

RESOLUTION 03-01-2007

DIGEST

Corrections: Recommendations for Prison Reform

Recommends the implementation of the recommendations of the Little Hoover Commission on Prison Reform.

RESOLUTIONS COMMITTEE RECOMMENDATION DISAPPROVE

History:

No similar resolutions found.

Reasons:

This resolution recommends the implementation of the recommendations of the Little Hoover Commission on Prison Reform. This resolution should be disapproved because it does not recommend the implementation of any specific legislation.

The California prison system is in serious disarray. The Little Hoover Commission has issued a very extensive report which criticizes current conditions, and makes modest and sensible suggestions for improvement. Among other things, the Commission recommends that the Department of Corrections provide education and job training for inmates to prepare them for release; implement policies to re-integrate prisoners to the community once they are released; and appoint a commission to review and revise sentencing laws.

Although these are laudable recommendations, the Commission did not set forth any specific legislative proposals. Neither does this resolution. Accordingly, the Conference is unable to make a reasonable recommendation as to what measures should be enacted into law. (CDCBA Rules, art. II, § 9.)

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations urges the California Legislature to adopt the recommendations of the Little Hoover Commission in their January 2007 report, *Solving California's Corrections Crisis: Time is Running Out*.

Proponent: National Lawyers Guild, San Francisco Chapter

STATEMENT OF REASONS

Existing Law: Current California law, specifically Penal Code §667(a), the three-strikes law, and the Determinate Sentencing Act of 1976, has led the state into a severe crisis in its correctional system.

This Resolution: Urges the adoption of the recommendations of the Little Hoover Commission in their January 2007 report, *Solving California's Corrections Crisis: Time is Running Out*.

The Problem: California's correctional system is in crisis because prisons are seventy percent over capacity. That overcrowding has led to deplorable and unconstitutional conditions for a majority of inmates. The overcrowding is a direct result of California's determinate sentencing law and the appetite of legislators and the public for increasingly long fixed sentences, exemplified by the three-strikes law.

These deplorable and unconstitutional conditions led U.S. District Court Judge Thelton Henderson in July 2005 to place the medical system of the California Department of Corrections under a receiver. The state faces a possible federal takeover of its entire correctional system in 2007.

The United States Supreme Court, in *Cunningham v. California*, No. 05-6551, found that "California's determinate sentencing law... by placing sentence-elevating factfinding within the judge's province, violates a defendant's right to trial by jury safeguarded by the Sixth and Fourteenth Amendments." This decision could result in early release of thousands of inmates from California prisons.

The solution for the crisis recommended by Gov. Schwarzenegger calls for additional state and county prison facilities, transferring inmates out-of-state and the establishment of a sentencing commission.

The Little Hoover Commission, an independent state oversight agency, has issued a report in January 2007, *Solving California's Corrections Crisis: Time is Running Out* (<http://www.lhc.ca.gov/lhcdir/report185.html>) with their recommendations for resolving this crisis. Those recommendations are:

- Implement a comprehensive strategy which should include the following reforms proposed by earlier commissions:
 - Change parole
 - Expand educational and vocational programs
 - Expand local punishment alternatives
 - Expand judicial discretion
 - Establish corrections interagency task force
 - If the state is unwilling to implement these reforms, prison management should be turned over to an independent board. This board would:
 - be an independent entity with members appointed by Governor and legislative leaders
 - have authority to enact criminal policies that become law unless rejected by Governor or two-thirds of the legislature

- The state should immediately implement evidence-based policies to reduce overcrowding and hold offenders accountable:
 - Change parole, specifically waiving post-release supervision for low-risk offenders with no history of violence
 - Try offenders who commit new crimes

- Shift post-release supervision to communities
- Expand programs that reduce recidivism
- Expand local capacity including jail space, drug treatment programs, day reporting centers and other locally-based punishment options
- Expand the roll of judges
- Establish a sentencing commission

The recommendations of the Little Hoover Commission are more cost-effective and more likely to resolve the long-term problems of California's correctional system than the proposal of Gov. Schwarzenegger to expand prisons and transfer inmates. These recommendations should be adopted.

IMPACT STATEMENT

This resolution does not affect any other law, statute, or rule.

AUTHOR: Richard P. Koch, 760 Market Street, #524, San Francisco, CA 94102, voice 415-397-1060, fax 415-397-3077, email message: rpkoch1@sbcglobal.net

RESPONSIBLE FLOOR DELEGATE: Richard P. Koch