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California Corrections: The Slippery Slope

Assembly Criminal Justice Committee

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CALIFORNIA CORRECTIONS:
THE SLIPPERY SLOPE

A Report by the Staff
of the
Assembly Criminal Justice Committee
1981



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TERRY GOGGIN
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November 24, 1981

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Honorable Willie Brown, Jr.
Speaker of the Assembly
State Capitol, West Wing-Room 209
Sacramento, CA 95814

Dear Mr. Speaker:

Enclosed herewith is the first in a series of reports by the staff of the Assembly Criminal Justice Committee on California Corrections. The purpose of this report is to provide members of the Assembly with a brief overview of the problems confronting the Department of Corrections in the coming years with particular emphasis on the fiscal needs of the prison system.

This report is primarily the work of Lewis H. Fudge, a former chief institutional planner for the Department of Corrections with more than twenty-five years experience in corrections, and Jeffrey P. Ruch, a committee consultant. I also wish to thank the Director, Ruth Rushen, and the California Department of Corrections for their cooperation in the preparation of the report.

In my judgment, the report findings highlight problems which are of great importance, not only for the Department of Corrections, but for all Californians who are concerned with the future of our criminal justice system.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Goggin".

TERRY GOGGIN
Chairman

TG:gp

Enclosure

I. FINDINGS

The California Department of Corrections (CDC) is facing workload, funding, and operational problems of monumental proportions:

1. CDC Is Experiencing A Population Explosion.

Since the advent of the Determinate Sentencing Law in 1977, CDC population has increased by over 7,000 prisoners (20,629 to 27,651). During 1981, the prison population has grown at a rate of 100 persons a week. CDC is now projecting that the prison population will accelerate to 39,787 by 1984-85 and may reach 46,564 during 1989-90.

TABLE ONECDC TENTATIVE REVISED POPULATION ESTIMATES

July 23, 1981

<u>As of June 30 of Fiscal Year</u>	<u>Total</u> ¹
1980-81	27,210 ²
1981-82	30,605
1982-83	34,505
1983-84	37,626
1984-85	39,797
1985-86	40,784
1986-87	42,626
1987-88	43,906
1988-89	45,556
1989-90	46,564

¹While these are CDC totals (male, female, felon and non-felon), only male felon figures were recalculated.

²Actual.

2. CDC Is Facing A Housing Crunch

-- Despite spending five years and millions of dollars in planning for additional prisons, none of these proposed institutions is under construction. In fact, prison bed capacity has actually declined over the last 10 years. The CDC is several years behind in meeting housing needs that were forecast as early as 1976.

-- The CDC will require between 11 and 13 new prisons in order to provide some 18,413 additional prison beds needed to house projected inmate populations through 1990. Current cost estimates for new prison facility construction ranges from \$40,000 a bed for minimum security (Level I) housing through \$100,000 a bed for maximum security (Level IV) housing. Even if a low general figure of \$50,000 a bed for the total range of needed housing is used as the multiplier, new construction costs will approach \$1 billion by 1990. This figure does not include the very substantial capital outlay costs that would be required to renovate existing facilities.

-- Institution studies carried out during 1980 show that the majority of existing correctional institutions do not meet contemporary standards, as developed by the American Correctional Association and other agencies. On this basis, the 1980 CDC Facilities Requirements Plan recommends the upgrading of existing institutions and the provision of a number of new institutions, at a total cost of \$1.3 billion. However, these estimates were made on the basis of population projections which were much smaller than the CDC is now forecasting.

3. Annual CDC Support Costs Are Accelerating.

-- In fiscal year 1966-67 with a total of 28,140 inmates, the CDC support budget was \$96,580,903. In fiscal 1981-82 with a smaller prisoner workload (27,651), the CDC support budget is \$429,783,872. Over the last five years, the CDC budget grew 110% while the state's inflation rate for the same period was 63.6%.

If support cost trends are projected forward in relation to anticipated prison population growth, annual CDC support costs will total \$1.33 billion by fiscal year 1989-90.

-- Per capita inmate costs have more than doubled in the last five years (from \$6,237 per annum in 1975-76 to \$13,087 per annum in 1981-82). At the current rate of growth, the cost of maintaining a single prisoner for one year will reach \$25,526 by fiscal year 1989-90.

4. The CDC Workforce Has Grown At A Faster Rate Than Inmate Population.

-- CDC staff has increased from 6,924 in 1966-67 to 9,373 in 1981-82 despite a net decrease in inmate population over that period of time. Thus, for example, while inmate populations plunged in 1972, and again in 1975, CDC staff was increasing. During the last decade, CDC staff expanded by over 2,500 positions while inmate totals remained relatively constant (27,055 inmates in 1970-71 versus 27,651 inmates in 1981-82) [See Table Two].

If the CDC maintains present staffing ratios in response to growing prisoner populations over the next decade, the CDC workforce will reach 16,056 by 1989-90.

-- These workforce expansions have not been confined to the institutional guardlines. CDC "Central Office" administrative staff has grown from 165 positions in 1971 to 356 positions in 1981.

TABLE TWO

CALIFORNIA DEPARTMENT OF CORRECTIONS
STAFFING AND COST COMPARISONS
1960 - 1981

Category Totals	1960-61	1970-71	1975-76	1981-82	+ or - Difference 1960-81
Inmate Population	20,610	27,055	24,233	26,976	+ 6,368
Staff	3,816	6,852	8,327.8	9,373.4	+ 5,557.4
Support Administrative Administration Staff	\$35,490,596 \$ 644,491	\$117,169,777 \$ 1,855,948	\$203,568,256 \$ 5,714,592	\$429,783,872 \$ 32,292,671	+\$394,293,276 +\$ 31,638,180
Inmate to Staff Ratios	101.3 4 to 1 CMF 6.9 to 1 Fol	164.4	231.4	372	+ 270.7
SQ Staff/Pop	562.4 4832	508.7	3.6 to 1 3,641	3.5 to 1 884.8 3,132	+ 2.25 to 1 + 322.4 - 1700
Folsom Staff/Pop	390.3 2700	398.1	2,400	522.6 2,056	+ 132.3 - 644
CMF Staff/Pop	487 1940	575.9	1970	729.2 2,353	+ 242.2 +413
Per Capita Costs	\$ 1,600		\$ 6,237	\$ 13,087	\$ 11,487

5. CDC Institutional Security Is Deteriorating.

Despite increased staffing, inmate violence and disruption has steadily grown. Fifteen CDC staff members have been murdered by inmates since 1970. During this same period, there have been 218 fatal assaults by prisoners compared to 88 during the prior decade. Serious incidents have increased from 366 in 1970 to 2,848 in 1980. Assaults on staff by inmates have skyrocketed from 59 during 1970 to 303 during 1980. Protracted and expensive lockdowns have become commonplace in CDC.

TABLE THREE

NUMBER OF ASSAULTS BY INMATES ON STAFF

1970 - 1980

Calendar year	Number of assaults			Total number of staff involved
	Total	Committed by men	Committed by women	
1970	59	57	2	78
1971	67	64	3	84
1972	55	51	4	74
1973	84	78	6	132
1974	93	83	10	131
1975	65	58	7	104
1976	94	76	18	130
1977	110	108	2	149
1978	182	170	12	231
1979	323	311	12	401
1980	303	281	22	405

Note: These data are based upon incident reports submitted by the institutions to Offender Information Services. Due to reporting irregularities, total assaults in 1979 included a disproportionately high number of less serious incidents.

6. Chronic Prisoner Idleness Has Not Been Remedied.

Despite annual statements that expansion of prisoner work programs is a matter of high priority, there has been no substantial increase in such programs. Approximately 10% of the current inmate population is employed in correctional industries.

7. CDC Has Failed To Adjust Its Goals And Methods To Changed Circumstances.

-- Although rehabilitation is no longer a primary purpose of imprisonment since the repeal of indeterminate sentencing,

CDC continues to retain rehabilitation-oriented staff classifications and inmate programs.

-- At the same time, CDC has increasingly resorted to high cost, high security lockdown units in its attempts to control inmate violence and disruption.

-- California Corrections has experienced a steady decline in cost and program effectiveness over the last decade. CDC shows no sign of reversing this trend over the coming decade.

II. HISTORICAL BACKGROUND

"Life can only be understood backwards;
but it must be lived forwards."

Kierkegaard

While state prisons have existed in California since 1852, it was not until 1944 that the prisons were organized into a state-wide correctional network. In that year the Legislature created the present Department of Corrections and the then Board of Prison Terms. Richard A. McGee, a career penologist of national reputation, was recruited to become the state's first Director of Corrections.

McGee's appointment came at a time when the State of California was receptive to the reform and reorganization of its scattered prisons. Starting with the archaic, often corrupt, and usually brutal prisons of San Quentin and Folsom, McGee developed the new Department of Corrections into a highly regarded correctional organization. This network of prisons was based upon the indeterminate sentence, professional level classification, and extensive rehabilitation programs. These features, together with "state of the art" correctional management techniques, were intended to effectively rehabilitate a rapidly expanding inmate population.

This was considered the "Golden Age" of California Corrections. Staff and inmates generally accepted the changed prison social order. The CDC was provided with modern institutions, professional staff, and inmates who, for the most part, accepted correctional leadership, the rehabilitative purpose, and the "medical model" techniques.

By the early 1960's, CDC's "classic" era began to erode. A long chain of events transpired which led the Department to its present straits.

1. Changing Prisoner Attitudes.

Two simultaneous and related changes signaled the beginning of the end of what was considered a model prison system. First was the growing number of inmates who rejected correctional rehabilitation, as then practiced, together with its humanistic artifacts.

The second change, a growing number of assertive black prisoners, drew far more notice by prison staff. This new phenomenon was most dramatically manifested by the emergence of the Black Muslim movement in California prisons.

Prior to their appearance, the CDC, like most prison systems, effected prisoner control with divide and conquer techniques. This incorporated the extensive use of inmate informers -- "the snitch system" -- and an official policy of each prisoner being given individual attention and treatment -- "the do your own number system." Prisoners who joined the Nation of Islam confounded these control techniques. The Muslims organized themselves into disciplined groups which were capable of collective action.

CDC staff were alarmed at these developments. Black Muslims were harassed and routinely placed in segregation lockup. The Muslims went to court seeking constitutional protection for the exercise of their religious practices in prison. The courts responded in In re Ferguson, 361 P.2d 417 (1961), and related

decisions which extended basic First Amendment religious safeguards to incarcerated Black Muslims.

Grudgingly, the CDC prison staff sanctioned the legitimacy of the Black Muslims. With the passage of time, the organization proved to be a generally positive influence upon its members and upon institution operations. However, line staff continued to resent and fear the organization. They were a symbol of unwanted change. It was not until the late 1970's that the Muslims were permitted to use institution chapel complexes for office space and religious services or were provided with regular visits by outside ministers from the Nation of Islam.

2. Court Intervention and the End of Administrative Discretion.

Up until the present generation, the courts were generally reluctant to intervene into the affairs of prisons or their inmates. This traditional "Hands Off" doctrine was best expressed in Ruffin v. Commonwealth, 62 VA (21 Gratt) 790, 796 (1871):

"A convicted felon as a consequence of his crime not only forfeited his liberty, but all his personal rights except those which the law in its humanity accords to him. He is for the time being the slave of the state."

Beginning in the 1960's and extending up to the present a series of court decisions gave prisoners legal rights which were previously unrecognized. The courts applied due process protections to the imposition of prison discipline (see Wolff v. Mc Donnell, 488 U.S. 539 [1974]), freedom of expression rights

to inmate correspondence (See Procunier v. Martinez, 416 U.S. 396 [1974]), and Sixth Amendment access rights to legal services and law libraries (See Fostre v. McGuinis, 442 F.2d 178 [1971], cert. denied, 405 U.S. 978 [1972]).

Perhaps the most dramatic and direct judicial interventions revolved around prison conditions themselves. In the landmark case of Jordan v. Fitzharris, 257 F. Supp. 674 (1966), unsanitary conditions and operational practices in Soledad Prison's Isolation Cells were held to be unnecessarily punitive and violative of the Eighth Amendment protections against cruel and unusual punishment. Since Jordan, entire state prison systems have been found unconstitutional under Eighth Amendment standards.

The cumulative effect of these decisions has been to restrict the administrative discretion vested in prison officials. From the warden to the guard, all penal staff were affected. Although not in an enviable position, the prisoner was no longer "the slave of the state." As with another emancipation proclamation, the subsequent reconstruction period has been slow and painful.

The CDC attempted to change its practices to mesh with the continuing series of court actions, but without uniform success. The resistance of prison staff, naturally enough, was fiercest where court decisions limited or eliminated management tools for the control of inmates. With the advent of determinate sentencing and automatic "good time," prison officials lost even the ability to meaningfully affect the release date of most inmates.

New management techniques have been slow to fill the void left after the demise of the Hands Off Doctrine.

3. Population and Policy Changes.

In 1967, following the election of Ronald Reagan as California's Governor, Richard A. McGee was removed as Secretary of the Youth and Correctional Agency and Walter Dunbar, who had succeeded McGee as Director, was also replaced. Governor Reagan later abolished the Youth and Correctional Agency and placed both the CDC and Youth Authority under the general guidance of the sprawling Health and Welfare Agency. Raymond Procunier, a career prison administrator, was appointed CDC Director. These changes were to profoundly alter the effectiveness of the CDC during the years ahead.

Two concurrent policy decisions by the Reagan Administration were to prove equally significant. First, probation subsidy legislation of 1965 was given maximum support. This legislation encouraged individual counties, through money grants, to substantially reduce the number of convicted felons sent to the state prison system. Because of probation subsidy, the percentage of felons sent to the CDC from the counties declined from about 21% up to 1966 to 10% or less during 1969, 1970 and 1971.

Second, and directly related to probation subsidy, a program of early prisoner releases was undertaken by the Adult Authority. The result was a precipitous drop in the CDC population. Dating from 1969 the inmate population declined from an all time high of 28,795 to only 19,088 three years later.

Initially it appeared that the reduced prisoner workload would ease the CDC's growing management difficulties. This was not to be the case. Instead, the prison system, so carefully structured during the era of Richard McGee, was thrown badly out of balance. The sudden exodus of conforming inmates shattered the traditionally stabilizing prison sub-culture, which sought peaceful accommodation with the formal management system. The CDC was forced to close or reduce a number of correctional facilities, and the standard practice of double celling was ended. This led to the present severe bed shortage with which the CDC is now struggling.

Already sorely afflicted by changing social attitudes, by frequent court interventions, by an abrupt change of administrative leadership, and by a suddenly reduced inmate population of radically changed composition, CDC Director Ray Procunier attempted to chart a new course for the system. Procunier discarded much of the planning and structure of the department under McGee. Rules and regulations were substantially liberalized. Administrative and training manuals became outdated. Inmate organizations were encouraged. San Quentin inmates coalesced to hold "Unity Day" strikes.

The changes proved to be too much and too fast for CDC. Former close knit staff relationships unraveled. An exodus of career executives from CDC began and continued through the regime of Procunier's successor, Jeri Enomoto. Even more damaging to the system, a large number of capable middle managers and senior guardline supervisors retired from or quit the CDC. (Several of

these departing California prison officials have gone on to head prisons and correctional systems in other states.) Alienation of line staff from the CDC "central office" set in and the resulting staff morale problems are still with us.

4. The Rise of Inmate Gangs and the Resurgence of Security Controls.

As an underground complement to the authorized self-help organizations, a growing variety of inmate tips, cliques and gangs began to proliferate. The Mexican Mafia was the first of these convict gangs to gain department-wide notoriety. Somewhat later, the Black Guerrilla Family, the Nuestra Familia and the Aryan Brothers began to vie for prison dominance. With the formation of these violence prone and predatory gangs -- brown, black and white -- a formal structure of racial separation began in prison operations.

Although each of these prison gangs contributed to the further disruption of CDC institutions, it was the Black Guerrilla Family (BGF) which proved to be the most threatening and dangerous to line staff. At Soledad prison on January 13, 1970, there occurred a tragic and consequence-laden incident. "A gun tower guard rapidly fired several shots into a group of Adjustment Center prisoners, who were fighting during their brief exercise period, and he killed three black prisoners. A two year period of extreme violence between prisoners (mostly black) and guards followed" (Irwin, 1980:89-90).

During the prior decade a total of two CDC officers had been murdered by inmates. In the decade of the 1970's, however,

13 staff were killed by inmates, primarily by black gangs. This epidemic of line staff murders reached its height in August 1971 when the black revolutionary convict George Jackson smuggled a gun into the San Quentin Adjustment Center and gained control of this high security, lockdown unit. In the blood bath that followed, three prison guards were murdered and several others were left for dead. Two white inmate unit workers were also murdered. George Jackson was killed as he fled from the unit.

Upon taking over the Adjustment Center, George Jackson stated, "The black dragon has come to San Quentin." In fact, Jackson's black dragon spread far beyond the walls of San Quentin and permeated the entire Department of Corrections. Badly shaken by what had occurred, and at guardline insistence, the CDC began to embroider its rehabilitative programs with increased custodial controls. Post assignment schedules were lengthened to accommodate more and more uniformed officers.

But staffing increases and more stringent security controls did not restore control or order. Instead, they appeared to aggravate the problem as inmate violence against staff and other inmates accelerated during the next ten years. Despite this graphic evidence of failure, the CDC continued to employ more and more staff to incapacitate a growing percentage of inmates in high cost, high security, lockdown units.

At the same time, CDC left in place the program artifacts of medical model rehabilitation and continued to liberalize the

rules and regulations governing inmate discipline, correspondence, visiting, personal property, and program accountability. To the growing frustration of line staff, the CDC administration appeared to be pursuing policies which were in direct conflict with each other.

TABLE FOUR
NUMBER AND TYPE OF INCIDENTS

Summary By Year

1970 - 1980

Calendar year	Incidents								
	Number		Type of incident						
	Total incidents	Rate per 100 average inst. pop.	Assault with weapon*	Fights	Poss. of weapon	Nar-cotics	Sex	Suicide	Other
1970	366	1.36	79	66	89	80	15	11	26
1971	445	2.00	124	49	103	105	14	14	36
1972	592	3.04	189	69	132	144	9	9	40
1973	777	3.67	197	92	200	230	4	18	36
1974	1,022	4.30	220	121	262	347	8	14	50
1975	1,089	4.73	212	110	249	430	13	9	66
1976	1,385	6.84	204	131	193	776	6	7	68
1977	1,815	8.79	241	177	302	951	16	12	116
1978	2,060	10.07	270	247	374	1,034	18	4	113
1979	2,427	10.90	309	389**	420	1,099	30	8	172
1980	2,848	12.17	339	436	498	1,367	22	11	175

*Includes fatal incidents.

**Includes 66 less serious attacks on staff by men (throwing cold liquid, food or cards). Due to reporting irregularities, total fights this year included a disproportionately high number of less serious incidents

Note: These data are based upon incident reports submitted by the institutions to Offender Information Services.

TABLE FIVE

NUMBER OF PERSONS FATALLY INJURED DUE TO ASSAULTIVE INCIDENTS

By Year

1960 - 1980

Calendar year	Total	Inmates						Staff
		Total	Stabbed	Beaten	Strangled	Shot	Poisoned	Stabbed
1960	4	4	4	-	-	-	-	-
1961	8	8	7	1	-	-	-	-
1962	8	8	6	-	2	-	-	-
1963	8	7	6	-	-	1	-	1
1964	5	5	5	-	-	-	-	-
1965	10	9	7	1	-	1	-	1
1966	4	4	3	-	-	1	-	-
1967	10	10	7	1	-	2	-	-
1968	16	16	14	-	-	1	1	-
1969	15	15	12	2	1	-	-	-
1970	13	11	7	-	1	3	-	2
1971	24	17	13	2	-	2	-	7
1972	36	35	32	1	2	-	-	1
1973	20	19	15	1	2	1	-	1
1974	23	23	20	2	1	-	-	-
1975	17	17	15	-	1	1	-	-
1976	20	19	17	1	1	-	-	1
1977	18	18	16	1	2	1	-	-
1978	16	16	13	1	-	-	-	-
1979	16	16	15	1	-	-	-	-
1980	14	13	13	-	-	-	-	1

Note: In 1972, one officer fatally shot outside institution during the escape of inmate enroute to court and one officer bludgeoned fatally in 1976. Inmates fatally shot while attempting to escape: 1 each in 1965, 1966, 1967, 1971 and 1973.

5. Determinate Sentencing.

In mid-1977 the sixty-year-old Indeterminate Sentencing Law (IDL) was replaced by Determinate Sentencing (DSL). The DSL was initially hailed as a sweeping reform measure. Arbitrary and capricious policies of the Adult Authority under IDL would be eliminated. The majority of inmates from the onset of sentencing would know exactly how long they were to spend in prison. Sentencing parity would be achieved.

But there proved to be a reverse side to this reform measure. Each year since its passage there have been enhancements to the original DSL penalties. As the 1980 CDC Determinate Sentencing report commented:

"The sheer existence of a system of fixed penalties subject to legislative amendment may make the system perpetually vulnerable to pressures for increasing penalties or extending their range."

The DSL might better have been termed a mandatory sentencing law. Since its inception, the percentage of convicted felons sent to state prisons has sharply increased. Spurred forward by a rapidly increasing crime rate, the DSL has resulted in an incarceration rate in California of 91.5 per 100,000 of the state's population in the age group 18 to 49 with CDC projecting that the rate will rise to 116.12 per 100,000 by 1983 and continue during subsequent years. The current rate is already higher than any other industrial nation with the exception of South Africa and the Soviet Union.

The consequence for CDC of rising incarceration rates with ever longer terms of commitment is severe overcrowding without the IDL relief valve of mass parole.

The CDC had begun forecasting future population workloads since 1976 but it was not until 1980 that CDC fully realized the magnitude of the problem. The 1977 CDC Analysis of Programs and New Facilities Proposal was the first concerted effort to

deal with the realities of the situation, but was rejected by the prison administration ". . . as not being anything close to a statement of CDC policy, philosophy or direction" (Walters, 1977:1) and suppressed. Nevertheless, over the past five years the CDC has piecemeal and grudgingly accepted the majority of findings and proposals contained in the 1977 proposal.

The CDC is now pushing hard for the full implementation of its 1980 Facilities Requirements Master Plan. Architectural drawings are being finalized for a new and controversial 1000 bed maximum security complex at Tehachapi. Actual construction is expected to begin by mid-1982.

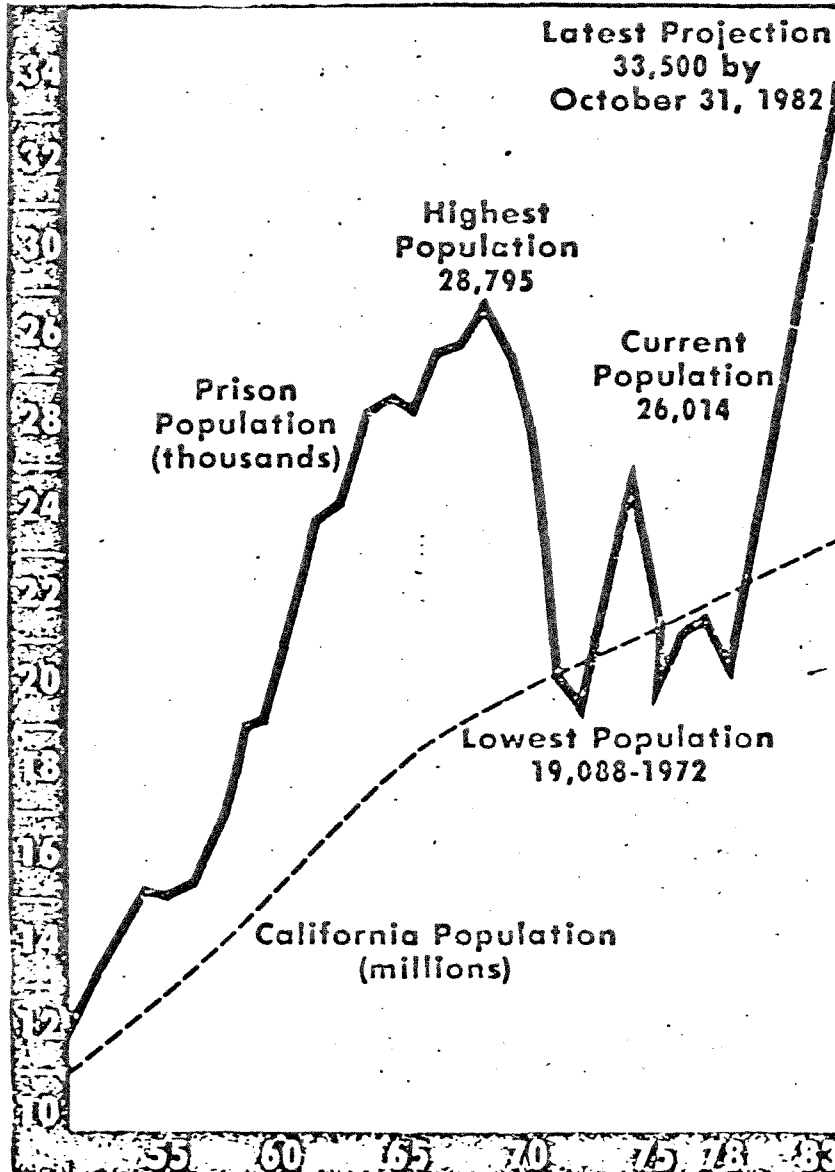
Conservation camps and community release facilities are now being expanded and increased in number as a result of recommendations of the State Legislature's 1980 Citizens Advisory Committee on Alternatives to Incarceration. Double celling has been resumed on a department-wide basis. Temporary satellite units adjacent to five existing institutions are scheduled for construction and occupancy during 1982-83.

Despite these measures, it is doubtful whether CDC's belated expansion plans can match expected increases in prison populations.

CHART ONE

Department of Corrections Population

1950 - 1983



III. CONCLUSION

"Lost in our simplicity of times
the world abounds with laws,
and teems with crimes."

The Philadelphia Gazette (1775)

Corrections is the component of the criminal justice system for which the Legislature has the most direct responsibility. It is, therefore, particularly important for legislators to understand what is going on in our prison system. This report is intended to give a brief overview of California Corrections with special emphasis on the fiscal aspects of the system.

The major challenge facing California Corrections over the next decade will be to successfully cope with rising prison populations, growing inmate violence, a deteriorating physical plant, newly-formed employee unions, and chronic prisoner idleness during a time of severe fiscal constraints. The present ability of Corrections to meet this challenge is in serious doubt. This report is an attempt to explain why.

This report is the first in a series of five staff reports from the Assembly Committee on Criminal Justice. Later reports will focus on inmate work programs, prison staffing, facility requirements, and correctional organization together with accompanying recommendations.

After an examination of cost and population trends it becomes apparent that Corrections will demand an even greater portion of our public dollar in the years ahead. Given that there will be no shortage of competing social priorities for state funding, it is incumbent upon policymakers to insure that California's correctional system is as efficient and efficacious as possible.

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