

Alabama's parole experiment

Most released under new program have stayed out of trouble, but prisons are still packed

BRENDAN KIRBY

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Short on money, out of prison space and running out of time, Alabama launched its boldest social experiment in decades: increasing paroles by thousands of inmates.

On one level, the plan begun almost two years ago has been a resounding success. The parole board has released 4,174 prisoners from a special docket of nonviolent offenders that was set up in April 2003. Parole officials said most have found jobs and, so far at least, stayed out of trouble.

The plan also has been a quiet disappointment. Despite shedding all those inmates -- on top of the 1,820 paroled through the normal process and the more than 13,500 whose sentences ended or who started the probation portion of a split sentence -- Alabama's overcrowded prison system stands only slightly better off than it did a year ago.

With 23,874 inmates jammed into state prisons, work release centers and boot camps, the prison system has almost twice the 12,943 inmates it was designed to house.

That doesn't include another 3,370 people who are waiting to be transferred from county jails, are serving time in privately run prisons in other states or are housed in alternative arrangements.

And police in some cities, including Mobile, have complained about an increase in car break-ins, burglaries and other property crimes following the stepped-up paroles, although an explosion in violent crime that some predicted has not materialized.

"I don't think anybody assumed that this would relieve the crowding conditions. That's not the intent of the second board," said Donal Campbell, who became Alabama's corrections commissioner when Gov. Bob Riley took office in January 2003.

The "second board" is a three-member panel appointed by Riley that began hearing cases in December 2003. The idea was to speed consideration of parole for thousands of eligible prisoners, giving freedom months or years earlier to those judged to pose the least risk to the community.

One of the first to face the new board was Valentino Arso, a 39-year-old Mobile native serving a life sentence for a 1996 auto theft. The judge meted out such stiff punishment because of Arso's criminal record, which includes convictions on drug and first-degree assault charges. The assault charge stemmed from a 1989 shooting at his grandmother's home in Prichard, which Arso maintains amounted to self-defense against a burglar.

The new parole board granted Arso's release in December 2003. He said during a recent interview that he dove into every prison rehabilitation program he could find.

"During my confinement, I received God into my life. And it changed my life," he said. "I got myself in trouble. I'm not going to put it on anyone else. ... You've got thousands and thousands in there that won't admit their problem."

Now living in Whistler, Arso said he's earning his commercial driver's license and hopes to work as a truck driver and give talks to youths. His parole officer, Monica Norwood, said Arso so far has made the grade. His only infraction in the last year has been a fine for failure to have his grandchild in a car seat.

Some academics and advocates maintain that Alabama's prisons -- and those in other states -- are filled with thousands of people like Arso who can safely be released as long as they have access to the right drug treatment, education and job training programs to break their criminal habits.

Those reformers argue that America's incarceration rate, among the highest in the developed world, is unwise and that it's smarter and cheaper in the long run to attack the root causes of crime. Especially, they say, since about 95 percent of all prisoners will one day be released.

Advocates for reducing prison populations said states ought to start early release with the inmates serving time for property or drug offenses. In Alabama, such inmates make up more than 43 percent of the total, according to the Department of Corrections.

"Unfortunately, what we're doing in our country -- and it's not just Alabama -- is we're incarcerating a lot of people who aren't dangerous," said Robert Sigler, a criminal justice professor at the University of Alabama.

Alabama's governor, a conservative Republican who has long taken a traditional law-and-order stance, would seem an improbable candidate to engineer such a radical reordering of the criminal justice system.

During his campaign two years ago, Riley publicly toyed with the idea of prison privatization.

As governor, Riley's foray into prison reform was a matter of necessity. He inherited a corrections system that many experts concur was badly underfunded and overcrowded. Judges at both the federal and state levels have ordered the state to reduce the overcrowding.

Upon taking office in 2003, Riley offered a plan to address funding shortages in the prison system and throughout state government: a complex proposal to raise a variety of taxes and impose new ones. All told, the proposal was expected to generate \$1.2 billion when fully phased in.

But voters trounced the idea in a referendum, leaving Riley to craft a Plan B. That included the stepped-up paroles, the three additional board members and more parole and probation officers to supervise the newly released.

The increased paroles made an immediate impact. With the changes in place a little more than six months, the state posted a 31 percent increase in paroles from 2002 to 2003. That

was the second-highest percentage increase in the nation, behind only North Dakota, according to a U.S. Justice Department report prepared last summer.

Although it was more dramatic in Alabama than in most other states, the increase in paroles mirrors a nationwide trend. After steady declines during most of the 1990s, fueled by a movement toward "truth in sentencing" and the abolition of parole in several states, numbers have begun to creep back up over the last few years.

According to figures compiled by the Bureau of Justice Statistics, 2003 saw the largest increase in America's parole population since 1992, which saw a 7.4 percent jump from the previous year.

Lauren Glaze, a statistician with the Bureau of Justice Statistics, attributed the increase to attempts by states to deal with budget pressures. She said they have employed a variety of strategies, including increasing the number of intermediate sanctions and exercising greater reluctance to imprison "technical" parole violators -- people who fail drug tests or break other parole rules but who do not commit new crimes.

"We know that's happening. We don't know to what extent," she said. "It remains to be seen what's going to happen at this point."

Few dispute that the state's prison system had reached a breaking point. Calling the situation a "ticking time bomb," U.S. District Judge Myron Thompson ruled in December 2003 that overcrowding made the Julia Tutwiler Prison for Women in Wetumpka "unconstitutionally unsafe."

The federal judge's ruling came on the heels of a May 2001 ruling by Montgomery County Circuit Judge William Shashy that the Department of Corrections was breaking state law by allowing prisoners to languish in county jails for months after their convictions.

Campbell, the state corrections commissioner, said prisons become more difficult to manage when they're overcrowded. Alabama's penitentiaries are so stuffed, he said, that many have waiting lists for solitary confinement.

That limits a warden's options in imposing discipline, Campbell said.

"When we have problems within prisons, there's no place to lock them up. You need to have a jail within a jail," he said. "We have very good employees. ... But they can only do so much. They need the tools and resources to do the job."

Alabama Chief Assistant Attorney General Rosa Davis, who also sits on the Alabama Sentencing Commission, said the Department of Corrections has tried for years to get by with less, more so than virtually any other prison system in the country.

She cited statistics showing that Alabama has among the most overcrowded prison systems and the highest ratio of inmates to corrections officers in the country. The result is that the state's cost per inmate is about \$26 a day, compared with the daily averages of about \$62 per inmate nationally and \$40 in the Southeast.

A report by the Southern Legislative Conference shows Alabama's per-inmate funding ranks last among 16 states in the region.

"Look at that picture," Davis said. "What does it tell you? We're the most efficient prison system in the country or the most underfunded in the country. We're getting what we pay for: a good school for crime."

The increased paroles have helped Alabama reduce its prison population by 1,185 inmates from its all-time high of 28,440 in June 2003. But some prison officials contend that relief has come from parts of the system that needed it the least.

A majority of the new parolees have come from work-release centers and a low-security boot camp. Department of Corrections spokesman Brian Corbett said that should come as no surprise: Prisoners eligible for programs requiring minimal supervision make the most attractive candidates for early release.

"What you have is the Department of Corrections and the parole board all of a sudden are competing for the same pool of inmates," he said.

As a result, Alabama's work release population has declined by more than half, from 3,359 in June 2003 to 1,628 now.

But the prisons themselves actually have more inmates now than a year ago, running at about twice designed capacity.

"Our major prison facilities are still overcrowded. We haven't seen any relief in our major institutions," Corbett said.

Moreover, he said, the decline of work-release inmates has robbed the department of a vital income source. The Legislature last fiscal year gave the prison system \$266 million, about \$45 million shy of its operating budget.

The prisons make up the difference a variety of ways, including charging inmates for use of the telephone and the canteen, profits from prison industries and federal grants. The largest source of funding, Corbett said, traditionally has come from the 40 percent the system takes from the salaries of prisoners on work release.

"Our inmate population is beginning to rise again," he said. "In large part, the parole board has exhausted the vast majority of people eligible for parole under their criteria. Unless you go back and change the fundamental reasons why the inmate population is going up, it's eventually going to start going back up."

Cynthia Dillard, assistant executive director of the parole board, said of the early parolees, "A majority of those people are paying taxes now because they are required to have jobs, and they are raising their children."

Of the 4,174 granted early release, the board has revoked parole of 471, either for committing new crimes or violating parole rules. That's a recidivism rate of 11.2 percent.

"It's still unrealistically low. ... We expect it to go up," said parole board Director William Segrest.

By contrast, according to statistics compiled by the Department of Corrections, 37 percent of all Alabama inmates released in 1999 were back in prison by 2002. Among those released on parole, it was 22 percent.

Parole board officials attribute the early success rate to their selectivity. The 4,174 parolees comprise about 43 percent of the 9,703 inmates considered for early release, Dillard said.

Allen Tapley, who served as director of the Alabama Administrative Office of Courts from 1977 to 1991, said a financially broken criminal justice system should always look to parole for relief. While the daily cost to imprison an Alabamian is \$26 a day, parole and probation cost less than \$2 a day.

Even intensive parole, with electronic monitoring and frequent contacts with a parole officer, costs about \$10 a day, Tapley said.

"Your parole and probation officer is your cheapest, safest form of corrections," he said.

The problem, according to parole board officials, is that they have run out of nonviolent offenders to consider for parole.

"We have considered everyone in the prison system. Now we're concentrating on the backlog of violent cases," Segrest said.

Some critics also fault Alabama's habitual offender law, which mandates longer sentences for repeat offenders. While such measures enjoy strong support from the public, detractors maintain that the result is that less-dangerous inmates often serve the longest sentences.

"We get life sentences for nonviolent offenses," Dillard said. "Probably the majority of our sentences over 15 years are for nonviolent offenses."

Some law enforcement officers, prosecutors and judges expressed outrage in December 2003 when they learned of some of the prisoners who were getting parole hearings. Some of them were drug dealers given 20- and 25-year sentences, and they were being considered after just a few years.

Some got hearings after about six months in prison.

Randall Hillman, executive director of the Alabama District Attorneys Association, said that offers little deterrent to a hard-core drug dealer.

"He goes back to the street. It's the cost of doing business," Hillman said.

The law ordering stepped-up paroles instructed the board to consider every nonviolent case that met the criteria. Even though board members denied parole for many of those people, Baldwin County District Attorney David Whetstone said the state sent a bad message in even hearing their cases.

"You get some people who shouldn't even be up for review," he said in a recent interview. "We've got bureaucrats trying to figure out how prisoners should be released instead of sheriffs and DAs and judges."

The impact of increased paroles on crime is difficult to gauge.

Although the recidivism rate of recent parolees has been low, Mobile Police Chief Sam Cochran pointed to statistics showing a slight increase in crime in the city last year after declines in five of the six previous years. The increase was particularly pronounced for certain property crimes, including burglary (6.1 percent) and auto theft (13.9 percent).

"I think there's a correlation that we've seen in the increase in property crimes that we've begun to see," Cochran said. "I think there's a connection. Now how do we prove that? Well, we've arrested a number of people on parole for burglarizing buildings. ... We've arrested dozens and dozens of people on parole."

Miriam Shehane, director of a Montgomery-based group called Victims of Crime and Leniency said the public's impression of Riley's parole reform was that the second panel would consider only nonviolent offenders.

"But that has not been the case, and the legislation doesn't specify that," she said. "I do think they've paroled some that they should not have paroled."

Shehane said she believes parole board members have been under tremendous pressure to release inmates in order to relieve overcrowding.

And, she said, the people making those decisions had never heard parole cases before they were appointed and had no frame of reference.

"I don't think they were experienced enough," she said.

Over the summer, Melanie Lowery became Exhibit A for victim' rights advocates.

Lowery admitted to killing her husband of four years, Jackie Lowery, after trying unsuccessfully to hire a hit man in 1990. The victim's brother, Gadsden resident Jerry Lowery, recalled the shock of his brother's death turning to anger when he learned that the motive was simple greed: a lucrative life insurance policy that was set to expire.

As part of her plea bargain, Melanie Lowery received a 30-year prison sentence, and Jerry Lowery said he figured his brother's killer would spend most of her life behind bars.

But when her case came up for parole in August, the second parole board -- the new one appointed by Riley -- voted 2-1 to release her.

"It was unbelievable because there was nothing said in her defense why she should be released except she had been studying electronics while in prison and she was a model prisoner," Jerry Lowery said.

The decision caused an uproar. Attorney General Troy King and the governor joined the police chief and the district attorney involved in the case in urging the board to reconsider. Some 5,000 citizens wrote letters opposing the parole.

Under pressure, the board convened a second hearing and voted unanimously to reverse its decision and keep Melanie Lowery in prison.

"I know that the prisons are overcrowded, but that's not the victims' fault and the victims' families' fault," Lowery said. "But, yet, they give them (the board) the power to overturn a judge's or a jury's decision."

Shehane said she believes the second parole board has strayed from its duty to assess the potential risks of releasing an inmate.

"Sometimes, we felt they've retried the cases," said Shehane, who became active in the victims' rights movement after her daughter was murdered nearly three decades ago. "I don't think their role is to determine guilt or innocence. A jury has already determined that."

Inmates whose paroles have been denied will not get a second shot until their next regularly scheduled hearing, under a decision the board made after it exhausted the special docket. As a result, at least until 2006 when the board is supposed to disband, it will continue to hear regularly scheduled violent cases along with the original board. That means, essentially, twice as many people are considering the same number of cases.

Some folks have suggested the second parole board finish sooner. "In our judgment, that board has accomplished what it was asked to do," said Hillman of the district attorneys group.

Dillard said the biggest problem facing parole officials is not a lack of board members but the strict rules governing victim notification. The state is required to notify victims at least 30 days before an inmate is up for parole.

"We have to locate them. It's just so time-consuming," she said. "Some of these are very old cases, and female victims, especially, change their names."

The backlog, as high as 6,000 at one point, now stands at about 5,000. That means inmates up for parole sometimes must wait a year for hearings.

All things considered, Tapley, the former Administrative Office of Courts director, said the extra parole board is good for the system.

"For the longest time, because of a lack of staff and three parole board members, we did not have an active parole process," he said. "Three people could not get that job done. ... An active parole system has always been needed, and this gave it the boost it needed."