

Research Brief

**One Year into Realignment:
Progress Stalls, Stronger Incentives Needed**

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Introduction

This publication analyzes the latest data from the California Department of Corrections and Rehabilitation (CDCR) to directly compare prison admissions and populations in the first full year after the implementation of Assembly Bill (AB) 109, commonly referred to as “Realignment.” Realignment was designed to redirect non-serious, non-violent, non-sex offenders from incarceration in state prison to the supervision of local jurisdictions in order to reduce prison overcrowding, comply with court directives, meet budgetary constraints, and explore better community-based offender management. Quarterly figures released by CDCR during the first year of realignment are compared to figures from the 3rd quarter of 2011 (July-September), which serves as a pre-realignment baseline.

New quarterly figures from the 3rd quarter of 2012 show that during the first 12 months of realignment, ending September 30, 2012, new prison admissions fell by 37%. Additionally, prison populations declined 17%, from 160,295 inmates on September 30, 2011, to 133,217 inmates as of November 21, 2012, the latest report at this writing (CDCR, 2012c). This decline of 27,078 in prison inmates means that in one year, realignment has achieved two-thirds of its five-year goal of reducing the state prison population by 40,000 by 2017 (LAO, 2012).

While some law enforcement and prison interests have cited anecdotes and selective local offenses to charge that managing tens of thousands of formerly imprisoned criminals at the local level has brought a new wave of violent crime (CJLF, 2012), the latest statistics reveal no evidence of such a trend. New prison admissions for violent and other sex and serious offenses—which are still allowed under realignment’s guidelines as in the past—were actually slightly lower in the 3rd quarter of 2012 compared to the same period in 2011. In particular, new imprisonments for murder, robbery, rape, and most sex offenses showed modest declines from the 1st to the 3rd quarters of 2012, while assaults showed slight increases (CDCR, 2012, 2012a, 2012b).

However, for the property, drug, and other lower-level offenders targeted for local management, the pace of realignment has slowed and even reversed slightly in recent months. Some of this deceleration is to be expected. CDCR’s approach to reducing excessive imprisonment has been to target the least dangerous offenders first. However, there is still broad judicial and prosecutorial discretion during the court process that may affect the number of offenders sentenced to state prison. While most of the easily identified low-level offenders are now being handled locally, counties are showing uneven progress:

- 20 counties, led by San Francisco, San Mateo, Santa Clara, Orange, and Ventura, are continuing to realign greater proportions of their AB 109 offenders and are achieving low imprisonment levels.
- 26 counties have either decreased formerly high imprisonment rates substantially (such as Kern, Tulare, and Los Angeles), or have continued to reduce formerly low imprisonment rates at a slower than average pace (such as Alameda, Contra Costa, and San Diego). Some of these counties experienced increases in new prison admissions in the 3rd quarter of 2012. These may reflect temporary adjustments rather than long-term trends.
- 12 counties led by San Joaquin, Stanislaus, Sacramento, and Kings are continuing to maintain high rates of imprisonment despite realignment mandates. Many of these counties continue to commit large numbers of lower-level drug and property offenders to state prison.

The county-by-county divergence in prison admissions, prison populations, and realignment progress is widening. For example, before realignment, San Joaquin County’s new admissions rate per county resident was double that of San Francisco; after a year of realignment, that gap has risen to over 5-fold. Even as 50 of the state’s 58 counties show reductions in imprisonments under realignment, addressing the growing disparity in imprisonment rates among counties is likely to require legislative and administrative tightening of prison admission eligibility standards.

The slowing pace of Realignment

Table 1 shows the pace of reductions in prison populations, which were falling by an average of more than 100 inmates every day during the first 6 months of realignment (through March 31, 2012), then slowed to 44 per day in the 2nd quarter and 19 per day in the 3rd quarter of 2012. In the most recent partial-quarter as of this writing (through November 21, 2012), the prison population actually increased slightly (CDCR, 2012, 2012a, 2012b, 2012c).

A similar trend is evident for new admissions to prison. After large declines in the first 6 months of realignment, new admissions rose slightly in the following 6 months.

Table 1. Changes in new prison admissions and total prison populations in the post-realignment period

Quarter:	Prison population	New felon admissions	Average daily change	
			Prison population	New admissions
Pre-realignment baseline	160,295	13,614	baseline	baseline
2011 Q4	148,807	8,855	-124.9	-51.7
2012 Q1	138,903	8,046	-108.8	- 8.9
2012 Q2	134,901	8,352	-44.0	+ 3.4
2012 Q3	133,147	8,649	-19.1	+ 3.2
2012 Q4 - November 21	133,217	n/a	+ 1.6	n/a

Sources: CDCR , 2012b, 2012c.

The greatest reductions in new prison admissions and prison populations occurred in the 1st quarter of 2012. During that quarter, local jurisdictions sent 8,046 felons to state prison, down sharply from the 13,614 newly imprisoned felons in the pre-realignment baseline (Table 1). However, from early 2012, new prison admissions rose to 8,649 in the third quarter. Why did admissions reverse and begin to rise again?

A slowing in the pace of realignment was predictable. Within the first 6 months, most counties had identified the most obvious lowest-level offenders to realign and were managing them locally instead of sending them to state prison (see also LAO, 2012). The proportion of new prison admissions sentenced for a non-violent offense decreased from 70% in the baseline quarter to 50% by mid-2012, and the proportion of non-violent inmates in prison fell from 42% in June 2011 to 32% in June 2012 (CDCR, 2012, 2012a).

Given the fiscal and other incentives for local jurisdictions to send offenders to prison where state taxpayers are responsible for the cost, there is evidence that legislative and regulatory tightening of standards may be necessary to counter renewed efforts by some counties to continue sending low-level, non-violent offenders to prison. An offense and county-by-county analysis pinpoints some of the issues stalling realignment.

Changes in new admissions by offense

One key analysis concerns imprisonments by offense. Table 2 compares new admissions by offense category, detailed by offense group.

Table 2. Change in new prison admissions by offense, before and after realignment

Offense category and group	Change:			New admissions	
	2012 Q3 vs. baseline	2012 Q3 vs. 2012 Q1	2012 Q1 vs. baseline	2012 Q3	baseline
Violent offenses	+0%	+2%	-1%	4,054	4,039
Murder/non-negligent manslaughter	+ 0%	- 1%	+ 1%	284	283
Robbery	+ 7%	- 1%	+ 8%	928	867
Assault with a deadly weapon	- 5%	+ 7%	-11%	859	901
Assault, other	- 5%	+ 1%	+ 4%	1,197	1,144
Rape	+ 2%	-32%	+50%	47	46
Lewd act with a child	-10%	- 2%	- 8%	332	367
All other sex offenses	- 4%	12%	-15%	317	330
Other violent offenses	-11%	- 1%	-10%	90	101
Property offenses	-56%	+11%	-60%	1,921	4,331
Burglary (felony)	+11%	+11%	+ 0%	656	589
Motor vehicle theft	-64%	+18%	-70%	230	640
All other property offenses	-67%	+ 6%	-69%	1,076	3,142
Drug offenses	-65%	+17%	-70%	1,190	3,358
Drug sale/felony (non-marijuana)	-73%	+ 9%	-75%	424	1,565
Possession drugs (non marijuana)	-56%	+23%	-65%	695	1,590
Marijuana (felony)	-63%	+13%	-67%	63	171
Marijuana/hashish (possession)	-75%	+14%	-78%	8	32
Other offenses	-20%	+13%	-31%	1,484	1,866
Weapons	-17%	+14%	-27%	758	913
DWI	-44%	+ 4%	-46%	222	393
All other offenses	-13%	+17%	-26%	504	580
All offenses	-36%	+ 7%	-41%	8,649	13,614

Sources: CDCR, 2012, 2012a.

There is no evidence that realignment is fostering an elevation in violent crime. Local jurisdictions maintain the ability to commit violent and serious felons to state prison. Yet, in an era of realignment the number of new admissions for violent offenses was virtually the same in the 3rd quarter of 2012 as in the pre-realignment baseline period. Assault with a deadly weapon showed increased admissions by

7% from the 1st to the 3rd quarter of 2012 but remained 5% below its baseline level (Table 3). Other assault numbers remained stable. New admissions for homicide, manslaughter, robbery, and rape declined throughout the period.

Rather, the biggest contributors to increased new admissions from the 1st to the 3rd quarter of 2012 were drug offenses, followed by “other” and property offenses. Specifically, the most common offenses to show increases were led by simple possession of drugs other than marijuana (up 23%), motor vehicle theft (up 18%), burglary (up 11%), and sales/manufacture of drugs other than marijuana (up 9%).

Changes in new admissions by county

In raw numbers, just one county, San Bernardino, accounted for 30% of the entire increase in new admissions from the 1st to the 3rd quarter of 2012 (CDCR 2012, 2012a, 2012b). Three counties—Sacramento, San Bernardino, and Kings, with increases of 25% or more—accounted for more than half of the total increase in new prison admissions during that period.

However, when the pre-realignment baseline admissions and levels of imprisonment are compared for the entire year, San Bernardino actually shows a decline in new admissions equal to the state average. In contrast, Sacramento and Kings are among the 12 counties that previously had high imprisonment rates and are displaying less progress in achieving realignment goals.

California’s counties varied nearly 10-fold in their rates of imprisonment prior to realignment. According to the mid-2011 prison census, more than 1% of Kings County’s residents were in state prison, as were nearly 0.9% of residents of Shasta County. At the other end, fewer than 0.2% of the residents of Nevada, Marin, Contra Costa, and San Francisco counties were in state prison. Counties with low imprisonment rates represent a mix of those with low felony rates (such as Nevada) and those that have developed a high level of self-reliance in managing felon populations locally without imprisonment (such as San Francisco), or both.

One would expect that counties with higher rates of imprisonment prior to realignment would display greater reductions in imprisonments during realignment because they previously had been sending more lower-level property and drug offenders to prison, which are the types of offenders most easily managed at the local level. However, although 50 of the state’s 58 counties reduced their new prison admissions during the first year of realignment, their achievements in realigning offenders varied widely. Table 4 divides the counties into higher versus lower than average rates of imprisonment pre-realignment, then by lower versus higher than average reductions in prison populations during realignment.

Table 4. New prison admission rates by county, imprisonment rate prior to realignment, and success in reducing prison populations during realignment

Ranked by change in realignment rate County	New prison admission rate			New prison admissions	
	Change	2012 Q3	baseline	2012 Q3	baseline
High imprisonment rate, slower reduction under realignment	-24.6%	123.4	163.8	1,966	2,609
Del Norte	67.3%	140.8	84.2	10	6
San Joaquin	21.9%	127.9	105.0	224	182
Amador	9.6%	140.9	128.5	13	12
Kings	0.1%	296.2	295.9	113	113
Lake	-2.5%	146.9	150.7	23	24
Stanislaus	-12.1%	106.5	121.1	139	157
Yuba	-16.2%	203.2	242.6	37	44
Sacramento	-24.0%	111.3	146.5	400	524
Glenn	-27.3%	113.4	156.0	8	11
Shasta	-32.0%	139.3	204.9	62	91
Fresno	-35.0%	131.6	202.6	313	477
Riverside	-36.2%	111.0	173.9	624	968
High imprisonment rate, rapid reduction under realignment	-39.0%	118.9	194.9	4,131	6,773
San Bernardino	-37.0%	159.0	252.5	825	1,300
Tulare	-38.2%	98.5	159.5	112	179
Los Angeles	-39.7%	108.0	179.0	2,672	4,412
Kern	-39.7%	151.2	250.8	323	532
Yolo	-40.1%	110.5	184.5	56	93
Sutter	-40.7%	116.9	197.2	28	47
Butte	-41.9%	126.4	217.6	70	120
Tuolumne	-44.2%	90.2	161.8	12	22
Tehama	-44.8%	162.5	294.7	26	47
Siskiyou	-64.9%	62.8	178.8	7	20
Sierra	-100.0%	0.0	125.8	0	1
Low imprisonment rate, slower reduction under realignment	-26.5%	65.7	89.3	1,315	1,789
Calaveras	34.1%	107.3	80.0	12	9
Santa Cruz	30.8%	43.5	33.2	29	22
Colusa	24.3%	92.2	74.2	5	4
Mendocino	0.2%	160.0	159.7	35	35
Merced	-7.5%	103.0	111.3	67	72
San Benito	-8.9%	78.5	86.2	11	12
Madera	-9.8%	99.5	110.3	38	42
Placer	-13.0%	56.7	65.2	51	58
El Dorado	-22.6%	68.2	88.1	31	40
Alameda	-24.3%	49.6	65.5	191	250
Contra Costa	-26.5%	37.4	50.9	100	135
San Luis Obispo	-27.3%	67.7	93.1	46	63
Monterey	-29.3%	115.2	163.0	122	171
Imperial	-31.1%	71.1	103.3	32	46
San Diego	-34.9%	69.0	106.0	545	830
Low imprisonment rate, rapid reduction under realignment	-50.0%	52.4	104.9	1,219	2,439
Solano	-36.9%	58.0	91.9	60	95
Santa Barbara	-37.7%	83.1	133.4	89	142
Sonoma	-38.0%	45.9	74.0	56	90
Ventura	-38.4%	52.2	84.8	109	176
Marin	-39.6%	21.9	36.2	14	23
Napa	-42.7%	43.3	75.5	15	26
Humboldt	-44.1%	98.2	175.5	33	59
Plumas	-49.5%	61.2	121.4	3	6
Orange	-49.9%	61.6	123.0	473	936
Trinity	-49.9%	29.5	59.0	1	2
San Francisco	-54.0%	24.0	52.1	49	106
Santa Clara	-57.9%	51.7	122.7	236	554
San Mateo	-62.0%	38.8	102.0	71	185
Nevada	-66.4%	16.4	48.9	4	12
Mariposa	-74.7%	22.6	89.1	1	4
Inyo	-74.9%	21.7	86.6	1	4
Lassen	-77.3%	47.7	210.0	4	18
Mono	-100.0%	0.0	28.2	0	1
Alpine	n/a	0.0	0.0	0	0
Modoc	n/a	0.0	0.0	0	0
Statewide	-36.9%	91.4	144.9	8,649	13,614

Note: Rate is per 100,000 population for 2011 and 2012, annualized. High/low imprisonment and slow/rapid reductions under realignment are relative to state averages. Sources: CDCR, 2012, 2012a, 2012b, 2012c.

Table 4 shows that disparities in the application of justice by geography are widening. During the pre-realignment baseline quarter, the 12 highest-imprisoning counties had imprisonment rates 85% higher and committed 56% more felons to state prison (163.8 per 100,000 population) than did the 20 lowest-imprisoning counties (104.9). After a year of realignment, the gap in new prison admission rates between the highest-imprisoning (123.4) and lowest-imprisoning (52.4) counties had widened to 135%.

On a county-by-county basis, there is a general but not a perfect correlation between high rates of imprisonment and imprisoning more nonviolent offenders. Sending fewer nonviolent felons to state prison could achieve realignment goals without further reform. Nearly 6 in 10 prisoners from San Joaquin and Los Angeles counties were nonviolent, compared to one-third from Alameda and San Francisco. These county-by-county disparities in the application of AB 109 stem from the significant latitude in local authority regarding criminal justice practices and a lack of statewide accountability measures to ensure the uniform application of criminal justice standards.

Under AB 109, counties were given broad discretion in the implementation of its mandates within their responsibility to uphold its purpose of reducing the state prison population. For example, if Los Angeles alone sent nonviolent offenders to prison at the state average, prison populations would fall by 2,000. Reducing the proportion of nonviolent offenders admitted to prison from the current 53.1% to 40% (as counties as diverse as Madera, Contra Costa, and Santa Barbara already have done) would cut prison populations by another 18,000, easily meeting 2017 prisoner reduction goals.

Conclusion

The pace of realignment was expected to slow after initial policies realigned the lowest-level offenders from state prison to local management. However, realignment has stalled and even reversed slightly as the number of new admissions to state prisons rose in the 2nd and 3rd quarters of 2012, and total prison populations halted their previous decline and remained steady into the fall months of 2012. Part of this increase is due to a recent rise in new admissions by counties such as San Bernardino and Los Angeles that previously had larger than average reductions. It remains to be seen whether there have been any significant changes in judicial and prosecutorial practices regarding the AB 109 population.

The evidence indicates that reductions in prison admissions and populations will soon resume, though at a much slower pace than in realignment's first 6 months. There are modest reforms that could assure that realignment meets or exceeds its goal of reducing prison population by 40,000 by 2017, including expanding the use of fire camps and alternative custody programs, increasing the amount of credits inmates earn, and sentencing reform (LAO, 2012, p.10).

The most easily addressed problem is that many counties, led by Stanislaus, San Joaquin, Orange, and Los Angeles, continue to send large numbers of nonviolent offenders to state prison. For example, 60% of the new admissions to state prison in the 3rd quarter of 2012 from Stanislaus and San Joaquin counties were for nonviolent offenses, nearly double the proportion from Alameda and San Francisco counties. That the latter counties can manage nonviolent offenders locally suggests that many of the 4,600 nonviolent offenders sentenced to prison in the 3rd quarter of 2012 could have been retained at the local level. Deeper analyses of local judicial and prosecutorial practices, including an examination of the offenders' criminal histories, are necessary to explore the causes for these trends further.

The second, overlapping problem lies primarily in a dozen counties, led by San Joaquin, Kings, Stanislaus, Yuba, and Sacramento, which have continued high rates of imprisonment and displayed

lower than average reductions during realignment. By the 3rd quarter of 2012, these counties were committing 4 to 8 times more state prisoners per capita than were low committing counties such as San Francisco, San Mateo, and Santa Clara.

One solution, similar to that applied to state juvenile correctional facilities, is for the state to charge each county a substantial fee based on the number of their lower-level offenders, defined by law, who are housed in prison and the seriousness of their offense. In particular, strong fiscal disincentives could discourage counties from using state prison for the 2,000 offenders imprisoned in the 3rd quarter of 2012 for such offenses as simple possession of drugs, petty theft with a prior offense, second-degree burglary, motor vehicle theft, drunken driving, and other locally manageable crimes.

Nevertheless, large reductions in prison numbers were achieved during realignment's first year with no indications of increased violent crime. Along with tightening prison eligibility criteria, local exploration of strategies to reduce the high recidivism rates that have especially plagued property and drug offenders released from state prison are paramount. Realignment's first year was successful beyond initial expectations, but increases in new admissions have recently emerged, and policies must evolve to address them.

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