

# Executive Summary

**I**t is easy to be anti-crime, but much tougher to determine what steps California should take to keep its citizens safe. The adult criminal justice system is a complex web of interrelated components, ranging from the cop on the street to lawyers, judges and prison guards. Altering the numbers, status or powers of any of those individual pieces can have a dramatic effect on how crime is battled.

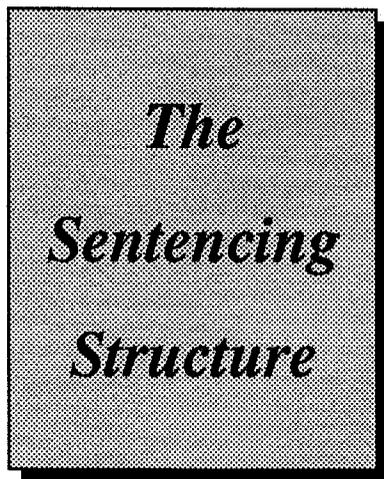
The tail-end of the anti-crime machine -- the state prison system -- is one of the most visible and costly components. After extensive study, the Little Hoover Commission believes that, targeted and used properly, the prison system has a high potential for putting a lid on violence and allowing citizens to feel safe in their homes once again. The Commission found, unfortunately, that all too often policies relating to prisons are driven by emotion rather than reason, divorced from cause and effect, and devoid of outcome-based strategies.

To address these problems, the Commission focused on three elements:

- The sentencing structure, which determines who will be placed in prison and for how long.

- Prisons programs, the single best chance the system has to affect the 90 percent of prisoners who are released back to the streets.
- Operational problems in the Department of Corrections, the agency that runs the second largest prison system in the world.

These three areas are addressed in the seven findings and 30 recommendations summarized below.



*The  
Sentencing  
Structure*

**F**inding #1: The sentencing system is complex and inequitable, frustrating the public's desire for consistency and certainty.

The bulk of the state's felony offenders are sentenced under the Determinate Sentencing Act of 1977, with finite sentences for each offense. The goals of the law included equity, consistency and simplicity. But the current system, due to inherent flaws in the original law, changes in public policy and piecemeal revisions, is not working. The state's tangle of sentencing statutes is so complex even experts make sentencing errors. It is a system that is inequitable to both victims and offenders, offering little in the way of certainty and nothing to a sense of fairness.

**Recommendation 1:** The Governor and the Legislature should enact a compromise, short-term measure that will clarify and simplify sentencing in California.

**Recommendation 2:** A sentencing commission should be created in California either by action of the Governor and the Legislature or by ballot initiative.

**Recommendation 3:** The commission should be charged with creating a sentencing structure

that meets the philosophical goals of the criminal justice system.

- *Protecting the public safety*
- *Tailoring the punishment to the crime*
- *Addressing the needs of victims*
- *Fostering responsibility in inmates*
- *Balancing costs with benefits*

**Recommendation 4:** The structure recommended by the sentencing commission should organize felonies in an easily understood manner in order of severity.

**Recommendation 5:** The sentencing system created by the commission should be insulated from politically motivated, piecemeal tampering by using a passive legislative approval mechanism.

**Recommendation 6:** Once the sentencing structure has been adopted, the sentencing commission should monitor the structure and suggest modifications to maintain equity and consistency.

**Recommendation 7:** The sentencing commission should make recommendations to the Legislature on each sentencing bill and analyze it as to internal consistency with the sentencing structure and impact on inmate population and spending.

**F**inding #2: The degree to which the present criminal justice system distinguishes between violent and non-violent offenders is not sufficient to protect the public and maintain the credibility of the system.

In retaining indeterminate sentencing for some violent crimes, California recognized that to maximize public safety some criminals should be judged, incarcerated and released on a case-by-case, subjective basis rather than on the basis of rigid, objective standards. The present system, however, draws the line between crimes in such a way that the bulk of both violent and non-violent crimes falls under the determinate sentencing structure. This results in fixed release dates for the majority of prisoners that are unrelated to either the violence of their crime, their behavior in prison or their prospects for crime-free success after release.

The current split between indeterminate and determinate sentencing leads both to the public perception and the reality that prison's barred gates are actually revolving doors for too many violent felons. This conclusion is borne out by studies of criminals in general, inmates in California's prisons, sentences served, paroles revoked and recidivism rates. The current split also drives up costs, increases prison discipline problems and undermines the credibility of a system whose chief goals should be to protect the public, satisfy a societal sense of justice and cycle inmates back into the real world in a manner that maximizes their potential for a crime-free life.

**Recommendation 8:** The Governor and the Legislature should shift the demarcation between indeterminate and determinate sentencing so that all or most violent crimes fall under a sentencing structure that ensures inmates are regularly evaluated, with the severity of their crime, their behavior in prison and their future prospects linked to their release date.

**Recommendation 9:** A Sentencing Commission, or alternatively the Governor and the

Legislature, should authorize the use of a greater range of intermediate punishments for a narrow segment of non-violent offenders.

**Recommendation 10:** The Governor and the Legislature should expand California's definition of habitual offender so that people who are repeatedly sentenced to prison remain there on indefinite terms until regular evaluation demonstrates that they have developed a potential to lead a crime-free life.

**Recommendation 11:** The Governor and the Legislature should enact legislation to reduce sentence reduction credit for violent offenders.

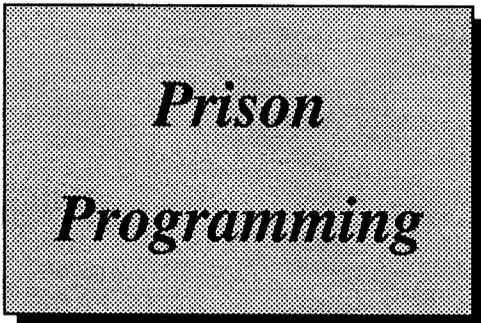
**F**inding #3: The present parole system is not structured as an effective deterrent to criminal behavior.

The concept behind parole, a theoretically important element of the sentencing structure, is that a person released from prison needs some level of supervision as he becomes integrated into life in the free world. Parole provisions, in general, require a former prisoner to maintain a certain standard of good behavior or face a return to custody. In the era of indeterminate sentences, inmates were not released without forming a specific plan for housing, means of support and other daily living factors -- and the threat of parole revocation was a powerful mechanism to encourage parolees to follow the plan. But today, parole more often is a wrist-slapping exercise that drives up criminal justice costs, fails to protect the public, is subverted by authorities to hold down local costs, and does little to add structure to a former prisoner's life. Recent steps taken by the Department of Corrections to stem the flow of parolees back to prison have accomplished that finite goal at the expense of worsening the system's flaws.

**Recommendation 12:** The Governor and the Legislature should enact parole reform that will provide a greater deterrent to continued criminal activity by parolees, including:

- a) structuring the work-credit system so that the time earned off a sentence is suspended rather than eliminated and then is re-imposed if parole is violated.
- b) lengthening the maximum parole violation sentence to longer than one year for violent crimes.

**Recommendation 13:** The Department of Corrections should institute comprehensive pre-release programs at all institutions that require inmates to focus on their life after prison and make plans for a crime-free life.



**F**inding #4: The effectiveness of prison work programs is hampered by the absence of statutory direction and lack of a unified management structure.

Although there is no statutory mandate for the Department to train or rehabilitate inmates, the public's desire and expectation is that criminals will work productively while they are imprisoned. There are a variety of programs to meet that expectation, but they are not driven by legislatively set goals for giving inmates the tools to refrain from a life of crime once they are released. The programs operate in an uncoordinated manner that hampers effectiveness and they lack the methodical evaluation, tracking and reform mechanisms necessary for success.

Lacking a unified structure and a clear vision of goals for work programs, the Department has placed illiterate inmates in jobs without first raising their education level, created an employment demand for lower-level inmates while higher-security inmates wait for assignments, and wasted state resources on unproductive job programs. The lack of statutory mandates and cohesive policy implementation has resulted in idle inmates and time-off credits granted with no commensurate effort on the part of the offenders. In addition, many inmates return to the real world at the end of their sentences no better equipped in terms of education, skills and the work ethic than when they entered prison.

**Recommendation 14:** The Governor and the Legislature should reinstate rehabilitation as a goal of the corrections system, subordinate to the goal of public safety, and specifically target populations most likely to benefit.

**Recommendation 15:** The Governor and the Legislature should enact legislation that establishes a single, unified structure within the Department of Corrections for all work programs, including the Prison Industry Authority.

**Recommendation 16:** A program of part-time work, part-time education should be instituted systemwide.

**Recommendation 17:** Inmates should be screened and go through an interview process before they are placed in a work assignment.

**Recommendation 18:** Work assignments for higher security level inmates should be expanded.

**F**inding #5: The Department's education program is neglected, unfocused and poorly structured.

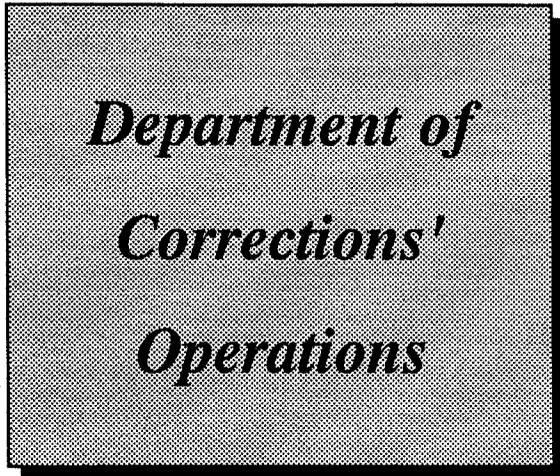
One of the conspicuous traits common to many inmates is their lack of education. All too frequently, they are academic failures, unable to function at the level of a 12-year-old junior high school student. Researchers have gotten mixed results as to whether work training reduces recidivism, but studies are clear that upgrading *education* cuts return to crime. Education, therefore, could be expected to be a prominent part of the Department's program. The fact is, however, that despite the dedication of many correctional teachers, the Department's education program is in disarray. Goals are unclear. Budget cuts have fallen disproportionately on prison education. Policies are ignored. And the Department's management structure discourages, rather than encourages, its education program.

**Recommendation 19:** The Department of Corrections should restructure its education program, either by creating a correctional school district with the assistance of the Governor and the Legislature, or by creating a superintendent of correctional education and placing that person in a top policy-making role.

**Recommendation 20:** Whether a district is formed or a superintendent's position established, that entity shall be the key decisionmaker on inmate education and should set short- and long-term goals involving literacy, testing and education priorities for all prison education programs.

**Recommendation 21:** No inmate shall be placed in a full-time job until he attains ninth grade literacy.

**Recommendation 22:** The Prisoner Literacy Act should be strengthened and amended so it is outcome-based.



**F**inding #6: A long-standing practice of allowing each prison to operate independently has hindered accountability for performance and hampered standardization of policies, leaving the State open to charges of mistreating prisoners.

Historically, California's prisons have been headed by all-powerful wardens who set the tone of the institution, crafted policies to carry out their correctional philosophies and were answerable to few -- a system that was viable when there were only a half dozen institutions scattered around the State. While the massive growth that California's Department of Corrections has undergone has begun to force some centralization into the system, the progress has been slow, incremental and, in many cases, lawsuit-induced. The result is a system that has allowed appalling abuse of some prisoners, lax standards for daily operations and questionable practices that leave the State open to expensive liability. While the Department has taken significant steps to address problems, legislative support and guidance is critical to ensure reform is comprehensive and carried through.

**Recommendation 23:** The Governor and the Legislature should support standardization of policies and centralized accountability for the prison system through the budget allocation process.

**Recommendation 24:** The Governor and the Legislature should establish a separate Inspector General function outside of the

**Department of Corrections to improve credibility of oversight of prison practices.**

**Recommendation 25: The Governor and the Legislature should improve the warden selection process.**

**Finding #7: The Department of Corrections is prevented in some instances from operating effectively, efficiently and safely.**

State laws, federal practices and the more general "laws" of supply and demand in some instances stop the Department of Corrections from taking steps or implementing policies that are sound and cost-effective. This includes a statute known as the Inmate Bill of Rights, the structure of the compassionate release program, prohibitions on AIDS testing, the failure of the federal government to pay for incarcerated illegal aliens and the high cost of procuring health care services through contracts.

**Recommendation 26: The Governor and the Legislature should modify the Inmate Bill of Rights so that it reflects the federal standard of protection for prisoners.**

**Recommendation 27: The Governor and the Legislature should enact a carefully crafted medical parole program to allow the release of seriously ill prisoners who no longer constitute a threat to the public.**

**Recommendation 28: The Governor and the Legislature should enact legislation allowing mandatory testing for the AIDS virus of all prisoners.**

**Recommendation 29: The Governor and the Legislature should take every opportunity to remind the federal government of its**

**obligation to pay the costs attached to illegal immigration.**

**Recommendation 30:** The Governor and the Legislature should direct the California Medical Assistance Commission to explore with the Department of Corrections all opportunities for reducing the cost of medical contracting in the prison system.