

Opportunities and Challenges Abound as Prison Populations Decrease

By Philip Bulman and Doris Wells

Authors' Note: Points of view expressed in this article do not necessarily represent the official position or policies of the U.S. Department of Justice.

The reentry of former prisoners into the general population is fast becoming a reality, especially in California. The sheer number of people involved is so great that downsizing America's prisons will be either a spectacular success or a catastrophic failure, depending on how wisely corrections officials act. That was the assessment of Joan Petersilia, a corrections expert who spoke at length on the topic at the National Institute of Justice's 2012 Conference.¹ Petersilia is co-director of the Stanford Criminal Justice Center. She has spent decades working in the criminal justice field with special emphasis on corrections. She chaired Gov. Arnold Schwarzenegger's Rehabilitation Strike Team, and she continues to advise executive policymakers on corrections-related issues.

"In two years we have seen a downsizing in the American state prison population unheard of in the previous 40 years," she said. Not only are states downsizing their prisons, but for the first time, states are also closing prisons. In 2011, the California Supreme Court mandated a reduction in the state's prison population. The high number of prisoners was severely jeopardizing the state's capability to provide adequate health care to the offenders, and costs had increased as they served much longer terms because of mandatory sentencing laws.

While costs are rising nationally, they are twice as high in California per inmate. "The national average for a year of prison per inmate is about \$28,000, but in California the cost is now about \$56,000 per offender annually," Petersilia said.

Five years ago, California had 172,000 prisoners. About a year ago, the state had 161,000 prisoners and today, 135,000. Similarly, five years ago the state had 132,000 parolees under supervision, and today only 60,000. "Sometimes I think people think I've made a mistake in the calculation," Petersilia said. "When I tell people that 30,000 prisoners have been realigned in just the last year and 60,000 parolees have been discharged, people cannot believe it," she said. "This is the biggest criminal justice experiment ever conducted in America, and most people do not even realize it is happening."

While the momentum toward shrinking prison populations is strong in California, Petersilia expects to see resistance to downsizing elsewhere. "We have 1.6 million people

incarcerated [in the U.S.], and the power of the opposition ... will be incredibly huge. It is like trying to downsize the military. There are vested interests [such as unions for corrections officers] that, in fact, have now grown," she said. Also, unemployment rates are high in some areas where prisons are located, and local populations may prefer to keep the prisons open. Similarly, private industry is heavily involved in providing electronic monitoring systems and may press for more funding of electronic surveillance, leaving less money available for treatment.

Changes From Realignment

Petersilia identified three major changes brought about by California's public safety realignment legislation. They are as follows.²

Prison sentence changes. Low-level offenders no longer go to state prison. Most property offenders, auto thieves, domestic violence perpetrators, drunk drivers and drug offenders have to stay at the county level. "The maximum penalty they face is jail time," Petersilia said. The only people who get a prison cell upon conviction now are those found guilty of certain serious and violent crimes, and sex offenders.

Parole sentence changes. The law also changed parole policies and practices. Previously, California was the only state in which 100 percent of released offenders went on parole. The national average was about 40 percent. Now California puts only the most serious and violent offenders and sex offenders on parole. "Everyone else goes to county parole and is then discharged in six months instead of the previous 12 months ... because, of course, nobody has money to supervise them," Petersilia said.

Another parole-related change involves the state's response to technical violations. "In the past, California had been sending 60,000 to 70,000 probation and parole violators to prison each year for technical violations," Petersilia said. Now, parolees and probationers are returned to prison only if they commit new crimes.

County prison budget changes. An important part of the California realignment effort deals with how the state apportions funds. Each county now receives half as much money as the state was spending to maintain that county's prisoners. "The counties are free to spend the money however they want," Petersilia said. "Just how that money is spent will determine the success or failure of current

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realignment efforts.” Petersilia advocates spending the money on evidence-based treatment programs that have been proved to help offenders change their behavior and desist from crime.

The Intermediate Sanctions Movement

Petersilia reminded her audience that a great deal has been learned from the failures of intermediate sanctions that were popular in the 1980s and 1990s (she was heavily involved in evaluating the effectiveness of intermediate sanctions). Despite the intention to use intermediate sanctions as diversion from prison, they were most often used to increase the supervision of people who were already on probation. The treatment portion of the intermediate sanctions efforts were seldom implemented. “What was most frequently implemented was the surveillance portion — drug testing and electronic monitoring,” Petersilia said. “Ultimately, because those alternatives were found wanting, they increased rather than decreased each state’s incarceration rate. In fact, the failure of the intermediate sanctions movement provided the fuel that funded the increases in many states in prison incarceration. People in those days said, ‘We have tried community sanctions, and they haven’t worked. We have given them their try and now our only choice is basically to build prisons.’”

Petersilia acknowledged that the hardest thing about realignment and downsizing will be getting the funding to implement and sustain the evidence-based treatment programs that work. She admitted that funding for reentry programs is limited, but said there are some innovative programs that are making a difference. Many are both affordable and proven to be effective. “Usually they are not government programs. They are neighborhood programs ... [that] run on a shoestring [budget],” she said.

Despite the challenges, Petersilia has hope for a positive solution because the science that is helping researchers identify effective programs is much better now and is being applied in a variety of ways. For example, better risk assessment tools are now available, and researchers have

better alliances with policymakers and practitioners in law enforcement and corrections. The federal government’s Office of Management and Budget is also now urging agencies to fund work that can identify clear performance measures and produce rigorous evaluations. In addition, public opinion is shifting in favor of reducing prison populations rather than just implementing the “tough on crime” mass incarceration policies.

She believes that an innovative method for obtaining funding may be to implement a Pay for Success Model, first used successfully in England and now being piloted in five cities in Massachusetts. This method involves recruiting private investors to partner with government, community and neighborhood organizations and agencies to fund evidence-based programs.

Petersilia acknowledged the risks in downsizing prisons. She believes the best path to success is an active approach that emphasizes evidence-based treatment and reentry programs, and creative funding to keep the effective programs alive in the community.

ENDNOTES

¹ Petersilia, J. June 19, 2012. Looking back to see the future of prison downsizing in America. Speech at NIJ Conference 2012 in Washington, D.C. Retrieved from <http://nij.ncjrs.gov/multimedia/video-nijconf2012-laub-petersilia.htm>.

² Assembly Bill (AB) 109 and AB 117 — The 2011 Public Safety Realignment Law, Oct. 1, 2011.

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