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Legislative Policy Study

Can California County Jails Absorb Low-Level State Prisoners?

by

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Introduction

California spends nearly \$1.3 billion per year to imprison 26,300 offenders whose primary sentencing offense was a low-level property or drug crime.¹ For nearly 11,000 of these, the low-level sentencing offenses were classed as second or third strikes. The advisability of imposing long, strike-enhanced sentences for low-level second or third offenses is the subject of other publications. This publication focuses on the remaining 15,400 low-level, non-strike prisoners who constituted 9% of the state prison population as of December 31, 2009, and cost taxpayers nearly \$750 million annually to lock up (CDCR, 2011).

California counties vary 13-fold in their rates of sentencing such low-level offenders to California state prison, from 227 per 100,000 population in Kings County to 17 per 100,000 in Contra Costa (see Appendix). More than one-fourth of the total prisoners from Calaveras county were sentenced for low-level, non-strike offenses, five times the percentage in Los Angeles. Counties are imposing radically varying burdens on state taxpayers to incarcerate their low-priority offenders at \$50,000 each per year.

This publication addresses the question of whether sufficient jail capacity is available at the county level to which state prisoners can be transferred in order to help achieve Governor Jerry Brown's goal of reducing state prison populations by moving low-level offenders to local jails (CCPOA, 2011). Under Governor Jerry Brown's realignment policies, counties will no longer be allowed to commit certain categories of offenders to state prison, but instead will be required to develop county-based alternatives. A second question involves how low-level offenders should be handled in terms of incarceration versus alternative sentencing.

Method

The California Department of Corrections and Rehabilitation (CDCR) provided the Center on Juvenile and Criminal Justice (CJCJ) with a special data run showing the number of prisoners by county and offense as of December 31, 2009 (CDCR, 2011). The Corrections Standards Authority's (CSA) Jail Profile Survey Online Query site provides the highest daily jail populations by county, a much more conservative measure of local jail stresses than average daily population (CSA, 2011). CSA (2011) also provided CJCJ with its latest rated capacities for jails as modified by court orders. The California Department of Finance (2010) provides population estimates by county as of January 1, 2010, which are used to calculate rates per 100,000 population.

¹ In this report, low-level offenses include six property crimes (2nd degree burglary, grand theft, petty theft with prior, receiving stolen property, forgery/fraud, other property) and five drug offenses (controlled substance possession/other, marijuana possession for sale, marijuana sales, hashish possession, marijuana possession/other). These are offenses that, by themselves, pose no danger of public violence. While the numbers of prisoners imprisoned for low-level, non-strike offenses constitutes a basis for estimating how many prisoners can be returned to county custody, such determinations depend more on individual prisoner and offense characteristics rather than general offense categories.

Results

Table 1 demonstrates that 24 counties, including Alameda, Contra Costa, Fresno, San Francisco, Ventura, Sonoma, and Tulare, have more than sufficient rated bed capacity in local jails, after allowing for the maximum daily populations generated locally, to house all of their 2,405 low-level, non-strike state prisoners. Contra Costa has 5 times, San Francisco nearly 3 times, and Alameda 1.5 times more jail capacity than is required to house all of their low-level prisoners that are currently incarcerated within California’s adult prison system. In fact, these counties would have an additional 2,000 bed spaces to contract to accept state prisoners from other counties. The reasons are that on average, these counties (a) have approximately 30% more jail capacity available per capita, and (b) send low-level offenders to state prison at a rate 30% lower than the 33 other counties shown at the top of Table 2. These counties could create additional jail bed space by reducing the number of non-sentenced inmates; unfortunately, releasing inmates whose status has not been formally adjudicated by a court often is more complicated than releasing sentenced inmates (CSA, 2007). Approximately 11,600 non-sentenced inmates were incarcerated in local jails on any given day as of January 2010—a number that has skyrocketed over the last decade.

Table 1. Counties with sufficient unused jail capacity to absorb low-level state prisoners

County	Rated capacity local jails	Highest daily jail population	Unused jail capacity	Low level prisoners	Ratio, unused jail capacity vs. low-level prisoners
Sierra	14	8	6	1	6.00
Nevada	285	200	85	16	5.31
Contra Costa	1,987	1,375	612	117	5.23
Lassen	149	55	94	19	4.95
Modoc	43	21	22	5	4.40
Colusa	92	55	37	12	3.08
Sonoma	1,398	1,024	374	127	2.94
San Francisco	2,360	2,063	297	101	2.94
Santa Cruz	601	466	135	46	2.93
Mono	48	34	14	5	2.80
Glenn	144	96	48	18	2.67
Plumas	67	46	21	9	2.33
El Dorado	401	339	62	30	2.07
Marin	349	281	68	33	2.06
Mariposa	58	45	13	7	1.86
Fresno	3,778	2,384	1,394	849	1.64
Trinity	53	41	12	8	1.50
Alameda	4,887	4,388	499	337	1.48
Inyo	96	79	17	14	1.21
Ventura	1,810	1,524	286	249	1.15
Tulare	1,704	1,384	320	292	1.10
Sutter	352	258	94	86	1.09
Alpine	0	0	0	0	1.00
Tuolumne	149	125	24	24	1.00
24 counties	20,825	16,291	4,534	2,405	1.89

Sources: California Department of Corrections and Rehabilitation (2011); Corrections Standards Authority (2011).

Table 2 demonstrates that 34 counties have insufficient local jail space to house their low-level non-strike state prisoners. These counties have unused jail capacities available to hold from 20% to 80% of their low-level state prisoners once maximum daily jail inmate populations are allowed. While the 33 counties at the top of Table 2 have maximum jail inmate populations very

similar to those shown the Table 1, the later set of counties sends about one-third more low-level non-strike offenders to state prisons and have one-third less jail capacity per capita. Thirteen of these counties have insufficient rated jail bed space to house even their maximum daily local inmate populations.

Table 2 shows Los Angeles County separately due to its unique characteristics. Los Angeles commits low-level, non-strike offenders to state prison at a lower than average rate, but also lacks jail capacity. The county has 575 fewer rated jail beds than needed to hold its maximum daily populations, which leaves no space for the 2,990 low-level, non-strike offenders the county sentenced to state prison.

Table 2. Counties with insufficient unused jail capacity to absorb low-level state prisoners

County	Rated capacity local jails	Highest daily jail population	Unused jail capacity	Low level prisoners	Ratio, unused jail capacity vs. low-level prisoners
Placer	675	577	98	122	0.80
San Diego	5,601	4,919	682	883	0.77
Shasta	381	239	142	184	0.77
Solano	1,084	910	174	236	0.74
Stanislaus	1,420	1,167	253	370	0.68
Madera	419	357	62	98	0.63
Lake	286	243	43	78	0.55
San Benito	142	129	13	30	0.43
Kern	2,718	2,361	357	841	0.42
San Bernardino	6,148	5,558	590	1,534	0.38
Sacramento	4,177	3,998	179	644	0.28
Mendocino	295	285	10	37	0.27
Orange	5,601	5,299	302	1,136	0.27
Napa	264	257	7	28	0.25
Siskiyou	104	100	4	17	0.24
San Joaquin	1,353	1,303	50	393	0.13
Merced	767	761	6	118	0.05
San Mateo	1,094	1,087	7	139	0.05
Tehama	191	189	2	52	0.04
Kings	378	374	4	232	0.02
Butte	553	563	-10	270	-0.04
Yolo	423	432	-9	178	-0.05
San Luis Obispo	518	529	-11	94	-0.12
Yuba	432	444	-12	61	-0.20
Riverside	3,166	3,438	-272	1,173	-0.23
Humboldt	411	436	-25	84	-0.30
Santa Clara	3,825	4,035	-210	462	-0.45
Calaveras	65	81	-16	30	-0.53
Santa Barbara	918	1,042	-124	182	-0.68
Amador	76	104	-28	33	-0.85
Monterey	835	1,026	-191	198	-0.96
Del Norte	103	121	-18	18	-1.00
Imperial	376	561	-185	43	-4.30
33 counties	44,799	42,925	1,874	9,998	0.19
Los Angeles	16,537	17,112	-575	2,990	-0.19

Sources: California Department of Corrections and Rehabilitation (2011); Corrections Standards Authority (2011).

However, these 34 counties also could create considerable jail space by reducing the number of non-sentenced inmates (29,400 in the 33 counties in Table 2, plus 11,500 in Los Angeles). It is important to note that non-sentenced jail inmate numbers have risen by 7,000 while the number

of sentenced inmates has fallen by nearly 8,000 in California over the last decade. This trend accompanies a substantial increase in the number of non-local inmates counties hold in jails on contract with federal and other outside authorities (CSA, 2011).

Conclusion

This report continues CJCJ's efforts to determine which counties have adopted, or potentially could adopt, sentencing and incarceration policies for non-dangerous offenders that would make them more "locally self-reliant" (that is, using local jail rather than costly state prison space) and less "State-dependent." However, while 24 counties with 13.5% of the State's prison population do have more than sufficient local jail space to become locally self-reliant by housing all of the low-level offenders they now send to state prison, most California counties do not. County jails can provide beds for only around 38% of the 15,400 low-level, non-strike property and drug convicts now held in state prisons.

There are two additional issues: (a) whether most low-level offenders require incarceration at all, and (b) for those who do, whether counties can free up jail space by avoiding incarceration of some or all of the 50,000 non-sentenced offenders, the 6,500 inmates held on contract for other jurisdictions, and the 2,000 inmates awaiting transportation to other custodies who now constitute more than two-thirds of the inmates in local lockup. Finally, counties can explore less costly, more locally self-reliant, and more effective ways of dealing with low-level offenders than spending \$50,000 per year each to send them to state prisons. The 10 offenses selected here as "low level" are nonviolent and typically involve drug issues: either addiction that contributes to property offenses, or involvement in drug possession and lesser drug trade. Many of these offenders respond better to community treatment and supervision programs as opposed to incarceration has been indicated by detailed, independent evaluations of the drug-reform initiative, Proposition 36 (UCLA Integrated Substance Abuse Programs, 2011). When evaluated against the unviable alternative—continuing high levels of state prison populations under draconian court restrictions and at bankrupting cost—utilizing more local jail space for low-level offenders through offender sentencing, holding, transporting, and contracting reforms appears to be the most feasible option.

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Imprisonments for low-level non-strike offenders, ranked by county rate, Dec. 31, 2009

County	Low-level prisoners	Low-level imprisonments				as a percent of all prisoners
		per 100,000 population			Drug	
		Total	Property			
Kings	232	227.1	132.4	94.7	14.7%	
Butte	270	159.6	83.4	76.2	19.6%	
Lake	78	156.1	87.4	68.7	17.3%	
Shasta	184	155.8	101.5	54.3	12.1%	
Kern	841	147.0	79.8	67.2	16.6%	
Sutter	86	145.2	121.0	24.2	17.2%	
Yuba	61	140.4	110.4	30.0	11.3%	
San Bernardino	1,534	130.2	93.8	36.4	12.1%	
Fresno	849	124.7	77.9	46.8	16.1%	
Tehama	52	123.6	57.1	66.6	12.1%	
Yolo	178	123.2	76.9	46.3	15.3%	
Stanislaus	370	118.5	81.0	37.5	14.7%	
Tulare	292	117.2	86.0	31.3	9.9%	
Amador	33	105.2	47.3	57.9	14.9%	
Inyo	14	99.4	77.3	22.1	14.7%	
San Joaquin	393	98.7	72.9	25.8	10.5%	
Madera	98	96.3	54.7	41.7	12.6%	
Humboldt	84	91.5	50.2	41.2	14.4%	
Del Norte	18	87.6	74.1	13.5	11.5%	
Riverside	1,173	86.6	62.6	24.0	10.6%	
Solano	236	84.4	58.2	26.2	14.2%	
Colusa	12	81.1	40.5	40.5	14.0%	
Calaveras	30	78.5	32.7	45.8	25.9%	
Tuolumne	24	78.5	51.7	26.7	8.9%	
Glenn	18	78.1	44.2	34.0	15.0%	
Merced	118	75.8	54.5	21.3	9.8%	
Trinity	8	72.0	50.4	21.6	12.9%	
Modoc	5	71.6	51.1	20.5	16.1%	
California	15,394	71.3	47.5	23.8	9.0%	
Mendocino	37	70.9	45.4	25.5	9.5%	
Santa Barbara	182	68.8	46.0	22.8	10.7%	
Los Angeles	2,990	68.7	43.8	24.9	5.3%	
San Benito	30	66.8	36.0	30.8	20.8%	
Placer	122	66.6	49.3	17.3	11.8%	
Monterey	198	65.6	42.2	23.4	11.0%	
Sacramento	644	63.6	42.8	20.8	8.3%	
Lassen	19	61.3	41.8	19.5	11.9%	
Orange	1,136	61.1	37.2	23.9	12.1%	
Mariposa	7	60.5	38.5	22.0	9.0%	
San Diego	883	59.8	40.9	18.9	6.9%	
San Luis Obispo	94	57.1	38.4	18.7	11.7%	
Imperial	43	55.7	38.8	16.9	10.6%	
Siskiyou	17	54.3	34.8	19.6	7.0%	
Mono	5	51.4	51.4	0.0	12.8%	
Plumas	9	49.0	39.2	9.8	12.0%	
Ventura	249	48.2	32.9	15.3	10.9%	
Sonoma	127	41.4	34.3	7.1	10.1%	
Napa	28	41.0	25.9	15.1	6.8%	
Santa Clara	462	40.6	29.9	10.6	7.9%	
San Mateo	139	34.7	24.8	9.9	8.4%	
Alameda	337	33.8	25.7	8.2	7.4%	
Sierra	1	30.3	0.0	30.3	10.0%	
El Dorado	30	28.6	22.0	6.6	6.6%	
Santa Cruz	46	26.5	20.2	6.2	8.2%	
Marin	33	24.2	20.0	4.2	7.3%	
San Francisco	101	22.8	17.5	5.3	6.2%	
Nevada	16	20.3	13.2	7.1	11.6%	
Contra Costa	117	17.0	15.7	1.3	6.0%	
Alpine	0	0.0	0.0	0.0	0.0%	

Low-level offenses: Property (2nd degree burglary, grand theft, petty theft with prior, receiving stolen property, forgery/fraud, other property); Drug (controlled substance possession, controlled substance other, hashish possession, marijuana possession for sale, marijuana sales, marijuana possession other).

Sources: California Department of Corrections and Rehabilitation (2011); California Department of Finance (2010).

About the Author

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