROLE BOARD (YOPB):** The state agency which has jurisdiction over the release to parole of wards committed to the California Youth Authority; recommendation for treatment programs while incarcerated; and revocation of parole.

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## LISTING OF FOOTNOTES

1. California Department of Corrections (CDC)  
California Department of the Youth Authority (CYA)  
California Board of Corrections (BOC)
  2. Governor's Budget Summary, 1989-90
  3. National Council on Crime & Delinquency (NCCD) FOCUS, July 1989
  4. Ibid.
  5. Ibid.
  6. Ibid.
  7. Ibid.
  8. Bureau of Justice Statistics (BJS) Bulletin: Prisoners in 1988. April 1989
  9. NCCD
  10. Ibid.
  11. Ibid.
  12. BJS
  13. NCCD
  14. Ibid.
  15. Ibid.
  16. Ibid.
  17. Bureau of Criminal Statistics and Special Services, Crime and Delinquency in California, 1988 (BCS, 1988)
  18. BJS
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- 19. BJS
  - 20. CDC
  - 21. State of California Department of Alcohol and Drug Programs Data Bulletin, August 1989
  - 22. California Prisoners, 1983, 1984, 1985
  - 23. CDC
  - 24. Ibid.
  - 25. CYA
  - 26. On Trial: The Length of Civil Criminal Trials, 1988, National Center for State Courts
  - 27. CDC
  - 28. CYA