



April 13, 2022

The Honorable Gavin Newsom
Governor, State of California
1021 O Street, Suite 9000
Sacramento, CA 95814

RE: DEPARTMENT OF CORRECTIONS AND REHABILITATION EARLY RELEASE REGULATIONS

Dear Governor Newsom:

The Department of Corrections and Rehabilitation has pending regulations (NCR 22-03)¹ to make their emergency regulations expanding early release credits for inmates permanent. Among other things, the proposed regulations would permit inmates serving a term for a “violent” felony² to earn up to 33% off their sentence, up from 20% under the prior regulations and more than the 15% maximum permitted by statute.³ Inmates sentenced under the Three Strikes law who are serving a sentence that is not a violent felony could earn up to 66% off their sentence, up from the 50% maximum permitted under the prior regulations and the 20% permitted by statute.⁴

Proposition 57 of 2016 amended the California Constitution to provide that the Department has the authority to grant additional early release credit via regulations for “good behavior and approved rehabilitative or educational achievements.” However, the Department is required to “certify that these regulations protect and enhance public safety.”⁵

Crime, and the fear of crime, is rising in California. Atrocities, such as the shooting of six and wounding of 12 individuals one block from the State Capitol,⁶ are mere demonstrations of the fact that, far too often, dangerous criminals are loose on our streets when they should have been behind bars. One person arrested in connection to the massacre, Smiley Martin, has a lengthy criminal record, and was released from prison in February after serving a fraction of his 10-year sentence.⁷ This is only the most recent, and one of the more dramatic, high profile examples of brazen crimes in this state, which include the rampant theft of catalytic converters from vehicles,⁸ “smash and grab” robberies,⁹ cargo theft,¹⁰ and a 31% increase in homicides between 2019 and 2020.¹¹

As your budget summary states, “The California Department of Corrections and Rehabilitation (CDCR) incarcerates people convicted of the most serious and violent felonies.”¹² Existing statutes contain more than enough incentives for prison inmates to behave in prison and engage in rehabilitative programming. There is no need to permit even earlier release of violent inmates and career criminals.

California already has a prison incarceration rate significantly below the national average.¹³ The state’s inmate population has fallen significantly in recent years¹⁴ and you have proposed to close two prisons. There is no budgetary or policy reason why the Department should expand the early release of inmates. Particularly in the current climate, accelerating the release of the most serious and violent felons jeopardizes public safety. It also makes a mockery of the concept of truth-in-sentencing when inmates serve a small fraction of their court-ordered sentences.

Californians should have the right to live in safe communities free from the fear of crime and violence. Accelerating the early release of inmates jeopardizes public safety and will make our state less safe.

For the reasons stated above, we urge that you direct that your Department of Corrections and Rehabilitation withdraw these dangerous regulations and allow the emergency regulations now in effect to expire.

Sincerely,



James Gallagher
Assembly Republican Leader



Assemblyman Heath Flora
12th Assembly District



Assemblyman Frank Bigelow
5th Assembly District



Assemblyman Vince Fong
34th Assembly District



Assemblyman Phillip Chen
55th Assembly District



Assemblyman Kevin Kiley
6th Assembly District



Assemblyman Steven Choi
68th Assembly District



Assemblyman Tom Lackey
36th Assembly District



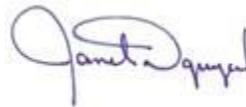
Assemblyman Jordan Cunningham
35th Assembly District



Assemblyman Devon Mathis
26th Assembly District



Assemblywoman Megan Dahle
1st Assembly District



Assemblywoman Janet Nguyen
72nd Assembly District



Assemblywoman Laurie Davies
73rd Assembly District



Assemblyman Jim Patterson
23rd Assembly District



Assemblyman Kelly Seyarto
67th Assembly District



Senator Andreas Borgeas
8th Senate District



Assemblyman Thurston "Smitty" Smith
33rd Assembly District



Senator Brian Dahle
1st Senate District



Assemblywoman Suzette Valladares
38th Assembly District



Senator Shannon Grove
16th Senate District



Assemblyman Randy Voepel
71st Assembly District



Senator Brian Jones
38th Senate District



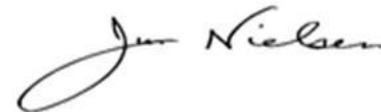
Assemblywoman Marie Waldron
75th Assembly District



Senator Melissa Melendez
28th Senate District



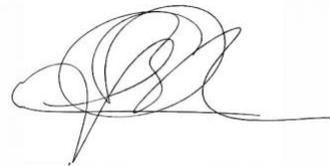
Senator Scott Wilk
Senate Republican Leader



Senator Jim Nielsen
4th Senate District



Senator Pat Bates
36th Senate District



Senator Rosilicie Ochoa Bogh
23rd Senate District

References

- ¹ https://www.cdcr.ca.gov/regulations/wp-content/uploads/sites/171/2022/02/NCR_22-03_ADA_02.25.22.pdf
- ² Felonies enumerated in Penal Code § 667.5(c).
- ³ Penal Code § 2933.1.
- ⁴ Penal Code § 667(c)(5), Penal Code § 1170.12(a)(5). The voters added the later provision as part of Proposition 184 of 1994, the Three Strikes law.
- ⁵ California Constitution, Article I § 32.
- ⁶ <https://www.cnn.com/2022/04/04/us/sacramento-california-shooting-monday/index.html>
- ⁷ <https://www.foxnews.com/us/sacramento-mass-shooting-suspect-released-prison-10-year-sentence>;
<https://www.sacbee.com/news/local/crime/article260131840.html>
- ⁸ <https://ktla.com/news/local-news/california-leads-nation-in-skyrocketing-number-of-catalytic-converter-thefts-data-shows/>
- ⁹ For example, <https://www.sfgate.com/bayarea/article/Walnut-Creek-Nordstrom-robbery-smash-and-grab-16644094.php>
- ¹⁰ <https://www.latimes.com/california/story/2022-01-20/los-angeles-rail-theft-supply-chain-crunch-limited-security>
- ¹¹ <https://data-openjustice.doj.ca.gov/sites/default/files/2021-06/Crime%20In%20CA%202020.pdf>
- ¹² <https://www.ebudget.ca.gov/2022-23/pdf/BudgetSummary/CriminalJustice.pdf>
- ¹³ <https://bjs.ojp.gov/content/pub/pdf/p20st.pdf> (Table 7.)
- ¹⁴ The Department's inmate population was 96,169 as of March 30, 2022. <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2022/03/Tpop1d220330.pdf> One the eve of the COVID-19 pandemic, on February 29, 2020, it was 123,123 inmates. <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2020/05/Tpop1d2002.pdf>.