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# California prison realignment to put more low-level offenders on streets

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To trim its bulging prison population and cut costs, California is about to gamble on a strategy no other state has tried -- unload the responsibility for punishing and rehabilitating thousands of nonviolent felons from the state prison system to local communities.

The state's new massive "realignment" plan -- which begins Saturday -- amounts to a dramatic retreat from California's costly, tough-on-crime, lock-'em-up approach. No matter how slowly the new strategy unfolds, it will ultimately put more low-level offenders on the streets sooner than they would be under the current rules, either because they are enrolled in rehabilitation programs outside the jail walls, or are serving shorter periods in jail or on post-release supervision.

"It's the biggest change in the criminal justice system in 35 years," since the state switched to imposing fixed-term sentences on most crimes, said Judge Phil Pennypacker, who presides over the criminal division of Santa Clara County Superior Court.

Still, the state has been quick to assure the public that switching low-risk convicts from prison blues to county jail jumpsuits will not jeopardize public safety. Killers, robbers and sex offenders like Philip Garrido, who kidnapped 11-year-old Jaycee Dugard and held her in Antioch for 18 years, will remain under the state's watch. No inmates will be released early from prison and bused home. Instead, the 58 counties will gradually begin housing and supervising

nonviolent criminals and parole violators as they are sentenced or released.

Despite such assurances, California's plan -- which comes after the U.S. Supreme Court in May found that the state's overcrowded prisons constitute cruel and unusual punishment -- has touched off a fierce debate: Will changing how we punish low-level criminals like meth users and shoplifters make California more dangerous? Or might it actually make the state safer?

### Jail time cut in half

With the startup of realignment just days away, judges, sheriffs, lawyers and probation chiefs throughout California have been frantically meeting to figure out the complex rules. Before long, nearly everyone in county jail will be eligible to get out after serving half their sentence if they behave; currently, jail inmates have to serve two-thirds. Parolees who comply with the conditions of their release also can

earn their freedom sooner -- in six months, rather than a year.

And sheriffs in some of the 32 counties with court-imposed caps on jail populations or overcrowded jails are likely to release more inmates early.

Though that's not a problem for most Bay Area counties, the lack of jail beds is particularly acute in parts of the Central Valley and Southern California, especially Los Angeles County, which collectively released more than 68,000 sentenced inmates in 2009 before they were due to be freed.

The situation has raised a tense question about whether California's declining crime rate will shoot up as the state essentially steers its limited resources toward locking up serious offenders and encourages counties to experiment on a grand scale with cheaper alternative programs for less-hardened defendants such as electronic monitoring,

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Glen Maxwell provides in-home health care for an elderly man in San Jose.... ( KAREN T. BORCHERS )

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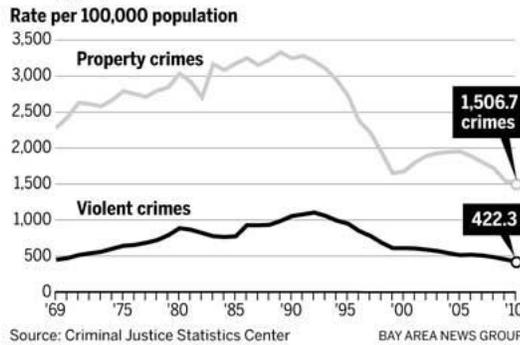
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## Decreasing crime rate

California's crime rate has been declining since the early 1990s and is now lower than what it was in 1969 when the state had about half as many people.



vocational training and drug treatment. Some have compared it to medical triage; lower-risk offenders will be "treated" with experimental methods that have shown promise in states from Texas to Hawaii.

"It's the greatest opportunity California has had in decades to advance criminal-justice reform," said Alex Busansky, president of the Oakland-based National Council on Crime and Delinquency. "The challenge is how to manage it so it's a success. Without the resources and the training, crime could spike and the political pendulum could swing back the other way."

### Surge in crime?

Law enforcement officials already are predicting a surge in property crimes such as shoplifting, burglary and ID theft, particularly in communities that have had to lay off police officers. Sacramento County Sheriff Scott R. Jones went so far

as to dub the state's plan to reduce the prison population by about 33,000 inmates primarily through realignment "asinine," and the top brass of the California Police Chiefs Association met with Gov. Jerry Brown this month to request money for new officers to fight the possible crime wave.

"I'd say to the community, 'Nail it down, chain it down, lock it down -- be ever vigilant,'" said Stanislaus County Sheriff Adam Christianson, who had to release 2,601 inmates for lack of jail space in 2009, the latest year for which figures are available.

Yet in a trend that confounds researchers, crime has continued to drop -- and is now at 1960s levels nationwide and in California -- despite the worst economic crisis since the Great Depression.

Some point to factors such as the end of the crack cocaine epidemic and advent of strategic policing for the safer streets, and others to the high incarceration rate. Proponents say California could be even safer as offenders respond to a carrot-and-stick approach -- treatment programs and intermediate punishments such as short-term "flash incarcerations" of up to 10 days, rather than longer prison stints.

"I don't think this will cause a public-safety disaster at all," said Jeanne Woodford, former San Quentin State Prison warden and acting head of the California Department of Corrections and Rehabilitation, who currently directs the nonprofit Death Penalty Focus. "I think it will make California safer."

### How things will change

The new strategy could change lives for the better, some say, while others contend the current system already provides plenty of second chances for this group of offenders.

San Jose ex-convict Glen Maxwell spent half of his adult life -- 15 of the past 30 years -- in prison for nonviolent drug crimes, at a cost of more than a half-million dollars to taxpayers. Under realignment, Maxwell, 49, might have been put in a cheaper drug treatment program well before he became a perennial inmate. There was no guarantee the program would have worked, but Maxwell said all that prison does is harden people, the opposite of what is needed to overcome addictions like his.

"In prison, it's a survival thing," he said. "You got your guard up to problems inside, and inside your head."

Realignment might have also made a difference in Brenda Valencia's life. But despite stints on probation, community service and in jail, she never really started to wake up until a judge sent her to prison for two months this year.

Her underlying offense -- failing to pay speeding tickets and driving with a suspended license -- mushroomed into a major legal ordeal after she ignored court orders and fled from police during a subsequent traffic stop.

Realignment supporters say what she really needed early on was a life skills class and economic assistance. Recently, the 29-year-old single mother of two boys relocated from San Jose to Santa Cruz after she secured federal housing assistance in the oceanside county.

"Prison was a big eye-opener for me, but it's the housing that really helped," she said.

### Big savings promised

Counties were given state funds totaling \$400 million this fiscal year to spend on whatever mix of incarceration, supervision and programs they choose. State finance analysts say realignment will save about \$53 million in prison costs this fiscal year, \$125 million next year and \$338 million the year after, even as the counties' allocation rises to about \$1 billion in 2013-14.

But even if counties had the capacity or the staff to supervise more inmates, the state is not giving them enough money to simply lock them up. Incarceration is an expensive option; in the Bay Area, jail costs about \$77 a day, compared with up to \$49 for electronic monitoring. Drug treatment costs a little more than jail -- \$88 a day for a 90-day residential program -- but if it works, it saves taxpayers money in the long run.

Many counties complain the funding falls far short of covering the cost of alternative programs -- and they worry the state could cut it even more as the budget crisis worsens. The governor's first attempt to get a constitutional amendment on the ballot guaranteeing future funding failed, but he vowed last week to get such an amendment on the November 2012 ballot -- even if he has to launch an initiative campaign himself.

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A recent poll by the Los Angeles Times and University of Southern California found 80 percent of voters support realignment, though it's unclear whether they will agree to tax themselves to fund it or to designate a portion of the state's general fund to cover the cost. Nearly 70 percent even approve the early release of some low-level, nonviolent offenders. In a major shift, voters are fed up with prison spending, which exceeds what the state spends on colleges and universities, yet produces the second-highest recidivism rate in the country: 67.5 percent.

**Success in other states**

Even conservative states such as Texas have been steering nonviolent offenders into drug treatment and re-entry programs instead of building new prisons. The strategy has been so successful that Texas closed a prison this summer for the first time in its history. Research indicates prisons may actually increase crime for several reasons, partly because it gives inmates little practice in making decisions and encourages them to be distrustful.

But to work, realignment requires an enormous culture shift by both the jails, which are geared to incarcerating people short term, not rehabilitating them, and by probation officers, who must balance helping felons with protecting public safety. "It's not going to work if we just go from prisons to bad jails," said Craig Haney, a professor of the psychology of law at UC Santa Cruz and a widely recognized expert on prisons.

Even Santa Clara County officials worry, particularly about the parolees who will soon report to county probation officers instead of state parole agents. Although their current offenses are nonviolent, many have violent criminal histories. Probation plans to arm a handful of officers.

"I'm nervous about some of the people," county executive Jeff Smith said. "While I'm hopeful the programs will work, they are really not a panacea."

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**HOW COUNTIES WILL ENACT REALIGNMENT**

Most Bay Area counties plan to invest fairly heavily in alternative treatment programs. Santa Clara County: With relatively ample room in its jails, Santa Clara is proposing to dedicate about \$3.8 million -- or about 25 percent of the \$15 million it will receive this year from the state -- to treatment programs; about \$2.9 million will go into a reserve and about \$3.3 million each to the sheriff for jails and the probation department.

Alameda County: Officials say their county was shortchanged under this year's funding formula. Bigger grants were awarded to jurisdictions that in the past sent more inmates to state prison, rather than to those that already were diverting people to alternative programs. Alameda got \$9.2 million.

Contra Costa County: It will get \$4.2 million this fiscal year, but will lose \$770,000 in annual funds the state has been paying it to house parolees before they are bused to prison. Officials already project that next year's allocation will be \$1 million short.

San Mateo County: It's one of the few Bay Area counties with crowded jails -- 125 percent of capacity. But officials are proposing to spend their \$4.2 million this year only on probation and programs, with a small slice for local law enforcement. That could radically change next year, depending on whether the state awards it millions to build a bigger jail.

Santa Cruz County: Jails also are at 125 percent capacity, but the county is only getting an estimated 120 new inmates and parolees this fiscal year. Custody alternatives such as community service, work furlough and electronic monitoring, as well as anger management and other programs, are likely to expand for sentenced inmates.

BEFORE			AFTER		
A person with prior offenses is convicted of a rash of car thefts or nearly any of about 500 nonviolent, nonserious or non-sex offenses. If the car thief is sentenced before Oct. 1, he could get a maximum of 1800 days in state prison and then might be put on state parole for three years.			That same car thief would see an entirely new path to justice on or after the state's Oct. 1 realignment. He would not be sent to state prison but to less austere county jail instead. Depending on the judge's decision and the thief's conduct, he could serve less time in jail or under the supervision of county probation officers.		
<b>Maximum penalties</b>			<b>A judge's options</b>		
Behaves in prison	Behaves	Doesn't behave	Behaves in jail	Behaves	Doesn't behave
Prison term	1.5 years	3 years	Jail term	1.5 years	3 years
State parole	1 year	3 years	Local supervision	0	0
<b>TOTAL TIME</b>	<b>2.5 years</b>	<b>6 years</b>		<b>1.5 years</b>	<b>3 years</b>
Source: Santa Clara County Superior Court			*Judge can take person off probation early		

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