

Length of stay 60% above nat'l average

Research council analyzes prison growth

A long-term analysis of Michigan's prison growth shows the state is "an outlier" nationally and among Great Lakes states.

Matthew Johnson of the Citizens Research Council (CRC) of Michigan conducted the research and presented the findings at the May 2, 2008 Lansing conference entitled: *Balancing Our Priorities: Can We Safely Spend Less on Corrections?*. Johnson said existing practices and laws could result in the state's current prison population of 50,200 growing by about 5,800 within the next four years. The state's incarceration rate per 100,000 residents was 489 in 2005, compared to a Great Lakes average of 338. By 2012, the incarceration rate is expected to hit 559 and the annual corrections budget, left unchecked, would reach \$2.6 billion.

The CRC is a highly respected non-partisan, non-profit research organization that analyzes public policy and how it relates to the expenditure of resources. Johnson is the 2008-2009 Lent Upson-Loren Miller Fellow at CRC.



Matthew Johnson

Johnson explained that Michigan's prisoner population has been growing because of two factors: the number of people entering prison and the length of time they remain incarcerated have both increased.

(Continued on page 5 -- see Differences)

2009 MDOC budget not yet resolved

Council of State Governments to recommend long-term changes

As *Consensus* goes to press, there are three versions of the MDOC budget for Fiscal Year 2008-09: the one proposed by Governor Granholm, the one passed by the Senate (SB 1095) and the variation on the Senate bill passed by the House Appropriations Subcommittee on Corrections. Once the full House passes its version, a legislative conference committee will reconcile points of difference.

All three versions have four critical points in common.

1. Gross spending would be below the appropriation for 2007-2008. The House version proposes the largest reduction, \$33,569,100 or 1.6%. The drop in General Fund spending would be about \$18 million, slightly less than 1%.
2. The number of corrections employees would decline by somewhere between 138 and 554 people.
3. Gross spending would still exceed \$2 billion.
4. The number of prisoners would not decline. The executive proposal assumed an increase of 800 beds; the legislative versions are based on the same 51,841 bed figure used in the FY '08 appropriation.

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What's Inside

- Criminal justice, prevention experts address Balancing Our Priorities conference. See page 6.
- Former MDOC director assesses impact of "truth in sentencing." See page 11.



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Expert advice sought on prison budget

(Continued from page 1)

The Council of State Governments

With the state's ongoing economic crisis and a projected shortfall of \$472 million in the budget for FY 2009, the pressure to reduce corrections spending is building. Gov. Granholm and legislative leaders from both chambers joined to request technical assistance from the Justice Reinvestment Project of the Council of State Governments (CSG).

To help reduce prison spending, CSG provides criminal justice experts who analyze state corrections trends and recommend policy changes to states that meet four criteria. The state must commit to: making significant policy changes to safely control prison growth, reinvesting some of the savings from these policy changes in services to local communities, working in a bipartisan manner and providing the data CSG needs to conduct its analysis.

In her letter to CSG, the Governor stressed that Michigan's incarceration rate is 31 % higher than the Midwest average, our crime rate is no better than the average and as much as \$500 million could be saved if our prisoner population was in line with neighboring states. For the CSG process to produce long-term solutions, our elected officials will have to work collaboratively and avoid boxing themselves in to predetermined positions. In particular, they will have to adopt policies that reduce Michigan's inordinately long average length of stay. (See related story on page 1.) This will be a challenge, as the key players are starting from very different positions.

The lynchpins of the Governor's proposals have been sentencing reform and the Michigan Prisoner ReEntry Initiative. The proposed sentencing reforms, which would reduce the number of low level offenders coming to prison but would not change the very long sentences often imposed for more serious crimes, have made no headway in the legislature. MPRI, which is designed to prevent more parolees from returning to prison, has a limited effect on length of stay.

Most recently, at the Detroit Regional Chamber's Mackinac Policy Conference, Gov. Granholm suggested that if business leaders help push through major cuts in corrections, one-third of the savings could be used to lower the state business tax, one-third would go to law enforcement and one-third to higher education. No mention was made of investing in community-based preventive services, like substance abuse and mental health treatment, and programs for children at risk.

Rep. Alma Wheeler Smith, chair of the House Subcommittee, has expressed frustration at the annual effort to control the budget with short-term fixes. Instead of repeatedly searching for ways to cut several million dollars here and there in prison operating costs, Smith urged the department to press for fundamental changes in sentencing, parole and truth-in-sentencing that would substantially reduce the prisoner population.

The Republican majority in the Senate has expressed quite different views. Sen. Alan Cropsy, chair of the Senate Subcommittee on Corrections Appropriations, maintains that Michigan's prisoner population is proportionate to its crime rate. Until prevention efforts succeed in bringing the crime rate down, Cropsy says, we should not strive to bring our incarceration rate closer to those of other Great Lakes states. After the Mackinac conference, Republican legislative leaders said the problem isn't the number of prisoners but the cost of running the prisons. Senate Majority Leader Mike Bishop said that "real reforms" would have to include considering the compensation of corrections employees and the possibility of privatizing some functions.

The CSG process, aimed at the long term, is expected to take at least 18 months. A meeting was held in March to inform a wide variety of stakeholders about CSG's work in other states and to assure them that their input would be sought.

FY 2009

In the short term, the budget for FY '09 will, once again, contain one-time fixes and further "efficiencies."

The Governor proposed \$50 million in savings to be achieved through a combination of operational efficiencies and policy changes that would reduce the prison population. Some of the details were to be identified through the CSG process. Sen. Cropsy expressed dismay at the prospect of passing a budget with savings to come from unspecified sources that might never materialize. Through discussion with the MDOC, several specific operational changes were identified and adopted. However, the Senate also reduced the budget for the MDOC's central office by 22%, for a savings of \$9.5 million. The House added more MDOC proposed cuts and restored all but \$400,000 to the central office.

Both chambers anticipate saving \$12 million from the closure of Scott Correctional Facility. The women will be moved to what is now

Huron Valley Men's Facility. The men from HVM will be moved elsewhere. The closure is to be made possible, in part, by a pilot program to reduce the number of female parolees returned to prison.

Both chambers rejected an executive request to open a Level IV drop-in unit with 240 beds that has been on hold at the Macomb Correctional Facility since FY 2000 and a request to fund an eighth bed in half the cubicles at seven Level I prisons.

Whatever the final bill looks like, it will reflect a mixture of increases and cuts in specific lines. The following changes seem certain.

Savings will include:

- \$12 million (in the MDOC budget) by transferring human resources positions to civil service, which is in the Department of Management and Budget.
- \$4 million in prisoner hospital and specialty care under changes to the contract extension with Correctional medical Services.
- \$3 million remaining in savings from the closing of Southern Michigan Correctional Facility in Nov. 2007.

Increases will include:

- \$14.8 million in Hepatitis C testing and treatment.
- \$7 million in economic adjustments.
- \$4.8 million in mental health services for prisoners.
- \$3.6 million for 500 more GPS tether units.
- \$2.4 million for increased nursing staff.
- \$1.3 to \$4 million to train between 700 and 850 new corrections officers.

The cubicles were increased from six beds to seven in FY '07 and half of them were then increased to eight beds in the current fiscal year. However, the House included a provision in boilerplate that would appropriate \$25.4 million for additional beds if changes to sentencing and parole statutes sufficient to eliminate the need for at least 1,680 beds by the end of the fiscal year are not enacted by

2009 budget still in flux

(Continued from page 3)

January 1. Under the House boilerplate, not only would the Macomb drop-in unit and the eighth beds be funded, but the Scott Facility would not be closed after all.

Controversial changes adopted by both chambers will affect non-custody functions at prisons around the state. Consolidating accounting, procurement and other tasks now done at the business offices of individual facilities is intended to save \$5 million. Centralizing these tasks at three regional complexes will eliminate 72 positions. Another 90 positions will be eliminated by privatizing prisoner store operations and centralizing warehouses. The estimated savings will be \$5.9 million.

These changes were strongly opposed by affected employees. Although the department has pledged to try to reassign them to other positions, many fear those offers will involve moving hundreds of miles away or training for custody positions for which they are ill-equipped. Staff members testified that the changes will also negatively impact prisoners and prison operations without producing the savings the MDOC anticipates.

The House bill includes a \$15.7 million savings to be derived from changing the relief factors used for staffing correctional officer assignments. The relief factor is the number of employees actually needed to fill a position when days off are taken into account. Although no personnel will lose jobs, savings in overtime and hiring will be the equivalent of 223 positions. The House version also includes a savings of \$6.4 million from operating four pairs of contiguous facilities as single facilities and \$3.2 million from anticipated bulk commodity purchases and other efficiencies in warehousing and food service operations.

Still another controversial change involves the method of reimbursing counties for people who are given local sanctions instead of being sent to state prisons. Local officials are always concerned about efforts to save state prison beds by making more people convicted of felonies the responsibility of the counties. The Senate retained the current

formula. The House adopted a County Reentry Program, effective January 2009, that would add funding but alter reimbursement criteria. The goal would be for counties to divert enough offenders to impact 2,200 prison beds.

A proposal by drug court judges for a \$980,000 pilot program was adopted only by the Senate. The program would expand the team approach to problem-solving used in drug courts to defendants whose problems are not substance-abuse related. The Senate declined to provide funding for pilot mental health courts.

The elimination of the surcharge on prisoner telephone calls, effective July 2008, will reduce revenues by \$11 million.

Both chambers continue to support restoration of the Legislative Corrections Ombudsman's Office. Funding would be in the budget of the Legislative Council.

Both chambers continue to support restoration of the Legislative Corrections Ombudsman's Office.

Both chambers have boilerplate requiring the department to evaluate prisoners at intake for serious mental illness and certain other disorders, generally barring administrative segregation of prisoners with serious mental illness and requiring the department to report on the number of prisoners with serious mental illness or developmental disorders who were placed in administrative segregation and the duration of those placements.

The corrections budget is extremely complex and reflects the sometimes conflicting interests of many stakeholders. To the credit of everyone concerned, even in these difficult times, commitments to improve prison mental health care, increase Hepatitis C treatment and reduce prisoner telephone costs are being kept. However, efforts to actually reduce the prisoner population have not yet been successful. It will be up to the Council of State Governments to help Michigan officials objectively assess the factors that drive our prison growth and seek solutions "outside the box."

Differences from neighbors costly for Michigan

(Continued from page 1)

He said that on the intake end, there have been more felony dispositions, an increasing number of parolees returned to prison for technical rule violations (though that has declined in recent years) and more people coming to prison under sentencing guidelines than originally projected. Increased length of stay is the result of “tough on crime” measures, including decreased parole approval rates, the elimination of disciplinary credits and stiffer sentencing guidelines for the most serious offenses.

Johnson said he found that Michigan keeps people in prison 16 months longer than the national average and nearly 19 months longer than the Great Lakes average. The research also showed that the percentage of prisoners serving past their first parole eligibility dates increased from 17 percent in 1988 to 31 percent in 2006.

“If Michigan’s average prisoner length of stay had been one year less each year from 1990 to 2005, the state’s 2005 corrections expenditures would have dropped by \$403 million,” said Johnson. The state’s 2005 incarceration rate would have been 351 per 100,000 residents. We would have had roughly 14,000 fewer prisoners and 4,700 fewer corrections employees.

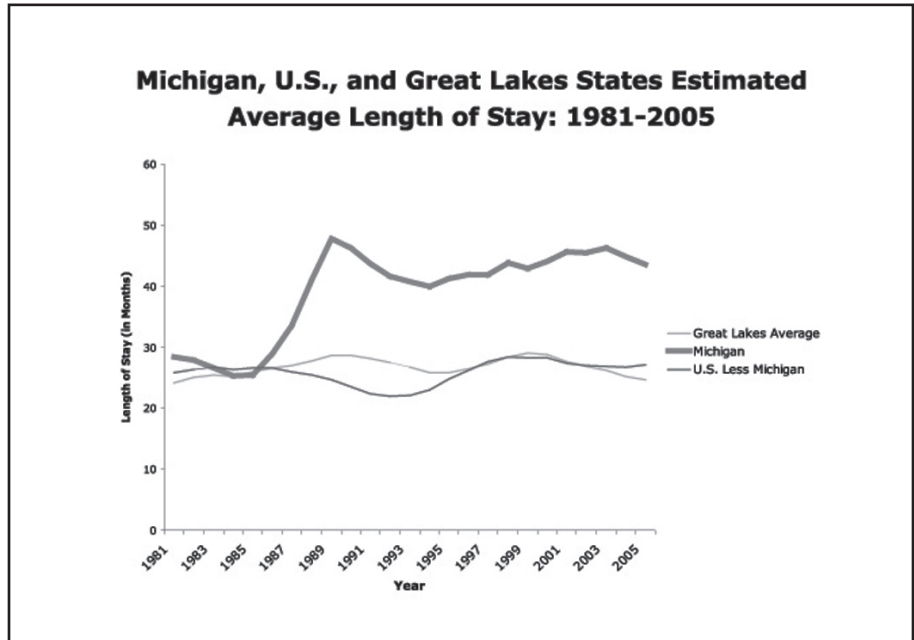
Overall, said Johnson, when compared to the United states and Great Lakes states averages, Michigan:

- has higher incarceration rates
- has lower prison admissions rates
- has a substantially longer average prisoner length of stay
- spends the largest percentage of its total state expenditures on Corrections

The impact of the prison population growth on Michigan’s budget has been substantial, Johnson said.

- Corrections expenditures increased by nearly 5,000 percent in the last 34 years from \$38 million to roughly \$2 billion.
- Michigan corrections spending grew from 1.6 percent of the total general fund general purpose expenditures (GF/GP) in FY 1973 to 21.5 percent by FY 2007.
- Since FY 2000, corrections spending has “crowded out” spending on other major GF/GP programs.

Johnson’s Power Point presentation is available at www.balancingourpriorities.org, the conference website. The full report is scheduled for publication in June and will be posted on the CRC website: www.crcmich.org.



At May 2 statewide conference

Experts discuss ways to safely cut prison pop.

Criminal justice experts at a recent statewide conference told an audience of about 100 why Michigan's prison population has grown so large and prevention specialists discussed what the alternatives are.

The conference—entitled *Balancing Our Priorities: Can We Safely Spend Less on Corrections?* -- was held May 2 at the West Campus of Lansing Community College. It was jointly sponsored by the Criminal Law and the Prisons and Corrections sections of the State Bar of Michigan, CAPPs, the Michigan Corrections Association and the Michigan Council on Crime and Delinquency.

The purpose was to give people from diverse backgrounds who would like to spend less on incarceration an overview of the issues and the options.

Hosted by Michael Marutiak, chair of the Prisons and Corrections Section, the program began with welcoming remarks from Janet Welch, State Bar executive director.

Welch said the Bar was pleased to be part of the search for a resolution to prison spending. She praised the participants for trying to "bring the public along on identifying the problems that need to be faced."

Matthew Johnson of the Citizens Research Council of Michigan reported findings from a study

on the causes and consequences of 30 years of prison growth. (See story on page 1.)

Lynn Jondahl, executive director of Michigan Prospect, moderated panels that discussed reasons for continuing prison growth and methods of preventing crime.

Leading off the first panel, Dennis Schrantz, deputy director of the Michigan Department of Corrections, discussed political resistance to change in the area of criminal justice.

In describing the MDOC's efforts to make broader policy changes that would impact the size of the state's prison population, he explained the difficulty in trying to get passage of modifications to the state's sentencing guidelines. He said the MDOC initially "took a populist approach" and organized community information sessions to explain the proposed changes.

"We got our butts kicked," he said. "There was a lot of media support for this measure which did not generate any political will whatsoever," he said.

The department put together another sentencing reform package "which we believed was more balanced and which we thought would gain more political support." It included taking into consideration the impact on the prisoner population in county jails and projected a decrease in the



jail's population as a result of the proposed alterations.

But, said Schrantz, "We didn't get politically very far with that either." He said the legislature never took it up because the "Senate had communicated quite clearly that it would be DOA."

"It's not about our ability to generate ideas and come up with specific proposals. The real question here is: What are we going to do to get the political will to actually get the work done?" asked Schrantz. "We used to think that getting media support would convince politicians that changes had public support, but broad based media support has not done anything in this state to get political will in place to get changes."

He urged the state to conduct a thorough public opinion survey to find out what the public really thinks about these issues. "Until we do that, we're not going to go very far," he said.

Schrantz said the department is looking at more work with probation violators so they don't end up in prison and expansion of electronic monitoring for sex offenders.

He said the work of the Council of State Governments (CSG) is the best opportunity to get reforms passed. A bipartisan, bicameral, and inter-branch group of policymakers is working with the Justice Center of the CSG on developing analyses of the prison population, designing strategies to reduce recidivism and victimization, and generating policy options to reduce spending on corrections.

Robert Brown Jr, former director of the MDOC, talked about the need to restore the use of earned credits and community residential programs eliminated by "truth in sentencing." (See story on page 11).

Barbara Levine, executive director of CAPPS, noted that in Michigan, length of stay is determined primarily by discretionary decisions made at both the front and back ends of the process. Judges decide where to set the minimum sentence, but their discretion is substantially limited by presumptive sentencing guidelines. Sentences that depart from those guidelines are subject to appellate review. The parole board decides at what point between

the minimum and maximum sentence release will actually occur. Because no mechanism exists to enforce parole guidelines, the board's discretion is effectively unlimited. Thus, the parole board can, and routinely does, trump the intentions of judges in individual cases and the impact of sentencing guidelines overall.

Levine explained that 17 states, including the Great Lakes states of Illinois, Indiana, Minnesota, Ohio and Wisconsin, have eliminated discretionary release decisions by parole boards. They have



Dennis Schrantz and Barbara Levine

adopted "determinate" or "flat" sentencing schemes in which a judge imposes a single term of years. When that term has been served (less any award of credits), the person is released.

Levine noted the results of a major study led by Don Stemen of the Vera Institute of Justice. The 2005 report, *Of Fragmentation and Ferment: The Impact of State Sentencing Policies on Incarceration Rates, 1975-2002*, concludes that neither determinate sentencing nor presumptive sentencing guidelines schemes, standing alone, affect incarceration rates. So long as very broad discretion exists at either end, the opportunity exists for disparities in individual cases and inordinately long lengths of stay overall. However, working in combination, presumptive sentencing guidelines and the elimination of parole produce lower incarceration rates and smaller growth in those rates over time.

Criminal justice, prevention experts discuss ways to reduce prison population

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As long as Michigan retains discretionary parole and attempts to engage in risk assessment, Levine said, we must decide how much risk, both actual and perceived, we are willing to tolerate. If five out of 100 people are going to reoffend, do we keep the other 95 incarcerated because we can't accurately predict who the five are, she asked?

Jeffrey Sauter, Eaton County prosecutor and a past president and current board member of the Prosecuting Attorneys Association of Michigan, said, "Keeping Michigan safe is the number one job of government." He said conference attendees should be more aware of the societal cost of crime, the cost of victimization not just the cost of maintaining prisons. He said he opposes altering the discretion of sentencing judges through changes in the sentencing guidelines and altering the structure of the Michigan parole board to restrict its discretion.

"Forcing the parole board to reach down further into the pool of prisoners and forcing them to release people they don't trust, will jeopardize public safety," said Sauter.

"I don't object to alternatives to prison when the programs are appropriate. I operate several, including those that divert bad check writers and those who commit retail fraud," he said. "There comes a time, however," he said, "when the crimes are so bad or the criminal behavior so habitual that some people belong in prison."

Sauter pointed out that Michigan has a higher index crime rate than neighboring states but said that doesn't necessarily compel the conclusion that since the crime rate is high, prisons don't deter. He said the purpose of a sentence isn't necessarily to deter others.

"When a judge sends a person to prison, he

is saying that the reclamation of the offender isn't a primary consideration anymore, but that now we must remove a person from society and punish them for committing a crime," Sauter observed.

He said there is a perception that Michigan sends too many people to prison, but Michigan's prison commitment rate is only about 22 percent of all felony dispositions. That is lower than the national average and our neighboring states.

The second panel discussed prevention programs, including mental health care and substance abuse treatment, MPRI and programs that prevent crime by addressing the needs of at-risk children. Three of the speakers bemoaned the lack of resources in providing services that have proven to be effective in preventing crime.

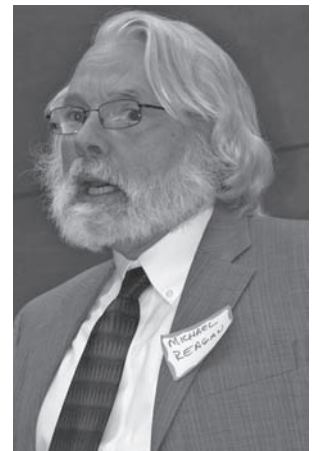
Michael Reagan, president of the Proaction Behavioral Health Alliance and a member of the CAPPs Board of Directors, said punishment gets the attention of the drug offender and allows agencies to intervene.

"The challenge is how can we help you and the public understand that when we talk about substance abuse, we're talking about a brain disorder?" Reagan asked. "These psychoactive substances change how the brain functions. Because of that, they affect how people behave. After 40 years of research, we know that they can begin to compromise people's judgment and their ability to make rational, helpful good-citizen type decisions."

"We know that substance abuse treatment works in reducing recidivism by 40 to 60 percent," but, he said, "many people do not believe that. Substance abuse is a health care problem. That doesn't absolve abusers from responsibility, but treatment helps them understand their addiction and take responsibility."



Jeffrey Sauter



Michael Reagan

“Michigan’s response to substance abuse is in a dismal state. We rank second to last among all states in assigning general fund dollars to the treatment of substance abuses,” said Reagan. “General Fund spending in this area has not increased one penny in 20 years.” He said only \$20 million of the \$2 billion MDOC budget, just one percent, is dedicated to substance abuse treatment. He also said only 25 percent of all people in Michigan who are eligible and diagnosed as dependent actually access treatment.

“We have limited power to treat abusers which makes all the drug courts in the world ineffective if we don’t have the resources to treat the problem. And, you have to commit a crime in this state to get any treatment,” Reagan said.

Besides treatment, substance abusers also need housing, employment and a secure non-triggering environment in which to live, he said.

“Treatment works, but we will not convince the public to make the investment that balances both punishment and treatment until you and I convince people we have treatment for these disorders available and ready,” said Reagan.



Mark Reinstein

Mark Reinstein, president and CEO of the Mental Health Association in Michigan, urged support of mental health courts as an alternative to incarceration and provision of the resources needed to provide in-patient treatment or intensive protective alternatives when that is appropriate.

He also urged participation in the effort by Michigan Partners in Crisis, a coalition of mental health advocates, judges and law enforcement officials to make the public aware of the way the criminal justice system treats people with mental illnesses who end up in criminal court.

Reinstein said the goal is to alert the public to the problem and help craft alternatives to incarceration to better treat mental patients who commit crimes.

Elizabeth Arnovits, executive director of the Michigan Council on Crime and Delinquency, and Paul Bailey, the sheriff of Berrien County, discussed the Michigan Prisoner Reentry Initiative (MPRI) and how community-based services can prevent recidivism. They said adequate resources are needed to provide the types of programs that help parolees avoid re-offending.

The MPRI vision, said Arnovits, is that “every prisoner released into the community will have the tools needed to succeed.”

Arnovits explained that the planning for MPRI began in 2003 when the department’s transition team found that there would be no prison beds left when then governor-elect Jennifer Granholm took office. Arnovits said a number of quick fixes were recommended by the team to address the immediate crisis and push the out-of-beds-date back by six months, but the group knew that longer-term, more permanent solutions were needed.



Elizabeth Arnovits

“It was decided that an open and comprehensive planning process be established to determine the best way to address prisoner success. The process included review of the research on what works and the result included revising department policies on parole and parole revocation and building a safe, statewide system of risk reduction services and supervision for every prisoner leaving prison,” Arnovits said.

Arnovits said development of the program involved participation by national experts and numerous state and local officials. Hundreds of human service and law enforcement officials met monthly for more than 18 months to make recommendations that led to the development of the program.

She said the process was a “huge change for the Department of Corrections” and makes sure that the community is involved in the process at every step.

Prevention, criminal justice experts say lack of resources hurts programs

(Continued from page 9)

Sheriff Bailey said as a sheriff, “I’m not just trying to incarcerate, I want to know what can we do to address (lawbreakers’) issues while they’re in jail. It’s a big challenge because our funding keeps getting cut each year. If we can keep them out of our county jails, maybe we can keep them out of prison.”

He said his budget has been cut by about half a million dollars, which means he has had to cut staff. It is difficult, he said, even to find the resources to provide services so prisoners can get their GEDs.

K. P. Pelleran, state director of the organization Fight Crime, Invest in Kids Michigan, said more resources must be provided to address the needs of at-risk children, such as pre-school and after-school programs. She said such services are effective in preventing children from growing up to commit crime.

The national organization, whose membership includes police chiefs, sheriffs, prosecutors and other law enforcement leaders, supports programs such as Head Start, pre-kindergarten and educational child care, child abuse and neglect prevention, youth development activities for after school and summer hours and intervention programs proven to help troubled kids.

“Yes, we want to lock criminals up but we also want to be smart stewards of our state’s limited resources and start getting at the front end of crime before these kids slip into delinquency in the



Sheriff Paul Bailey

K. P. Pelleran

first place,” she said, adding, “why are we not as willing to pay for child abuse and neglect prevention as we are to incarcerate?”

Wrapping up the conference was Jean Doss of J. Doss Consulting, LLC. She told those in the audience who want to make changes: “You must decide what you want, who can give it to you, and how you can convey the message.”



Jean Doss

“Why are we not as willing to pay for child abuse and neglect prevention as we are to incarcerate?”

K. P. Pelleran, state director, Fight Crime, Invest in Kids, Michigan

*Prohibiting earned credits not worth the cost***Former MDOC director urges restoring earned credits, earlier entry to community programs**

Robert Brown, Jr., MDOC director from 1986 until his retirement in 1991, addressed the May 2nd conference on Balancing Our Priorities about the impact “Truth in Sentencing” has had on the prisoner population and the corrections budget. He said Michigan’s decision to prohibit prisoners from earning any credit on their minimum sentences puts the state at odds with other jurisdictions, costs a great deal of money and does nothing to increase safety.

Enacted in 1999, Michigan’s truth in sentencing scheme has two components. It requires that all prisoners serve every day of their minimum sentences, thereby prohibiting any form of credit for good conduct, hard work or participation in treatment, academic or vocational programs. It also requires that everyone serve every day of their minimum sentences in a secure facility. That eliminated the former Community Residential Program (CRP) that allowed prisoners approaching their first parole dates to live in corrections centers or in the community on tether and to work or attend school while still in MDOC custody.

CAPPS estimates that just restoring the former system of modest disciplinary credits would reduce the corrections budget by \$100 million.

Michigan’s failure to award any form of incentive credit puts it out of sync with most other states, the federal government and even its own 83 counties. Brown, now a corrections consultant familiar with many state prison systems and a member of the CAPPS board, explained how Michigan’s system came to be so different.

He said that for decades, Michigan, like most states, granted prisoners generous amounts of credit for good behavior, commonly referred to as “good time.” Regular good time was awarded on a progressive basis. The number of days per month increased with the number of calendar years served. By the 20th year, regular good time could equal 15 days a month. In addition, special good time could be awarded in amounts up to half the regular credit. Thus, a 40- year minimum could be

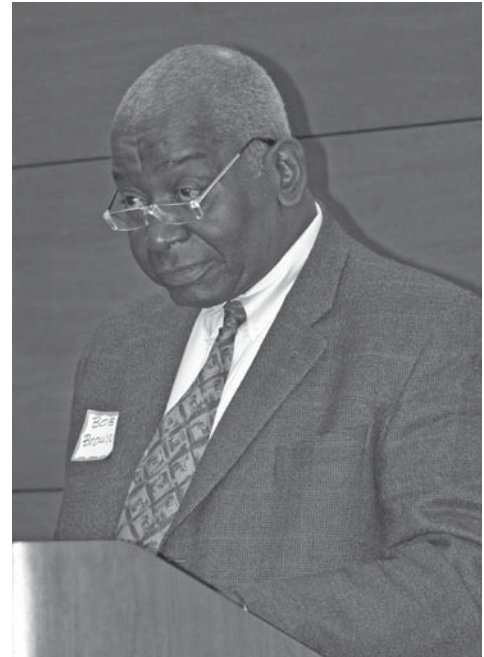
served in fewer than 16 years.

In 1978, the voters amended the Michigan Constitution to prohibit awarding good time to reduce the minimum sentence for certain crimes. The actual time a defendant would have to serve on a given minimum increased from 30-300%, depending on the amount of good time that might have been earned.

By 1982, it became apparent that the elimination of good time was resulting in increasingly overcrowded prisons.

Therefore, the legislature restored a limited amount of good conduct credit in the form of five regular and two special disciplinary credit days per month, or up to 84 days a year. Because some people were not eligible to earn disciplinary credits and others forfeited credits for misconduct, on average, Michigan prisoners served 88 percent of their judicially imposed minimum sentences.

In the 1990s, the federal government began encouraging “truth in sentencing” by conditioning the award of federal prison construction funds to the states on the requirement that violent offenders serve 85 percent of their sentences. The federal system itself permits sentence reductions of up to 15 percent. Because Michigan already met the standard, it was awarded \$33 million in federal



Robert Brown Jr.

Michigan should follow other states on earned credits, transition centers

(Continued from page 11)

“truth in sentencing” funds in 1997.

Nonetheless, In 1998, Michigan adopted its own version of truth in sentencing by prospectively eliminating disciplinary credits and requiring all prisoners to serve 100 percent of their minimum sentences. The consequence was to lengthen the time served by everyone, regardless of the nature of their offenses, whose good conduct in prison would otherwise have allowed them to earn modest amounts of credit.

Now, a five-year minimum sentence that could have been served in four years and one month with disciplinary credits, requires every day of five years. The difference of 11 months costs the taxpayer \$32,000. CAPPS estimates that if, each year, 3,000 people who earned the maximum amount of disciplinary credits were paroled when they first became eligible, the savings would be \$100 million.

Proponents of truth in sentencing do not assert that it increases public safety. There is no evidence that people who are allowed to earn disciplinary credits re-offend at a higher rate than those who are not. Rather, the purpose is to ensure that victims and the general public have an honest understanding of what a sentence actually means.

Brown said this purpose could be served by having the judge state on the record at sentencing how much credit the defendant might be able to earn. “In fact,” said Brown, “the state of New Jersey has a court rule entitled “Statement of Estimated Real Time to be Served” that requires the sentencing judge to do just that.”

Brown also questioned why a system that is honest enough for county jail sentences is too dishonest for state prison terms. Under MCL 51.282, Michigan’s sheriffs are authorized to award jail inmates one day of good time for each six days of the sentence. Sheriffs routinely use that authority to help control county jail populations and promote compliance with jail regulations. As result, a person convicted of felonious

assault who receives a year in the county jail can earn 54 days of credit. If the same person receives a prison term with a one year minimum, he or she can earn no credit.

Brown said that while no systematic survey of every state is available, most have some form of earned credit. Some have multiple types of credit and some still award very generous amounts, especially for nonviolent offenders.

Illinois, for instance, has differing amounts of statutory good time for nonviolent and violent offenses, as well as meritorious good time, supplemental meritorious good time and earned good conduct credit for program participation.

Depending on how they are classified, Indiana prisoners can earn as much as one day of credit for each day served. Similarly, depending on their classification, Texas prisoners can earn up to 25 days of good conduct credit and 15 days of diligent participation credit per 30 days served.

New Jersey awards four months per year of commutation credits, one day of work credit for every 5 days worked and five days per month of minimum custody credit in every year after the first.

The Florida system includes basic gain time, meritorious gain time and incentive gain time.

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remain the same.



California gives worktime credit of six months for each six months of full-time work. Prisoners who do not have a full-time assignment available may earn up to four months reduction for each eight months served. (For more detail, see the conference website, www.balancingourpriorities.org.)

“Increasing the availability of earned credit has become a common way for states to control spiraling prison populations,” said Brown. Just since 2003, Colorado, Iowa, Kentucky, Mississippi, Rhode Island and Washington have all adjusted their earned credit systems to reduce the length of stay of at least some categories of offenders. Rhode Island, with just 4,000 total prisoners, expects to save \$8 billion over five years.

“In contrast,” said Brown, “Michigan has allowed ‘truth in sentencing’ to increase the average length of stay for tens of thousands of its prisoners. It has also given up a widely accepted incentive system that can be used to reward good conduct, productive work habits and participation in rehabilitative programs, leaving only the threats of punishment and parole denial as behavior management tools.”

The second prong of truth in sentencing, said Brown, also presents ironies. He noted that at its peak in 1992, when

the prisoner population was below 39,000, Michigan had nearly 3,500 people in community residential programs. CRP participation was far from automatic. A host of eligibility criteria applied. But it was highly valued by prisoners and provided a

“If truth in sentencing doesn’t improve public safety, can’t we be honest for a lot less money?”

-- Robert Brown Jr., director, Michigan Department of Corrections, 1984 to 1991

strong incentive for good institutional conduct. Depending on their offenses, CRP participants were from six months to two years away from their first parole eligibility date.

While CRP did not include the sort of needs assessment and community-based services that the current Michigan Prisoner Re-Entry Initiative involves, it allowed for prisoners to start adjusting to the community, through work, school and family reunification, while they were still serving their minimum terms.

Brown noted that parole grant rates for people in CRP were well over 90 percent because the parole board could actually see how they were functioning. “People who did not perform well could be immediately reclassified to prison without the need for a parole revocation hearing,” he said.

“Now, because parole must be granted before someone can participate in re-entry programming, the opportunity for supervised transition back to the community must be delayed,” Brown said.

While many states use transition centers for prisoners within anywhere from two to 24 months of release, Michigan is again out of sync, Brown said. “If today’s re-entry programming were combined with yesterday’s CRP rules, several thousand people a year could begin readjusting to the community, with assistance targeted to their specific situations, before they reached their first parole dates,” he said.

“Prisoners would have an opportunity to demonstrate their parole-readiness, families could be reunified sooner, the board would be able to make more confident parole decisions and the public would be no less protected than it is now,” said Brown.

Michigan’s version of truth in sentencing has been in effect for 10 years. Brown thinks its time to step back and reassess. “If truth in sentencing doesn’t improve public safety, can’t we be honest for a lot less money?”

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

Terry Clark had successfully completed 14 months on parole when he was returned to prison for five years for possessing a folding knife with a three-inch blade mounted on what appeared to be a gun stock.

Terry Clark was a high school graduate who served eight years in the Army before being honorably discharged. He was working full time at an oil change place when he was convicted in Jackson County of having sex with a 15-year-old girl. At the time, he was on probation for carrying a concealed weapon and had several misdemeanor convictions involving drug possession and driving violations. Sentenced to a prison term of 1 year, 11 months - 10 years, Clark was paroled in January of 2005 after serving nearly 3 1/2 years.

While on parole, Clark abided by all the rules. He attended sex offender therapy, worked part-time on building maintenance jobs for his uncle and reported regularly to his parole agent.

In April of 2006, about 10 months before his parole supervision was scheduled to end, Clark was stopped by police for driving with an improper license registration plate cover. He volunteered that he was on parole, the nature of the crime and the fact that he thought he had an outstanding warrant for attorney fees he hadn't paid.

When the officer, who characterized Clark as cooperative, searched his automobile he found a knife in the center console of the car. It was a three-inch blade mounted on a gun handle and stored in a holster, making it initially appear to be a gun. It was lying with a screw driver and screws. Clark explained that he had just installed a car radio and used the knife, which he had purchased at a pawn shop for \$4, to strip wires.

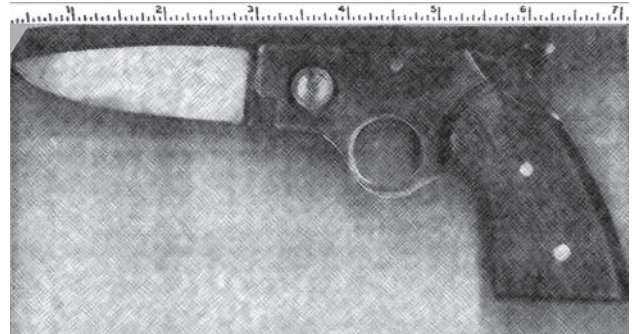
Clark was charged with carrying a concealed weapon. He pled guilty to the reduced charge of possessing a switchblade and was sentenced to serve 60 days in jail.

After Clark finished his jail term, the parole board revoked his parole. Though the parole agent said that he may have approved the possession of a knife for construction work, he said he would not have approved one that looked like Clark's.

Under the Department of Corrections' "zero gun tolerance" policy for parolees, Clark will not be released again until June 4, 2011.

The policy was enacted in 2004 at the direction of Gov. Jennifer Granholm to reduce gun violence, particularly in Detroit. Parolees who possess guns or knowingly associate with others who possess guns automatically have their parole revoked for five years or until they have served their maximum sentence, whichever comes first. The parole board's discretion to depart from the policy is rarely exercised. A firearm is considered to be any weapon capable of firing a missile of any type, including BB shot, and includes an imitation firearm or a simulation of a firearm. Thus, although Clark in fact possessed a knife, not a gun, the five-year policy was applied to him because the knife had the handle of a gun. Parolees who possess actual guns are also referred to state or federal authorities for possible criminal prosecution.

Clark's original offense involved no weapon. The knife for which his parole was revoked was never used to threaten or harm anyone. But, like many of the several hundred parolees returned to prison so far under the "zero gun tolerance" policy, Clark will now serve more time for his parole violation than he did for his crime.



Bob Grosvenor, former CAPPs president, dies at 83

Robert C. Grosvenor, a founding member of CAPPs and president for four years, died Jan. 14, 2008. He was 83.

As executive director of the Michigan Conference of the American Association of University Professors (MI-AAUP), Bob came to CAPPs because of his concern that every dollar spent on corrections is a dollar that is not available for higher ed and other critical social needs. The more he learned about the policies that cause prison growth, the more frustrated he became with the waste of lives as well as money.

In addition to his administrative duties as president, Bob brought new members to the board and the organization, and spoke at the meetings of various prisoner organizations. "Above all," said Barbara Levine, CAPPs executive director, "Bob was always there to talk things over." His advice was rooted in long experience, common sense and deeply held values. "Bob didn't talk a lot," Levine said. "He cut through to the heart of whatever issue we were discussing. But when we reached a decision together, I always felt comfortable that it was the best one possible. I miss being able to turn to him for his wisdom and support."

Bob's position at AAUP was his third career. He first became familiar with Michigan's prison system as a labor organizer when he served, from 1952-1972, as Director of the Michigan State Employees Union of the AFL-CIO. His second career was as Executive Director of the Michigan Trial Lawyers Association from 1972-1990. Bob was also very active in Faith United Methodist Church and, as a veteran of World War II, in his chapter of the Veterans of Foreign Wars.

Bob was married for over 50 years to his wife, Barbara, who preceded him in death. He was enormously proud of his four children and seven grandchildren. Well-read and a lover of classical music, Bob was especially fond of golf. "It's hard," Levine said, "to pass the course where he played and know he won't be on it again. But his voice is always there, in the back of my head, encouraging CAPPs to stick to its principles and do what's right."



Robert Grosvenor

Prisoners step up to help support CAPPs

CAPPs, which often talks about the state's financial crisis, is having funding problems of its own. So, in early March, we wrote to many of our supporters in prison to ask for their help. Our purpose was to obtain donations from the Prisoner Benefit Funds at as many facilities as possible.

Although CAPPs provides no direct assistance to individual prisoners, the changes in corrections policies that we recommend have the most immediate impact on prisoners. That is why many prisoners and their family members have chosen to join CAPPs and why several National Lifer Association chapters as well as the PBF at Southern Michigan Prison have chosen to make substantial donations in the past.

Prisoners have few opportunities to make

their views heard. Supporting CAPPs provides a positive means of promoting change.

The response to our request has been heartening. To date, we have received \$1,000 donations from the PBFs at the Mound and Muskegon facilities and \$500 donations from the PBFs at Chipewa and Saginaw. In addition, dozens of prisoners have responded by sending \$10 for new individual memberships. Dozens more have sent whatever smaller amounts they could afford to donate.

Prisoner support does not only help to fill the gap in CAPPs's funding. The trust and confidence in our work that these donations represent also mean a great deal. We are very grateful to all the people in prison who responded to our request so generously.

CAPPS
CITIZENS ALLIANCE ON
PRISONS & PUBLIC SPENDING

403 SEYMOUR AVENUE
SUITE 200
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.

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Be part of the solution -- Join CAPPS

Citizens Alliance on Prisons and Public Spending Membership Form

CAPPS, 403 Seymour Ave., Suite 200, Lansing, MI 48933; Phone: (517) 482-7753;
Fax: (517) 482-7754; E-Mail: capps@capps-mi.org; Web site: www.capps-mi.org

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

My membership category is:

- Prisoner — \$10 Student — \$10 Friend (individual/family) — \$25
 Supporter — \$50 Partner (individual/organization) — \$100
 Patron -- \$250 Benefactor -- \$500

Name: _____ Title: _____

Organization: _____

Address: _____

Phone: _____ Fax: _____ E-Mail: _____