

Parole in California, 1980 - 2000

Implications for Reform

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*Public Hearing on Parole Reform
Little Hoover Commission
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Parole in California, 1980 - 2000: Implications for Reform
Testimony before Little Hoover Commission
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Thank you for the opportunity to testify before the Commission on the issue of parole policies in California. I wish to commend the Commission for focusing attention on this difficult issue, in these difficult financial times.

Over the past few years, my colleagues and I have had several occasions to work with our counterparts in California as they wrestle with the challenges of improving reentry outcomes for prisoners, their families and the communities to which they return.

- We worked with a remarkably diverse coalition of public and private agencies in San Diego to help create the San Diego Reentry Roundtable. I was pleased to see that Rulette Armstead, Assistant Chief of Police in San Diego, made reference to the San Diego reentry initiative in her testimony before the Commission last month.
- I co-chair the national Reentry Roundtable with Joan Petersilia, a professor at the University of California, Irvine, and a national expert on corrections and parole. She and I made a presentation on the issues of prisoner reentry at a meeting hosted by the Public Policy Institute of California in San Francisco.
- The most recent meeting of the national Reentry Roundtable was held in Los Angeles, in December 2002. This meeting, funded by the California Endowment, explored the connection between public health and prisoner reentry. Following a two day meeting of the Roundtable, I facilitated a one-day strategic planning session involving California researchers, policymakers and practitioners. I was impressed by the innovations underway in California and the commitment of publicly minded individuals in this state.
- At a conference on crime prevention hosted by Attorney General Bill Lockyer, I gave a talk on what I called the "California Parole Experiment," arguing that the state had embarked on parole policies quite different from any other in the United States, policies that result in high costs and uncertain benefits to the citizens of the state.
- Working with my colleague Sarah Lawrence, the speech given at the Attorney General's Office was revised and published as an article in the August 2002 issue of the *California Journal*.¹

It is my hope that my testimony this morning can bring to the Commission's attention some of the lessons I have learned watching other jurisdictions wrestle with the same prisoner reentry challenges confronting California, as well as some of the research conducted by the Urban Institute on prisoner reentry across the nation, and particularly in California.

¹ Travis, Jeremy and Sarah Lawrence (2002). "California's Parole Experiment," *California Journal*, vol. 33, no. 8, August 2002. Sacramento, CA: A State Net Publication.

Allow me to state succinctly the four conclusions of my testimony:

First, California has embarked on parole policies markedly different from every other state in the country, with significantly greater use of parole supervision and dramatically greater use of parole violations.

Second, these parole supervision and revocation policies are very expensive, with uncertain benefits, and should be examined through the same critical cost-benefit lens as any other policy, particularly in a fiscal emergency such as the one California faces today.

Third, investing more money in programs designed to change parolee behavior will have little benefit unless significant changes are made to the policy framework within which those programs operate.

Fourth, a reinvestment strategy that moves funds from state corrections budgets to new forms of community-level reentry management could save money and reduce crime.

I will now elaborate upon those conclusions.

I. California has embarked on parole policies markedly different from every other state in the country, with significantly greater use of parole supervision and dramatically greater use of parole violations.

When we examine a state's parole policies to describe their overall operations, we ask three critical questions: (1) How are release decisions made, i.e., is there a parole board that makes discretionary release decisions?; (2) Which prisoners are supervised when released from prison, i.e., is supervision mandatory and, if not, who is supervised, and for how long?; and (3) How are parole revocation decisions made, i.e., what percent of those on parole are sent back to prison, and for what reasons?²

The Decision to Release. The answer to the first question is clear. The State of California abolished indeterminate sentencing in 1977, and with that decision, essentially abolished the use of a parole board to make release decisions. For almost all³ offenders sentenced after that date, release dates are set by law, not by the exercise of parole board discretion. In this regard, California was part of a national trend to move from discretionary release mechanisms to mandatory (or statutory) release mechanisms. In 1976, 65 percent of prisoners released throughout the country were released by parole boards; in 1999, only 24 percent were released that way. Because the focus of today's hearing is on parole supervision, not parole release, I will not go into a discussion of the pros and cons of this important shift in American criminal justice policy.

² This discussion is based on data presented in Travis, Jeremy and Sarah Lawrence (2002). "Beyond the Prison Gates: The State of Parole in America." Washington, D.C.: The Urban Institute.

³ For prisoners sentenced to life terms, the parole board still decides their release date. Source: Bureau of Prison Terms web page, accessed February 18, 2003 <www.bpt.ca.gov/parole.html>.

The Decision to Supervise. The answer to the second question is also clear. When California essentially abolished indeterminate sentencing in 1977, the legislature kept parole supervision as the state's method of reentry management. Consequently, virtually everyone coming out of prison in this state is placed on parole. In this regard, California is like Oregon, Rhode Island, and Wisconsin – almost all released prisoners are placed on parole supervision. Other states have made different choices. For example, in Massachusetts, Florida, and Oklahoma, more than half of the released prisoners are released without any supervision requirements.

Seen from a national perspective, about four out of five (82 percent) prisoners released in 1999 were placed on some form of supervision. Here too, there has been a significant shift in national practice. From the 1920s to the 1960s, between 50 and 60 percent of all prisoners were released to supervision. Between 1960 and 1990, the portion of prison releases placed on supervision increased to 87 percent, before declining to 82 percent in 1999. If California followed the national average, and placed 82 percent of its released prisoners on supervision rather than nearly all of its prisoners, then about 100,000 would have entered parole last year, rather than 125,000.

I raise these points not to argue that California should return to a system of indeterminate sentencing, nor to suggest that prisoners should be released without supervision. Rather, I would like to highlight the irony that comes into focus when we view these two trends together. As state legislatures, including the California legislature, reduced the discretion of judges to determine the length of a prison term and the discretion of parole boards to decide the actual release date, they expanded the supervisory reach of the criminal justice system and extended the discretion of parole officers over larger numbers of former prisoners. In essence, discretion has been shifted, from judges making sentencing decisions in open court and parole boards making release determinations in written decisions, to parole officers who operate with less openness and less accountability for their decisions.

California's parole population has increased, as one would expect, along with the increases in the state's prison population. Nationally, the per capita rate of incarceration over the last 25 years has increased four-fold since, as you can see in Attachment 1. California's rate of incarceration has increased more rapidly, increasing nearly five-fold over the same period. This growth has implications for the size of the parole population. Because 95 percent of prisoners are released, we must face the inevitability of reentry: The more people put in prison, the more people released to parole.

But the growth in California's parole population has far outstripped the national trends. As you can see in Attachment 2, the state's parole population, in absolute numbers, has increased ten-fold, compared to a four-fold increase nationally. On a per capita basis, the number of parolees per 100,000 in California has grown from about 50 in 1980 to 350 today, a seven-fold increase. As a result of this growth, California now accounts for 18 percent of the nation's parole population, but only 12 percent of the general U.S. population. In other words, nearly one in every five people on parole in this country lives in this state.

Why might this be so? Why would California's parole population have grown so much faster than the national average, when the growth in California's prison population (per capita) has been only slightly faster than the national average?

We can find a partial answer in the statutory rules governing time spent in prison on parole revocations. Under California law, when a person is returned to prison for a parole violation, the “clock stops” on the time owed for parole supervision. So, when a person leaves prison after serving time for a parole violation, he still faces the remaining supervision time as when he went back to prison. In this way, the period of parole supervision can stretch out for years for a particular individual. A *New York Times* article told the story of Jason Peterson, who spent nearly two years in California prisons for possessing a pipe bomb. He spent that time in solitary confinement at Pelican Bay. Since being released, his parole has been revoked three times. According to the *Times*, “Mr. Peterson has spent a year and 11 months in prison on parole revocations, almost as long as he did on his original two-year sentence. And the total could go on almost indefinitely, because under California law, each time Mr. Peterson has his parole revoked, he stops earning credit toward his original three-year parole term.”⁴ When this individual case history is aggregated to a system level, the effects are clear – the parole population expands significantly, and the portion of that population that are parole failures – those who have been sent back to prison, perhaps multiple times, on parole violations – also increases.

So, California has extended post-release criminal justice supervision to a much larger percentage of its incarcerated population than almost any other state in the nation. Consequently, one area of inquiry for this Commission is to ask whether the state should reconsider the reach of supervision. Three questions warrant examination: (1) Should the length of parole terms be reduced?; (2) Should parolees be eligible to earn their way off parole, thereby reducing their time under community supervision?; and (3) Should parolees who return to prison for parole violations count that prison time as credit toward their original term of post-release supervision?

The Decision to Revoke. Because California has a large parolee population, we would expect the state to have a large number of parolees who violate their conditions of release and are sent back to prison. If nearly one in five parolees (18 percent) lives in California, we would expect that one in five of parole violators to live in California. But the rate is more than twice what you would expect. More than two in five (42 percent) of all parole violators returned to prison are in California.

Why would this be so? Theoretically, one could speculate that the individuals under parole supervision in California are somehow substantially different from those in other states. Perhaps they are more dangerous, more involved in crime, more inclined to violate the rules of parole. But I think this is unlikely to be true, and would be difficult to prove. Certainly, it seems improbable that they are twice as likely to be involved in crime or to violate their conditions of release than parolees in other states.

The first clue to answering the question “Why is California different?” comes from an examination of the reasons for sending California’s parolees back to prison. As you can see from Attachment 3, the rate of parole violations (per 100 average daily parole population) has varied significantly over the years, ranging from less than 30 in 1980, to nearly 90 in 1989, down again to 60 in 1992, and fairly stable over the past several years at about 70 per 100. So, the first

⁴ Fox Butterfield, “Often, Parole is One Stop On the Way Back to Prison,” *New York Times*, Nov. 29, 2000, A1.

conclusion to draw from Attachment 3 is that the high rate of returns to prison for parole violations is not a constant, immutable law of parole in California. There have been times in this state's history when the rate of violations has been half what it is today, and other times when it was nearly half again as high.

There is a second conclusion to draw from Attachment 3. Over the twenty-year period, the rate of returns for "new crimes" has remained fairly constant, averaging around 17 per 100 daily population. So, the dramatic rises and falls in the violation rate is mostly a function of "technical violations."

The Use of Technical Violations. What is a "technical violation?" There is a sustained debate over the meaning of this term, and over the value of a policy that sends people back to prison for "technical violations." In a moment, I will turn to a special analysis done by me and Sarah Lawrence in preparation for my testimony that sheds light on the use of technical violations in California. But, at this point in our discussion, I merely want to point out that the decision to revoke someone's parole for "technical" reasons is highly sensitive to shifts in policy. We have seen in state after state across the country that by changing their policies, parole boards, legislatures, and corrections departments can change the level of technical violations – and therefore, control prison admissions for technical violations. For example, it is typically a violation of parole to use drugs. So, a decision to institute universal drug testing will increase the number of candidates for this parole violation. Similarly, a decision to revoke parole for the first dirty urine, rather than the second or third dirty urine, will increase the number of candidates for parole revocation. We can easily imagine different policies that would increase or decrease the flow of parolees back to prison for technical violations – widespread enforcement of curfews, strict requirements regarding employment or approved addresses, rigid observance of prohibitions against consorting with known criminals. There is one clear lesson from the research literature on intensive supervision: If you supervise parolees more closely, and enforce their parole conditions more vigorously, without a system of graduated sanctions, you will send more people back to prison. And a more intensive approach to supervision has not been shown to reduce the crime rate of the offenders under supervision.⁵

I do not have any particular insight into the reasons for the dramatic shifts in the use of technical violations in California. Answering that question would require in-depth examination of the policies of the Bureau of Prison Terms, and the decision-making processes of parole agents and their supervisors, but I do suggest that one way to reduce the use of parole revocations is to further develop clear, explicit, transparent and binding guidelines on the exercise of discretion by the BTP, parole supervisors and parole agents. The development of such guidelines would draw from similar work in developing sentencing guidelines to limit the judicial discretion, or the enactment of truth in sentencing reforms to limit the discretion of parole boards in making release decisions. So, one area for further inquiry by the Little Hoover Commission could be the issue of parole revocation guidelines for the State of California. I am aware that the Bureau of Prison Terms has taken some steps in this direction, but feel that the Commission should take a closer look at the issue.

⁵ See Petersilia, J. & Turner (1993). "Intensive Probation and Parole." In M. Tonry (Ed.), *Crime and Justice: A Review of Research*, vol. 17. Chicago: University of Chicago Press.

Let's return to the issue of technical vs. non-technical violations of parole. As we can see in Attachment 4, the number of parole returns to prison in California now approaches 90,000 a year, compared to about 3,000 in 1980. This is a thirty-fold increase over twenty years. Here is one way to understand the magnitude of this fact. In 1980, the entire country sent about 150,000 individuals to prison for a wide range of crimes. Twenty years later, this state alone accounts for 90,000 returns to prison just for parole violations – three-fifths the national number of admissions in 1980.

Attachment 4 tells a second story. As you can see by looking at the white portions of the bars, the number of parole revocations for “new crimes” has remained fairly constant for the last decade. The greatest increase in returns to prison since 1990 has been for “technical violations” – an 82 percent increase.

What are these “technical violations?” In preparation for today's testimony, and with assistance from staff of the Little Hoover Commission, Sarah Lawrence and I requested ten years of California Department of Corrections (CDC) data on “technical violations.”^{6,7} At the outset, we need to be clear about the scope of our analysis and the terminology used. Recall that parolees can be sent back to prison for one of two reasons –for a new crime (meaning the parolee has been convicted of a new offense committed while on parole) or a “technical violation” (meaning the parolee is charged with a parole violation, and given a parole violation hearing before the Hearing and Operations Division of the Bureau of Prison Terms, who in turn decides whether to revoke the parolee's liberty and send him or her back to prison for a specified time.) In this analysis, we will discuss only technical violations.

Administrative Returns: Criminal vs. Non-Criminal. The California Department of Corrections refers to “technical violations” as “administrative returns.” I will use the terms “technical violations” and “administrative returns” interchangeably. Within this category, the CDC makes a further distinction between (1) Administrative Criminal Returns, and (2) Administrative Non-Criminal Returns.

Let's take a closer look at these Administrative returns. As can be seen in Attachment 5, the three subcategories under Administrative Criminal Returns refer to a broad spectrum of crimes, ranging from drug possession, to sex offenses, to homicide. As we understand these classifications, these numbers reflect the parolees who are returned to prison as violators because they were determined to be involved in criminal activity, but they were not convicted of these crimes. Had they been convicted, they would have been returned to prison for a “new crime.”

⁶ We would like to express our appreciation to Art Chung and Cindy Solis in the California Department of Corrections Offender Information Services Branch for their assistance in providing the data used for this analysis. The analysis is based on data in the annual CDC publication, *California Prisoners and Parolees*.

⁷ The data used for this analysis cover the period 1990 to 2000. According to the California Department of Corrections web site, under Offender Information Reports, these data are no longer available on an annual basis. The web site states: "Due to problems with the Revocation Scheduling and Tracking System this report has been suspended indefinitely." Accessed February 20, 2003.

As we understand it, the broad heading of Administrative Non-Criminal Returns refers to "pure" technical violations and not criminal activity. This includes violations of the parole process, weapons access, and psychiatric endangerment.

After examining these data, we find the following points to be noteworthy and relevant to the inquiry of the Little Hoover Commission:

- The largest share of returns to prison for “technical” parole violations are Administrative Criminal Returns (80 percent in 2000).
- “Drug use” is the largest single category of Criminal Returns (20 percent in 2000).
- Between 1990 and 2000, while Administrative Criminal Returns grew by 60 percent, Administrative Non-Criminal Returns grew by 247 percent.
- Within the category of Administrative Non-Criminal Returns, "violations of the parole process" account for 95 percent (11,556 cases in 2000).
- Between 1990 and 2000, the categories with the largest growth were violations of the parole process (265 percent); weapons access (168 percent); sex offenses (145 percent); drug possession (128 percent); drug use (120 percent); and driving violations (119 percent).

We identify three policy issues from this presentation of the CDC data.

First, when the Bureau of Prison Terms sends a parolee back to prison for an “administrative” (or “technical”) reason, four out of five of those cases involve a determination that the parolee was involved in criminal activity. This conclusion raises questions about the relationship between this form of punishment for criminal behavior and the traditional method of prosecution and conviction. Why, for example, were 78 cases classified as “homicides” in 2000 and handled through the revocation of parole, with a maximum prison sentence of a year, rather than through the traditional prosecution route? Were these cases resolved this way with the approval of the prosecutor? What about the 524 “robberies” and the 384 “rapes and sexual assaults”? Has California simply created a parallel system of criminal adjudication, with lower burdens of proof and lesser adversarial process? Why should these criminal events be adjudicated in a process where the maximum prison term is one year? The Commission should examine these cases involving serious crimes to understand why the parole revocation process was used instead of the criminal court process.

Second, one of the most significant categories of growth in returns to prison for administrative reasons can be seen in the “pure” technical violations (called "violations of the parole process"). This category accounts for 32 percent of the increase in administrative returns over the decade. The Commission should focus an inquiry on this category to determine whether there are alternative methods for responding to the underlying violations of supervision. What exactly are the “violations of the parole process” that warrant a return to prison? Could a system of graduated sanctions work more effectively?

Third, the “drug use” and “drug possession” categories are strikingly large, accounting for nearly a third of all Administrative Criminal Returns. The Commission should ask whether there are different strategies for responding to the high levels of drug use within this population. What are

the treatment alternatives? Would more frequent testing for drug use provide a more effective form of supervision? Can any of these drug users be supervised by drug courts?⁸

Administrative Returns: Time Assessed and Time Served. We also examined the CDC data to determine the revocation time assessed, and the actual time served, for these “technical” parole violations. These data are presented in Attachments 6 and 7.

As you can see in Attachment 6, in 2000, the average revocation time assessed for Administrative Criminal Returns was 8.3 months, and for Administrative Non-Criminal Returns it was 6.0 months. Looking at Attachment 7, also for 2000, we see that the average time actually served was 5.4 months for Administrative Criminal Returns, and 4.3 months for Administrative Non-Criminal Returns.

Based on the data in these attachments, I call the Commission’s attention to the following three points:

- The difference between time actually served for criminal and non-criminal returns is very small, less than one month. An important question for the Commission is: Is there really so little difference between the underlying violations in these two categories? Stated differently, this is not a system of graduated sanctions, matching severity of sanction to severity of offense, because there is strikingly little “graduation” in these penalties.
- The slight difference is particularly striking when comparing the most severe, with the least severe, categories. Parolees returned to prison for homicides served on average 9.9 months; those returned for “pure technicals,” or violations of the parole process, served on average 4.2 months.
- The average time served for drug use (4.0 months) and drug possession (4.3 months) is about one month less than the average for all categories (5.4 months). This is higher than the most severe sanctions imposed in drug courts, and probably higher than would be imposed in traditional courts. Setting aside issues of proportionality, this relatively long revocation time served for drug use and possession raises a separate question about drug treatment: Is the revoked period of imprisonment used to provide drug treatment to reduce the rate of relapse?

In concluding this discussion of our analysis of the CDC data, I strongly recommend that the Little Hoover Commission focus squarely on the use of “technical” or “administrative” returns to prison in its ongoing inquiry into parole practices in California. The use of this mechanism to imprison people for criminal behavior raises profound questions about the role of this form of adjudication and punishment in our criminal justice system. The growth of returns to prison for violations of the parole process – serving an average of more than four months – raises questions about the viability of a system of true graduated sanctions in California’s parole system. Finally, the growth in the returns to prison for drug use and possession – serving an average, of more than four months – requires an inquiry into the effectiveness of this expenditure of taxpayer dollars to respond to the incidence of substance abuse within this population.

⁸ We note that our analysis does not account for any impacts of Proposition 36, which seeks to divert drug using parolees from prison.

II. These parole supervision and revocation policies are very expensive, with uncertain benefits, and should be examined through the same critical cost-benefit lens as any other policy, particularly in a fiscal emergency such as the one California faces today.

California uses parole supervision and parole revocations more extensively than any other state in the nation and these policy choices come with significant costs. In 2000, the state had nearly 90,000 returns to prison as parole violators. That year, 69 percent of the state's prison admissions were parole violators, compared to the national average of 35 percent (which includes California). To put the comparison in the most striking terms, if California's parole revocations resembled the national average in terms of prison admissions, about 19,000 parole violators would have been sent to prison in California that year, rather than 90,000.

These policies have enormous costs to the State of California. Professor Michael Jacobson, of the John Jay College of Criminal Justice, testified at this Commission's January 2003 hearing. As part of his testimony, Professor Jacobson presented data on the annual cost for parole violators in California prisons. He estimates that California spends between \$800 million and \$1 billion a year to house its parole violators, a significant share of the state's corrections budget.

California policymakers may well decide that current parole revocation practices are a wise expenditure of taxpayer funds. But the benefits from this investment are unclear, to say the least. Incapacitating large numbers of people with a history of criminal activity will undoubtedly prevent some crimes. However, no research demonstrates the crime control impact of California's parole policies, making it impossible to assess the public safety benefits. In addition, since all of these parole violators will be released again – on average, in four to five months – the more difficult policy questions are whether these practices have merely postponed the criminal behavior; possibly made it worse by creating a sense of frustration and anger in those imprisoned; and done nothing to reduce the likelihood of recidivism because the period of incarceration is too short to talk about meaningful programming in prison.

In short, we have estimates of some of the costs of these policies, but we can only guess as to the benefits.

In a time of fiscal crisis, every government program should be required to justify its funding. I see no reason why California's parole policies should not be subjected to the same scrutiny. A few weeks ago I read an article recounting the drastic cuts the Sheriff of Los Angeles County felt would be necessary as a result of the reductions in state funding to local governments.⁹ The Sheriff predicts he would have to release nearly 3,000 jail inmates and layoff 1,100 deputies to meet his new budget limits. It is hard to argue that public safety is improved when jails are forced to release inmates prematurely. The Commission faces a different challenge: Can the state save money by reducing the amount of time spent in prison for "violations of the parole process," in a way that enhances public safety? I believe that both goals can be achieved.

I recognize that reducing the costs of corrections is a difficult task. There are enormous costs involved in simply maintaining operations of a prison system. Closing a prison may be economically detrimental to the community where the prison is located. But finding ways to

⁹ Daren Briscoe and Sue Fox, "Proposed Cuts 'Devastating' to Sheriff's Dept.," *Los Angeles Times*, January 25, 2003.

reduce the rate of returns to prison, if done intelligently, would result in significant savings in next year's budget, and in future years' budgets for the Department of Corrections. What is required is a roadmap for how to get from here to there.

III. Investing more money in programs designed to change parolee behavior will have little benefit unless significant changes are made to the policy framework within which those programs operate.

I am often asked to recommend reentry programs that “work.” There are any number of programs that have been shown effective at reducing recidivism and drug use and increasing employment of released offenders. The Commission may well wish to recommend added investments in such programs, particularly if it explores alternative strategies for responding to the underlying problem of drug abuse, an area where there is very strong research showing high levels of effectiveness. But I hope my testimony this morning has demonstrated the need to examine the underlying policy framework of parole in California. Investing in a drug treatment program will be of limited value if drug possession and drug use parole violators are still sent back to prison for four months, with little treatment in prison, and no attention to the high rates of relapse when they get out. Increasing the involvement of the community in reentry programs will be of limited value if the parole process is viewed as overly harsh and community groups have little confidence in the criminal justice system.

What sort of changes would I recommend for the parole “policy framework” in the State of California? I would respectfully suggest the following:

- Create reentry courts. Since they were first proposed about four years ago, reentry courts have been established in about two dozen jurisdictions around the country. Some are located within parole departments, some are extensions of drug courts, some are special calendars in traditional criminal courts. A reentry court basically involves judicial oversight of the reintegration process, just as a drug court involves judicial oversight of the treatment process. In a reentry court, the parole officer essentially serves as a case manager, working with the court and the parolee on a reentry plan. Prisoners soon-to-be released to parole are brought back before a judge at the time of release and then appear in court on a monthly basis, reporting on their progress in meeting the conditions of their reentry plan. The judges are able to marshal community resources, and wield both carrots and sticks in their efforts to promote successful reintegration. The “carrots” are services, positive reinforcement, family and community support, and a forum for acknowledgement of success. The “sticks” are enhanced levels of supervision, such as curfews, more intensive drug treatment, or more frequent drug testing, and ultimately putting a violator in jail for relatively short periods of time, measured in days rather than months. California could pave the way toward widespread establishment of reentry courts for all returning prisoners.
- Distinguish “new crime” violations from “technical” violations. In my view, if a parolee commits a new crime, he should be prosecuted for that crime. If he is convicted, his penalty should be enhanced to reflect the fact that the crime was committed while on parole. “True technical” violations, in my view, should be handled at the local level under a system of graduated sanctions with a maximum incarceration period of up to one month. “Violations

of the parole process” now result in serving more than four months in state prison. The State of Washington has enacted legislation limiting the amount of time a parolee can be revoked for a technical violation to 60 days. In addition, technical parole violators in that state are detained in county jails rather than in state prisons. I recommend that California consider following Washington's example.

- Develop new strategies for the problem of drug use. A large percentage of prison returns are for drug use or possession. As I understand it, some of these cases are eligible for diversion under Proposition 36. I would define drug use (meaning having a positive drug test) as a “technical” violation of parole. Possession of small amounts of drugs could be defined either as a technical violation or as a new crime, and possession of large amounts of drugs should be prosecuted as a new crime. But the more important question is how to intervene in these cases to reduce the level of drug use. Mark A.R. Kleiman of the University of California at Los Angeles has developed a concept called “coerced abstinence” which I also endorse. Under this concept, parolees (and probationers) with a history of drug abuse would be tested twice a week, and those found to have drugs in their system would be subjected to a series of graduated sanctions, ranging from more frequent testing, to outpatient treatment, to inpatient treatment, to imprisonment for those who consistently fail the urine tests. This approach, which is being tried in Maryland, has the potential for reducing drug use, reducing crime, and reducing the costs of incarceration.

These are three fundamental changes in the policy framework for the parole system in California. They may require legislation and new policies by the Board of Prison Terms. All three have the same two goals: to reduce crime by changing parolee behavior, and to reduce corrections costs by cutting back on the use of state prison beds to house parole violators. All three would require the allocation of new funds to support the new policies – reentry courts, local detention, and systematic drug testing. The remaining question is whether the new costs would be more than offset by the new savings. To answer this question, I suggest that the Little Hoover Commission recommend a series of local demonstration projects in which cities or counties could propose to implement any or all of these reforms, with a careful evaluation of costs and benefits. If the savings outweigh the costs, as I predict, then within the next several years the entire state could implement these reforms.

IV. A reinvestment strategy that moves funds from the state corrections budget to new community-level reentry management strategies could save money as well as reduce crime.

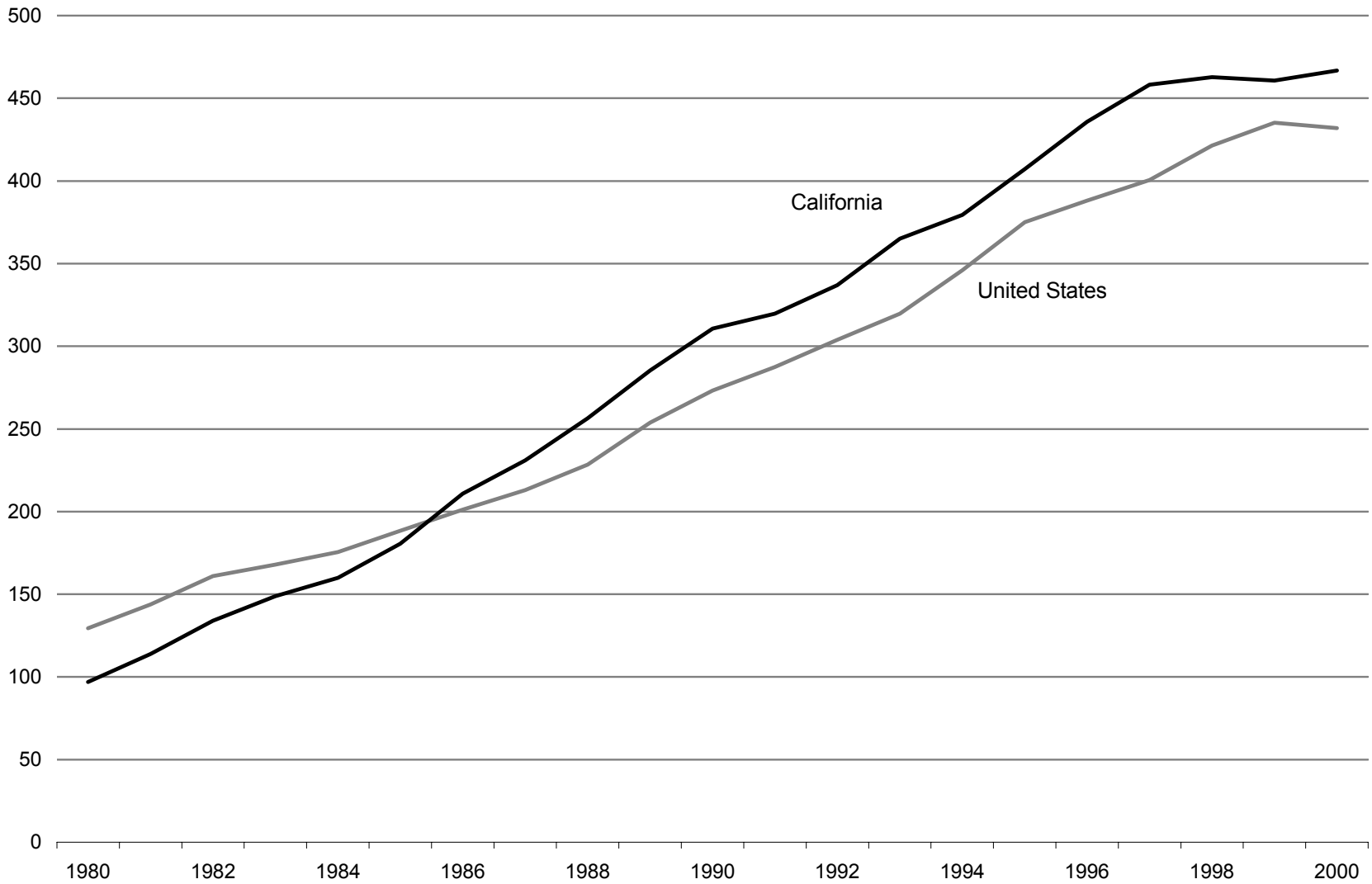
Finally, I would urge the Little Hoover Commission to point the way toward a new relationship between corrections and communities in California. We know from our work around the country that the impact of incarceration and reentry is felt acutely in a small number of communities. These communities are already facing enormous disadvantage, dealing with the weak economy, poor schools, the strains of welfare reform, and too much crime. Our nation’s four-fold increase in the rates of incarceration over the past generation has done considerable damage to the capacity of these communities. Allow me to give just one illustration. In blocks in Brooklyn with the highest incarceration rates, one in eight parenting-age males is arrested and sent to jail or prison each year. The impacts of this high rate of arrest and incarceration on the relationships

of these young men to work, their children, their parents and siblings, their intimate partners, their sense of their future are unknown. It is hard to imagine the effects of these criminal justice policies on the life-course of these communities and their residents.

In our work around the country, we have found that these same communities can be meaningfully involved in the difficult work of reintegration of former prisoners. Pioneering work is underway in Baltimore, Fort Wayne, Brooklyn, San Antonio, and Providence, bringing together community organizations, service providers, law enforcement, corrections, faith institutions, elected officials, ex-offender groups, victim advocates, and others to develop new approaches to reentry. These efforts require little initial funding, but have enormous potential for changing the way we think about prisoner reentry and reintegration. Because almost all prisoners eventually return home, our long-term goal should be to strengthen the capacity of community coalitions to work with returning prisoners and their families. As we reduce the costs of incarceration through the policy reform I have proposed, a portion of those savings should be passed along to these community coalitions. They can help California, and the nation, achieve the twin goals of less crime and more justice.

Attachment 1

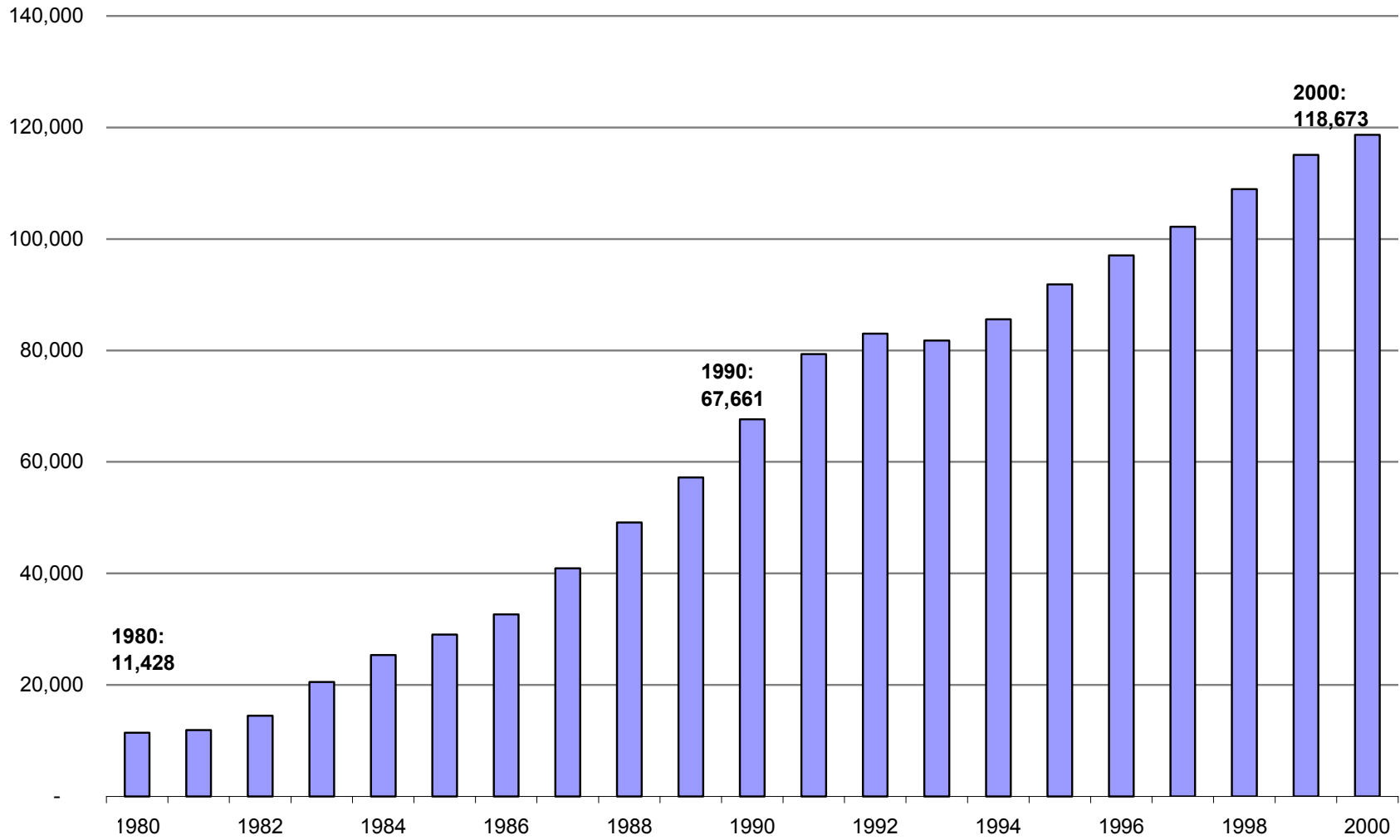
Incarceration Rate per 100,000 Population



Sources: California Department of Corrections, *California Prisoners and Parolees 2000*, Table 6; Bureau of Justice Statistics, *Correctional Populations in the United States*; and BJS, *Prisoners in 2000*.

Attachment 2

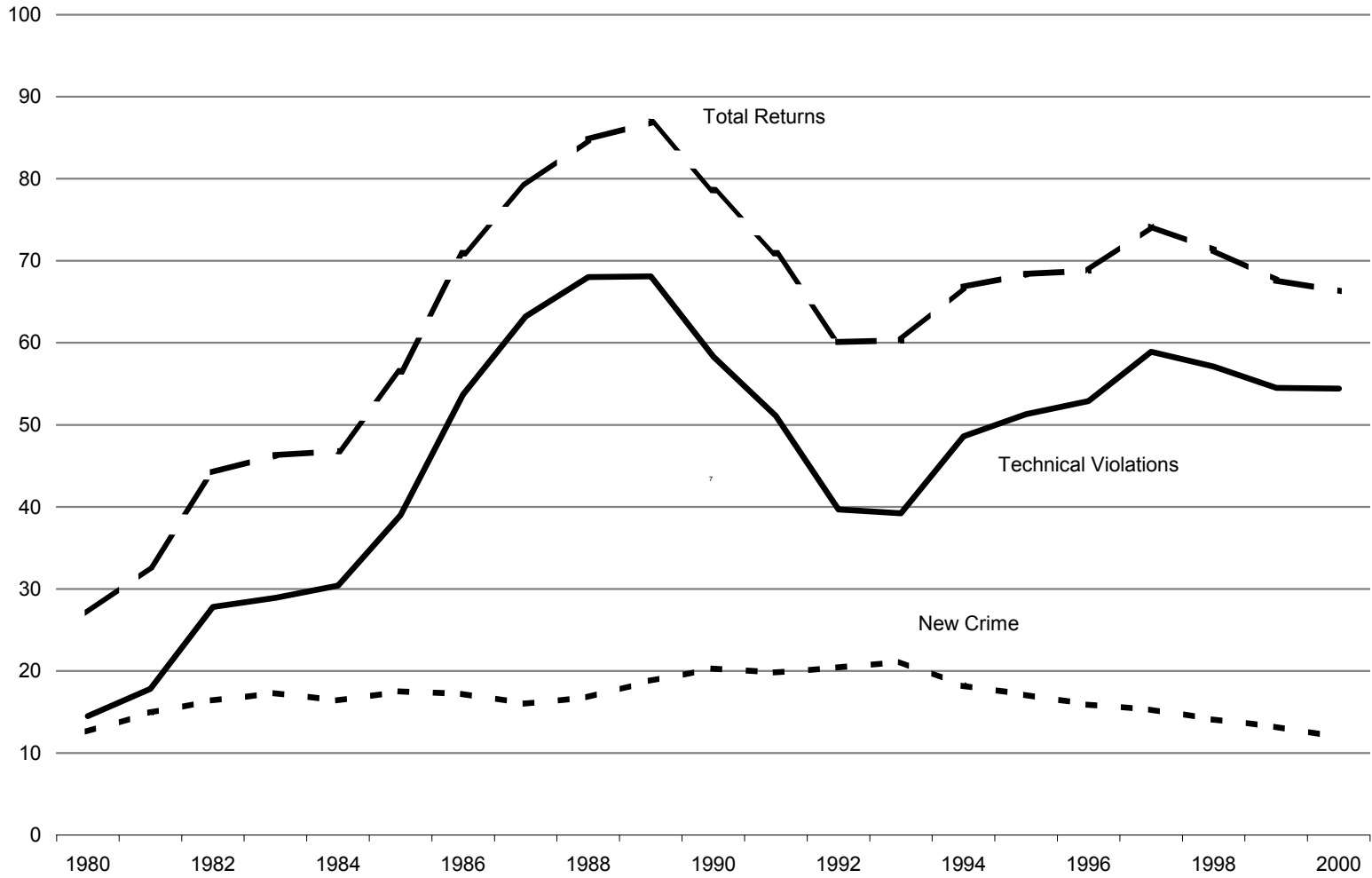
California Parole Population



Source: California Department of Corrections, *Historical Trends 1980 - 2000*, Table 7.

Attachment 3

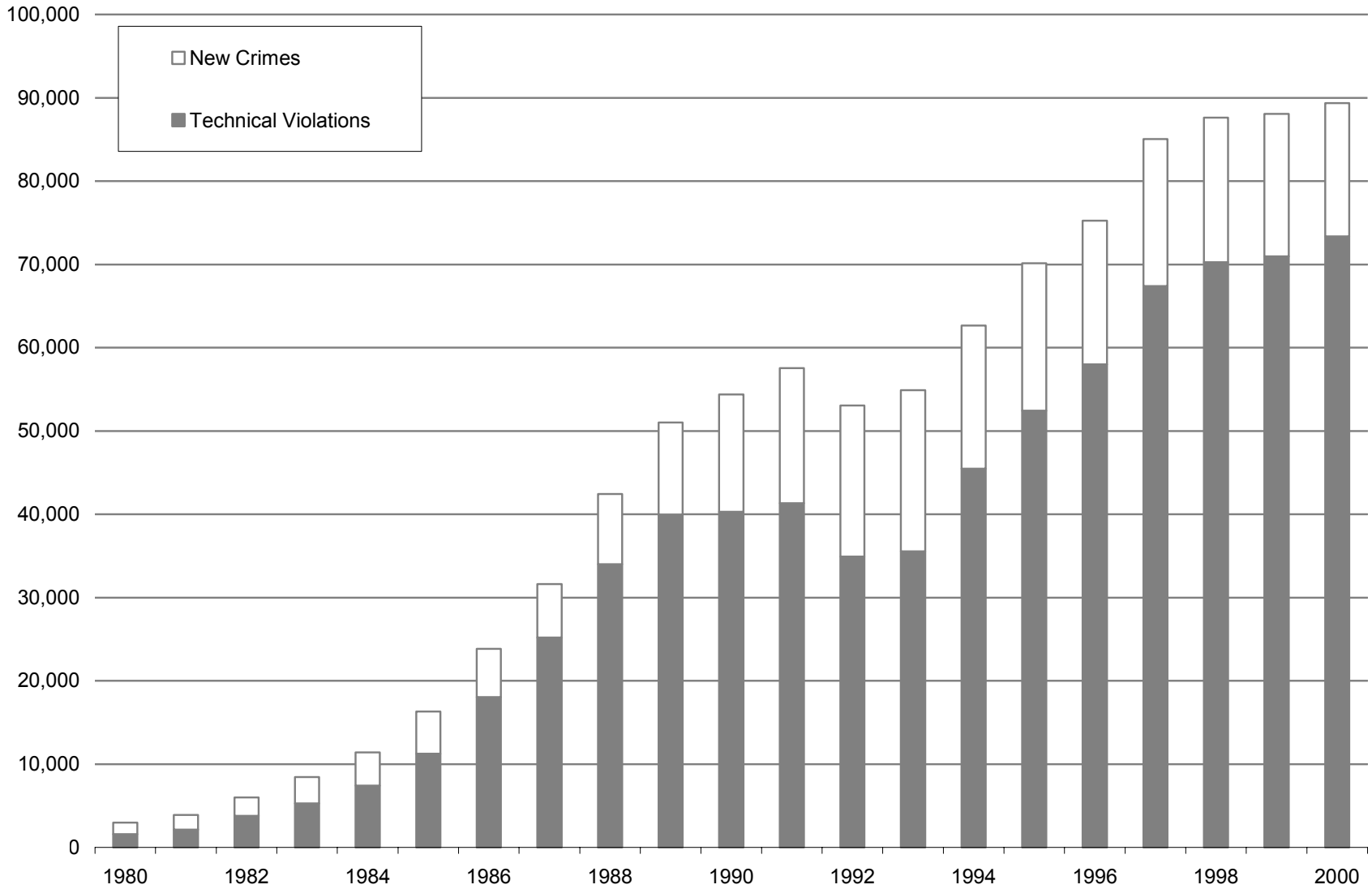
Rate per 100 Average Daily Parole Population



Source: California Department of Corrections, *Rate of Felon Parolees Returned to California Prisons, CY 2000*, Table 1.

Attachment 4

Parole Violators Returned to Prison



Source: California Department of Corrections, *Rate of Felon Parolees Returned to California Prisons, CY 2000*, Table 1.

Attachment 5

Parole Violators (without a new term) Released from Custody

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999*	2000
Total Administrative Returns	32,939	29,944	22,166	22,065	30,893	35,448	43,409	52,192	57,954	57,684	59,284
Administrative Criminal Returns	29,445	26,828	20,346	19,862	27,128	30,276	35,975	42,873	47,195	46,376	47,161
Type I	10,842	8,382	4,533	4,205	8,325	11,626	15,194	20,657	23,160	22,770	24,085
Drug possession	2,925	2,427	1,393	1,255	2,445	3,919	5,505	5,394	6,276	6,478	6,671
Drug use	4,326	3,035	1,429	1,150	2,778	3,364	3,973	8,383	9,532	8,862	9,534
Misc violations of the law	3,591	2,920	1,711	1,800	3,102	4,343	5,716	6,880	7,352	7,430	7,880
Type II	12,661	12,010	9,124	8,819	11,583	12,016	13,720	15,016	16,591	15,764	15,503
Sex offenses	527	535	577	596	886	928	954	1,178	1,322	1,310	1,292
Battery and assault (minor)	1,504	1,431	1,178	1,073	1,251	1,333	1,594	1,675	1,779	1,660	1,574
Burglary	882	880	723	609	778	707	676	702	592	594	506
Theft and forgery	3,864	3,714	2,706	2,497	3,074	3,125	3,285	3,322	3,341	3,076	3,016
Drug sales/trafficking (minor)	1,667	1,449	1,215	1,182	1,320	1,228	1,273	1,373	1,421	1,422	1,375
Firearms and weapons	371	380	342	344	452	431	463	485	531	430	366
Driving violations (minor)	1,442	1,334	720	679	978	1,069	1,455	1,704	2,667	2,846	2,692
Misc non-violent crimes	2,404	2,287	1,663	1,839	2,844	3,195	4,020	4,577	4,938	4,426	4,682
Type III	5,942	6,436	6,689	6,838	7,220	6,634	7,061	7,200	7,444	7,842	7,573
Homicide	111	119	141	139	146	119	111	111	108	74	78
Robbery	1,081	1,168	1,203	1,060	917	767	777	730	685	584	524
Rape and sexual assaults	308	353	385	385	391	347	367	392	381	408	384
Battery and assault (major)	2,201	2,394	2,517	2,715	3,096	3,064	3,335	3,472	3,573	3,886	3,681
Burglary (major)	645	704	581	578	548	506	423	461	458	400	345
Drug violations (major)	258	253	254	260	312	255	346	408	442	400	451
Weapons offense	1,007	1,093	1,309	1,387	1,432	1,251	1,273	1,164	1,183	1,032	883
Driving violations (major)	166	171	123	119	138	122	171	204	216	316	364
Misc violent crimes (major)	165	181	176	195	240	203	258	258	398	742	863
Administrative Non-Criminal Returns	3,494	3,116	1,820	2,203	3,765	5,172	7,434	9,319	10,759	11,308	12,123
Type I - Violations of parole process	3,169	2,788	1,483	1,815	3,375	4,875	7,082	8,919	10,223	10,740	11,556
Type II - Weapons access	209	218	209	233	281	295	348	392	504	568	560
Type III - Psychiatric endangerment	116	110	128	155	109	2	4	8	32	-	7

* 1999 data are estimates based on 6 mos of data

Source: California Department of Corrections, *California Prisoners and Parolees*, "Parole Violators Returned to Custody By Principal Charge Category," 1990 through 2000 publications.

Attachment 6

Revocation Time Assessed for Parole Violators Returned to Prison (without a new term), in months

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999*	2000
Administrative Criminal Returns	7.2	7.6	8.7	9.0	8.6	8.1	8.1	8.1	8.2	8.4	8.3
Type I	4.8	4.9	5.6	6.1	6.1	5.8	6.1	6.3	6.7	6.9	7.0
Drug possession	5.1	5.2	6.0	6.5	6.7	5.1	5.4	6.8	7.1	7.2	7.1
Drug use	4.4	4.4	4.9	5.3	5.2	6.3	6.6	5.5	5.8	6.0	6.0
Misc violations of the law	5.2	5.1	5.8	6.2	6.4	6.2	6.5	7.1	7.6	7.8	8.0
Type II	7.8	8.1	8.7	9.0	9.1	8.9	9.1	9.3	9.2	9.2	9.3
Sex offenses	6.2	6.3	6.8	6.8	7.2	7.3	7.5	7.9	8.0	8.5	8.7
Battery and assault (minor)	8.1	8.3	9.0	9.1	9.5	9.4	9.6	9.7	9.7	9.6	9.5
Burglary	8.5	9.0	9.3	9.5	9.8	9.6	10.0	10.1	10.1	9.9	9.7
Theft and forgery	7.8	8.1	8.7	9.1	9.3	9.1	9.4	9.6	9.6	9.6	9.6
Drug sales/trafficking (minor)	9.0	9.3	10.0	10.2	10.3	10.0	10.0	10.1	10.0	10.1	10.0
Firearms and weapons	7.8	8.1	9.0	9.2	9.3	9.3	9.4	9.3	9.7	9.8	9.7
Driving violations (minor)	8.0	8.3	8.9	9.3	9.3	9.2	9.4	9.6	8.9	8.8	9.2
Misc non-violent crimes	6.8	7.0	7.9	8.2	8.4	8.0	8.4	8.7	8.9	8.9	8.9
Type III	10.2	10.4	10.8	10.7	10.8	10.6	10.8	10.8	10.8	10.8	10.7
Homicide	11.7	12.0	11.8	11.8	11.7	11.6	11.8	11.8	11.6	10.9	11.5
Robbery	11.3	11.5	11.6	11.5	11.5	11.6	11.6	11.6	11.5	11.3	11.4
Rape and sexual assaults	11.1	11.5	11.4	11.1	11.4	11.3	11.4	11.4	11.3	11.4	11.2
Battery and assault (major)	9.7	9.9	10.3	10.3	10.5	10.4	10.6	10.7	10.7	10.7	10.6
Burglary (major)	9.4	9.8	10.3	10.5	10.9	10.7	10.7	10.9	11.0	11.0	10.9
Drug violations (major)	9.0	9.2	10.0	9.7	10.3	9.6	9.9	10.0	10.1	10.2	10.1
Weapons offense	10.5	10.8	11.0	11.0	10.9	10.7	10.9	10.8	10.9	11.0	10.7
Driving violations (major)	9.9	9.7	10.2	10.6	10.4	10.3	10.1	10.5	10.4	10.6	10.3
Misc violent crimes (major)	9.9	10.2	10.7	10.8	10.5	10.5	10.4	10.7	10.3	10.4	10.5
Administrative Non-Criminal Returns	4.5	4.6	5.6	5.8	5.5	5.1	5.2	5.6	5.9	6.0	6.0
Type I - Violations of parole process	4.0	4.1	4.7	5.0	5.0	4.9	5.1	5.4	5.7	5.9	5.9
Type II - Weapons access	7.4	7.9	8.2	8.3	8.8	8.6	8.1	8.5	8.2	8.3	8.0
Type III - Psychiatric endangerment	11.7	11.9	11.7	11.6	11.6	12.0	6.5	9.6	11.5	-	10.3

* 1999 data are estimates based on 6 mos of data

Source: California Department of Corrections, *California Prisoners and Parolees*, "Parole Violators Returned to Custody By Principal Charge Category, Average Revocation Time Assessed," 1990 through 2000 publications.

Attachment 7

Revocation Time Served for Parole Violators Returned to Prison (without a new term), in months

	1995	1996	1997	1998	1999*	2000
Administrative Criminal Returns	5.5	5.5	5.4	5.5	5.5	5.4
Type I	3.8	3.9	4.0	4.3	4.4	4.4
Drug possession	3.5	4.1	4.1	4.3	4.4	4.3
Drug use	3.9	3.6	3.7	4.0	4.1	4
Misc violations of the law	3.9	4.0	4.3	4.7	4.8	5
Type II	5.7	5.9	5.9	6.0	6.0	5.9
Sex offenses	5.7	5.9	6.1	5.9	6.1	6.1
Battery and assault (minor)	6.5	6.8	6.7	6.6	6.5	6.3
Burglary	5.5	5.7	5.7	5.9	5.7	5.8
Theft and forgery	5.4	5.7	5.7	5.7	5.7	5.7
Drug sales/trafficking (minor)	5.8	5.9	5.9	6.1	6.0	5.7
Firearms and weapons	7.1	7.1	7.2	7.3	7.5	7.1
Driving violations (minor)	5.7	5.9	6.0	5.6	5.6	5.8
Misc non-violent crimes	5.3	5.6	5.7	5.9	6.0	5.8
Type III	8.3	8.3	8.2	8.0	7.8	7.6
Homicide	10.1	9.8	9.9	9.5	9.5	9.9
Robbery	9.9	10.0	10.0	9.6	9.7	9.6
Rape and sexual assaults	9.6	9.9	9.6	9.6	9.4	8.6
Battery and assault (major)	7.8	7.9	7.7	7.6	7.5	7.4
Burglary (major)	6.3	6.3	6.3	6.3	6.6	6.4
Drug violations (major)	6.0	6.1	6.4	6.0	5.9	5.7
Weapons offense	9.4	9.4	9.4	9.4	9.3	8.9
Driving violations (major)	6.1	6.6	6.7	6.3	6.4	6.3
Misc violent crimes (major)	8.2	8.1	8.2	7.3	7.0	7.1
Administrative Non-Criminal Returns	3.8	3.9	4.0	4.2	4.3	4.3
Type I - Violations of parole process	3.6	3.7	3.9	4.1	4.2	4.2
Type II - Weapons access	6.8	6.5	6.9	6.2	6.5	6.4
Type III - Psychiatric endangerment	11.4	6.7	6.9	7.9		9.2

* 1999 data are estimates based on 6 mos of data

Data for 1990 to 1994 not available.

Source: California Department of Corrections, *California Prisoners and Parolees*, "Parole Violators Returned to Custody By Principal Charge Category, Average Revocation Time Assessed and Served," 1995 through 2000 publications.