

## **AB 900—Response from the Center on Juvenile and Criminal Justice**

*By Ryan Buschell*

California's adult prisons house 172,031 inmates in facilities designed for 84,653.<sup>1</sup> Federal judges have already placed its medical system under receivership and are contemplating the early release of tens of thousands of prisoners.<sup>2</sup> Eager to avoid increased federal intervention, the California State Assembly passed AB 900 on April 25, 2007. Governor Schwarzenegger signed the legislation into law just a few days later on May 2nd. The bill, which would spend an estimated 7.7 billion dollars expanding the California prison system, has received criticism from both sides of the political spectrum. Though approved by a resounding 70-1 vote in the State Assembly and a 27-10 margin in the State Senate, the legislation has few unreserved supporters. Senate Pro Tem Don Perata, despite voting for its passage, began his floor speech with the disclaimer: "There is not a Democrat here who likes this bill. All who vote for it do so with reservations."<sup>3</sup>

Unfortunately for both citizens and inmates alike, those reservations did not prevent the bill's passage. AB 900 fails to address the sentencing, parole, and drug laws responsible for prison overcrowding. Instead, the bill spends billions of dollars on construction instead of necessary reform. The following pages will both outline the framework of the legislation and explain why merely increasing prison capacity does not resolve California's prison crisis.

### **Construction Facts<sup>4</sup>**

AB 900 will be the largest single prison building project in the history.<sup>5</sup> Even the head of the Correctional Officers Union, Mike Jimenez, has stated that the bill amounted to a decision "to increase the prison-industrial complex."<sup>6</sup>

The bill calls for the construction of housing for a staggering 53,000 inmates. 16,000 "infill" beds will be constructed to replace the "bad beds" currently in use (those used to house inmates in makeshift gyms and classrooms). Another 16,000 beds will be constructed in various "re-entry" locations in order to facilitate inmates' release. The bill also funds the construction of 13,000 local jail beds and 8,000 additional medical beds. Funding for an initial 32,000 beds is available with the signing of the bill. In order to begin the construction of the remaining 21,000, the following ten conditions must be met:

- 4,000 of the 12,000 infill beds authorized in Phase I must be under construction or sited, including rehabilitation programming space.
- 2,000 of the 4,000 drug treatment slots must be established.
- New individualized assessment procedures must be in place for six months.

- The specified levels of parolees being served in mental health day treatment centers must be maintained.
- The California Rehabilitation Oversight Board must be in operation for one year.
- The management deficiency plan must be implemented.
- There must be a 10% increase in educational program participation from April 2007.
- The vacancy rate for rehabilitation service positions must be no greater than the average vacancy rate for state employees.
- 50% of jail beds are under construction or sited.
- 50% of re-entry beds are under construction or sited.

While the bill includes several benchmarks that incorporate rehabilitation programs, only 50 million dollars (less than 0.7% of the 7.7 million dollar expenditure) is allocated to that end.

### **Efficacy**

Even though building 53,000 beds will alleviate the most serious instances of overcrowding (converted gyms and classrooms used as dormitories), adding 53,000 beds to a system built for 84,000 still falls about 30,000 beds short of the current inmate population. Regardless of how many new beds California builds strict parole laws and sentence minimums have ensured the prison population will continue to explode.<sup>7</sup> California's inmate population is expected to reach 190,000 by 2012.<sup>8</sup> Thus, even with these additional accommodations, the California prison system projects to be overcrowded by over 50,000 inmates in less than five years. Increasing capacity without decreasing the rate Californians are sent to prison only temporarily reduces overcrowding. Without meaningful parole and sentencing reform, the overcrowding of California prisons seems destined to continue with or without the misguided construction project.

### **Cost**

Advocates estimate the cost of AB 900 as 7.7 billion dollars (7.4 billion through bonds, 350 million from the General Fund). However, this figure does not accurately represent the bill's total cost. Interest over the 25-year loan period will push the cost to approximately 14 to 15 billion dollars.<sup>9</sup> However, this figure assumes that every prison constructed will be built on budget and ignores the operating costs required by the expansion. Currently, California spends 9.9 billion dollars maintaining and operating its overcrowded prison system.<sup>10</sup> The impact of these new facilities (which will increase the designed capacity of the system by over 50%) on operating costs is still unknown.

Even the type of bonds funding the bill multiplies the project's total cost. Undoubtedly fearful of public reaction to the massive expenditure, legislators elected to fund AB 900 with lease revenue bonds. Unlike general obligation bonds used to borrow on the state's credit, lease revenue bonds do not require voter approval. According to the California State Administration Manual (SAM), a lease revenue bond is "...a form of long-term borrowing in which the debt obligation is secured by a revenue stream produced by the project."<sup>11</sup> While categorizing prison expansion as a revenue producing project is highly suspect, using lease revenue bonds is also more expensive. According to the SAM, "Lease-revenue bonds pay interest at tax-exempt rates which are slightly higher than tax-exempt rates for General Obligation bonds."<sup>12</sup> Funding the bill with lease revenue bonds not only allowed the bill to pass without a state-wide election, it increased the total cost of the expansion.

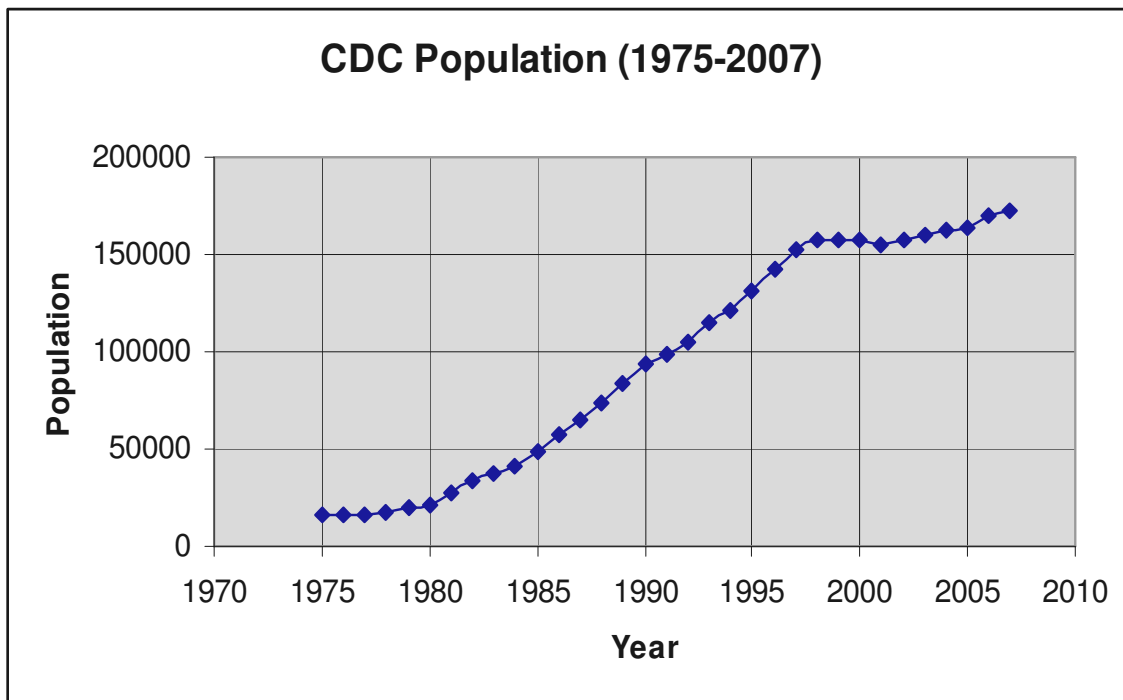
## Rehabilitation

This bill does not significantly address rehabilitation. 99.3% of its funding is allocated for prison construction, only 0.7% for rehabilitation programs.<sup>13</sup> That 0.7% allocates 50 million dollars for rehabilitation programs, but exactly what would be funded has yet to be substantially defined.<sup>14</sup> Though any expenditure for rehabilitation may be beneficial to the welfare of prisoners and their productive re-entry into society, a 0.7% expenditure for unknown programs falls far short of the necessary reforms. Despite the touted inclusion of funding for rehabilitation, this bill is singularly focused on expanding the California prison system, not treating its inmates.

While advocates tout the bill as an “end to warehousing prisoners,”<sup>15</sup> the 50 million dollar expenditure can do little to address the gaping inadequacies in treatment. At the end of the 2005-2006 budget year, only 10,572 of California’s inmates were enrolled in education programs; 7,953 were enrolled in vocational programs.<sup>16</sup> California’s almost 70% recidivism rate, exacerbated by a failure to educate or rehabilitate inmates, will assure continued overcrowding. Allocating billions of dollars to prison construction without prioritizing rehabilitation expands the problem to more Californians instead of combating it.

## Alternatives

Governor Schwarzenegger has voiced his relief that AB 900 ensures no inmates are released before the expiration of their sentence.<sup>17</sup> While Schwarzenegger’s “tough on crime” approach may provide political benefits, maintaining the current rate offenders are incarcerated can only result in further overcrowding and future construction. California’s total prison population grew from 21,538 in 1975 to 172,815 in 2007.<sup>18</sup>



However, this explosion was not caused by violent criminals finally getting their due. During this same period California experienced a 25 fold increase in the incarceration of drug offenders.

Imprisoning these drug users has resulted in the highest rate of drug offender incarceration in the nation – 134 per 100,000.<sup>19</sup> Billions of dollars are being spent to keep inmates convicted of non-violent drug offenses behind bars, the majority of which receive no drug treatment before their release.<sup>20</sup>

The California public has already voted to fund treatment programs for non-violent drug offenders instead of incarceration (Prop 36 in 2000). However, instead of continuing its funding, Governor Schwarzenegger has opted to reduce the program's resources.<sup>21</sup> Incredibly, the reduction in funding comes just over a year after a UCLA study found the program kept many drug offenders out of prison, in treatment, and saved 173.3 million dollars over a 30 month period.<sup>22</sup> Returning this program to its full level of funding and investing in similar programs provides an alternative aimed at remedying the cause of the inmate explosion and not merely its effects.

California's parole policies differ markedly from the rest of the United States. In 1999, data published by the Bureau of Justice Statistics confirmed that nearly two thirds of California's prison admissions were for parole violations, compared to only one third nationally. The study found that California returned 30 times more parolees to prison than it had 20 years ago, most for technical violations (e.g. missing an appointment with a parole officer, failing a drug test, etc.) and not for committing new crimes.<sup>23</sup> Solving California's prison crisis entails reducing the amount of Californians sent to prison. Bringing California parole policies in line with the national average and reducing the amount of technical infractions that lead to imprisonment begins that necessary process.

While funding for both sentencing and parole reforms were included in Governor Schwarzenegger's January 2007 budget, both possible reforms were absent from the final draft.<sup>24</sup>

## **Conclusion**

Housing inmates in humane conditions is a necessary component of prison reform in California. Incarcerating a prison population close to twice the size of the system's designed capacity promotes inmate violence, cuts inmate services, and jeopardizes the successful transition back to law-abiding society. However, building new prisons without stemming the influx of prisoners serves as only a temporary release to a systemic problem. Today, California prisons operate approximately 80,000 inmates above capacity. While the construction authorized by AB 900 will reduce that figure, California's prisons will still be overcrowded by over 50,000 inmates in 2012. Without significant rehabilitation, sentencing, and parole reform, the number of inmates within the system will continue to rise. The bill that even supporters called, "a compromise among bad alternatives,"<sup>25</sup> does little to alleviate, and nothing to remedy, California's escalating prison crisis.

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<sup>1</sup> Data Analysis Unit. "Weekly Report of Population as of Midnight July 4, 2007." Department of Corrections and Rehabilitation, State of California, 9 July 2007. <<http://www.cdcr.ca.gov/ReportsResearch/OffenderInfoServices/WeeklyWed/TPOP1A/TPOP1Ad070704.pdf>>

<sup>2</sup> Vogel, Nancy. "Judges Seem Willing to Cap Prison Population." *Los Angeles Times* 28 June 2007.

<sup>3</sup> Russo, Frank D. "CA: \$7.4 billion Prison and Construction Bill Passes Legislature and Goes to Gov." *California Progress Report*, 26 April 2007.

<sup>4</sup> Solorio, Jose and Aghazarian. "Senate Floor Analysis: AB 900." Senate Rules Committee 27 April 2007. <[http://info.sen.ca.gov/pub/07-08/bill/asm/ab\\_0851-0900/ab\\_900\\_cfa\\_20070426\\_101711\\_sen\\_floor.html](http://info.sen.ca.gov/pub/07-08/bill/asm/ab_0851-0900/ab_900_cfa_20070426_101711_sen_floor.html)>

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- <sup>5</sup> “Fact Sheet on AB900: California’s Massive Prison Expansion Deal.” Californians United for a Responsible Budget May 2007.
- <sup>6</sup> Furillo, Anthony. “Guards union at Low Ebb.” Sacramento Bee, 08 July 2007 <<http://www.sacbee.com/capolitics/story/261820-p2.html>>
- <sup>7</sup> Bechtel, Marilyn. “Critics say Expansion Plan won’t Reform California Prisons.” People’s Weekly World Newspaper, 31 May 2007.
- <sup>8</sup> Russo. “Outline.”
- <sup>9</sup> Bechtel.
- <sup>10</sup> “Fact Sheet...”
- <sup>11</sup> California Department of Finance. “6872: Lease Revenue Bonds.” State Administration Manual 24 Oct 2002 <<http://sam.dgs.ca.gov/TOC/6000/6872.htm>>
- <sup>12</sup> Ibid.
- <sup>13</sup> Warren, Donna J. “Prison Expansion is Doomed to be a Monumental and Expensive Failure.” San Francisco Bay View 6 June 2007.
- <sup>14</sup> Bechtel.
- <sup>15</sup> “Governor signs Prison Agreement, Takes Important Step toward Reducing Overcrowding and Increasing Public Safety.” 3 Jul. 2007 <<http://gov.ca.gov/prisonreform/>>.
- <sup>16</sup> Furillo, Andy. “California Prison Package Hailed.” Sacramento Bee 4 May 2007.
- <sup>17</sup> “Governor...”
- <sup>18</sup> Macallair, Dan and Terry, Chuck. “Drug Policy And California's Prison Population.” San Diego Union Tribune 15 August 2000 <[www.cjck.org/press/drug\\_policy.html](http://www.cjck.org/press/drug_policy.html)>.
- <sup>19</sup> Ibid.
- <sup>20</sup> Ibid.
- <sup>21</sup> “Analysis of the 2007-08 Budget Bill: Health and Social Services: Alcohol and Drug Programs (4200).” Legislative Analysts Office 21 February 2007 <[http://www.lao.ca.gov/analysis\\_2007/health\\_ss/hss\\_03\\_4\\_200\\_anl07.aspx#Alcohol%20and%20Drug%20Programs%20\(4200\)](http://www.lao.ca.gov/analysis_2007/health_ss/hss_03_4_200_anl07.aspx#Alcohol%20and%20Drug%20Programs%20(4200))>.
- <sup>22</sup> Longshore, Douglas, Angela Hawken, Darren Urada, and M. Douglas Anglin. "Evaluation of the Substance Abuse and Crime Prevention Act." UCLA Integrated Substance Abuse Program. (2006):
- <sup>23</sup> Travis, Jeremy and Sarah Lawrence. “California’s Parole Experiment.” Urban Institute Justice Policy Center August 2002 <[http://www.urban.org/UploadedPDF/CA\\_parole\\_exp.pdf](http://www.urban.org/UploadedPDF/CA_parole_exp.pdf)>.
- <sup>24</sup> “Fact Sheet...”
- <sup>25</sup> Bechtel.

*The Center on Juvenile and Criminal Justice is a nonprofit, nonpartisan organization that offers policy analysis, program development, and technical assistance in the criminal justice field. For more information, please visit [www.cjck.org](http://www.cjck.org).*