



Public Safety Realignment: Impacts So Far

Magnus Lofstrom | Brandon Martin

Summary

Prompted by a federal court order to reduce prison overcrowding, California's 2011 historic public safety realignment shifted many correctional responsibilities for lower-level felons from the state to counties. The reform was premised on the idea that locals can do a better job, and it was hoped that incarceration rates and corrections costs would fall. At the same time, critics predicted crime would rise. Four years since its implementation, realignment has made several important impacts:

- Realignment significantly reduced the prison population, but the state did not reach the court-mandated population target until after the passage of Proposition 47 in November 2014, which reduced penalties for many property and drug offenses.
- The reform challenged county jails and probation departments by making them responsible for a greater number of offenders with a broader range of backgrounds and needs.
- The county jail population did not rise nearly as much as the prison population fell, reducing the total number of people incarcerated in California.
- Realignment did not increase violent crime, but auto thefts rose.
- Research so far shows no dramatic change in recidivism rates.
- State corrections spending remains high, but there is reason to believe expenditures could drop in the future.

Realignment has largely been successful, but the state and county correctional systems face significant challenges. The state needs to regain control of prison medical care, which is now in the hands of a federal receiver. And the state and counties together must make progress in reducing stubbornly high recidivism rates.

Realignment Is a Historic Reform

After decades of dramatic prisoner population growth, California's state prisons faced severe overcrowding in the 2000s. Lawsuits filed in 1991 and 2001 alleged inadequate mental health and medical care, and federal courts appointed a special master and a receiver to oversee these functions.¹ In 2009, a federal three-judge panel ordered the state to reduce the prison population from close to 190 percent to 137.5 percent of design capacity, the minimum level believed necessary for the prison system to provide adequate mental health and medical care. Given capacity at the time, the order required the prison population to be reduced by almost 40,000 inmates. The U.S. Supreme Court upheld the ruling in May 2011.

By then, reforms such as SB 678, which provided incentives to counties to send fewer offenders to prison for probation failures, and non-revocable parole, which removed some lower-level offenders from parole supervision, had already reduced the prison population. Nonetheless, the prison system was still operating at 179.5 percent of capacity, requiring a further reduction of about 33,000

inmates by a court-imposed deadline of June 2013.² Expanding prison capacity was no longer fiscally feasible or practical. Yet releasing tens of thousands of inmates raised public safety concerns.³

The state responded by enacting AB 109, known as public safety realignment. This historic reform shifted incarceration and supervision responsibility for many lower-level felons from the state prison system to county sheriffs' and probation departments, based on the idea that locals can do a better job. Governor Brown proposed realignment in January 2011, the legislature approved it in March 2011, and it took effect on October 1, 2011— an unusually fast track for a major policy shift.

Two features of the reform were aimed at quickly reducing the prison population. First, most parolees who violate the terms of their release but have not been convicted of a new felony are no longer sent to prison. Instead, they serve a short time in county jails or are otherwise sanctioned locally. Second, most lower-level offenders with no record of sexual, violent, or serious crimes now serve sentences in county jail or under county probation supervision.

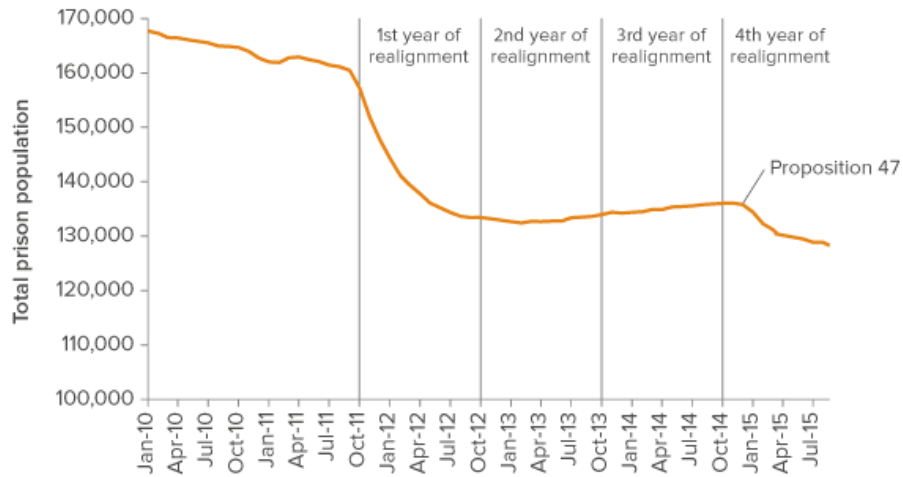
Realignment also sought to reduce California's high recidivism rate. It was believed that, using evidence-based practices, counties would be able to reduce the reoffending rates of lower-level offenders more effectively than the state parole system. Supervision of lower-level offenders released from state prison shifted from the state to county probation departments (on so-called Post Release Community Supervision). In addition, with several decades of significant growth in corrections expenditures, realignment intended to save the state money. But some critics questioned whether the reform would trigger a rise in crime.

The Prison Population Didn't Fall Enough to Reach the Mandated Target

Realignment substantially reduced the prison population, but almost all of the decline took place during the first year and was not enough to meet the judicial target. By September 2012, the prison population had fallen by about 27,400 and the institutional population, including all inmates housed in California Department of Corrections (CDCR) facilities subject to the court order, had dropped to 150.5 percent of capacity.⁴ The population then leveled off and began to rise slightly. Increased use of contract beds (that is, inmates housed in non-CDCR facilities operated by private and public entities) and the opening of a health care facility in Stockton helped the state move closer to the target. In November 2012, California voters passed Proposition 36, revising the state's three-strikes law to impose a life sentence on a third felony conviction only in cases of serious or violent crimes, further reducing the number of convicts serving time in state prisons. By October 2014, three years into realignment, the prison population stood at 140.9 percent of capacity, still roughly 2,850 inmates above the mandated target.

The prison population finally fell below the target after state voters passed Proposition 47 in November 2014, which reduced penalties for many drug and property offenses. Between November 2014 and August 2015, the prison population fell by almost 7,800. It has been below the target since January 2015.⁵

Figure 1. After a big first-year drop, the prison population did not fall again until Proposition 47 passed

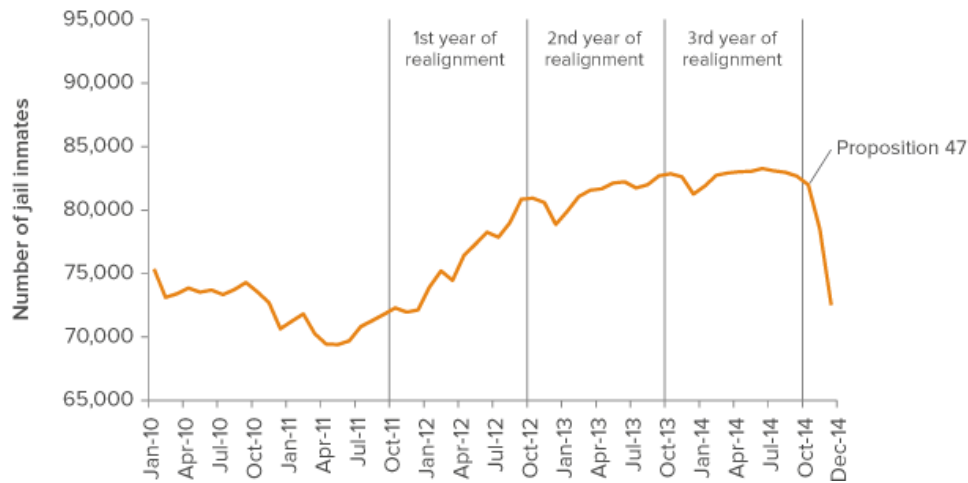


SOURCE: California Department of Corrections and Rehabilitation, Monthly Population Report, January 2010–August 2015.
NOTE: Total prison population as of the last day of the month.

Realignment Changed County Jail Populations

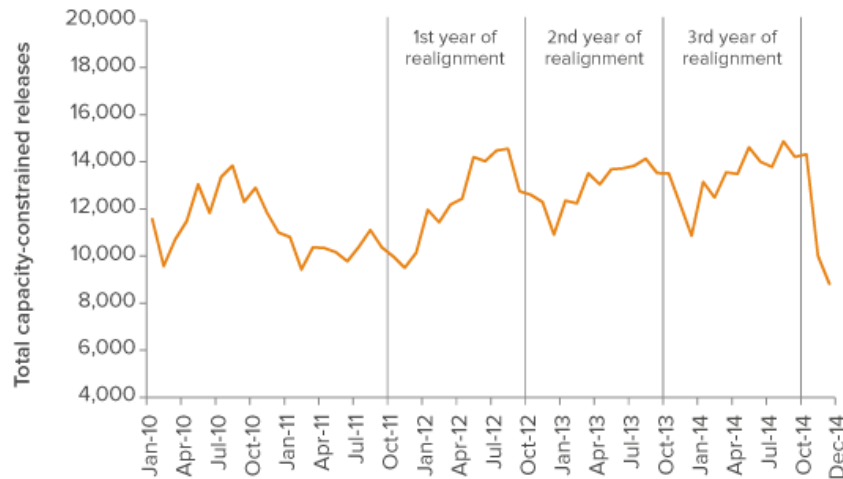
Realignment gave counties new responsibilities for managing most parolees who violate release terms and felons convicted of non-serious, non-violent, non-sexual crimes. This shift boosted jail populations close to historical highs. In September 2014, county jails housed 82,681 inmates, up 15 percent from September 2011. The surge has aggravated crowding problems, pushing the average daily jail population statewide above the rated capacity of 79,855 inmates. In September 2014, to address jail crowding, counties released 8,292 pre-sentenced inmates and 5,914 sentenced inmates, increases of 18 percent and 39 percent, respectively, from September 2011. Then, in the first few months after Proposition 47's passage, the jail population dropped by almost 10,000 inmates. Not enough time has passed to show Proposition 47's long-term impact. The proposition's real effect will not become evident until counties have been able to refine release policies in response to the new law.

Figure 2. Jail populations rose in the first and second year after realignment



SOURCE: Board of State and Community Corrections, Jail Profile Survey January 2010–December 2014.

Figure 3. As jail populations increased early releases also increased



SOURCE: Board of State and Community Corrections, Jail Profile Survey January 2010–December 2014.

NOTE: Early releases include both convicted offenders released before having served their full sentence and inmates awaiting trial or sentencing. They are released because of jail capacity constraints.

Realignment has also changed the profile of county jail populations. Before realignment, the maximum jail sentence was one year.⁶ Now, the jail time convicted offenders serve is often longer. By early 2014, 1,761 jail inmates were serving sentences of more than five years, up from 1,155 in 2013. Higher inmate populations, especially those serving longer terms, increase demand for medical and mental health beds and program and recreation space. Crowding also raises concerns about violence among inmates and between inmates and staff. Inmate assaults on staff have risen from 765 in the first nine months of 2011 to 1,058 in the same period in 2014. Furthermore, even if Proposition 47 significantly reduces jail populations, these facilities will house higher shares of inmates who committed serious crimes. The changing population mix could make inmate supervision more difficult.

Realignment Reduced California's Reliance on Incarceration

County jail populations rose under realignment, but the increase was significantly smaller than the prison population drop. The jail population rose by only about one inmate for every three fewer offenders in state prison (Lofstrom and Raphael 2013a). The decline in the total jail-and-prison population largely took place in realignment's first year, when California's combined jail-and-prison incarceration rate dropped to 566 per 100,000 residents from 619. Between September 2012 and October 2014, the combined jail-and-prison population actually increased at a pace slightly above the state's overall population growth rate. Since then, Proposition 47 has substantially reduced both the jail and total incarcerated populations. In the first two months after its passage, California's total incarceration rate fell to a 20-year low of 538 inmates per 100,000 residents.

Figure 4. Realignment and Proposition 47 significantly reduced incarceration in California



SOURCE: Board of State and Community Corrections, Jail Profile Survey and California Department of Corrections and Rehabilitation, Monthly Population Report, December 2010-December 2014.

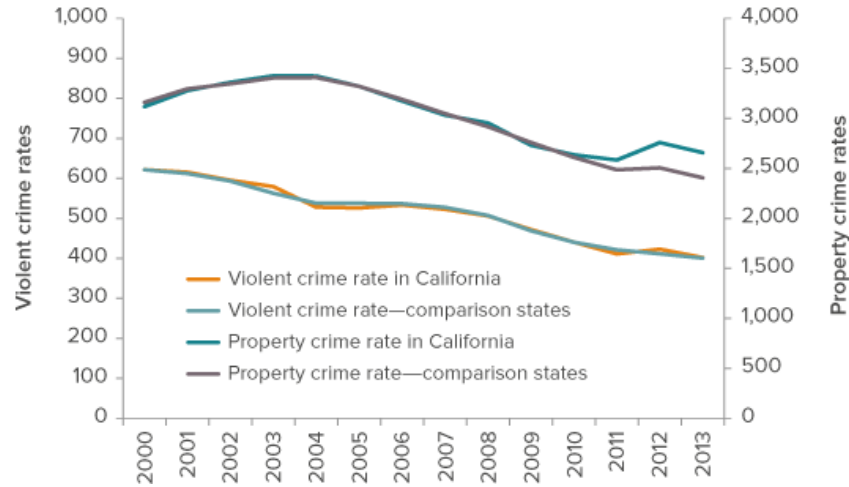
Realignment Did Not Increase Violent Crime, but Auto Thefts Rose

Some 18,000 offenders who would have been incarcerated were on the street because of realignment (Lofstrom and Raphael 2015). Public safety concerns are understandable, but analysis shows little cause for alarm. California's crimes rate increased in 2012, but fell in 2013 and 2014. Property and violent crime rates are both now below 2011 levels and have reached historic lows.

In-depth research shows no evidence that realignment has increased violent crime. Lofstrom and Raphael (2015) use a data-driven matching strategy to identify a combination of states with crime trends similar to California's prior to realignment (the so-called synthetic control method). The post-realignment crime trends of these matched groups of states best represent what the crime rates would have been in California had the state not implemented realignment.

The only crime increase attributable to realignment is a modest rise in property crime, driven entirely by auto theft. Lofstrom and Raphael (2015) estimate that realignment raised the auto theft rate by slightly more than 70 per 100,000 residents. All else equal, California's auto theft rate is about 17 percent higher than it would have been without realignment.

Figure 5. California's recent property crime increases are greater than those of comparison states



SOURCE: Lofstrom and Raphael (2015), using data from the Uniform Crime Reports of the Federal Bureau of Investigation and the California Department of Justice.

The slight property crime increase tied to realignment suggests incarceration prevents some law breaking, but its effects at the pre-realignment incarceration rate are limited. Cost-benefit calculations show that an additional dollar spent on incarceration generates only 23 cents in crime savings. The state would benefit from alternative crime prevention strategies. Promising approaches include increases in policing, cognitive behavioral therapy, early childhood programs, and targeted interventions for high-risk youth. Other options include alternative systems for managing probationers and parolees, including swift and certain but moderate sanctions, such as those of Hawaii's Opportunity Probation with Enforcement. The Hawaii initiative served as a model for California's flash incarceration program, which imposes penalties of no more than ten days in jail for supervision violations.

Recidivism Rates Are So Far Mostly Unchanged

Recidivism—the rate at which offenders are found to re-offend within a certain period—is the primary gauge for measuring correctional system performance.⁷ One of realignment's goals was to reduce recidivism among lower-level offenders. To accomplish this, realignment shifted post-release supervision of most lower-level felons from state parole to county probation departments (Post Release Community Supervision) and called on counties to use evidence-based practices to prevent returns to crime. So far, there is no clear evidence that this approach has significantly reduced recidivism.

Another realignment goal was to decrease returns to prison, a major cause of overcrowding. Realignment achieved this essentially by halting the return of released offenders to prison for parole violations. Before the reform, California had the nation's highest return-to-state-custody rate. More than 40 percent of released offenders were back in prison within a year. In realignment's first year, the return rate dropped by about 33 percentage points, putting the state below the national average (Lofstrom, Raphael, and Grattet 2014). We do not know to what extent the drop in returns to prison reflected less re-offending or simply the shift of post-release supervision from the state to counties, which means that probation and parole violators go to jail instead of prison.

Research on the first group of offenders released after realignment provides no evidence of dramatic changes in recidivism. Rearrest and reconviction rates were roughly in line with rates before realignment (CDCR 2013; Lofstrom, Raphael, and Grattet 2014). One-year rearrest rates

dropped 2 percentage points. However, the proportion of those rearrested multiple times rose about 7 percentage points, which may reflect the increased time released offenders are on the street (Lofstrom and Raphael 2013b).

Post-realignment conviction rates increased about 1.2 percentage points, mostly driven by felony convictions. Lofstrom, Raphael, and Grattet (2014) also found an increased conviction rate among rearrested released offenders. This may reflect criminal prosecution of offenses that previously would have been handled as parole violations by the Board of Parole Hearings (BPH).

The fact that recidivism rates have not fallen does not mean realignment has failed. First, realignment was implemented unusually quickly and counties had to prepare in a hurry. They need time to identify the most effective approaches. Research finds substantial differences among counties in the extent that recidivism rates changed after realignment. There is evidence consistent with relatively better results in counties that prioritize re-entry services relative to those counties that prioritized enforcement (Bird and Grattet 2014). Second, realignment put on the street some released offenders who previously would have been incarcerated. In and of itself, this could make new crimes more likely. It is possible though that county supervision programs have partially offset the effects of increased street time. Third, police, probation officers, prosecutors, and judges may have changed practices under realignment, potentially affecting key measures of recidivism, such as arrest and conviction rates.

State Corrections Spending Continues to Increase

One anticipated benefit from realignment was that the state, even with making realignment payments to the counties, would be able to save money on corrections. Savings were expected from a drop in prisoner and parolee populations. In addition, county responsibility for corrections was thought to be more cost-effective.⁸ Savings have not materialized, however. California's 2015–16 budget year general fund corrections spending is \$10.07 billion, more than the \$9.65 billion spent in 2010–11, the last full budget year before realignment. It is nearly the same as the \$10.12 billion spent in 2007–08, when the state had 40,000 more inmates and more than 80,000 more parolees under their supervision than today. Adding the \$1 billion that goes to the counties each year to fund realignment, the state is spending an all-time high on corrections. Still, expenditures might have been even greater if California had taken a different approach to meeting the court-ordered capacity mandate, such as building new prisons.

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Higher outlays for inmate medical and mental health care contribute to rising corrections spending. The state has raised the budget for inmate medical and mental health care. It has also built new facilities, including the California Health Care Facility in Stockton, and remodeled old ones at a cost of more than \$2 billion.⁹ To manage costs, regaining control of medical and mental health care at its facilities is a top priority for California.¹⁰ In that regard, the state seems to be close to meeting the conditions for ending receivership.¹¹

In addition to the yearly spending on state corrections, county realignment payments, and one-time state corrections infrastructure expenditures, the state has also provided funds for jail construction. Specifically, the state legislature has made \$2.2 billion in one-time bond funds available for county jail construction. Funding programs in AB 900 passed in 2007, SB 1022 in 2012, and SB 863 in 2014 are paying for an estimated 14,000 jail beds across the state. Counties will also get much-needed space for medical, educational, and other services. New jail space is important if counties are to avoid overcrowding, provide adequate services and avoid lawsuits. That risk may well have been reduced given the likely jail population relief stemming from Proposition 47.

Conclusion

Realignment—one of the most significant changes in California corrections in decades—is approaching the four-year mark. Prompted by a federal court mandate to reduce overcrowding in California’s expensive prison system (Petersilia and Snyder 2013), the reform was premised on the idea that locals can do a better job through increased use of evidence-based practices.

Realignment shifted administrative and funding responsibility for many lower-level offenders from the California Department of Corrections and Rehabilitation to county jail and probation systems. The reform was expected to lower incarceration rates, improve recidivism trends, and lower costs.

In important ways, realignment has succeeded and it appears to have moved California corrections in the right direction. The reform significantly reduced the prison population, although the state did not reach the federally mandated target until passage of Proposition 47, which reduced penalties for many property and drug offenses. Realignment increased the number of inmates in county jails, but Proposition 47 is now causing the jail population to fall.

For county jails, realignment represents a significant challenge. Jails now house offenders serving long sentences. That raises demand for medical and mental health beds, as well as programming and recreation space. The state has allocated \$2.2 billion for county jail construction, but many aging facilities may be unsafe and lack space for essential programs (Martin and Lofstrom 2014). Proposition 47’s effects on the jail population are unclear but are likely to be substantial. Jail population projections will have to be revised to get a more accurate sense of future needs.

Realignment, combined with other recent measures such as non-revocable parole, Proposition 36, and Proposition 47, has lowered incarceration in California to levels not seen since the mid-1990s. Research shows that, at pre-realignment incarceration rates, putting people behind bars does not prevent crime cost-effectively (Lofstrom and Raphael 2015). However, incarceration becomes more cost-effective as the incarceration rate decreases. Both violent and property crime are now at or below levels last seen in the 1960s. Despite this encouraging trend, the significant drop in incarceration makes it essential to watch crime trends closely.

Corrections spending remains high. It may be that significant savings can only be achieved by closing a state prison, which would require a larger drop in the prison population. The legislature passed a bill requiring that the antiquated California Rehabilitation Center in Riverside County be shut by 2016, but the closure is on hold because of the court-mandated target. It also remains to be seen what the cost effects will be when the state regains control over the prison health care system.

Under realignment, counties have put in place a variety of strategies. Some may prove successful, while others will not pan out (Lin and Petersilia 2014; Bird and Grattet 2014). We need to learn from this historic reform. What alternative strategies work and in what context? Can successful approaches be expanded and replicated elsewhere? Research has become more challenging because of the need to collect consistent data from counties. PPIC is currently working with 12 counties and the Board of State and Community Corrections to gather data. But more needs to be done to ensure long-term availability of quality data, and more counties must get involved. And we need more research to tell us what corrections strategies work best in this new environment.

NOTES

1. The special master is the court appointed monitor for mental health care in California’s state prisons. The receiver is the court appointed official in charge of medical care in California’s state prisons. The special master does not make day to day decisions regarding the operations of mental health care. They only submit oversight reports to the court regarding the compliance with the court’s rulings. However, the receiver has complete control over day to day decisions regarding the operations of medical care in prison. Over time, the receiver will give back control of each medical facility to CDCR when the receiver believes they are able to provide adequate care. The receiver is also required to submit regular reports to the court regarding improvements in medical care.
2. Through negotiations with the federal court, the deadline to reach the mandated target was extended and is now February 2016.

3. With the passing of AB 900 in 2007, the legislature had authorized \$6.4 billion in lease revenue bonds for new prisons, including medical and mental health treatment facilities. However, none of these expansions would have been up and running by the 2013 deadline.
 4. The prison population drop may understate the reform's impact because the fall is measured against the population when realignment was first implemented, not against CDCR projections of what the population would have been without realignment. In addition to the 34 CDCR facilities, inmates are housed in private prison facilities in Arizona, Mississippi, and Oklahoma as well as in a mix of public and private in-state facilities in so-called contract beds.
 5. Proposition 47 reclassifies many drug and property offenses as misdemeanors instead of felonies or wobblers, which may be charged as misdemeanors or felonies at a prosecutor's discretion. The new law also lets offenders file for resentencing, which may result in release. The downward pressure on the prison population stems from fewer offenders sent to state prison as well as releases of resentenced inmates.
 6. Inmates awaiting trial could spend more than a year in jail.
 7. No single recidivism measure perfectly captures offender behavior as each measure may reflect not only changes in offender behavior but also changes in criminal justice system responses, which also may be affected by a major policy change such as realignment. Arrest rates, for example, depend partly on decisions made by parole, probation, and police officers, while conviction rates are also affected by the decision of local prosecutors and judges. As a result, to best gauge re-offending it is important to look at various measures taken at different points in time. Relevant measures include rearrest, reconviction, and return to custody rates. For a more complete performance assessment, we also need measures of what type of crimes, and frequency, released offenders are observed to be arrested and sanctioned for, including parole violations, misdemeanors, and felonies (possibly further disaggregated by severity of the crime), measured at various times since release.
 8. CDCR released a plan in 2012 entitled "The Future of California Corrections" but more commonly known as the "Blueprint," that predicted the state would save \$1.5 billion annually when realignment was fully implemented.
 9. This cost for capital outlays is financed over time, so the additional yearly cost of construction is relatively low. But the staffing and operations of these new facilities costs the state hundreds of millions of dollars annually.
 10. The receiver is responsible for improving state prison medical care and has little incentive to hold down costs.
 11. Folsom State Prison has already left federal receivership.
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