

## *CAPPS says major policy changes needed to reduce prisoner numbers*

### **Mixed results for MDOC population management efforts**

Faced with a prison population that is still projected to reach 54,000 in 2007, the Michigan Department of Corrections is trying various approaches to push off the “run out of beds” date and avoid re-opening two prisons that are currently mothballed.

Beds are being added to existing facilities, some parole practices have been modified, a proposal to revise the sentencing guidelines is evolving, and long-term planning for an ambitious prisoner re-entry initiative has begun. Despite all this activity, at best the Michigan Reformatory and unused cell blocks at Jackson Maximum Facility, which together contain 1,497 beds, will have to be re-opened by mid-2006 at a combined operating cost of \$66 million. Even that fix will last only a year. Absent more fundamental changes, we will once again be out of prison beds in 2007.

CAPPS Executive Director Barbara Levine praises the positive steps the MDOC has taken but stresses that slowing prison growth is not enough. “Unless we reassess the policies that cause this consistent expansion, we will be perpetually

committed to locking up one-fifth of our general fund budget in prison.”

CAPPS has proposed five steps that would immediately begin reducing the state’s prison population without jeopardizing public safety.

#### **Playing musical beds**

The budget for 2005 assumes the MDOC will have to house 51,169 prisoners. To do this as economically as possible, the department is rearranging the populations at several facilities, adding beds to existing prisons and starting a new residential program for female parolees.

One positive consequence of all this reorganizing will be the closure of Western Wayne Correctional Facility, currently used as a women’s prison. The former Detroit House of Correction is an old facility with physical problems that is inordinately expensive to run. Huron Valley Center, formerly a women’s prison and now a psychiatric hospital for prisoners, will be converted back into a women’s prison. The Huron Valley Correctional Facility, a Level IV men’s prison nearby, will become the psychiatric facility and its prisoners will be dispersed throughout the system.

Another positive change will be the conversion of Ionia Maximum Facility, Michigan’s only “supermax” prison, from Level VI to Level V. Of the five current Level VI units, two will become Level V general population, one will be a transition unit and two will remain segregation units. This will allow a savings of \$1.1

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# Growth control=mixed results

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million and a gain of 31 beds.

Also positive is the opening of Naomi's Nest, a privately run residential program in Detroit for women who otherwise would not have been paroled. Forty-four female parolees will participate in a highly structured four-phase program that will begin in prison. Over the course of six months, the program will focus on family reunification, life skills development, substance abuse treatment, academic and vocational training and, ultimately, employment and housing.

The remaining changes all involve squeezing more prisoners into existing facilities.

The Oaks Correctional Facility, currently Level V, is being converted to a Level IV prison. This will allow double bunking and create a gain of 412 beds. Funds are being sought to phase in 480 beds at Jackson Maximum Facility through early 2005. Partial-year funding is being sought to re-open 200 beds at Camp Lehman in March 2005 and the 100-bed Camp Tuscola annex in June 2005. An additional 23 beds are sought for Scott Correctional Facility.

Collectively these changes will create a net gain of 936 beds.

#### Modest steps in parole

CAPPS research showed that, as of May 2003, over 17,000 Michigan prisoners were eligible for parole. At recent budget hearings, parole board chairman John Rubitschun testified that this number is now about 16,000. A combination of factors has caused the decline.

Parole grant rates have increased from 48 percent to 53 percent. Reasons for the increase include changes in the drug laws that made hundreds of prisoners eligible for parole sooner and limitations on the use of "fixed date" paroles (see story, page 5). The parole board also implemented a "Continuance Review Project" to speed up the reconsideration of low risk prisoners who had previously been denied parole.

The Field Operations Administration took a major step by decreasing the number of technical parole violators returned to prison, relying more heavily instead on community-based sanctions for technical violations. In 2003 a total of 1,115 fewer technical violators were returned than in 2002, a decrease of 34 percent. The MDOC cautions that as the number of people paroled increases, the number of technical parole violators returned to prison will increase as well.

#### Proposed sentencing guidelines revisions

In early 2004, the MDOC unveiled its initial proposal for revising Michigan's sentencing guidelines. The guidelines establish a range within which the judge must set the defendant's minimum sentence. Originally developed by a legislatively established commission, the guidelines took effect in 1999 and apply to all felonies.

The guidelines are based on a point scoring system that accounts for the nature of the crime, the details of the offense and the offender's prior record. Depending on their scores, offenders fall into intermediate sanction cells that presumptively lock them out of prison, presumptive prison cells that require a prison sentence, or

straddle cells. For straddle cells offenders, judges retain the discretion to choose either an intermediate sanction or a prison term. Each cell contains a range of months, such as 0-6 or 225 to 375. Judges retain the right to depart from the guidelines recommendation, but they must state substantial and compelling reasons that are subject to appellate review.

When the guidelines were first designed, their exact impact could not be predicted so assumptions had to be made. The legislation directed the Sentencing Commission to conduct on-going research to determine the guidelines' impact on state and local resources but this never occurred. An amendment to the statute disbanded the Commission in 2002.

One assumption that proved erroneous was that judges would sentence offenders who fall into straddle cells to a prison term just 20 percent of the time. In fact, judges are sentencing these offenders to prison 40 percent of the time. Thus, the impact on prison beds was significantly underestimated.

The MDOC's initial proposal would have shifted the boundaries on the straddle cells for all offenses that fall into crime classes D, E and F, that is, for those carrying 10, 5 and 4 year maximum terms. Offenders who were on probation or parole at the time of the offense or who were convicted of being habitual offenders could still fall into straddle cells, but other offenders who currently fall into straddle cells would be shifted into intermediate sanction cells.

The Sentencing Commission also never developed a formula for applying the guidelines to people who were initially placed on probation but who violated the terms of probation and were being resentenced. Probation violators comprise more than 35 percent of admissions to prison each year.

Since they are not constrained by guidelines, trial judges are free to impose any prison term the law allows for the original offense. No research has been done on how judges have exercised this discretion and to what extent they have chosen to "throw the book" at people who violate probation supervision rules, even without committing a new crime.

The initial proposal would have created a formula for sentencing technical probation violators. Looking to the original sentencing guidelines score, the formula would have allowed the sentencing range to be increased 25 percent for the first violation referred to the court, 50 percent for the second violation, 75 percent for the third violation and 100 percent for the fourth violation.

## Five simple, safe ways to save prison beds

1. Place a statutory maximum of 12 months on how long most technical parole violators can be kept. In CAPPS' review of the MDOC database, 2,300 of the 3,600 technical parole violators incarcerated in May 2003 had already served more than a year.

2. Restore prisoner parole appeals in cases where the board departs from parole guidelines scores showing high probability for release. While the statute requires the board to state substantial and compelling reasons for parole guidelines departures, just as judges must do when they depart from sentencing guidelines, the requirement is not enforceable because parole board decisions are not subject to appellate review.

3. Assess parolable lifers on the same terms as anyone else who is eligible for parole. Calculate their parole guidelines scores and permit appeals of no interest decisions if the guidelines scores are high. Restore the requirement of personal interviews every two years instead of permitting lifers to be continued for five years at a time based on nothing more than a review of the file.

4. Prohibit continuances longer than 12 months except for lifers. Currently people who are denied parole are continued for 12, 18 or 24 months without any apparent reasons for the differences.

5. When a prisoner is denied parole because he or she has not been able to complete a required program that has not been made available, require the board to reconsider the prisoner immediately upon completion of the program.

# Attempt at population management = mixed results

(Continued from page 3)

The MDOC estimated that its proposal would reduce admissions to prison by 1,200 people over the next three years and said adoption of the revisions was critical to extending the bed run-out date to 2006. The money saved would be redirected to local units of government to increase the availability of jail beds, residential treatment beds and non-residential programs.

The MDOC's proposal has engendered opposition from judges, sheriffs and prosecutors. Concerns focused on the movement of certain offenders into straddle cells and the pressure that would be created on local jails that are already overcrowded. In

response, the department has reconsidered its approach. Selected crimes, such as OUIL 3rd and assaultive offenses, will not be shifted out of straddle cells after all. To compensate for the decline in beds saved, the MDOC

will explore changing the guidelines ranges in presumptive prison and straddle cells to shorten average prison sentences by some months.

The MDOC is also reconsidering how the sentencing guidelines might be applied to probation violators. It will conduct an empirical analysis of the frequency and nature of probation violations and of the sanctions currently imposed. The impact of a recent Court of Appeals decision, *People v Hendrick*, must also be assessed. Instead of an across the board formula, a new proposal may suggest that points be assessed based on the number and nature of each individual's violations.

To have the needed impact in FY '06, guidelines revisions must become effective by April 2005. It is unclear whether the MDOC's new proposals will be adopted and, if so, whether they will save enough prison beds to make the difference the department hoped to achieve. The only thing that is certain is that Senate Bill 1152, introduced by Sen. Samuel "Buzz" Thomas on April 21 as a vehicle for implementing sentencing

guidelines revisions, will undergo a lot of revisions itself before it is brought to a vote.

## Long-term MDOC goals, immediate CAPPs solutions

The MDOC is currently engaged in a long-term planning process called the Michigan Prisoner Re-entry Initiative. Supported by grants from the National Institute of Corrections and the National Governors' Conference, the Re-entry Initiative is focused on reducing recidivism by improving people's chances of succeeding in the community. The Michigan Initiative is based on a model developed by the National Institute of Corrections called the Transition from Prison to Community Initiative (TPCI). The goal is to conduct a careful assessment of the prisoner's needs and skills as soon as he or she enters prison and to engage in comprehensive, individualized planning geared toward reducing that individual's risk of re-offending.

The re-entry phase, during which intensive services will be provided, begins six months before the prisoner's target release date and continues through the initial adjustment to the community. As the prisoner adjusts, both supervision and support will taper off. However, one of the goals is to insure that those people who continue to need supportive services will receive them even after they have discharged from parole.

Because recidivism is so often attributable to such factors as substance abuse, mental illness, a lack of family support, the unavailability of housing and the inability to find employment, the state policy team developing the plan includes not only Corrections but Community Health, Labor and Economic Growth, and the Family Independence Agency. An advisory council of 150 key stakeholders (including several CAPPs board members and the CAPPs executive director) has also been assembled to give their input. Thus, an innovative and critical element of the whole TPCI approach is the involvement of other state agencies and community groups whose participation is necessary to insure that prisoners have a realistic chance of re-entering the community successfully.

The Re-Entry Initiative is a complex and



## CAPPS research prompts limits on fixed date paroles

In apparent response to CAPPS research, the MDOC has changed its use of fixed date paroles. In such cases the decision is made to parole but the actual release date is set at some time in the future.

The change, which makes the decision to use that type of parole approval more selective and consistent, occurred after CAPPS pointed out in its report, "The high cost of denying parole: an analysis of prisoners eligible for release," that in May 2003 the practice had resulted in nearly 1,000 prisoners being kept in prison after parole had been granted.

On the average, prisoners with fixed dates have to serve an additional four months beyond the date parole was granted. In 115 cases CAPPS examined the date fixed was from six months later to more than year. If the prisoner is found guilty of a major misconduct while waiting for release, the parole decision can be rescinded.

The practice of fixed-date paroles was designed for use in selected cases when it was felt that a short additional period of incarceration would achieve a particular goal. The exception, however, began to consume the rule. From January through October 2001, more than 86 percent of all the paroles granted were fixed-date. That percentage was altered from November 2001 through September 2002 because of a prison bed shortage but remained high at 72 percent.

The department's new guidelines, printed below, say fixed date paroles will be granted only:

1. As a short-term penalty resulting from

the prisoner being found guilty of a serious institutional misconduct prior to a scheduled parole board interview. This is done to provide additional opportunity for the prisoner to prove that he or she can conform to the rules of the facility and supervision expectations.

2. As a short-term penalty resulting from the prisoner being found guilty of a serious institutional misconduct after being granted a parole by the Parole Board but prior to release from the facility on earliest release date.

3. A technical parole violator who is participating in the MDOC's Parole Violator Diversion Program (PVDP). The fixed parole date for these offenders is their established PVDP completion date.

4. As a short-term penalty for technical parole violators returned to prison. Absent the use of this short-term return with a fixed parole date, the parole board would be forced to grant a continuance (which must be at least 12 months) and then review, interview and vote the case again following the continuance period.

5. As a short-term penalty for prisoners who violate the conditions (e.g., positive drug test, curfew violation, etc.) of CRP either prior to being granted parole by the Parole Board or after parole has been granted and prior to release on parole on earliest release date. A fixed-date parole is used to provide additional time/opportunity for the prisoner to prove that they can conform to their release conditions. The prisoner remains in the community and receives a delayed parole date as a sanction.

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## Attempt at population management = mixed results

*(Continued from page 4)*

enormously ambitious undertaking. Policies and procedures must be revamped at every step of the way. Thousands of employees of the MDOC and several other state agencies must be reoriented. Relationships with hundreds of local agencies, service providers and community groups must be built or refined. Numerous fundamental questions must be resolved, such as the meaning of the minimum sentence, the relationship of risk assessment to release decisions, and the criteria for determining prisoner participation. The planning process alone will take at least two years. The implementation will take several more. Ultimately success depends on having sufficient resources to provide adequate institutional programming and parole support.

CAPPS supports the concept of the MDOC's

prisoner Re-Entry Initiative and looks forward to participating in the planning process, but urges the adoption of available short-term methods of reducing the population that target prisoners who have already served their minimum sentences.

If these narrow, fair and practical changes in current procedures are put in place, the size of the prisoner population will decrease immediately, freeing resources for other state services and for the MDOC's own re-entry efforts. If such steps are not taken, the prisoner population will continue to grow. Shuffling people among institutions will become more and more like rearranging the deck chairs on the Titanic.

# Reducing Corrections budget poses dilemmas

## Eliminating programs, increasing paroles, changes at Youth Facility discussed at House hearing

If the 2005 fiscal year budget proposed by the Governor is adopted, one of every five dollars of the state's general operating funds will be spent on Corrections. The MDOC is seeking \$1.74 billion out of a recommended general fund budget of \$8.65 billion.

Testimony at legislative hearings on the Corrections budget has raised many difficult issues.

As Barbara Levine, executive director of CAPPs, told state legislators:

"It is time to rethink how we allocate our scarce resources. While teachers are being laid off, police and firefighter positions are going unfilled, university tuitions are skyrocketing and people are being denied basic medical care, we are spending ever more money on keeping people locked up." She said the MDOC budget is the only agency in which spending has increased despite the deficit.

MDOC officials testified to various steps they are taking in an effort to slow prison growth. (See story, page 1.) The Senate attempted to exercise some control over the Corrections budget by eliminating \$20 million, primarily from prisoner treatment and education programs. (See story, page 10). The House Appropriations Subcommittee on Corrections is trying to find alternatives to those program cuts, such as saving \$800,000 on medications currently wasted by rules for dispensing pharmaceuticals that do not work well in the prison setting.

When MDOC Director Patricia Caruso testified before the House subcommittee on April 27th, Chairman Mike Pumford raised the prospect that, given the looming \$1.3 billion deficit for 2005, even \$20 million in cuts might not be enough. He asked Ms. Caruso what the consequence would be if

the MDOC lost \$150 million. She replied that, at an average of \$20 million per prison, as many as seven prisons would have to be closed.

Levine testified the following week that what Rep. Pumford had posed as a worst-case scenario is exactly what CAPPs suggests should happen. Referring to the research report CAPPs released in November 2003, Levine explained that the release of 7,200 parole-eligible prisoners would allow the state to close seven Level I prisons formerly designated "temporary" facilities. That would save state taxpayers \$145 million without any significant risk to public safety.

"I want to emphasize," Levine said, "that we are not talking about "early releases", that is releasing people who have not completed their minimum terms in order to save money. On the contrary, we are talking about releasing people

*"While teachers are being laid off, police and firefighter positions are going unfilled, university tuitions are skyrocketing and people are being denied basic medical care, we are spending ever more money on keeping people locked up."*

who have served their minimums and should be paroled on their merits, which would have the salutary effect of also saving money. We are talking about the flip side of truth in sentencing: once you have served every day of the minimum term the judge imposed, you should be released unless you are currently a risk to the public."

Director Caruso stressed that the current Michigan statutory scheme does not create a presumption of parole once the minimum sentence has been served, absent poor institutional conduct or evidence that the prisoner is currently dangerous. Instead the statute requires that the board have "reasonable assurance, after consideration of all the fact...that the prisoner will not become a menace to society or the public safety." The board

*MDOC data analyzed by CAPPS shows that the Youth Facility is not housing the sort of juvenile “superpredators” that the state anticipated when it supported construction of the facility in the 1990s.*

has complete discretion in deciding how to apply this standard to each case.

Levine observed that the “old” parole board’s interpretation of this standard led to a parole grant rate of about 68 percent while the “new” board’s interpretation led to grant rates as low as 48 percent. She urged revision of the statute to reflect a clear legislative mandate.

Still another area of potential cost savings, Levine noted, is the Michigan Youth Facility in Baldwin, Michigan’s only privately operated prison. Federal funding for leasing and operating the facility, which costs about \$19 million annually, expires this year, requiring the state to pay the full amount from general operating funds starting in Fiscal Year 2005.

MDOC data analyzed by CAPPS shows that as of May 2003, the Youth Facility was not housing the sort of juvenile “superpredators” that the state anticipated when it supported construction of the facility in the 1990s. Only seven of 480 prisoners at the facility were younger than 17; 58 percent were 17 or 18 at the time of their offenses, meaning they had not been waived into the adult system from juvenile court. Equally important, while the facility is operated as a Level 5 (maximum security) prison, only 28 of the prisoners there were actually classified as Level 5 based on their conduct. Two-thirds of the prisoners were Level 1 or 2. Lower level prisoners are supposed to have more privileges than maximum security inmates and lower

security prisons are less expensive to run. “It appears from the data,” Levine said, “that the Youth Facility is being filled with older teenagers who could be housed less expensively and more fairly at MDOC prisons appropriate to their age and security levels.”

Current data obtained from the MDOC by Booth Newspapers confirms this impression. An article by reporter Judy Putnam, which appeared in Booth papers in Grand Rapids, Ann Arbor, Flint, Saginaw and Jackson, examined the issues of cost, security classification and programming at the Youth Facility. (See full article at page 8). Putnam concluded that Level 2 prisoners being housed there for \$75.81 per day

could be housed at Level 2 prisons for no more than \$64.89 per day. Based on these figures, Levine recommended to the House subcommittee that reducing the security designation of the Youth Facility from Level 5 to Level 2 would be another way to save roughly \$2 million.

CAPPS recommendations on reducing the state’s prison population through changes in parole practices can be found in the report, “*The high cost of denying parole: an analysis of prisoners eligible for release.*” The report is available at the CAPPS web site: [www.capps-mi.org](http://www.capps-mi.org) and at prison libraries. The House testimony of Executive Director Barbara Levine is also available on the web site.

## 2005 budget remains under legislative consideration

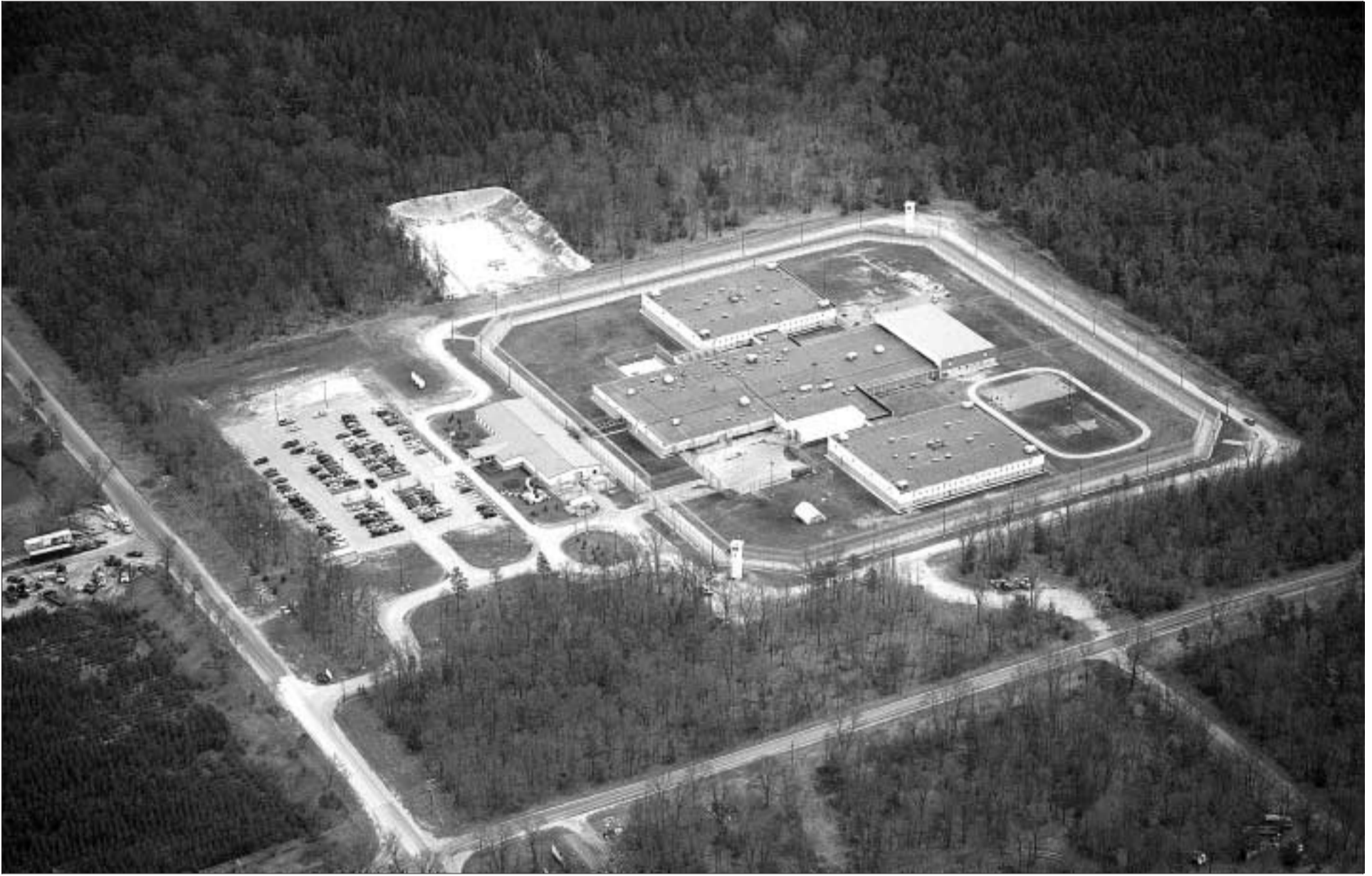
The MDOC 2005 proposed budget has passed the Senate but remains in the House of Representatives as of this writing.

Once the bill passes the House, differences in the House and Senate versions will be reconciled in a conference committee. Readers who wish to comment on budget proposals should contact their own legislators and/or members of the Senate and House corrections appropriations subcommittees. See contact information on page 15.

To see the entire budget bill, go to [www.capps-mi.org/Michigan%20Legislature.htm](http://www.capps-mi.org/Michigan%20Legislature.htm)

# PERSPECTIVE

THE GRAND RAPIDS PRESS



PRESS PHOTO/MARJORIE BEAVER

The Michigan Youth Correctional Facility sits in a wooded area near Baldwin, across a gravel road from a junk yard.

## PUNKED?

### Critics challenge savings claimed by privately run youth prison

By **Judy Putnam**  
Grand Rapids Press Bureau

LANSING — Five years after Michigan opened its only private for-profit prison — the so-called punk prison in Baldwin — critics charge that taxpayers are getting soaked for high-security costs when a majority of the young inmates could be housed in lower-security facilities.

The Michigan Youth Correctional Facility was part of a sweeping juvenile justice reform package approved in 1996 that promised “adult time for adult crime.”

The prison was constructed for maximum security, usually reserved for inmates who try to escape or commit new crimes while in prison. It comes with two manned gun towers and an armed response vehicle that circles the perimeter 24 hours a day.

But the hordes of violent juvenile offenders expected to fill the prison have not materialized.

Less than one-third of the inmates there last week were Level 4 and 5, the highest security levels, while two-thirds were Levels 1 and 2, the lowest security levels. Those lower-security levels are assigned to inmates committing less serious crimes or with good behavior over time inside the prison.

“It’s incredible that we are operating a system where there’s only two ways to get to maximum security. One is by serious misbehavior in prison, and the other is by being a kid,” said Barbara Levine, executive director of the Citizens Alliance of Prisons & Public Spending, a Michigan prison spending watchdog group.

Michigan will spend \$19.27 million



PRESS FILE PHOTO

Inmates walk during yard time inside the Baldwin “punk prison” in April 2000.

next year on the 480-bed prison.

A study by Levine’s group found most prisoners at the facility weren’t even juveniles when they committed their crimes. CAPPs found 58 percent of those in the prison in May 2003 were considered adults, defined as 17 or older, at the time of their offenses.

The facility was originally aimed at juveniles who commit crimes serious enough for judges and prosecutors to move them to the adult system.

Despite the lower-level security inmates and adult convicts, the prison fills a need to protect younger inmates, said Russ Marlan, Corrections Department spokesman. Inmates are

moved from the facility when they turn 20.

“I think it is accomplishing its goal of keeping the younger offenders away from the older, more experienced prisoner. That’s a good thing when you can separate the two,” he said.

That’s cold comfort to Frank Klootwyk of Twin Lake in Muskegon County. He said his 19-year-old son, Eric, serving 2½ to 15 years for home invasion, has been housed with murderers since he was in a fight inside the prison.

Klootwyk is concerned for the safety of his son, who has been at the prison for two years.

#### PUNK PRISON

The inmate population at the Michigan Youth Correctional Facility (as of April 26)

Total inmates	479
By security level	
Highest to lowest	
Level 5	31
Level 4	100
Level 3	30
Level 2	198
Level 1	120

#### By age

14 years old	1
15 years old	1
16 years old	12
17 years old	52
18 years old	172
19 years old	241

Source: Michigan Department of Corrections

“He’s no angel, but he’s not a killer. He doesn’t belong with killers,” Klootwyk said.

The facility does have high-security inmates. It is home to Martez Stewart, who was 13 in 1998 when he stabbed to death a 14-year-old neighbor in Jackson. Stewart is serving life for second-degree murder and is considered a Level 4 inmate.

see PUNKED, D4



# PUNKED *State's savings are questioned by report*

CONTINUED FROM D1

The CAPPS report found seven first-degree murderers, 21 second-degree murderers, 108 armed robbers and 58 sex offenders at the prison in May 2003. It also showed inmates convicted of nonviolent crimes, including 32 home invasion sentences, 15 breaking and entering, 19 drug charges and 10 car theft convictions.

The prison is run by the Boca Raton, Fla.-based Geo Group Inc., formerly Wackenhut Corrections Corp.

In 2003, the MDOC estimated savings of \$3.4 million a year to the Michigan Civil Service Commission when it extended the private prison's contract for four years. And the Mackinac Center, a Midland-based think tank that supports privatization, last year reported savings between \$2.5 million and \$6.9 million at the Baldwin facility.

But those figures are based on the cost of the state running a maximum-security prison.

The touted savings for the private prison shrink considerably — to \$420,000 annually — when classification levels are considered.

Still, Barry Wickman, MDOC's chief financial officer, said the \$75.81 daily rate to the private prison compares favorably to the \$78.21 daily rate for running a multi-level prison in a state facility.

Other comparisons show no savings, however, at the lower security levels.

At the Handlon Correctional facility in Ionia, for example, which houses Level 2 inmates younger than 25, the cost per day is \$43.69, according to an MDOC report.

But to compare similar costs

## GETTING IN

How inmates get to the Michigan Youth Correctional Facility:

- The punk prison houses youths up to age 20. They must be treated as adults by local prosecutors or judges.
- Available beds are filled by youngest incoming prisoners first, then by inmates 19 and younger serving the longest sentences.
- As of last week, the facility held all prisoners 16 and younger within the state corrections system. Some 17-year-olds were in other prisons.

Source: Michigan Department of Corrections

borne by the Geo Group at the Michigan Youth Correctional Facility, Wickman adds \$21.20 per day for central office costs, such as workers compensation, health care and education. That's \$64.89 per day per inmate, still less than \$75.81 paid to the private prison.

The daily rate also does not include the \$5.6 million the state pays a year to lease the facility. Michigan signed a 20-year lease in 1999.

Elizabeth Arnovits, executive director of the Michigan Council on Crime and Delinquency, said the state is simply filling up the prison with other teens when the wave of "super predators" predicted in the mid-1990s didn't happen.

"Why are we paying this private provider for a Level 5 facility when, in fact, they are having predominantly minor offenders who don't need that kind of security?" said Arnovits, whose group advocates for crime-prevention programs.

"The few that are Levels 5 that have committed terrible crimes need to be in a special place, but it doesn't have to be this hugely expensive prison."

Part of the effort in the 1990s was to move a portion of hard-core juveniles from expensive treatment beds in the state social

services agencies to more of a punishment-oriented approach. The daily rate at the state's high-security juvenile facility, Maxey Training School in Whitmore Lake, is \$327, according to the Family Independence Agency.

The wrong kids are going to the youth prison, said Jon Cisky, a former state senator who worked on the juvenile justice package and is now a criminal justice professor at Saginaw Valley State University.

"A kid in on a B&E doesn't belong in a maximum-security prison," said Cisky, who also works with a company specializing in juvenile rehabilitation.

He said financially strapped counties, through their judges and prosecutors, have an incentive to send youths to the adult system, where the state bears all the cost, rather than to the juvenile system, where locals and the state share costs.

But corrections officials say they can't simply move the inmates to other facilities to save some of the costs, because the state system is full.

"If we had the available beds, we could move them to Level 1 or Level 2, and it would be more cost-efficient. Right now, we don't have those beds," Marlan said.

The Michigan Youth



PRESS FILE PHOTO

Michigan Youth Correctional Facility prisoners congregate in the yard near an armed guard tower in April 2000.

Correctional Facility Warden Frank Elo, a retired state prison warden, said his prison provides high security but also offers programming that isn't found at state maximum-security level facilities.

For example, inmates spend most of their time in a cell at a maximum-security facility.

Elo said inmates at the punk prison are out of their cells in activities all day. The prison offers therapeutic programs as well as educational programs. The prison reported 214 inmates were in GED instruction or pre-GED instruction to finish their high school education from January to March.

Some say, however, there's too much idle time.

Deb LaBelle, a human rights attorney from Ann Arbor who has been researching juveniles

serving life terms, said programming appears minimal. She has interviewed inmates who spend just 90 minutes a day in school.

"I think that the programming here is ... thinner than at many other adult facilities," she said.

Cynthia Okert of Vandercook Lake in Jackson County said she hopes her son will get vocational training. He has been without programming since he earned his high school equivalency diploma two years ago, she said.

David Okert, 19, has served more than three years at the youth facility on a seven- to 20-year term for assault with intent to rob while armed, an offense he committed when he was 15.

He was just moved to Riverside Correctional Facility in Ionia, which specializes in mental health

treatment.

Okert said her son attempted suicide last month. She said he needs more challenges.

"He says he just listens to his music and watches TV," she said.

Elo, warden for four years, said the punk prison is running smoothly after negative publicity over assaults, staff turnover and suicide attempts in the months after it opened. The prison also contributes more than \$1 million a year in taxes, while a state facility would be exempt, Elo said.

"The operation here, security-wise, is maximum security. Operationally, we probably operate more in line as a Level 2," he said.

He said the higher security is needed because of the inmates' immaturity. "They are very impulsive," he said.

# Proposed cuts threaten prisoner re-entry

As passed by the Senate, the MDOC's proposed 2005 fiscal year budget calls for \$20 million in cuts, primarily in prisoner education, substance abuse treatment and treatment of Hepatitis C.

A number of representatives of service providers and advocacy groups as well as of the MDOC, testified in opposition to the cuts before the House Appropriations Subcommittee on Corrections.

MDOC Deputy Director Dennis Schrantz told legislators in April that the cuts, which amount to 20 percent of education programming and 34 percent of substance abuse treatment, "represent a tremendous setback by several years in the department's prisoner re-entry initiative."

*Michigan is already tied for last place in the nation for the percentage of state budget dollars allocated to substance abuse treatment and prevention.*

Barry Wickman, the MDOC's budget chief, said the cuts might impact the department's ability to offer GED programming, completion of which is required for parole.

CAPPS Executive Director Barbara Levine told lawmakers, "These are steep cuts in programs that have already suffered significant reductions. There was never enough treatment and educational programming to go around. Waiting lists are already too long. These cuts zero in on the small portion of the MDOC budget that is used to help prisoners become productive citizens.

"When people go to prison, they do not turn off their brains for three or six or 15 years and stare at a wall 24 hours a day. They have to use their time somehow. They can use it constructively, in ways that will help them prepare for life on the outside, or they can gossip, fight,

play basketball and watch TV."

## Substance Abuse Testing and Treatment

The executive recommendation seeks \$17.7 million in general fund support, the same as in 2004, for substance abuse testing and treatment, both in and out of prison during 2005. Federal funding has supplied another \$2.3 million, but that amount is being cut by \$1.1 million. The loss of federal funds in 2005 will mean that 335 prisoners will not receive residential substance abuse treatment for severe substance dependence. The Senate cut the state funding request by \$5.3.

Michael Reagan, president of the Association of Licensed Substance Abuse Organizations and of Project Rehab in Grand Rapids, told legislators that research by the University of Michigan has shown that substance abuse treatment can reduce recidivism overall by 10 percent.

Addressing the causes of recidivism, Reagan said, is the best way to assure public safety and reduce the MDOC budget.

The cuts could result in eliminating residential treatment for 937 probationers and parolees and outpatient treatment for 4,606 probationers, parolees, prisoners and for 440 Special Alternative to Incarceration (boot camp) offenders. Predictably, 21 percent of these offenders denied access to treatment will end up serving 18 months in prison, costing the state \$35.6 million annually. This does not include the taxes or child support paid while the offender remains in the community working as opposed to being in prison," Reagan said.

Reagan, who is also a member of the CAPPS board of directors, said Michigan is already tied for last place in the nation for the percentage of state budget dollars allocated to substance abuse treatment and prevention. Untreated substance abuse costs the criminal justice system \$1.1 billion in the

areas of corrections, judiciary, and juvenile justice.

“Failure to use the criminal justice system to get non-violent alcohol and drug abusing offenders into treatment and releasing them into the community without treatment is tantamount to visiting criminals upon society,” Reagan said.

Reagan’s testimony is available on the CAPPS website at [www.capps-mi.org](http://www.capps-mi.org).

### Academic and Vocational Programming

The executive budget called for \$31,679,800 for prisoner academic and vocational programming in 2005. The Senate cut that budget by \$5 million.

“Study after study indicates a significant correlation between both vocational and academic education and reduced recidivism,” said Levine.

Among the findings:

1. The Three State Recidivism Study, conducted over a four-year period in Maryland, Minnesota and Ohio and involving more than 3,400 inmates, found a substantial difference in the rate of recidivism between prisoners who participated in educational programs and those who did not.<sup>1</sup> Participants had statistically significant lower rates of re-arrest (48 percent) when compared to non-participants (57 percent); of reconviction (27 percent compared to 21 per-

cent); and of re-incarceration (21 percent compared to 31 percent).

cent); and of re-incarceration (21 percent compared to 31 percent).

2. A UCLA study based on the findings of the Three State Recidivism Study compared the

tiveness of both vocational and academic education. It reports a 13 percent reduction in recidivism rates for those who complete vocational education and 11 percent for those who complete academic education.<sup>3</sup>

In an ironic twist, even the Michigan legislature is acknowledging the connection between education and crime prevention. Recently passed HB 4434 will allow judges to require an offender, as a condition of probation, to complete high school or obtain a GED.

“Cutting vocational and academic programs is penny wise and pound foolish,” said Levine.

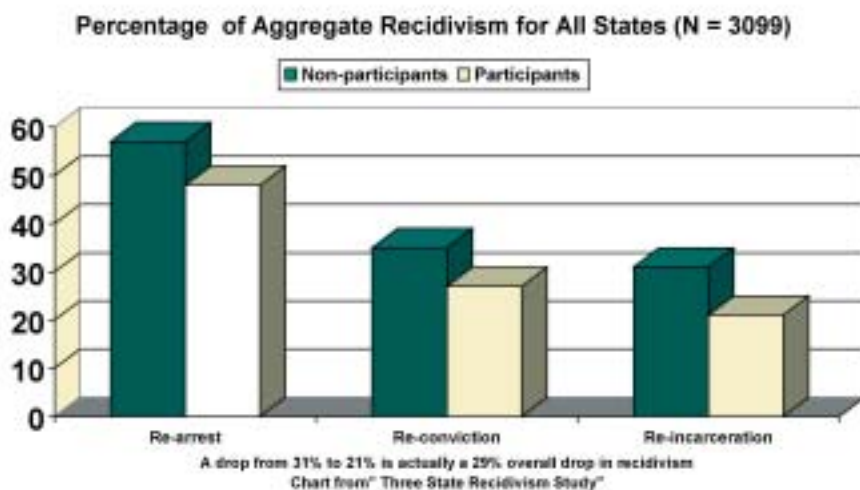
Notably, in 2002, the Urban Institute’s Justice Policy Center published the results of an inventory of prisoner programs in seven states in the Great Lakes region (Illinois, Indiana, Iowa, Michigan, Ohio and Wisconsin).<sup>4</sup>

“Our review suggests that the gap between programming

Type of Program	Vocational	ABE and GED
Average Size of Recidivism Drop	13%	11%
Net Cost Per Participant	\$1,960	\$1,972
Criminal Justice Costs of Recidivism*	\$2,835	\$1,852
CJ and Victims Costs*	\$12,017	\$9,176
Benefits for dollars spent: (Spent, Saved)	\$1 to \$7	\$1 to \$5.50

Adapted from Petersilia, J. *When Prisoners Come Home: Parole and Prisoner Reentry*, Oxford University Press (2003), p. 181.

\*The cost of crime to taxpayers is estimated by modeling the marginal operating and capital costs of Washington’s state and local government criminal justice system, and the way in which juvenile and adult criminal cases are processed in Washington. The costs incurred by crime victims are obtained from national sources.



the levels and qualities of programming that research indicates are needed to positively impact employment or other outcomes.”

The Great Lakes states have relatively low program participation rates compared with national-level participation rates.

At the time of the research, Michigan’s prison population was the largest among the seven states. Its incarceration rate per 100,000 was by far the largest.

At the same time, it was fifth among these states in the percent of education participation among prisoners (23.8 percent) and fourth in reporting vocational program participation (4.7 percent).

The report said that despite a long-standing historical emphasis in American corrections on education and employment training and despite the importance of prison programming for improving a range of outcomes upon release, levels of program participation have declined.

“One reason for these declines is the rapid and enormous growth in prisons. Funding for correctional programs has not kept pace with population growth which has led to a reduction in the number of programs aimed at helping prisoners,” the report concluded.

## Treatment of prisoners with Hepatitis C

The governor’s office initially recommended \$5.9 million for testing and treatment of prisoners with Hepatitis C. The Senate eliminated virtually all of this line, leaving only a \$100 “placeholder.” The department has since revised its estimate of the number of prisoners infected with Hepatitis C treatment and the amount of money needed for treatment in 2005 and in 2006.

While it initially used projections based on national data, the department reports that a recent study, still being evaluated, suggests that about 6,800 Michigan prisoners have the disease. It now says it needs \$2.3 million to treat 465 prisoners in 2005 and \$11 million to treat 3,720 prisoners in 2006. Currently, about 55 prisoners are getting drug treatment.

Preliminary results from the study show that the infection rate is about 13.5 percent, which is considerably lower than the rates recorded in

some other states. Men, in particular, are testing lower than national averages

A total of 50 women were tested and 34 percent were infected compared with about

12 percent of the 600 men tested.

The department sought resources to treat Hepatitis C-infected prisoners after a series on the prevalence of the disease and the lack of treatment, written by Stacey Range, ran in the Lansing State Journal in the fall of 2003.

HVC, which can cause chronic liver disease including cirrhosis, is a virus transmitted primarily through intravenous drug use and also can be passed on through high risk sexual activities and tattooing with shared needles.

The Center for Disease Control has recommended that every state administer Hepatitis C tests to all prisoners with a history of intravenous drug use.

In its guidelines “Prevention and Control of Infections with Hepatitis Viruses in Correctional Settings,” the CDC said, “The high prevalence of chronic HBV and HCV infections and risk factors for their transmission make prevention and control of these infections high priorities for correctional health programs. In addition, because a substantial proportion of releases to the community continue to acquire or transmit these infections at a high rate, correctional efforts should become part of prevention and control efforts in the broader community.”

1. Steurer, S, Smith, L. and Tracy, A., “Three-state recidivism study,” Correctional Education Association (2001).

2. Bazos, A. and Housman, J., “Correctional Education as a Crime Control Program,” UCLA School of Public Policy and Social Research, Department of Policy Studies. (2004)

3. Aos, S., Phipps, P., Barnoski R. and Lieb, R., “The comparative costs and benefits of programs to reduce crime.” Washington State Institute for Public Policy. (2001)

4. Lawrence, S., Mears, D., Dubin G. and Travis, J., “The Practice and Promise of Prison Programming.” Washington, DC: Urban Institute. (2002)

# Faces behind the figures

## Are we safer because they're behind bars?

Another in a series of CAPPS profiles of prisoners currently eligible for parole

### Derrick Maurice Gooley No. 236951

*In 1994, Derrick Gooley pled guilty to unarmed robbery and was sentenced to 10 to 22½ years. Although no recommendation was ever made for him to complete the assaultive offender program (AOP), he tried on three occasions at three different prisons to enter it voluntarily. He was denied each time. In September 2003, the parole board continued Gooley in prison for 12 months, with the recommendation that he be screened for group therapy.*

Now age 34, Gooley is the second of three children born in Flint to working-class parents who divorced when he was 12. The self-described “problem child” of the family, he had a number of contacts with the juvenile court, primarily for theft offenses, and spent 15 months at the Maxey Boys Training School.

As an adult, Gooley’s primary problem has been drugs. Addicted to crack cocaine since the age of 18, he was convicted of possessing cocaine in 1991 and placed on four years’ probation. He failed to complete treatment and was again charged with possessing cocaine in December 1992. That charge was pending when Gooley committed the offense that sent him to prison.

On Feb. 1, 1994, Gooley arrived late at the apartment of an elderly woman for whom he was working as a home health aide. She told him he was fired. When she opened the door to get her key, he pushed his way inside, forcibly took two rings from her fingers, and left. The next morning, on the advice of his mother, he turned himself in to police. He returned the victim’s key and her wedding band, but he had sold her other ring for drugs. Gooley pled guilty to unarmed robbery and being a second offender.

Gooley has done well in prison. He has not received any misconducts since 2001 and is classified as minimum security.

Gooley successfully completed recommended substance abuse programming and continues to attend NA meetings voluntarily. He has

completed several vocational programs and took classes in business administration before college programs were discontinued. Staff says he remains focused and is well-liked by employees and fellow prisoners. He retains the support of family members to whom he will return when released.

In December 2000, Gooley tried to enter the Assaultive Offender Program (AOP) at the Thumb Correctional Facility, but was denied because his crime of unarmed robbery did not qualify him for the program and he had shown no assaultive behavior in prison during the previous five years.

In June 2001, at Carson City Correctional Facility, his request to enter the AOP was again denied because his file “does not reflect a sufficient assaultive history to meet the admission criteria.”

In June 2002, the list of crimes that qualified an offender for AOP was expanded to include unarmed robbery and a number of other offenses. Prisoners were not formally notified of this change.

Nevertheless, after nine years in prison, and with his first parole interview approaching, in March 2003 Gooley again requested screening for AOP. Failing to recognize that the criteria had changed since Gooley was last assessed, the psychologist answered that “a third screening will not change anything...you do not need one more assessment just because you’re going to the parole board.”

At Gooley’s first parole interview in September 2003, the board member questioned him about his “failure” to enter the AOP. The parole board then continued him in prison for 12 additional months, with a recommendation that he “obtain screening by psychological staff to determine the appropriateness of group therapy to reduce his risk to society.”

The parole board denied him a re-hearing, but prison staff immediately admitted him to AOP, which he will complete in August 2004, if the classes proceed on schedule. While his next “official” date for reconsideration by the parole board is January 31, 2005, he will probably be interviewed several months before that, possibly before he has finished AOP.

# Study dispels myths about sex offenders, recidivism

You've heard it. Sex offenders always repeat their crimes. They're untreatable, uncontrollable and must be kept in prison to protect the public.

Research by the U.S. Department of Justice on 9,691 sex offenders released from prison in 15 states in 1994 shows this is far from true.

Sex offenders, in fact, are among those at lowest risk for committing any kind of new offense as measured by the rearrest, reconviction and reincarceration of all released offenders. (Rearrest is the strongest and most conservative tool used to determine recidivism so comparisons here are made for rearrests. Conviction and reincarceration rates are lower.)

Though more likely to commit another sex offense than other types of released felons, only 5.3 percent of all sexual offenders (all men) were re-arrested for a new sex offense after release. Among non-sexual offenders, rearrest for a sex offense was 1.3 percent.

A total of 43 percent of the released sex offenders were arrested for any kind of new offense, while 68 percent of all released felons were rearrested.

The study divided the offenders into four overlapping categories: rapists, sexual assaulters, child molesters and statutory rapists. It appears that the term "child molester" refers to all forms of non-consensual sexual contact or intercourse with a child, such as incest and other domestic incidents, not just pedophilia.

Even those described as child molesters with victims under 16 had relatively low rearrest rates. A total of 5.1 percent were rearrested for a new sex crime. A total of 3.3 percent of the released child molesters and 2.5 percent of the released statutory rapists were rearrested for molesting another child.

The recidivism study followed the released prisoners for three years to find out how well they performed while on parole and after. The study, "*Recidivism of Sex Offenders Released from Prison in 1994*," was published in November, 2003.

General findings:

- A total of 5.0 percent of the rapists, 5.5 percent of the sexual assaulters and 5.0 percent of the statutory rapists were rearrested for a new sex

crime. Not all these crimes were against children; they included forcible rapes and various types of sexual assaults.

- The study compared recidivism rates among prisoners who served different lengths of time. There was no clear association found between how long offenders were kept in prison and their recidivism rate.
- The number of prior offenses correlated with repeat crimes. Prisoners with just one prior arrest for any type of crime had a 24.8 percent rearrest rate for all types of crimes. With two priors, the percentage rearrested rose to 31.9 percent. With three, it increased to 36.9 percent and with additional priors, the rate increased reaching a rearrest rate of 67 percent for those with more than 15 prior arrests.
- For about 71 percent of the rapists among the group the arrest for the rape was their first for a sex crime.
- Most recidivism occurred in the first year following release.
- 2.2 percent of all sex offenders were rearrested for a child sex crime after release.
- A relatively small percentage of rapists (2.5 percent) were charged with repeating the crime for which they were imprisoned.

Michigan was one of the 15 states studied. Though data from the study is not readily available for specific states, MDOC's own statistics also show low recidivism rates for sex offenders released on parole.

The MDOC's 1995 Statistical Report shows the new conviction rates for prisoners first paroled in 1991, before changed parole policies greatly reduced sex offender releases. Of the 525 prisoners paroled for sex offenses, only 20 (3.8 percent) were convicted of any new offense while on parole (typically for two years). Of these, only 12 committed another sex offense, that is, just 2.3 percent.

By comparison, the rate of return to prison with new convictions for other parolees was: homicide - 6.3 percent, drugs - 8.2 percent, armed robbery - 11.5 percent and property offenses - 14.5 percent.

# Revised bills setting standards for drug treatment courts move forward in House

Recently the House Judiciary Committee revised and then passed a combined package of Senate and House bills establishing standards for drug treatment courts in Michigan.

The Senate Judiciary Committee led the debate by taking up SB 998-1000 in March. At that time, CAPPs testified to its support - in principle - of drug treatment courts, but indicated its concerns about some provisions of the package, including what CAPPs believed to be an unnecessarily broad exclusion of assaultive offenders from drug treatment courts.

The Senate Committee Chair and lead sponsor, Sen. Alan Cropsey (R-DeWitt), made some revisions to the bills, prior to the package moving to the House.

There, interest groups including the Michigan Association of Drug Court Professionals, FAMM and CAPPs worked with House Judiciary Committee Chair, Rep. Jim Howell (R-St. Charles), and long-time drug court advocate, Rep. Andy Meisner (D-Ferndale). The final package, as first amended by the Senate and then by the House Judiciary Committee, is considered much improved - particularly for the following changes made to the main bill, SB 998 (H-2):

- Broad definition of “Violent Offender” revised to be less exclusionary;

- Representative of the criminal defense bar added as mandatory participant in memorandum of understanding establishing a drug treatment court;

- Role of the prosecutor as a ‘gate keeper’ to participation in drug treatment courts revised to be somewhat more in line with non-adversarial team concept;

- Individual who has pled guilty and waived certain rights in anticipation of admission to a drug treatment court, but is then not admitted, is permitted to withdraw plea and have other due process rights restored;

- Employers’ ability to access information otherwise exempt from disclosure under Freedom of Information Act was clarified and narrowed; and

- Automatic termination of drug treatment court participation if charged with new crime, revised to provide judicial discretion regarding termination in instances of charges of new crime not yet resulting in conviction.

## Contacting your legislator

The names of legislators serving on the committees directly concerned with corrections issues can be found at the CAPPs website: [www.capps-mi.org](http://www.capps-mi.org). The information necessary to contact them by phone, fax, or e-mail is provided. You may check committee schedules and agendas at [www.michiganlegislature.org](http://www.michiganlegislature.org).

If you wish to write to a legislator, the mailing addresses are:

### State Senator

The Honorable (full name)  
State Senator  
State Capitol  
P.O. Box 30036  
Lansing, MI 48909-7536

### State Representative

The Honorable (full name)  
State Representative  
State Capitol  
P.O. Box 30014  
Lansing, MI 48909-7536

To locate your representative go to: [www.house.michigan.gov/find\\_a\\_rep.asp](http://www.house.michigan.gov/find_a_rep.asp)

To locate your senator, go to: [www.senate.michigan.gov/senatorinfo/find-your-senator.htm](http://www.senate.michigan.gov/senatorinfo/find-your-senator.htm)

# CAPPS

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, is 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.*

## Be part of the solution -- Join CAPPS

### Citizens Alliance on Prisons and Public Spending Membership Form

CAPPS, 115 W. Allegan St., Suite 950, Lansing, MI 48933; Phone: (517) 482-7753;  
Fax: (517) 482-7754; E-Mail: [capps\\_mi@ameritech.net](mailto:capps_mi@ameritech.net); web site: [www.capps-mi.org](http://www.capps-mi.org)

My tax deductible contribution, payable to "CAPPS," is enclosed.

My membership category is:  Organizational — \$100  Sustaining — \$100  
 Individual or Family — \$25  Student — \$10  Prisoner — \$10

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_ E-Mail: \_\_\_\_\_