

Shifting the problem:

California's proposed bill to relocate people serving sentences of less than 3 years from state prisons to county jails is not a solution to overcrowding

Summary:

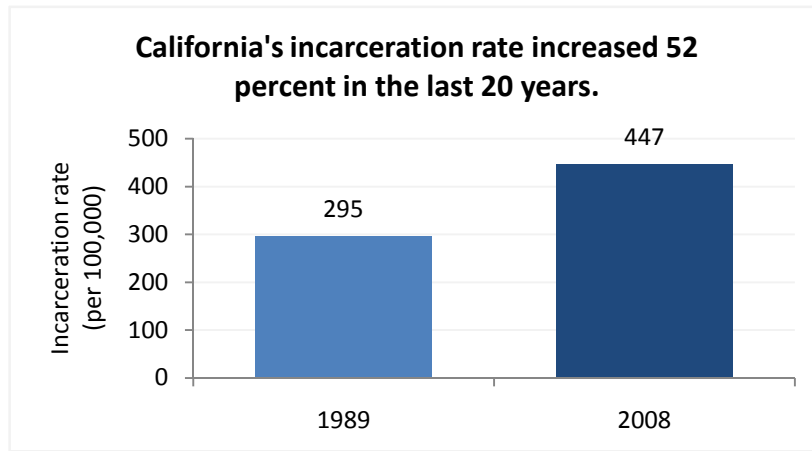
In light of the recent court order for the state of California to reduce its prison population by 40,000 people, a new proposal—the California Community Corrections Enhancement Act of 2010, part of the May Revise—would require that those sentenced to incarceration for less than three years be housed at county jails rather than state prisons, as is the current policy. This proposal is intended to save the state hundreds of millions of dollars. While the state is moving in the right direction by reducing the number of people in its prisons and funding counties for supervision and services, simply relocating people who would be in prisons to jails does nothing to reduce incarceration overall, improve outcomes for people who have been in contact with the justice system or address public safety concerns. Instead, this change would shift the financial burden to counties, whose jails are already overcrowded and face similar financial concerns, and may create a fiscal incentive for counties to sentence people to jail rather than probation, since grants from the state are based on the number of people in jail rather than the number of people supervised. In the long term, this could put pressure on counties to build more, costly jail beds, rather than investing in community-based programs that are less expensive and produce more public safety benefits.

Even with the proposed grants from the state, counties would still come out behind, as these grants are not equal to the high costs associated with incarceration in local jails.¹ In addition, jails are not constructed to house people for extended periods of time; for that reason, they lack the resources for rehabilitation and re-entry programs and critical medical and mental health care services. In sum, people leaving the jail after three years would be even less prepared to transition back to the community than they would be coming out of a state prison.

Should the legislature pass the bill, it would be up to counties to optimize the funds that the state extends to them. Rather than fill their jails with the grant funds, counties should use probation options and community corrections programs to help manage the new population with the limited funding. Community corrections programs, in particular, have been shown to be more effective than jailing and have helped some states save millions of dollars. Such programs usually consist of supervising people either in their own homes or in transitional housing, and offer help with job placement and access to treatment opportunities. This system not only allows people to maintain ties to their families, but also encourages them to build ties within their communities while promoting responsibility and accountability. These programs are also less expensive to implement and manage and have a more positive impact on public safety than does incarceration.² The state of California should take the lead in pursuing the solutions that have much larger positive public safety and cost benefits than continued incarceration, such as quality drug treatment, housing and education.

The Current Situation:

Too many people are in prison in California. Not only has the number of people in California prisons nearly doubled in the last 20 years (up 96 percent), but the incarceration *rate* increased 52 percent during that same period (from 295 in 1989 to 447 in 2008).³ In other words, the growth in number of people in prison is outpacing the growth in the general population. The majority of this increase occurred in the 1990s; policies such as mandatory sentences (like “Three Strikes” laws), poor parole practices that result in more people returning to prison and increasing arrests for drug offenses are factors driving these high incarceration rates.



Source: Department of Corrections and Rehabilitation, *California Prisoners and Parolees 2008, Summary Statistics On Adult Felon Prisoners and Parolees, Civil Narcotic Addicts and Outpatients and Other Populations*, Table 3. (Sacramento, CA: Data Analysis Unit, 2009)

California incarcerates a large number of people with drug offenses and who have no history of violence. Substance-involved people have come to compose a large portion of the prison population. About a quarter (25.7 percent of men) of new felony admissions to the California prison system are for drug offenses.⁴ And about a third (32.7 percent) of people returning to prison from parole with a new conviction was sent back for a drug offense.⁵ More than 28,000 people (17 percent of the total incarcerated population) are incarcerated in California prisons for a drug offense, and about 10,000 of them are for possession alone.⁶ More than a quarter (26.6 percent) of people in prison in California have no current or prior serious or violent offense on their record.⁷ Many of these people could be diverted to appropriate treatment rather than incarcerated in jails and prisons.

Parole in California is not keeping people out of prison. About 140,000 people are released to parole each year.⁸ More than half (52.34 percent) of people released on parole in California will return to prison on a new conviction within two years.⁹ In 2008, CDCR had more than 74,000 revocations of parole for technical violations and another 20,000 for new convictions.¹⁰

California jails are already crowded or overcrowded. California’s jails are just as crowded as its prisons. In 2008, more than 80,000 people were incarcerated in local jails in California.¹¹ The Los Angeles County

Jail is the largest jail in the country by far, holding nearly 20,000 people on any given day.¹² And California is home to 10 of the 50 largest jails in the country, most of which are near or above capacity already. The addition of potentially thousands of people to these jails will only serve to increase crowding, making it more difficult to supply the already limited services that jails provide.

10 California counties made the Top 50 largest jails list in 2009

		Average Daily Population of Jail	Percent Capacity of Jail Occupied
1	Los Angeles County	19,437	88%
7	Orange County	6,255	85%
11	San Bernardino County	5,591	100%
12	San Diego County	5,263	112%
14	Sacramento County	4,700	95%
15	Santa Clara County	4,498	111%
16	Alameda County	4,444	94%
23	Riverside County	3,472	117%
35	Fresno County	2,729	75%
43	Kern County	2,405	85%

Source: Todd D. Minton, *Jail Inmates at Midyear 2009 - Statistical Tables* (Washington, D.C.: Bureau of Justice Statistics, 2010) <http://bjs.ojp.usdoj.gov/content/pub/pdf/jim09st.pdf>

Foreseeable Challenges:

Counties will bear the burden of the costs for this new policy. The proposal to move people with sentences of three years or less to jails does nothing more than shift the high costs of incarceration from the state to counties. For example, in San Mateo County it costs \$110 per person, per day to house people in the jails, yet the state would only provide \$11,500 per person that they relocate, most of which would go to probation—just over \$30 per day for the minimum one year and a day sentence.¹³ As a San Mateo County Sheriff noted, this burden also would lead to overpopulation in jails (despite releasing some of the people convicted of lesser crimes earlier than usual), which could, in turn, result in lawsuits that could put counties into even further debt.¹⁴

Insufficient strategies are in place for enhancing public safety. Though the proposed bill promises public safety block grants for more cost-effective strategies such as drug courts, alternative custody, day reporting centers and other evidence-based programs, filtering such a large population through jails completely undermines such efforts.¹⁵ Although the availability of adequate rehabilitation and treatment services in California is arguably lacking, jails generally have even fewer resources to provide quality mental health and substance abuse treatment, contributing to high rates of return to incarceration. People in jail generally have the same high rates of recidivism as people in prison¹⁶ (70 percent in California¹⁷). Many cycle through the community and the dangerous conditions of incarceration more than those in state prisons and need may need extra services and supports both while incarcerated and after release.

More funding will be needed for programs that work. Although the National Association of Counties (NACo) reports that jails have taken on new roles by providing psychiatric services, vocational and educational programming, drug treatment and other services—all services supported by research—they usually do so without state funding, and proposed funding will not cover these expenses.¹⁸ To make matters worse, the May Revise proposal also eliminates a majority of its former funding to county mental health services; introducing an additional estimated 15,000 people to county jails undoubtedly would strain these already-limited resources.¹⁹ The bill states that its intention is “to improve the likelihood of success and reintegration into society,”²⁰ but the proposed funding levels will not meet the needs of these services.

Possible Solutions:

Treatment is more effective than incarceration. Treatment delivered in the community is one of the most cost-effective ways to promote public safety and costs approximately \$20,000 less than incarceration per person per year.²¹ A study by the Washington State Institute for Public Policy found that every dollar spent on drug treatment in the community yields over \$18 in cost savings related to crime.²² Releasing people to supervision and making treatment accessible is an effective way of reducing problematic drug use, reducing crime associated with drug use and reducing the number of people in prison. With California’s Prop. 36 program, people arrested for first-time, nonviolent drug offenses are diverted from the prison system to treatment. In the first five years of this program the number of people incarcerated for drug possession fell 27 percent.²³ A University of California report found that the initiative saved California \$2.50 for every dollar spent on the program, representing a net savings of \$173.3 million in the first year alone.²⁴ By more closely matching treatment resources with needs, success rates and savings could be even higher.

Increasing parole access will allow more people to be released to community supervision. Expanding parole eligibility is an immediate change that could be made administratively with positive results in terms of reduced spending and lower prison populations. If implemented effectively, this increase in parole eligibility can have positive effects on public safety as well. Given their mandate to protect public safety, parole boards and policymakers need to make informed decisions on how to expand the number of people released onto parole supervision. A growing number of states are beginning to use actuarial assessments of risks and needs in various parts of the criminal justice system. These assessments look at what factors are statistically related to whether a person is likely to engage in illegal behavior in the future. Decision-makers – judges and parole boards – could use assessments with clear guidelines and metrics to substantiate releasing people who are deemed “low-risk” earlier than they might have previously felt comfortable doing. Decisions based on evidence rather than subjectivity help people in prison avoid perpetual denial of timely parole. Selecting people for release based on these risk assessments can ensure that people are being released responsibly and to the benefit of public safety.

Establishing medical parole will save money and lives. A bill has been introduced to establish medical parole in California.²⁵ Medical parole is an option available in many states whereby someone who is deemed “low-risk” due to a serious physical or mental health condition is released earlier than they

otherwise might be eligible. In addition to it being more humane to release people whose serious healthcare needs would be better served in the community, states would save correctional dollars, and the person might become eligible for federal programs such as Social Security Disability Insurance, Veterans benefits, Medicaid or Medicare once released. The Legislative Analyst's Office estimates that the state would save \$6 million by releasing people age 55 and older with nonviolent offenses.²⁶ An important consideration for medical parole must be whether the person will in fact be able to receive the medical care they need upon release.

Improving parole policies will help more people succeed in the community rather than be sent back to prison. A report by the Pew Center on the States found that parole guidelines present an onerous burden that can make successful transition to the community difficult.²⁷ In order to effectively support people returning to the community after serving time in prison, parole agencies need to have adequate resources not only to supervise but more importantly, to provide assistance and support. By shifting the modality of supervision to one of support and service, states could send fewer people back to prison for technical violations or new offenses.

Beyond community corrections programs, other effective parole practices include lessening administrative delays as a means to reduce costs, increasing access to in-prison programming to prepare for re-entry, considering parole for aging people to reduce the high costs for their care and give them access to better care in the community (some of which might be paid through federal programs like Medicare), and instituting more "good time" policies to incentivize good behavior while in jail as well as during parole.

In regard to budget concerns, programs for treatment in the community return far more benefits per dollar spent and produce lower recidivism rates than do drug courts and certainly than does prison.²⁸ Furthermore, consider that the national average cost of a year of incarceration is \$23,876²⁹ but one year of parole costs just \$4,000 per year in California.³⁰

The Justice Policy Institute (JPI) is a Washington, D.C.-based organization dedicated to reducing society's use of incarceration and promoting just and effective social policies. For more information on how California can reduce the number of people incarcerated in prisons and jails, save money and improve public safety, please see: *For Immediate Release: How to Safely Reduce Prison Populations and Support People Returning to Their Communities*, at www.justicepolicy.org

¹ Michelle Durand, "County hit hard by May budget revise," *The Daily Journal*, June 8, 2010.

www.smdailyjournal.com/article_preview.php?id=133167&title=County%20hit%20hard%20by%20May%20budget%20revise.

² Justice Policy Institute, *Pruning Prisons: How Cutting Corrections Can Save Money and Protect Public Safety* (Washington, DC: Justice Policy Institute, 2009). www.justicepolicy.org/images/upload/09_05_REP_PruningPrisons_AC_PS.pdf

- ³ Department of Corrections and Rehabilitation, *California Prisoners and Parolees 2008, Summary Statistics On Adult Felon Prisoners and Parolees, Civil Narcotic Addicts and Outpatients and Other Populations*, Table 3. (Sacramento, CA: Data Analysis Unit, 2009) www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/CalPris/CALPRISd2008.pdf
- ⁴ Department of Corrections and Rehabilitation, 2009. Table 27.
- ⁵ Department of Corrections and Rehabilitation, 2009. Table 31.
- ⁶ Department of Corrections and Rehabilitation, *Prison Census Data, As of December 31, 2009*, Table 3. (Sacramento, CA: Data Analysis Unit, February 2010) www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/Census/CENSUSd0912.pdf
- ⁷ Department of Corrections and Rehabilitation, 2010. Table 11. (Sacramento, CA: Data Analysis Unit, February 2010)
- ⁸ Department of Corrections and Rehabilitation, 2009. Table 48.
- ⁹ Department of Corrections and Rehabilitation, 2009. Table 51.
- ¹⁰ Department of Corrections and Rehabilitation, 2009. Table 2A.
- ¹¹ National Council on Crime and Delinquency, "Task Force on California Prison Crowding," (Oakland, CA: 2006) www.policyarchive.org/handle/10207/bitstreams/5980.pdf
- ¹² Todd D. Minton, *Jail Inmates at Midyear 2009 - Statistical Tables* (Washington, D.C.: Bureau of Justice Statistics, 2010) <http://bjs.ojp.usdoj.gov/content/pub/pdf/jim09st.pdf>
- ¹³ Because of "earned time credits", a sentence of one year is over in about 2/3 of that time.
- ¹⁴ Michelle Durand, June 8, 2010.
- ¹⁵ League of California Cities, "Understanding Key Budget Battle Lines as Conference Committee Begins: Cities Encouraged to Remain Vigilant," June 2010. www.cacities.org/index.jsp?zone=locc&previewStory=28088.
- ¹⁶ Justice Policy Institute, *For Immediate Release: How to Safely Reduce Prison Populations and Support People Returning to Their Communities* (Washington, DC: Justice Policy Institute, 2010). www.justicepolicy.org/images/upload/10-06_FAC_ForImmediateRelease_PS-AC.pdf
- ¹⁷ Office of the Governor, *Prison Populations and Recidivism* (California: Office of the Governor, 2009). <http://gov.ca.gov/index.php?fact-sheet/1084/>
- ¹⁸ National Association of Counties, *State prisons and county jails revised edition* (Washington, DC: National Association of Counties, 2002).
- ¹⁹ *Governor's Budget: May Revision 2010-2011*. www.dof.ca.gov/budget/historical/2010-11/governors/documents/FullBudgetSummary.pdf.
- ²⁰ California Department of Corrections and Rehabilitation Proposed Bill, "Issue 165 of Item 5225, regarding the budget of the Department of Corrections and Rehabilitation."
- ²¹ For more information, please see the JPI report, *Pruning Prisons: How Cutting Corrections Can Save Money and Protect Public Safety* (Washington, D.C.: Justice Policy Institute, 2009)
- ²² Steve Aos and others, *The Comparative Costs and Benefits of Programs to Reduce Crime* (Olympia: Washington State Institute for Public Policy, 2001) www.wsipp.wa.gov
- ²³ California Department of Corrections and Rehabilitation, Data Analysis Unit, *Characteristics of Population in California State Prisons by Institution*
- ²⁴ Douglas Longshore and others, *SACPA Cost Analysis Report (First and Second Years)*. (Los Angeles: UCLA Integrated Substance Abuse Programs, 2006)
- ²⁵ SB 1399. Elizabeth Howard Espinosa, *Medical Parole: An Rx for the State's Most Costly Prison Inmates?* (California State Association of Counties: *The County Voice*, April 21st, 2010) www.csac.counties.org/blogs/index.php/2010/04/medical-parole-an-rx-for-the-states-most-costly-prison-inmates-2/
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- ²⁷ Peggy Burke, *When Offenders Break the Rules: Smart Responses to Parole and Probation* (Washington, D.C.: The Pew Center on the States, Public Safety Performance Project, 2007) www.pewtrusts.org/uploadedFiles/www.pewtrusts.org/Reports/sentencing_and_corrections/Condition-Violators-Briefing.pdf
- ²⁸ Justice Policy Institute, 2009.
- ²⁹ Public Safety Performance Project, *One in 100: Behind Bars in American 2008* (Washington, D.C.: Pew Center on the States, 2008) www.pewcenteronthestates.org/uploadedFiles/8015PCTS_Prison08_FINAL_2-1-1_FORWEB.pdf
- ³⁰ California Department of Corrections and Rehabilitation, "Third Quarter 2008 Facts and Figures." www.cdcr.ca.gov/Divisions_Boards/Adult_Operations/Facts_and_Figures.html