

A Ten-Point Plan to Reduce Corrections Spending in 2010

Principle: Reserve Prison Beds for Dangerous Offenders

1. Restore the sentencing commission and reassess the impact of sentencing guidelines to ensure drug and property offenders are not incarcerated unnecessarily and sentences for crimes against persons are proportionate to the offense.
2. Increase the availability of drug courts, mental health courts and community-based alternatives to prison.

Principle: Encourage and Enable Prisoners to Earn Successful Re-entry

3. Increase the availability of effective in-prison programs for substance abuse, mental health, sex offender and assaultive offender treatment.
4. Increase the availability of in-prison family support programs and vocational skills training; reduce legal barriers to employment.
5. Permit prisoners to earn up to seven days per month in credit against their sentences for satisfactory participation in academic, vocational and treatment programs, satisfactory work performance and full compliance with prison regulations.
6. Permit prisoners to begin returning to the community, through MPRI, up to eight months before their first parole date to enable the parole board to make better-informed decisions about the person's ability to function in the community and to promote successful re-entry once parole is granted.

Principle: Define and Enforce the Scope of Parole Board Discretion

7. Create a statutory presumption that parole will be granted after the prisoner serves the minimum time his or her sentence requires unless the prisoner has a poor institutional record or objective factors demonstrate the prisoner is a current threat to public safety.
8. Ensure parole guidelines appropriately weight variables based on their ability to predict the risk of re-offending. Ensure the guidelines are applied consistently by scoring them for all prisoners, including parolable lifers, recording parole interviews and permitting appeals of parole denials.
9. Establish a separate "special" parole board, composed of seven members with civil service protection, to handle all cases that require public hearings (commutations and lifer paroles), medical paroles and parole revocation decisions.
10. Limit the revocation of parole to circumstances where the parolee has been convicted of a new crime or engaged in conduct that clearly demonstrates that leaving the parolee in the community at any level of supervision would pose an actual danger to public safety.

A Ten-Point Plan to Reduce Corrections Spending in 2010

**Citizens Alliance on Prisons & Public Spending
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Principle: Reserve Prison Beds for Dangerous Offenders

1. *Restore the sentencing commission and reassess the impact of sentencing guidelines to ensure drug and property offenders are not incarcerated unnecessarily and sentences for crimes against persons are proportionate to the offense.*

The public strongly supports non-prison sanctions for property, drug and other nonviolent offenders. In addition, research suggests that terms of incarceration for some serious crimes may substantially exceed the length necessary to protect the public.

When the sentencing guidelines were adopted in 1998, the statute required the sentencing commission to periodically review their impact. With the abolition of that commission in 2002, no systematic assessments occur. Restoration of the sentencing commission would permit a comprehensive examination of the cost-effectiveness of both community-based and prison sentences.

2. *Increase the availability of drug courts, mental health courts and community-based alternatives to prison.*

Our prisons are being used to warehouse large numbers of people who suffer from mental illness and/or addiction. Community-based treatment that addresses the underlying causes of anti-social behavior is often more effective and much less expensive. It can also help preserve families and employment. Michigan's drug courts have high success rates. The development of mental health courts and the expansion of other community-based services, such as probation residential programs and day reporting centers, would prevent people from being incarcerated simply because adequate alternatives are lacking.

Principle: Encourage and Enable Prisoners to Earn Successful Re-entry

3. *Increase the availability of effective in-prison programs for substance abuse, mental health, sex offender and assaultive offender treatment.*

Making effective treatment programs available to prisoners in a timely fashion has been a longstanding problem for the MDOC. Attracting qualified treatment professionals to work in corrections is difficult. Disputes sometimes arise between health services and the parole board as to whether treatment is even necessary. The MDOC needs adequate resources to develop, evaluate and deliver proven treatment services and must be appropriately selective in determining who should complete them. Increased use of licensed social workers and graduate students from various professions should be explored.

4. *Increase the availability of in-prison family support programs and vocational skills training; reduce legal barriers to employment.*

Two factors are key to successful re-entry: family support and employment. Both are difficult to achieve; neither should be left to chance or to last minute efforts begun only once parole has been granted.

Family members, especially the thousands of children with incarcerated parents, often struggle when a loved one goes to prison. Yet restoring family relationships can be enormously challenging, especially if family members were victimized. Prisoner families are disproportionately low-income and often fragile. Maintaining meaningful contact, often at a great distance, is difficult. The MDOC should take every reasonable step to enhance family relationships throughout the prisoner's incarceration. This includes reviewing visiting rules, providing parenting programs to prisoners, and arranging counseling for those prisoners and their families who wish to participate.

Even in a good economy, it is difficult for an ex-offender to find a job. The majority have little or no work history. They lack the skills and habits to become productive employees. It is unrealistic to expect employers to hire former prisoners without some assurance they can and will perform reliably.

The MDOC must offer more vocational training for jobs that are actually available. It should partner, to the full extent possible, with businesses, labor unions and community colleges to develop and deliver appropriate skills training and employment preparation to prisoners and to secure commitments that people who complete programs successfully will be seriously considered for employment upon their release. Public service opportunities for parolees, such as the restoration or demolition of abandoned houses, should also be created.

Work opportunities are further reduced by statutory prohibitions on the licensing and hiring of people with criminal records. The Legislature should systematically review legal barriers to employment and enforce only those that are directly relevant to public safety.

5. *Permit prisoners to earn up to seven days per month in credit against their sentences for satisfactory participation in academic, vocational and treatment programs, satisfactory work performance and full compliance with prison regulations.*

In Michigan, while misconduct is quickly punished, there are virtually no rewards for positive achievements. Michigan reined in very generous awards of "good time" long before most other states. In 1998, it eliminated disciplinary credits altogether. Varying amounts and kinds of earned credits are still awarded in most states. Some have increased the amount of credit available as a means of controlling their prison populations. Since, by definition, credit is only awarded to people whose behavior warrants it, there is no reason to believe it negatively affects public safety.

If the average minimum sentence of 7.5 years was reduced to 6.1 years and 3,000 people

who earned the maximum amount of disciplinary credits were released when they first became eligible, the savings would exceed \$100 million.

6. *Permit prisoners to begin returning to the community, through MPRI, up to eight months before their first parole date to enable the parole board to make better informed decisions about the person's ability to function in the community and to promote successful re-entry once parole is granted.*

At its peak in 1992, the MDOC's Community Residential Program (CRP) involved nearly 3,500 people who were approaching parole eligibility. They were placed either in corrections centers or on electronic tether. Parole grant rates for those who succeeded in CRP were very high because the parole board could actually see how the person functioned in the community. Those who failed were returned to prison immediately. The adoption of "truth-in-sentencing" legislation in 1998 began CRP's demise by requiring everyone sentenced thereafter to serve their entire minimum sentences in a secure facility.

The CRP did not include the extensive assessment and supportive services that characterize the current Michigan Prisoner Re-entry Initiative Program (MPRI). With MPRI's more comprehensive programming in place, it is time to reconsider beginning a structured transition back to the community before parole. Many states use transition centers for prisoners within anywhere from two to 24 months of release. Strict eligibility requirements, an eight month limit on pre-parole transition time and assistance carefully targeted to individual risks and needs could permit a substantial number of people to participate in MPRI sooner and reduce the need for prison beds without increased risk to the public.

Principle: Define and Enforce the Scope of Parole Board Discretion

7. *Create a statutory presumption that parole will be granted after the prisoner serves the minimum time his or her sentence requires unless the prisoner has a poor institutional record or objective factors demonstrate the prisoner is a current threat to public safety.*

The statute currently states that parole shall not be granted unless the board has reasonable assurance that the prisoner will not become a risk to public safety. Under this subjective standard, parole grant rates have varied from 68% to 48%. Often, parole denial is premised on the nature of the offense, a fact already taken into account by the original sentence, or on subjective assessments of the person's risk based on a 10-minute interview. In December 2008, more than 9,000 prisoners serving indeterminate terms had completed their minimum sentences and not been paroled, although research shows that holding people an additional year or two has minimal impact on public safety.

The minimum sentence represents the appropriate punishment for the offense, as determined by a judge who is bound by legislatively enacted guidelines. It is often also

the product of plea negotiations by the prosecution and defense. When the parole board effectively resentsences people, based on its own view of the offense, it usurps the roles of these other actors. Revising the statutory standard to presume release at the minimum unless there is objective post-sentencing conduct that warrants parole denial would re-establish the parole board's traditional role and increase parole grant rates.

8. *Ensure parole guidelines appropriately weight variables based on their ability to predict the risk of re-offending. Ensure the guidelines are applied consistently by scoring them for all prisoners, including parolable lifers, recording parole interviews and permitting appeals of parole denials.*

The Legislature directed the adoption of parole guidelines in 1992, when parole board members were removed from civil service and became political appointees. The guidelines were intended to serve as objective external constraints on the exercise of board discretion. Research shows that statistical risk assessment instruments are far more accurate than the "gut reactions" of individuals in predicting whether people will re-offend.

When the guidelines were adopted, prisoners had a right to appeal parole denials to the courts. Statutory amendments in 1999 that eliminated prisoner appeals left the guidelines unenforceable. Without judicial review, there is no means of correcting unfair results in individual cases or developing a body of law to govern parole board decision-making.

People who score high probability of release on the guidelines present a very low risk of reoffending. By statute, they are supposed to be paroled absent a "substantial and compelling reason." The parole board's grant rate in high probability cases declined from 81% in 1996 to 55% in 2006. The reasons given are often subjective assessments of the prisoner's appearance at a brief, unrecorded interview with one board member. If the parole grant rate in 2006 had been 80%, an additional 1,653 people would have been paroled at a savings of over \$50 million.

The cutoff point for determining who falls into the high probability range was also changed. The permissible statistical risk of committing a new assaultive offense was reduced from 6.5% to 4.3%. If the cutoff point for entry into the high probability range was also restored, at least another \$50 million could be saved.

Roughly 1,000 people sentenced to life terms before Oct. 1992 for offenses other than first-degree murder became eligible for parole after serving 10 years. Hundreds have now served 25 years or more. Most parole-eligible lifers are middle-aged, have excellent institutional records and pose very low risk to the community. They would tend to score "high probability of release" on the parole guidelines. However, the parole board releases few of these lifers and has chosen not to even calculate guidelines scores for them. If applying the parole guidelines to parolable lifers resulted in 480 being released, still another \$16 million would be saved.

9. *Establish a separate “special” parole board, composed of seven members with civil service protection, to handle all cases that require public hearings (commutations and lifer paroles), medical paroles and parole revocation decisions.*

Because of the volume of cases and the variety of tasks to be completed, the current 10-member board is overwhelmed. Decisions that should be made carefully but promptly are too often made hastily or delayed. Creation of the Executive Clemency Advisory Council (ECAC) has resulted in more commutations, but has increased the board’s workload because it is still responsible for conducting the lengthy process that follows the ECAC review. Identification of discrete tasks that could be assigned to a separate board would permit the existing board to concentrate on the 20,000+ routine parole decisions it makes annually. The separate board could concentrate on cases requiring public hearings, on the consistent application of medical release criteria, and on developing narrow criteria for revoking parole.

10. *Limit the revocation of parole to circumstances where the parolee has been convicted of a new crime or engaged in conduct that clearly demonstrates that leaving the parolee in the community at any level of supervision would pose an actual danger to public safety.*

From 1992 to 2005, the number of new commitments to prison decreased, but the number of people returned to prison as “technical parole violators” grew to 22 % of all admissions. In December 2008, there were 3,000 people in Michigan prisons who had been released and returned for violating the terms of their supervision, not for being convicted of a new crime. Once parole has been revoked, people are often denied release again for years. It is not uncommon for people to serve longer for noncriminal conduct that violated a parole condition than they did for their original conviction.

What conditions are imposed, what constitutes a violation, when violations warrant revocation and how much additional time people serve are all within the discretion of the parole board. National experts who have assessed the impact of technical parole violations on prison growth say that more resources should be invested in helping people succeed and fewer should be spent on punishing people for violating administrative rules. Parole conditions should be tailored to the individual parolee’s circumstances. While graduated responses to violations are appropriate, the expensive, disruptive and highly punitive option of returning someone to prison should be reserved for parolees whose conduct proves they are actually dangerous.



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