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THE STATE

State Is Joining Shift on Prisons

As new strategies take hold around the nation, the governor is turning the focus of California's penal system to helping parolees rejoin society.

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SACRAMENTO — By insisting that California make rehabilitation a focus of prison life, Gov. Arnold Schwarzenegger is joining a national movement of political leaders who believe it is time for a new approach to incarceration.

For almost three decades, politicians have belittled efforts to rehabilitate inmates as ineffective mollycoddling. Led by California, the nation undertook a prison building binge and adopted tough crime laws that pushed the population behind bars past 2 million.

Now, with states under persistent economic stress and evidence showing that most inmates are rearrested within three years of release, lawmakers across the country are acknowledging the need for change. There is now broad agreement that locking up and mostly ignoring offenders has been far from a cure-all for crime.

With bipartisan support, states small and large are shortening criminal sentences, restoring early release for good behavior, diverting drug offenders to treatment and beefing up efforts to help parolees rejoin society.

And in Congress, a Republican senator from Kansas soon will introduce the Second Chance Act, which would dedicate millions of federal dollars to helping ex-convicts find jobs, housing and treatment for mental illness and addiction.

"Even in stark economic terms, it's become very difficult to argue that our investment in prisons is

delivering a great result," said Michael Jacobson, who ran New York City's jails and probation system in the 1990s and wrote a just-released book on incarceration. "So I think we're at a historic moment when … conditions are ripe for dramatic reform."

Many states already are well on their way, pursuing new approaches that, while unproven by hard data, are showing promise and thinning out prison populations after decades of steady growth.

The changes generating the most excitement come under a new label — reentry.

Unlike rehabilitation, reentry reflects a reality about corrections that often escapes public notice: About 95% of all offenders — about 600,000 people a year nationwide — will be going home.

Reginald Wilkinson, chief of Ohio's prison system, said helping felons move from the cell to the neighborhood was simply good public safety: "I often ask the question, 'Who would you rather sit next to on a bus? A person who is very, very angry about their prison experience and untrained and uneducated? Or a person who obtained a GED and vocational training in prison and is on his or her way to work?"

In embracing new strategies, California — once seen as a trendsetter in correctional standards and practices — lags far behind the pack.

The state's prisons are bulging with thousands more bodies than they were built to hold, a population that soared by more than 500% from 1980 to 2000. And its recidivism rate — 60%, according to corrections officials — is the highest in the nation.

That said, experts believe that whatever path California chooses, its sheer size as the largest state prison system — with 163,000 inmates, 32 penitentiaries and 50,000 employees — means it will have a hefty effect on national trends.

Until recently, legislators and governors showed little interest in charting a new course for the Golden State. The costs of that choice — in dollars and in the churning of Californians in and out of prison each year — are demanding attention now. With other public programs starved for scarce state money, the $6.5-billion correctional system is the object of intense scrutiny.

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Governor Vows Reforms

Schwarzenegger, unafraid of being dubbed soft on crime, has made his desires clear. Declaring the state's penal system a shameful mess, he has vowed that on his watch, prisons will do more than temporarily isolate felons from the rest of the population.

The Republican governor has put new people in charge and directed them to scour the land for successful rehabilitation programs that could work in California. He also has asked the Legislature to approve a top-to-bottom reorganization of the correctional system that lifts rehabilitation to

equal standing with the nuts and bolts of running prisons — a major departure from the recent past.

Details are sketchy, and funds are even scarcer. Moreover, one of the few initiatives that Schwarzenegger already has launched — the diversion of nonviolent parole violators into community-based programs instead of prison — has faltered.

"We're playing catch-up," said Joan Petersilia, a UC Irvine criminologist advising the Schwarzenegger team on corrections. "We're trying to put Humpty Dumpty back together again, and we have such a broken system that we have a long ways to go."

The revival of rehabilitation nationally — and its bipartisan support — is remarkable considering the drubbing the concept took for so many years. That began in the 1960s and '70s, when the public's long-held belief that criminals were sick and could be healed behind bars gave way to new thinking. In part, the shift was a matter of timing. There was unrest in the nation's cities, a rise of violent crime and drug addiction in the streets. Inside prisons, disturbances — including riots and murders at California lockups — erupted.

In the midst of such turmoil, a researcher for the New York Legislature named Robert Martinson published a national survey of rehabilitation programs. His 1974 work, legendary in criminology, essentially dismissed such programs as ineffective.

Though widely maligned by scholars, Martinson's article — which received attention in such high-profile venues as CBS-TV's "60 Minutes" — fit perfectly with the zeitgeist, pouring intellectual fuel on a fire that already was raging.

Soon, the politics of crime were in full flame. Gradually, the notion that prisons should fix people so that they wouldn't commit more crimes was replaced by a firm belief that prisons should be about incapacitation and deterrence.

"Martinson's message met a convenient and receptive audience," Petersilia said. "His conclusion that nothing works became the mantra for people who wanted to cut programs and get tough."

That, to varying degrees, is what happened in the decades that followed. And in making the shift, California was at the forefront, with tough policies embraced by politicians from both parties.

Perhaps most significant was the state's turn in 1977 to a new sentencing scheme that set fixed terms for most crimes. Previously, most criminals received open-ended sentences and had to earn release from a parole board that judged whether they had improved themselves and had a plan for life on the outside.

But that approach — in place for almost 60 years — displeased people across the political spectrum. Prisoners and liberals said the parole boards' decisions were arbitrary, influenced by politics and race. Conservatives said economics often pressured parole boards to release inmates prematurely to save money. Scholars said there was no conclusive proof that inmates left prison rehabilitated.

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Sentencing Overhauled

Their unusual alliance abolished the system and brought in the determinate sentencing that California has today. The law, signed by former Gov. Jerry Brown, changed the language of the penal code. Overnight, the new purpose of incarceration was declared, unequivocally, to be punishment. Rehabilitation became incidental, not central, to an inmate's prison stay.

There were many unintended consequences, but one change quickly became visible: Criminal justice, especially punishment, was suddenly an issue ripe for political entrepreneurs.

"Before the ink was even dry, there was this feeding frenzy in the Legislature as people tried to ratchet up the penalties for crime," said Barry Krisberg, president of the Oakland-based National Council on Crime and Delinquency.

The change "opened up this vast area of real estate that has been actively worked by politicians ever since," said Jonathan Simon, a professor of law at UC Berkeley.

One peak event was passage of the "three strikes and you're out" laws in California and elsewhere. Such measures, coupled with tougher sentences for drug crimes and other offenses, propelled prison populations ever upward across the land.

In the 1990s, however, many states fell into economic distress, prompting their leaders to question whether they could afford prison systems that gobbled such a huge proportion of tax dollars. Nationwide, taxpayers spent about $9 billion on corrections in 1982. By 2002, that figure was almost $60 billion.

At the same time, violent crime has continued a steady decline, and polls now show a dramatic softening in public concern about the issue. In the last presidential election, crime — for decades a defining theme for many politicians of both parties — was not even on the agenda.

Against that backdrop, most states have begun tweaking their criminal justice systems to achieve savings — and better results. Many have altered their approach to drug offenders, sending them to treatment instead of expensive prison beds. Michigan made the biggest splash in late 2002 when the outgoing GOP governor, John Engler, repealed the toughest mandatory minimum drug sentences in the nation.

Other states have made certain categories of inmates eligible for parole earlier or have increased the amount of "good time" credits they can earn to cut their time behind bars.

Ohio passed a law that slapped tougher penalties on violent offenders but ensured that many nonviolent felons — from thieves to check forgers — faced fines or a stayed in halfway houses rather than prison cells. In the wake of that and other changes, Ohio's inmate population has

dropped by 6,000 — to about 43,000 — and the state has closed two prisons.

The changes drawing the most attention, however, focus on helping convicts move more successfully from prison into the free world. Criminologists say it is crucial that states do more during that fragile time when convicts walk out the prison gate and attempt to live lawfully among the rest of society.

Until recently, few states made much of an investment in that transition. California, for instance, historically has given departing felons $200 — minus the cost of a bus ticket — and told them to make an appointment with their parole officer. A few weeks before release, some were offered a voluntary program with tips on where to look for housing and apply for a driver's license. But that was available at only a fraction of the state's prisons.

Ohio's effort was little better, said Wilkinson, who took over leadership of that state's prisons in 1991. But now, reentry in Ohio "begins the day the offender arrives" in the system. After diagnosing incoming inmates, officials require convicts to use prison time to acquire job skills and to receive drug treatment and other help.

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Family Ties Emphasized

Officials also push them to maintain strong bonds with their families — a key ingredient to success. As they exit, many convicts are placed in halfway houses while others visit "citizen circles" that use community members to help parolees with housing, employment, counseling and other needs.

Political support for the changes in Ohio has been bipartisan and unanimous, Wilkinson said, because "people realize this is really about public safety."

In Washington, the conservative Republican senator who is author of the Second Chance Act agrees.

"Recidivism rates are now higher than ever," said Sen. Sam Brownback of Kansas, who is joining forces with Democrats such as Sen. Joe Biden of Delaware in pushing the legislation. "It's time to take a different approach to make real and effective changes in the system — to offer prisoners a chance to become part of society in a positive way."

Unclear so far is how well the new rehabilitative approaches will work. Wilkinson and others concede that it is too early for any solid, empirical measurements but say anecdotal reports are promising.

Some observers, however, are sounding a cautionary note. UCLA research psychologist David Farabee, in a new book, says the effectiveness of prisoner programs — from education to vocational training — has been "tremendously overstated."

"I'm for doing anything — I don't care if it's yoga or Jazzercise — if we do a rigorous study and find it's effective," Farabee said. "What I fear is that with a new big pendulum swing, we'll return to the programs of the past, thinking we're doing something new and progressive, when the programs aren't any better than they were 30 years ago."

Supporters of the rehabilitation revival agree that hard evidence of what works is lacking. They also say that when it comes to helping inmates turn around their lives, there is no silver bullet, and that what works for one might not work for the next.

"We are in a bit of a guessing game at this point," said Dan Wilhelm of the Vera Institute of Justice in New York, a nonprofit think tank that advises states on correctional policy. "But it would be hard to do much worse than what the current system produces.

"If General Motors had a division that reported that sort of results," he said, "there's a good chance they wouldn't be in business for long."

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