

Finding data-driven solutions to overuse of prison

Prisoner data analyses nearing completion; prisoner profiles in process

Nearly 35 percent of the 49,619 men and women locked in Michigan prisons — 17,129 people — are currently eligible for parole. Who are these prisoners? What is the cost of keeping them and what would be the risks of releasing them under supervision?

CAPPS is close to having answers.

Preliminary findings from a major analysis of the MDOC prisoner database, purchased

by CAPPS earlier this year, show that the prisoners within the parole board's jurisdiction fall into four major categories.

- The largest group, 11,223, consists of people who have completed the minimum term of an indeterminate sentence and are being denied release by the board.
- Second are the 3,645 people who had been released on parole but

Annual CAPPS Membership Meeting



MDOC Director Patricia Caruso

Board of Directors Election,

October 30, 2003

6 p.m.

**Faith United Methodist Church
4301 S. Waverly Rd., Lansing**

Buffet Dinner: \$13

See insert for registration.

were returned to prison for “technical violations” of the terms of supervision and have not been re-paroled.

- The third group consists of 833 people sentenced to parolable life terms who are eligible for release under the “lifer law” and have no other sentences that would prevent their release.

- Fourth are the 1,428 people who have been granted parole but not yet released. While 463 of these were within 30 days of the board's decision and had simply had not yet been

processed out, 965 had been given a “fixed date” for release at some time in the future.

As was reported in the Summer 2002 issue of *Consensus*, CAPPS repeatedly attempted to obtain information about parole eligible prisoners from the MDOC. However the Department asserted that it did not have data like this compiled. Finally, with funding awarded by the JEHT Foundation, CAPPS was able to purchase the database and do the analysis itself.

For prisoners in each category the information being analyzed includes: current age,

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About Patricia Caruso

First female director expected to take new path in Corrections

The MDOC's first female director and a professional in the area of management and business, Patricia Caruso rose from the job of assistant business manager at Kinross Correctional Facility to head of the department in just 14 years.

She was appointed to the top job in June of this year by Gov. Jennifer Granholm who said Caruso "has the perfect mix of toughness and tenacity to lead this vital agency in the 21st century."

In discussing what she'd like to achieve as director in the MDOC newsletter, FYI, Caruso said: "We must appropriately control the growth in prisons. At the national level, prisoner re-entry — from prison back into the community — is the main issue. Across the country we've spent two-decades building new prisons. We now realize that we can't build our way out of this predicament. Some people have to be locked up but some may not. With appropriate supervision they can be appropriately sanctioned in the community."

Caruso came to the MDOC and the Kinross facility from the job of county controller in Chippewa in 1988. Later that year she was named business manager at Hiawatha Correctional Facility and in 1990 was named business manager for the Chippewa Correctional facilities.

She was chosen warden of the Chippewa facilities in 1991 and in 2000 was promoted to the post of regional prison administrator overseeing 13 prisons and seven prison camps in the northern part of Michigan.

In 2002 she became deputy director in charge of Correctional Facilities Administration, a post held for many years by Dan Bolden, who retired.

Caruso holds a master's degree in comprehensive occupational education from the University of Michigan and received her bachelor's degree in political science and sociology from Lake Superior State University.



Patricia Caruso

Prison growth is contained for short-term; big issues still remain

On Aug. 25, 2003, the Michigan Department of Corrections published revised prison population projections. The good news is that the population actually declined by 1.2% in 2003 through July. The Department now projects that it will not run out of beds until January 2005. Last December it had anticipated that all beds would be filled by now.

The MDOC attributes the more optimistic forecast to several factors:

- Increased movements to parole
- Decreased prison intake, particularly of probation violators,
- Placement of selected prisoners who have been denied parole into community residential programs, and
- A 45 percent decrease in technical parole violator returns.

These changes will only help buy time to implement long-term measures for controlling prison growth, such as amending sentencing guidelines. If bed shortages re-occur, two moth-balled prisons can be re-opened for men. No such options exist for women.

Two aspects of the report are particularly hopeful. The 962-person drop in technical parole violator returns in seven months was achieved “by sending clear communication to parole agents to use other sanctions besides prison to respond to non-criminal, negative behavior by parolees.” Given the dramatic rise in technical violator returns since 1990, revised practices in this area were critical.

Also noteworthy is the MDOC’s long-term “Transition from Prison to Community Initiative” (TPCI), for which it has received two technical assistance grants. The goal is to reduce recidivism by combining better parole decision making with prisoner preparation for release and more support on re-entry. However, it will take several years to develop and implement the entire plan.

Important concerns still arise from what the projection report does and does not say. First, the increased movements to parole this year were due in part to hundreds of people whose parole eligibility was changed by the McConico drug bills. For the future, the projections assume that parole approval rates and the number of people released will moderate back toward 2002 levels.

Second, the assumption that 800 secure beds will be gained by placing parole-eligible prisoners into community programs begs the obvious question: If they are parole-eligible and not a risk to the community, why aren’t these people released?

Third is the real elephant in the living room. The projections apparently do not account for the as yet unfelt effects of 1998 truth-in-sentencing legislation that prohibits prisoners from earning any credit against their minimum sentences for good conduct. As prisoners begin reaching the point when they might have been paroled had they been able to earn credit, the impact of thousands of prisoners serving more time than was previously required will be huge.

Finally, while stopping growth is the first step, incarcerating 50,000 people at a cost of \$1.7 billion is not an acceptable norm. The MDOC says it will reassess policies and search for better ways than prison to address the problems of mental illness, substance abuse and juvenile crime. When those steps are taken it will be the time for real celebration.

Prisoner History: Jan Borek No. 228729

Offense: Second-degree murder

Sentence: 5 – 25 years

First possible parole: November 1995

Jan Borek is a citizen of the Czech Republic who will be deported as soon as he is paroled. Although he has no prior convictions, his institutional record is exemplary and psychological reports are positive, Jan has been denied parole repeatedly and is nearly eight years past his first release date.

The Offense

Jan Borek was born and raised in the Czech Republic. In 1990, when he was 22, his mother married Mr. P., a Slovak-American whom she followed to the United States. At their mother's insistence, Jan and his younger brother moved with her. For Jan, the move was to be temporary, since he wanted to study economics at Prague's Charles University.

According to Jan and his mother, Mr. P. was an alcoholic who became increasingly abusive to both mother and sons. Jan's mother wanted to return to the Czech Republic, but P. threatened to kill her if she tried to leave.

On February 7, 1991, Mr. P. discovered that his wife and step-children had arranged to flee his house. P., who had been drinking, started an argument with Jan that escalated into a fight. As Jan later explained to the court, P. grabbed a knife and Jan picked up a piece of metal from the fireplace. During the struggle, Jan gained control of the knife and stabbed Mr. P. Realizing that he had killed P., Jan panicked. He placed the body into the back of P.'s truck and, in the middle of the night, drove across the state looking for woods near Pentwater where P. had talked of hunting with friends. Somewhere in that area, he disposed of the body.

Several weeks later, Jan told officers who were investigating Mr. P.'s disappearance what had occurred. Although he fully cooperated in efforts to recover Mr. P.'s body, it was never found.

Jan pled guilty to second-degree murder. Although Mr. P.'s family alleged that the killing was about obtaining money, not domestic abuse, there was no evidence to support this allegation. At the time of sentencing, Judge Jessica Cooper acknowledged that only Jan and his mother know for sure what happened, and that the body might never be found. Judge Cooper also observed that while a prison sentence was necessary, she was aware that Jan would be deported when his sentence was served. Believing "that the State of Michigan should [not] have to pay excessive costs" for incarcerating Jan, she imposed a term of 5-25 years.



Borek

In-Prison Conduct

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Jan now speaks and writes almost flawless English. By December 1997 he had earned, by correspondence, two associate degrees from Penn State University and a bachelor's degree from the Indiana Institute of Technology. He has worked tutoring other prisoners for almost eight years and has never had a single misconduct citation.

Psychological reports all portray Jan as a non-assaultive person who deeply regrets his part in Mr. P's death. A report done upon his arrival in prison states: "The prognosis upon return to the community is excellent that he will not repeat or be vulnerable for relapsing into crime." Subsequent evaluations describe Jan as "open and honest," remorseful, and accepting of responsibility for his offense. In 1999, the MDOC's Director of Psychological Services advised the Czech Consul that Jan had not been accepted into assaultive offender therapy because he did not need it.

Parole Board Actions

Jan became eligible for parole in November 1995. He has always scored "high probability of release" on the parole board's own guidelines, requiring the board to have "substantial and compelling reasons" to deny release. Czech officials have repeatedly informed the MDOC that they do not consider Jan a threat, and that they want him freed to return to his home country, where his mother now resides. If released, he would be deported immediately. Nonetheless, Jan has been interviewed by the parole board four times and each time it has continued him in prison for another 24 months.

The board has repeatedly taken the position that Jan is a risk to the community. Contrary to the psychological reports, it says that he avoids being open and honest about the offense, that he minimizes his responsibility, and that he has shown little remorse. The board characterizes the killing as having been "planned and carried out in a secretive manner."

The parole board has also placed substantial weight on the fact that Mr. P's body was never found, thereby hampering the police investigation. In 1998, the board said it: "...questions the necessity of Borek disposing of the body if his claim was in part self defense. The true injuries to the victim will never be known because the body has never been recovered." In 1999, it referred to disposing of the body as "destroying important evidence." In 2001, the board tersely concluded: "Prisoner is not able to say where the victim's body is located. It would be helpful in determining mitigating circumstances."

"The prognosis upon return to the community is excellent . . ."

When Jan sought assistance from the United Nations, his case was thoroughly reviewed by the U. N. Working Group on Arbitrary Detention, which issued a lengthy opinion in 2000. After noting the parole board's "vast discretionary powers to determine the extent of actual sentence required" and the absence of appellate review, the Working Group concluded that Jan's continued incarceration was arbitrary and in contravention of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. It asked the State of Michigan to not only remedy Jan's situation but to consider modifying its legislation governing parole, so as to bring it into conformity with international standards of justice.

Jan is currently undergoing parole board review once again.

Questions

1. Why should Michigan citizens pay for the continued incarceration of someone who would be deported immediately if released?
2. Is it appropriate for the parole board to redetermine the facts of the offense and repeatedly deny release based on information fully considered by the prosecutor and sentencing judge?

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Prisoner data analysis nearing completion

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age at offense, gender, race, county of conviction, conviction offense(s), current security classification, misconduct records, number of years served since the parole board obtained jurisdiction and the parole guidelines score. For technical parole violators, the amount of time served since being returned to prison will also be calculated. Comparisons will be made to the over 16,000 people currently on parole.

“The public has no idea what offenses these prisoners committed, how much time they have served, whether they are actually dangerous to anyone, and why they are not being released,” said Barbara Levine, executive director of CAPPS.

“We’re very close to being able to provide the data that supports CAPPS’ recommendations for reducing excessive incarceration,” she said. “If we make rational, objective decisions about the many factors that cause prison expansion, we may be able to actually decrease our prison population, close unnecessary facilities, and shift hundreds of millions of dollars to other public needs.”

To balance the data analysis with concrete examples, the JEHT Foundation has also provided funds to prepare profiles of people being kept in expensive secure facilities who could safely be released, such as non-violent offenders spending two and three years for technical parole violations, parolable lifers who have served decades more than their sentencing judges intended, and people with good institutional records who have been effectively resentenced for their crimes by the parole board.

Each profile will explain the individual’s particular dilemma, including the offense and sentence, the offender’s background and conduct in prison, and the parole board’s rationale for continued incarceration.

“These prisoner profiles will give a face to the offender categories being examined,” Levine said. “They will illustrate the inequities as well as the waste of human life and public resources that occur with existing parole and parole violation return policies. With accurate data and persuasive human stories, CAPPS can build the case for parole reform.”

Full results of the data analysis are scheduled for publication in October. Prisoner profiles will be posted on the CAPPS website as they become available. A profile of prisoner Jan Borek appears beginning on page 4.

“We’re very close to being able to provide the data that supports CAPPS’ recommendations for reducing excessive incarceration.”

Case History: Jan Borek No. 228729

3. Where the prisoner has admitted his guilt of second-degree murder, is the parole board taking on the role of police when it focuses on missing evidence and its desire to determine the “true injuries” to the victim?

4. What basis does the parole board have for consistently disagreeing with the assessments of MDOC psychologists about whether a person is remorseful, honest or at risk for re-offending?

5. Why is Jan Borek’s exceptional record in prison inadequate to earn his release? Should the parole board be able to make him serve his maximum sentence based on the reasons it has used to deny parole to date?



What a few dollars can do

For a tiny fraction of the \$1.72 billion Corrections budget, CAPPS can advocate for:

- paroling thousands of prisoners who could be safely released
- changes in law and policy that could reduce our use of prisons for less serious offenders, the mentally ill and those with substance abuse problems
- shifting millions of dollars from operating prisons to programs for children, families and prisoners.

We pay \$29,000 for each of the 50,000 men and women we imprison. If CAPPS had the equivalent of \$10 per prisoner, it could:

- ▶ Mount a broad-based public education campaign
- ▶ Design well-researched proposals for reducing corrections spending
- ▶ Develop persuasive profiles of prisoners who could safely be released
- ▶ Build a membership base that will impress policymakers
- ▶ Mobilize prisoner family members
- ▶ Maintain an engaging website, publish our newsletter, draft position papers
- ▶ Respond promptly to the media, legislators, community and prisoners

Your membership has power



**CITIZENS ALLIANCE ON
PRISONS & PUBLIC SPENDING**
115 W. ALLEGAN STREET,
SUITE 950, LANSING, MI 48933

The Citizens Alliance on Prisons and Public Spending, a non-profit public policy organization, represents organizations and individuals concerned about the social and economic costs of prison expansion. Because policy choices, not crime rates, have caused our prison population to explode, CAPPS advocates re-examining those policies and shifting our resources to public services that prevent crime, rehabilitate offenders, and address the needs of all our citizens in a cost-effective manner.

Citizens Alliance on Prisons and Public Spending Membership Form

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