

RIGHT MAN WALKING?

OPTIMIZING EARLY PRISONER RELEASE

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OVER THE LAST 20 YEARS, the second fastest-growing state budget expense is managing prisons. Not only are 1 percent of American adults in prison, but those prisons are overcrowded (state prisons are above 100 percent of their designed capacity) with accompanying annual spending growth averaging 7 percent for decades.^{1,2} At the same time, tremendous spending pressures face those same states, with 40-plus states struggling to close shortfalls when adopting budgets for fiscal year (FY) 2011 while similarly projecting gaps for FY 2012 and shortfalls for FYs 2009 and 2010.³

With the current funding crunch, it's assumed that average annual spending increases of 7 percent for prisons are not sustainable. Simplified money-saving release criteria/programs incorporated by many states (recent examples include Illinois, Nebraska and Wisconsin)—the early release of groups of prisoners convicted under various definitions of "nonviolent" and "minor" offenses—may ease the overcrowding and dampen the budget strains, but such pro-

grams face heightened scrutiny, resistance and ultimately elimination if executed arbitrarily and inflexibly with outcomes that harm society or are otherwise unquantifiable.

Early prisoner release programs can play a meaningful role in balancing budgets while helping society—but only with a rigorous, merit-based approach that the general public can confidently expect to demonstrate favorable outcomes for both itself and the released prisoner.

OVERVIEW

An optimized process for evaluating and quantifying the perils associated with freeing candidates eligible for early release would encompass an individualized assessment and quantification of those risks that captures the nuances of prisoners' personalities. Though simplified early release programs currently in place treat all prisoners with the same history as equal, this optimized process recognizes the need for greater nuance. This program's greater complexity is expected to result in minimized—and ultimately eliminated—chances for recidivism, accompanied by maximized gains to both society and the released prisoner.

PROPOSED EVALUATION FRAMEWORK/SCORECARD

At the heart of this optimized process is a wide-ranging evaluation framework/scorecard relying on various expert ranks (experts from a vast spectrum of fields to serve as the foundational evaluative criteria and tool on which this proposal is built). Such a scorecard—comprised of predictive elements and

opinions from a diverse array of sources—would demonstrate the comprehensive risk assessment and mitigation process demanded for the program's absolute success by drawing the most complete picture of the candidate under consideration for early release.

Perhaps just as importantly, the following framework is intended to be a quantifiable, living and breathing, and dynamic (rather than unchanging and static) template and tool. Ongoing reviews and oversight (with quarterly overviews and annual rigorous assessments of each line item and the underlying weighting scheme) will serve to optimize the applicability and efficacy of the evaluation process.

The framework is organized into four broad categories: the prisoners' background/history, support system, behavioral and skill development and modification, and other professional evaluations. In unison, with a number of interrelated elements underlying those four broader categories, this program is expected to better craft a more complete profile of the early release candidates than do current release programs.

The background/history and support system components capture vital information related to the prisoners' criminal history, the voices and rights of the victims, and post-release infrastructure and personal support systems in place. The behavioral and skill development and modification, and other professional evaluation pieces, rely even more heavily on expert assessments to more

FOOTNOTES:

¹ Source: Motley Fool Stock Advisor (<http://newsletters.fool.com>) Volume 9 / Issue 3 / March 2010 Report – Corrections Corporation of America

² Source: USA Today (www.usatoday.com) July 19, 2010 – "Job Squeeze is Felt Behind Bars" – validation of #3 (current federal prison system overcapacity) Statistic citation of federal prison system running 37% over capacity Author: Kevin Johnson

³ Source: Center on Budget & Policy Priorities (www.cbpp.org) 7/15/2010 Report – "Recession Continues to Batter State Budgets, State Responses Could Slow Recovery" Authors: Elizabeth McNichol, Phil Oliff, and Nicholas Johnson

fully complete the understanding of the evaluated prisoners.

Expert ranks will categorize the chances of unfavorable or favorable outcomes upon early release. As an example, narrowly limited to “background/history” with the “criminal and imprisonment history ...” subcategory described more fully below, a prisoner with no prior criminal history or imprisonment would be expected to score higher, indicating a favorable background related to success upon release, whereas an individual with a multiple repeat offense and imprisonment history would be expected to score much lower.

The quantifiable and expert-reliant nature of the elements of the framework demands the normalization for evaluator tendencies within the tool, with evaluators’ rating biases (i.e., certain evaluators may be expected to be lower or higher graders or to have certain other tendencies) substantiated and a normalizing adjustment incorporated into the scoring process to ensure equitable treatment of all evaluated prisoners.

The initial framework assigns equal weight to each of the established criteria. That said, an important element for the ongoing success of this program is periodic, continuous and rigorous reviews of this framework to either confirm the enduring applicability and efficacy of the underlying weighting scheme, or catalyze revisions to the current scheme.

A relative total ranking/“score” is required to rank the underlying prisoners’ risk. For the ease of understanding for a broader audience, the prioritization scheme will be recalibrated to a 100-point scale as the means for establishing who may be released early and prioritizing the order in which they may be released.

Candidates eligible for early release are to be graded against that scale to not only establish who scores at or above the (to be determined) minimum benchmark (“floor”) required to activate early release, but also to prioritize the timing of all candidates deemed eligible for early release as a result of their scoring above the underlying benchmark floor. Those failing to achieve the cumulative to-be-established minimum score would not be eligible for early release, but could be reassessed at a future time (though turnaround time on a reassessment should be sufficient to ensure the evaluated prisoner demonstrates sufficient progress in areas where progress is needed). Those landing above the benchmark floor but scoring the minimum within a particular subcategory would require reassessment prior to release—to be confident that the minimum score in a specific category is a risk that the program is willing to shoulder.

BACKGROUND/HISTORY

Kicking off the prisoners’ evaluation, the nature of the crime that led to the current imprisonment must be a primary consideration, with experts’ ranks considering the violence, criminal behavior pattern (including whether any crimes were premeditated and/or repeated), and probability of recidivism associated with the crime that led to the current imprisonment.

Beyond the circumstances attached to the current imprisonment, the criminal and imprisonment history preceding the crime that led to the current imprisonment must also be contemplated, with

experts’ ranks taking into account the violence, criminal behavior pattern (including whether any crimes were premeditated and/or repeated), and probability of recidivism associated with the cumulative prior criminal history.

Victims’ voices must also be heard, giving weight to victims’ and victims’ families’ receptivity to release and sufficient consideration to the number of victims, the impact on victims, and victims’ receptivity.

SUPPORT SYSTEM

The prisoners’ background and history is just one important element of the overall evaluation. Though it is assumed that the infrastructural support is in place to ensure the released prisoners’ successful transition back into society, this is explicitly men-



tioned to confirm that the necessary infrastructural support and resources are also in place in the forms of monitoring, counseling, training/education/placement, and access to other relevant services required to sustain a successful release.

Beyond the infrastructural support, personal support systems are imperative for the successful transition of released prisoners. Supportive (as opposed to destructive/encouraging of a return to a criminal

success of those prisoners released early, experts' evaluations will also play an important role in more prospectively forecasting the chances for success. Counselors, psychologists, spiritual or other advisors, and any other professionals with expertise in those areas will be asked for meaningful guidance and evaluations related to a number of prisoner characteristics:

- **Assaultive tendencies**—focusing on the presence or elimination of assaultive

AT THE MORE PERSONAL LEVEL, THE PROPOSED PROGRAM IS ANTICIPATED TO SERVE THE GREATER GOOD. ...

past) relationship building blocks must be in place—family, friends, spiritual advisors, supervisors/bosses—to optimize the prisoner's return to society.

An element in this measure may include the volume and diversity of visits to the currently imprisoned individual. For example, is the individual's network one person on which the individual may be entirely reliant for a successful release (such that the loss of that person greatly jeopardizes the release's success), or is there depth and breadth of the individual's connections (such that the diversity of those connections minimizes exposure to the risk of any one weakened or lost connection endangering the chances for a successful release)?

BEHAVIORAL AND SKILL DEVELOPMENT AND MODIFICATION

While the background/history and support system elements serve to capture retrospective and present elements, respectively, that are expected to be predictive for the

tendencies and adherence to behavioral learning and retraining regimens;

- **Cognitive development/maturity**—assessing the prisoners' progressing cognitive development and emerging maturity;
- **Contributable skill development/job training**—addressing the level of educational development, job/skill/career training, prior transferable skill development, and other learning;
- **Emotional and relational development/maturity**—measuring the presence and growth of favorable emotional and relational development and emerging maturity;
- **Suicidal tendencies**—judging the presence and/or elimination of suicidal tendencies and adherence to behavioral learning and retraining regimens; and

- **Spiritual element/development/maturity**—accounting for the presence of (or maturing) spiritual view may be anticipated as an indicator of emerging favorable change.

OTHER PROFESSIONAL EVALUATIONS

While the expertise of counselors, psychologists and spiritual or other advisors with knowledge in those areas is valuable, other professionals' evaluations will also add insight to the evaluative process. Attorney evaluations may help to answer such questions as whether this person stood out in any way—favorably or unfavorably—in the eyes of the prosecutorial team. Related, but from the perspective of the other side (subject to attorney/client privilege), can defense attorneys lend any further insight into the chances for success upon the prisoners' release?

Guards, police officers (arresting or familiar with the individual) and other law enforcement evaluations may also be insightful—from their perspective, did this person stand out favorably or unfavorably in any way, demonstrate any favorable or unfavorable tendencies, or otherwise show anything the evaluation team should be aware of?

Lastly, prison work supervisor evaluations may similarly shed some additional light—did this person stand out favorably or unfavorably in any way, demonstrate any favorable or unfavorable tendencies, or otherwise show anything the evaluation team should be aware of?

As just described, evaluations from professionals with wide-ranging expertise are an important complement to assessments of the prisoners' background, history and support system for optimizing the selection of, and anticipated outcomes for, candidates for early release.

BEYOND THE FRAMEWORK

The establishment of a meaningful framework for evaluating prisoners who may be candidates for early release is an important starting point, but such a framework, in and of itself, does not mean the program will be successful. The costs and benefits must be assessed and quantified in order to optimize the program's chances for success.

COST/BENEFIT ANALYSIS

Costs

Quantifiable start-up costs include personnel and technology, systems and equipment. The right people with the right expertise, working on the right (cutting edge) equipment, are required to design, implement, monitor and refine the plan on an ongoing basis. Necessary roles may include pre-release evaluations and post-release monitoring, counseling/training/placement, outcome measurement and quality management of the evaluation process.

The right technology, systems and equipment play an important and complementary role to the right people, recognizing that this systemic infrastructure must remain cutting edge on an ongoing basis to sustain a leadership role in this industry and deliver value not provided in current, otherwise similar, government-run programs.

Benefits

Though the program's costs are expected to be significant, the benefits and opportunities in establishing a viable alternative to current state programs may be limitless. As previously alluded to, the ongoing management of prisons and prisoners is big business.

The business opportunities to deliver favorable results are spread across not only the state and federal prison landscapes, but

may also similarly exist at both the federal level and at the more granular city and county jail levels—given that all levels of government seem to be facing ever-mounting financial pressures.

Even with the personnel and infrastructural investment required for such a program, the accompanying savings when compared to current costs that would otherwise be required to fund a similar government-run program are anticipated to be significant, achieved via sustainable total reward (salaries and benefits) costs and anticipated workplace and technology efficiencies.

At a practical level, the expected reduced prison spending will save taxpayer money (a message that particularly resonates in the current environment), free up funds for other programs that may be in greater demand by the public (each citizenry's priorities will be different), and ease at least some of the tough spending choices that governments are currently being forced to make. The dual messages of more effective programming, coupled with reduced required funding, should echo loudly with government officials seeking to dampen the criticism they currently face from the constituencies they serve.

At the more personal level, the proposed program is anticipated to serve the greater good for both the general public and the released prisoners.

For the general public, funds are expected to be available for reallocation to other programs—programs that may be expected to more meaningfully serve more citizens through the reduction of the currently significant costs associated with housing prisoners and maintaining facilities by releasing those who will contribute to, rather than drain funds from, society without negatively impacting that society.

For the released prisoners, a rigorous program created to optimize their transition back into society will enable and maximize their (and their circle of friends and family) chances for success, sense of well-being, and understanding of what it means to be and what it takes to be a contributory, productive and law-abiding member of society.

RISKS

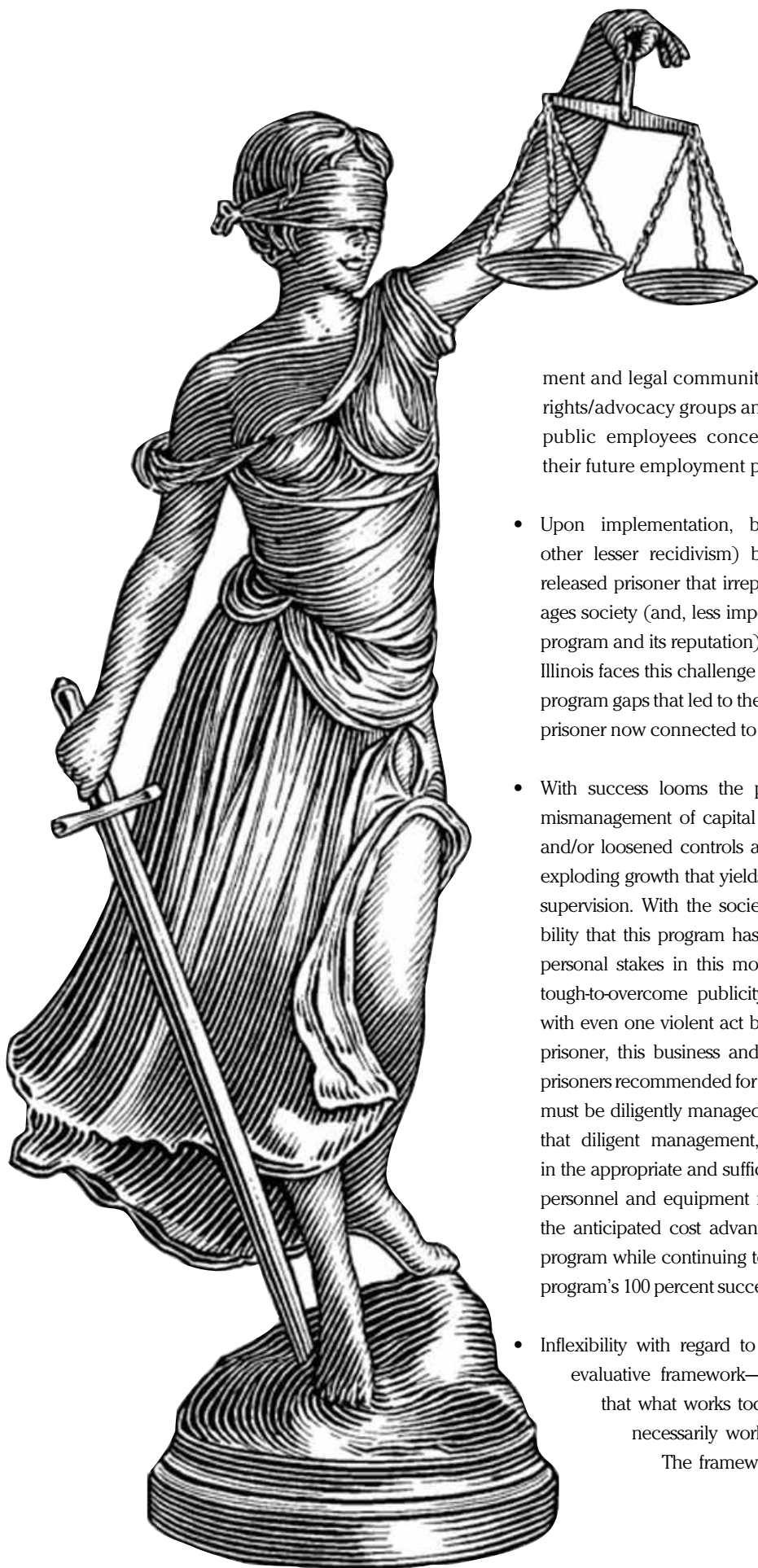
Establishing such an evaluation program and managing the program to universally successful outcomes can only be accomplished by anticipating, accounting for and overcoming a number of meaningful risks:

- Derailment before the program ever gets traction or has a chance to demonstrate its efficacy, from the failure to get the necessary buy-in from any number of potential stakeholders including politicians (especially those on the opposite side of the aisle from the party currently in charge), thought leaders in the media, the law enforce-

COST PER INMATE

The average annual operating costs per state and among facilities operated by the Federal Bureau of Prisons are nearly

\$24,000 per inmate. For additional stats visit: <http://www.jailovercrowding.com/index/the-problem>.



ment and legal communities, victims' rights/advocacy groups and impacted public employees concerned about their future employment prospects.

- Upon implementation, brutality (or other lesser recidivism) by an early-released prisoner that irreparably damages society (and, less importantly, this program and its reputation). Right now, Illinois faces this challenge arising from program gaps that led to the release of a prisoner now connected to a murder.
- With success looms the potential for mismanagement of capital investments and/or loosened controls as a result of exploding growth that yields insufficient supervision. With the societal responsibility that this program has, along with personal stakes in this model and the tough-to-overcome publicity risk faced with even one violent act by a released prisoner, this business and the clients' prisoners recommended for early release must be diligently managed. Alongside that diligent management, investment in the appropriate and sufficient level of personnel and equipment must sustain the anticipated cost advantages of this program while continuing to ensure the program's 100 percent success.
- Inflexibility with regard to the current evaluative framework—recognizing that what works today may not necessarily work tomorrow. The framework must be

robust, dynamic and responsive to environmental changes. An inability to tell the program's story via metrics that demonstrate the program's efficacy—those metrics being outcomes that improve society and the lives of the released prisoners, while simultaneously delivering meaningful fiscal savings—may similarly cut short the life of the business model.

No program of this nature is without risks, but with the evaluative framework described earlier in this article as a starting point and ongoing assessments of the efficacy of that framework to drive meaningful transformations to that structure in real time, we may expect to minimize the recidivism risk.

CRITICAL SUCCESS FACTORS

Aligned with the aforementioned risks, critical success factors for this program include:

- The ability to rally and maintain support from various affected constituencies through a variety of potential approaches, including:
 - Communication with politicians, effectively done through avenues such as regular teaching sessions or briefings, regarding the program's benefits to demonstrate a mature understanding of the gravity of the situation and the importance of the absolute success of this plan;
 - Promotion of the plan's benefits with media thought leaders—seek out opportunities to go on the “talk show circuit” to answer questions and correct misperceptions;
 - Feedback gathering from the law enforcement and legal communi-

A LITTLE HISTORY

According to <http://law.jrank.org>, the first state penitentiary, originally called the Walnut Street Jail, came into existence in 1790 as a

result of the Quaker group Pennsylvania Prison Society. It was the Society's goal to reform the horrible prison system of the time.

ties to be confident there are no gaps in the business model, while simultaneously ensuring their engagement and acceptance of the program;

- Engagement of victims' rights groups and the general public in a proactive and transparent manner to ensure their voices are heard. One example may be to place the proposed prisoner evaluation characteristics on a public website to encourage the community to state their priorities and provide constructive criticism;
- Rigorous and repeated duplication of the above steps to ensure understanding of the program's goals, deliverables and personal success stories; and
- Effective clarification of the opportunities that are expected to be available for displaced public employees—dynamically serving the public in a new and exciting environment.
- Given the stakes—lives potentially at risk, with even one misstep—a level of conservatism may be required, particularly in the program's infancy, to opti-

mize the chances for success, allow time for evaluation and minimize the risks to society.

- A relentless focus on sustainable growth that compromises none of the intended controls/supervision, clients or the program's reputation. Recognizing the societal responsibility that this program has and the personal stakes in it, coupled with the potential for investment misallocations/losing the technology edge and/or weakened supervision if growth explodes beyond a controllable level, will be the foundations that this model is built on to ensure ongoing cost advantages and the "0 percent prisoner relapse" success of the program.
- Flexible thinking related to, and unrelenting quality management of, the evaluation framework/tool and the personnel managing it and responsible for its upkeep. Such an approach will proactively and dynamically capture, measure and appropriately weight only the criteria relevant for inclusion in the framework described to ensure the absolute post-release success for the former prisoners.

- Track every release and diligently trace their paths to document and personalize for the program's clients the numbers and stories that they may relay to their citizens—where the released prisoners are, what jobs and other societal roles they've taken on, and how the underlying support program has minimized recidivism and empowered the released prisoners to live better and law-abiding lives.

The list of critical success factors may be daunting, but the importance of the topic demands the toughest of scrutiny so as to ensure the program's success and to meet the justifiably high standards sure to be demanded by all affected parties.

CONCLUSION

Rather than serving as an advocacy piece for early release programs, this article is intended to describe the framework and strategy needed for mitigating the risk of such programs and optimizing those programs' outcomes. Instead of implementing such programs as a means of saving money via the application of arbitrary standards to blocks of prisoners without individually assessing the potential risks involved, governments owe it to their constituencies to implement a more rigorous program that consistently assesses and monitors the individual risks involved and dynamically changes in order to sustain the best outcomes from such programs. **A**

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