

9-1991

An Analysis of the California Department of Corrections' Planning Process: Strategies to Reduce the Cost of Incarcerating State Prisoners

Assembly Office of Research

Follow this and additional works at: http://digitalcommons.law.ggu.edu/caldocs_assembly

 Part of the [Law Enforcement and Corrections Commons](#), and the [Legislation Commons](#)

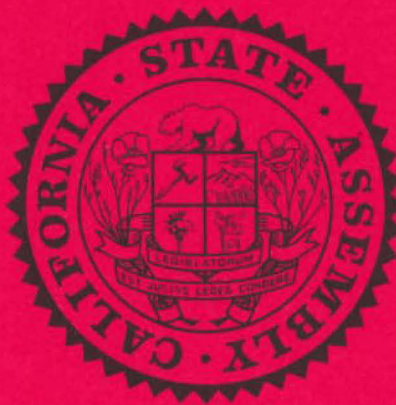
Recommended Citation

Assembly Office of Research, "An Analysis of the California Department of Corrections' Planning Process: Strategies to Reduce the Cost of Incarcerating State Prisoners" (1991). *California Assembly*. Paper 336.
http://digitalcommons.law.ggu.edu/caldocs_assembly/336

This Cal State Document is brought to you for free and open access by the California Documents at GGU Law Digital Commons. It has been accepted for inclusion in California Assembly by an authorized administrator of GGU Law Digital Commons. For more information, please contact jfischer@ggu.edu.

AN ANALYSIS OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS' PLANNING PROCESS:

STRATEGIES TO REDUCE THE COST OF INCARCERATING STATE PRISONERS



STATE DEPOSITORY
LAW LIBRARY

MAR 26 1993

GOLDEN GATE UNIVERSITY

NON-CIRCULATING

KFC
22
.L532
C67
1991

prepared by
Assembly Office of Research

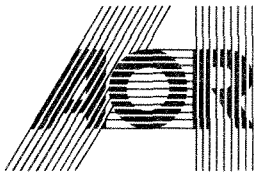
0399A

HV
8324
-R83
1991

**AN ANALYSIS OF THE CALIFORNIA DEPARTMENT
OF CORRECTIONS' PLANNING PROCESS:
Strategies to Reduce the Cost of Incarcerating State Prisoners**

Prepared by the Assembly Office of Research

**Cary J. Rudman
John Berthelsen**



September 1991

LAW LIBRARY
GOLDEN GATE UNIVERSITY

Table of Contents

	PAGE
OVERVIEW	i
AN HISTORICAL REVIEW OF PENOLOGICAL PHILOSOPHY OF THE CALIFORNIA PRISON SYSTEM.....	1
A DESCRIPTIVE ANALYSIS OF THE CALIFORNIA DEPART- MENT OF CORRECTIONS' INSTITUTIONAL POPULATION ...	9
Characteristics of CDC Inmate Population	12
Reasons for Rapid Growth of Prison Population	17
The Phenomenon of Undocumented Criminal Aliens in California Prisons.....	18
ISSUES IN CALIFORNIA DEPARTMENT OF CORRECTIONS' POPULATION MANAGEMENT.....	21
The Classification System	21
Institutional Beds Do Not Match Inmate Housing Needs.....	22
Prison Programs: A Decade of Neglect	30
Conclusions	34
POLICY FINDINGS AND RECOMMENDATIONS	35
ENDNOTES	41

Overview

In the summer of 1991, the California Department of Corrections' (CDC) institutionalized population reached 101,658 in cells and dormitories that the CDC says are meant to hold 54,042. It is a prison system whose numbers dwarf any other in the country, including the federal Bureau of Prisons.

This flood of inmates has more than quadrupled California's prison population in little more than a decade. A large number of these inmates serve less than a year. In 1990, there were 25,138 inmates in the category of those committed to California's prisons by the courts who were released within a year. In addition, another 37,197 inmates were in the category of those who had been recommitted for parole violations and were released before they had served 12 months. Because these offenders serve such short terms, they receive virtually no rehabilitative programming, particularly education or drug treatment.

To house the increased numbers of inmates, CDC instituted the largest prison building program in the history of the world about 10 years ago. At the same time, the Department developed a revised, sophisticated classification system designed to ensure that convicts are housed in facilities which reflect the level of security needed to incarcerate and control them safely. The classification system was also designed to determine future construction requirements.

Currently, however, the CDC's classification system has evolved so that many inmates who could be safely housed in minimum security facilities are assigned to much more expensive, higher security facilities.

The unmanageable numbers of short-term offenders have made it difficult for the CDC to provide services for significant segments of its prison inmates. CDC parole services to reintegrate inmates into the general population have also been resoundingly ineffective. California returned 39,976 parolees to custody in 1989, nearly as many parolees as the other 49 states combined for that year.

This report will show how California's prison operations can become more cost effective in light of the increased prison population and the phenomenon of short-term offenders. It will trace the issues of overcrowding and the conflict within CDC over determining appropriate security placement and rehabilitative programming for the inmate population.

The first part of the report provides an historical review of CDC penological philosophy. Beginning nearly 140 years ago, it includes a discussion of the creation of the classification system for prisoners and how it has impacted population management, as well as the conflict between punishment and rehabilitation.

The second part of the report is a descriptive analysis of the characteristics of the state inmate population, including what offenses resulted in commitment. It deals with the increasingly split character of the prison system, a phenomenon in which increasing numbers of short-term offenders are being incarcerated, while at the same time large numbers of other offenders are receiving longer sentences from the courts.

The third part deals with issues in the management of the prison population, including the application of a revised classification system which accompanied the new building program. The report will also analyze the degree to which overclassified inmates have driven up the cost of CDC's construction program. It will discuss inadequacies in the educational, vocational and drug treatment programs.

The final section provides policy recommendations to match CDC's inmate population more closely with security levels and to provide inmates with tools to keep them from returning to the prison system.

An Historical Review of Penological Philosophy of the California Prison System

*The first decades of prison life
in California were accompan-
ied by astonishing brutality.
Floggings were common.
Overcrowding was the norm.*

In 1852, when San Quentin Prison opened its doors to 250 men, “the public feeling was for the extermination of criminals and, failing that, herding them into prison for the longest possible term.”¹

The inclination toward long-term confinement of all felons and the execution of those guilty of capital offenses is a public attitude which, more years than not, has characterized the California prison system. Indeed, until the election of Governor Earl Warren in 1942, the design concept for the state’s penal institutions was to make them grim and forbidding. A California prison historian wrote that “the predominance of a plain, somber interpretation of Gothic (architecture) for use as prison facade resulted from early prison designers’ intention to terrify the prisoners rather than from an aesthetic sensibility.” The historian quotes one building committee which ordained that “the exterior of a solitary prison should exhibit as much as possible great strength and convey to the mind a cheerless blank indicative of the misery which awaits the unhappy being who enters its walls.”²

The first decades of prison life in California were accompanied by astonishing brutality.³ Floggings were common. Overcrowding was the norm. In 1854, J.M. Estell, who operated San Quentin on a contract basis with the State of California, wrote a letter to the California Legislature in which he complained that “it was not contemplated that there would be more than 50 prisoners at any one time in the prison for several years. Instead, we have as of this date over 300 on hand, not counting 112 who have escaped and never been recaptured.”⁴

At the same time, privatization was tried in a particularly unsatisfactory form. Early in the state’s history the California Legislature ordered that prisoners be leased to private contractors like Estell, who provided food, clothing, housing and custody in return for labor. That was supplanted, however, by a contract system under which the state retained responsibility for the care and custody of prisoners but sold their labor to private contractors.⁵ San Quentin Prison still features a building used for the manufacture of window sashes and blinds by one contractor. (The sash and blind building was the original site of San Quentin’s death row. It contained the prison’s scaffold.) But the contract system was notoriously corrupt. One early contractor at San Quentin refused to use prisoners under his employ to build prison buildings for their own housing, as called for by his contract with the state. Instead, he forced the inmates to work in the manufacture of farm implements for his own enterprise.⁶ In 1879, California’s Constitution was changed to prohibit contracting convict labor.⁷

Punishment for any infraction was solitary confinement on bread and water in a stone cell devoid of any furnishings except a mattress, which was removed during daylight hours. Ventilation holes in the iron door were covered by a

metal hood, resulting in absolute darkness and isolation. Those who broke rules were often placed in a kind of prison strait jacket. This involved stripping the inmate naked, then trussing him in a leather device used mostly for torture. Guards dug their knees into the man's back to force the air from his lungs, while heavy cords laced through metal eyelets were pulled tight. Within minutes, the inmate's hands and feet began to tingle as blood circulation was cut off. Sometimes the victims were left for days. Many inmates ultimately were permanently crippled by this device.⁸

There were those who disagreed with such brutality and who believed convicts should be treated more humanely. This conflict of philosophies has continued throughout the state's history, as the pendulum has swung between punishment and rehabilitation. Driven by a scandal over the harshness of prison conditions, a Joint Legislative Committee investigating conditions at San Quentin as early as 1857 recommended segregation and classification of prisoners to separate younger, more tractable individuals from hardened criminals.⁹

That was the first such recommendation to classify inmates, but it would hardly be the last. In fact, questions over classification of prisoners, in varying degrees, have dogged the system through to the present time. The question of classification of inmates by level of behavior, amount of time to serve, escape potential and other factors is important. Classification serves not just to segregate inmates by susceptibility to criminal behavior but also to provide a basis by which inmates can be placed in programs to aid in their rehabilitation. Today, classification is also a vital tool in determining the kinds of prisons that the California Department of Corrections (CDC) should construct, since the level of classification of prisoners determines the level of facilities that are needed.

In addition to classification and segregation of prisoners, the Joint Legislative Committee in 1858 recommended giving prisoners uniforms for warmth, eliminating inhumane punishment, acquiring books and allowing them to observe Sabbath days.¹⁰ Some of the recommendations were implemented — for instance, uniforms were issued — and conditions did improve.

A so-called “good time” law was passed in 1864, allowing for reduction in total sentences for good behavior.¹¹ (In 1880, the good time law would be modified to give inmates credit of two months off the total sentence for the first two years of good behavior, four months off for each of the next two years, and five months off for each subsequent year until release.)¹²

In 1862, a legislative committee on state prison conditions issued a report recommending a building policy at San Quentin that would take into consideration classification of prisoners.¹³ By the 1870s, a group of reformers, called

This conflict of philosophies has continued throughout the state's history, as the pendulum has swung between punishment and rehabilitation.

From the beginning, the state prison system seemed to function with little oversight. The only classification that occurred was by race and sex.

the “New Penologists,” also recommended the classification and segregation of prisoners by age and susceptibility to criminal behavior. As a result of the legislative committee’s report and the reformers’ efforts, such a classification policy became a formal prison procedure. But it would be discovered decades later that neither San Quentin nor Folsom implemented the policy. From the beginning, the state prison system seemed to function with little oversight. The only classification that occurred was by race and sex.¹⁴

Original plans to make Folsom a reform-oriented facility rather than a traditional hard-labor prison were dropped. The prison site was selected in the 1870s partly because it was considered an excellent location for quarrying rock. Inmates were subjected to rigorous hard labor. They were punished for various infractions not only with the strait jacket, but also with a device called the “Oregon boot,” whereby a prisoner’s foot was encased in metal plates that could be compressed by turnscrews. A so-called “water cure” was also used. The naked victim was tied with arms outstretched and blasted with a high pressure hose. If he opened his mouth to protest, the guard directed water into his mouth until he lost consciousness.¹⁵

In the 1880s, the reform movement began emphasizing education, vocational training and self discipline. The California Legislature passed a rudimentary parole law in 1889.¹⁶ But despite public support for these reforms, little was done in the prisons themselves. In 1903, the California State Assembly authorized a standing Committee on the Prisons to investigate conditions, which the Committee found to be shocking. The Committee discovered that most cells held four or five prisoners, that there was no system to segregate first-time offenders from hardened criminals, and that, in practice, there was still no classification system to provide a professional assessment of the degree of an inmate’s continuing commitment to crime. The Committee’s report concluded that San Quentin and Folsom were “schools of vice and universities of crime.”¹⁷ The Committee recommended building a separate unit to house insane prisoners at Folsom, while the rest of the prison housed the most violent recalcitrant criminals. The Committee further recommended protecting younger inmates by keeping them at San Quentin, away from the hard-line inmates at Folsom.¹⁸ These recommendations were ignored, as previous recommendations had been.

The idea that prison work had redemptive value for inmates began to take hold at the turn of the century — that those who had lived idle and dissolute lives should learn the work ethic, and that they also should pay for their own support by the state while in prison.¹⁹

The reform movement lasted through World War I. During the early twentieth century, an enhanced classification system for probation and parole was created by the California Legislature to supplement the original 1889 law, so

that some offenders could be kept out of the prison system entirely, and others could be released early. But escapes and public distrust, among other problems, made authorities cautious. In the 17 years after the 1889 law, only 223 of 720 men eligible for parole were given an early release.²⁰

Both San Quentin and Folsom were swollen with overcrowded inmates, generally without classification or segregation, until 1918, when Folsom was officially made the state's prison for recidivists. Nonetheless, progress was made.²¹ In the same year, the California Legislature passed a progressive indeterminate sentencing law, eliminating mandatory sentences and giving wardens some discretion in releasing cooperative inmates early. However, parole was used sparingly until the 1930s due to furious public outcry against releasing prisoners.

Some felt the indeterminate sentence would generate fairness in length of stay because prison authorities could use their judgment to release some offenders after having served more realistic terms than those imposed by judges, who meted out vastly different sentences on individuals who had committed the same crimes. But, while many prison reformers thought the indeterminate sentence would result in shorter sentences, in some jurisdictions the result was just the opposite.²²

The 1930s represented the beginning of a transition to the rehabilitative philosophies that dominated California penology through the next four decades. Reformers began to have increasing success in arguing for parole reforms that the New Penologists had demanded as long ago as the 1870s. The opening in 1940 of a new low security industrial farm, the California Institute for Men at Chino, was an example. Reformers had been arguing since the 1860s for the separation of younger prisoners from older, more intractable, vicious inmates. Chino was opened under that philosophy.

In California as almost everywhere else, prison was characterized by overcrowding. But during the two decades following World War II, the situation began to change. Overcrowding and implementation of rehabilitation programs were made easier by a dramatic drop in prison populations during the War. In 1934, California's two institutions for men — San Quentin and Folsom — and one women's prison, an industrial farm at Tehachapi, had a combined population of more than 9,300, or about 150 prisoners per 100,000 of population. That fell to about 117 per 100,000 by 1940. At the close of World War II there were only 5,700 adult prisoners, about 63 per 100,000,²³ in comparison to the current rate of 311 per 100,000.²⁴

Nonetheless, Richard A. McGee, who was appointed by then-Governor Earl Warren in 1943 to head the prison system, found that prisons were understaffed, and that San Quentin and Folsom in particular were governed by a

Overcrowding, idleness, poorly trained and poorly managed staff, and the neglect of human needs in areas of health and spiritual stimulation were the primary factors that prevented prisons from working properly.

system of convict bosses who rewarded their allies and punished their enemies. His prescriptions for rehabilitation were relatively simple. Overcrowding, idleness, poorly trained and poorly managed staff, and the neglect of human needs in areas of health and spiritual stimulation were the primary factors that prevented prisons from working properly, McGee asserted.²⁵

According to McGee, American prison administrators “have been engaged in a losing battle to create productive employment opportunities for men and women serving time in prison.” He stressed the need to “provide constructive occupation for prisoners” as an antidote to prisoner unrest and a public perception of prisons as institutions where inmates did nothing and came out unregenerate. Under Governor Warren and with McGee heading the prison system, a structure “was created through which to interpret and effect penological thinking.”²⁶ Since the system began, according to a prison historian, “there was a perceived need to separate prisoners from each other and to classify them according to their predicted ability to return to society as functioning citizens.” By the mid-1940s, the historian wrote, “the California prison system was set on a new course of integrating criminals into the larger society.” New prisons at Soledad, Chino and Vacaville were all created with these goals in mind.²⁷

By the mid-1950s, a classification system functioning under the so-called clinical study method was well in place. When inmates entered reception centers, they met with a counselor who acted as a diagnostician. The counselor attempted, using experience and intuition, to assess how much of a behavior problem each new inmate would pose, and how much security would be needed to house him. The California Institute for Women, built at Tehachapi in 1936, had a similar reception center to handle women prisoners. Older male recidivists were sent to Folsom, and more amenable inmates and first-termers were sent to San Quentin and Chino. Chino was built as a minimum security prison on the theory that these less criminally-inclined inmates would be better off associating with their peers and not the toughest of criminal offenders.²⁸

But Chino illustrated the problems of the clinical study classification system. Authorities at San Quentin and Folsom were reluctant to send promising inmates from their reception centers to Chino. They did not want to lose inmates to another prison who were conforming, manageable and capable of doing work outside prison walls.²⁹

The rehabilitation movement’s theories of prison management, emphasizing the rehabilitative value of work and education, held sway well past the time when McGee retired in 1967 from the cabinet-level position of Secretary of the Youth and Adult Corrections Agency, to which he had been appointed by Governor Edmund G. Brown. By 1972, according to the National Council on

Crime and Delinquency, prison authorities in nearly every state, the District of Columbia and the federal government used indeterminate sentencing to exercise some degree of discretion over length of term, which was considered at the time an important tool in aiding the reform of inmates.³⁰

But rising crime rates and prison violence stemming from the social and political turmoil of the 1960s and early 1970s nearly wrecked the criminal justice system. California's high security prisons became armed camps in which gangs fought gangs and management retreated to defensive positions. That coincided with less tolerant public attitudes toward criminals. Pressure began to mount on the political establishment to do something about the problem. Enthusiasm for the rehabilitation of offenders peaked and then changed quickly as the public became increasingly frustrated with what they perceived as a failure of many correctional programs.³¹

By 1976, the indeterminate sentencing law was under attack. The law allowed judges the latitude to sentence inmates to a range of years (for example, three years to five) instead of a fixed term, thus, leaving it to prison officials to determine if the inmate had rehabilitated himself enough for release. A series of court challenges alleged unfair, subjective decisions by the Adult Authority (now the Board of Prison Terms) in keeping inmates in prison. At the end of 1976, the California Legislature established a new determinate sentencing law for all felonies, except first degree murder, kidnaping for ransom, train wrecking, assault by a life-term prisoner and exploding a destructive device causing mayhem or great bodily injury. These crimes were considered to be too heinous for determinate sentences that might someday allow unrepentant criminals or violent revolutionaries to be released prematurely.³² The intent of the law was to make prison sentences more equal and proportionate to the committing offense.

As a result of the new determinate sentencing law plus the increased prison population and the reduction of CDC's discretion in releasing inmates, a new classification system was needed to determine appropriate levels of placement, both for security reasons and for rehabilitative programs.

As a result of the new determinate sentencing law plus the increased prison population and the reduction of CDC's discretion in releasing inmates, a new classification system was needed to determine appropriate levels of placement, both for security reasons and for rehabilitative programs. Other new legislation and a tougher attitude on the part of local judges began to increase the prison population vastly by the late 1970s, and the need for new prison facilities was increasingly apparent. In 1977, in the case *Palmigiano v. Garrahy*, a federal court held that:³³

Classification is essential to the operation of an orderly and safe prison. It is a prerequisite for the rational allocation of whatever program opportunities exist within the institution. It enables the institution to gauge the proper custody level of an inmate, to identify the in-mate's educational, vocational, and psychological needs, and to separate non-violent inmates from the more predatory... Classification is also indispensable for any coherent future planning.

The previous system had been heavily weighted toward overclassifying inmates into higher security levels than their behavior warranted . . . a more sophisticated classification system was necessary so the Department could predicate construction needs to house the projected prison population.

The previous system had been heavily weighted toward overclassifying inmates into higher security levels than their behavior warranted. That was because counselors used a subjective system of classification by observations, which created what statisticians call “false positives.” Counselors tended to classify far more individuals than necessary as escape risks or behavior problems, to prevent the possibility that any would walk away from minimum security facilities or stage violent incidents.

In addition, as the federal court emphasized in *Palmigiano v. Garrahy*, a more sophisticated classification system was necessary so the Department could predicate construction needs to house the projected prison population. The California Legislature demanded that the Department develop such a system. In 1979, the Department, aided by a federal grant, began formulation of a new objective points-based classification system. The system was used to create a score for each inmate that then would be converted into four general classification designations (Level I through Level IV) corresponding to the levels of security required. Level I was designated for inmates with the lowest scores, and thus the least probability for antisocial behavior. Level IV was designated for those who were the most dangerous.³⁴

In the meantime, rehabilitation as a penological philosophy in the California Legislature had lost support. In 1977, the California Legislature rewrote the Penal Code to exclude all reference to rehabilitation, instead saying it “finds and declares that the purpose of imprisonment for crime is punishment.”³⁵

The CDC correctional philosophy, however, continued to reflect a need for rehabilitation in its mission statement,³⁶ as follows:

1. Incarcerating California’s most serious criminal offenders in a secure, safe and disciplined institutional setting.
2. Providing work, academic education, vocational training and specialized treatment for California’s inmate population.
3. Providing parole services including supervision, surveillance and specialized services with the aim of parolee reintegration into the community and continuing some of the educational, training and counseling programs that were initiated during the institutional stay.
4. Searching for improved correctional strategies (institutional and parole) that could enhance the protection of the public through cooperative efforts with criminal justice system agencies and other agencies.
5. Providing public education on the role of correctional programming.

Despite the emphasis in the CDC mission statement on work, academic education, vocational training and specialized treatment, the penological philosophy that had governed the California prison system since the mid-1940s began to wane. In recent years, California Department of Corrections policy — as evidenced by the fact that it is building classrooms and other rehabilitative facilities at a far slower pace than it builds beds — reflects the statutory intent to a greater degree than the program mission statement.

A Descriptive Analysis of the California Department of Corrections' Institutional Population

In 1980 at the beginning of the surge in California's prison population, California Department of Corrections (CDC) housed 24,569 inmates in dormitories and cells that the Department said were designed for 23,534. Thus, the 1980 prison population was at 104 percent of design bed capacity, as defined by the Department.³⁷ Today, the prison population stands at 177 percent of design bed capacity.^{38}*

In an attempt to deal with this influx of prisoners, and faced with the deterioration of existing prisons, CDC in 1980 initiated a massive New Prison Construction and Renovation Program, that ultimately would make the Department the largest in terms of numbers of employees.³⁹ By mid-1991, the system included 27 prisons, 10 reception centers, 41 work camps and 60 community corrections facilities, such as return-to-custody units or halfway houses. Nine more prisons are in varying stages of design, construction or activation.⁴⁰

These facilities are spread across the length and breadth of California, from Crescent City (the home of Pelican Bay, the state's most secure prison) to the Richard J. Donovan facility, which is located 10 minutes from the Mexican border. The oldest prison in the system, established in 1852, is San Quentin. San Quentin, Soledad and Old Folsom are tiered prisons with as many as five floors of cells patrolled by rifle-bearing officers on catwalks. The latest prison to be opened, which builders hope to replicate not only across California but throughout the U.S. and other countries as well, is at Wasco. Wasco, like other new state prisons, is a high-tech facility where officers at electronic consoles move inmates in and out by touching buttons to control their cell doors.

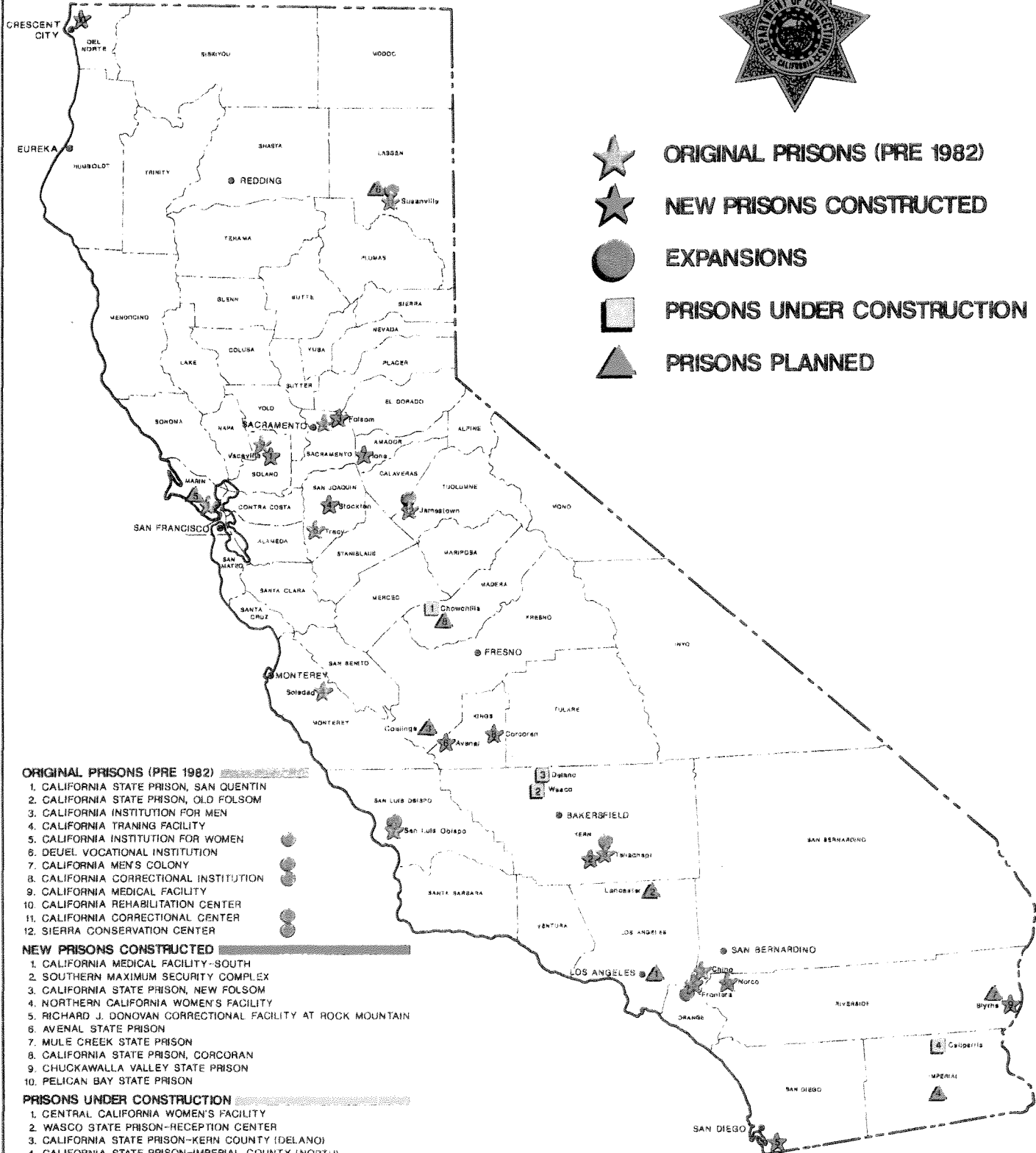
*Including completion of the Department's goal of building 25,000 more prison beds by 1996, the CDC forecasts that, without changes in the variables on which they base their forecasts, institutions will be at 218 percent of design bed capacity, using the Department's definition of "capacity."⁴¹ In April 1991, CDC projected the institutional population to exceed 163,000 in 1996 and 209,643 by the year 2000.^{42**} Even if the building program were to continue at an accelerated pace throughout the 1990s, there will likely be an overcrowding problem well above 200 percent of the Department's definition*

**It is important to note that the Department's policy is to attempt to house one inmate in each cell, despite the fact that most of the cells built for higher security inmates contain two built-in bunks. As of June 16, 1991, CDC's institutionalized population reached 101,658 in cells and dormitories meant for 54,042.⁴³ Thus, despite the biggest prison building program in the history of the world, the California prison system is more overcrowded today than it was a decade ago, within the context of the Department's definition of design bed capacity.*

***On September 1, 1991, CDC said that those predictions have been scaled down in light of an unexpected decline in new inmates this year over the previous year. CDC attributed the decline to a recent sharp drop in arrests for drug offenses. CDC Director James H. Gomez warned, however, that the number of convicts in state prisons would continue to increase by more than 5,000 annually even if the previous rate of inmate population growth is halved. Top Corrections administrators indicated that they will not revise their population projections until later in 1991.*

*... the CDC forecasts that ...
institutions will be at 218 per-
cent of design bed capacity ...
CDC projected the institu-
tional population to exceed ...
209,643 by the year 2000.*

CALIFORNIA DEPARTMENT OF CORRECTIONS STATE PRISONS



of design bed capacity by the end of the decade. Thus, even when the CDC builds prison beds very rapidly, it falls further behind. To operate at what CDC officials consider an “acceptable” level of overcrowding, which is 120 percent of design bed capacity for dormitory beds and 130 percent of design bed capacity for cells, 75,300 new prison beds would be required at an additional construction cost of \$8.2 billion by the end of the century.⁴⁴

This single-minded mission of prison construction raises three issues:

1. CDC’s current building program, from its inception, has been at odds with the characteristics of the inmate population. Since initiation in 1980 of the New Prison Construction and Renovation Program, the Department has emphasized the construction of high-cost individual cells. However, the prison population throughout much of the 1980s increasingly included short-term inmates who could be safely housed in dormitory-style quarters at 72 percent of the cost for individual cells.
2. The focus on housing and the safe holding of inmates has been at the expense of providing viable work, educational, vocational training or specialized treatment programs for California’s inmate population. CDC’s construction program is dictated by an institutional design capacity that insures the complete control of inmates by a rapidly growing correctional officer staff. In light of the nature and types of inmates residing in CDC institutions — a high percentage of short-term, drug or property offender and parole violators — it is incumbent on CDC to focus on more than just a building program to house predominantly long-term inmates.
3. CDC may be holding to an outmoded cell occupancy policy that results in inefficient use of space. As overcrowding has increased, and inmates have increasingly been double-celled, the incidence of violence, both against officers and inmates, has steadily decreased. The state’s new prisons are so secure that it would be cheaper to adhere to a standard of double-bunking for Levels III and IV inmates, except for the least controllable.

Each of these issues will be explored more fully in this report. First, it is important to understand the characteristics of the current CDC inmate population.

CHARACTERISTICS OF CDC INMATE POPULATION

The most current data show that as of June 16, 1991, CDC had jurisdiction over 193,793 adult felons and parolees, a population equal to a city the size of Fremont or Huntington Beach. This included 101,658 inmates in institutions — an imprisoned city the size of Burbank. More of these inmates were committed for non-violent than violent offenses. More than half of the new commitments are released after a year or less of time served. Of those in the system, 95,705 were in prisons or camps, and 5,550 were in community-based facilities. Another 403 were in state hospitals administered by the Department of Mental Health.

Much of the rest of the population under CDC control is comprised of 74,650 parolees. Some 69,405 are felons, on the street, reporting to parole officers, while an additional 2,922 are civil narcotic outpatients in drug programs. The remaining 2,323 are parolees from other states being supervised in California.

Additionally, 4,330 parolees are supervised by other state, federal or juvenile jurisdictions, including 2,771 in non-CDC confinement and 1,559 supervised by other jurisdictions.⁴⁵

Finally, another 13,155 inmates are out to court, escapees or parolees who have not reported to parole agents.

There are two different time analyses by which the CDC examines the institutional population. One analysis occurs on December 31st of each year and examines various characteristics of the **total institutional population** on that date. The other type of time analysis examines characteristics of the twelve-month flow of inmates received and released during a **calendar year**. The calendar year analysis is used to predict the trend of future population.

Total Institutional Population

Racial and Ethnic Characteristics. There are twice as many minority inmates as whites in the institutionalized population, an incarceration rate well beyond their representation in the general population. On December 31, 1990, out of the total institutional population of 97,329, 29.8 percent (28,951) were white, compared with their representation of 57.2 percent of the state's total population, while blacks were 35.5 percent (34,535) of the prison population, yet only 7.0 percent of the general population was black. Those of Hispanic origin made up 30.0 percent (29,212) of the prison population and 25.9 percent of the general population. Asians and other races or peoples of ethnic origin were 4.7 percent (4,631) of the prison population and 9.9 percent of the general population.⁴⁶

... as of June 16, 1991, CDC had jurisdiction over 193,793 adult felons and parolees, a population equal to a city the size of Fremont or Huntington Beach.

There are twice as many minority inmates as whites in the institutionalized population, an incarceration rate well beyond their representation in the general population.

Type of Commitment and Release. The type of commitment distinguishes inmates by status and committing authority. On December 31, 1990, the CDC total institutional population of 97,329 consisted of:⁴⁷

- 61,357 (63.0%) new admissions from Superior Court. A new admission may have had a prior commitment to CDC, but was not on parole at the time of committing offense. A new admission can be a result of a felony conviction or a civil narcotic commitment — where criminal proceedings are suspended while the defendant undergoes treatment at the California Rehabilitation Center as a narcotic addict.
- 21,127 (21.7%) parole violators who returned with new terms from court. These are parolees who have violated their terms of parole by committing a new crime and have been returned to prison with new commitments from court.
- 13,108 (13.5%) parole violators returned to custody. These are parolees who have violated conditions of parole and have been ordered by the Board of Prison Terms to return to prison. The maximum term for which a parole violator may be returned to prison by the Board of Prison Terms is one year.
- 996 (1.0%) outpatient returns to the California Rehabilitation Center (CRC). These are narcotic addicts who have violated the conditions of parole and have been ordered by the Board of Prison Terms to return to CRC.
- 741 (0.8%) others, including escapees and psychiatric returns.

Committing Offense. As of December 31, 1990, within the total CDC institutional population, significantly more inmates (59% v. 41%) were committed for non-violent offenses (property, drug, DUI offenses) as violent offenses. As illustrated by Table 1, since 1984, as a percentage of the total prison population, inmates committed for violent offenses have significantly declined and inmates committed for property offenses have declined, while inmates committed for drug offenses have dramatically increased and inmates committed for other offenses have increased.

... significantly more inmates (59% v. 41%) were committed for non-violent offenses ... as violent offenses.

Table 1 INMATES BY COMMITTING OFFENSE
for Total Institutional Population
Years Ending 1984 v. 1990

OFFENSE	DECEMBER 31, 1984		DECEMBER 31, 1990	
	NUMBER	PERCENT	NUMBER	PERCENT
Violent Offenses	23,832	56.3%	39,687	41.0%
Property Offenses	13,143	31.0	26,271	27.1
Drug Offenses	3,932	9.3	25,136	26.0
Other Offenses	1,453	3.4	5,671	5.9
SUBTOTAL	42,360	100.0%	96,765	100.0%
Missing Data	674		564	
TOTALS	43,034		97,329	

Source: CDC Offender Information Services.

Time in Prison Since Admission. As Table 2 shows, on December 31, 1990, 10.1 percent of the CDC inmate population (excluding parole violators returned to custody by the Board of Prison Terms [PV-RTCs]) had been incarcerated for five years or longer, as compared to 4.7 percent in 1982. As a result of the increase in the number of inmates currently incarcerated for five years or longer, despite the increased number of short-term new commitments, the mean time in prison for all new commitments currently incarcerated increased, from 1.6 years in 1982 to 1.9 years, where it has remained since 1988.

Table 2 TIME IN PRISON SINCE ADMISSION FOR MALE FELON PRISON POPULATION^a
for Total Institutional Population
Years Ending 1982, 1985, 1988, and 1990

TIME IN PRISON	DECEMBER 31, 1982		DECEMBER 31, 1985		DECEMBER 31, 1988		DECEMBER 31, 1990	
	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT
Less than 1 yr.	15,281	49.7%	20,406	50.0%	30,195	51.6%	41,442	54.5%
1 thru 1.9 yrs.	7,988	26.0	8,987	22.0	11,817	20.2	14,139	18.6
2 thru 4.9 yrs.	6,015	19.6	8,802	21.6	10,963	18.7	12,758	16.8
5 yrs. or Longer	1,429	4.7	2,616	6.4	5,526	9.5	7,665	10.1
TOTALS	30,713	100.0%	40,811	100.0%	58,501	100.0%	76,004	100.0%
MEAN	1.6 yrs		1.7 yrs		1.9 yrs.		1.9 yrs.	

^aExcludes parole violators returned to custody by the Board of Prison Terms (PV-RTCs).

Source: CDC Offender Information Services.

Calendar Year Institutional Population

Inmates Received and Released. As an illustration of the fluidity of this prison population, during Calendar Year (CY) 1990, CDC received 105,468 inmates and released 86,600 inmates. The largest number of those received, 47,692 (45.2%), were parole violators returned to prison by the Board of Prison Terms. The second largest group was felon new admissions from court, 37.2 percent of those received (39,272 inmates). The third largest group, 14,070 inmates (13.3%), was parole violators with new terms. An additional 2,276 (2.2%) individuals were sent to CDC by the courts under a statutory provision to determine whether they should be sentenced to prison, probation or jail. The final group, 2,158 inmates (2.1%), was first-time civil narcotic admissions.

Virtually all the inmates discharged in 1990 from CDC were released to parole. Of the 86,600 felon inmates released from CDC institutions, 42,101 (48.6%) were released for the first time to parole, while 39,596 (45.7%) were parolees returned to custody and subsequently re-released to parole. Others released were 2,230 (2.6%) county diagnostic cases discharged from CDC institutions, and 2,551 (3.0%) civil narcotics addicts who were released to parole outpatient status. Some 122 (0.1%) inmates who died in CDC institutions were also counted as released.⁴⁸

Committing Offense. As Table 3 shows, a review of the committing offenses of the felon new admissions and the parole violators with new terms admitted to CDC during the CY 1990 reflects even more starkly that increasingly more inmates are committed to state prison for non-violent offenses. In addition, according to the Board of Prison Terms, virtually 80 percent of PV-RTCs are returned to custody for non-violent offenses.

Table 3

COMMITTING OFFENSE CATEGORIES FELONY NEW ADMISSIONS FROM COURT^a for Calendar Year 1990

OFFENSE	NEW ADMISSIONS		PV-RTCs	
	NUMBER	PERCENT	NUMBER	PERCENT
Violent Offenses	12,529	23.5%	9,039	19.0%
Property Offenses	17,335	32.5	13,215	27.7
Drug Offenses	18,238	34.2	7,867	16.5
Other Offenses	5,231	9.8	9,117	19.1
Technical Violations	N/A	N/A	8,454	17.7
SUBTOTAL	53,333	100.0%	47,692	100.0%
Missing Data	9		0	
TOTALS	53,342		47,692	

^aIncludes parole violators with new terms (PV-WNTs) and parole violators returned to custody (PV-RTCs).

Source: CDC Offender Information Services, and Board of Prison Terms.

No single societal development has contributed more to the overcrowding of California prisons than the emergence of the drug culture and growing penalties enacted to attempt to control it. The drug offender commitment rate took another big jump last year. During 1990, of the 53,342 new admissions from court received by CDC, 34.2 percent were convicted of drug offenses, a staggering leap from the 17.6 percent committed in 1985. By contrast, only 23.5 percent of new admissions in 1990 were for violent offenses, compared with 1985, when 39.2 percent of the admissions were for violent offenses.⁴⁹

Length of Stay. One of the most unique shifts in CDC's prison profile is the phenomenon of increasingly longer term commitments for some inmates coupled with a surge in the number of inmates with short-term commitments. The CDC institutional population is simultaneously being pulled into two different length-of-stay directions.

Table 4 shows that in CY 1990, 56.6 percent of all new commitment inmates (new admissions from court plus parole violators with new terms) first released to parole in 1990, served 12 months or less in prison, and that 35.8 percent spent nine months or less in prison. (Even though parole violators with new terms already are on parole, they are considered first releases because they have been committed by the courts for a new crime.) Parole violators returned to custody by definition may only be returned to prison for a maximum of one year. As Table 4 indicates, in 1990, nearly half of all parolees — 48.8 percent — spent only three months or less in prison. Some 25,138 new commitments spent 12 months or less in state prison, while 15,900 spent nine months or less. In addition, 31,270 parole violators returned to custody spent six months or less in state prison.

Table 4 **FELONS FIRST RELEASED TO PAROLE**
by Months Served in CDC Only^a
for Calendar Year 1990

LENGTH OF STAY	NEW COMMITMENTS		PV-RTCs	
	NUMBER	PERCENT	NUMBER	PERCENT
3 months or less	1,312	3.0%	18,555	48.8%
6 months or less	6,405	14.4	31,270	82.3
9 months or less	15,900	35.8	34,476	90.7
12 months or less	25,138	56.6	37,197	97.9
more/less than 12 months	44,389	100.0%	37,998 ^b	100.0%

^aReleases to parole only. Does not reflect long-term offenders who have not become eligible for release.

^bParole violators returned to custody (PV-RTCs) may only be recommitted to CDC for a maximum of one year.

Source: CDC Offender Information Services.

REASONS FOR RAPID GROWTH OF PRISON POPULATION

There are many reasons given for the recent rapid growth of the short-term prison population. According to criminal justice specialists, the major factors accounting for the growth of these short-term offenders are:

- Legislation, effective January 1, 1983, which provided that all residential burglaries be punished as first degree burglary. In the past, first offenders would probably have been sentenced to jail or probation.
- The increase in the average pre-prison confinement time credit received by CDC inmates. The amount of pre-confinement time served in local jail is credited against an inmate's sentence when he/she is admitted to prison. The average pre-prison confinement time credit received by CDC inmates was 7.9 months in 1988, which was nearly double the pre-prison confinement credit of 4 months in 1978.
- Legislation, which generally is more punitive than in the past, mandates sentencing many offenders to prison for more types of crimes. Ten years ago, many of these offenders would have received probation or jail with probation.
- Severe overcrowding of local jails removing them as a short-term punishment option for felony offenders.
- Lack of a range of available state or community punishment options other than overcrowded jails and prisons for short-term felony offenders.

While experiencing this significant influx of short-term commitments, CDC is simultaneously experiencing an increase in the number of individuals sentenced for longer periods of time.

While experiencing this significant influx of short-term commitments, CDC is simultaneously experiencing an increase in the number of individuals sentenced for longer periods of time. Legislation has created lengthened and enhanced sentences for many crimes and the extenuating circumstances surrounding the commission of such crimes.

Of all inmates currently incarcerated in state prisons, 57 percent were committed for drug, property or other non-violent crimes.* Many of these types of inmates serve their sentences in county jails, or facilities that cost far less than prisons.⁵⁰ But because few state or local intermediate punishment options exist, judges are left with few options other than to sentence felony offenders to probation or prison. Twenty-three counties in the state in mid-1991 were operating under court orders to keep their jail populations down. The court orders in these counties affect jails that hold nearly 80 percent of the jail

*These include property offenses plus drug offenses plus "other" nonviolent offenses. Although arson is included in the "other" offense category, it must be subtracted from the total because it is considered a violent offense.

population in the state, in every major population area.⁵¹ These overcrowded jails have increasingly forced local authorities to demand that CDC quickly remove its parole violators and new commitments from local institutions. They are often on a bus for state prison in as few as eight hours.⁵² Judges report that they are sentencing greater numbers of offenders to state prisons because there is no room for them in local facilities. Thus, sentencing short-term offenders to prison has become the most secure confinement option available to local judges.⁵³

However, since it takes about two months for an inmate to be processed into the system, it is difficult, if not impossible, to put these short-term inmates through any rehabilitative program. Thus, CDC's mission of incarcerating primarily California's most serious criminal offenders has, by necessity, been subverted because of the impact of short-term inmates who are unable to take part in rehabilitative programs.⁵⁴

THE PHENOMENON OF UNDOCUMENTED CRIMINAL ALIENS IN CALIFORNIA PRISONS

Also contributing heavily to prison overcrowding, as well as to the fiscal strain on California's budget, is a special category of inmate which has exploded on the scene over the past decade — the undocumented alien, whose committing offense is subject to deportation proceedings.⁵⁵ Like their fellow short-term inmates from local jails and the drug wars, they place a great strain on the prison system. Prison officials estimate that the undocumented criminal aliens may comprise as much as 20 percent (approximately 20,000 prisoners) of California's prison inmate population.* The number of undocumented criminal aliens has increased as they have served as "mules" or drug couriers into the U.S. or have been caught up in the California drug scene after they immigrate illegally. They are convicted of aggravated felonies and drug and weapons offenses, and face deportation when their sentences have been served. As of May 1991, the U.S. Immigration and Naturalization Service (INS) had put a "hold" for eventual deportation on more than 9,600 CDC inmates from 100 countries, about 6,700 of them Mexican nationals.⁵⁶

It is further estimated that between 30 and 40 percent of some criminal court dockets, 30 percent of the statewide jail population, and 20 percent of probation and parole caseloads are made up of the undocumented criminal alien population category. More than 60 percent of the felony offenses, for which these undocumented criminal aliens are convicted, are drug or drug-related.⁵⁷

* CDC does not have exact figures for the number of undocumented criminal aliens incarcerated in California prisons. CDC only tracks aliens who are held for INS deportation procedures. However, CDC officials estimate that there may be over 10,000 more undocumented criminal aliens within the CDC population who may be subject to future U.S. Immigration and Naturalization Service proceedings.

Also contributing heavily to prison overcrowding, as well as to the fiscal strain on California's budget, is a special category of inmate which has exploded on the scene over the past decade — the undocumented alien, whose committing offense is subject to deportation proceedings.

In recent legislation, the U.S. Congress expressed concern and instructed the INS to give greater attention to the identification and removal of criminal aliens from federal, state and local jurisdictions. The federal Immigration and Control Act of 1986 directed the INS to begin deportation proceedings against criminal aliens as expeditiously as possible after their convictions.⁵⁸ In addition, the federal Anti-Drug Abuse Act of 1986 required law enforcement officials to notify INS when they arrest, on drug charges, any individual suspected of being an undocumented criminal alien.⁵⁹

The federal Anti-Drug Abuse Act of 1988 provides for expedited formal deportation hearings for aliens who are convicted of aggravated felonies—murder and drug and weapons trafficking. The 1988 Act added the requirement for the U.S. Attorney General to provide for special deportation proceedings to be held at federal, state and local correctional facilities for criminal aliens. Pursuant to federal directives, proceedings are to be initiated and, if possible, completed before these aliens finish serving their sentences.⁶⁰

CDC and INS entered into an agreement, effective in September of 1987, to provide for an Institutional Hearing Program whereby federal immigration judges hold deportation hearings for criminal aliens while still incarcerated in state prison.⁶¹ Currently, a limited number of deportation hearings are occurring at one CDC institution, the Robert J. Donovan Correctional Facility in San Diego. Undocumented criminal aliens, who are issued final orders of deportation, are transferred to INS custody upon the normal completion of their state sentence.

Significantly reducing the state and local institutional criminal alien population would positively impact the entire judicial system. Insuring that criminal aliens are quickly and correctly identified and provided with formal deportation hearings, while institutionalized, would result in the prompt issuance of orders of deportation, thus, facilitating the entire deportation process.

Removing criminal aliens from state and local custody to federal custody after issuance of a final deportation order and prior to the termination of state prison or local jail sentences could save substantial state and local correctional resources. Such action would necessitate cooperation from the federal Bureau of Prisons, possibly through Congressional legislation, to provide for federal housing of criminal aliens with orders of deportation until they have completed their sentences.

Additionally, should such criminal aliens return to this country illegally, a violation of the deportation order would be a federal offense, carrying a possible five-year sentence. The federal government would have jurisdiction for purposes of investigation, prosecution, trial, sentencing and imprisonment of those who return illegally to this country. As a direct result, the state criminal court caseloads and state and local correctional populations would be significantly reduced.⁶²

Significantly reducing the state and local institutional criminal alien population would positively impact the entire judicial system.

Issues in California Department of Corrections' Population Management

Although CDC claims that the administrative determinants are necessary for a complete classification of inmates, such subjective determinants can serve as a convenient method to override the points-based classification system, often resulting in the inmate's placement into a higher security setting than warranted.

THE CLASSIFICATION SYSTEM

Prior to the decision to proceed with the California Department of Corrections' (CDC) massive building program, there were no formal objective inmate classification guidelines in the California prison system. From the mid-1950s, incoming inmates were evaluated and classified by committees and staff specialists who relied primarily on experience and subjective judgment. In 1980, however, partly due to legislative concerns that it would be difficult to establish a prison building program without knowing the characteristics of the projected inmate population, CDC instituted what would become, with modifications, the current classification system. It was among the first such classification systems in the United States.⁶³

All newly committed offenders and parole violators returned to custody are sent to a CDC reception center, where the initial classification process may take 30 to 90 days. However, an inmate may be subject to reclassification throughout the institutional stay. The classification system rates the inmate primarily for security risk. Facilities are also organized in accordance with a similar security ranking system. The goal of classification is to place inmates within the proper security level in prisons. The inmate is classified on a points-based system involving 38 factors, including criminal history, length of sentence, behavior during prior terms, escape history, age at time of commitment and other factors.⁶⁴

Apart from this **points-based classification system**, CDC has **administrative determinants**, that can override the inmate's score. Many of these administrative determinants, including such factors as sex problems, time to serve, escape risk, known enemies and protective custody needs, are already captured by the points-based classification system itself.

Although CDC claims that the administrative determinants are necessary for a complete classification of inmates, such subjective determinants can serve as a convenient method to override the points-based classification system, often resulting in the inmate's placement into a higher security setting than warranted.⁶⁵ Thus, the subjective administrative determinant process can act to override the objective points-based classification system and render it moot.

The inmate's score places him within a four-level security system (the lower the level, the lower the security risk):

- Level I inmates:** 0-18 points, are non-violent offenders, generally with less than 30 months to serve;
- Level II inmates:** 19-27 points, may have prior offenses but "little history of institutional violence or escapes;"
- Level III inmates:** 28-51 points, have received long sentences and have several prior prison terms or "significant behavior problems;" and
- Level IV inmates:** 52 points and over, have a "long history of crime or violence and generally are escape risks."

Inmates are assigned to facilities built with security features that are intended to correspond with the level of security classification the inmate has been assigned.⁶⁶

This four-level security system is in place at all CDC institutions. Some institutions contain facilities which enable them to house all four inmate security levels. Other institutions may be built primarily to house one security level. The facility rank depends upon its structure, security devices and assigned staffing. For example:⁶⁷

- | | |
|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Level I: | Inmates are housed in open dormitories without a secure perimeter. |
| Level II: | Inmates are housed in open dormitories but the facilities have fenced perimeters and armed coverage. |
| Level III: | Facilities have individual cells, fenced perimeters, electronic security and armed coverage. Within some Level III facilities are special administrative segregation units which are used as short-term placements for Level III behavioral problem inmates. |
| Level IV: | In addition to cells and fenced or walled perimeters, maximum security facilities include electronic security, and more staff and armed officers than at a Level III facility. Within some Level IV facilities are Special Housing Units (SHU) which represent the highest degree of security for inmates whose institutional behavior or security risk, irrespective of classification level, cannot otherwise be controlled. |

INSTITUTIONAL BEDS DO NOT MATCH INMATE HOUSING NEEDS

CDC defines design bed capacity as: "The maximum number of inmates a facility was originally designed to house."⁶⁸ For Levels I and II inmates living in dormitories, this means one inmate per bed in areas designated as living quarters. Overcapacity for Levels I and II inmates would mean that areas not originally designed to contain beds (e.g., gymnasiums, chapels, warehouses, classrooms and halls) now house Levels I and II inmates. Design bed capacity for Levels III and IV inmates is predicated on one inmate per cell. Overcapacity means that CDC assigns two inmates to a single cell. Interestingly, all Levels III and IV cells, except administrative segregation units and SHUs, are designed and built for double occupancy although the Department's ideal—despite current forecasts of long-range overcrowding—is 120 percent of design bed capacity in Level I and II dormitories, and 130 percent of design bed capacity in Level III and IV cells. Stated simply, 130 percent of design bed

Interestingly, all Levels III and IV cells, except administrative segregation units and SHUs, are designed and built for double occupancy although the Department's ideal—despite current forecasts of long-range overcrowding—is 120 percent of design bed capacity in Level I and II dormitories, and 130 percent of design bed capacity in Level III and IV cells.

capacity means that 30 percent of the cells would contain two inmates, and 70 percent would house only one, although most of the cells are built with two beds.⁶⁹

If the classification system were a reliable predictor of inmate security needs, inmates classified as "Level I" would be housed in Level I institutions or beds, Level II inmates in Level II institutions and so forth for each classification level. However, in practice there is a significant divergence between this classification of inmates and their actual placement in a particular institutional security level. The cost implications of this "out-of-level" placement practice are staggering. If the CDC altered its prison construction program over the next five years to conform with the projected security classification levels of inmates, the state could save hundreds of millions of dollars.

The following tables demonstrate the capital and operational cost implications of building facilities to match inmate security classification levels and of adopting double-celling as CDC policy.

Table 5 shows the distribution of the male felon population by classification score and institutional placement in May 1991. For example, of the 20,117 inmates housed in Level I beds, only 14,738 are classified as Level I inmates. Of the 25,052 inmates classified as Level I, only 14,738, or 59 percent, are living in Level I facilities. Those actually living in facilities appropriate to their classification in Levels II, III and IV were 58 percent, 89 percent and 82 percent respectively. Although out-of-level placements occur for every classification group, these percentages indicate a bias toward placement of inmates in security settings higher than their classification scores suggest. As demonstrated by Table 5, 3,669 inmates classified as Level I security risks are housed in facilities built to contain Level III inmates, and 298 Level I security risks are housed in Level IV facilities. Similarly, 3,877 Level II inmates are housed in Level III facilities, and 175 Level II inmates are housed in Level IV facilities.

Table 5
DISTRIBUTION OF MALE FELON POPULATION
by Classification Score and Institutional Placement
May 1991

INSTITUTIONAL PLACEMENT	INMATE CLASSIFICATION							TOTALS
	I	II	III	IV	Special Security	Med/ Psych	Inmates w/o Score	
Level I	14,738	3,143	289	16	0	0	1,931	20,117
Level II	6,347	10,050	522	47	0	0	2,250	19,216
Level III	3,669	3,877	14,797	1,791	70	2,671	3,028	29,903
Level IV	298	175	996	8,590	1,983	0	910	12,952
Reception								10,971 ^a
TOTALS	25,052	17,245	16,604	10,444	2,053	2,671	8,119	93,159^a

^aReception has been reduced to just a total because of the large number of inmates w/o a score; therefore, row TOTAL does not equal column TOTAL.

Source: Report #CLA-2 CDC Offender Information Services, June 18, 1991.

The cost implications of this "out-of-level" placement practice are staggering.

Table 6 uses the CDC's 1991 inmate classification data from Table 5 and extrapolates that data to June 30, 1996. This is currently the furthest point in time that the Department has made population projections pursuant to its 1991-96 Facilities Master Plan. Table 6 shows that in 1996, of the 42,650 inmates expected to be housed in Level I beds, only 31,246 will be classified as Level I inmates. Of the 49,142 inmates classified as Level I, only 31,246 will be housed in Level I facilities. The remainder of those classified Level I will be living at higher levels of security. Table 6 row totals (horizontal) are the Department's gross population projections which form the basis for the CDC's current five-year prison construction program. The Department's projection of bed needs uses all out-of-level placements, and is not based on actual classification needs. The Assembly Office of Research (AOR) applied the percentage of out-of-level classifications derived from Table 5 to the Department's 1996 population projections.

Table 6

**EXTRAPOLATED DISTRIBUTION OF MALE FELON POPULATION
by Classification Score and Institutional Placement
June 30, 1996**

INSTITUTIONAL PLACEMENT	INMATE CLASSIFICATION							TOTALS
	I	II	III	IV	Special Security	Med/ Psych	Inmates w/o Score	
Level I	31,246	6,663	613	34	0	0	4,094	42,650
Level II	12,774	20,226	1,050	95	0	0	4,528	38,673
Level III ^a	4,807	5,079	19,385	2,346	92	3,499	3,967	39,175
Level IV ^a	315	185	1,052	9,069	2,093	0	961	13,675
Reception								18,695 ^b
TOTALS	49,142	32,153	22,100	11,544	2,185	3,499	13,550	152,868^b

^aRight hand column population totals are based on CDC Spring 1991 Population Projections, Table 6, last line. Levels III and IV population numbers were derived from Table 6 as follows:

Level III = IIIs + Med/Psych + PHU (32,520 + 6,495 + 160 = 39,175)

Level IV = IVs + SHU (11,375 + 2,300 = 13,675)

^bReception has been reduced to just a total because of the large number of inmates w/o a score; therefore, row TOTAL does not equal column TOTAL.

Source: CDC Five-Year Facilities Master Plan, 1991-96.

Table 7

**POPULATION, DESIGN BED CAPACITY, AND OCCUPANCY RATE
by Security Level for Department and Classification-based Projections
June 30, 1996**

	(1) DEPARTMENT PROJECTIONS	(2) DBC ^a	(3) OCCUPANCY RATE (%)	(4) CLASSIFICATION- BASED PROJECTIONS ^b	(5) DBC ^a	(6) OCCUPANCY RATE (%)
Level I	42,650	12,932	329.8%	53,236	12,932	411.7%
Level II	38,673	16,734	231.1	36,681	16,734	219.2
Level III	39,175	20,537	190.8	29,566	20,537	144.0
Level IV	13,675	9,104	150.2	14,690	9,104	161.4
Reception	18,695	11,089	168.6	18,695	11,089	168.6
TOTALS	152,868	70,396	217.2%	152,686	70,396	217.2%

^aDesign Bed Capacity (DBC) numbers derive from Five-Year Facilities Master Plan, 1991-96. DBC for Levels III and IV were calculated to be consistent with population components as follows:

Level III = IIIs (including Med) + Psych (17,634 + 2,903 = 20,537)

Level IV = IVs + SHU (7,024 + 2,080 = 9,104)

^bClassification-based population numbers are adjusted column totals from Table 6 and were determined as follows:

Level I = Is + Is w/o score (49,142 + 4,094 = 53,236)

Level II = IIs + IIs w/o score (32,153 + 4,528 = 36,681)

Level III = IIIs + IIIs w/o score + Med/Psych (22,100 + 3,967 + 3,499 = 29,566)

Level IV = IVs + IVs w/o score + Special Security (11,544 + 961 + 2,185 = 14,690)

Reception = 18,695 per Spring 1991 projections

Source: CDC Five-Year Facilities Master Plan, 1991-96, and CDC Spring 1991 Population Projections, 1990-96.

Table 7, columns 1-3, compares the CDC's projected occupancy rate (population divided by design bed capacity), with a projection based solely on inmate classification, columns 4-6. The design bed capacity includes all existing and currently authorized new prison construction projects and mission changes, and excludes contract community beds. Given the divergence between needs based on the CDC's projected inmate classification and the Department's projection of bed placement needs, the prison construction program has been, and continues to be, skewed toward building higher security, i.e., predominantly Level III beds, while neglecting Level I bed needs. The Department's projected Level IV inmate population is nearly comparable to Level IV bed needs.

Table 8

**TOTAL BED NEEDS BEYOND EXISTING AND AUTHORIZED
DESIGN BED CAPACITY (DBC) FOR 1996 POPULATION
by Security Level for Department and Classification-based Projections
June 30, 1996**

	(1) BED NEEDS BASED ON DEPARTMENT PROJECTIONS	(2) DBC	(3) REMAINING BED NEEDS ^a (col.1-col.2)	(4) BED NEEDS BASED ON CLASSIFICATION SCORE	(5) DBC	(6) REMAINING BED NEEDS (col.4-col.5)
Level I	35,542	12,932	22,610	44,363	12,932	31,431
Level II	32,228	16,734	15,494	30,568	16,734	13,834
Level III	30,135	20,537	9,598	22,742	20,537	2,205
Level IV	10,519	9,104	1,415	11,300	9,104	2,196
Reception	14,381	11,089	3,292	14,381	11,089	3,292
TOTALS	122,805	70,396	52,409	123,354	70,396	52,958

	(7) DIFFERENCE IN BED NEEDS (col.6-col.3)	(8) AVERAGE COST PER BED (\$)	(9) COST DIFFERENCE (col.7 x col.8) (million \$)
Level I	+ 8,821	\$ 63,095	+ \$556.56
Level II	- 1,660	96,500	- 160.19
Level III	- 7,393	110,600	- 817.67
Level IV	+ 781	111,666	+ 87.21
Reception	0	110,600	0.00
TOTALS	+ 549		-\$ 334.09

^aLevel I bed need calculation based on Department Projections:

(Level I population divided by Level I Manageable Overcrowding Rate) - Existing and Authorized Design Bed Capacity [(42,650 divided by 1.2) - 12,932 = 22,610]

Source: CDC Five-Year Facilities Master Plan, 1991-96.

Table 8 calculates additional bed needs in two ways. In columns 1-3 are the needs based on Department projections contained in the CDC's 1991-96 Facilities Master Plan for facility construction. In columns 4-6 are the bed needs for 1996 based on inmate classification scores extrapolated from current (1991) figures. Bed needs are calculated by dividing the population for each security level by the appropriate "manageable overcrowding rate" (MOR), and then subtracting existing and authorized design bed capacity. Manageable overcrowding rate is a concept developed by the Department that recognizes that some degree of overcrowding is manageable, depending on the type of inmates housed, capacity of the physical plant and program availability. For inmates housed in cells (Levels III and IV), the Department plans for a manageable overcrowding rate of 130 percent, while inmates housed in dormitories (Levels I and II) can be overcrowded at 120 percent. For maximum security and inpatient psychiatric inmates, no overcrowding is permitted by the Department.

Columns 7-9 demonstrate that the prison building program is skewed toward construction of higher level facilities than the classification system warrants. A projection of bed needs based on classification rather than the Department's projections would require 8,821 more Level I beds and 781 more Level IV beds, but 1,660 fewer Level II beds and 7,393 fewer Level III beds. Overall, because of the cost differential for construction of beds at different security levels, the classification-based approach would result in a savings of more than \$334 million at projected 1996 costs per bed.

Table 9

**TOTAL BED NEEDS BEYOND EXISTING AND AUTHORIZED
DESIGN BED CAPACITY (DBC) BASED ON CLASSIFICATION
SCORE AND HIGHER OCCUPANCY AT LEVELS III AND IV
June 30, 1996**

	(1) BED NEEDS BASED ON CLASSIFICATION SCORE	(2) DBC	(3) REMAINING BED NEEDS (col.1-col.2)	(4) DIFFERENCE W/ DEPARTMENTAL BED NEEDS ASSESSMENT (col.3-col.3 of Table 8)	(5) AVERAGE COST PER BED (\$)	(6) COST DIFFERENCE (col.4 x col.5) (million \$)
Level I	44,363	12,932	31,431	+ 8,821	\$ 63,095	+ \$ 556.56
Level II	30,568	16,734	13,834	- 1,660	96,500	- 160.19
Level III ^a	16,532	20,537	- 4,005	- 13,603	110,600	- 1,504.49
Level IV ^b	8,437	9,104	- 667	- 2,082	111,666	- 232.49
Reception	14,381	11,089	3,292	0	110,600	0.00
TOTALS	114,281	70,396	43,885	- 8,524		-\$1,340.61

^aLevel III bed needs were determined as follows:

Level III population = 29,566 = 26,067 IIIs + 3,499 Med/Psych
 Beds for IIIs at 200% MOR = 13,033
 Beds for Med/Psych at 100% MOR = + 3,499
 16,532 Total

^bLevel IV bed needs were determined as follows:

Level IV population = 14,690 = 12,505 IVs + 2,185 Special Security
 Beds for IVs at 200% MOR = 6,252
 Beds for Special Security at 100% MOR = + 2,185
 8,437 Total

Source: CDC Five-Year Facilities Master Plan, 1991-96.

Because new cells (as well as supporting infrastructure such as offsite utilities) built by the Department for Levels III and IV inmates can accommodate double occupancy, double-celling should be adopted as CDC policy to maximize the use of available bed capacity and reduce costs. Table 9 projects increasing the manageable overcrowding rate from 130 percent to 200 percent for all Levels III and IV cells except for medical, psychiatric and special security units, which comprise 17 percent of these two levels. Immediate adoption of a classification-based prison construction policy coupled with double-celling rates for Levels III and IV inmates would save more than \$1.3 billion in capital costs by 1996, based on projected costs per bed in 1996.

Because new cells (as well as supporting infrastructure such as offsite utilities) built by the Department for Levels III and IV inmates can accommodate double occupancy, double-celling should be adopted as CDC policy to maximize the use of available bed capacity and reduce costs.

Statistics concerning escapes and violent incidents support the idea that double-celling is practical. Since the inception of California's new prison building program in 1980, both show a steady downward trend. The escape rate has fallen to its lowest rate since World War II. The rate of violent incidents has dropped from 11.69 per 100 average daily population in 1982 to 6.5 per 100 in 1989. During those years, prison overcrowding went from 104 percent of design bed capacity in 1980 to 177 percent in 1991.

Table 10

**COMPARISON OF FACILITIES MASTER PLAN BUILDING PROGRAM WITH CLASSIFICATION-BASED PROGRAM
June 30, 1996**

	(1) FACILITIES MASTER PLAN 1991-96	(2) COST ^a (million \$)	(3) CLASSIFICATION- BASED PROGRAM	(4) COST ^a (million \$)	(5) COST DIFFERENCE (million \$)
Level I ^b	15,200	\$ 959.04	22,550	\$1,422.79	+ \$ 463.75
Level II	15,300	1,476.45	12,453 ^c	1,201.71	- 274.74
Level III	9,800	1,253.38	0	0.00	- 1,253.38
Level IV	1,680	187.60	0	0.00	- 187.60
Reception	3,300	299.78	0 ^c	0.00	- 299.78
TOTALS	45,280	\$4,176.25	35,003	\$2,624.50	- \$1,551.75

^aBased on projected cost per bed in 1996 per CDC Five-Year Facilities Master Plan, 1991-96, p. 2-31 (Table F), number of beds from pp. 2-30 and 2-31 (Tables E and F) — Level III = IIIs + Psych beds to be constructed.

^bIn the Master Plan, the assumption is made here that 8,881 contract community beds will be in use, thereby reducing Level I bed needs (31,431 - 8,881 = 22,550).

^cThe 4,672 surplus of Levels III and IV beds completely eliminates building needs for the reception population of 3,292 and 1,380 of the Level II bed needs.

Source: CDC Five-Year Facilities Master Plan, 1991-96.

Table 10 compares the prison building program proposed in the Department's 1991-96 Facilities Master Plan with a modified building program based on inmate classification and double-celling for Levels III and IV inmates, except medical, psychiatric and special housing units. Additional savings accrue because of the surplus of Levels III and IV beds (already authorized and funded) which can accommodate Level II inmates and those in "reception" status. The Department's Master Plan calls for construction of 45,280 beds (not including those for women) at a cost of more than \$4.17 billion, while AOR recommendations on double-celling and classification propose 35,003 beds at a cost slightly more than \$2.62 billion, for a savings of \$1.55 billion in General Fund Capital Outlay.

... AOR recommendations on double-celling and classification propose 35,003 beds at a cost slightly more than \$2.62 billion, for a savings of \$1.55 billion in General Fund Capitol Outlay.

The classification-based approach . . . results in the need for 409 fewer correctional officers annually. . . . the annual operating cost savings amount to more than \$21.7 million . . .

Construction costs are not the only item affected by the skewing of inmate population demographics toward higher security placements. Annual operating costs are affected as well. The Department indicates that more staff are needed at higher security levels (2.5 inmate to 1 staff versus 3.6 to 1).⁷⁰

Table 11 calculates staff needs based on current ratios for the Department's projections as compared to staff needs for the true classification-based system. The classification-based approach, due to the higher number of lower security placements, results in the need for 409 fewer correctional officers annually. At a current average annual cost of \$53,200 including salary and benefits,⁷¹ the annual operating cost savings amount to more than \$21.7 million in current dollars.

Table 11 **STAFF NEEDS**
Department v. Classification-based Projections
June 30, 1996

	(1) DEPARTMENT PROJECTIONS	(2) STAFF NEEDS ^a	(3) CLASSIFICATION- BASED PROJECTIONS	(4) STAFF NEEDS ^a	(5) STAFF NEEDS DIFFERENCE (col.4-col.2)
Level I	42,650	11,847	53,236	14,788	+ 2,941
Level II	38,673	10,742	36,681	10,189	- 553
Level III	39,175	13,058	29,566	9,855	- 3,203
Level IV	13,675	5,470	14,690	5,876	+ 406
TOTALS^b	134,173	41,117	134,173	40,708	- 409

^aStaff needs based on inmate to staff ratios, as supplied by CDC Administrative Services Division. Level I is 3.6:1, Level II is 3.6:1, Level III is 3.0:1, and Level IV is 2.5:1.

^bReception is not included because population counts are the same under both projection methods and, therefore, would not produce a difference in staff needs.

Source: CDC Five-Year Facilities Master Plan, 1991-96, and CDC Administrative Services Division.

PRISON PROGRAMS: A DECADE OF NEGLECT

The California Department of Corrections acknowledges that substance abuse treatment, education, job training and work programs have suffered as a result of the need to house the rapidly growing prison population.

Prison administrators consider inmate idleness and boredom among the biggest obstacles to the efficient management of prisons. The California Department of Corrections acknowledges that substance abuse treatment, education, job training and work programs have suffered as a result of the need to house the rapidly growing prison population. According to Kyle McKinsey, Deputy Director of CDC's Planning and Construction Division, the large scale prison building program of the 1980s provided for cells and dormitories that would hold inmates up to 190 percent of what the Department considered design bed capacity, including infrastructure support, such as water and sewage. But CDC only predicated the delivery of educational and vocational services and such programs as the Prison Industries Authority at 100 percent of design bed capacity.⁷²

McKinsey wrote in a statement prepared for a 1987 Administrative Planning Session on Department-wide problem areas:⁷³

There is not adequate available physical plant space in existing institutions or in the newly designed/opened institutions to accommodate necessary inmate programming activities when the inmate overcrowding population approximates 190 percent, nor is there adequate physical plant space or support services space for the staff who are required and hired to support the services to the inmates and institution staff needs when the inmate populations approaches 190 percent.

While the Department has attempted to ease this situation, and some progress has been made in providing educational facilities, it remains at the very heart of CDC's problems. James H. Gomez, Director of CDC, contends that the system design is adequate if programs were operated on double shifts, but he does not have sufficient budget resources to operate double-shift programs in the prison system.⁷⁴

Many criminal justice experts, including S. Shannon Reffet, Executive Director of the Robert Presley Institute for Corrections Research and Training at the University of California, Irvine, and James O'Malley, formerly of the CDC, are convinced that the most effective substance abuse treatment programs are comprehensive educational and job training programs.⁷⁵ It is difficult to provide meaningful educational or vocational programs for those spending fewer than six months in prison, and virtually impossible for those spending fewer than three months. Prison officials at Folsom Prison acknowledge that, for many inmates, there is a waiting period as long as two years to access any kind of educational or work program.⁷⁶

Work/Training Assignments

The unavailability for work/training assignments is a long-standing problem. Robert Deninger, Deputy Director for Institutions, suggested that an acceptable level of program unavailability would be somewhere between 3 and 6 percent of the inmate population eligible for assignment. Thus, an acceptable number without assignment should be 3,000 to 6,000 inmates.⁷⁷

As of January 1991, of the 94,133 inmates then in prison, 9,652 were on waiting lists for inmate work/training assignments. Another 10,683 without assignments were in Reception Centers, and an additional 4,110 were in orientation.⁷⁸ However, these 14,793 inmates normally would be unable to participate in rehabilitation or work programs because they have not yet received permanent living assignments.

In the best of all possible worlds, the inmates incarcerated for a short period of time in state prisons should be placed in community-level beds. However, until a major community corrections building program is initiated, these short-term inmates must remain in the prison system. Furthermore, it is unlikely that they will be there long enough to receive program assignments, either for work or education, two major program areas that have especially suffered.

Educational and Vocational Programs

In CDC's 1987 evaluation of Departmental problem areas, it was stated that "existing policies, practices and attitudes regarding educational assignments have resulted in unacceptable levels of school assignments/attendance leading to underutilization of education resources and low inmate academic and vocational achievement."⁷⁹ Little has changed in the intervening three and a half years despite program costs which, according to the Department's figures, average \$5,160 per student for primary/secondary academic education for 12 months of full-time instruction.⁸⁰ That compares with an average of about \$4,000 for nine months of instruction in California's public schools.⁸¹

As of March 31, 1991, 7,012 of California's approximately 100,000 inmates were enrolled in academic education programs, and 7,575 were enrolled in vocational programs. All of the institutions have waiting lists for one or more programs. Average times on waiting lists vary greatly. Prison officials say that in some prisons inmates must wait as long as two years to get access to any kind of program — educational, vocational or work.⁸²

Some 56.4 percent of all inmates read below the ninth grade level, which is the nationally accepted standard for literacy. According to the Department, the reading level for all males in the prison system is Grade 8.0, and for females Grade 8.7.⁸³ However, the sample does not tell the whole story. "We have a

huge group that cannot read at all," according to James O'Malley, former Deputy Director of the CDC Education and Inmate Programs Unit, who calls a better education system an "investment aspect." He also says:⁸⁴

The Department can do substance abuse training, parenting skills, all kinds of social cognitive skill training. I can give inmates hours of substance abuse training. The odds are great that they will forget that the minute they are outside the gates. But if we can teach them to read, you can bet that they won't forget. With some kinds of programming, it has to be done over and over and over. But if we can teach them to read, or teach them math, they won't forget. The best you can hope for, if inmates are addicted, is to try and educate them out of it.

Correctional officers say much of the current prison educational program consists of merely going through the motions.⁸⁵ S. Shannon Reffet and others agree. It is not unusual to walk through prison schools, Reffet says, and find inmates reading newspapers, visiting with each other and indulging in other activity unconnected with learning.⁸⁶

Drug Treatment Programs

Drug treatment for inmates in California prisons is inadequate. Nearly 80 percent of inmates have a substance abuse history, and perhaps as many as 70 percent were under the influence of an illegal drug, other than marijuana, at the time of arrest.

It is estimated that only about 15 percent of prisoners with substance abuse problems receive any kind of drug treatment in the federal and state correctional systems nationwide, according to Robert Aukerman, Vice President for Drug Abuse Issues and Chairperson of the Criminal Justice System for the National Association of State Alcohol and Drug Abuse Directors. In his testimony before the U.S. Congressional House Select Committee on Narcotics Abuse and Control in May 1990, Aukerman called that figure inadequate.⁸⁷ On a percentage basis, the nationwide average of 15 percent is five times more than the number receiving treatment in the California prison system, where only 3 percent of inmates receive intensive drug treatment.⁸⁸

In April 1991, the California Auditor General found that the Department had not performed nearly half of 38 tasks necessary to get a drug abuse treatment program established in California prisons. In the Department's report to the California Legislature, *Substance Abuse Treatment and Education Services for Inmates and Parolees*, December 1989, the CDC had scheduled to begin performing these tasks by January 1, 1991. On that date, however, the Department had not yet created programs to assess inmate and parolee substance abuse treatment and educational needs, the most basic of these tasks. Without a needs assessment program, the Department is unable even to determine which inmates need the substance abuse program it is charged with creating.

Although Department officials argued to the Auditor General that some of the tasks were not completed because of lack of funds,⁸⁹ some of the most basic tasks, such as the needs assessment, could have been accomplished without major funding.

CDC responds that it has “taken steps to identify inmates who are eligible for substance abuse treatment programs” and has drafted an administrative bulletin that is undergoing final review and should be effective by September 1991. One program for inmates at the R.J. Donovan Correctional Facility in San Diego has been activated to handle 200 inmates. Initially, the Department says, the program got off to a slow start because inmates were reluctant to volunteer for an unknown program that required involvement, in addition to their current institution work or educational assignments. Now, however, there is a waiting list of inmates wishing to enroll in the program.⁹⁰

In addition, community-based programs to keep inmates out of the system have not been effective. The Substance Abuse Revocation Diversion (SARD) program created by the California Legislature in 1988, and funded with \$5.5 million, was particularly unsuccessful and since has been discarded at the request of the CDC Director.⁹¹ The program, operated through parole agents, involved what the Department described as intensive supervision of parolees in an attempt to ensure that they stayed away from drugs. The Department has pledged to use the funds for other community-based programs. Critics of the SARD program, however, say it was unsuccessful because Department officials did not implement a truly intensive supervision model.⁹²

The Department acknowledged to the Auditor General in April 1991 that it had not begun to evaluate a variety of programs to help inmates “enhance life skills necessary for success after release on parole.” These programs included creation of a parole services network to help parolees released in the Bay Area, a 12-step community services program for recovering addicts that is based on literature developed by Alcoholics Anonymous, and pre-release education programs involving “release skills,” employability and substance abuse. Steps necessary to increase community-based services and referrals by parole agents, and include assessing and monitoring each participant’s progress also were not implemented. The Department’s explanation for failure to implement several of these programs was lack of funding.⁹³ However, as SARD demonstrates, it is not merely a question of resources, but rather the Department’s inability to implement such programs effectively.

CONCLUSIONS

The taxpayer would be more effectively served if California could return its prison system to its historic role. Short-term inmates should be taken out of the prison system and dealt with at the community level. Undocumented criminal aliens should be dealt with by the federal government before their deportation to their native lands. Those inmates left should be properly classified and housed in accordance with security risk, and then placed in more effective educational, work and drug programs to keep them from repeatedly coming back to prison (recidivism).

It is difficult enough to attempt to rehabilitate incarcerated felony offenders under any circumstances. Richard McGee pointed out in 1981 that if one adds to this:⁹⁴

... special conditions of enforced confinement, limitations of personal choices of food, clothing, companions, physical mobility and occupation, absence of normal sex life, limited recreational opportunities and a high concentration of social deviants, all over a period of many months or years, one has the recipe for producing not law-abiding citizens but human anomalies. That 50 percent or more of them, to the best of our knowledge, do not come back is more astonishing than that 50 percent of them do.

Policy Findings and Recommendations

More than a decade ago, CDC instituted the largest prison building program in the history of the world. At the same time, it promulgated a revised, sophisticated classification system designed to determine security needs, placements and future construction requirements . . . the classification system . . . has resulted in the out-of-level classification of nearly 30 percent of the current inmate population, and has not been used to project construction needs properly. The resulting costs to the state taxpayers are enormous.

California's prison system policy is in crisis because of a massive population increase over the past decade. A large percentage of these inmates in California Department of Corrections' (CDC) institutions are short-term inmates who receive virtually no rehabilitative programming, particularly in work, educational/vocational training or drug treatment. More than a decade ago, CDC instituted the largest prison building program in the history of the world. At the same time, it promulgated a revised, sophisticated classification system designed to determine security needs, placements and future construction requirements. As of this date, the classification system, as currently utilized by CDC, has resulted in the out-of-level classification of nearly 30 percent of the current inmate population, and has not been used to project construction needs properly. The resulting costs to the state taxpayers are enormous.

The following policy recommendations would enable the CDC to save \$1.55 billion in capital construction costs, and \$21.7 million in annual operating costs by 1996.

The recommendations would also enable CDC to manage its current inmate population better, to predict more accurately construction needs for its future population in the light of current overpopulation and high number of out-of-level classifications, and to fulfill its mission statement — to incarcerate California's most serious criminal offenders in a secure, safe and disciplined institutional setting while providing work, academic education, vocational training and specialized treatment for the inmate population.

I. AMEND THE CDC BUILDING PROGRAM TO REFLECT PRISON INMATE POPULATION MORE ACCURATELY.

A. Mandate that the California Department of Corrections house inmates in facilities commensurate with their security classification level.

The CDC classifies inmates into four broad security levels via a points-based system involving 38 factors. These factors include criminal history, length of sentence, behavior during prior terms, escape history and age at time of commitment, among other things. CDC sometimes also uses administrative determinants to override the inmate's points-based classification score and move him or her to a higher security setting. Many of these administrative determinants, including such factors as sex problems, time to serve, escape risk, known enemies and protective custody needs, are already captured by the points-based classification system itself.

Although CDC claims that the administrative determinants are necessary for a complete classification of inmates, such subjective determinants can serve as a convenient method to override the objective points-based classification system, often resulting in the inmate's placement into a higher security setting, at more expensive construction and operating costs.

Level I inmates, the lowest security level, are housed in open dormitories without a secure perimeter.

Level II inmates are housed in open dormitories with fenced perimeters and armed coverage.

Level III inmates are confined in individual cells with fenced perimeters, electronic security and armed coverage. Within some Level III facilities are special administrative segregation units which are used as short-term placements for Level III behavioral problem inmates.

Level IV inmates, the most recalcitrant or dangerous, are in maximum security cells with fenced or walled perimeters, including electronic security and more staff and armed officers than in a Level III facility. Within some Level IV facilities are special housing units, which represent the highest degree of security for inmates whose behavior or security risk cannot be controlled.

In practice, however, large numbers of low security level inmates are placed into cells built for higher security level inmates after the CDC has applied administrative determinants to override the inmate's points-based classification score. Because the administrative determinant process uses subjective variables to predict security risks, it seems to render the objective points-based classification process moot.

At present, nearly 25 percent of inmates occupying Level III cells are classified as Levels I and II inmates, who could be housed in less expensive facilities. A more accurate projection of bed needs over the next five years would require 8,821 more Level I beds, which will cost an average of \$63,095 per bed to construct, and 781 more Level IV beds, which will cost \$111,666 per bed, but 1,660 fewer Level II beds, which will save \$96,500 per bed, and 7,393 fewer Level III beds, which will save \$110,600 per bed. Such a change in the housing policy to reflect a more accurate approach toward points-based classification could save the taxpayers \$334 million (at 1996 per bed costs) in the total construction program by 1996.

Annual operating costs are affected as well. Since higher security level facilities require more intensive staff to inmate ratios, placement appropriate to classification would result in the need for 409 fewer correctional officers by 1996, for a current annual operating cost savings of more than \$21.7 million for salary and benefits.

B. Make double-celling a CDC policy.

Current policy is to house one inmate in each cell, which the CDC calls 100 percent of design bed capacity, despite the fact that nearly all Levels III and IV cells now being built contain two concrete bunks. Because of the large influx of prisoners, these cells often do accommodate two inmates safely. The state should double-cell inmates as prison policy. With the Department already placing two inmates in more than 77 percent of all cells, it is de facto policy for all Levels III and IV inmates, except the most unmanageable.

The Department's Master Plan calls for construction of 45,280 beds (not including those for women) at a cost of more than \$4.17 billion by 1996, while the Assembly Office of Research's (AOR) recommendations on double-celling and classification propose 35,003 beds at a cost of slightly more than \$2.62 billion, for a savings of \$1.55 billion in General Fund Capital Outlay.

C. Adopt a Community Corrections Act which would provide a wide range of punishment options at the state and local levels.

Both the California Legislative Analyst in 1991 and the Blue Ribbon Commission on Inmate Population Management in 1990 have called for the California Legislature to pass a Community Corrections Act. Such legislation could reduce the cost of the prison system by placing inmates, who otherwise would be housed in expensive state prisons, into less costly local facilities. It would expand the use of intermediate punishment options as an alternative to state prison. The goal of community corrections is to provide more effective treatment and services primarily to non-violent and substance abuse offenders, thereby reducing recidivism and lowering state costs.

The community corrections option would better serve inmates who suffer from substance abuse problems, only some of whom are committed for drug offenses. CDC estimates as many as 80 percent of the prison population has substance abuse problems, irrespective of committing offense. The Legislative Analyst estimates that in 1991 CDC will spend \$500 million for those inmates committed for drug offenses alone.

Although mandated by the California Legislature to create and implement a comprehensive substance abuse treatment plan for inmates and parolees by January 1, 1991, CDC, according to the California Auditor General, has not implemented nearly 50 percent of its "plan."

Legislation should be approved to require CDC to provide comprehensive drug treatment — pursuant to a strategic plan that includes coordination with community-based programs — for inmates and parolees. Such legislation should have clear sanction language that provides for CDC budgetary reduction if substance abuse services are not provided.

Three measures dealing with community corrections were introduced in the 1991-92 Legislative Session. The status of these measures, as of September 9, 1991, are:

1. AB 1871 (Burton), Assembly Inactive File;
2. SB 26 (Lockyer), held in the Assembly Public Safety Committee; and
3. SB 187 (Presley), held in the Assembly Ways and Means Committee.

D. Create a sentencing reform commission to study the implementation of sentencing guidelines which incorporate the expansion of state and local intermediate punishment options.

Closely related to the community corrections recommendation, sentencing reform would overhaul and conform current sentences to a larger variety of punishment options. A Sentencing Reform Commission, consisting of representatives from all segments of the criminal justice system, would make recommendations to the Governor and the California Legislature to clarify and simplify the current sentencing structure, as well as establish sentencing guidelines incorporating state and local punishment options. Such sentencing reform would be aimed at reducing the numbers of convicted offenders serving time in state prison for minor and non-violent offenses.

Senator Robert Presley is currently developing legislation to create a sentencing reform commission. Hearings are scheduled for the Fall 1991 interim.

II. APPEND COST APPROPRIATIONS TO LEGISLATION THAT ADDS TO THE PRISON POPULATION.

During the previous administration's eight years in office (1982-1990), the Governor signed into law more than 350 pieces of legislation enhancing or expanding prison terms or creating new penalties. The Legislative Analyst found that more than 4,000 prison beds will be filled in Fiscal Year 1991-92 merely as a result of major sentencing legislation chattered between 1985 and 1989.

The Legislative Analyst also predicts that the cumulative effect of such legislation will increase the prison population by approximately 10,000 inmates by 1994. Until alternate punishment options are created pursuant to a Community Corrections Act (see recommendation II[C] above), the California Legislature should not pass legislation which increases current sentence lengths, enhances current sentences for particular aspects of a crime and upgrades current criminal penalties unless an appropriation to pay the added incarceration costs is included within the legislation itself.

III. AMEND THE CALIFORNIA PENAL CODE, WHICH NOW DEFINES PURPOSE OF IMPRISONMENT AS PUNISHMENT ALONE, TO ADD THAT COMMITMENT SHOULD PROVIDE CONVICTS A PATH FOR SUCCESSFUL COMMUNITY RE-ENTRY VIA WORK EXPERIENCE, EDUCATIONAL/VOCATIONAL TRAINING AND SUBSTANCE ABUSE PROGRAMS.

Currently, California Penal Code Section 1170 states that "the purpose of imprisonment for crime is punishment." CDC's mission statement includes a commitment to provide work, academic education, vocational training and specialized treatment for inmates. By adopting the proposed policy recommendation, the California Legislature would conform the Penal Code to support CDC's mission statement by providing important legislative intent language. The Blue Ribbon Commission on Inmate Population Management made a similar recommendation.

IV. DEVELOP FORMAL STATEWIDE PAROLE REVOCATION CRITERIA TO BE USED BY ALL PAROLE AGENTS WHEN DETERMINING WHO SHOULD BE CONTINUED ON PAROLE AND WHO SHOULD BE REFERRED TO THE BOARD OF PRISON TERMS FOR REVIEW.

Following implementation of the Determinate Sentencing Law in the beginning of 1977, the rate of male felon parolees returned to custody leapt from 27.2 percent in 1983 to an all-time high of 69.1 percent in 1989. However, the criteria which guided the parole agents' revocation recommendations during that period has remained essentially the same.

Thus, an informal policy has guided revocations over the past decade. Although CDC released a report in 1990 that called for the streamlining of parole revocation criteria, none of the strategies proposed by the report have been implemented. Legislation should be approved to mandate the CDC develop and implement specific statewide parole revocation criteria. Sanction language should be included in the bill which would reduce CDC's parole budget if CDC does not implement such criteria pursuant to the legislation.

V. REQUEST THAT THE CALIFORNIA CONGRESSIONAL DELEGATION INTRODUCE LEGISLATION TO REQUIRE THE U.S. IMMIGRATION AND NATURALIZATION SERVICE (INS) AND THE FEDERAL BUREAU OF PRISONS EITHER TO PROVIDE FOR THE TRANSFER OF SUCH ALIENS TO APPROPRIATE FEDERAL FACILITIES, OR TO PAY FOR THE COST IN CALIFORNIA OF INCARCERATING UNDOCUMENTED CRIMINAL ALIENS WHO HAVE DEPORTATION ORDERS.

As of May 1991, the INS had put a "hold" for eventual deportation on more than 9,600 undocumented aliens who are CDC inmates. Thousands more have not as yet been put under hold. CDC officials estimate that as many as 20 percent of the current approximately 100,000 inmate population are undocumented aliens whose committing offense may subject them to deportation proceedings. More than 60 percent of the felony offenses for which these undocumented criminal aliens are convicted are drug or drug-related. There are two basic policy options.

1. The first option would transfer all undocumented criminal aliens, immediately after sentencing, to INS custody for placement in an INS or federal Bureau of Prisons (BOP) facility (or contract facility) for the purpose of formal deportation proceedings, completion of sentence and/or deportation to country of origin. A variation of option one enhances current procedures. Undocumented criminal aliens are sent to CDC. The INS holds formal deportation hearings within CDC facilities. When final orders of deportation are issued, instead of allowing the undocumented criminal alien to remain in CDC custody, he or she would be transferred to INS custody for placement in an INS or federal BOP facility (or contract facility) for the completion of sentence and/or deportation to the country of origin.
2. The second option is for the federal government to reimburse the State of California for the incarceration of undocumented criminal aliens with formal orders of deportation.

Either of the above-mentioned policy options may be combined with a cooperative agreement, grounded in treaties, between the United States and the country of origin, to deport the undocumented criminal alien to the country's criminal justice system to complete the remainder of the state imposed sentence.

ENDNOTES

- ¹Michael D. Brown, *History of Folsom Prison 1878-1978* (Sacramento: Prison Industry Authority, 1978), p.3. (NOTE: Brown lived a substantial part of the history of Folsom and other prisons as an inmate. He spent more than 25 years inside prison walls as a convicted felon.)
- ²Rochelle Rae Bookspan, *A Germ of Goodness: The Evolving California State Prison System, 1851-1944*, Ph.D. dissertation (Santa Barbara: University of California, 1987), p.1.
- ³Brown, p.20.
- ⁴Letter from J.M. Estell, San Quentin Prison Lessee, to the California Senate and Assembly, December 1854.
- ⁵Bookspan, p.37.
- ⁶Ibid., p.42.
- ⁷Chapter 71, *California Statutes of 1880*, p.67.
- ⁸Bookspan, p.128, and Brown, p.20.
- ⁹Bookspan, p.49.
- ¹⁰"Report of Joint Committee Investigation Regarding Conditions at State Prison," California State Archives, D664, S2, 1858.
- ¹¹Chapter 324, *California Statutes of 1864*, p.356.
- ¹²Chapter 71, *California Statutes of 1880*, p.67.
- ¹³"Report on State Prison Conditions, April 5, 1862," California State Archives, D651, LP5, 1862.
- ¹⁴Bookspan, p.60.
- ¹⁵Brown, p.20.
- ¹⁶Chapter 103, *California Statutes of 1889*, p.100.
- ¹⁷Proceedings of California Senate and Assembly Relative to California State Prisons, *Assembly Journal*, 1903.
- ¹⁸Proceedings of California Senate and Assembly Relative to California State Prisons, *Assembly Journal*, 1903.
- ¹⁹Bookspan, p.100.
- ²⁰Report of Special Assembly Committee on State Prison Reform, *Assembly Journal*, 1907, p.274.
- ²¹Chapter 534, *California Statutes of 1917*, p.688.
- ²²Richard A. McGee, *Prisons and Politics* (Lexington, Mass.: Lexington Books, 1981), p.128.
- ²³Ibid., p.93.
- ²⁴California Department of Corrections, Offender Information Services Branch Database.
- ²⁵McGee, p.103.
- ²⁶Bookspan, p.257.
- ²⁷Ibid.
- ²⁸Interview with Norman Holt, former senior staff, Classification Services, Institutions Division, California Department of Corrections, Sacramento, June 12, 1991.
- ²⁹Ibid.
- ³⁰National Advisory Commission on Criminal Justice Standards and Goals, *Report of the Task Force on Criminal Justice R&D* (Washington, DC: Government Printing Office, 1976), p.3.

- ³¹California Department of Corrections, *Inmate Classification System Study: Final Report* (Sacramento: January 1986), p.5.
- ³²Senator Kenneth Maddy, Chairman, *California Legislature Joint Committee for Revision of the Penal Code*, Written Statement (Sacramento: Joint Publications Office, March 28, 1990), p.1.
- ³³443 F. Supp. 956, 965 (1977).
- ³⁴California Department of Corrections, *Inmate Classification System Study: Final Report*, p.17.
- ³⁵California Penal Code, Section 1170.
- ³⁶California Department of Corrections, "Department Mission," *Operations Manual, Volume 1*, Chapter 10000, Subchapter 11000, Section 11010.3 (Sacramento: January 22, 1990).
- ³⁷California Department of Corrections, Offender Information Services Branch Database, and California Department of Corrections, Planning and Construction Division Database.
- ³⁸California Department of Corrections, Offender Information Services Branch Database.
- ³⁹Office of Governor Pete Wilson, State of California, *Governor's Budget 1991-1992* (Sacramento: Office of State Printing, 1991), p.YAC 1.
- ⁴⁰Letter from James H. Gomez, Director, California Department of Corrections, to Members of the California State Legislature and Other Interested Parties, June 4, 1991, and California Department of Corrections, *Five-Year Facilities Master Plan, 1991-1996* (Sacramento: April 1991), p.1.
- ⁴¹Kyle S. McKinsey, "Projections of California Inmate Population," testimony before the Joint Committee on Prison Construction and Operations, April 17, 1991.
- ⁴²*Ibid.*
- ⁴³California Department of Corrections, Offender Information Services Branch Database.
- ⁴⁴McKinsey testimony.
- ⁴⁵California Department of Corrections, Offender Information Services Branch Database.
- ⁴⁶California Department of Corrections, Offender Information Services Branch, *Characteristics of Population in California State Prisons by Institution, December 31, 1990* (Sacramento: May 1991), and California State Census Data Center, *1990 Census of California Population* (Sacramento: August 1991).
- ⁴⁷California Department of Corrections, Offender Information Services Branch Database.
- ⁴⁸*Ibid.*
- ⁴⁹*Ibid.*
- ⁵⁰*Ibid.*
- ⁵¹California Board of Corrections, Jail Planning and Construction Division Database, August 1991.
- ⁵²Interview with James H. Gomez, Director, California Department of Corrections, Sacramento, July 26, 1991.
- ⁵³Grover C. Trask II, Chair, *Final Report of the Blue Ribbon Commission on Inmate Population Management* (Sacramento: Prison Industry Authority, 1990), p.25.
- ⁵⁴James Rowland, "Some Observations and Implications of Overcrowding in the California Department of Corrections," Remarks prepared for the California Corrections Executive Council, April 20-21, 1989.
- ⁵⁵Cary J. Rudman, California Assembly Office of Research, *Impact of Criminal Undocumented Aliens On California's Judicial System*, Background Paper for California Assembly Committee on Judiciary Hearing (Sacramento: June 1, 1990), p.3.
- ⁵⁶California Department of Corrections, Offender Information Services Branch Database.
- ⁵⁷Rudman, p.3.

- ⁵⁸U.S. Department of Justice Immigration and Naturalization Service, *Criminal Alien Strategy*, Briefing Paper (Washington, D.C.: May 1990), p.1.
- ⁵⁹Anti-Drug Abuse Act of 1988 (21 USC 1501).
- ⁶⁰U.S. Department of Justice Immigration and Naturalization Service, *Criminal Alien Strategy*, p.5.
- ⁶¹Rudman, p.4.
- ⁶²*Ibid.*, p.6.
- ⁶³California Department of Corrections, *Inmate Classification System Study: Final Report*, p.viii.
- ⁶⁴California Department of Corrections, "Calculation of Classification Score," *Operations Manual, Volume VI*, Chapter 60000, Subchapter 61000, Section 61010.11.2 (Sacramento: October 29, 1990).
- ⁶⁵California Department of Corrections, "Special Case Factors," *Operations Manual, Volume VI*, Chapter 60000, Subchapter 61000, Section 61010.11.3 (Sacramento: October 29, 1990).
- ⁶⁶California Department of Corrections, "Placement," *Operations Manual, Volume VI*, Chapter 60000, Subchapter 61000, Section 61020.19.8 (Sacramento: October 25, 1989).
- ⁶⁷California Department of Corrections, *Corrections: Public Safety, Public Service* (Sacramento: 1990), p.8.
- ⁶⁸California Department of Corrections, Administrative Services Division, Offender Information Services Branch, Data Analysis Unit, *California Prisons and Parolees 1989* (Sacramento: 1990), p.71.
- ⁶⁹California Department of Corrections, *Five-Year Facilities Master Plan, 1991-1996*, pp.2-7.
- ⁷⁰Interview with James E. Tilton, Deputy Director, Administrative Services, California Department of Corrections, Sacramento, August 7, 1991.
- ⁷¹California Department of Corrections to Assembly Office of Research, Sacramento, California, completed AOR Questionnaire dated April 1, 1991, regarding issues and problems with the Department's operations, June 1, 1991.
- ⁷²California Department of Corrections, *Administrative Planning Session: Problem Statements* (Sacramento: December 11, 1987), p.24.
- ⁷³*Ibid.*
- ⁷⁴Gomez interview.
- ⁷⁵Interviews with S. Shannon Reffet, Executive Director, the Robert Presley Institute for Corrections Research and Training, University of California, Irvine, May 16, 1991, and James O'Malley, former Deputy Chief, Education and Programs Unit, Institutions Division, California Department of Corrections, Sacramento, June 10, 1991.
- ⁷⁶Interviews with correctional officers during Assembly Office of Research staff tours of prisons arranged by California Department of Corrections, Folsom Prison, March 15, 1991.
- ⁷⁷California Department of Corrections, *Administrative Planning Session: Problem Statements*, p.5.
- ⁷⁸California Department of Corrections responses to AOR Questionnaire.
- ⁷⁹California Department of Corrections, *Administrative Planning Session: Problem Statements*, p.20.
- ⁸⁰California Department of Corrections responses to AOR Questionnaire.
- ⁸¹Policy Analysis for California Education (PACE), *Conditions of Education in California 1989*, Policy Paper No. PP90-1-2 (Berkeley: January 1990), p.107.
- ⁸²California Department of Corrections responses to AOR Questionnaire.
- ⁸³*Ibid.*
- ⁸⁴Interview with James O'Malley, former Deputy Chief, Education and Programs Unit, Institutions Division, California Department of Corrections, Sacramento, June 10, 1991.

- ⁸⁵Interviews with correctional officers during Assembly Office of Research staff tours of prisons arranged by California Department of Corrections, Folsom Prison, March 15, 1991, and Wasco State Prison, March 19, 1991.
- ⁸⁶Reffet interview.
- ⁸⁷Robert Aukerman, Director, Alcohol and Drug Abuse Division, State of Colorado, and Vice President for Drug Abuse Issues, National Association of State Alcohol and Drug Abuse Directors, written testimony before the U.S. House of Representatives Select Committee on Narcotics Abuse and Control, May 14, 1990, p.2.
- ⁸⁸Richard Garnett and Vincent Schiraldi, *Report on Concrete and Crowds: 100,000th Prisoners of the State* (San Francisco: Center on Juvenile and Criminal Justice, [April 1991]), p.2.
- ⁸⁹Office of the Auditor General of California, *A Review of The Department of Corrections' Implementation of its Substance Abuse Treatment and Education Services* (Sacramento: April 3, 1991), p.2.
- ⁹⁰Ibid., Attachment 1.
- ⁹¹Gomez interview.
- ⁹²Joan Petersilia and Susan Turner, *Intensive Supervision for High-Risk Probationers: Findings from Three California Experiments* R-3936-NIJ-BJA (Santa Monica: Rand Corporation, December 1990).
- ⁹³Office of the Auditor General of California, p.6.
- ⁹⁴McGee, p.105.