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Governor George Deukmejian
Chair, California Independent Review Panel for
Department of Corrections and Youth Authority

Dear Governor Deukmejian:

We have a significant problem in California, in my opinion, due to bifurcation of the adjudication and incarceration functions in the criminal justice system. The corrections portion has been found to be an “executive function,” and has been run by the governor, I believe, because folks in Sacramento are fearful that some judges might let a lifer out early. In any event, I argue that the judges ought to be involved and given responsibility to articulate conditions of release for prisoners they sentence. This is currently not the case. Judges have no involvement in corrections, other than determining the length of the sentence. Probation pre-sentence social studies should be required to do assessments of defendants who are suspected of being illiterate or addicted. The judge should be mandated to require remediation of addiction problems and literacy and job skill problems as a condition of release from prison. The defendant should be given good time credit for actual completion of these tasks before their release dates. If the defendant is recalcitrant and does not comply with the court order, additional time should be added to their sentence. (Judges need not be involved in the decision of when to parole on an indeterminate sentence, but the judge should be required to mandate conditions of release from prison and terms of parole. A modest legislative change would deal with this problem.)

If we would do this, not reduce sentences, but require correction of these problems by the defendant as a condition of release, our prison population problems would begin to abate.

The prison population has grown from 10,000 to 160,000 in 30 years between 1970 and 2000. The general population doubled in these years from 17 million to 33 million. Prison statistics indicate over 75% of these prisoners are addicts. National numbers indicate that close to 66% of the adult prison population in this country have serious literacy problems.

Prosecutors would have us believe that we are safer because we are getting the bad people off the street. This is not true. National statistics indicate that forty percent (40%) of the adult prison population will be released in one year. Seventy percent (70%) will be released within three years. These prisoners are being released back into the community in massive numbers. They have astronomically high 85% recidivism rates. They are addicted and have no job skills. They go home untreated for both of the risk factors (illiteracy and addiction) that make individuals high risks to go to prison in the first place. Therefore, on release they are at very high risk to go back. In the meantime, before they return either for parole violations or new crimes, these parolees do drugs and commit crimes and victimize our communities.

As a matter of policy for public safety reasons and public health reasons, as a matter of personal responsibility, to reduce victimization and recidivism, and to save incarceration dollars, the court should be allowed to insist that these prisoners rectify the problems that caused them to come into custody and court jurisdiction as a condition of release from prison.

As we are able to do in juvenile court in San Diego, parolees should be required to get a continuous year of sobriety on parole and get a job as a condition of getting off parole. If the defendant relapses on parole, they should be put back in local custody by the local judge for short "wake up" stays for parole violations, and then returned to parole to be placed in outpatient treatment again and to start over on their one year of continuous sobriety.

If we would do this, require treatment graduation as a condition of release from prison and closely monitor for sobriety on parole, recidivism rates would drop to 15 or 20 percent, rather than being 85 percent. Defendants who did recidivate would do so one time rather than five or six.

Labor unions have been deferred to too much in setting policy in this area. Prisoners are used in our correctional institutions as a labor force rather than going to treatment and literacy remediation or job training. Prisoners can do both treatment and work very easily with proper planning. Drug courts in local jurisdictions verify these statistics regarding outcomes. I specifically cite Pat Morris' local drug court program in San Bernardino.

If we will require defendants to correct the problems that cause them to come into custody, we will reduce recidivism rapidly. We will very quickly save more money in incarceration costs than we spend on treatment.

This is a matter of public safety and public health. Defendants will be required to complete difficult tasks as a condition of release. They will benefit, families will benefit, crime rates will drop and money will be saved.

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For one or two years costs will go up for treatment, perhaps \$3,000 per prisoner who is a candidate for release. Within two years, more money will be saved in incarceration costs than will be spent on treatment. Thereafter, large sums of money will be saved by reduction of prison populations.

I am not arguing for reduction of prison terms. The sentence should be what the judge believes is appropriate for the crime under the law. However, the defendant should be required to correct his personal problems that caused him to go to prison as a condition of release from prison, concluding parole and termination of court jurisdiction.

The Department of Corrections has increased in-custody drug treatment. There are currently 9,000 drug treatment beds in California. Many of these have been used for administrative purposes. This effort is inadequate in light of the number of addicted prisoners.

We have way too many prisoners in state prison. We have one of the largest prison systems in the world. The court and corrections should work together to solve this embarrassing social problem.

Thank you for your attention. I would be happy to answer questions or be of assistance if I can help. I enclose copies of correspondence about our dependency and delinquency systems in San Diego that have been successful and are based on these recidivism reduction concepts.

Very truly yours,

Hon. James R. Milliken
Judge of the Superior Court, Retired

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