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California State Prison Los Angeles County at Lancaster,  
under construction, 1991.  
Courtesy of Department of Corrections





# Prison

# Dilemma

The California prison population, while still badly overcrowded, is slowing its precipitous growth. Does California need more prisons — or a different way of handling offenders?

By Sigrid Bathen

**F**ranklin Zimring, a law professor and noted criminologist who directs the Earl Warren Legal Institute at the University of California, Berkeley, has been studying and writing about crime and punishment for more than 25 years. He is especially skilled at interpreting the Byzantine world of crime statistics — that bewildering array of comparatives and projections that has dominated state budget deliberations for the past decade, as the state prison population has taken a dizzying spiral through the budgetary roof.

State lawmakers, responding to public outcries against crime, and loathe to do anything that might make them look soft on criminals, have passed a plethora of tougher sentencing bills — including, but hardly limited to, the so-called “Three Strikes and You’re Out” law — which have pushed the number of prisoners to the ragged edge of the state Department of Corrections’ ability to house them, much less supervise their graduates on parole.

As voters and lawmakers alike begin to question how many more prisons California can afford — and whether the cost to other programs, such as education, is too great — experts like Zimring say there is some light, as well as



considerable darkness, at the end of the corrections budget tunnel. And with increasing public sentiment for redirecting public funds to the juvenile prevention end of the system, those experts say this budget year could be pivotal in determining how the state's policy-makers appropriate public funds in the war on crime.

"One of the remarkable things that is happening about official sentiments now is the development of real enthusiasm for the front end of criminal controls," says Zimring. "What we're having now is an overstatement of the potential of front-end control. But there is an awful lot of enthusiasm, and the shifting of resources from the back end to the front end."

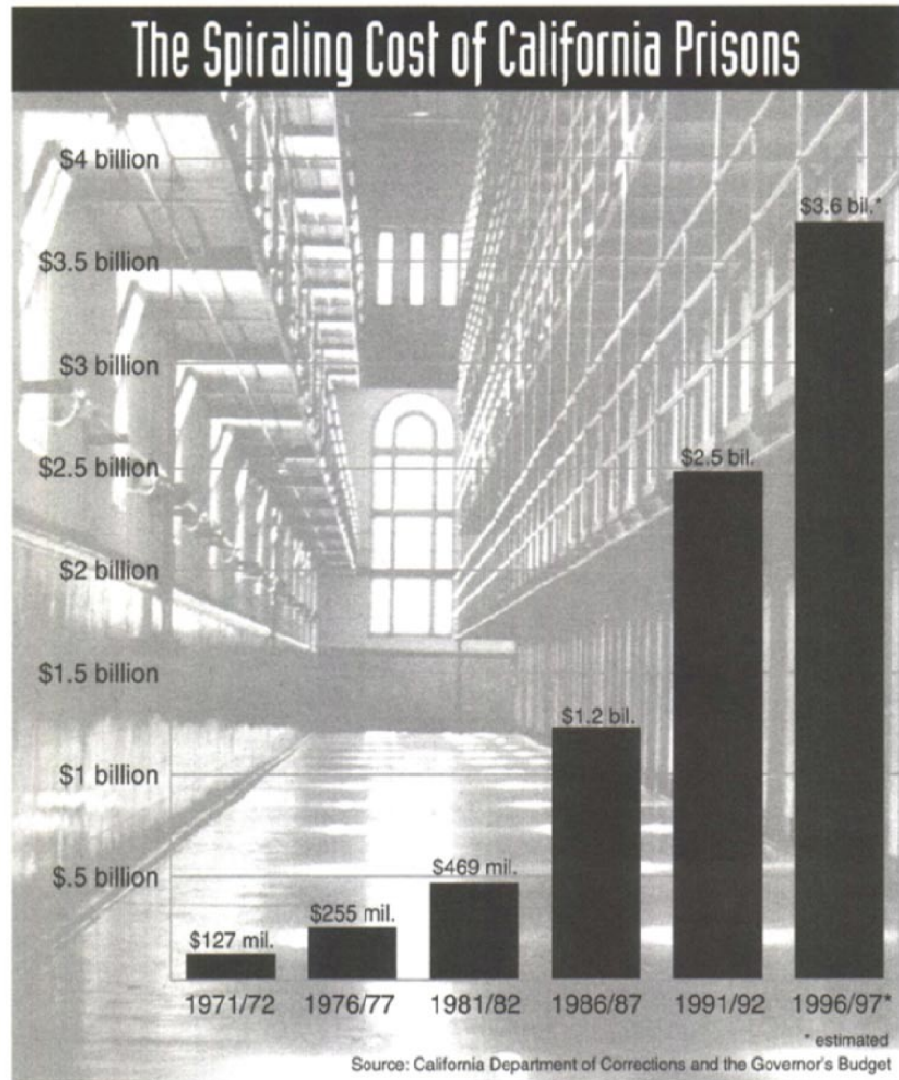
Critical to that realignment — if it goes beyond sentiment to widespread redirection of state resources — is the reasonable control of prison population and construction in a system where some institutions currently are running at 200 percent of capacity and tensions could easily explode, as in some instances they already have. "As between one new prison and 17 new prisons, my strong preference is for one," says Zimring. "Then you try and reduce populations. The worst of both worlds is to stuff in populations you don't have facilities for." Governor Pete Wilson has called for the construction of one new prison, largely with federal crime-control funds, in his proposed state budget, as well as initial planning funds for five new prisons. The corrections department has said it needs 17 new prisons to keep pace with growth in the immediate future.

Unfortunately for policy-makers, Zimring and others say, California's prison planning is predicated on growth. "It is the largest prison system in the free world," says Zimring. "California is England and Germany combined and still has room to accommodate a great deal of France. . . . When you have a prison system that has grown as much as California's has, your principal activity is growing. Our principal prison industry in California is growth. Whatever energy and resources that are invested in governance and planning are invested in growth, rather than programs."

The numbers — both in human and fiscal terms — are staggering. Twenty-five years ago, some five years before the passage of the state's determinate sentencing law, California's prison population hit a low of fewer than 20,000 inmates. The department's 1971-72 budget was \$127.4 million, and the system employed some 7,000 full-time

staff. Fast-forward to fiscal 1995-96, and the population has mushroomed to 135,360 (as of June 30, 1996), with a budget of more than \$3.3 billion and more than 35,000 full-time employees. The projections, which are slowing but still growing, are that the population, which is currently about 145,000 inmates, will rise above 150,000 by the end of fiscal 1996-97, with a state prison and parole budget of more than \$3.6 billion. The governor's proposed corrections budget for 1997-98 is \$3.8 billion.

And those figures are just for the grown-ups in prison. Administratively tied to the California Youth Authority under the aegis of the state Youth and Adult Correctional Agency (created in 1980 under the catchy acronym of YACA), the Department of Corrections houses adult inmates over age 18 in 32 prisons and 38 camps around the state, and supervises, by last count, more than 100,000 parolees in a swinging-door system with one of the highest recidivist (return) rates in the country. The average recidivist rate, according to the *Corrections Yearbook* published by the Criminal Justice Institute in South Salem, N.Y., which collects statistical data on prison systems throughout the country, is 34.7 percent, while California returns fully 56 percent of its inmates to prison within three years after release.



strongly favored by Governor Wilson — from the November ballot by insisting as a caveat that a comprehensive plan which included alternatives to incarceration be more fully explored. “The essential problem, as I would define it, is that in six years of Wilson budget proposals, we’ve created 10,000 new jobs in the prison system and financed those jobs by cutting 10,000 positions out of the university and state college system. Everyone realizes that is a long-term mistake.

“Now, how can we take appropriate measures to protect public safety without spending excessively? There is no magic wand. There are a lot of small steps that will aggregate into major cost savings.”

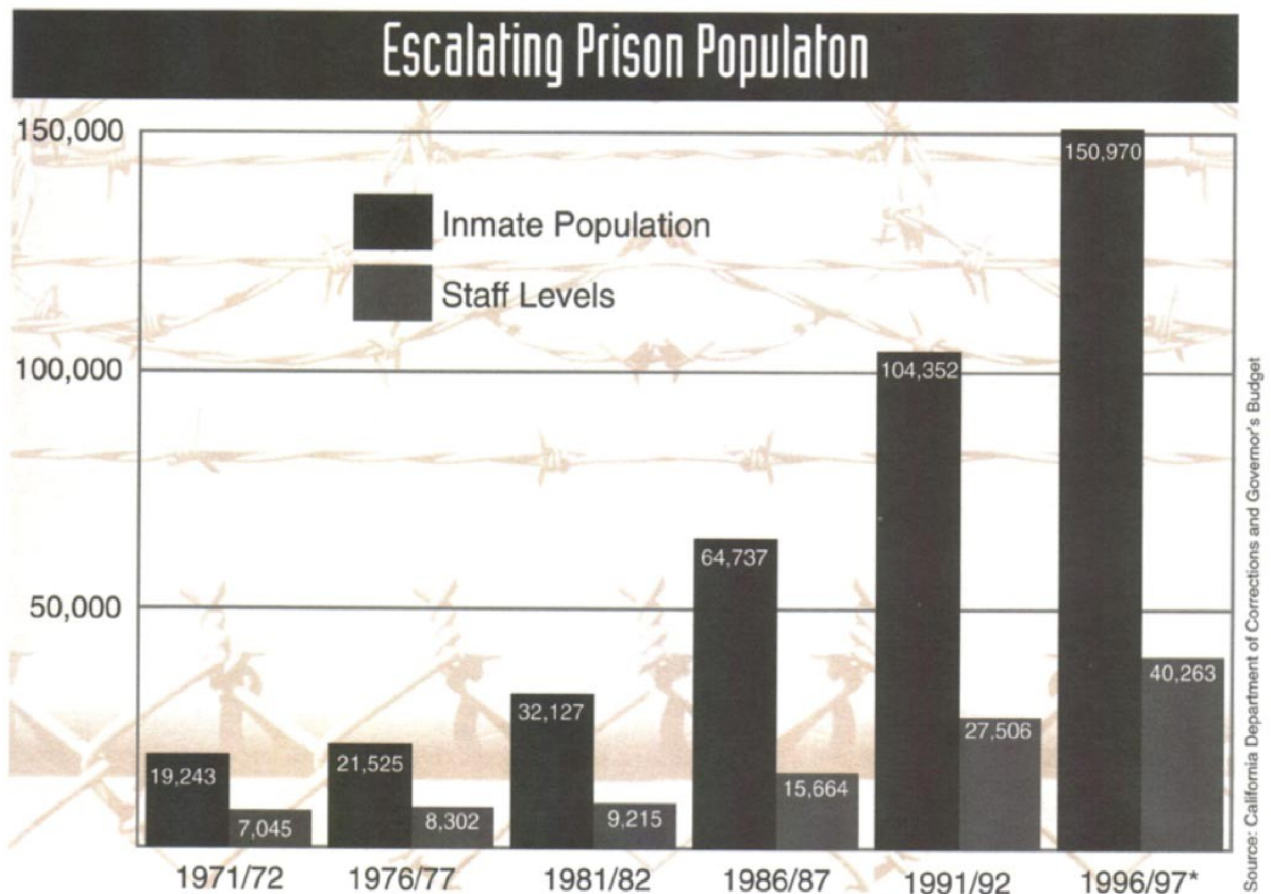
Those “small steps” include major expansion of drug treatment programs in and outside prison, as well as shifting non-violent offenders — many of whom have committed robberies or other property crimes to finance drug habits — to, as Lockyer puts it, “less expensive options.” Those options generally involve more community placement of non-violent offenders, and shifting older inmates who may be incarcerated for long sentences but whose propensity for violence has decreased substantially with age, to less secure, less expensive facilities. The California Correctional Peace Officers Association, in a lengthy report on “Affordable Prisons,” recommends construction of “mega-prisons” rather than expensive, smaller prisons, and suggests a major overhaul of inmate classification and detention systems, reserving expensive maximum security space for violent inmates and handling low-risk inmates in different ways.

Lockyer’s SB 760, which was introduced last year and failed, included a mix of some construction, efforts to reduce

recidivism — and more emphasis on drug treatment. David Panush, a fiscal adviser to Lockyer, says lower-level offenders, many of them drug offenders, are flooding the system. “They’re in, often for less than a year, then they go out,” he says. “They get very little treatment or intervention. Is it really surprising that they come back? Drug treatment is a little more expensive than doing nothing, but if done properly, the long-term savings are very significant.” Panush also cites projected prison population figures that indicate a major “housing gap” in projections as lower-level offenders — who many experts say could more efficiently, and at considerably less expense, be handled in less secure community facilities — flood a system designed for longer stays and tougher security.

Lockyer and Senator Richard Rainey (R-Walnut Creek), a moderate Republican who is a former Contra Costa County sheriff, can again be expected to cooperate on joint legislation — as they did last session. Rainey’s AB 126, introduced when he was in the Assembly, was joined with SB 760, both ultimately failing in the impasse over prison bonds. Rainey consultant Peter Gambee says the bill being formulated for the current session would place lower-level offenders currently clogging the state prisons in county facilities through a system of county contracts with the state Board of Corrections, as well as set up a contracting system for treatment of seriously ill inmates in local health facilities.

Returning more control of less serious offenders to the counties is hardly a new idea, but it is contingent on state funding for overwhelmed and cash-starved local governments. “The whole issue of whether you can back people







San Quentin mess hall, 1935. Courtesy of the Department of Corrections

down the system — there is some evidence you can do that,” says Craig Cornett, a criminal justice expert with the Legislative Analyst’s Office. “But a lot of counties don’t have the capacity. They’re letting people out. . . . In a perfect world, if we could redesign the [prison] finance system, it should be a local system.” In that perfect world, he says, communities would have incentives — e.g., state funding — to develop community-based programs and facilities for low-risk inmates. “It has always been our view that the community would be the best place” to house low-risk offenders, he said. “But they [counties] have to have the incentives.”

There is also talk of more extensive inmate work programs and job training — even a return to the “R” word (as in “rehabilitation”) that fell out of favor in correctional jargon in the get-tough 1980s and early 1990s. And Lockyer says the key concern for lawmakers is the juvenile system, which Zimring calls the one “bright spot” in the correctional quagmire. “The juvenile justice system,” says Zimring, “ain’t broke yet” — implying that it can still be fixed, perhaps in the process stemming the coming tide of youthful offenders expected to swell the ranks of adult prisoners as the babies of the baby boomers enter their crime-prone years.

Experts of varying political stripes attribute the drop in the crime rate, and the corollary slowing of the explosive growth in the state prison population, to a variety of factors — obviously giving certain factors more weight depending on their individual, endlessly debatable, views about the

causes of crime. Some insist tougher sentencing laws like “three strikes” have slowed the crime rate, simply by “incapacitating” repeat criminals. Others say the crime rate has slowed in states with no such law, and that the law helps to clog the courts, jails and prisons. They say the drop in the crime rate is largely attributable to basic demographics — the aging of the crime-prone population — as well as to community-based policing and efforts to curb gun sales, particularly for cheap handguns.

Some say the state’s switch to so-called “determinate sentencing” in 1977, severely limiting judicial discretion, has swelled the prison population to unnecessary levels and prompted an endless spate of get-tough sentencing laws.

“If anyone ultimately should be responsible, it is the [Jerry] Brown administration shifting to determinate sentencing,” says Lockyer, “with specific legislative proposals, rather than the judiciary, making the sentencing decisions.” While admitting that a return to indeterminate sentencing is not a particularly viable political solution, Lockyer says he sometimes longs for a return to the simpler days portrayed in ’50s crime dramas like *Dragnet*.

“I love the old Jack Webb programs — you know, the ones that come on at 3 a.m., and at the end the hammer comes down and the voice announces the sentence, which is three years to life for *anything*, you name it. . . . It was a whole different system which minimized the meddling of politicians.”