

***Governor's Commission on Public Safety & Criminal Justice  
Recommends Maintaining the Status Quo***

*Editorial by; J. John Probe*

I find it disappointing, yet not surprising, that rather than make reforms necessary to reduce our states current prison population the commission appointed by the Governor makes recommendations to stay the course and maintain the status quo. This Commission was appointed with the specific goal of making recommendations that would reduce the amount of the State budget ineffectively being spent on incarceration. These recommendations were to favor instituting more effective evidence based rehabilitative measures. A move that would have directed resources back to areas that have been devastated by budget cuts, areas such as education and public services. These are the essential services that have seen their budgets' cut in order to continue funding incarceration.

The decision to stay the course and maintain current prison populations along with current rates of incarceration should come as no surprise, many of the members appointed to this commission, such as state legislators and district attorneys have built their careers on "*Tough on Crime*" policies. For many of the members of this commission, being portrayed as "*Soft on Crime*" during future election cycles may lead to the loss of their jobs.

Most importantly, citizens also need to be informed of the fact that prison is a growth industry, and that many of the members of this commission benefit from this industry in many ways, mostly by the way of campaign contributions.

The prison industry has its own conferences and conventions, it hires advertising firms & lobbyists in order to sway legislators to enact laws and policies that favor their industry. This industry has countless sales reps hawking everything from billy clubs & pepper spray, to cafeteria trays & toilets. Private outsourcing and contracting allow profits to grow only through the incarceration of as many individuals as possible. If prison beds stand empty, funding for prisons is reduced and profits dry up.

This model for doing business negates any desire by the prison industry, and those who benefit from it, to make any real reforms. Any reforms that are designed to reduce or address high rates of incarceration or reduce recidivism would, in fact; be bad for business.

These are the very same interests' who promote and finance your "*Tough on Crime*" legislation and the bills that dictate mandatory minimum sentences. These are the interests and the measures that have brought our criminal justice system to its current untenable state of affairs. Corrections is a business model, a model that Oregon has become thoroughly invested in, as is evidenced by the following statement: "*While the national response to the out of control costs of continued prison expansion has been to cut prison intakes Oregon's prison population continues to grow*". (Oregon's prison puzzle: cut cost but keep the public safe; *The Oregonian* 10/28/12)

Over the period of the last year, I had remained hopeful that the financial stranglehold on the States' budget, a stanglehold brought about by nearly thirty years of being "*Tough on Crime*" and a "*War on Drugs*", would finally force lawmakers and state executives to abandon their war and their rhetoric so that they may adopt a more effective "*Smart on Crime*" approach. I had hoped that the Governor's commission might have been brave enough to say, "*Enough is Enough*" and recommend enacting meaningful reforms.

As a victim the criminal justice system currently incarcerated in the Oregon State Penitentiary I have been granted the distinct advantage of an up-close inside view of the problems plaguing or justice system. One may think that as a prisoner I have more at stake in regards to these concerns, this would be untrue. The party with the most at stake, even more than those whose careers have been built upon current "*Tough on Crime*" policies are the Oregon Taxpayers. Those who have the most at stake are parents of a child in one of Oregon's failing public schools. What is at stake becomes more poignant when one considers that education is the *anti*-incarceration. It is a well-proven fact; each dollar spent on education is worth three dollars spent on incarceration. The Taxpayer needs to recognize that it is their children who are at risk of becoming future incarceration. The only way to prevent a new generation of incarceration is for the Oregon Taxpayer to refuse to allow the States' legislature to continue maintaining the status quo, and demand meaningful and effective reforms to the criminal justice system.

As reported in the *Oregonian*, the commission balked on recommending sentencing reform and funding community-based programs that could have spared the Taxpayers \$600 million dollars in future prison costs. Instead, the commission provided Governor Kitzhaber with three options that include virtually no reform, modest sentencing changes and aggressive money saving concepts. (*Panel offers prison saving options, no suggestions; The Oregonian* 12/20/12)

The article mentioned above claims that the commission's report "*Maps a clear path to hold the State's prison population at its current number*". This statement about maintaining the current prison population seems unlikely without implementing changes to existing laws and sentencing structures. The same article cites that existing laws and population growth indicate a need to create an additional 2300 prisoner beds over the course of the next ten years costing the Taxpayers an additional \$600 million dollars. Another state prison population forecast issued in October of 2012 estimates that Oregon will see 1100 inmates in the next three years. While those

estimates seem to vary, one thing is certain; without significant reform to current laws and sentencing practices maintaining the number of prisoners in Oregon at their current level is not possible. It is not possible that any sort of "*Aggressive money saving concepts*" would be able to account for accommodating an additional 2300 prisoners.

As someone who is currently witnessing firsthand the realities of an over-burdened state corrections budget, I can attest, as will many of the Dept. of Corrections staff members I have spoken to, there is very little room for more cuts to the operating budgets of prisons. To reduce the number of corrections officers currently on the payroll, and working in prisons that already hold many more inmates than they were originally designed for, creates not only a much greater risk of harm to prisoners, it also greatly increases the risk of harm to the prison support staff. Lowering pay or benefits to prison employees would attract less qualified individuals and would only increase the risk of harm to both staff and prisoners alike.

When budgets are lean the first place cuts are made are in the services provided to prisoners. Mainly reductions to funding for prisoners' meals and to the programs designed to curb recidivism.

Nutritional requirements have been re-calculated to suit budgetary constraints and the nutritional values of the meals has declined. Prisoners are fed a diet consisting of cheap calories from carbohydrates. There are very few fresh vegetables. Prisoners are fed very little meat, and the meat that they do receive is so over-processed that it is hardly recognizable as meat. These meat products are full of nitrates and sodium, which when eaten everyday pose a significant risk to heart health. The prisoners' diet, coupled with being provided very little opportunity for activity, creates an unhealthy population, a population with high rates of diabetes, and poor cardiovascular health. This unhealthy population has a significantly increased cost for health care; these costs are then passed along to the taxpayer.

It is difficult to garner any sympathy from the public regarding prisoners' meals, as the majority of the public has been misled into believing that anyone sentenced to prison is the most violent and worst of offenders, and that such persons are less than human and deserve to be treated as such.

Regardless of your point of view regarding prisoners, one must take a hard look at the cuts being made to rehabilitative programs for both prisoners and those who have not yet been sentenced to prison. It is these rehabilitative programs that actually provide for public safety and provide a return on the taxpayers' dollar.

Currently, there are very few rehabilitative programs available to prisoners. Access to any meaningful educational opportunity beyond acquiring a GED is virtually *non-existent* for the majority of prisoners. Almost completely absent are programs that include vocational training, job training, or employment placement. One of the most effective tools for curbing recidivism

and preventing criminal activity is the opportunity for gainful employment upon release from prison.

It should also come as no surprise that a significant percentage of all criminal activity is in some way related to drugs and alcohol. Whether it involves committing crimes to obtain drugs, involvement in the drug trade due to a lack of economic opportunity, or criminal conviction arising from poor decisions while under the influence of drugs or alcohol; one thing is certain, drugs and alcohol are the driving factors of incarceration. In this light; cutting funding for drug and alcohol treatment is not just counter-productive, it is downright destructive. These practices only lead to higher rates of incarceration, the very thing that is necessary in order for the prison industry to maintain profits and growth. *“Oregon’s prison population continues to grow at the costs of reduced funding for education and reductions in addiction treatment and mental health care it is these very cuts to fund prisons that are part of the reason that more people are ending up in prison.” (Oregon’s prison puzzle: cut cost but keep the public safe; The Oregonian 10/28/12)*

Governor Kitzhaber has indicated that no funding for new prisons has been included in the purposed 2013-2015 state budget. However, construction currently is underway for a new prison facility in Junction City. There is also a large section of the Deer Ridge Correctional Facility that is located in Madras and stands vacant because no funds are available to pay for staffing. In addition; many of you in the Portland area may recall a new jail facility built by Multnomah County several years ago, a facility that the County could not (and still can not) afford to staff. While the Governor claims that no money will be spent on new prison construction, new prisons already exist or are currently under construction. Make no mistakes, the State of Oregon, through its’ refusal to enact meaningful reforms, has demonstrated that they intend to continue building and filling prisons at the expense of State services and cost to the Taxpayer.

No matter what the Governor says about not building new prisons, prison officials claim to need a second prison for women, as the Coffee Creek Facility for women is already well-over capacity. It is improbable to think that the Dept. of Corrections can fit any more prisoners into its’ existing facilities.

Here at the Oregon State Penitentiary we already have well over a thousand inmates being double bunked in cells that were originally designed to house only a single inmate. The prison is in a complete state of disrepair; heat is sporadic and goes right out of broken windows. There are many pipes with crumbling insulation labeled with warnings against creating dust due to the hazard of asbestos. Many of the construction materials still present in the Oregon State Penitentiary contain the long outlawed and extremely hazardous asbestos material. The paint peeling off the walls, a condition found throughout the entire facility, is lead based paint that poses a significant health risk.

In fact, it is rumored that the cellblocks and other buildings here at the Oregon State Penitentiary have long been condemned by state health and building officials and that the Dept. of Corrections pays a heavy penalty each year in order to continue housing prisoners in this facility. These decrepit conditions create serious health risks to prisoners and corrections staff alike, and further increase the cost of health care. Health care costs that are passed along to the taxpayer.

What our State needs is a plan that re-directs funding back into education and essential public services, not a plan that continues along the same costly path already traveled. What is necessary is a plan that reduces the current number of inmates now, not a plan that maintains the current numbers of prisoners in the already existing dilapidated correctional facilities. Any such plan must reduce incarceration rates through legislative changes to existing laws and sentencing practices, particularly those that call for mandatory minimum sentencing as well as those that require prison sentences for drug offenses and other *non-violent* criminal offense. Any such plan must also include retro-active measures to existing sentence structures as a means to reduce the current prison population, allowing the Dept. of Corrections to close outdated, dangerous facilities and staff the newer vacant facilities.

Any plan of action must first begin in the legislature and then be carried out by the courts. Mandatory minimum sentencing statutes must be repealed. Sentencing guidelines used to impose sentences for *non-violent* offenses also need to be revised. These immediate actions would allow judges to impose sentences that better reflect the circumstance and severity of the crime. Enactment of these measures would immediately begin to reduce our states high rate of incarceration and subsequently start a reduction in the number of prisoners being housed in the States' correctional facilities.

Funding also must be made available for community-based corrections programs. Programs that provide drug and alcohol treatment, as well as programs that would provide educational opportunities, vocational training and job placement assistance. These programs need to be incorporated into the sentencing structures for future criminal offenses.

Secondly; any plan to reduce prison populations in Oregon must include retro-active application of good time to those who are serving sentence under mandatory minimum sentencing acts such as Measure 11 and Measure 57 as well as the Danny Smith Act. The only way that any of the recommended changes have any immediate or timely effect on current budgetary constraints is to make any such an action applicable retro-actively to those currently serving a prison sentence under these sentencing guidelines. Furthermore; I believe that it is a matter of "*fundamental fairness*" (which also happens to be a constitutionally protected concept under the 14<sup>th</sup> amendment) that if good time is eventually granted to future offenders for crimes involving the above mentioned statutes, than it should be granted to those serving currently serving sentence for a previous offense. If an offender committed a crime under one of these measures two years ago and one commits the same crime this year should only one person be

granted an opportunity to earn good time while the other serves a more lengthy mandatory sentence for the same crime, or should they both be able to earn time off of their respective sentences for good behavior? Should good time credits be afforded on a financial basis? No good time when we can afford to fit you into the budget, good time credit when we cannot, does that satisfy a sense of "*fundamental fairness*"? One should also take into account that a prisoner who does not earn good time has no incentive to avoid violent behavior in prison; he has no incentive to attend the available rehabilitative programs or to participate in educational programs because essentially; he has nothing to lose. For those who have an opportunity to earn good time credit, these failures would result in the loss of any good time potential.

It is necessary that our courts have an array of sentencing options at their disposal, rather than the single option now available; prison. Enacting the reforms suggested herein would immediately reduce the States' prison population as well as reduce current rates of incarceration. The immediate reduction in the States' prison population would free up funding from the States' budget, funds that would then be used to implement effective rehabilitative programs. The return on this initial investment would lead to a continued decline in the number of inmates being housed in state prisons and would directly impact the health of the States' economy, making for a healthier State not only by the reduction of prison spending, but by creating more productive citizens.

Undoubtedly; as is indicated by their willingness to continue to reinforce existing laws and practices, while shunning any meaningful opportunities for reform, the State intends to grow the prison population as projected. The State intends to fill many more prison beds, and the majority of these new prisoners will be *non-violent* offenders. The State intends to continue gutting education, public safety and other essential services to fund prisons, and the State intends to saddle the Taxpayer with the bill. In other words the State intends to continue with "*Business as Usual*".

"*Tough on Crime*" culture and the resultant legislation have led to an "*over-criminalization*" of our population. Twenty years ago, the penitentiary was reserved for violent offenders, your murders, armed robbers and rapists. Nowadays, nearly every crime has been raised to the level of felony and increasingly harsher penalties for what were once minor offenses are more often imposed. However; the "*tough on crime*" tide appears to be receding. Sentencing options that include rehabilitative measures along with the threat of prison as a result of non-compliance are being instituted with great success in other areas of the country. One of those places is Texas, a state that once had one of the highest rates of incarceration along with one of our Country's largest prison populations. Texas is now seeing a reduction in its' number of prisoners and a return on its' investment in community based programs. There is a desperate need for a *de-escalation* in the war on drugs, sanity needs to be restored in imposing sentence for *non-violent* offenses. It is time to end "*Tough on Crime*" and time to institute an era of being more effective and "*Smart on Crime*".