

The California Cities Gang Prevention Network

Welcome to the 18th bulletin of the California Cities Gang Prevention Network. This bulletin will address Senate Bill X3 18, which was passed by the legislature in September, 2009, signed into law by Governor Schwarzenegger in October, 2009, and came into effect on January 25, 2010. The express purpose of this measure is to close budget gaps by reducing the inmate population and creating more manageable caseloads of parole officers (from 70 to 48).

Because this legislation has been implemented so quickly, there has been some confusion regarding the details. For clarification, cities can contact Erin Sasse, the Chief of External Affairs at the California Department of Corrections and Rehabilitation (CDCR) at erin.sasse@cdcr.ca.gov or (916) 324-6508.

This legislation introduces a number of changes to California incarceration and parole policy. It authorizes the placement of offenders who meet certain criteria into Non-Revocable Parole (NRP), elevates the minimum dollar amount for certain felony level property crimes, and increases the availability of credits that inmates can earn while in prison (in order to determine early release dates). While some laud SB X3 18 for decreasing state costs, parole caseloads, and rates of unnecessary incarceration, others feel that this legislation endangers the well-being of common citizens and simply shuffles a financial burden from the state to the counties.

For cities, the focus now must be on providing aftercare and reentry services that will help ex-inmates successfully reintegrate into society. With California's \$20 billion deficit, there is no doubt that the legislature

will be looking for more ways to cut state costs and CDCR's \$8 billion budget will continue to be a target. Legislation such as SB X3 18 is just one reason why cities should implement strategic plans that blend prevention, intervention, and enforcement. Now, more than ever, we cannot arrest our way out of this problem. Cities' approach to gang violence must be comprehensive and must have the support of community members, who could potentially provide additional support if/when state resources run low. Cities that have achieved comprehensive plans and community support will find themselves in a better position to handle new legislation such as SB X3 18. These cities will, at the very least, have the infrastructure to support reentry services, and at the very best, already have such services in place. Moreover, these cities will have the relationships in place with community and faith-based organizations that can assist the reentry population. Examples of such initiatives are discussed at the end of this bulletin.

Non-Revocable Parole

One controversial component of SB X3 18 is the release of certain previously detained offenders onto Non-Revocable Parole (NRP). Before SB X3 18, all prisoners released from incarceration were placed under parole supervision. Now a number of inmates will be eligible for NRP. These offenders will no longer be under the jurisdiction of CDCR, would not be assigned parole agents and are not subject to standard parole regulations. While they are still required to provide an address, this will not be subject to verification. Offenders on NRP will remain subject to warrantless search by law enforcement. However, if a person on

NRP is found to have reoffended, they will be treated as any normal citizen, and new charges will have to be filed in court. One of the most important aspects of NRP is that parolees will not be returned to prison for technical parole violations (actions that are illegal only if committed by a parolee). In 2008, technical parole violators accounted for over 52% of admissions to state prison (74,531). Of all parole violators in prison, only 21% were returned to prison on a new charge.

To be eligible for NRP, offenders must not have been convicted of a violent or sexual crime, must not have a history of any sex offenses, and must not be a prison gang member or associate as defined by the CDCR. Most importantly, offenders on NRP must be at low risk for reoffending, as determined by a “validated risk assessment tool.” According to CDCR actual counts, parolees on NRP currently make up less than 3% of the active parolee population, but could potentially make up to 20% of the future active parole population .

Eligibility Criteria

Current eligibility criteria for NRP may allow for the release of a number of inmates associated with street gangs. CDCR distinguishes between a street gang and a prison gang (prison gang members are not eligible for NRP). A prison gang is defined as one which originated and has its roots within CDCR or any other custodial system. Prison gangs include Aryan Brotherhood (AB), Black Guerrilla Family (BGF), Mexican Mafia (EME), Nazi Low Rider (NLR), Northern Structure (NS), Nuestra Familia (NF), and Texas Syndicate (TS). Local law enforcement believe that many street gang members avoid involvement with prison gangs and are unlikely to be restricted from NRP.

While association with a gang is a risk factor for criminal activity, it is not a crime in and of itself. All offenders placed on NRP must pass a risk assessment that takes gang involvement and similar dynamic risk factors into account. Only if they are deemed to be at low risk of reoffending are they placed on NRP. Moreover, serious and violent street gang members are not eligible, so even though NRP does not restrict street gang members from eligibility, it does not necessarily mean that dangerous gang members will be on the streets.

Another complaint that has been voiced regarding NRP’s eligibility process is that it may include offenders that have pled out certain violent charges to be convicted of a less serious crime. Thus, some offenders may have a charge on their record, which fails to accurately represent their true level of risk. However, this is an aspect not directly tied to CDCR but to the state’s judicial process. Individuals can only be held responsible for the crime they were convicted of, not the crimes they were charged with. Doing otherwise would constitute an unwarranted assumption of guilt.

Fiscal Implications

While SB X3 18 is a step towards reducing the unnecessarily high incarceration rates of low-level offenders, many local officials see it as financially motivated. Despite the acknowledgement that prison and parole reform is desperately needed in California, many feel that it should not be done with monetary goals, because they might overwhelm public safety concerns. Yet, as the state faces a \$20 billion budget gap, others argue that financial concerns are an inevitable part of the legislative process, and that the budget crisis provides a rare opportunity to influence widely needed prison and parole reform.

Of greater concern is the fiscal impact that the legislation will have on local counties. Because parolees on NRP who commit new crimes must re-enter the system through jails, and will require expensive hearings, and trials, counties will carry a greatly increased fiscal burden for parolees who reoffend.

However, as the state’s budget crisis deepens, state prisons will no longer be able to continue detaining the current number of inmates. If the current prison population remained static, the state would likely have to rely more heavily on county funds. Though this legislation will likely put more of a burden on counties, it still provides the flexibility for counties to rearrange their funding priorities. For example, with SB X3 18 in effect, counties can still divert some taxpayer money into community programs and other alternative means of assisting the NRP population.

Aftercare and Reentry Services

Research has shown that low-risk offenders, such as those eligible for NRP, do not respond well to intensive supervision strategies, such as incarceration and parole. What works for this population, as evidenced in both academia and in communities, is aftercare services and alternatives to incarceration. These individuals need homes, jobs, and stability in order to stay out of prison.

On being released from prison, parolees often find themselves in challenging situations. They may be without shelter or money in a harsh economy, lacking practical job skills, and burdened with the negative stigma associated with a prison record. To compound the situation many of them will have severe physical or mental health issues, and will be vulnerable to past addictions. Some may have family and friends to provide stabilizing influences, but others who have isolated themselves while incarcerated may face difficulties reuniting with their loved ones.

These factors increase the likelihood that parolees will reoffend and recidivate, thus highlighting the need for effective community-based aftercare. If these risk factors can be minimized, then vulnerable parolees will have legitimate chances at becoming productive members of society. Ideally, communities should provide a continuum of aftercare services that include substance abuse and mental health treatment, housing support, job skills training and other employment assistance, support groups, life skills training (problem solving, conflict resolution, anger management, etc.), batterer intervention programs, and parenting skills. Research has shown that aftercare services are crucial in reducing recidivism; vocational and work release programs have shown positive outcomes, as have substance abuse and mental health programs. Providing parolees with stability, via jobs and housing, is an effective way to maintain public safety.

In an analysis completed by the National Council on Crime and Delinquency for the San Francisco Reentry Council, interviews with stakeholders (local government agencies involved with the reentry population) revealed a lack of coordinated services in the city/county. There was overlap in some service areas, such as job training,

but complete gaps in other areas, such as housing. The Reentry Council, a new initiative by the City and County of San Francisco, is making efforts towards a more streamlined continuum of services through agency collaboration and community engagement. Please visit <http://sfreentry.com/> for more information on the Council.

San Diego's Prisoner Reentry Program is another innovative approach to gradually transition ex-offenders into the community. Those eligible must not have committed a violent or serious crime and must not be part of a prison gang, similar to the eligibility criteria for NRP. A community case manager works with an individual while incarcerated to develop a Life Plan and the individual is also eligible to participate in a variety of vocational and rehabilitative services. The case manager meets the individual upon release and continues to work with him or her for the next 18 months.

San Bernardino has implemented an innovative program for prisoner reentry. In collaboration with CSU-San Bernardino and the Center for the Study of Correctional Education, the city has conducted a study regarding parolee needs and best practices. They are also promoting CREST (Community Reentry Education/Employment Service and Training), a coordinated effort between government agencies and private organizations to provide evidence-based programming to ensure positive outcomes for parolees. The Crest Service Center will be a one-stop shop for parolees for services ranging from employment to housing. Significantly, the cost of CREST services is less than half the price of re-incarceration. For more information about CREST, please visit <http://www.crestcenter.org/>.

Alternatives to incarceration have also proven effective. A recent report from NCCD reveals that alternatives, such as electronic monitoring, drug rehabilitation, drug courts, work-release programs, and day reporting centers have shown to be effective at reducing recidivism and will save both counties and the state large sums of money. Moreover, many of these initiatives must be sponsored locally. For a copy of the report, please visit: http://nccd-crc.issuelab.org/sd_clicks/download2/extravagance_of_imprisonment_revisited.

Funding Sources

In order to best provide the necessary aftercare services for the people who will be released under SB X3 18, many counties will have to look to new sources of state and federal funding. San Bernardino, for example, was able to obtain \$1.2 million from the state government in order to build and manage a new day reporting center. They have also applied for federal Second Chance Act funding. Two great sources of information regarding various reentry funding are: <http://www.reentry.gov/whatsnew.html> and <http://www.nationalreentryresourcecenter.org/funding>. Two examples of federal funding programs are outlined below.

The Second Chance Act: Signed into law on April 9 2008, the Second Chance Act is a piece of legislation designed to provide federal grants to government agencies and nonprofit organizations with the goal of providing substance abuse treatment, housing, employment, training, and other services to help lower recidivism. The Second Chance Act provided \$28,300,422 in 2009. The application deadlines for 2010 have passed.

The Justice and Mental Health Collaboration Program: The Justice and Mental Health Collaboration Program is looking to provide funding to programs that demonstrate collaboration between a government agency with responsibilities in criminal or juvenile justice and a mental health agency. This funding could hypothetically go to an aftercare program providing mental health services. The application for this program is due April 8, 2010.

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The California Endowment is a private, statewide health foundation created in 1996 with a mission to expand access to affordable, quality health care for underserved individuals and communities, and to promote fundamental improvements in the health status of all Californians.

Created in 1992 as an independent, private foundation, TCWF's mission is to improve the health of the people of California by making grants for health promotion, wellness education, and disease prevention.

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