CRIMINAL JUSTICE REFORM AND PUBLIC SAFETY

An In-Depth Analysis of the Facts, Origins and Trends of Criminal Justice Reform and Public Safety in California

CALIFORNIA 100

VISION & STRATEGY FOR THE NEXT CENTURY

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This California 100 Report on Policies and Future Scenarios was produced as part of California 100's research stream of work, in partnership with 20 research institutions across the state. California 100 sponsored grants for data-driven and future-oriented research focused on understanding today and planning for tomorrow. This research, anchored in California 100's 15 core policy domains, forms the foundation for the initiative's subsequent work by considering how California has gotten to where it is and by exploring scenarios and policy alternatives for what California can become over the next 100 years.

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Department of Criminology, Law and Society, University of California, Irvine

School of Government and Public Policy, University of Arizona

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CRIMINAL JUSTICE REFORM AND PUBLIC SAFETY

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CRIMINAL JUSTICE REFORM AND PUBLIC SAFETY:

FACTS-ORIGINS-TRENDS

Perhaps more than any other state, California is immersed in a period of fundamental reform to its criminal justice system. Since 2011, the state has passed a series of reforms, most of which were intended to reduce its massive prison population. So far, they seem to be working. With an incarceration rate of 310 (per 100,000), California is now well below the national average of 639 (per 100,000). The COVID-19 pandemic furthered California's trend in decarceration, as the state reduced prison and jail populations to slow the spread of the virus. These significant reforms and decarceration have not harmed public safety (Bartos and Kubrin 2018; Lofstrom and Raphael 2016). While some types of crime have increased during the pandemic, overall crime rates in recent years have been near historic lows. In 2019, California's property crime rate reached its lowest level since 1960 while the violent crime rate was in line with rates in the late 1960s (Lofstrom and Martin 2021).

At the same time, however, corrections costs remain high, racial inequalities throughout California's criminal justice system persist, including in arrest and incarceration, and surveys reveal Californians perceive bias in the state's criminal justice system (Lofstrom and Martin 2021). Many are now calling for new reforms to other aspects of the system, including sweeping police reform, in an effort to target racial disparities. When it comes to public safety and criminal justice reform, where is California now? How did the state get here? And where is it going?

THIS FACTS-ORIGINS-TRENDS REPORT ADDRESSES THESE QUESTIONS. THE REPORT IS ORGANIZED AROUND SIX THEMES:

1. The current status of California's criminal justice system;
2. The origins of California's corrections crisis;
3. The diffusion and translation of criminal justice policy reform—prison downsizing in particular—throughout the state;
4. Further correctional population reductions in response to the COVID-19 pandemic;
5. The effects of these reforms, and downsizing more generally, on public safety and other outcomes; and,
6. The role of newly implemented reforms aimed at further downsizing the prison population as well as targeting racial disparities in the criminal justice system.

In this report, we focus primarily on sentencing and corrections, or the *back-end* of criminal justice in California, in large part because correctional reform has dominated the state's policy landscape over the past decade. However, given the current moment in time, many now call for reforms to policing and prosecution,[1] or the *front-end* of the state's criminal justice system. These front-end reforms warrant consideration moving forward, something we discuss in the Policies and Future Scenarios report.

FACTS: THE CURRENT STATUS OF CALIFORNIA'S CRIMINAL JUSTICE SYSTEM

What is criminal justice? What purpose does our criminal justice system serve? What does it mean for a state to be just? Answers to these questions are found in the theories, organization, and practices of criminal justice yet a starting point for discovery is the simple fact that criminal justice is essentially about a system for the implementation of punishment. This hasn't always been the case but today, punishment is largely meted out in our correctional system, or prisons

[1] In California, criminal cases are prosecuted by District Attorneys, who are elected officials. District Attorneys are afforded broad discretion regarding the criminal charges they choose to pursue.

and jails, which embody various rationales including retribution, deterrence, incapacitation, rehabilitation, and restoration. These rationales for punishment offer competing purposes and goals, provide varying blueprints for how prisons and jails should operate, and reveal varying levels of effectiveness, as Table 1 reveals.

Table 1 **Theories of Punishment**

Theory	Goal	Method	Changes to Criminals	Impacts on Incarceration
Retribution	Revenge/ Justice	Prison as punishment	None	Prison should be difficult and costly
Deterrence	Deter crime	Prison as cost deterring crime	Prison as cost deterring crime	Prison should be difficult and costly
Incapacitation	Prevent crime	Prison incapacitates people at high risk for crime	Unable to commit crime	Prison should merely incapacitate
Rehabilitation	Identify and fix criminogenic risks	Prison changes people by changing their circumstances	Reduce desire to commit crime	Prison should rehabilitate
Restorative Justice	Rectify harm to victims	Apologizing and providing restitution	Increase under-standing of harm to victims	Prison at cross-purposes

The earliest rationale for punishment is ***retribution***. Consistent with an individual's desire for revenge, the viewpoint here is that offenders should experience some form of unpleasant consequence for violating the law. Essentially, criminals should get what they deserve. While other rationales such as ***deterrence*** or ***rehabilitation*** focus on changing future behavior, *retribution* focuses on past actions of the individual and implies that they have rightfully "earned" their punishment. Punishment, then, expresses moral disapproval for the criminal act

committed. Advocates of *retribution* are not concerned with controlling crime; rather, they are in the business of "doing justice."

Perhaps the most popular rationale for punishment is *deterrence*, which refers to the idea that those considering crime will refrain from doing so due to a fear of punishment. Deterrence further emphasizes that punishing a person sends a message to others about what they can expect if they violate the law. Deterrence theory provides the basis for a particular kind of correctional system, one that punishes the crime, not the criminal. Punishments are to be fixed tightly to specific crimes so that offenders will soon learn that the state means business.

Another rationale for punishment, ***incapacitation***, has the explicit goal of reducing crime by incarcerating offenders. Uninterested in why individuals commit crime in the first place—and with no illusion that they can be reformed—the goal is simply to remove these individuals from society during a period in which they are expected to reoffend. Incapacitation is often discussed in relation to "habitual offenders'' or "career criminals," where the goal is to identify this small group of serious repeat offenders and through imprisonment, prevent them from committing additional crimes. However, critical issues arise. First, one must correctly identify the individuals to incapacitate since it is not always obvious who the high rate offenders are. And second is the challenge of trying to estimate how many crimes would be prevented per individual through incapacitation. Regardless, the approach is to build more prisons to house more and more offenders, yet incapacitation can create serious problems for society when confronting the costs of maintaining a burgeoning correctional system.

Embodied in the term "corrections" is the notion that those who commit crime can be reformed, or that their behavior can be "corrected." *Rehabilitation* refers to when individuals refrain from crime—not out of a fear of punishment—but because they are committed to law-abiding behavior. The goal, from this perspective, is to find ways to change the factors that lead individuals to commit crime in the first place. Unless these criminogenic risks are targeted for change, crime will continue. As such, the correctional system should be arranged to deliver effective treatment; in other words, prisons must be therapeutic.

When a crime takes place, harm occurs—to the victim, to the community, and even to the offender. Traditional rationales of punishment do not make rectifying this harm in a systematic way an important goal. ***Restoration***, or ***restorative justice***, a relatively newer rationale, aims for all harms to be rectified and injured parties to be restored. This might be done by apologizing and by providing restitution to the victim, and by doing service for the community. In exchange,

the person who violated the law is (ideally) forgiven and accepted back into the community as a full-fledged member.

Individuals' beliefs about incarceration and punishment affect their notion of what a prison should be. Often unnoticed in these calculations is that incarceration is costly for society, for those who work in prisons, and for those incarcerated because they lose years of life, because they bear the stigma of being incarcerated, and because they might become hardened and more prone to commit crimes in the future. Although some decisions about incarceration involve value judgments, others can be examined empirically by considering what incarceration does to individuals and whether it has the intended effects. *Deterrence*, for example, assumes that prospective offenders factor in the costs of criminal behavior before committing a crime. Incapacitation assumes there is little that can be done to prevent crime among some groups and that incapacitating members of those groups is necessary to reduce crime. *Rehabilitation* assumes there can be changes in the individual or in the individual's circumstances (such as earning a high school degree in prison) that can cost-effectively change their likelihood of reoffending. Restorative justice assumes that criminals will change if they know and understand the costs to victims and to society at large. The significant changes in California's criminal justice system over the past three decades provide information and evidence that have taught us a great deal about the impacts of prisons. Indeed, these competing rationales for punishment help contextualize California's correctional history, including its correctional crisis and recent correctional reforms focused on prison-downsizing, as well as suggest possible scenarios for California corrections moving forward.

Over the past decade, California has been transforming its criminal justice system, having passed reforms intended to reduce its massive prison population. The COVID-19 pandemic furthered the trend in decarceration, as the state reduced prison and jail populations to slow the spread of the virus. Notably, these reforms and decarceration have not harmed public safety. Crime rates remain near historic lows.

California has come a long way given its previous status as the U.S. leader in incarceration, a status that was achieved through the passage of "tough on crime" policies such as truth in sentencing, mandatory minimums and Three Strikes and You're Out, along with the construction of 23 new correctional facilities in just 30 years, from 1980-2010.

Figure 1

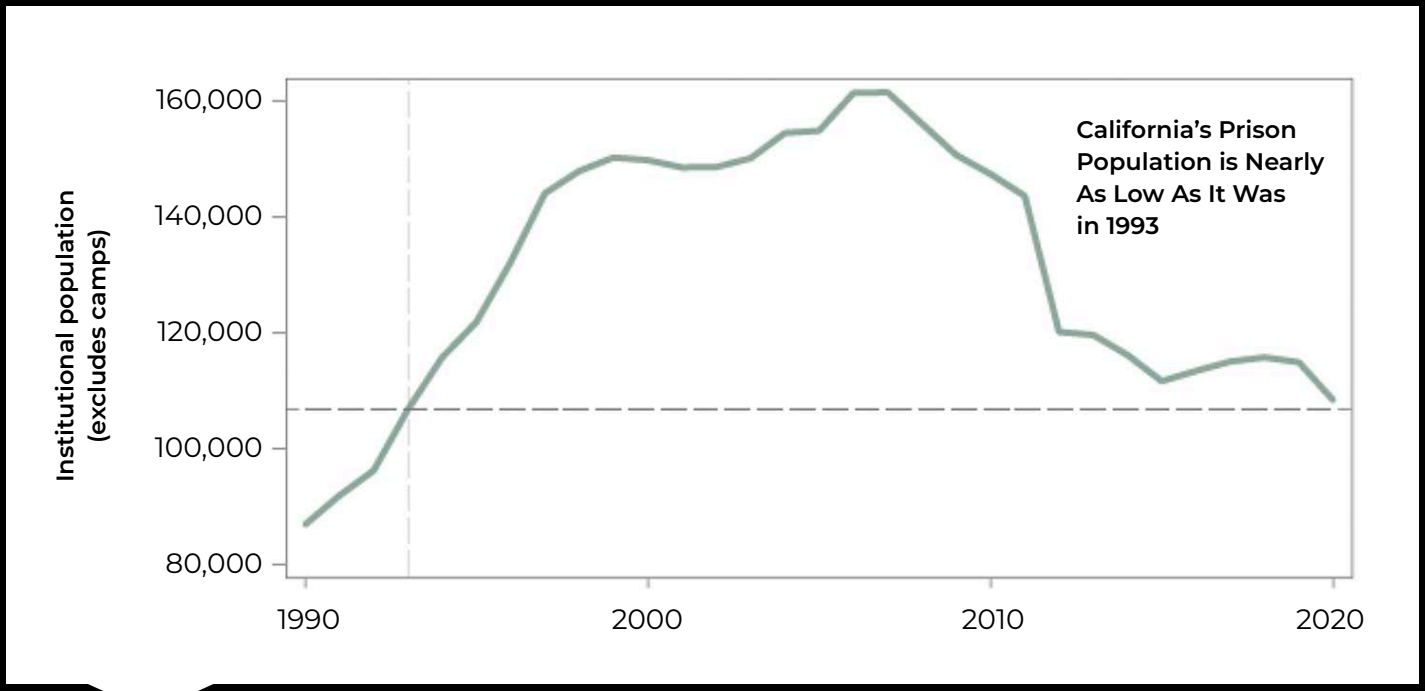
California Adult Correctional Institutions and Community Correctional Facilities

SOURCE: CDCR

These policies committed the state to housing more and more individuals for longer periods of time, and threatened to overwhelm California's prison and jail facilities with a greater population than they had the capacity to house, even after accounting for sizable growth in the state's correctional facilities.[2] Indeed, after years of steady growth, in 2007, California's prison population was nearly 200 percent of the system's rated capacity (Schlanger 2013). Naturally, this growth came with increasing costs.

Despite these costs, California voters largely supported the adoption of "tough on crime" policies. For example, the state's 1994 Three-Strikes law – on the ballot as Proposition 184 – was approved with 72 percent voting to adopt. While the budget implications of the Three-Strikes law were only speculative at the time of its approval, public outrage regarding several highly

Figure 2 **California's Prisons Population, 1990-2019**



SOURCE: Historical CDCR Population Reports, archived by PPIC and CDCR's weekly population report for May 20, 2020. PPIC Blog, June 2020

[2] There are two levels of criminal charges that can result in incarceration: felonies and misdemeanors. Felonies are the most serious class of criminal charge and those convicted of a felony, prior to Realignment, were incarcerated in state prisons (designed to house people for longer-terms) rather than county jails (designed for sentences of about a year or less). Those convicted of misdemeanors serve time in county jails if their sentence includes a term of incarceration.

publicized murders in the early 1990s galvanized voters alongside support from the California Prison Guards Union. Clearly, voters were more fearful of potential criminal victimization than they were of ballooning correctional costs.

In 2011, California reached a breaking point. Spurred on by budget pressures and a court order, the state implemented reforms designed to reduce its correctional population. Within a matter of years, the court ordered reductions were met. The state went beyond the court's prescription when it released a similar number of individuals in an effort to mitigate the spread of COVID-19 in its facilities. California's prison population is now nearly as low as it was in 1993.

CORRECTIONAL COSTS

Although the state has substantially reduced its correctional population, California's Department of Corrections and Rehabilitation (CDCR) nonetheless received a budget allocation of $12.395 billion in fiscal year 2020-2021. While this figure is down from $13.22 billion a year prior—

Figure 3 **California Budget Allocations for Corrections Versus Education (1976-2016)**

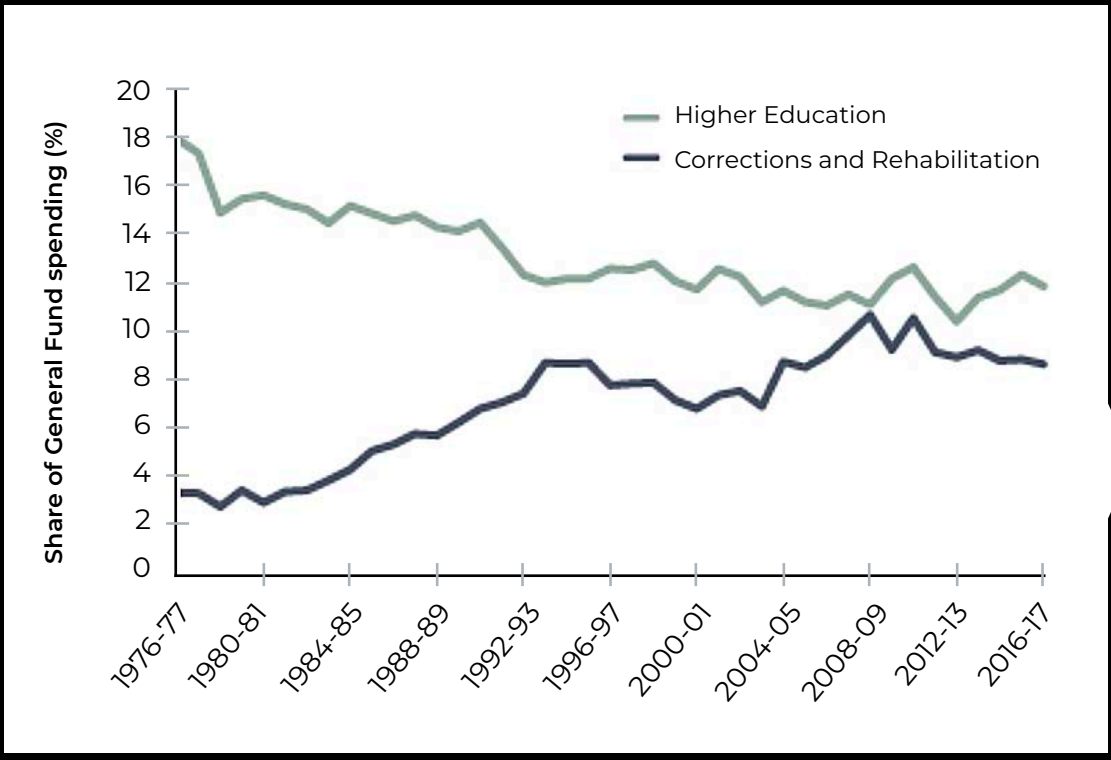


FIGURE SOURCE: PPIC Blog, August 2016

DATA SOURCE: California Department of Finance Chart C-1 Program Expenditures by Fund

as well as its peak of $14.5 billion in FY 2016-17 ($16.53 billion in FY20-21 dollars)—CDCR's budget remains well above its FY 2006-07 $10.5 billion funding level ($13.85 billion in FY20-21 dollars) when the prison population was at its highest. If we examine these costs on a per capita basis, we see that in 2006-07 the state spent $81,470 (in FY20-21 dollars) per incarcerated individual. Despite substantial reforms, today the state spends even more at $98,945 per incarcerated individual. California's spending on corrections now approaches the state's spending on higher education, and one year of college in the UC system costs significantly less than a year behind bars.

One reason correctional costs do not mirror correctional population levels in California is that facility construction, facility maintenance, pensions for retired correctional officers, and staffing for upkeep are fixed costs that do not diminish even if no individuals are housed in the system. This also partially explains why the cost to incarcerate someone for a year in the California prison system has grown from just under $50,000 per year in FY 2010-11 to over $100,000 per year in June 2021. If a portion of correctional expenditure is fixed (i.e., unchanging in response to prison population trends) then reducing the number of individuals incarcerated in California's prisons removes a portion of the cost per individual per year numerator while leaving the denominator (i.e., total cost) unchanged. Thus, both increases in correctional spending and prison population reductions can cause the per year incarceration cost to increase. This is perhaps best illustrated by the wave of releases intended to mitigate COVID-19 spread in 2020 and 2021. Prior to these population reductions, in FY 2018-19, the per-year incarceration costs had been roughly $81,000 ($86,674 in FY20-21 dollars); by June 2021, the cost had increased 25 percent to over $100,000 per year.

How does California compare to other states in the U.S. in terms of prison population and correctional spending? California is among only a handful of states that reduced their prison population but where the anticipated cost reduction was offset by rising costs.

Table 2 **State Prison Population and Expenditures, 2010-2015**

State	Prison pop, 2010	Prison pop, 2015	Change in prison pop, 2010-2015	Prison expenditures, 2010 (inflation-adjusted to 2015 dollars)	Prison expenditures, 2015	Change in prison expenditures, 2010-2015
Alabama	31,873	31,563	-1.0%	$482,710,817	$466,488,094	-3.4%
Alaska	31,873	31,563	-1.0%	$482,710,817	$466,488,094	-3.4%
Arizona	40,458	42,131	4.1%	$1,058,588,444	$1,069,998,638	1.1%
Arkansas	14,800	17,785	20.2%	$346,075,666	$371,968,841	7.5%
California	168,044	132,992	-20.9%	$8,036,681,801	$8,596,902,049	7.0%
Colorado	19,738	18,054	-8.5%	$709,439,344	$709,581,867	0.0%*
Connecticut	18,492	16,347	-11.6%	$939,046,471	$1,016,118,399	8.2%
Delaware	6,710	6,814	1.5%	$250,180,697	$266,293,532	6.4%
Florida	101,324	100,567	-0.7%	$2,175,001,882	$1,917,735,951	-11.8%
Georgia	49,250	46,145	-6.3%	$937,934,701	$921,844,210	-1.7%
Hawaii	6,291	6,063	-3.6%	$168,911,005	$178,406,163	5.6%
Idaho	7,495	8,120	8.3%	$152,219,154	$180,115,744	18.3%
Illinois	44,979	47,622	5.9%	$1,325,688,698	$1,595,647,075	20.4%
Indiana	28,332	28,656	1.1%	$578,737,303	$517,678,909	-10.6%
Iowa	8,384	8,195	-2.3%	$298,477,658	$310,634,762	4.1%
Kansas	8,689	9,697	11.6%	$233,231,736	$237,682,123	1.9%
Kentucky	20,443	21,062	3.0%	$369,125,775	$351,336,792	-4.8%

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State	Prison pop, 2010	Prison pop, 2015	Change in prison pop, 2010-2015	Prison expenditures, 2010 (inflation-adjusted to 2015 dollars)	Prison expenditures, 2015	Change in prison expenditures, 2010-2015
Louisiana	39,939	38,296	-4.1%	$667,693,269	$622,350,856	-6.8%
Maryland	25,259	24,028	-4.9%	$1,102,632,491	$1,071,682,231	-2.8%
Massachusetts	11,478	10,772	-6.2%	$575,908,502	$594,295,857	3.2%
Michigan	45,241	43,375	-4.1%	$1,773,912,932	$1,553,213,339	-12.4%
Minnesota	9,374	9,760	4.1%	$391,387,179	$403,729,705	3.2%
Missouri	30,418	32,284	6.1%	$727,452,301	$716,287,058	-1.5%
Montana	2,595	2,833	9.2%	$84,262,869	$95,125,223	12.9%
Nevada	12,619	13,665	8.3%	$285,827,951	$243,935,441	-14.7%
New Jersey	25,822	21,992	-14.8%	$1,514,062,321	$1,354,767,292	-10.5%
New Mexico	6,538	7,167	9.6%	$274,309,692	$263,976,999	-3.8%
New York	59,237	53,181	-10.2%	$3,990,824,975	$3,688,356,319	-7.6%
North Carolina	40,203	37,066	-7.8%	$1,194,046,296	$1,118,669,204	-6.3%
North Dakota	1,479	1,696	14.7%	$61,217,368	$65,467,993	6.9%
Ohio	50,960	50,452	-1.0%	$1,534,239,950	$1,337,453,060	-12.8%
Oklahoma	25,897	27,369	5.7%	$502,586,473	$451,501,686	-10.2%
Oregon	13,819	14,538	5.2%	$627,753,765	$639,974,399	1.9%
Pennsylvania	50,622	50,366	-0.5%	$1,760,004,449	$2,151,980,000	22.3%

Table 2 **State Prison Population and Expenditures, 2010-2015**

State	Prison pop, 2010	Prison pop, 2015	Change in prison pop, 2010-2015	Prison expenditures, 2010 (inflation-adjusted to 2015 dollars)	Prison expenditures, 2015	Change in prison expenditures, 2010-2015
Rhode Island	3,351	3,182	-5.0%	$175,536,150	$186,349,078	6.2%
South Carolina	24,710	21,773	-11.9%	$447,565,286	$436,615,085	-2.4%
South Dakota	3,422	3,524	3.0%	$66,177,862	$73,122,593	10.5%
Tennessee	28,102	30,837	9.7%	$678,030,989	$723,680,760	6.7%
Texas	154,315	149,159	-3.3%	$3,544,624,503	$3,283,213,997	-7.4%
Utah	6,578	6,907	5.0%	$148,166,778	$152,778,962	3.1%
Vermont	2,247	2,026	-9.8%	$113,853,297	$116,727,820	2.5%
Virginia	38,778	38,688	-0.2%	$799,367,854	$824,010,613	3.1%
Washington	16,554	16,716	1.0%	$693,643,913	$632,557,822	-8.8%
West Virginia	6,386	6,882	7.8%	$170,268,248	$188,966,523	11.0%
Wisconsin	23,015	22,461	-2.4%	$868,383,553	$867,991,403	0.0%*
TOTAL (45 states)	**1,339,721**	**1,288,818**	**-3.8%**	**$43,115,732,021**	**$42,883,537,590**	**-0.5%**

SOURCE: Vera survey of state prison expenditures

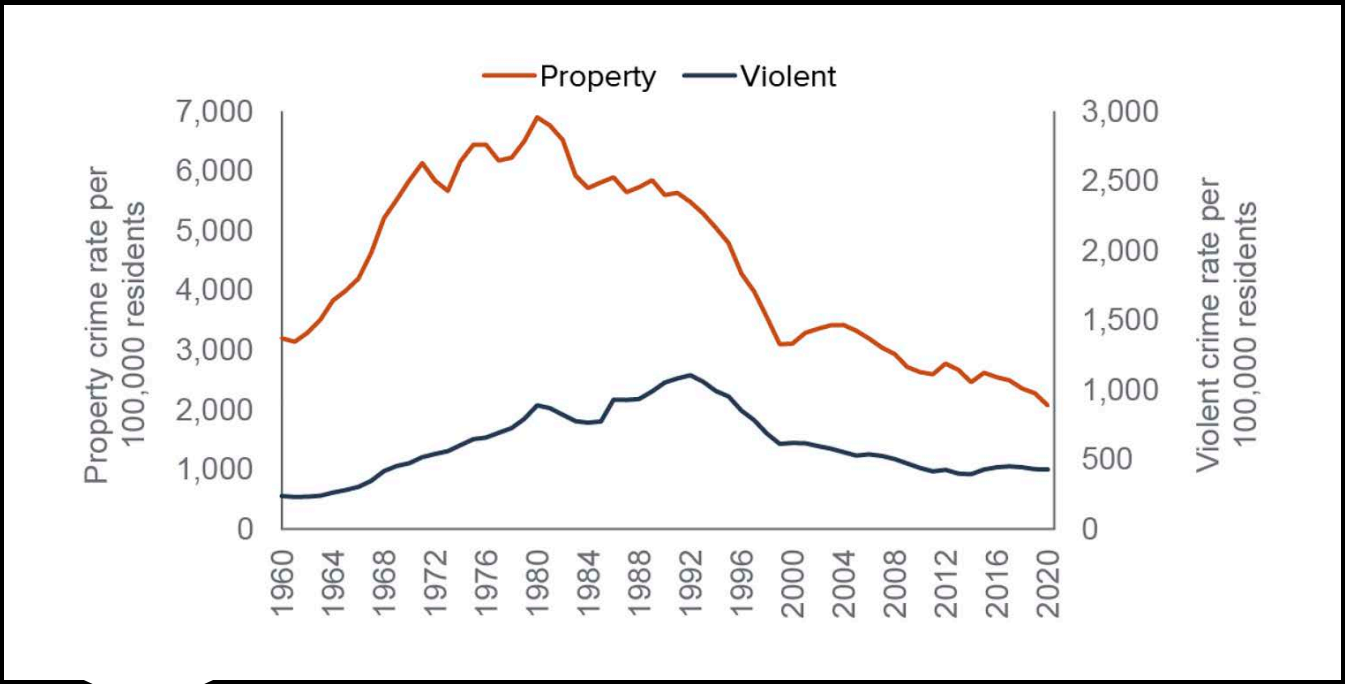
Thus, despite a decline in both its prison population and in the number of prison staff, California's prison spending rose $560 million between 2010 and 2015 ($646 in FY20-21 dollars), primarily because salary, pension, and other employee and retiree benefits continued to increase, and also as a result of union negotiated increases. Interestingly, while correctional costs have increased

four-fold over the past 50 years, crime rates have not fallen proportionately, suggesting the state is reaping diminishing crime-control returns on its incarceration investments (Wilson 1983).

PUBLIC SAFETY

While some types of crime have increased during the pandemic, overall crime rates in recent years have been near historic lows.[3] In 2019, California's property crime rate reached its lowest level since 1960 while the violent crime rate was in line with rates in the late 1960s (Lofstrom and Martin 2021).

Figure 4 **Crime Trends in California**



SOURCE: PPIC Fact Sheet, February 2021

[3] Violent crimes include crimes against persons which involve bodily harm, physical coercion, or the threat of violence. Property crimes include most forms of theft, property damage, fraud and unlawful receiving or sale of stolen property. Drug offenses and violating the terms of one's release also contribute substantial numbers of new prison and jail admissions, but violent and property crimes are more acutely linked to perceptions of public safety.

In essence, prison downsizing did not harm public safety, as many critics charged, raising questions about the nature of the relationship between incarceration and crime.

While many assume that rising incarceration levels invariably lead to lower crime rates, theory on the incarceration-crime relationship, in fact, offers several contradictory predictions. On the one hand, some perspectives suggest that prison is crime-suppressive, arguing that prisons incapacitate the criminally active (Piquero and Blumstein 2007), that the threat of prison may deter criminal activity (Pratt et al. 2006), and that prison may be transformative through rehabilitation (Lofstrom and Raphael 2016: 198). On the other hand, other perspectives maintain that prison is criminogenic (Harding, Morenoff, Nguyen, and Bushway 2017), in part through a hardening of those incarcerated. If the former arguments are correct, we would expect a negative relationship between incarceration levels and crime. But if the latter is correct, incarceration may be associated with increasing crime levels (Lofstrom and Raphael 2016:198).

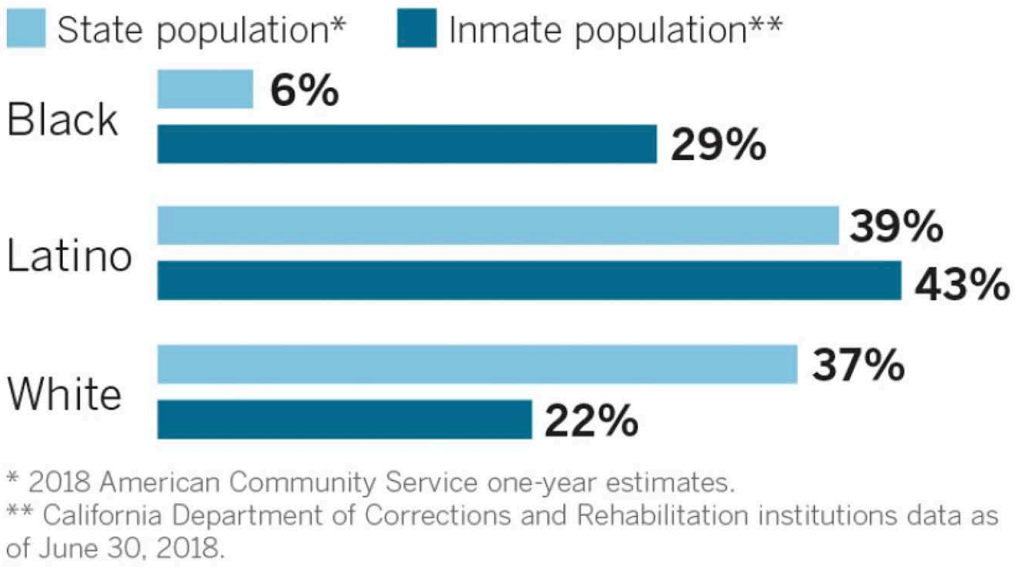
At low levels, incarceration does seem to reduce crime; however, diminishing crime-abating returns set in at relatively low incarceration rates (King, Mauer, and Young 2005:6). In other words, even marginal increases in incarceration yield small crime-prevention effects. Moreover, in the context of the recent steep rise in U.S. incarceration rates, some researchers document a criminogenic effect: "[O]ur results demonstrate that imprisonment leads to future imprisonment. In other words, prison's figurative revolving door has real causal force, rather than being the simple consequence of imprisonment of individuals at higher risk for future offending. . . . These results imply that the rise in incarceration was to some degree self-generating, as imprisonment creates more imprisonment" (Harding et al. 2017:4).

RACIAL DISPARITIES

Racial disparities in incarceration exist when the proportion of a racial or ethnic group in the correctional system is greater than the proportion of such groups in the general population. Despite minor reductions following criminal justice reforms and COVID-related decarceration efforts, racial and ethnic disparities in California's incarcerated population persist today.

[4] For an excellent review of research on the imprisonment–crime nexus, see King et al. (2005) and Raphael and Stoll (2009).

Figure 5 **Racial and Ethnic Disproportionality in Incarceration in California**



SOURCE: U.S. Census Bureau, California Department of Corrections and Rehabilitation

Racial disparity in incarceration amidst a proliferation in punishment—both in California and the nation overall—has led scholars to characterize prisons as a major stratifying institution in society (Wakefield and Uggen 2010). Stratifying institutions sort individuals into more or less advantaged social categories, and both reflect—as well as create—inequality by differentially conferring access and opportunity across social groups. In considering prisons as stratifying institutions, Wakefield and Uggen (2010) identify several forms of inequality associated with the labor market, educational attainment, health, and family structure. Beyond this, contact with the criminal justice system (stops, arrests, charges, incarceration, etc.) has been shown to reduce individuals' trust in government, sense of citizenship, and engagement with civic processes and institutions (Lerman and Weaver 2014). Frequent contacts with police, courts, and correctional facilities appear to negatively shape people's perceptions of government and the state's capacity to respond to citizens' concerns. At the individual level, these perceptions can lead to non-participation in governance. When criminal justice contacts are differentially experienced across groups and communities, the implications can be far more troubling.

As discussed, California has spent—and continues to spend—an unparalleled amount on incarceration and its corrections system. Was this a sound investment? On the one hand, California's recent decarceration efforts do not appear to have come at the expense of precipitous crime rate increases. On the other hand, reductions in California's correctional population have not been matched by similar reductions in correctional costs. Yet, racial disparities in incarceration have diminished only slightly, and the consequences of these disparities are now more clear than ever. The California experiment has taught us that overreliance on incarceration comes at a significant cost, yields diminishing returns in crime control, and does little to address existing racial disparities.

ORIGINS: CALIFORNIA'S CORRECTIONS CRISIS AND CRIMINAL JUSTICE REFORM

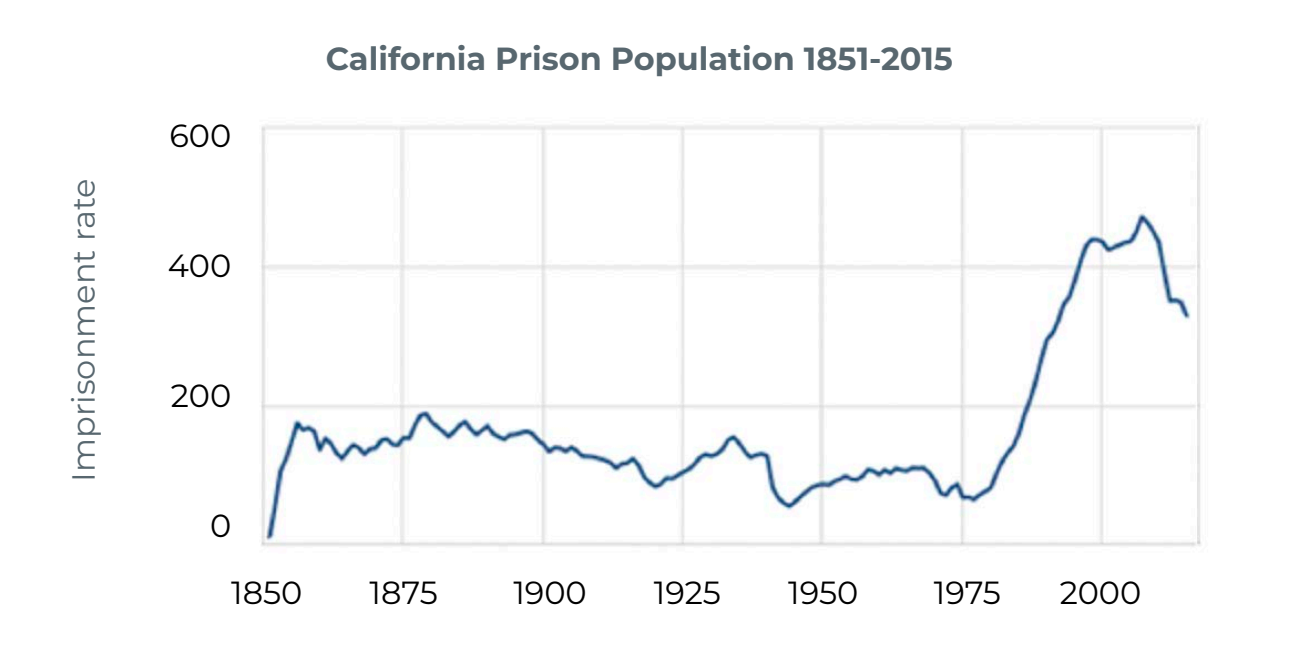
When it comes to criminal justice, as California goes so goes the nation. In the 1990s and early 2000s, the state led the way ramping up mass incarceration with tough-on-crime policies. States across the country emulated California's draconian tactics. Now, California is again leading but this time by reforming its criminal justice system, setting the tone for a smarter and more equitable system. How did California get where it is today?

For years, California was home to the nation's largest state prison system. Dating back to the 1970s, tough on crime policies—truth-in-sentencing, [5] increased mandatory minimum sentences and sentence enhancements, Three Strikes, [6] and the War on Drugs—led to dramatic increases in the prison population. Between 1980 and 2006, the state prison population grew more than sevenfold (Lofstrom, Bird and Martin 2016). Over the same period, expenditures rose markedly and corrections' share of the state budget nearly tripled. Although California's number of prisons grew from 11 to 33 during this time, the prison population still outpaced capacity (Lofstrom, Bird and Martin 2016). At its apex in 2006, the state's prison population peaked at over 170,000 individuals (West and Sabol 2008) despite the fact that California prisons were designed to hold a maximum of 79,858.

[5] Required violent offenders to serve 85 percent of their sentences in exchange for federal grants.

[6] Required a defendant convicted of any new felony, having suffered one prior conviction of a serious felony, to be sentenced to state prison for twice the term otherwise provided for the crime. If the defendant was convicted of any felony with two or more prior strikes, the law mandated a state prison term of at least 25 years to life.

Figure 6 **California's Prison Growth (Incarcerated per 100,000 Californians)**



SOURCE: http://www.cjcj.org/news/11276

Figure 7 **San Quentin State Prison Overcrowding**

SOURCE: Eric Risberg/AP

NOTE: This photo from June 14, 2007 shows the Gymnasium at San Quentin State Prison filled with nearly 400 double-bunked inmates because of crowded conditions.

Critics charged that California was incarcerating too many people for too long. [7] Starting in 2011, the state implemented a series of criminal justice reforms.

What led to these reforms? First, fiscal impacts of the 2008 economic recession induced state leaders to scour their budgets for savings. At a cost of roughly $52,000 per year per individual, the state paid an enormous bill to incarcerate so many individuals, many of whom were low-level, non-violent offenders and parole violators (Lofstrom and Raphael 2016).

Second, California experienced a bipartisan shift in public opinion regarding the use of prison as a method of crime control (Lofstrom and Raphael 2016:197), a trend that paralleled what was happening at the national level (Petersilia 2016:8). Evidence of dissatisfaction with the status quo was evident in public opinion polls, which overwhelmingly reflected support for policy changes that reduced incarceration. According to one PEW Poll, for example, voters in California (and the nation overall) were overwhelmingly in favor of reducing prison spending and supported shifting resources to community supervision rather than incarceration, specifically for low-level offenders. The poll also revealed that voters prioritized reductions in recidivism [8] as the primary "end goal" of corrections, even if it meant that individuals ended up spending less time behind bars and more time in rehabilitative programming. Public attitudes also strongly supported probation and parole as effective system tools for rehabilitation along with increased investments in community supervision to increase their effectiveness. The shift in public opinion, at least in California, reflected the realization that enhanced sentences did not lower the state's high recidivism rate which, at nearly 70 percent, was among the highest in the nation (California Department of Corrections and Rehabilitation 2010:11).

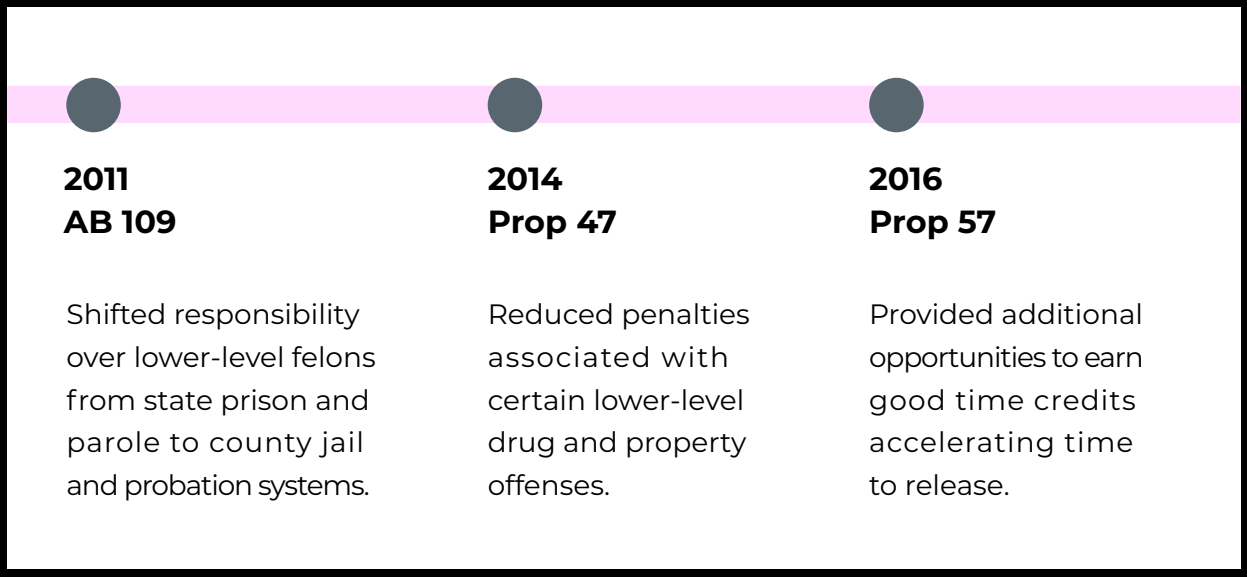
Third, California experienced federal court intervention due to the conditions of confinement in state prisons (Lofstrom and Raphael 2016:197; see also Kubrin and Seron 2016). Extreme overcrowding led the U.S. Supreme Court to take an historic step. In *Brown v. Plata*, the Court ruled that overcrowding in California's prisons amounted to cruel and unusual punishment in violation of the Constitution's Eighth Amendment. The decision was the result of nearly 20 years of litigation in which the lower federal court found that the "convergence of tough-on-crime policies and an unwillingness to expend the necessary funds to support the population growth has brought California's prisons to the breaking point" (Plata/Coleman v. Brown 2009:182; Schlanger 2016). The Court's decision required the state, over a two-year timeframe, to reduce

[7] For a detailed discussion on California's corrections crisis, see Sundt et al. (2016:316-317).

[8] The return to offending by individuals previously convicted of a crime. It is commonly measured by rearrest, reconviction, and/or return to custody.

its prison population by 33,000 people to 137.5 percent of design capacity, the minimum level believed necessary for the prison system to provide adequate mental health and medical care. This represented an unprecedented challenge. California responded to the Court's mandate by enacting several controversial reforms, which we discuss below.

Figure 8 **California's Realignment and Reforms Timeline**



CALIFORNIA'S CRIMINAL JUSTICE EXPERIMENT: PRISON DOWNSIZING REFORMS

AB 109 – REALIGNMENT

The first, "Public Safety Realignment" (AB 109), made fundamental changes to California's correctional system, realigning from state to local jurisdictions responsibilities for lower-level nonviolent offenders and parolees. Specifically, AB 109 required non-violent, non-serious, and

non-sex offenders to serve their sentences in county jails instead of state prisons, [9] shifting responsibility for punishment from prisons, which are state or federal operations, to jails, which are run by counties and elected sheriffs (Kubrin and Seron 2016). Realignment also authorized counties to utilize home detention with electronic monitoring, day reporting centers, work release, and other community supervision programs as alternatives to incarceration. Finally, under Realignment, most parolees [10] who violated the terms of their release but had not been convicted of a new felony were no longer to be sent to prison. Instead, they were to serve a short sentence in county jails or otherwise be sanctioned locally. [11]

Governor Brown proposed Realignment in January of 2011, the legislature approved it in March, and it took effect in October—an unusually fast track for a major policy shift considered "the biggest criminal justice experiment ever conducted in America" (Petersilia 2012). The result was a sharp and permanent reduction in the state's incarceration rate, driven largely by a reduction in new prison admissions. By September 2012, the prison population had fallen by about 27,400 and the institutional population, including all individuals housed in CDCR facilities subject to the court order, had dropped to 150.5 percent of capacity. By October 2014, three years into Realignment, the prison population stood at 140.9 percent of capacity, a big drop but still roughly 2,850 people above the mandated target (Lofstrom and Martin 2015). Importantly, the county jail population did not rise nearly as much as the prison population fell, thereby reducing the total number of people incarcerated in California (Lofstrom and Martin 2015).

Decarceration trends were not uniform across California's 58 counties. Twenty-eight counties reported larger than average declines in prison commitments after implementation, and 18 of these showed declines of more than 50 percent in the number of new individuals committed to CDCR facilities since implementation (Males 2012). Such differences reflected, in part, variation in how counties across the state responded to AB 109 as well as fundamental differences in their implementation plans (Abarbanel et al. 2013; Bird and Grattet 2016). Some counties (e.g.,

[9] Prior to Realignment, California's prison population was nearing 200 percent of design capacity while most county jails were less crowded in comparison. While some county jails (e.g., Los Angeles County) were already quite crowded at the time, the majority of California's 58 counties had some capacity available to absorb the realigned population.

[10] Those convicted of a felony are generally released from custody under parole supervision. Prior to Realignment, a substantial proportion of prison admissions were for technical violations of parole conditions. Parole violations were a main driver of California's persistently high recidivism rate.

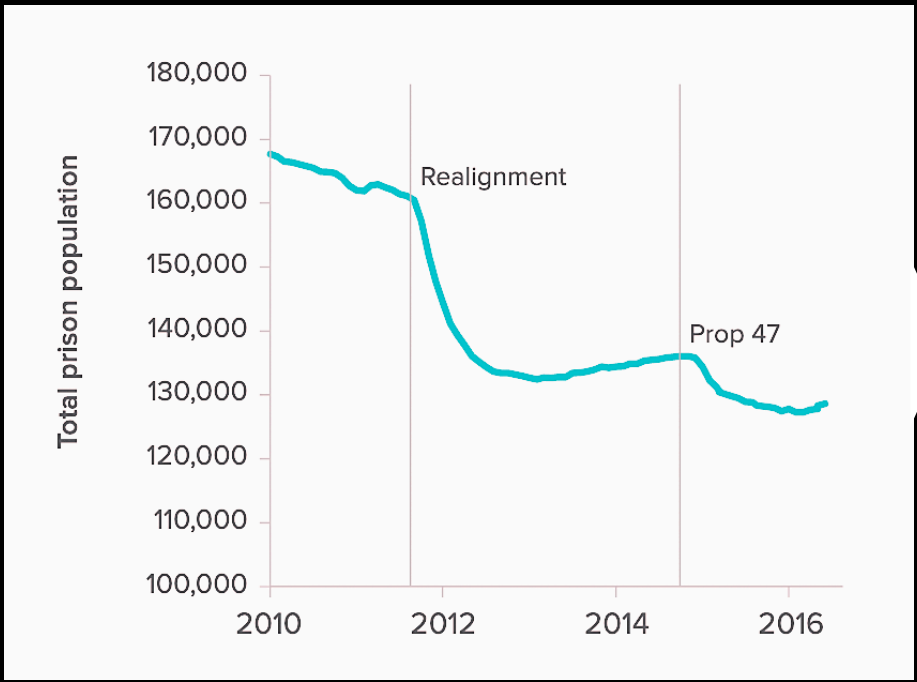
[11] Realignment also had the effect of "aligning" the custodial and financial consequences of decisions by District Attorneys. Under Realignment, costs to prosecute and send people to jail for previously prison-eligible crimes, were now to be borne locally. This contrasted with the former practice where the costs of incarceration for these cases in state prisons were borne by the state.

Los Angeles, San Bernardino, Kern) added more bed space in their jails; others (e.g., Contra Costa) placed more individuals on probation; and, still others (e.g., San Francisco, Santa Cruz, Alameda) provided additional rehabilitative services to parolees (Austin 2016; Still 2016). Despite this variation, Realignment progressed rapidly toward its goal of complying with the Plata order and reducing the state's prison population. Still, the decline was not sufficient to meet the judicial target.

PROPOSITIONS 47 AND 57

The target was met a few years later following passage of Proposition 47, which reduced certain drug possession felonies to misdemeanors and required misdemeanor sentencing for a variety of crimes including shoplifting (where the value of the stolen property does not exceed $950), grand theft (where the value of the stolen property does not exceed $950), receiving stolen property (where the value of the stolen property does not exceed $950), forgery (where the value of the forged check, bond, or bill does not exceed $950), fraud (where the value of the fraudulent check, draft, or order does not exceed $950), and writing a bad check (where the value of the check does not exceed $950).

Figure 9 **Prison Declines following AB 109 and Prop 47**



SOURCE: California Department of Corrections and Rehabilitation, Monthly Population Report, January 2010–June 2016. https://www.ppic.org/content/pubs/report/R_916MLR.pdf

NOTE: Total prison population as of the last day of the month.

A unique component of Prop 47 was its focus on crime prevention. As state prison and jail populations were expected to fall, state savings were expected to grow by millions and would be reinvested in prevention efforts. Through the creation of a Safe Neighborhoods and School Fund, the measure required money saved as a result of Prop 47 to be spent on "school truancy and dropout prevention, victim services, mental health and drug abuse treatment, and other programs designed to keep offenders out of prison and jail." Prop 47 passed by a wide margin, with 60 percent of California residents voting in favor of it. It was implemented in November 2014.

Proposition 57, passed in 2016, continued California's decarceration efforts through reforms to "good time" credit and parole eligibility for non-violent felons. The initiative increased parole chances for felons convicted of nonviolent crimes and allowed them more opportunities to earn credits for good behavior. The measure also allowed individuals convicted of nonviolent felony crimes who served full sentences for their primary offense and passed screening for public security to become eligible for parole.

Not surprisingly, these reforms generated substantial criticism regarding their efficacy and potential unintended consequences, especially concerns about rising crime rates. With Realignment, critics questioned whether it was merely "shifting a humanitarian disaster from the state to its 58 counties" (Rushford 2012) and maintained "...as things stand it's unlikely that Realignment can be much more than shuffling the problem from one strapped and ineffectual level of government to another" (Currie 2011). The crowded conditions of many local facilities in California, like the overwhelmed state prisons, had not been directly factored into AB 109 legislation (Strutin 2012:1340). Another concern was that Realignment might lead thousands of individuals to spend significantly less time behind bars or under supervision as counties coped with the influx expected to peak following implementation.

Consistent with this, critics of Prop 47 were vocal with their concerns. They maintained that felony arrests throughout the state would plummet, emboldening would-be-criminals. They also argued that drug and theft offenders who previously were arrested and held in jail pending trial would now simply receive citations and orders to appear in court, but that few would actually show up for their court dates. Critics opined, "When you don't jail these people on drug and other relatively minor charges, they are free to commit all manner of more serious crimes, including murder, rape and robbery, and they do" (Greene 2015).

Prop 47 critics believed they had data on their side. After a decades-long decline in violent and property crime throughout the state, California's crime rate saw an uptick in 2015 following Prop 47's implementation. The violent crime rate increased by 8.4 percent in 2015 and the property crime rate went up by 6.6 percent (Lofstrom, Bird and Martin Sept. 2016). Law enforcement officials and others voiced concern that Prop 47 was to blame for rising crime rates throughout

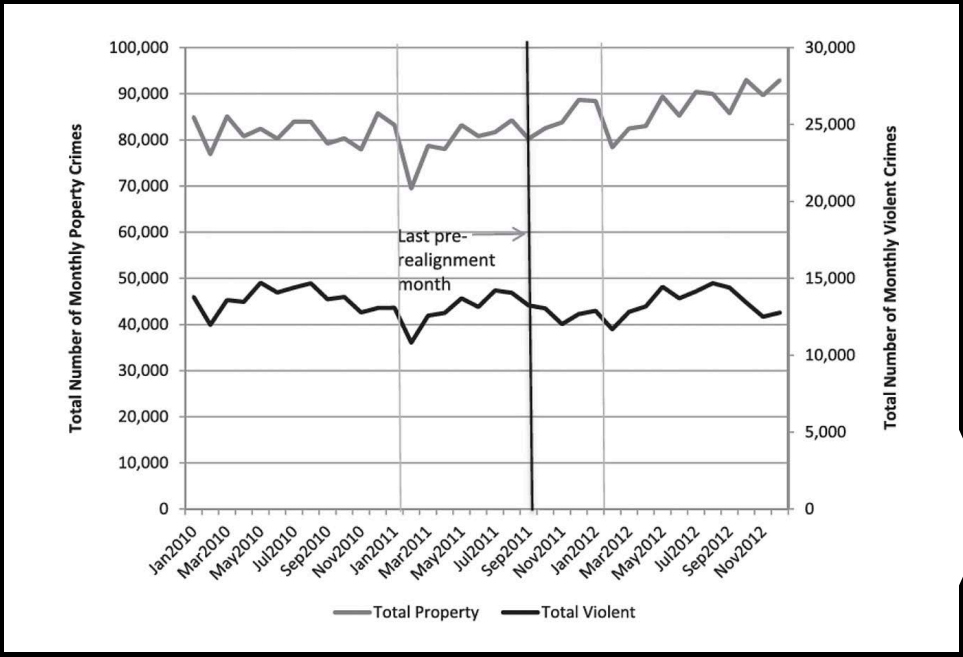
the state. Were the critics right? What impact did these criminal justice reforms, and prison downsizing in particular, have on California's violent and property crime rates?

CRIMINAL JUSTICE REFORMS: CONSEQUENCES FOR CRIME AND PUBLIC SAFETY

Research suggests that California's prison downsizing reform measures had no impact on violent crime rates and only marginal impacts on property crime rates statewide (Bartos and Kubrin 2018; Lofstrom and Raphael 2016; Sundt et al. 2016; Groff et al. 2021). Below we review the findings of these studies, starting with those that analyzed the impact of Realignment.

Lofstrom and Raphael (2016) evaluated the effects of Realignment's incarceration decline on crime rates across California counties. Their analysis exploited the large variation across counties in the effect of this reform on county-specific prison incarceration rates. They found very little evidence that the large reduction in incarceration had an effect on violent crime, and modest evidence of effects on property crime, auto theft in particular. Notably, these effects were considerably smaller than prior estimates from time periods predating the growth of incarceration in the U.S.

Figure 10 **Total Monthly Violent and Property Crimes in California, January 2010 through December 2012**

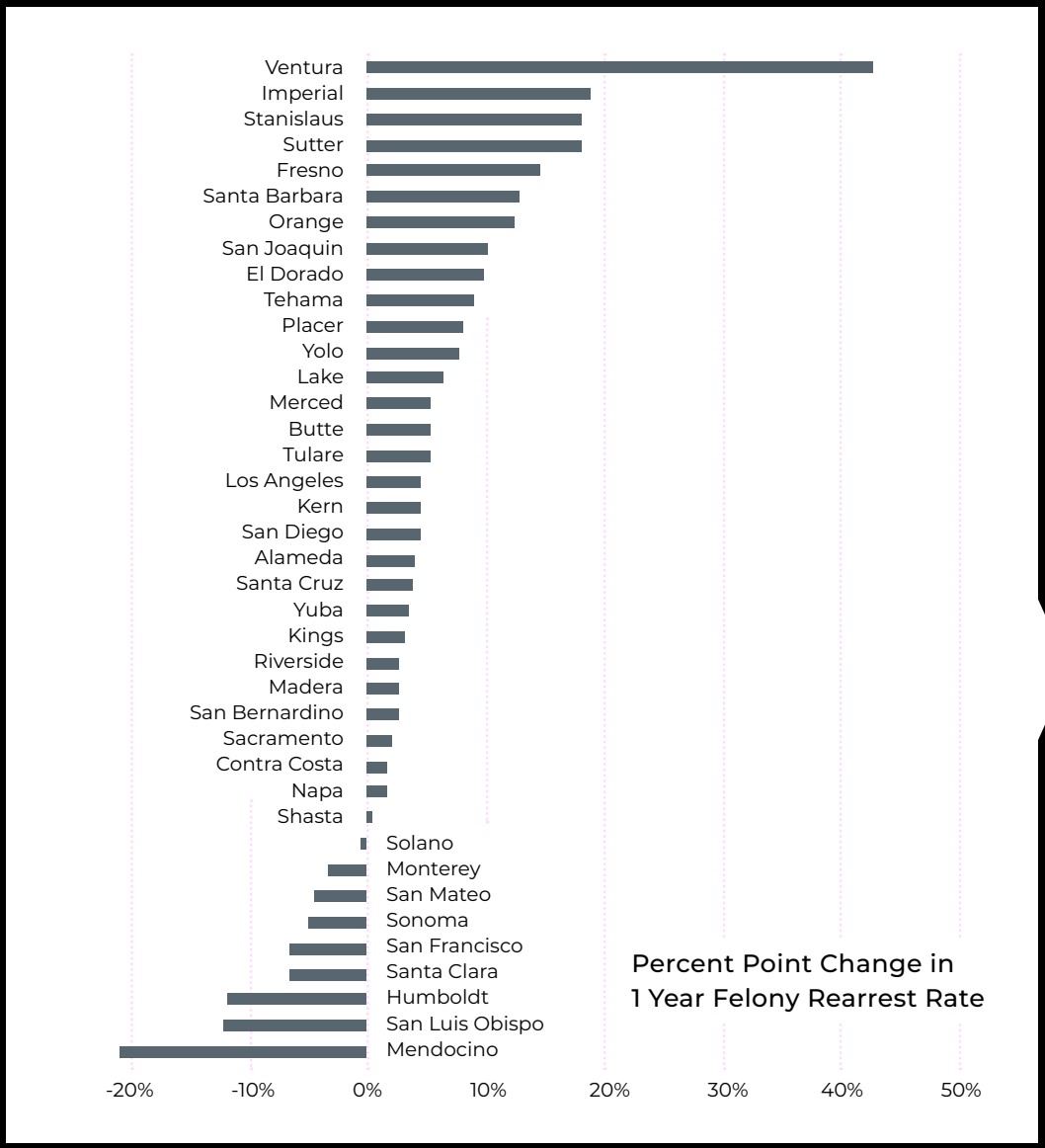


SOURCE:
Lofstrom and Raphael (2016:Figure 4, pg. 209)

Lofstrom and Raphael (2016) corroborated these cross-county results with an analysis of state crime rates. Lofstrom and Raphael (2016) conclude: "No matter how you look at it, estimated prison-crime effects here are small" (pg. 218). In line with previous research, their results support the hypothesis of a crime-prison effect that diminishes with increased reliance on incarceration.

In a follow-up cost-benefit analysis, Lofstrom and Raphael show that one year served in prison instead of at-large as result of Realignment prevents 1.2 auto-thefts per year and saves the state roughly $12,000 in crime-related costs—as well as harm to victims and their families. On other hand, keeping someone behind bars for a year costs the state nearly $52,000 (in 2013 dollars).

Figure 11 **Changes in Felony Rearrest Rates Varied Across Counties**



SOURCE:
California Department of Corrections and Rehabilitation. Authors' computation. Bird and Grattet (2016: Figure 2, pg. 190).

NOTE:
The bars referred PRCS offenders and comparable pre-Realignment offenders released from California prisons.

In related research, Bird and Grattet (2016) conducted a county-level examination of Realignment's impact on recidivism, or reoffending behavior. Descriptive analyses revealed significant variation across California counties in 1-year felony re-arrest rates.

Of interest was the extent to which county differences in general approaches to Realignment (i.e., enforcement-focused counties, which allocated more funds to jail beds and law enforcement vs. re-entry focused counties, which allocated more funds to programs and service) might explain this variation.

Their findings suggest that the release of low-level felony offenders from state to local governments actually improved recidivism outcomes but it depended on the approach that local governments took in dealing with individuals released by the state to their care. Counties that invested in offender reentry and rehabilitation in the aftermath of Realignment had better performance in terms of recidivism than counties that focused resources on enforcement. More specifically, the felony re-arrest rate was nearly 4 percent greater for offenders released to enforcement-focused counties than for those released to re-entry focused counties. Bird and Grattet (2016) find similar results when examining other measures of recidivism including total arrests, total convictions, and felony convictions.

Sundt et al. (2016) examined the impact of Realignment on crime in California. Their findings show that Realignment had no effect on violent or property crime rates in 2012, 2013, or 2014. When crime types were disaggregated, however, they found a significant impact on auto theft rates in 2012. By 2014, however, this effect had decayed and auto theft rates returned to pre-Realignment levels. Sundt et al. (2016) conclude that significant reductions in the size of prison populations are, in fact, possible without endangering public safety noting: "Within just 15 months of its passage, Realignment reduced the size of the total prison population by 27,527 inmates, prison crowding declined from 181 percent to 150 percent of design capacity, approximately $453 million was saved, and there was no adverse effect on the overall safety of Californians" (pg. 315). They conclude that with a mixture of jail use, community corrections, law enforcement and other preventive efforts, California counties provided a comparable level of public safety to that previously achieved by state prisons, but warned sustaining these policy objectives would require greater attention to local implementation, targeted crime prevention, and sentencing reform (pg. 316).

Moving to research on Prop 47, Bartos and Kubrin (2018) analyzed the impact of this reform on violent and property crime rates in the year following the policy's implementation. Their findings show that Prop 47 had no effect on homicide, rape, aggravated assault, robbery, or burglary. However, larceny and motor vehicle thefts appear to have increased moderately following Prop 47, but additional testing revealed these findings did not hold up; more specifically, additional

analysis showed the findings for larceny and motor vehicle thefts may be spurious and appear sensitive to alternate specifications in the model. They conclude that "California can downsize its prisons and jails without compromising public safety" (pg. 1).

Figure 12a **Prop 47's Impact on Violent and Property Offenses**

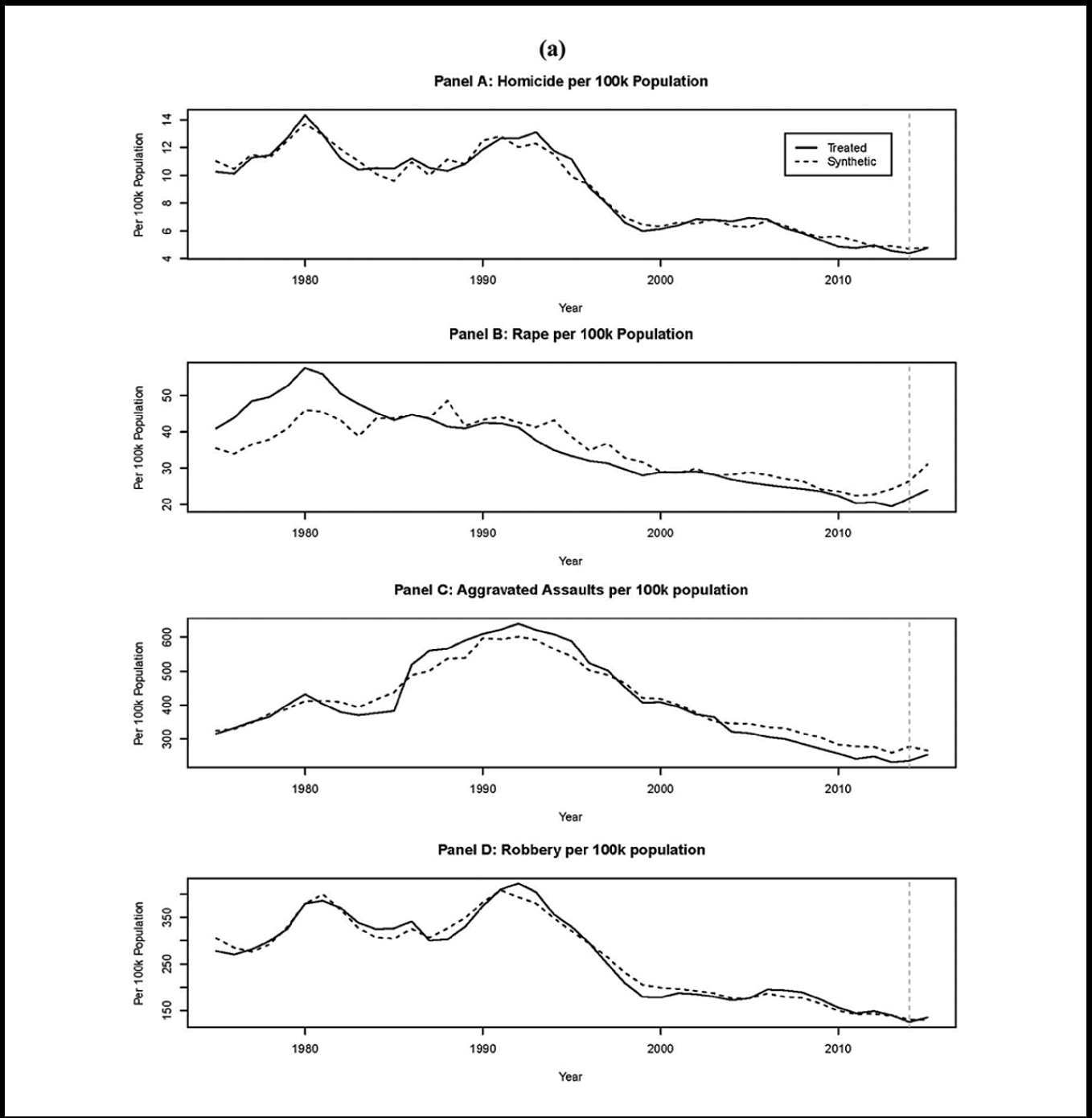
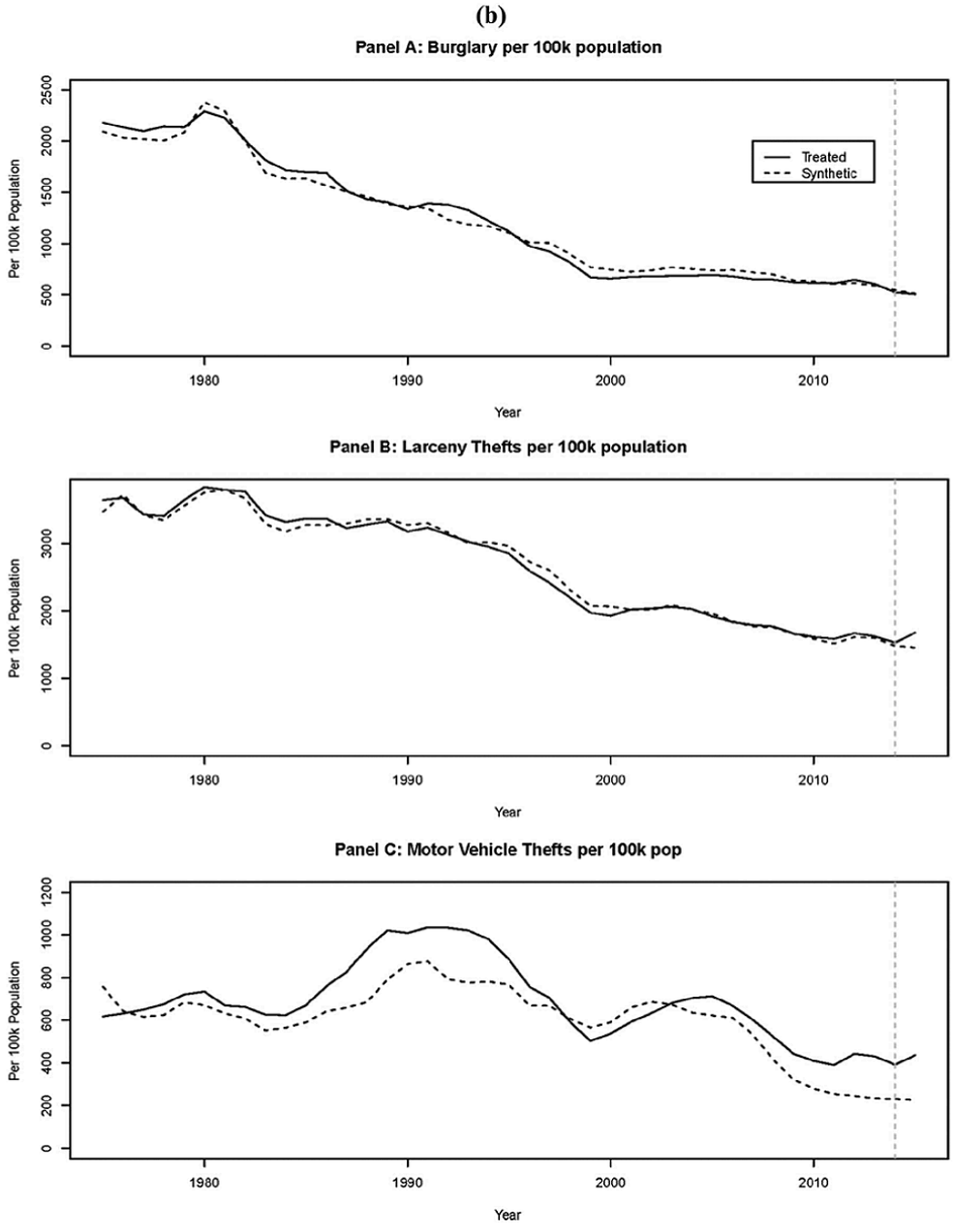


Figure 12b **Prop 47's Impact on Violent and Property Offenses**



SOURCE: Bartos and Kubrin (2018:Figure 1, pg. 704-05)

Finally, using data from multiple criminal justice agencies in Los Angeles, Groff et al. (2021) examined the effects of AB 109 and Prop 47 on level and trend changes in burglary, motor vehicle theft, larceny/theft, and financial crimes as well as their corresponding felony and misdemeanor prosecutions. Results from their analyses indicate AB 109 and Prop 47, individually, had slightly different effects on crime and prosecutions for property and financial offenses: AB 109 was associated with increases in both theft and financial crime while Prop 47 was followed by increased vehicle theft and a financial crime trend decrease. Groff and her colleagues conclude that while some offenses did increase following these policies, "the impacts of AB 109 and Prop 47 on crimes and prosecutions were generally small" (see abstract).

THE COVID-19 PANDEMIC AND FURTHER PRISON DOWNSIZING

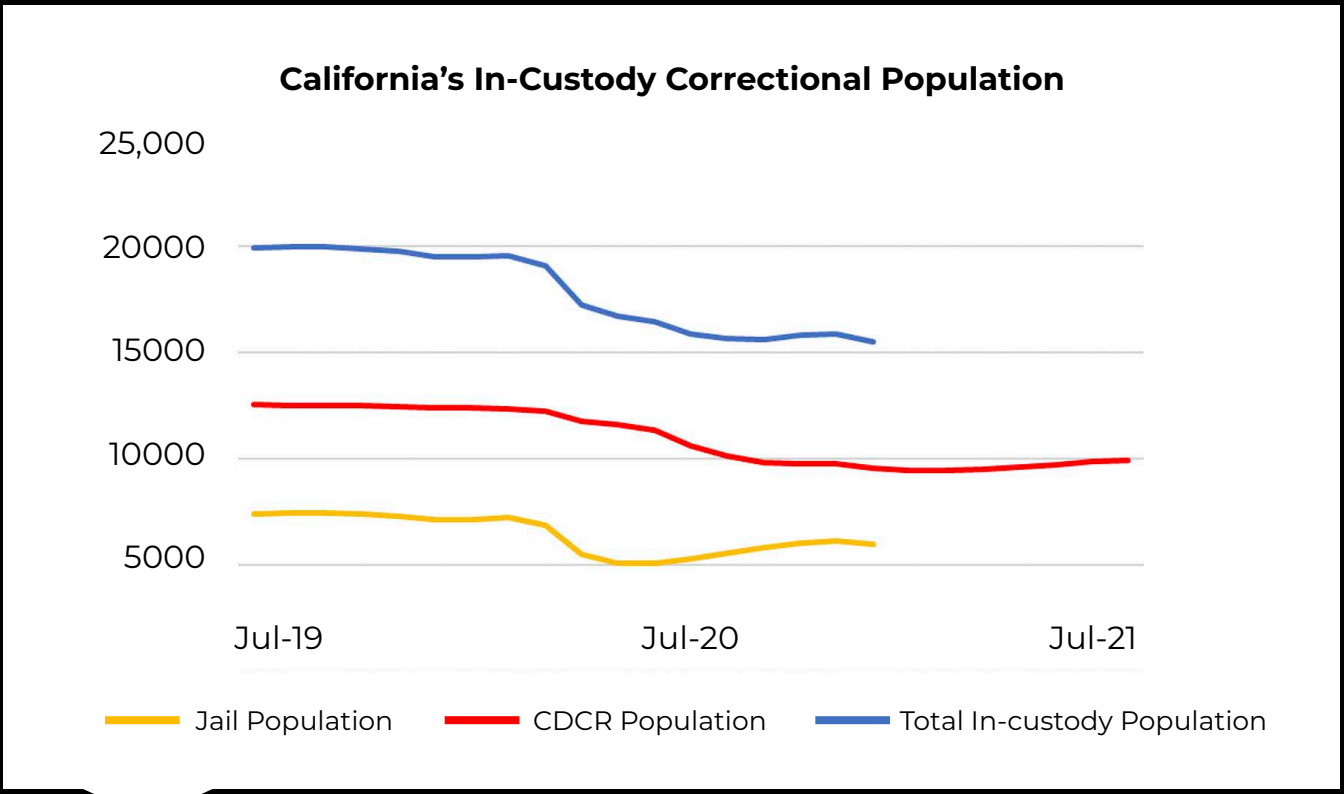
California's decarceration reforms occurred over varying time spans and impacted California's prison and jail populations to varying degrees. In terms of month-to-month proportionate changes in the state correctional population, however, California's efforts to reduce overcrowding as a means to limit the spread of COVID-19 reduced the correctional population more severely and abruptly than any of the state's modern decarceration reforms.

To reduce the risk of COVID-19 spread among state prison inmates, in March 2020, CDCR announced their decision to release 3,500 non-violent, non-sex offenders that had 60 days or less remaining on their sentence. While this constituted only a 2.8 percent reduction from the state's 123,030 population from two weeks prior, it was the first of many actions taken and it was accompanied by similar actions at the county level. By April 2020, for example, Los Angeles County had released 4,276 non-violent inmates, or about 25 percent of its jail population. In July 2020, the state announced another series of release actions (expanding early releases to those with less than six months remaining rather than 60 days) to further reduce crowding and allow for greater distancing within its facilities amid a spike of COVID-19 cases in San Quentin State Prison. In August 2020, prison officials announced they planned to release as many as 17,600 people early to limit the spread of the virus, and by the end of the month, the state had identified 10,377 confirmed COVID-19 cases in its facilities.

Although many doubted whether the release actions were necessary to mitigate the spread of COVID-19, by the Fall of 2020 it became clear that even further release actions would be neces-

sary to slow or reverse outbreaks in correctional facilities. In December 2020, 18,392 new COVID-19 cases (CDCR Population COVID Tracker) were confirmed within California's prison population, more than any other month. These new cases constituted 18.5 percent of the state's prison population, which was already down to 95,432 after reporting a population of 124,027 one year prior (CDCR Office of Research Monthly Population Report December 2020).

Figure 13 **California's Correctional Population July 2019 through July 2021**



SOURCE: CDCR Monthly Population Reports and BSCC Jail Profile Survey Dashboard

California prisons reached an in-custody population low point of 94,607 in February 2021, down 23.6 percent from a year prior and accompanied by only a 4 percent increase in the population under community supervision during the same time (CDCR Monthly Population Reports 2021). Jail populations also decreased substantially during this time, suggesting the release actions intended to mitigate COVID-19 amounted to true (i.e., direct path to community re-entry)

decarceration in California rather than simply shifting custody operations to alternative jurisdictions or private venues. As a point of comparison, although AB 109 lowered the state's prison population by roughly 18 percent (30,000 individuals) within three years of being enacted, the reductions were achieved in large part by shifting custody responsibilities for the lowest-risk prison population to county jails which were comparatively less crowded than prisons.

Figure 14 **California's Combined County Jail Population (Sentenced and Unsentenced ADP)**

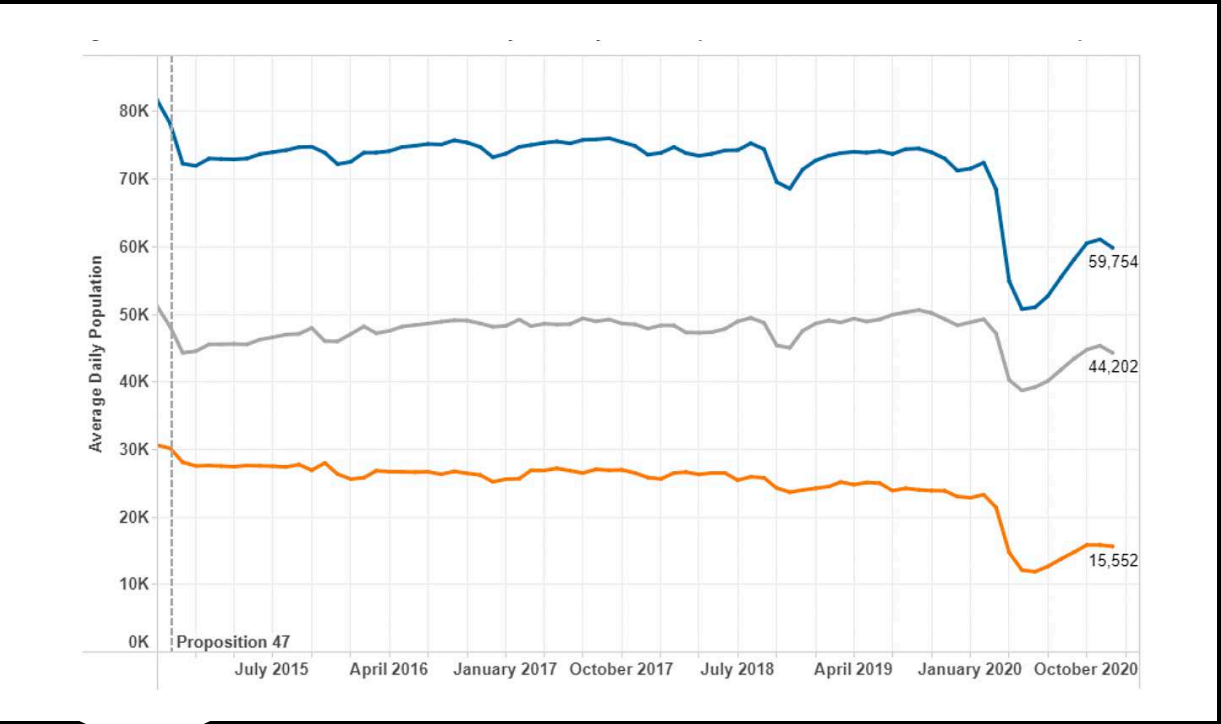


FIGURE SOURCE:
BSCC Population Dashboard
DATA SOURCE:
Jail Profile Survey

NOTE:
Based on JPS monthly data available on May 21, 2021 from January 2006 through December 2020. Does not include Santa Ana Police Department.

California's county jail population hit its low point much earlier than the prison population. According to Jail Population Survey data, California housed 72,387 individuals in its county jails in February 2020 but by May 2020, the population reached as low as 50,680 (a 30 percent reduction from three months prior). By year-end 2020, further releases brought California's combined in-custody correctional population (i.e., prison and jail in custody total) down to 155,210 from 195,390 (-40,170) just one year prior (a 20 percent reduction).

Table 3

California's combined Prison and Jail in-custody Populations July 2019 – July 2021

Year	Month	Jail Population	CDCR Population	Total In-custody Population
2019	7	73653	125,295	198,948
2019	8	74369	125,132	199,501
2019	9	74453	125,021	199,474
2019	10	73906	124,944	198,850
2019	11	72982	124,500	197,482
2019	12	71200	124,027	195,227
2020	1	71492	123,649	195,141
2020	2	72387	123,123	195,510
2020	3	68425	122,409	190,834
2020	4	54827	117,767	172,594
2020	5	50680	116,197	166,877
2020	6	50945	113,403	164,348
2020	7	52611	105,875	158,486
2020	8	55383	101,260	156,643
2020	9	58040	98,144	156,184
2020	10	60439	97,679	158,118
2020	11	61014	97,529	158,543
2020	12	59754	95,432	155,186
2021	1	–	94,310	–
2021	2	–	94,607	–
2021	3	–	95,032	–
2021	4	–	95,850	–
2021	5	–	97,200	–
2021	6	–	98,472	–
2021	7	–	98,945	–

Although the release actions intended to curb the spread of COVID-19 reduced the state's total in-custody population in a single year by nearly as much as the previous decade of decarceration reforms, California's state prisons still largely remain crowded beyond their design capacities. In March 2020, 32 of the state's 34 prison facilities were over 100 percent of design capacity, and as of June 2021, 21 prison facilities remain overcrowded (Harris and Hayes 2021).

Figure 15 **Population and Design Capacity for California's 34 Prison Facilities**

FIGURE SOURCE: PPIC Blog, July 2021 **DATA SOURCE:** California Department of Corrections and Rehabilitation

COVID-19 RELEASE ACTIONS: CONSEQUENCES FOR CRIME AND PUBLIC SAFETY

Between December 2009 and December 2019, the number of individuals in California correctional facilities fell by 48,588 (just under 30 percent) from 171,275 to 122,687 (Prisoners in the U.S. 2009, 2019). Although the release actions intended to mitigate COVID-19 transmission amount to a population reduction of around 40,000 (or 21 percent of the in-custody population), they occurred within a single year compared to the 2009-19 reductions resulting from a decade of decarceration reforms. Although research suggests California's reforms did not significantly increase crime rates or threaten public safety, there may be reason to suspect California's COVID-mitigation releases will, in fact, impact crime and public safety.

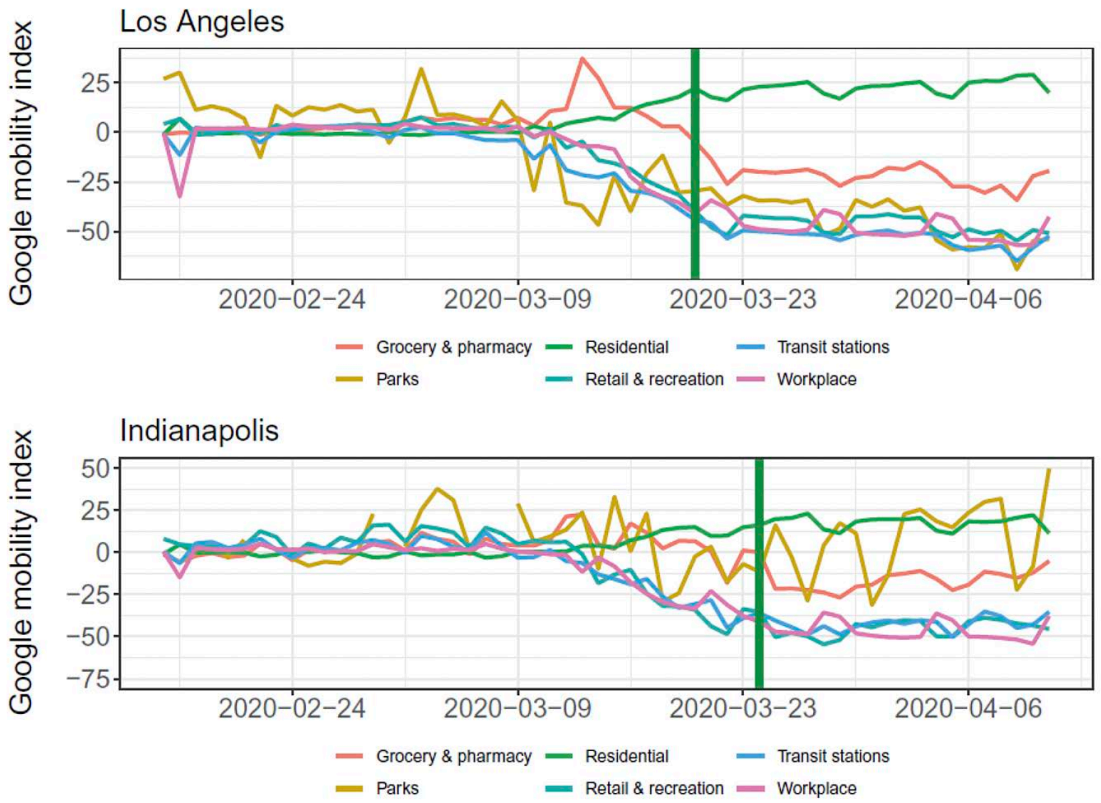
Perhaps most obviously, California's decarceration reforms were carefully constructed, fervently debated, and implemented at around a tenth of the pace of the 2020 COVID-mitigation release actions. Beyond the distinct dosages and durations, however, the reforms prior to the pandemic selectively focused on individuals convicted of the least risky, non-violent, non-serious, and non-sexual offenses. Once these individuals were removed from California's correctional population, the lowest risk inmates still remaining in-custody became higher risk. By iteratively removing individuals serving sentences for the least serious offenses from the state's in-custody correctional population, the remaining correctional population has, by default, become more serious, violent, and riskier in aggregate.

It should come as no surprise, then, that concerns regarding what impact these actions might have on crime rates were voiced immediately after the releases were announced. Research addressing these concerns began soon after, leveraging crime data from cities which report crimes known to the police through open data portals managed by police departments (Campedelli et al. 2020).

Using crime data from the Los Angeles Police Department spanning January 2017 through March 28th of 2020, Campedelli, Axiani, and Favarin (2020) estimated the impact of the pandemic on crime in Los Angeles in the first month COVID-19 emerged in the U.S. Their findings suggest reductions across most Uniform Crime Report Index offenses with homicide, burglary, motor vehicle theft, and intimate partner violence being the notable exceptions (i.e., no significant impact was found).

Mohler et al. (2020) further explored these patterns, evaluating social distancing as a mechanism by which the pandemic impacted crime rates, and determining the extent to which the impacts on crime are Los Angeles-specific by comparing mobility patterns and crime rate responses in Los Angeles and Indianapolis. The findings suggest that despite the imposition of broad social distancing regulations, the routines of daily life that provide crime opportunities remained unchanged in most ways. Google mobility data suggested the populations of both cities concentrated activity in and around their homes in anticipation of—and in response to—stay at home orders. This shift in routine activities appeared to explain why burglary and vandalism fell but vehicle theft and domestic violence rose as social distancing regulations took effect. Homes were no longer left unoccupied during business hours, cars in cities and parking garages went unobserved for longer than usual, and fewer people entered each other's homes to reveal domestic abuse. Aggravated assaults, on the other hand, moved in an opposite direction in Los Angeles (-) and Indianapolis (+), defying a straightforward Routine Activities explanation.

Figure 16 **Google Mobility Patterns for Los Angeles and Indianapolis**



DATA SOURCE: California Department of Corrections and Rehabilitation
FIGURE SOURCE: PPIC Blog, July 2021

Recent data from four major cities in California (Los Angeles, Oakland, San Diego, and San Francisco) shows that violent and property crime declined overall during the pandemic due to sizable reductions in larceny, robbery, and aggravated assault, though homicide and motor vehicle theft increased notably (Lofstrom and Martin 2021). At the same time, preliminary 1st Quarter 2021 Uniform Crime Report data published by the FBI in June 2021 reveal that the increase in homicide and motor vehicle thefts was experienced nationwide. While these similar national trends suggest that California's homicide and motor vehicle theft increases are being driven, at least in part, by shared macro-level factors rather than the state's specific COVID responses, the degree to which California outpaces or lags behind the nation in terms of increases in these crimes will help to determine the correlates and causes of these trends. It is premature to interpret recent crime changes as a causal or permanent effect of California's COVID decarceration efforts until further data become available and more systematic analysis is performed—something that awaits future investigation.

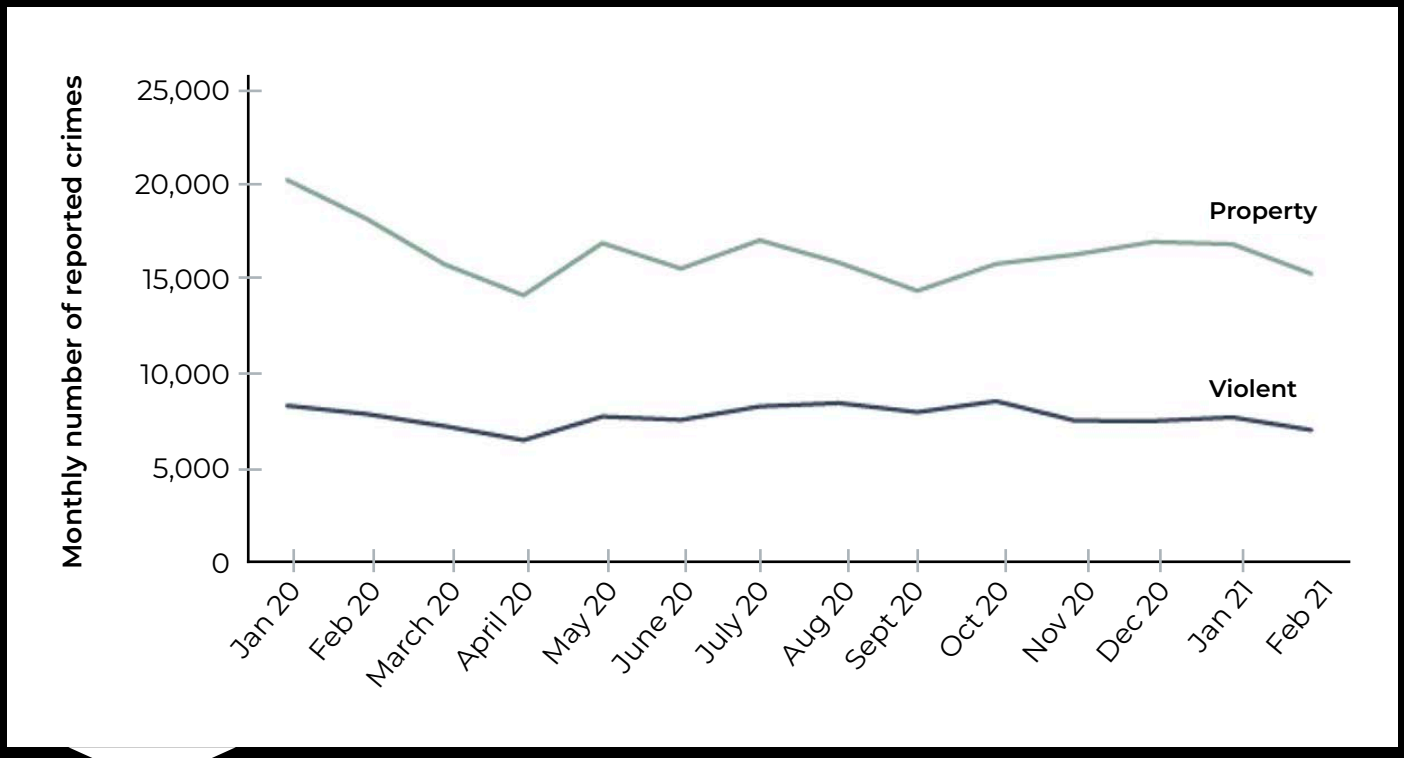
TRENDS: CALIFORNIA AT A CROSSROADS

As the previous discussion reveals, the state's pandemic release actions aligned with pre-pandemic correctional policy trends toward reducing the size and scope of California's corrections system. Taken together, the prison downsizing reforms and pandemic release actions brought California's incarcerated population down to its lowest level in over 30 years (Harris 2020). Public support for these policies (at least among the majority of voters) was evident through Prop 47 and 57's ballot initiative successes. As a result of these trends, California has reversed course when it comes to incarceration. In 2009, just two years prior to the *Brown v. Plata* ruling, California held the dubious title of having the largest prison population of any U.S. state while ranking 18th in terms of per capita imprisonment rate (Prisoners in the United States 2009, 2019). In 2019, the year for which the most recent national data are available, California ranks 32nd in per capita imprisonment and no longer boasts the nation's largest in-custody population. Importantly, these reforms and decarceration have not harmed public safety. Overall, crime rates across the state remain low despite an increase in some types of crime during the pandemic. Yet, there remain many unknowns and there is much room for improvement.

CRIME AND RECIDIVISM

It is critical to determine how decarceration during the pandemic impacted (and will continue to impact) violent and property crime rates in California. At first glance, it appears it hasn't. According to researchers who examined reported crimes in four major California cities—Los Angeles, Oakland, San Diego, and San Francisco—through March 2021, overall levels of violent and property crimes in these cities remain below pre-pandemic levels (Lofstrom and Martin 2021). According to their analysis, violent crime in these cities dropped notably in March 2020, at the beginning of the pandemic, and then rose, reaching pre-pandemic levels in the fall of 2020. Since then, violent crime overall has declined: in January and February 2021, violent crime was about 12 percent lower compared to the same time period in 2020. This decrease was driven by

Figure 17 **Monthly Violent and Property Crime Rates during the Pandemic**



SOURCE: Monthly number of reported crimes calculated from data downloaded from the crime data websites for cities of Los Angeles, Oakland, San Dego, and San Francisco. PPIC Blog

NOTE: While we attempted to include the same type of crimes for each city (burglary, larceny, and motor vehicle theft), there may be some variation due to reporting differences across cities.

a reduction in robberies and aggravated assaults, which declined by 13 percent and 11 percent, respectively (Lofstrom and Martin 2021). Concerning levels of property crime, they found levels in these four cities fell by 17 percent, when comparing the first two months in 2020 to the same time period in 2021. They note these reductions were driven by a sizable (34 percent) drop in larcenies, which includes car break-ins, shoplifting, and pickpocketing. Residential burglaries, they also found, declined by roughly 6 percent.

Yet, disaggregating the crime data reveals some troubling trends, foremost among them a significant rise in homicide, among the most serious crimes. Los Angeles reported a 40 percent increase in homicides, from 237 in 2019 to 332 in 2020, while Oakland experienced a 36 percent jump from 75 to 102. San Francisco and San Diego also saw increases, from 41 to 48 (17 percent) and 50 to 55 (10 percent), respectively (Lofstrom and Martin 2021). At the same time, car thefts are up by 24 percent and commercial burglaries have risen by about 26 percent (Lofstrom and Martin 2021). These increases raise concerns about whether California will be able to sustain its overall low crime rates moving forward. And, California's recidivism rate remains stubbornly high (Bird, Gross and Nguyen 2019), suggesting that current rehabilitative and re-entry efforts are insufficient, and will require attention and investment moving forward.

How to make sense of these recent trends in crime and recidivism? And what do they mean for California moving forward? It's still too early to tell but as Lofstrom and Martin (2021) point out, there are likely several forces at play, many of which continue to be salient:

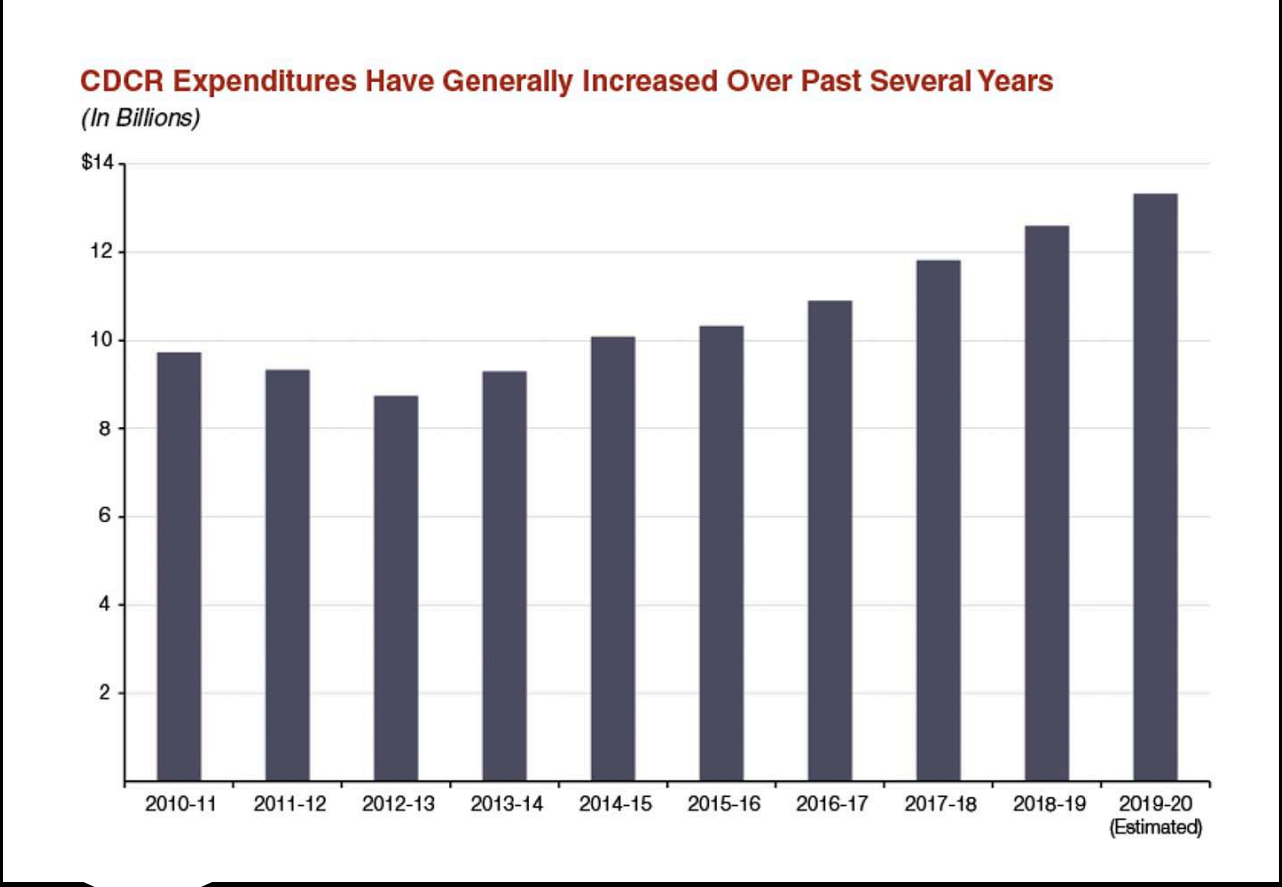
> **"Crime numbers fluctuate under normal circumstances, and the pandemic has been a highly unusual and challenging time. Restrictions to prevent the spread of COVID-19 have profoundly limited in-person interactions. Declines in travel, tourism, and eating out, as well as a sharp increase in remote work, have plausibly reduced some crimes. Meanwhile, the severe economic impact of the pandemic may have led to a rise in other types of crimes. Efforts to limit the spread of the virus have also presented significant challenges to policing and correctional systems, and increased tensions between communities of color and law enforcement in the wake of the murder of George Floyd may have had an impact as well."**

Official statewide crime statistics, available soon, will shed more light on the magnitude and prevalence of these trends, the causes of which await formal evaluation.

CORRECTIONAL SPENDING

California's decarceration efforts have brought the state's correctional population to a 30-year low, but the future of decarceration locally—as well as nationwide—may depend upon California's ability to reduce correctional spending proportionate to its population reductions. Yet, as this Figure conveys, and as we discussed prior, corrections spending has not tracked with population levels over the past decade.

Figure 18 **State Correctional Spending Increased Despite Significant Population Reductions**



SOURCE: CDCR – California Department of Corrections and Rehabilitation. Legislative Analyst's Office.

As of the start of FY 2021-22, corrections costs remain high relative to the number of individuals incarcerated in California's prisons. Analyzing the most recent prior years: in 2019-20, the year just prior to the pandemic, California's correctional budget was $13.2 billion. As the Figure shows, the budget the subsequent year, 2019-2020, was expected to be over $13 billion once again but COVID mitigation resulted in only $12.4 billion. CDCR has been allocated $13.6 billion for FY 2021-22, consistent with pre-pandemic growth trends. CDCR's $1.3 billion increase in FY 2021-22 may assume some degree of population rebound as the COVID-19 pandemic abates, however, the prison population would need to increase by over 25,000 individuals to return to FY 2019-2020 population levels. If a population reduction of this size does not yield meaningful reductions in correctional expenditure, then public support for decarceration may evaporate as soon as any crime rate increases are felt (real or perceived).

CRIMINAL JUSTICE REFORM AND RACIAL DISPARITIES

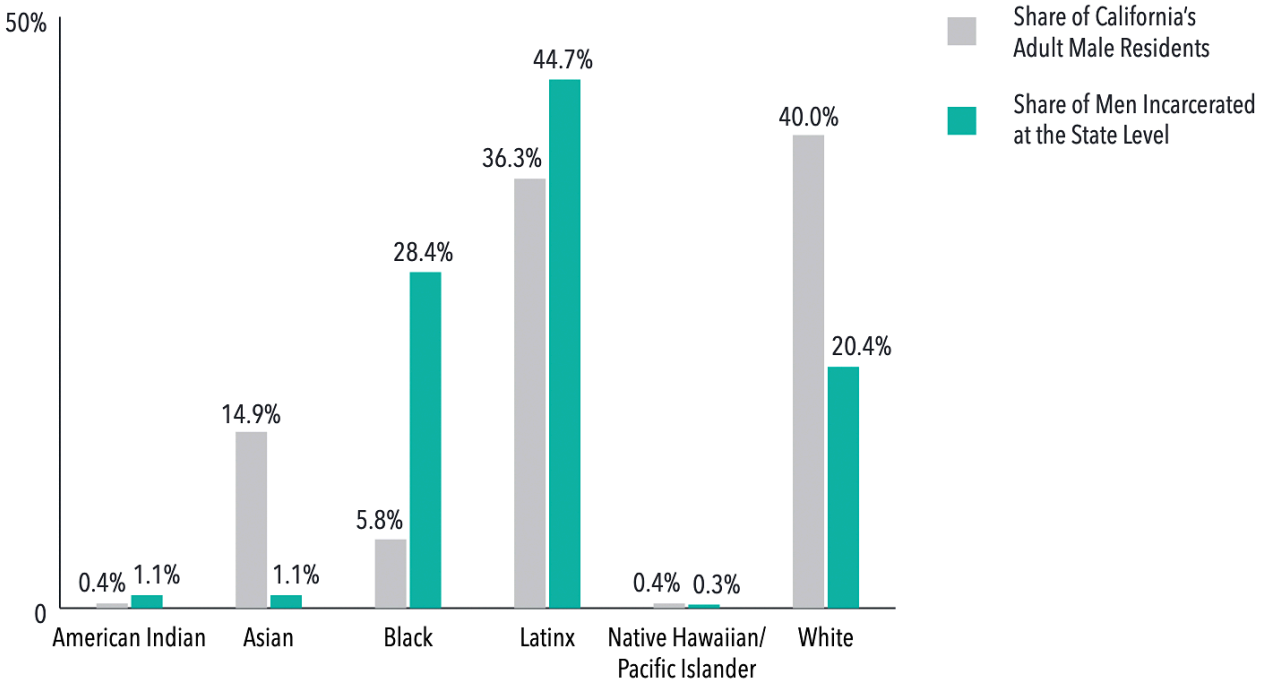
Racial inequalities in California's criminal justice system remain, including racial disparities in arrest and incarceration rates (Lofstrom and Martin 2021). Racial disparities are exclusionary, inequitable, and limit the state's resilience to collective threats. Most of California's recent criminal justice reforms were not designed with reducing racial disparities, promoting equity in the justice system, or engaging historically excluded communities in mind. Rather, they were motivated by crises such as adhering to the prison population reduction mandated in the Brown v. Plata ruling and minimizing the spread of COVID-19 within the state's correctional population. While these downsizing efforts successfully reduced California's incarceration rate from a national leader to below the national average and complied with the court's mandated population reductions, California still ranks 8th highest in the U.S. in terms of black/white disparity in incarceration rates. And, according to a 2019 report, African Americans have higher arrest rates than whites in nearly all of California's 58 counties (Lofstrom et al. 2019). Latinos are also over-represented in California's correctional population, although to a lesser degree than African Americans.

In sum, as a result of the post-2011 prison population reductions, California took a major step toward curbing the economically and socially unsustainable growth of its prison system, but appears to have achieved little in terms of equity or inclusion. Consistent with this, COVID-19 reductions in correctional populations further bolstered the sustainability of California's system by reducing costs but it, too, did little to reduce racial disparities.

Figure 19 **Racial Disparities in California's Prisons Remain Large**

American Indian, Black, and Latinx Men Are Overrepresented Among Men Incarcerated at the State Level in California

Reflects California Population as of July 1, 2019; State-Level Incarceration as of June 30, 2019



SOURCE: Budget Center Analysis of California Department of Corrections and Rehabilitation and U.S. Census Bureau Data

MOVING FORWARD

For the reasons just discussed, when it comes to criminal justice reform, and prison downsizing in particular, California is at a crossroads. Following reforms that resulted in significant decreases in the state's incarcerated population, the big question is now: what's next? Reformers continue to push for changes that will, in one way or another, keep California's incarceration rates relatively low. Yet, future decarceration efforts will likely need to shift focus, even as a more definitive picture of the impact of California's coronavirus-motivated decarceration efforts remains unknown until social distancing efforts and pandemic adaptations subside. Both of California's decarceration efforts—from criminal justice reforms and from the pandemic—have narrowed in on those incarcerated for non-violent and non-sex offenses. Decarceration efforts are lowest risk when they focus on the people with the lowest risk of re-offending. With 40,000 of the lowest risk individuals already released, new decarceration reforms will likely need to refocus on higher-risk individuals incarcerated for the least serious violent crimes. Beyond this, reformers are pushing to end excessive punishment for violent crimes, to overturn extreme sentencing laws such as sentence enhancements and mandatory minimums, and to reduce California's corrections budgets. This scenario envisions yet steeper declines in California's incarcerated population, building on earlier trends.

But at what cost to crime? A critical element of this scenario involves closely monitoring crime rates. As a recent report concludes, "The unprecedented drop in the incarcerated population, high unemployment rates, and increased gun ownership during the pandemic, as well as tension between law enforcement and communities of color, may put upward pressure on California's relatively low crime rates. It is essential to watch these rates across regions and crime categories'' (Lofstrom and Martin 2021:4). Relevant here is the reform of state laws which prevent individuals from moving forward constructively with their lives after completing their sentences and the need for resources to support reentry efforts. Although decarceration may have reduced the scope of California's corrections system, the need for community-based services for released individuals returning to their communities no doubt has increased. Tight local and state budgets, housing shortages, and poor labor market conditions heighten the importance of cost-effective, evidence-based programming and services that reduce recidivism (Lofstrom and Martin 2021). To identify effective interventions, the state will need to support programming evaluation and the collection of high-quality, integrated data from both state and county correctional systems.

An alternative scenario involves returning to business as usual, where incarceration rates slowly return to pre-criminal justice reform, pre-pandemic levels. This is the aim of some critics of

California's decarceration efforts who seek to reverse course, claiming that decarceration and crime go hand-in-hand. Most recently, Proposition 20 attempted to roll back various criminal justice reforms by amending criminal sentencing and supervision laws that were passed between 2011 and 2016. In particular, Proposition 20 sought to add crimes to the list of violent felonies for which early parole is restricted, recategorize certain types of theft and fraud crimes as wobblers (i.e., chargeable as misdemeanors or felonies), and require DNA collection for certain misdemeanors. Although Proposition 20 was ultimately rejected by voters in the November 2020 election, with nearly 62 percent voting against, critics continue to push back against further decarceration efforts. Even without Proposition 20, however, the most recent estimates reveal California's prison population has been slowly increasing since early February 2021, reaching 97,364 by June. And by December 2020, the latest Jail Population Survey data available, the jail population had risen to 59,754 (even as this population remains lower than any pre-pandemic month in the past 15 years).

Another critical policy path involves efforts aimed at addressing ongoing racial disparities in California's criminal justice system, especially in arrest and incarceration. As noted earlier, African Americans have higher arrest rates than whites in nearly all of California's 58 counties. In counties with the largest racial disparities, the African American arrest rate is, on average, about six times higher than the white arrest rate, compared to almost double among counties with the lowest racial disparities (Lofstrom et al. 2019). One scenario involves business as usual where new reforms introduced do little to ameliorate racial disparities, as was the case with previous decarceration efforts. Most of the earlier prison downsizing reforms were not enacted with racial disparities in mind, although they did have some impact. Proposition 47, in particular, led to decreases in racial disparities in arrests and bookings. The African American–white arrest rate gap narrowed by 5.9 percent, while the African American–white booking rate gap shrank by 8.2 percent (Lofstrom, Martin and Raphael 2020). Yet, these changes do not rise to the level of current national calls for reform, which explicitly seek to combat anti-Black racism in the criminal justice system, and especially in policing. Should California go the way of continued decarceration efforts that fail to explicitly address racial disparities, opportunities to build on previous successes will be lost.

Where might California start? A recent report identifies two important paths: 1) "Analyze new data to address disparities and improve outcomes. A starting point for discussions and eventual identification of reforms that effectively and safely address the stark racial disparities in the criminal justice system requires research and information around the extent to which law enforcement interactions with community members differ across race and ethnicity. Available data on police stops and use of force should be used to understand the factors that contribute

to disparities and outcomes, as it is essential for productive discussions and effective responses," and 2) "Assess local efforts to improve community-police relations. Cities around the state are considering and enacting new law enforcement response policies. Cities such as Berkeley and Oakland are considering the transfer of parking and traffic enforcement and/or responses to calls about people experiencing homelessness or mental illness to civilians. In November 2020, voters in Los Angeles passed a measure requiring county officials to spend more on jail diversion programs, mental health, and housing. In San Francisco, voters approved measures that increase oversight of the sheriff and undo a minimum size requirement for the police department—a rule that some had seen as a barrier to broader changes" (Lofstrom and Martin 2021).

Indeed, this seems to be where the state is headed. In the wake of the nation's outcry against police brutality, earlier this year California passed a series of new criminal justice reforms. Major reforms recently enacted include several that directly target racial and ethnic disparities in outcomes, including many aimed at law enforcement. These include banning chokeholds (Assembly Bill 1196 bans chokeholds and carotid holds by law enforcement); restoring felon voting rights (Proposition 17 gives approximately 50,000 felons on probation the right to vote); criminalizing false reports and harassment (AB 1775 makes false 911 calls based on someone's race, gender, religion or other type of discrimination a hate crime); establishing a sheriff oversight board (AB 1185 empowers the establishment of a sheriff oversight board and inspector general in each county with subpoena power to help oversee the sheriff); and, perhaps most centrally, establishing the California Racial Justice Act (AB 2524 allows persons charged or convicted of a crime to challenge racial bias that may have occurred in their case in order to pursue a new trial or re-sentencing). These reforms became effective January 1st, 2021. It remains to be seen, however, what impact they will have, and to what degree they will ameliorate existing racial disparities in California's criminal justice system.

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