



Prosecutor-Initiated Resentencing:

California's Opportunity to
Expand Justice and Repair Harm

For The People | Oakland, CA | December 2021



ABOUT FOR THE PEOPLE

For The People (FTP) is a national non-profit organization leading the implementation of California's Prosecutor-Initiated Resentencing movement—the nation's first law allowing prosecutors to revisit past sentences and facilitate prison releases for people serving excessive sentences. We define excessive sentences as sentences that are not in the interest of justice because they were too harsh, stem from outdated policies, and/or the person has turned their life around in prison. Based in Oakland, FTP partners with District Attorneys and other decision makers to develop policies to remedy unjust sentences through sentence review, recall, and resentencing. We partner with system stakeholders, community leaders, and incarcerated people to give voice to redemption stories, with the goals of expanding justice, reuniting families, and restoring communities decimated by mass incarceration.



ACKNOWLEDGEMENTS

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PREFACE BY HILLARY BLOUT

Two decades ago, Isaiah Love was a troubled young man. Struggling with childhood trauma and searching for meaning, he unfortunately turned to crime. In 2007, Isaiah was convicted of multiple robberies in Santa Clara County and sentenced to 28 years in prison.

Isaiah spent much of his first year of prison in solitary confinement. With access only to pencil, paper, and books, he spent that year in a state of introspection. Inspired by the words, “success after prison begins in prison,” Isaiah worked on himself for the next 13 years and made amends for his mistakes.

In December 2020, when Isaiah still had 15 years remaining on his sentence, the Santa Clara District Attorney asked the court to release Isaiah from prison. Based on the work Isaiah had done to turn his life around while on the inside, the DA determined that he had served enough time and could be safely released. Two days before Christmas, Isaiah walked out of the gates of San Quentin State Prison and into the arms of his loving parents.

As a former prosecutor with the San Francisco District Attorney’s Office, I have long been a fierce advocate for victims of crime. To this day, I never lose sight of the very real experiences of people who have been harmed. But I also know there are thousands of people in prison like Isaiah—people who have served long periods of time in prison and no longer need to be incarcerated. Whether their sentences were too harsh, stemmed from outdated policies, or they have turned their lives around, their continued confinement is unjust. Like Isaiah, they are ready for release and poised to contribute to their communities.

That is why, in 2018, I conceptualized, drafted, and secured the passage of AB 2942, a bill introduced by Assemblymember Phil Ting, that created the first Prosecutor-Initiated Resentencing (PIR) law in the nation.



HILLARY BLOUT

Founder | Executive Director | For The People



PREFACE BY HILLARY BLOUT

This groundbreaking law allows prosecutors to ask a court to revisit past sentences, determine whether further confinement is “in the interest of justice,” and facilitate a prison release when appropriate. The law provides a new avenue for freeing incarcerated people who are languishing in our prisons—people who could be safely released.

To pioneer this work, FTP partnered with DA Offices throughout California to develop policies to reevaluate the sentences of people whose confinement is no longer in the interest of justice. We believe that most incarcerated people can be rehabilitated and that every person in prison deserves an opportunity to have their case reviewed. We reject policy approaches that only provide relief for offenses categorized as “non-serious/non-violent” because we know the possibilities of rehabilitation and redemption transcend these labels.

Given the reality that prosecutors have limited time and resources, we are helping to identify a group of cases in each participating county as a starting point for review. For most DA Offices, the work begins with incarcerated people who have served at least 10 years of their sentence for a subset of offenses, including both serious/violent and non-serious/non-violent offenses. We anticipate that DA Offices will expand these criteria as the work moves forward.

In this report, we examine the impact of sentencing practices in California and show how PIR can be used to address some of the personal and community impacts caused by mass incarceration. Analyzing data from the California Department of Corrections and Rehabilitation (CDCR), we find that PIR can be a tool to address racial inequities in the criminal justice system. Additionally, we find that successful implementation of PIR can result in significant taxpayer dollars being diverted from prison spending and create opportunities for the state to invest funds into more effective interventions. Finally, we discuss how the COVID-19 pandemic has highlighted the urgent need for decarceration to ensure the public health and safety of impacted communities.

My hope is that prosecutors, lawmakers, and advocates will reflect on these findings and follow our recommendations for further reform. Ultimately, I believe this approach to resentencing can serve as a model for expanding justice, protecting public safety, and repairing harm caused by an inequitable and overly punitive justice system.



WE BELIEVE THAT MOST INCARCERATED PEOPLE CAN BE REHABILITATED AND THAT EVERY PERSON IN PRISON DESERVES AN OPPORTUNITY TO HAVE THEIR CASE REVIEWED.

— HILLARY BLOUT



Executive Summary

As of Spring 2021, nearly 1.8 million people were incarcerated in U.S. prisons and jails.¹ Despite a decline in recent years, the U.S. continues to incarcerate its people—particularly those who are Black and Brown—at 639 per 100,000 people, a rate far surpassing every other nation.² While reforms have been implemented to address mass incarceration, at the current pace of reforms, experts estimate it will take nearly 60 years to cut the U.S. prison population in half.³

Until relatively recently, California was home to the largest prison system in the U.S.⁴ From 1975 to 2006, California's prison population saw an 800% increase,⁵ from less than 20,000 people to 163,000, as the state built 22 of its 34 prison facilities.⁶ Though California has enacted a series of reforms in the last decade, over 99,000 people remain incarcerated in the state's prisons.⁷ Many of these people, disproportionately people of color, are serving excessively long sentences and could be released without posing a threat to public safety.

California's **Prosecutor-Initiated Resentencing (PIR) law (AB 2942)**, championed by For The People's founder and passed in 2018, gives District Attorneys (DAs) a groundbreaking tool to directly and immediately redress the harm caused by mass incarceration and excessive sentences. The law allows DAs to take a "second look" at past sentences that may no longer be in the interest of justice and ask the court to recall sentences and resentence people, resulting in their earlier release and reunification with family and community.

This report looks at how specific policies led to mass incarceration in California, reviews the evidence in support of releasing people who no longer need to be incarcerated, examines the opportunity for PIR, and shares the real impacts of resentencing on people who have already been released. Finally, the report offers recommendations on implementation and opportunities for further reform.





Though California has enacted a series of reforms in the last decade, over 99,000 people remain incarcerated in the state's prisons. Many of these people, disproportionately people of color, are serving excessively long sentences and could be safely released.

KEY FINDINGS

1 California's Prosecutor-Initiated Resentencing Law provides an opportunity for DAs to reduce sentences that are excessively long and not in the interest of justice.

- Despite a series of recent reforms to address mass incarceration in California—largely driven by policies of the “tough on crime” era—there are nearly 100,000 people incarcerated in California state prisons, many of whom are serving excessively long sentences and could be safely released.
- Of all 50 states, California has the highest number of people serving life or virtual life sentences.⁸ Approximately 40,878 people fall within this category,⁹ including a significant number whose crime did not involve violence.¹⁰
- A significant proportion of California's prison population is comprised of people serving time for an offense committed as a young adult or child, as more than 41% of people currently incarcerated were under age 26 at the time of their offense.¹¹
- As of November 2021, 242 incarcerated people had died in a California state prison facility after contracting COVID-19.¹² 5,199 people in California state prisons are 65 years or older.¹³ This elderly group of incarcerated people has a low rate of recidivism compared to other age groups, as well as an elevated risk of death or severe illness if they contract COVID-19.¹⁴





KEY FINDINGS

2 Nearly half of the people incarcerated in California state prisons have already served at least 10 years of their sentence, and over half have served at least seven years. Resentencing these people when appropriate would help to combat racial disparities and strengthen public safety.

- Of the state prison population, approximately 46% of incarcerated people have served at least 10 years of their sentence, and over 58% have served at least seven years of their sentence.¹⁵
- Black people make up a greater proportion of those who have served at least seven or 10 years of their sentence in comparison to any other racial/ethnic group.¹⁶
- While long sentences are often believed to increase public safety, research has revealed that the severity or length of a sentence has little deterrent effect,¹⁷ that people age out of crime, and that recidivism rates decline with age and are the lowest among people who have served the longest sentences for serious crimes.¹⁸
- More than half of crime victims in California favor allowing CDCR to shorten sentences for people with serious or violent offenses who are deemed a low risk to public safety, rather than requiring them to serve their full sentences.¹⁹
- PIR gives DAs an opportunity to change public perception of law enforcement and to build trust in prosecutors' ability to address sentences that are no longer in the interest of justice while ensuring public safety.²⁰





KEY FINDINGS

3 Mass incarceration has disproportionately harmed Black and Brown communities. Prosecutor-Initiated Resentencing is a powerful tool to help repair the damage.

- Communities with the highest rates of incarceration also tend to experience high poverty and low employment, with poor communities of color bearing the brunt of “tough on crime” policies.²¹
- More than 80% of people incarcerated in California state prisons are people of color.²² In particular, Black, Latinx, and American Indian people are significantly overrepresented. People identified as Black comprise 5.8% of California’s general population but 29.3% of the state prison population.²³ People identified as Latinx comprise 35.3% of the general population but account for 44.8% of the state prison population.²⁴ People identified as American Indian account for 0.4% of the general population, but they comprise 1.2% of those incarcerated in state prisons.²⁵
- Having an incarcerated loved one takes a heavy toll on families and communities, many times leading to a substantial loss of income,²⁶ debt,²⁷ harmful effects on physical²⁸ and mental health,²⁹ and a negative impact on educational achievement.³⁰ Bringing people home through PIR can help repair these harms.
- The toll of mass incarceration falls heavily on women, with one in four women reporting having an incarcerated loved one,³¹ and for Black women, one in every two.³² About half of incarcerated people are parents of minor children;³³ the separation of children from their parents due to incarceration can have harmful impacts on their health, education, and economic well-being.
- Disruption of families due to incarceration contributes to increased crime, leading to more people incarcerated, which, in turn, leads to more family disruption.³⁴ Resentencing people who are parents of minor children can help to reverse this vicious cycle.





KEY FINDINGS

4 Many people are serving excessively long sentences and can be safely released with savings redirected to more effective crime-reducing interventions.

- As of November 2021, more than 100 people had been released in California through PIR. Several of their stories are included throughout this report.
- In 2021, the California State Legislature passed an \$18 million investment over three years to expand PIR throughout the state, starting with nine pilot counties that range in geography, voter base, prosecutor leadership, reentry resources, prison population, and incarceration rates.
- In 2022, California will spend \$871 million to house 8,465 people in prison who have served at least 10 years of their sentence for the types of offenses that many California District Attorneys have begun reevaluating for release.³⁵
- If every DA in California were to launch a PIR initiative in their office, as many as 26,000 people could be safely released back into our communities—and as many as 26,000 families reunited.³⁶ Savings from reduced incarceration can be invested in drug treatment, mental health care, victim services, and other crime-reducing interventions.





We offer the following recommendations that, if adopted, would expand justice and repair harm in California and beyond:

RECOMMENDATIONS FOR PROSECUTORS

Drawing from this report's findings, as well as best practices developed by FTP and our partners since 2019—the inception year of AB 2942 implementation—we offer the following recommendations to California District Attorneys:

- 1 Establish a Robust Resentencing Unit** – Each California DA's Office should create a Resentencing Unit with staff and resources designated toward resentencing work. The Resentencing Unit should be staffed with experienced felony trial attorneys and paralegals. Each unit should create partnerships and collaborate with CDCR, the court, the Public Defender's Office, and community-based organizations to carry out PIR, from processing cases to developing reentry plans. DAs should establish a rotation structure within the office for line prosecutors to serve in the unit to systemize this work.
- 2 Evaluate Current CDCR Prison Data** – DA Offices should regularly request up-to-date CDCR data on the incarcerated people sentenced from their county to understand trends, racial and ethnic demographics, discrepancies in past sentences, incarceration rates, and categories of sentences that may warrant review.
- 3 Determine Initial Criteria for Case Review** – Each DA Office should create an initial set of review criteria and make the criteria publicly available so that community members are aware of which types of cases a District Attorney is prioritizing during the first phase of implementation. As Resentencing Units progress into further phases of implementation, DA Offices should expand criteria and widen the spectrum of cases prioritized. DA Offices should also consider reviewing sentences on a case-by-case basis and providing a simple and accessible form for use by community members and incarcerated people.





4 Establish a Protocol with the Public Defender's Office – DA Offices should meet with the Public Defender's Office to discuss methodology and required documentation. Protocols should be established for handling cases identified by the District Attorney's Office and cases brought to the DA by the Public Defender's Office.

5 Meet with the Presiding Judge to Develop a Streamlined Process for the Court – Though PIR has been in effect since 2019, some courts may not be fully aware of how the law operates. DA Offices should provide briefing to the court on (1) how the law works, (2) how information is reviewed, (3) the type of information that will be provided to the court, (4) how new sentences are calculated and imposed, and (5) how to send appropriate documents to CDCR to enable release procedures to occur.

6 Establish a Process and/or Partnership with Community-Based Organizations – DA Offices should seek out a partnership with one or more community-based organizations (CBOs) working with family and community members to assist in providing a more nuanced and detailed account of an incarcerated person's trajectory of change, mitigating factors, community support, and reentry plans. Ideally, partner CBOs would be trained in participatory defense—an emerging model for convening system-impacted families who are working toward the release of an incarcerated loved one. In addition, CBOs can play an important role in the reentry process by providing formal or informal support services for a person who is transitioning back into their community.

7 Collaborate with Victim Services and Community Groups for Enhanced Victim Support – Hold a training in collaboration with the DA's victim services division to educate victims about PIR. Collaborate with CBOs engaging in transformative justice practices to help repair harms suffered by crime victims, incarcerated people, their families, and the community. Provide remorse letters, when appropriate, and other information that will enable the DA's victim services division to support the process of engaging crime victims about the potential resentencing of cases. Consider offering opportunities for a facilitated dialogue through restorative justice practices to provide repair and closure for crime victims.



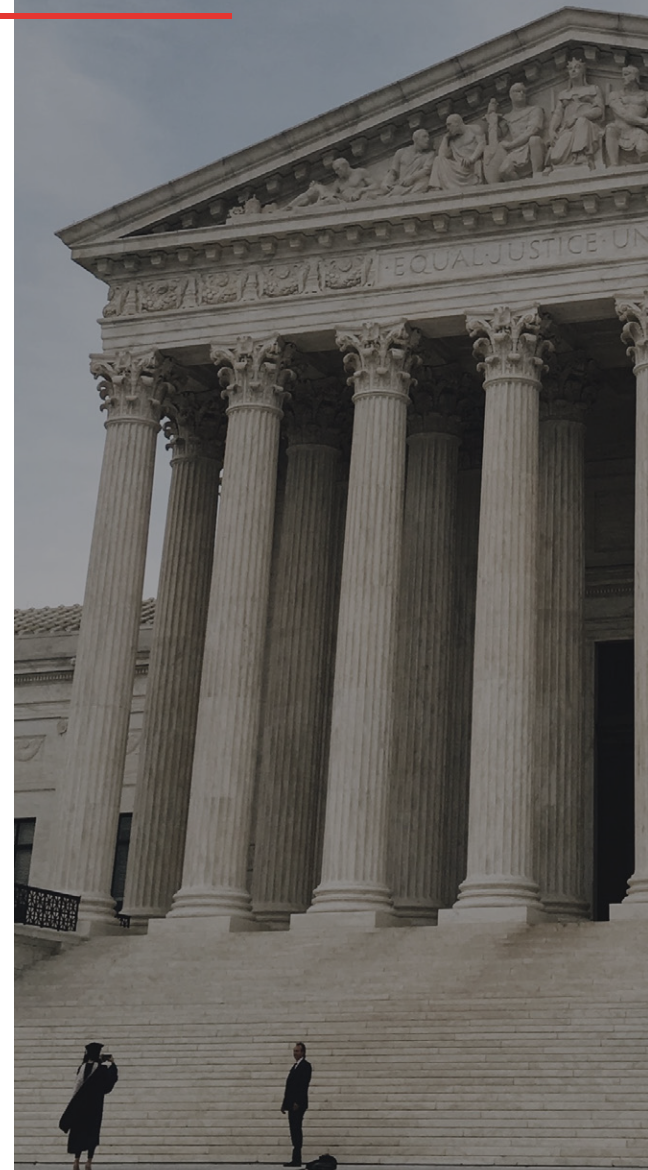


8 Conduct Office-Wide Training, Awareness-Building Activities, and Public Education – Because PIR is a new practice in DA Offices, DAs should provide office-wide trainings and encourage participation in a Resentencing Unit rotation. DA Offices should provide opportunities for prison visits, panel discussions with recently released people, and dialogues with community leaders to better understand how community groups are supporting people with reentry. DA Offices should also work to educate the public on the justice and safety benefits of reducing lengthy sentences.

RECOMMENDATIONS FOR POLICYMAKERS

1 Support Prosecutor-Initiated Resentencing at Scale – PIR offers an opportunity to safely address mass incarceration impacts in California, while allowing for the redirection of prison spending to other immediate needs. The state should create a permanent mechanism to make adequate resources available to all 58 California counties to operationalize PIR. In addition, policymakers should develop a funding formula to identify and redirect savings from PIR to support local efforts and county-based resentencing initiatives.

2 Prioritize Measures to Reduce Excessively Long Sentences and Racial Disparities in the Criminal Justice System – In recent years, California has taken several bold steps to reform policies that drive long sentences and racial disparities in the justice system, including ending mandatory minimum penalties for nonviolent drug offenses,³⁷ partially repealing the state's three-strikes law,³⁸ and ending life without parole (LWOP) sentences for youth.³⁹ Policymakers should build on these reforms by further scaling back any existing overly harsh sentencing practices, eliminating mandatory minimums and reinstating discretion with the court, creating resentencing and/or parole review for those serving LWOP, and using savings from reduced incarceration to invest in disadvantaged communities.





3 Ensure Adequate Rehabilitative Programming Across CDCR Institutions – Rehabilitative programming such as behavioral health treatment, job training, and education can support successful reentry for people leaving prison.⁴⁰ Unfortunately, a 2019 audit found that CDCR has failed to provide access to evidence-based programming to those who need it in California state prisons.⁴¹ Designing effective rehabilitative programming and making it widely available would reduce recidivism and increase the likelihood of success for people when they are released.

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4 Support Housing for Formerly Incarcerated People – Upon release from prison, finding safe and stable housing is essential to a person's successful reentry.⁴² For many formerly incarcerated people, barriers to affordable housing and landlord discrimination make access to housing one of the most daunting challenges they face. A wide range of policies should be considered, including increased support for affordable housing and prohibitions on criminal background searches, to ensure that housing is available for people when they are released from prison.

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5 Increase "Gate Money" for People Leaving Prison – When people are released from prison, they often lack financial resources to meet basic needs such as food, clothing, and transportation. Since 1973, California has provided the same \$200 in "gate money" to people leaving prison—an amount that would equal about \$1200 today, if adjusted for inflation.⁴³ A recent study commissioned by the Center for Employment Opportunities found near unanimous agreement among a group of returning citizens that current state support for people leaving prison is insufficient to meet their immediate needs.⁴⁴ The amount of gate money provided to people leaving prison should be significantly increased.

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6 Provide Opportunities to Center the Needs of Crime Victims – Instead of reflexively placing crime victims in a position of supporting retributive punishments for the people who caused them harm, the criminal justice system should offer opportunities for repair and healing. A holistic approach to justice for communities impacted by violence would center

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the needs of crime survivors and transform the justice system into a vehicle for accountability, safety, and racial equity.⁴⁵ Policymakers should support alternatives to incarceration, whenever possible, and give prosecutors latitude to partner with outside organizations specializing in restorative justice, with the goal of providing healing to those harmed by crime.

7 Invest in Public Interventions to Reduce the Likelihood of Crime – Communities with high incarceration rates also tend to have elevated levels of poverty, unemployment, and racial segregation.⁴⁶ Black and Brown communities, in particular, have borne the brunt of the failed policy of mass incarceration. To counter these trends, policymakers should make public safety investments in communities most weakened by incarceration, including through expanded drug treatment, mental health care, and victim services, and by increasing support for education, employment, and affordable housing development in impacted communities.





Stories of Redemption: Behind the Statistics

STEPHEN SMITH

In 1997, Stephen Smith was arrested in Santa Clara County at the age of 33. While in the throes of an all-consuming drug addiction, he committed a residential burglary. He was convicted of first-degree burglary, and the Court sentenced him to 25 years-to-life. After receiving 6 additional years in enhancements, his total sentence was 31 years-to-life.

Throughout Stephen's 23 years in prison, it was clear that he was dedicated to personal growth and healing. Central to Stephen's rehabilitative journey was his steadfast commitment to programming, particularly around substance abuse recovery. Stephen realized that in order to one day successfully transition back into society, he needed to commit to sobriety and recovery to avoid what he described as a "spiral out of control." His unwavering commitment and determination helped him learn to recognize his internal and external triggers and to develop strong coping mechanisms when confronted by these triggers. His hard work made it possible for Stephen to live a healthy lifestyle, and today, he can proudly say he has remained sober for 23 years.

In June 2020, FTP partnered with Santa Clara County District Attorney Jeff Rosen's Office and Silicon Valley De-Bug to successfully move for the recall and resentencing of Stephen's case. Stephen was released at the age of 56, after serving 23 years of his life sentence. If Stephen had lived out the remainder of his life in prison, the state would have spent at least an additional \$1.5 million to incarcerate him for this term.⁴⁷





Stories of Redemption: Behind the Statistics



ALWIN SMITH

In 2000, at the age of 31, Alwin Smith was struggling with financial obligations and a drug addiction. Needing money to sustain his addiction, Alwin robbed a Motel 6, all the while assuring the clerk that his only intentions were to take the money and not to cause her any harm. Just days later, Alwin was stopped by police and in possession of rock cocaine. Alwin was convicted of second-degree robbery and possession of a controlled substance in Riverside County. For this offense, he was given an indeterminate sentence of 40 years-to-life.

While incarcerated, Alwin eagerly began a spiritual education to rehabilitate and improve himself. In addition to focusing on his spirituality, Alwin dedicated himself to living a substance-free life. In 2006, he voluntarily applied for the Facility-A Honor program, which involved setting significant goals around sobriety and being subjected to random drug testing. Since then, Alwin has actively engaged in Celebrate Recovery Inside, a Christ-centered 12-step program, becoming a facilitator and preparing lessons for fellow incarcerated persons. He obtained an Associate of Ministry degree in 2014 and has continued to take faith-based courses in recent years. Through his Christian faith and his dedication to tackling his addictions, Alwin transformed his life and developed an array of tools that would one day assist him upon his return home.

On July 8, 2021, at the recommendation of Riverside County District Attorney Michael Hestrin, Alwin was

resentenced to time served at the age of 51. He served 20 years and had 20 years-to-life remaining on his sentence. Now skilled in a variety of areas, with an Associate of Ministry degree, a host of tools to help him navigate various triggers, and strong connections in the reentry community, Alwin is poised to take full advantage of his second chance at life. Alwin currently interns at a church in Pasadena, where he helps provide showers and meals for the homeless. He also started his own ministry and devotes his time to supporting other people who were recently released from prison. If Alwin had not been resentenced in 2021, the state would have spent at least an additional \$2 million to continue incarcerating Alwin for the remainder of his term.⁴⁸



IN PRISON, YOU REALLY HAVE NOBODY ADVOCATING FOR YOU. SO WHEN YOU SEE PEOPLE LIKE THIS ADVOCATING FOR YOU, IT'S VERY EMOTIONAL. MY SENTENCE WAS 40-TO-LIFE. BEING RESENTENCED WAS LIKE COMING UP FROM UNDERWATER OR HAVING A HEAVY WEIGHT FINALLY LIFTED OFF YOUR SHOULDERS.

— Alwin Smith



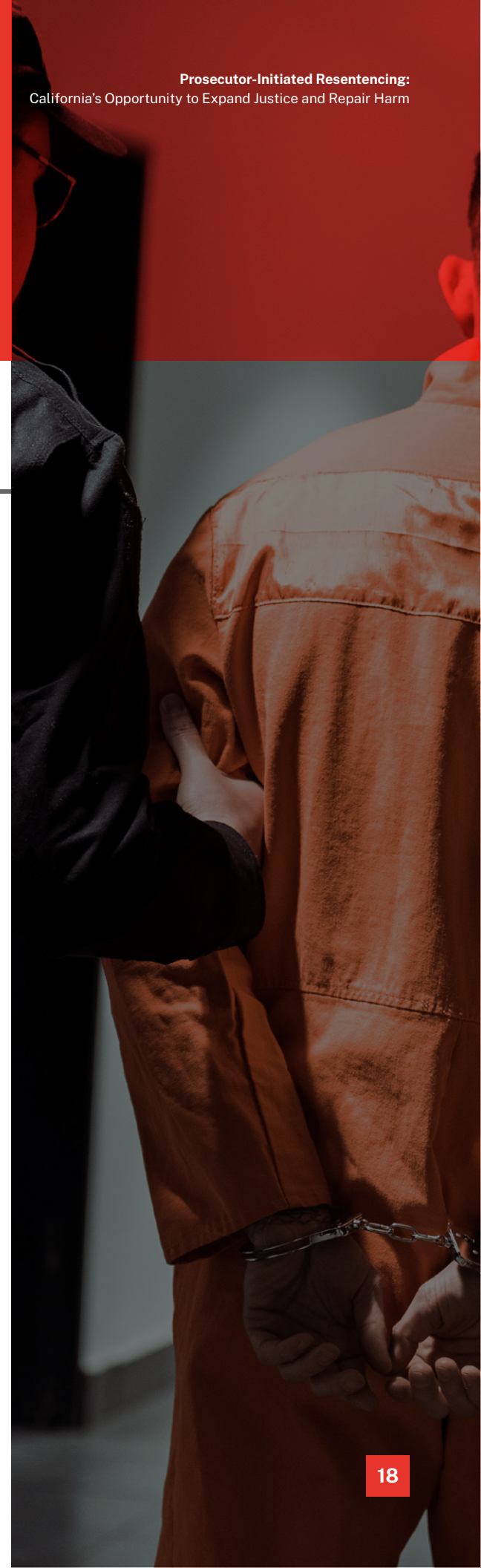
Mass Incarceration in California

GROWTH OF INCARCERATION

Issues of crime and punishment have helped shape California's socio-political landscape since the state's integration into the union. As early as 1858, a state report described overcrowding in San Quentin State Prison in terms sadly familiar to modern observers of California's prison system.⁴⁹ A century later, however, incarceration rates reached a magnitude unimaginable to the state's early residents. Beginning in the mid-1970s, California's state prison population grew eightfold—from 20,000 people in 1975 to 163,000 in 2006.⁵⁰

The exponential growth in California's prison population occurred as a national "tough on crime" movement led to sentencing policies that were designed to increase prison admissions and to dramatically lengthen time served.⁵¹ In 1971, President Richard Nixon declared a "war on drugs,"⁵² which fueled a criminal justice response—as opposed to a public health response—to the problem of increased drug use.⁵³ Inequitable enforcement of punitive drug laws produced an especially devastating effect on Black communities.⁵⁴

In 1976, California passed legislation to end "indeterminate sentencing,"⁵⁵ meaning that most incarcerated people would no longer be considered for parole.⁵⁶ Over the next two decades, dozens of new laws were enacted that significantly increased prison sentences.⁵⁷ In 1994, California approved a three-strikes law, exposing people with multiple prior serious or violent felony convictions to a 25 years-to-life sentence.⁵⁸





As the prison population grew with each iteration of harsher criminal justice policies, so too did racial and ethnic disparities within the prison system. Between 1978 and 2019, the Black incarceration rate in California state prisons increased by 260%.⁵⁹ As of 2019, Black, American Indian, and Latinx men were disproportionately incarcerated in California prisons.⁶⁰ Black and American Indian women were also overrepresented.⁶¹

Between 1984 and 1997, California built 20 new prisons,⁶² at a cost of \$280-\$350 million each.⁶³ Constructed largely in rural communities with a surplus of land and shortage of jobs, the new prisons were part of a conscious economic development strategy.⁶⁴ Later research suggests they played a destabilizing role⁶⁵ and did not yield the job opportunities that were promised.⁶⁶

By the late 2000s, extreme overcrowding resulted in dangerous and unhealthy conditions, as tens of thousands of people were forced to inhabit spaces not meant for housing. Gymnasiums, intended for rehabilitation programs, were repurposed and lined with triple bunk beds just a few inches apart.⁶⁷ Bathrooms were overrun with mold, human waste, and leaking pipes.⁶⁸ Overcrowding led to increased violence and made it impossible to provide adequate mental health and medical care to incarcerated people.⁶⁹

MOVEMENT FOR REFORM

In 2011, the U.S. Supreme Court ruled in *Brown v. Plata* that overcrowding in California prisons constituted cruel and unusual punishment and ordered the state to significantly reduce its prison population.⁷⁰ In response to the *Plata* decision, California passed the Public Safety Realignment Act, AB 109.⁷¹ AB 109 shifted responsibility for tens of thousands of people from state prisons to county jails⁷² and began to reduce the overall incarceration population.⁷³





Realignment was followed by a series of legislative reforms, including bills to allow resentencing for people serving life without parole (LWOP) sentences for offenses committed under the age of 18,⁷⁴ to extend parole eligibility to people aged 60 or older who have served at least 25 years in prison,⁷⁵ and to grant judges the discretion to strike firearm enhancements⁷⁶ and prior serious felony conviction enhancements.⁷⁷

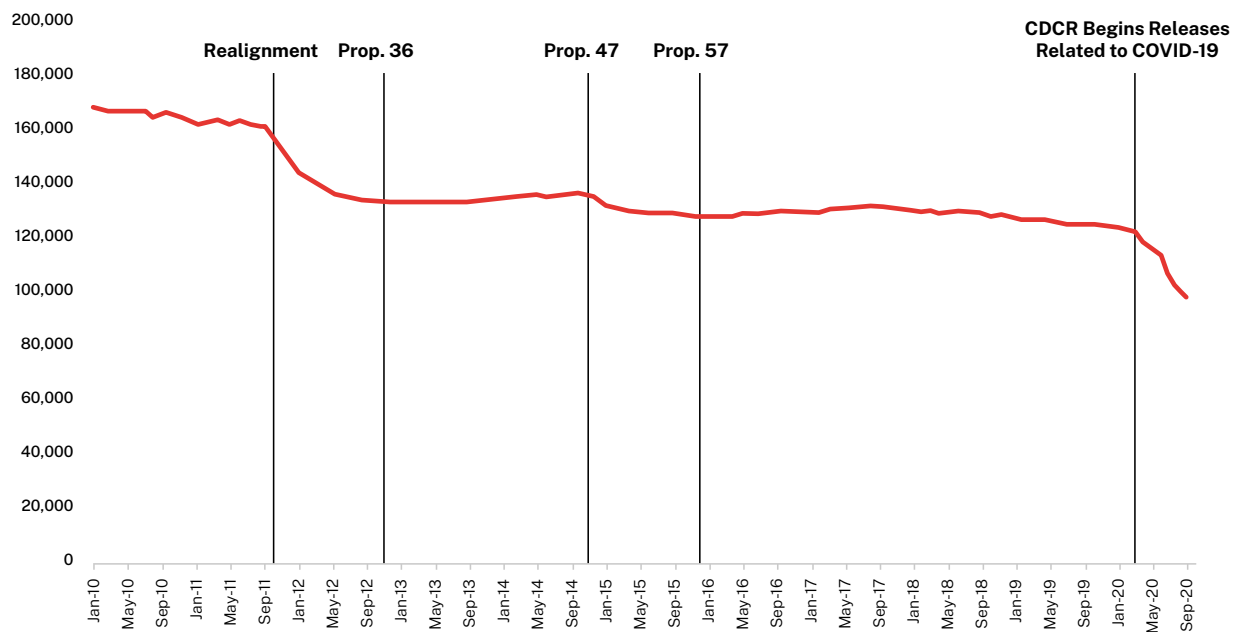
California voters also passed a series of ballot initiatives aimed at reversing overly punitive policies. In 2012, voters overwhelmingly approved Proposition 36 to reform the state's three-strikes law by narrowing the criteria for which one could receive a life sentence, and by allowing people serving time for a non-serious, non-violent third strike to petition for a reduced

sentence.⁷⁸ In 2014, voters approved Proposition 47, reclassifying certain lower-level offenses from felonies to misdemeanors, allowing resentencing for people serving time under the harsher penalties, and reallocating savings to more effective interventions, with the goal of reducing recidivism.⁷⁹ In 2016, Proposition 57 expanded parole eligibility, provided additional credits for good behavior, and removed prosecutors' discretion to "direct file" youths into adult criminal court.⁸⁰

From 2010 to 2016, California's prison population decreased by about 20%.⁸¹ In 2010, the state imprisoned 442 per 100,000 people in the state; by 2016, the rate had dropped to 330 per 100,000—levels of incarceration not seen since the 1990s.⁸²

Recent reforms have contributed to a decrease in California's prison population.

Figure 1: Impact of Policies on the California Prison Population from 2010-2020



SOURCE: California Department of Corrections and Rehabilitation (CDCR) monthly population reports. Data provided by PPIC.

CALIFORNIA'S PRISON SYSTEM TODAY

Despite voter mandates, federal interventions, and a global pandemic, California continues to maintain the second largest prison system in the U.S.⁸³ As of November 2021, the state imprisoned 99,297 people and had an imprisonment rate of 335 per every 100,000 people.⁸⁴ When federal prisons, local jails, immigration detention facilities, juvenile justice facilities, and civil commitment centers were also considered, California's overall incarceration rate was 581 per every 100,000 people.⁸⁵ If California were considered an independent nation and compared to the rest of the world, it would rank fourth globally in its incarceration rate, just under the United States, El Salvador, and Turkmenistan.⁸⁶

Not only does California incarcerate a large number of people, but the state also incarcerates people for lengthy periods of time. California leads the nation in life sentences, with 33% of its incarcerated population serving a life with parole, life without parole, or virtual life sentence.⁸⁷ As of January 2021, over 43,000 of the people incarcerated in California state prisons had served at least 10 years of their sentence in prison.⁸⁸ Over 55,000 had served at least seven years.⁸⁹ As of 2016, about four-fifths of incarcerated people in California state prisons had an enhancement on their sentence, while more than a quarter had three or more sentence enhancements.⁹⁰ Of those serving a sentence with a gang enhancement, over 92% were Black or Latinx.⁹¹

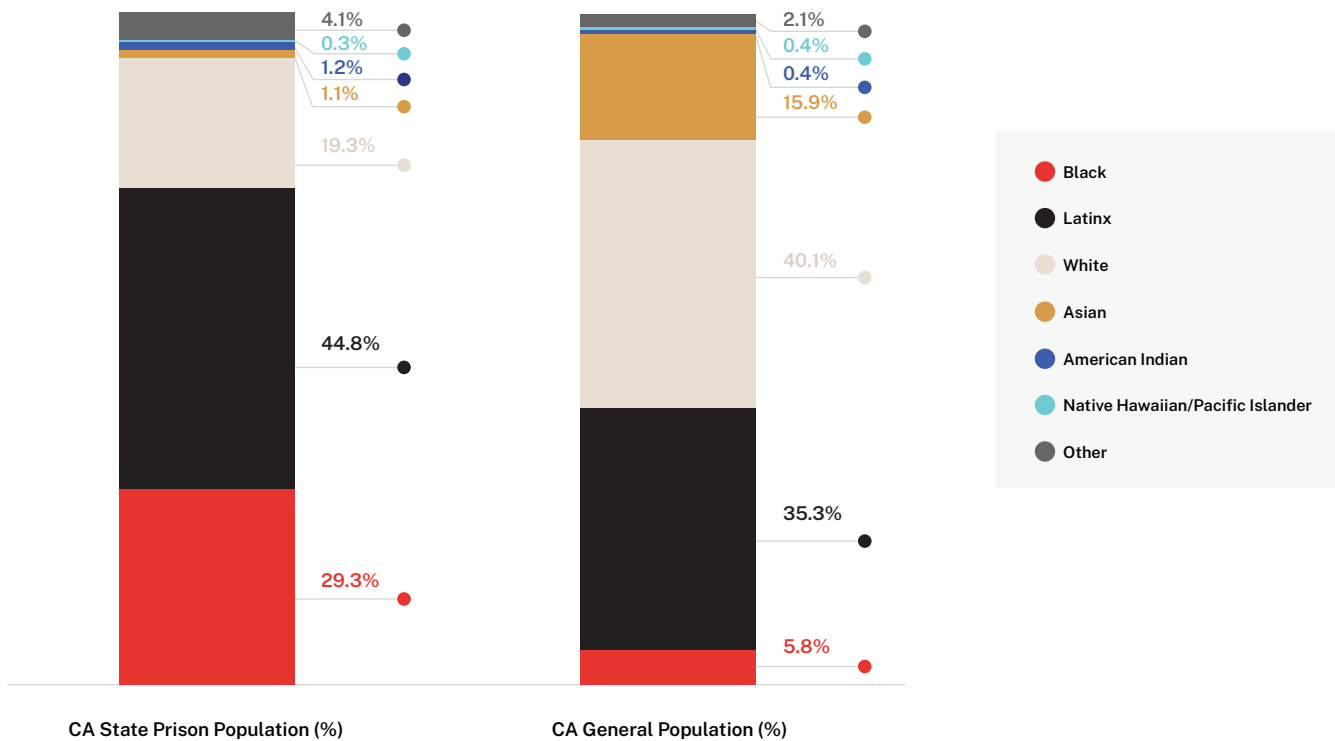
January 2021 data from the California Department of Corrections and Rehabilitation (CDCR) show that people of color⁹² make up more than 80% of the state's prison population.⁹³ While Black people make up only 5.8% of California's general population, they comprise 29.3% of the state's prison population.⁹⁴ Latinx people

make up 35.3% of the state's general population but 44.8% of the prison population,⁹⁵ and American Indian people comprise only 0.4% of the general population but 1.2% of the prison population.⁹⁶ To compound the issue, when looking at the ratio of probabilities of incarceration between two different groups,⁹⁷ we found that for almost every county in California, Black, American Indian, and Latinx people have a greater risk of being incarcerated than white people in the same county.⁹⁸ Based on this same data, in the state overall, Black people are more than 10 times as likely to be incarcerated as white people, while American Indians are more than five times as likely, and Latinx people are more than twice as likely to be incarcerated as white people.⁹⁹



Black, Latinx, and American Indian people are overrepresented in California state prisons.

Figure 2: CA State Prisons & CA General Population – Comparison of Race/Ethnicity Distributions



SOURCE: Author calculations based on California Department of Corrections and Rehabilitation (CDCR) prison population data (2021) and U.S. Census Bureau annual county population estimates (2010-2019).¹⁰⁰

While California has made significant strides in the battle against COVID-19, the pandemic exposed the deep public health disparities for incarcerated people. As of November 2021, 242 people had died from COVID-19,¹⁰¹ and the rate of COVID-19 confirmed cases in CDCR facilities was 515 per every 1000 people—over four times the statewide rate.¹⁰²

In 2020, flawed transfers by CDCR and overcrowding led to a major outbreak of the deadly virus at San Quentin State Prison.¹⁰³ A three-judge panel ruled that California had engaged in “deliberate indifference” in its failure to diminish the risk of harm to people incarcerated at San Quentin.¹⁰⁴ Advice by public health experts to halve the prison population went unheeded,¹⁰⁵ and by October 2020, a total of 2,200 incarcerated people—75% of the population—at San Quentin had tested positive for COVID-19.¹⁰⁶ Of those, at least 28 incarcerated people died, as did one employee.¹⁰⁷ A California Court of Appeal ordered Governor Newsom to reduce the population at San Quentin State Prison to no more than 1,775 incarcerated people, requiring a nearly 40% reduction of the October 2020 population.¹⁰⁸ While COVID-19 infection rates have since declined with the advent of effective vaccines, the pandemic has revealed the perils of overcrowding and inadequate healthcare in the state prison system, dangers that existed long before the COVID-19 pandemic.¹⁰⁹



The COVID-19 pandemic has also underscored public health challenges associated with an aging prison population. From 2000 to 2017, the percentage of incarcerated people aged 50 or older in California prisons increased from 4% to 23%.¹¹⁰ The aging population has contributed to prison healthcare costs in California that are more than triple the national average,¹¹¹ while creating conditions that have exacerbated the health impact of the pandemic.

In 2015, the state of California spent over \$8.5 billion on its prison system — one-fifth of the total prison spending in the entire country.¹¹² Since then, the state's annual budget for prisons has seen a substantial increase, with a 2021-22 budget of \$13.6 billion.¹¹³ The per capita cost to confine a person in California's adult institutions rose from \$64,642 in 2015¹¹⁴ to an all-time high of \$105,353 per person in 2021-22¹¹⁵ — and the costs of incarceration extend far beyond prison walls.



"The job of the prosecutor is to strive for justice. Now, prosecutors have this unique ability to offer second chances. We should work to give people second chances when they earn them. That is part of good prosecution."

——— **JEFF REISIG**

YOLO COUNTY DISTRICT ATTORNEY



The Opportunity of Prosecutor-Initiated Resentencing (PIR)

While California has made significant strides in reducing its state prison population, many people continue to serve sentences that are not in the interest of justice and could be safely released. To sufficiently address mass incarceration in California, innovative strategies must be explored.

California's Prosecutor-Initiated Resentencing (PIR) law, conceptualized and drafted by For The People's founder with input from District Attorneys and reform advocates, gives prosecutors discretion to revisit the cases of incarcerated people whose sentences are excessively long and/or whose continued confinement is no longer in the interest of justice.¹¹⁶ Signed into law in 2018,¹¹⁷ PIR provides a new avenue for prison releases of unjustly incarcerated people, placing the opportunity for redress in the hands of the very offices who made the original sentencing requests.

Under PIR, sentences that may have been deemed reasonable or appropriate at the time of sentencing can be reevaluated through a sharper lens of justice to reflect changes in circumstances, such as new scientific research, new laws, rehabilitative progress on the part of the incarcerated person, and the changing views of victims. Rather than merely supporting the notion of reform, PIR gives prosecutors the opportunity to proactively engage in the reform process and to remedy any sentences that upon review are deemed unjust.





Stories of Redemption: Behind the Statistics

DEAN THOMAS

In 2002, Dean Thomas was convicted of first-degree residential burglary. Under the “Three-Strikes Law,” Dean was sentenced to 25 years-to-life, plus 43 years in enhancements, rendering his total sentence 68 years-to-life in state prison.

When the Court gave Dean his life sentence, he presented as a person who lived a life dominated by drugs and theft, and it was not clear whether he would ever be able to get out from underneath his addiction.

But, despite the odds, Dean has written a different story. Before prison, Dean self-medicated with drugs in a futile attempt to treat his undiagnosed mental illness. Once he was put on the proper medication and began the difficult work of mental health recovery, he stopped using drugs and became a changed man.

Dean participated in numerous mental health programs that were designed to increase his self-awareness and compassion. Dean applied these skills by rescuing birds that got caught in the barbed-wire fences at the prison; he was known affectionately as “the Birdman” among fellow incarcerated people, as he mended the wings of birds in the prison so they could continue to fly.

At the time of his resentencing in July 2020, Dean was 57 years old and had served 18 years, with 50 years-to-life remaining on his sentence. If Dean had lived out the remainder of his life in prison, the state would have spent at least an additional \$1.9 million to incarcerate him for this term.¹¹⁸





“Certain prison sentences, upon further review, are no longer in the interest of justice. Prosecutor-Initiated Resentencing is a tool to revisit cases in which incarcerated people were sentenced under outdated guidelines, have been rehabilitated, and would benefit from a second chance.”

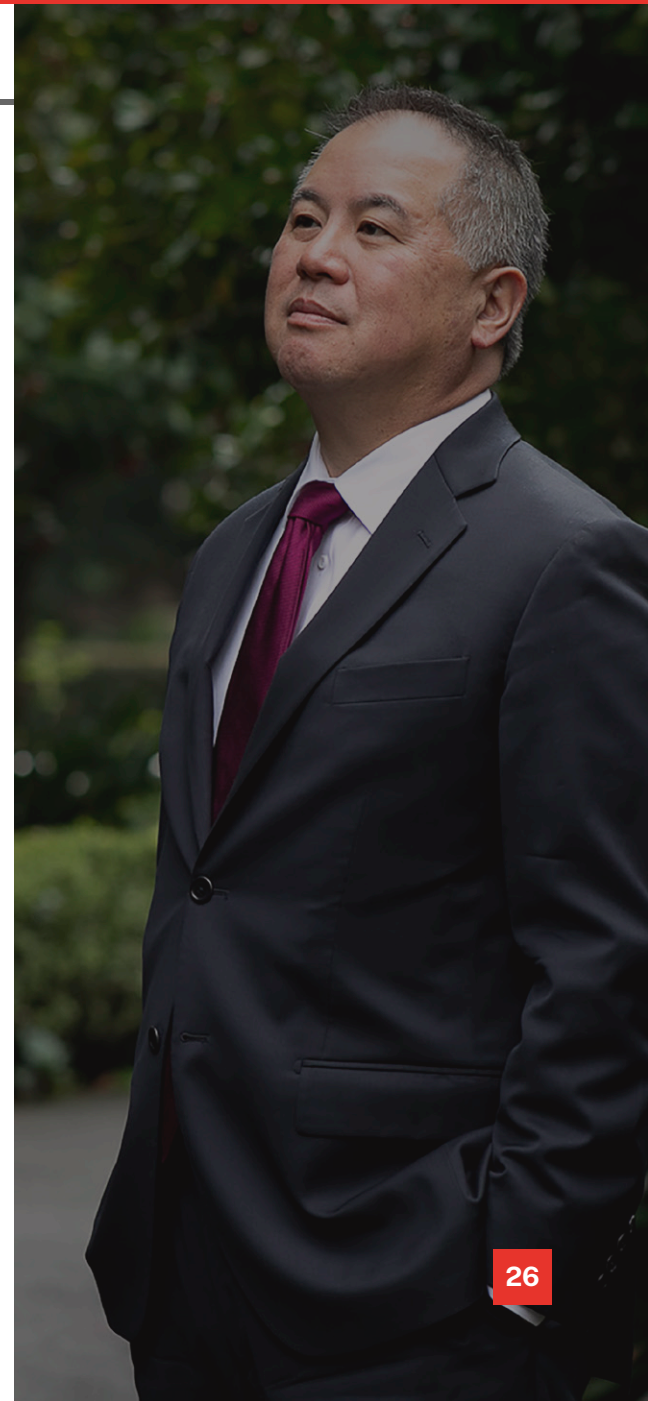
—— PHIL TING

CALIFORNIA ASSEMBLYMEMBER

ASSEMBLY BILL 2942

In 2018, For The People founder Hillary Blout worked with California Assemblymember Phil Ting to introduce and pass the nation’s first legislation to allow Prosecutor-Initiated Resentencing (PIR).¹¹⁹ AB 2942, which took effect in January 2019, enables California District Attorneys to review the cases of people whose sentences are excessively long and/or whose continued confinement is no longer in the interest of justice, and to petition the court for resentencing.¹²⁰

The court’s discretion is broad, and it may resentence someone “for any reason rationally related to lawful sentencing,”¹²¹ “as if [the person] had not previously been sentenced.”¹²² The new sentence cannot exceed the original sentence.¹²³ The court may use its full judicial powers at resentencing, including deciding on which term of imprisonment should be imposed; whether to strike enhancements; and if there are multiple charges, whether a sentence should run consecutively or concurrently. At the time of resentencing, the court must award credit for time served on the original sentence and must rely on sentencing rules of the Judicial Council to avoid disparity of sentences.¹²⁴





AB 1812, also enacted in 2018, provides guidance for the court on evaluation of evidence in resentencing, including consideration of postconviction factors such as a person's disciplinary record and record of rehabilitation while incarcerated; whether age, time served, and diminished physical condition have reduced the risk for future violence; and whether circumstances have changed since the original sentence that would deem further confinement unjust.¹²⁵

In 2021, Assemblymember Ting authored AB 1540, a complementary bill adding due process and equity provisions to strengthen and clarify AB 2942.¹²⁶ The bill prohibits the court from denying a PIR motion without a hearing, requires the court to state on the record reasons for its decision to grant or deny recall and resentencing, and creates a presumption favoring recall and resentencing.¹²⁷

Resentencing people whose punishment is not in the interest of justice can help to correct racial disparities, restore justice for victims, strengthen public safety, and repair broken communities.

THE ROLE OF THE PROSECUTOR

Arguably, prosecutors are the most powerful players in the criminal justice system. Each day, a prosecutor makes hundreds of decisions that affect people, families, and communities for generations to come. In recent years, some prosecutors have begun enacting policies to address mass incarceration, while others remain committed to a "tough on crime" philosophy.¹²⁸ However, despite philosophical differences among prosecutors, most agree on three simple truths: (1) there are people in prison serving excessively long sentences that they would not receive if sentenced today, (2) there are people in prison who have changed their lives while incarcerated and are rehabilitated, and (3) if there is no justification for a person's continued incarceration, they should be released.

A January 2020 survey of California District Attorneys commissioned by FTP found strong support for reviewing past sentences and providing second chances to incarcerated people.¹²⁹ Although their reasons vary—with some focused on fiscal prudence and others motivated by redemption or equity—prosecutors across the political spectrum agree that Prosecutor-Initiated Resentencing provides an important opportunity to revisit past sentencing decisions.

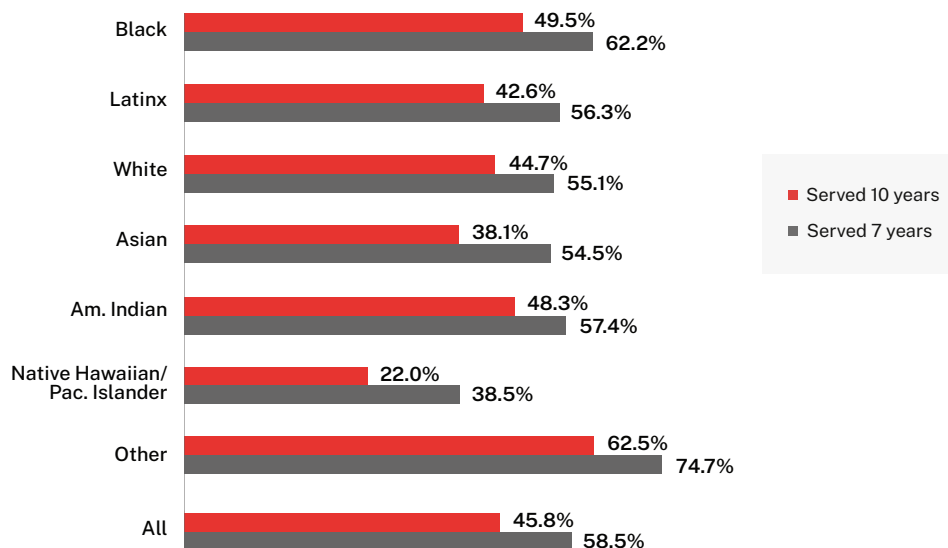
CORRECTING RACIAL DISPARITIES

It is well known that deep racial disparities persist throughout the criminal justice system. And though incarceration rates fell for people of various racial and ethnic groups in California in the last decade, racial disparities between people of color and white people widened.¹³⁰

Prosecutor-Initiated Resentencing (PIR) is a potentially powerful tool to reduce such disparities. A considerable percentage of people incarcerated in California prisons would meet the PIR eligibility criteria explored in this report. In the overall prison population as of January 2021, 46% (43,247) of people had served at least 10 years of their sentence, and 58% (55,235) had served at least seven years of their sentence.¹³¹ As shown in Figure 3, the proportion of Black people and American Indian people who would be eligible for early release under either of these criteria is greater than the proportion of white people who would be eligible.¹³² Similarly, the proportion of Latinx people who would be eligible after having served seven years is greater than the proportion of white people who would be eligible under the same criteria.¹³³

The proportion of Black people and American Indian people who have already served lengthy sentences is greater than the proportion of white people who meet the same eligibility criteria.

Figure 3: Percentage Eligible with Various Criteria By Race/Ethnicity



SOURCE: Author calculations based on California Department of Corrections and Rehabilitation (CDCR) prison population data (2021).

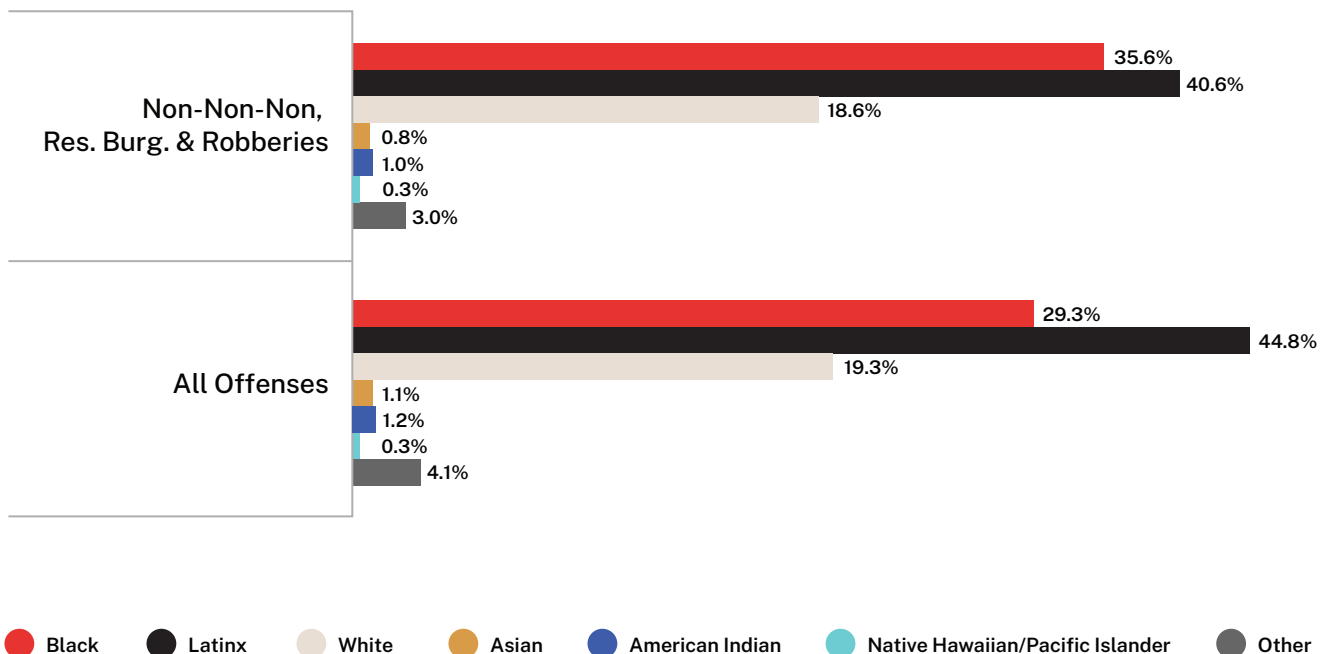




Figure 4 shows the breakdown by race/ethnicity for the starting point category that the majority of California DAs have used to begin evaluating cases—non-serious,¹³⁴ non-violent,¹³⁵ non-sex (“non-non-non”) offenses, residential burglaries, and robberies—compared to the race/ethnicity breakdown for the total CDCR prison population. Many people incarcerated for offenses within this category are serving lengthy prison terms and would not be sentenced as harshly today. When compared to the overall makeup of the prison population, Black people are overrepresented in the offense category that DAs across California have used as an initial eligibility criterion.¹³⁶ This disparity highlights the opportunities that resentencing presents in alleviating the disproportionate representation of Black people within the California prison system.

By resentencing people who fall within starting point categories, DAs would decrease racial disparities in California's prisons.

Figure 4: Race/Ethnicity Distributions Within Offense Categories



SOURCE: Author calculations based on California Department of Corrections and Rehabilitation (CDCR) prison population data (2021).



“To solve the criminal justice crisis, we must listen to crime survivors — who favor greater investments in victim services and rehabilitation instead of longer prison sentences.”

TINISCH HOLLINS

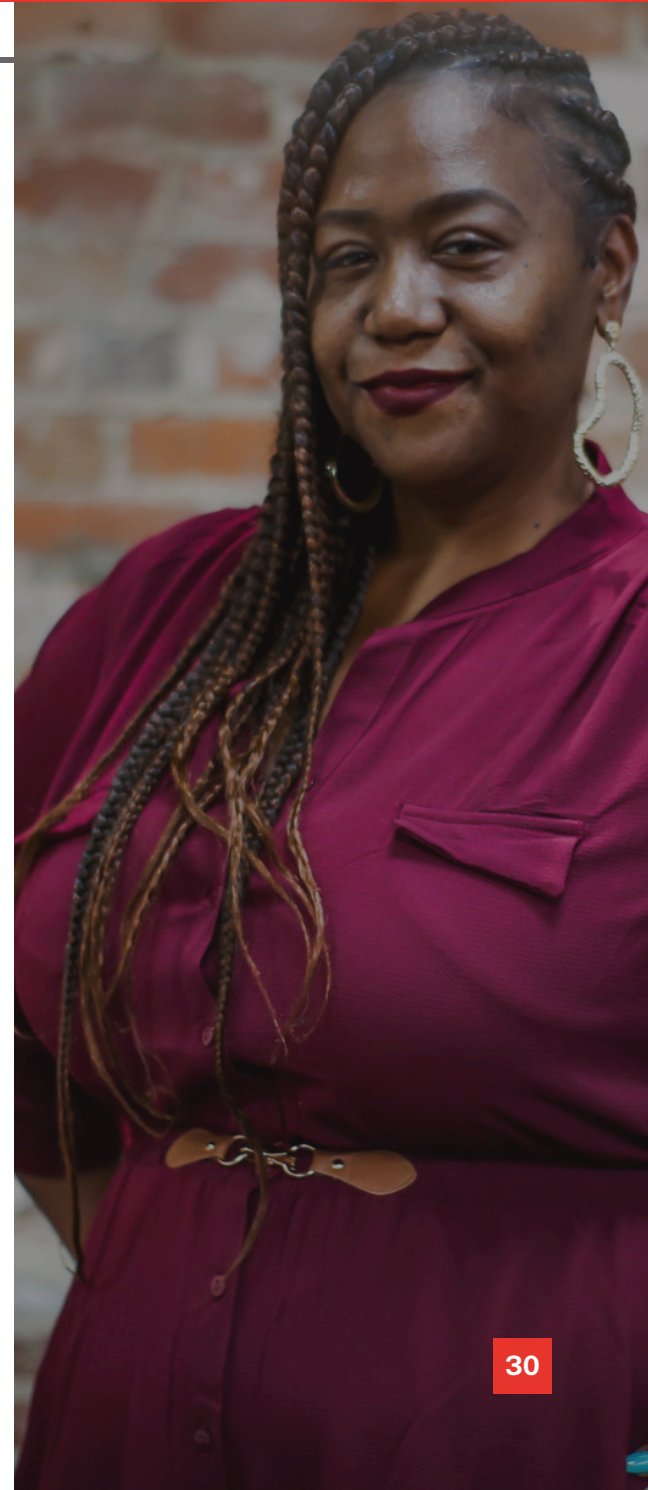
CRIME SURVIVORS FOR SAFETY AND JUSTICE

RESTORING JUSTICE FOR VICTIMS

The primary objective of restorative justice is to make amends for wrongdoing—particularly to repair harm caused to victims and the community, as opposed to inflicting punishment on wrongdoers.¹³⁷ In the restorative justice model, accountability means recognizing wrongful conduct, an expression of remorse by the person who committed the offense, and taking steps to repair any damage that was caused.¹³⁸

A humane response to crime centers the needs of crime survivors, or victims, while recognizing that the criminal justice system has the ultimate responsibility for ensuring justice, public safety, and human dignity.¹³⁹ As such, and in accordance with Marsy's Law in California,¹⁴⁰ victims play a critical role in the Prosecutor-Initiated Resentencing process. Central to the DA Office's review and evaluation of cases considered for resentencing is a conference and dialogue with victims, creating opportunities for greater healing, closure, and support.

While long sentences are often touted as what victims want, that is not always the case. According to a 2019 survey by Californians for Safety and Justice, nearly 80% of California crime victims believe that, rather than helping rehabilitate a person, incarceration increases a person's chance of committing future crimes or has no effect on public safety. A majority of victims surveyed said the criminal justice system should focus more on rehabilitation, rather than punishment.¹⁴¹ The survey also found that one-third of victims in California felt “not at all supported” by the criminal justice system, and less than 20% of victims received financial assistance, medical assistance, and mental health support after the crime occurred.¹⁴²





“We must end long sentences that are not in the interest of justice or public safety. That’s the only way to break the cycle of recidivism and to repair broken communities.”

— **DWAIN WOODLEY**
SAN DIEGO COUNTY ASSISTANT DISTRICT ATTORNEY



“AB 2942 will allow us to identify those people in prison whose efforts and circumstances reveal to everyone — including victims — that they deserve a second chance.”

— **MAGGIE FLEMING**
HUMBOLDT COUNTY DISTRICT ATTORNEY

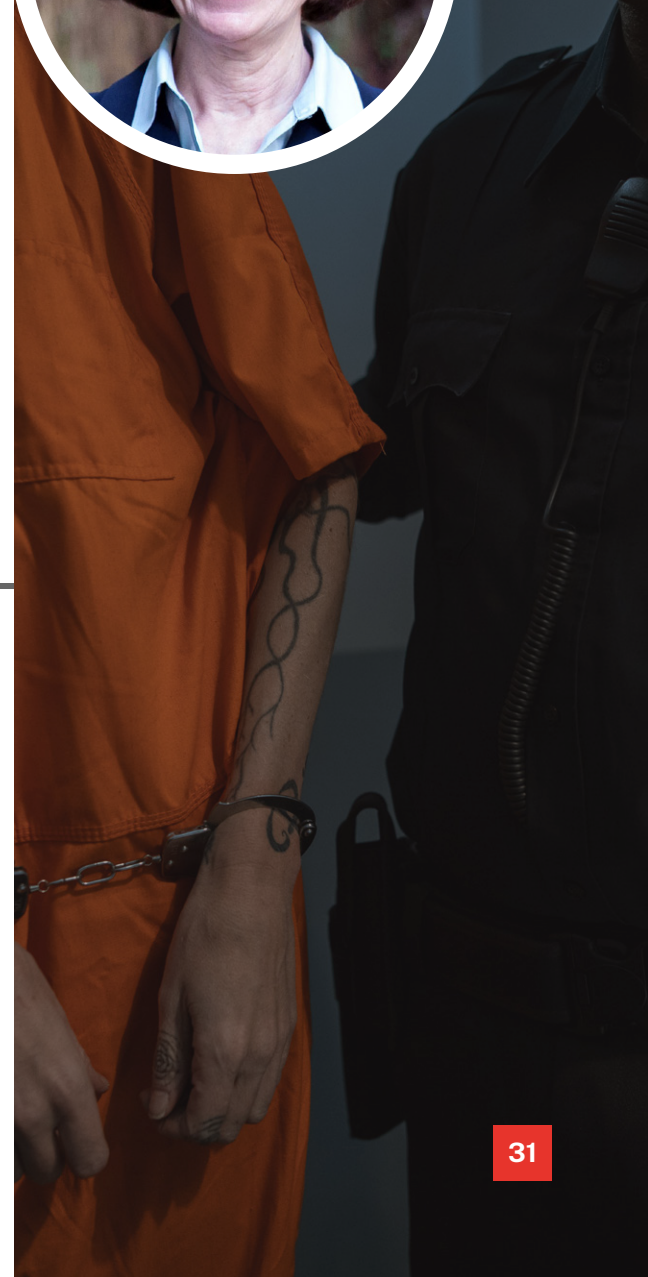


Crucially, the Californians for Safety and Justice survey also found that more than half of crime victims in California favored allowing CDCR to shorten sentences for people serving non-life sentences with serious or violent offenses who are deemed a low risk to public safety, rather than requiring them to serve their full sentences.¹⁴³ PIR can thus play an important role not only in expanding justice for people serving excessively long sentences, but also in protecting the needs of crime survivors.

STRENGTHENING PUBLIC SAFETY

For a number of reasons, long prison terms are counterproductive to public safety.

While severe punishments are often believed to deter crime, the reality is that the severity or length of a sentence has been shown to have little deterrent effect.¹⁴⁴ Because many people engaged in criminal activity do not expect to get caught, most do not consider the penalties they will face if convicted.¹⁴⁵ Few people are familiar with the specific penalty for a particular offense.¹⁴⁶ Furthermore, many people engaged in criminal activity report being under the influence of drugs or alcohol at the time of their offense.



Lengthy sentences are also limited in their public safety benefits because most people age out of criminal activity.¹⁴⁷ A large body of empirical research shows that risk of criminal activity begins in a person's late teenage years and declines steadily after a person has reached their mid-20s.¹⁴⁸ As of 2021, over a quarter of people incarcerated in California were aged 50 or older.¹⁴⁹ The average incarcerated male in California is about 40 years old, well past the peak age of involvement in criminal activity.¹⁵⁰

Given limited public safety resources in California, budgetary tradeoffs must be considered. Spending millions of dollars each year to keep aging people in prison displaces dollars that could be better spent on drug or alcohol treatment, mental health care, victim

services, or other crime-reducing interventions.¹⁵¹

Finally, resentencing and releasing people serving lengthy sentences can lead to safer communities. Areas with high rates of incarceration tend to have elevated poverty, unemployment, and racial segregation.¹⁵² Returning incarcerated people to their communities would mean more people available to provide support through gainful employment and caregiving. In addition, returning incarcerated parents to their homes can help interrupt the cycle of violence. Neighborhoods in which more adults are present are better able to supervise the activities of children.¹⁵³ All of these dynamics contribute to more stable, and thus safer, communities.

REPAIRING BROKEN COMMUNITIES

Reuniting Families

Reuniting incarcerated people with their families is one of the most powerful tools available to strengthen communities. Families of incarcerated people who often come from communities that are already economically marginalized—are financially burdened by the various costs associated with having an incarcerated loved one. Some families are forced into debt to maintain phone calls and visitations with their incarcerated family members,¹⁵⁴ while others are directly disadvantaged by the loss of income that results when a member of the family is put behind bars.¹⁵⁵ In 2017, it was estimated that families of incarcerated people collectively spend \$2.9 billion each year funding commissary accounts and phone calls alone.¹⁵⁶

This toll falls heavily on women, with one in four women reporting having an incarcerated loved one,¹⁵⁷ and for Black women, one in every two.¹⁵⁸ In a 2018





survey by the Essie Justice Group, nearly 70% of women with an incarcerated loved one reported that they provided the primary support.¹⁵⁹ Children of incarcerated parents are also harmed by the effects of incarceration. About half of incarcerated people are parents of minor children.¹⁶⁰ The separation of children from their parents due to incarceration can lead to negative impacts on their health, education, and economic well-being.¹⁶¹ For example, one in 10 families surveyed by the Ella Baker Center reported that the incarceration of a family member prevented youth in the family from graduating high school or going to college.¹⁶²

People with an incarcerated family member are also at higher risk of depression, obesity, heart disease, and hypertension.¹⁶³ Additionally, a 2015 study found that simply living in a community with a high incarceration rate was associated with higher rates of generalized anxiety disorder and major depressive disorder, for both those who have served time in prison and those who have not.¹⁶⁴ Bringing incarcerated people back home solidifies family and community bonds, strengthens the economic prosperity of families and communities, and improves health outcomes for system-impacted communities.

Building Community Trust

While a prosecutor's role is widely understood to be a minister of justice and protector of public safety, their ability to carry out this responsibility can be impeded by a lack of community trust. Today, many communities do not rely on prosecutors, police, and other law enforcement for public safety. For some, engaging with law enforcement is viewed as making communities less safe, with murders at the hands of police, unjust arrests and charges of community members, and deportations of undocumented family members.¹⁶⁵ The result is that many crimes go unreported, witnesses and victims choose not to give statements on reported crimes, and as a result, communities are often forced to find their own ways to ensure safety and justice in their communities, which can often escalate into other unsafe situations.¹⁶⁶

The distrust of law enforcement—including prosecutors—has been raised across many groups that encounter the criminal justice system: those who were victims of a crime, those who witnessed a crime, those who committed a crime themselves, and those who may fall under more than one of these categories. A national survey of crime victims by the Alliance for Safety and Justice (ASJ) found that only 25% of vic-

tims reported having received help from a law enforcement agency, and only 10% reported having received help from a prosecutor's office in particular.¹⁶⁷ In California, one-third of victims did not feel at all supported by the criminal justice system.¹⁶⁸ Additionally, 60% of victims nationally wanted prosecutors to listen to their opinions, including when they as crime victims did not support the issuance of long prison sentences.¹⁶⁹

Prosecutor-Initiated Resentencing is an opportunity for DAs to change the public discourse and to build trust in prosecutors' ability to prevent and redress excessive sentences while ensuring public safety.¹⁷⁰ Among the policy recommendations drawn from the findings in ASJ's survey of victims was a desire for prosecutors to expand new problem-solving approaches to stop the cycle of crime, and for states to provide support for innovations in prosecution.¹⁷¹ Identifying unjust sentences and conducting reviews of such cases is an opportunity for prosecutors to demonstrate that they are working for the people—committed to prioritizing community safety and carrying out justice before, during, and after prosecution and sentencing.

THE SANTA CLARA COLLABORATION

Since the enactment of Prosecutor-Initiated Resentencing, For The People has been on the forefront of the law's implementation, collaborating with prosecutors, system-impacted people, and community-based organizations across California to remedy unjust sentences.

In 2019, FTP launched a pilot collaboration with the Santa Clara County District Attorney's Office, grassroots advocacy organization Silicon Valley De-Bug, and the California Department of Corrections and Rehabilitation (CDCR). As a starting point, FTP generated descriptive statistics to help the DA's Office better understand its county prison population as it pertains to a variety of factors, including offense type, sentence length, and race and ethnicity for people incarcerated under its jurisdiction. From this initial analysis, the DA established criteria for the first group of cases it would evaluate.

Essential to the collaboration, and central to the work of FTP, is incorporation of the participatory defense model,¹⁷² in which family members—historically sidelined during the sentencing process—can play a key role in organizing and advocating for the release of their loved ones. By partnering with community “hubs” trained in participatory defense, families and communities are given a voice in the process.

Since the launch of the Santa Clara Pilot, FTP has expanded its California partnerships to a total of twelve DA offices throughout the state, collaborating with these offices to establish criteria for reviewing cases and a resentencing policy; to review prison records, mitigation documents, and reentry plans; and to work with public defenders, community-based organizations, and families to plan for smooth reentry. In addition, FTP has established partnerships with DA Offices across the U.S., now working with partners in 10 states in support of PIR initiatives and legislation.



SOMETIMES PEOPLE'S SENTENCES ARE TOO LONG, THEY HAVE PAID THEIR DEBT TO SOCIETY, AND THEY CAN BE RETURNED. IT'S A WIN-WIN FOR OUR COMMUNITY.

— JEFF ROSEN

SANTA CLARA COUNTY DISTRICT ATTORNEY



RESULTS TO DATE

Statewide Snapshot

As of November 2021, more than 100 people had been released in California as a result of Prosecutor-Initiated Resentencing (PIR). These people include Isaiah Love, a San Jose man who is now a member of his tight-knit community;¹⁷³ Andrew Aradoz, a Yolo County father who was 14 when he committed his crime;¹⁷⁴ and James Sotero Riviera, an elderly and ill San Diego man who returned home after serving 28 years of a 140-year sentence.¹⁷⁵ The stories of these and other people released through PIR are included throughout this report.

For The People believes most incarcerated people can be rehabilitated and that every person in prison deserves an opportunity to have their case reviewed. However, most DA Offices have identified a narrower set of cases as a starting point for launching their PIR initiatives. During the first two years of implementation, most offices have prioritized non-violent, non-serious, and non-sex (non-non-non) cases, residential burglary cases, and robbery cases in which the incarcerated person has served at least 10 years of their sentence.

The rationale behind this prioritization is threefold. First, because several state laws have changed and are now less punitive for lower-level offenses, AB 2942 and other reforms can provide immediate relief for people still serving time for such lower-level offenses. Second, starting with cases in which people have already served a decade of their sentence allows prosecutors to identify a trajectory of change more easily. Lastly, many DAs recognize that any Resentencing Unit must consider cases in which the person and/or offense has been categorized as serious/violent. Oftentimes, when people are labeled “violent offenders” based on their offense category, they are excluded from ever being considered

for a second chance. However, the emerging view among DAs across the political spectrum is that the designation of a person’s offense, whether violent or not, is not necessarily dispositive of a person’s future risk of violence. It is therefore critical to consider offenses categorized as serious/violent for consideration of resentencing to ensure that powerful evidence of rehabilitation does not go overlooked or unrecognized.

Additionally, some offices are going beyond the above criteria to consider resentencing people who have served at least seven years (as opposed to 10 years), people for whom the public health impacts of the pandemic pose an immediate risk, people who have little time remaining on their sentence, and people who were initially incarcerated as children or youths. DA Offices have developed their own criteria according to their policy views and local context. We believe that as PIR expands across California—and we continue to see more successful resentencing and releases—there will be a willingness to further expand these criteria for evaluation.



Stories of Redemption: Relief for Children and Youths Prosecuted as Adults

ANDREW ARADOZ

On a summer night in 2007, a 14-year-old Andrew Aradoz got into a car with four adult men seeking retaliation for an earlier altercation. One of the men handed Andrew a gun and, at their direction, Andrew fired the gun out of the window at a group of people suspected to be members of a rival gang. The bullet struck a teen boy, who was severely injured but ultimately recovered. Andrew was convicted of attempted murder with a sentence enhancement for gang-related activity and was given a life sentence.

Andrew experienced multifaceted trauma as a child, witnessing his mother's brutal physical abuse, his father's incarceration, and his mother's subsequent drug abuse and neglect. Andrew and his seven siblings were housing-insecure for much of his childhood and were separated from their mother twice by Child Protective Services. The lack of care and stability led Andrew to build community with and emulate gang-involved youths, culminating in his incarceration.

During Andrew's incarceration, however, he dove into rehabilitative programming, self-help workshops, and violence prevention classes. He began to understand his triggers, manage his emotions, and grow from a traumatized teenager into an empathetic and responsible young man. Given Andrew's young age at the time of his life crime, the Yolo Public Defender's Office began looking into his case and for ways to bring him home. In July 2020, Yolo County District Attorney Jeff Reisig's Office motioned the Court to recall Andrew's case and bring him home, and the Court agreed.

Today, Andrew lives near family in Yolo County, CA, and recently welcomed his newborn daughter into the world. He has obtained a full-time job and is getting involved with restorative justice volunteer work in his community. Andrew hopes to serve youth who may face similar issues as he did and to help them choose a different path. Given Andrew's young age, the state could have spent at least an additional \$5.3 million were Andrew to have served out a life sentence.¹⁷⁶





Stories of Redemption: Relief for the Elderly

JAMES SOTERO RIVIERA

James Sotero Riviera was born and raised in Santa Fe, New Mexico. He had eight siblings and dealt with an abusive, alcoholic parent from a very young age. When James was 12 years old, his parents divorced. As a single mother of nine children, his mother supported their large family working as a seamstress in a custom dress shop.

Over the course of several days in late 1994 and early 1995, James committed a string of residential burglaries in San Diego County during which he stole expensive jewelry. In 1996, James was convicted by a jury of five counts of first-degree burglary and, under the “three strikes law,” the Court sentenced him to spend 140 years-to-life in prison. James was 60 years old at the time.

Entering prison as a 60-year-old man, looking down the barrel of a 140 years-to-life sentence—essentially a sentence to die in prison—James could have simply given up, relinquishing all hope of ever seeing the world beyond prison walls again. Instead, James committed himself to programming and hard work. Over the course of the 25 years he spent in prison for the above offenses, James received minimal write-ups for incredibly minor infractions. Given the extreme hardships of prison life, consistently staying out of trouble for so long is a truly impressive feat that can only be achieved through persistent, dedicated effort.

On May 3, 2021, at the recommendation of District Attorney Summer Stephan, the San Diego County Superior Court resentenced James and ordered his release. Today, he resides in San Diego and is tending to his health, while also remaining extremely enthusiastic about finding work to keep himself busy.





The Next Frontier

CALIFORNIA'S \$18 MILLION COUNTY RESENTENCING PILOT PROGRAM

Prosecutor-Initiated Resentencing (PIR) presents an opportunity to significantly reduce incarceration in California and throughout the country, while allowing for the redirection of prison spending to other pressing needs. Recognizing PIR's potential, the California State Legislature in 2021 passed AB 145 and AB 128, which included an \$18 million investment over three years to expand PIR throughout the state. Participating counties include Los Angeles, Santa Clara, San Francisco, Riverside, Contra Costa, San Diego, Yolo, Merced, and Humboldt. The diversity of these counties is intentional—not only in geography, but in voter base, prosecutor leadership, reentry resources, prison population, and incarceration rates. It will allow for the legislature to evaluate impact across a wide range of participants. Potential impacts include cost savings to the state, reinvestment in community resources, economic stimulation through workplace reentry, and more. This first-of-its-kind investment aims to increase the adoption of PIR on a larger scale, therefore reuniting more families and restoring communities.

While this three-year funding pilot is a validation of the PIR model and an important next step, FTP believes the state should consider creating a permanent mechanism to ensure adequate resources are available for all 58 counties to operationalize PIR. This could involve developing a funding formula wherein the state identifies and redirects a portion of captured savings from PIR to support the local efforts of county-based Resentencing Units to help accelerate PIR implementation. The state should continue to promote a collaborative resentencing model that brings together all critical stakeholders in furtherance of scaling nascent efforts. Funding is essential to expand adoption to more counties and to bolster under-resourced safety nets for people returning home.

“Prosecutor-Initiated Resentencing is an opportunity to remedy injustices and reinvest in proven interventions to ensure a fairer and more just system.”

———— **CHESA BOUDIN**

SAN FRANCISCO DISTRICT ATTORNEY



ENSURING REENTRY SUCCESS

Prosecutor-Initiated Resentencing identifies incarcerated people who might safely return to their communities. However, the next step lies in ensuring that those released are also equipped with the right tools and resources for successful reintegration. Research shows that specific factors can significantly support a formerly incarcerated person’s return home—factors including health, housing, skill development, mentorship, and social networks.¹⁷⁷ Unfortunately, many support services bolstering these factors have faced increased demand or have been reduced during the pandemic.¹⁷⁸ Reentry resources from housing to employment are crucial for reducing recidivism.

While For The People is not a direct service provider, we are firmly committed to connecting those who are released to a network of organizations across the reentry spectrum. Considering that poverty has been considered by many the strongest predictor for recidivism,¹⁷⁹ FTP partnered with the Center for Employment Opportunities (CEO) to provide \$2,500 in direct cash assistance to 50 people resentenced by prosecutors across California.¹⁸⁰ Through CEO’s Returning Citizens Stimulus Program, existing participants have reported feeling more financially

stable following incarceration.¹⁸¹ CEO’s program additionally includes paid employment opportunities, skills training, and ongoing career support.

Beyond CEO, For The People works closely with the Anti-Recidivism Coalition (ARC) to ensure a person is well-supported as they take their very first steps following their release. ARC’s ride home program—which includes coordinating prison pick-up, first meals, and basic necessities post-release—is the first touch point in reentry for many. ARC also provides mentorship, counseling, and support to those reentering their communities.¹⁸²

Finally, For The People partners and coordinates with District Attorney’s Offices and their reentry coordinators to bridge the gap between the formerly incarcerated person, public defender, and support organizations to meet reintegration needs. FTP will continue to expand its network of reentry service partners, as well as collect data to identify what successful reentry looks like after PIR.



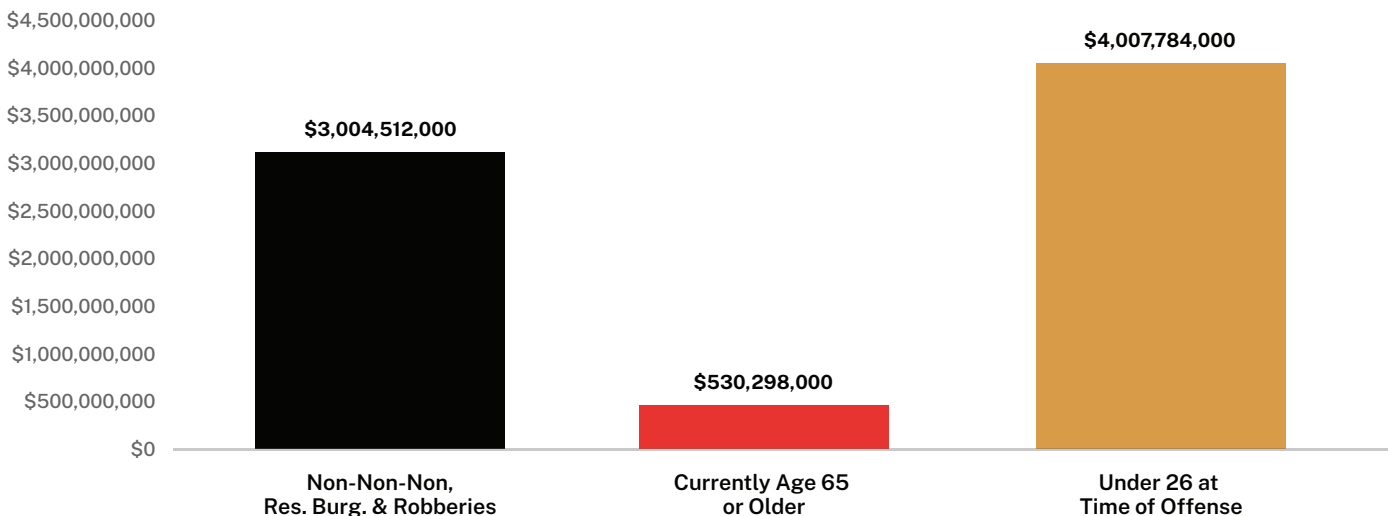
EXPANDING CRITERIA: RELIEF FOR HARDER-TO-REACH PRISON POPULATIONS

California is slated to spend \$871 million next year alone on incarcerating people who have served 10 years of their sentence for non-non-non crimes, residential burglaries, and robberies.¹⁸³ If every DA in California used these narrow criteria to begin with, there would be 8,465 incarcerated people eligible for review.¹⁸⁴ Additionally, were every DA in California to implement PIR in their county and have sufficient infrastructure and resources to do so, as many as 26,000 people could be safely released¹⁸⁵—and as many as 26,000 families reunited. Facilitating the early release of even a fraction of this population through PIR would allow the state to prevent wasteful spending and have the opportunity to reinvest these dollars into communities.

Additionally, AB 2942 creates an opportunity to take a second look at the incarceration of elderly people, a population that presents little risk to public safety.¹⁸⁶ While elderly people have a relatively low risk of recidivism, they also have the highest risk of falling severely ill due to COVID-19 and other illnesses. In addition, given the increase in health needs that naturally comes with aging, the costs of incarcerating elderly people are double that of incarcerating younger people.¹⁸⁷ As of January 2021, 5,199 people who were 65 years or older were incarcerated in CDCR state prisons; next year alone, the state will spend over \$535 million to incarcerate this elderly population.¹⁸⁸

Safely releasing people from prison allows the state to divert millions of dollars from prison spending toward reentry services and other community needs.

Figure 5: California's Spending Next Year, by Various Categories



SOURCE: Author calculations based on California Department of Corrections and Rehabilitation (CDCR) prison population data (2021).



“Except as a last resort, lengthy prison terms are expensive and unsustainable. They displace important public safety investments and often are not in the interest of justice or racial equity. To achieve community safety, we must do better than incarceration.”

———— **DIANA BECTON**
CONTRA COSTA COUNTY DISTRICT ATTORNEY



REACHING ACROSS THE COUNTRY

With 1.8 million people confined in prisons and jails across the country,¹⁸⁹ the United States has both the highest sheer number of incarcerated people in the world¹⁹⁰ and the highest incarceration rate in the world.¹⁹¹ Although nearly every state has reduced its prison population since reaching peak levels, at the recent pace of decarceration, it would take many decades to cut the national prison population in half.¹⁹²

An analysis by the National Research Council on the growth of the U.S. state prison population from 1980 to 2010 found the increase was attributable to changes in sentencing policy, with half of the growth a function of greater time served in prison.¹⁹³ To achieve a meaningful reduction in the nation's prison population, excessive sentences and sentencing policies must be reversed.

A 2016 Brennan Center report estimated that 39% of the people serving time in the nation's prisons—over half a million people as of 2016—could have their sentences reduced, or be sentenced to a prison alternative, without harming public safety.¹⁹⁴

Despite the common scientific understanding that the brain is not fully developed until a person's mid-20s, over 11,700 people continue to serve life or virtual life sentences for an offense committed as a youth.¹⁹⁵ And even though evidence shows that crime rates drop steadily after a person reaches their mid-20s,¹⁹⁶ more than 10% of state prison populations, on average, are composed of people aged 55 or older.¹⁹⁷



While these figures are sobering, they illustrate the opportunity for states adopting Prosecutor-Initiated Resentencing laws and prosecutors who embrace them. Already, three states—Washington State, Oregon, and Illinois—have followed California's lead in enacting PIR laws. Dozens of elected prosecutors and law enforcement officials have called for second look legislation.¹⁹⁸ As PIR continues to expand nationally—and prosecutors take the lead in its implementation—we draw closer to the potential of freeing a substantial number of people from prison and reunifying countless families across the country.

CONCLUSION

Mass incarceration was built over decades through a host of policies and a “tough on crime” political environment that often played on fear rather than relying on evidence. No single policy tool is likely to reverse these trends. Nevertheless, progress made in recent years to reduce prison populations—without harming public safety—offers reason to believe that significant numbers of people serving excessively long sentences can be safely released.

Prosecutor-Initiated Resentencing provides an opportunity to extend relief to numerous incarcerated people and their families who continue to suffer from the harms caused by past failed policies. Across California, District Attorneys have begun utilizing PIR to resentence and release people whose incarceration is no longer in the interest of justice and who can be safely released. Early results show that PIR works, and it should be expanded throughout California and the nation.

Prosecutors are among the most powerful actors in the criminal justice system—and with that power comes responsibility for its outcomes. PIR offers a groundbreaking chance to expand justice for people who should no longer be in prison, to ensure public safety resources are spent more effectively, and to begin to repair communities broken by the failed policy of mass incarceration.



Appendix: Methodology

ABOUT THE DATA

In this report, all statistics and estimates that reference California's 2021 state prison population were analyzed and calculated from a California Department of Corrections and Rehabilitation (CDCR) dataset from January 2021.¹⁹⁹ These data include individual-level observations of all people incarcerated in California prisons and report each person's most severe offense along with the sentence attached to the offense. It is important to acknowledge that numbers reported from the data are estimates and may vary from exactness. The following methods and assumptions were applied throughout this report:

- (1) We assumed the age provided (which was reported as an integer) was the incarcerated person's age at the time data were compiled (January 2021).
- (2) To approximate birth dates, we calculated a variable that was $\text{age} \times 365.25$ (accounting for leap years) to convert ages in years to ages in days, created a proxy birthday of July 1 for all people in the dataset, and then subtracted the ages in days from the proxy birthday in order to create proxy birthdates. To identify a person's approximate age at the time of the offense, we then subtracted the proxy birthdate from the offense date.
- (3) We assumed the offense date to be the date the offense occurred and, specifically, linked to the most severe offense for each person.

COMPARING THE PRISON POPULATION AND GENERAL POPULATION

To determine population estimates of each racial/ethnic group in California, we used 2019 census data to construct racial/ethnic groups in a manner that approximates the CDCR race/ethnicity categories. Both race and ethnicity groups were categorized under CDCR's "ethnicity" variable. This way of reporting race and ethnicity hinders the ability to identify both a person's race and ethnicity. It is also unclear what racial identities are subsumed within CDCR's "Other" ethnicity category.

We included the following ethnicity categories under "Latinx": Colombian, Cuban, Guatemalan, Mexican, Nicaraguan, Puerto Rican, Salvadorian, and Hispanic. We included the following ethnicity categories under "Asian": Cambodian, Chinese, Filipino, Indian, Japanese, Korean, Laotian, Thai, Vietnamese, and Other Asian. We included the following ethnicity categories under Native Hawaiian/Pacific Islander: Guamanian, Hawaiian, Samoan, and Pacific Islander. Four people who identify their ethnicity as Jamaican have been included in the "Other" race category.



Appendix: Methodology

COST ESTIMATES

Cost estimates are calculated by multiplying the number of people eligible under a particular criterion by \$103,000, California Department of Finance's estimate of the per capita cost of incarcerating a person in California in 2020-21.²⁰⁰

The cost diversion estimates reported in the individual stories of released people are calculated by multiplying a person's remaining years on the minimum term of their sentence by \$103,000, CA Dept. of Finance's estimate of the per capita cost of incarcerating a person in California in 2020-21. The cost diversion estimates do not adjust for inflation (i.e., these are underestimates). For Alwin Smith, if calculating the cost diversion estimate instead using the years remaining in Alwin's life expectancy (based on race/ethnicity and gender),²⁰¹ the cost diversion estimate would be more than \$2.1 million.

If taking into account previous research suggesting that, on average, for each year a person is incarcerated, their life expectancy decreases by two years,²⁰² Stephen Smith, Alwin Smith, and Dean Thomas would each have had 0 years remaining on their life expectancies, and the cost diversion estimate would equate to \$0 for each of them. If taking into account previous research around diminished life expectancies for incarcerated people, the cost diversion estimate for Andrew Aradoz would still be over \$2.6 million.

RELATIVE RISK RATIOS

To construct the relative risk ratios for each California county, we used census data²⁰³ to obtain county population sizes and construct racial/ethnic groups in a manner that approximates the CDCR race/ethnicity categories.²⁰⁴

All but one county within California with a large enough sample size of incarcerated people (54 out of 58 counties) had a relative risk ratio greater than 1 for Black people, compared to white people. Counties with less than 30 people incarcerated are not included because it is harder to identify disparities in incarceration with a smaller sample size. Modoc County had a large enough sample size (32 total incarcerated people) but had a relative risk ratio of 0 because there are currently 0 Black people incarcerated within the county (there are less than 100 Black people in the county overall).

All but two counties within California with a large enough sample size of incarcerated people (54 out of 58 counties) had a relative risk ratio greater than 1 for American Indian people, compared to White people. Colusa and San Benito Counties had large enough sample sizes to be considered (59 and 94 total incarcerated people, respectively), but both had relative risk ratios of 0 because there are currently 0 American Indian people incarcerated within the counties.

Out of the 54 California counties with a large enough sample size of incarcerated people, 48 counties had a relative risk ratio greater than 1 for Latinx people, compared to white people. The phrase "in the same county" corresponds to the "commitment county" (i.e., the county where the person was convicted of the offense).



Appendix: Methodology

Our methodology in calculating relative risk ratios faces the following limitations:

- (1) A person's commitment county may not be the county where they resided before incarceration and/or the county where they are incarcerated.
- (2) Census data count incarcerated people within the county they are incarcerated.²⁰⁵ Additionally, it is unclear what racial identities are subsumed within CDCR's "Other" ethnicity category. To determine population estimates of each racial/ethnic group in California, we used census data to construct racial/ethnic groups in a manner that approximates the CDCR race/ethnicity categories.²⁰⁶ People of all races who identified as Latinx in the general population were categorized under the "Latinx" category, rather than in the category of their individual race.

CALCULATION FOR NUMBER OF PEOPLE WHO CAN BE SAFELY RELEASED

We define being "safely released" as having a low likelihood of recidivating. To create an estimate of the number of people who could be safely released under PIR, we found the number of people who have a California Static Risk Assessment (CSRA) score of "low" (54,541 people) as of January 2021.²⁰⁷ We then found the number of people with "low" CSRA scores who have already served 10 years of their sentence (36,649 people).²⁰⁸ We then multiplied this number by the rate of people released in FY 2015-17 who did not return to prison within three years of being released from CDCR (71.2%)²⁰⁹ —known as the desistance rate—which resulted in a total of 26,079 people. Specifically, we take into consideration the following factors in our estimate:

- (1) The California Static Risk Assessment (CSRA) score, which predicts a person's likelihood of acquiring a new felony arrest within three years of release.²¹⁰ To be conservative in our estimate, we include only those with "low" CSRA scores. Several features of the CSRA are likely to overestimate actual risk, including that it was last validated in 2013 using data from incarcerated people released in FY 2002-03 despite major changes in the prison population since then.²¹¹ Also, static risk assessments have a limited "shelflife," as the predictive power of criminal history diminishes the further away a person gets from their past criminal offenses.²¹² However, to create a more conservative estimate of those who can be safely released, we consider CSRA scores in this estimate by including all those with "low" CSRA scores.
- (2) Time served in prison, given that research shows that people who have served a lengthy amount of time have very low recidivism rates.²¹³ Many DA offices beginning PIR work already use time served as a consideration in their decision making. For this estimate, we focus on candidates for resentencing and release who have already served 10 years. As a note, 41% of people who have served at least 10 years have already served 20 years of their sentence.



Appendix: Methodology

- (3) The desistance rate, which in this context reflects the proportion of people who did not return to prison within three years after being released from CDCR between FY 2015-17²¹⁴ (one commonly-used definition of recidivism is returning to prison within three years of release²¹⁵).

Note that our estimates are conservative, given that (1) research shows that people who have served long sentences have lower recidivism rates than the general released population,²¹⁶ yet the desistance rate we use refers to the general released population, despite the fact that the population we are considering has already served 10 years of their sentence (i.e., the rate of people who *do not* return to prison within three years of release is likely to be higher amongst the population we are considering), and (2) the released population from CDCR in FY 2015-17 was composed of 27.7% of people with “low” CSRA scores, while the population we are considering is composed *entirely* of people with “low” CSRA scores;²¹⁷ given this, the desistance rate applied in this calculation is very likely to be an underestimate.

Additionally, while recidivism rates are a key factor for our estimation of those who could be safely released, we recognize that recidivism does not equate criminal activity, given that recidivism is a function of both criminal offending and enforcement decisions.²¹⁸

Finally, while we believe that the factors used in this estimation can be helpful in determining actual cases to resentencing and initiate release, this estimation is not a recommendation for DAs to exclusively examine people with cases within these categories, nor is it a statement of belief that every person in this category of cases is a viable case for resentencing and release. This estimate is also not meant to be used for calculations related to county-level budget allotments toward reentry services. Rather, this estimation is intended to demonstrate the initial opportunities and potential impact that PIR could have in California were it to be widely adopted and implemented by DAs across the state.



Endnotes

- ¹ Kang-Brown, J., Montagnet, C., & Heiss, J. (2021). *People in jail and prison in spring 2021*. Vera Institute of Justice. <https://www.vera.org/publications/people-in-jail-and-prison-in-spring-2021>
- ² The Sentencing Project. (2021, May). *Fact sheet: Trends in U.S. corrections*. <https://www.sentencingproject.org/wp-content/uploads/2021/07/Trends-in-US-Corrections.pdf>
- ³ Ghandnoosh, N. (2021). *Can we wait 60 years to cut the prison population in half?* The Sentencing Project. <https://www.sentencingproject.org/publications/can-we-wait-60-years-to-cut-the-prison-population-in-half/>
- ⁴ Carson, E. A. & Sabol, W. J. (2012). *Prisoners in 2011*. Bureau of Justice Statistics. <https://bjs.ojp.gov/content/pub/pdf/p11.pdf>
- ⁵ Eaglin, J. (2015). *California quietly continues to reduce mass incarceration*. Brennan Center for Justice. <https://www.brennancenter.org/our-work/analysis-opinion/california-quietly-continues-reduce-mass-incarceration>
- ⁶ Legislative Analyst's Office. (2020). Effectively managing state prison infrastructure. <https://lao.ca.gov/Publications/Report/4186>
- ⁷ California Department of Corrections and Rehabilitation. (2021, November 2). *Population reports*. <https://www.cdcr.ca.gov/research/population-reports-2/>
- ⁸ Virtual life sentences are defined as 50 years or more; see Nellis, A. (2021). *No end in sight: America's enduring reliance on life imprisonment*. The Sentencing Project. <https://www.sentencingproject.org/publications/no-end-in-sight-americas-enduring-reliance-on-life-imprisonment/>
- ⁹ Ibid.
- ¹⁰ Prior to the passage of California's Proposition 36 in 2012, a person could receive a third strike for an offense that was neither serious nor violent. See Legislative Analyst's Office. (2013). *California's criminal justice system: A primer*. <https://lao.ca.gov/reports/2013/crim/criminal-justice-primer/criminal-justice-primer-011713.aspx>
- ¹¹ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ¹² California Department of Corrections and Rehabilitation. (2021, November 12). *Population COVID-19 tracking*. <https://www.cdcr.ca.gov/covid19/population-status-tracking/>
- ¹³ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ¹⁴ Goldstein, D. (2015). Too old to commit crime? *The New York Times*. <https://www.nytimes.com/2015/03/22/sunday-review/too-old-to-commit-crime.html>;
Franco-Paredes, C. & Ghandnoosh, N. (2020). Decarceration and community re-entry in the Covid-19 era. *The Lancet*. [https://www.thelancet.com/journals/laninf/article/PIIS1473-3099\(20\)30730-1/fulltext](https://www.thelancet.com/journals/laninf/article/PIIS1473-3099(20)30730-1/fulltext)
- ¹⁵ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ¹⁶ Ibid.
- ¹⁷ Nagin, D. S. (2013). Deterrence in the twenty-first century. *Crime and Justice*, 42(1), 199-263.
- ¹⁸ Ghandnoosh, N. (2021). *A second look at injustice*. The Sentencing Project. <https://www.sentencingproject.org/wp-content/uploads/2021/05/A-Second-Look-at-Injustice.pdf>
- ¹⁹ Californians for Safety and Justice. (2019). *California crime survivors speak: A statewide survey of California victims' views on safety and justice*. https://safeandjust.org/wp-content/uploads/ASJ_CACrimeSurvivorBrief-RD1-1.pdf
- ²⁰ Fair and Just Prosecution. (2017). *Building community trust. Procedural justice: Enhancing the legitimacy of the justice system*. <https://fairandjustprosecution.org/wp-content/uploads/2017/09/FJPBrief.ProceduralJustice.9.25.pdf>
- ²¹ Travis, J., Western, B., & Redburn, S. (Eds.) (2014). *The growth of incarceration in the United States: Exploring causes and consequences*. National Research Council. National Academies Press, p. 283.
- ²² California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ²³ U.S. Census Bureau. (2019). *Annual county resident population estimates by age, sex, race, and Hispanic origin: April 1, 2010 to July 1, 2019 (CC-EST2019-ALL DATA)* [Data file]. <https://www.census.gov/data/tables/time-series/demo/popest/2010s-counties-detail.html>; California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ²⁴ Ibid.
- ²⁵ Ibid.
- ²⁶ duVuono-powell, S., Schweidler, C., Walters, A., & Zohrabi, A. (2015). *Who pays? The true cost of incarceration on families*. Ella Baker Center, Forward Together, Research Action Design. <http://whopaysreport.org/who-pays-full-report/>
- ²⁷ Ibid.
- ²⁸ Elderbroom, B., Bennett, L., Gong, S., Rose, F., & Towns, Z. (2018). *Every second: The impact of the incarceration crisis on America's families*. Fwd.us. <https://everysecond.fwd.us/downloads/EverySecond.fwd.us.pdf>
- ²⁹ Hatzenbuehler, M. L., Keyes, K., Hamilton, A., Uddin, M., & Galea, S. (2015). The collateral damage of mass incarceration: Risk of psychiatric morbidity among nonincarcerated residents of high-incarceration neighborhoods. *American Journal of Public Health*, 105(1), 138-143.
- ³⁰ duVuono-powell, S., Schweidler, C., Walters, A., & Zohrabi, A. (2015). *Who pays? The true cost of incarceration on families*. Ella Baker Center, Forward Together, Research Action Design. <http://whopaysreport.org/who-pays-full-report/>
- ³¹ Lee, H., McCormick, T., Hicken, M. T., & Wildeman, C. (2015). Racial inequalities in connectedness to imprisoned individuals in the United States. *Du Bois Review*, 12(2).
- ³² Ibid.

Endnotes

- ³³ Maruschak, L. M., Bronson, J., & Mariel Alper, M. (2021, March). *Parents in prison and their minor children*. U.S. Department of Justice, Bureau of Justice Statistics. <https://bjs.ojp.gov/library/publications/parents-prison-and-their-minor-children-survey-prison-inmates-2016>
- ³⁴ Mauer, M. (2006). *Race to incarcerate*, The New Press.
- ³⁵ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ³⁶ See Appendix for methodology.
- ³⁷ Thompson, D. (2021, October 5). California ends mandatory minimum drug sentence rules. *Associated Press*. <https://apnews.com/article/gavin-newsom-scott-wiener-san-francisco-california-legislature-4d07934b97f4f212f13c48f725374cd5>
- ³⁸ Legislative Analyst's Office. (2005). A primer: Three strikes - the impact after more than a decade. https://lao.ca.gov/2005/3_strikes/3_strikes_102005.htm
- ³⁹ Equal Justice Initiative. (2017). *California abolishes death in prison sentences for children*. <https://eji.org/news/california-abolishes-juvenile-life-without-parole/>
- ⁴⁰ Goger, A., Harding, D. J. & Henderson, H. (2021). *A better path forward for criminal justice: Prisoner reentry*. Brookings-AEI Working Group on Criminal Justice Reform. <https://www.brookings.edu/research/a-better-path-forward-for-criminal-justice-prisoner-reentry/>
- ⁴¹ Auditor of the State of California. (2019). *California Department of Corrections and Rehabilitation: Several poor administrative practices have hindered reductions in recidivism and denied inmates access to in-prison rehabilitation programs*. <https://www.auditor.ca.gov/pdfs/reports/2018-113.pdf>
- ⁴² Cortes, K., & Rogers, S. (2010). *Reentry housing options: The policymakers' guide*. Council of State Governments Justice Center. <https://csgjusticecenter.org/publications/reentry-housing-options-the-policymakers-guide-2/>
- ⁴³ Armstrong, M., & Lewis, N. (2019, September 10). *What gate money can (and cannot) buy*. The Marshall Project. <https://www.themarshallproject.org/2019/09/10/what-gate-money-can-and-cannot-buy>
- ⁴⁴ Garcia, I., Hennessy, M., Valentine, E. J., Teres, J., & Sander, R. (2021, September). *Paving the way home: An evaluation of the returning citizens stimulus program*. MDRC. <https://ceoworks.org/assets/downloads/publications/RCS-Evaluation-Report.pdf>
- ⁴⁵ Sered, D. (2019). *Until we reckon: Violence, mass incarceration, and a road to repair*. The New Press.
- ⁴⁶ Travis, J., Western, B., & Redburn, S. (Eds.) (2014). *The growth of incarceration in the United States: Exploring causes and consequences*. National Research Council. National Academies Press, p. 283.
- ⁴⁷ See Appendix for methodology.
- ⁴⁸ See Appendix for methodology.
- ⁴⁹ Ball, W. D. (2016, March). "A false idea of economy": Costs, counties, and the origins of the California correctional system. *The ANNALS of the American Academy of Political and Social Science*, 664, 32. <https://doi.org/10.1177%2F0002716215601844>
- ⁵⁰ Eaglin, J. (2015). *California quietly continues to reduce mass incarceration*. Brennan Center for Justice. <https://www.brennancenter.org/our-work/analysis-opinion/california-quietly-continues-reduce-mass-incarceration>
- ⁵¹ Delaney, R., Subramanian, R., Shames, A., & Turner, N. (2018). *Reimagining prison*. Vera Institute of Justice. <https://www.vera.org/reimagining-prison-web-report/american-history-race-and-prison>
- ⁵² Drug Policy Alliance. (n.d.) *A brief history of the drug war*. <https://drugpolicy.org/issues/brief-history-drug-war>
- ⁵³ National Institute on Drug Abuse. (2021). *Opioid Overdose Crisis*. drugabuse.gov/drug-topics/opioids/opioid-overdose-crisis
- ⁵⁴ Delaney, R., Subramanian, R., Shames, A., & Turner, N. (2018). *Reimagining prison*. Vera Institute of Justice. <https://www.vera.org/reimagining-prison-web-report/american-history-race-and-prison>
- ⁵⁵ Uniform Determinate Sentencing Act, Cal. S.B. 42, 1975-76 Reg. Session. (1976).
- ⁵⁶ Green, M. (2012, January 23). How one law helped pack California's prisons. *KQED*. <https://www.kqed.org/lowdown/775/the-law-that-help-pack-californias-prisons>
- ⁵⁷ Ibid.
- ⁵⁸ Legislative Analyst's Office. (2005). *A primer: Three strikes - The impact after more than a decade*. https://lao.ca.gov/2005/3_strikes/3_strikes_102005.htm
- ⁵⁹ Vera Institute of Justice. (2019, December). *Incarceration trends in California*. <https://www.vera.org/downloads/pdfdownloads/state-incarceration-trends-california.pdf>
- ⁶⁰ Graves, S. (2021, June). *Racial disparities in California's state prisons*. California Budget & Policy Center. <https://calbudgetcenter.org/wp-content/uploads/2021/06/R-FP-Prison-Racial-Disparities.pdf>
- ⁶¹ Ibid.
- ⁶² Legislative Analyst's Office. (2020). *Effectively managing state prison infrastructure*. <https://lao.ca.gov/Publications/Report/4186>
- ⁶³ Gilmore, R. W. (2007). *Golden gulag*. University of California Press.
- ⁶⁴ Ibid.
- ⁶⁵ Petitjean, C. (2018). *Prisons and class warfare: An interview with Ruth Wilson Gilmore*. Verso. <https://www.versobooks.com/blogs/3954-prisons-and-class-warfare-an-interview-with-ruth-wilson-gilmore>
- ⁶⁶ Ibid.



Endnotes

- ⁶⁷ Medina, J. (2011, May 11). In a California prison, bunk beds replace pickup games. *The New York Times*.
<https://www.nytimes.com/2011/05/25/us/25prison.html>
- ⁶⁸ Ibid.
- ⁶⁹ Ibid.
- ⁷⁰ *Brown v. Plata*, 563 U.S. 493 (2011).
- ⁷¹ Lofstrom, M. & Martin, B. (2015). *Public safety realignment: Impacts so far*. Public Policy Institute of California.
<https://www.ppic.org/publication/public-safety-realignment-impacts-so-far/>
- ⁷² Ibid.
- ⁷³ Ibid.
- ⁷⁴ Cal. S.B. 9, 2011-12 Reg. Session. (2012). https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120SB9
- ⁷⁵ Cal. A.B. 1448, 2017-18 Reg. Session. (2017). https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1448
- ⁷⁶ Cal. S.B. 620, 2017-18 Reg. Session (2017). https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB620
- ⁷⁷ Cal. S.B. 1393, 2017-18 Reg. Session (2018). https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB1393
- ⁷⁸ Legislative Analyst's Office. (2013). *California's criminal justice system: A primer*
<https://lao.ca.gov/reports/2013/crim/criminal-justice-primer/criminal-justice-primer-011713.aspx>
- ⁷⁹ California Secretary of State. (2014). *Official voter information guide: Proposition 47*.
<http://web.archive.org/web/20140908180059/http://voterguide.sos.ca.gov/en/propositions/47/analysis.htm>
- ⁸⁰ Couzens, J. R. & Bigelow, T. A. (2017, May). *Proposition 57: "The Public Safety and Rehabilitation Act of 2016"*. California Courts.
<https://www.courts.ca.gov/documents/prop57-Parole-and-Credits-Memo.pdf>
- ⁸¹ Public Policy Institute of California (2021). *Prison and jail populations_June 1996 to Sept 2020* [Unpublished raw data]. California Department of Corrections and Rehabilitation & Board of State and Community Corrections.
- ⁸² Dominguez-Rivera, P., Lofstrom, M., & Raphael, S. (2019). *The effect of sentencing reform on crime rates: Evidence from California's Proposition 47*. Goldman School of Public Policy Working Paper: August 2019.
https://gspp.berkeley.edu/assets/uploads/research/pdf/draft_1_prop_47_raphael_and_lofstrom.pdf
- ⁸³ Carson, E. A. (2020). *Prisoners in 2019*. Bureau of Justice Statistics. <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=7106>
- ⁸⁴ California Department of Corrections and Rehabilitation (2021, November 2). *Population reports*.
<https://www.cdcr.ca.gov/research/population-reports-2/>. Imprisonment rate was calculated by dividing the total prison population by the total general population, and then multiplying by 100,000; see U.S. Census Bureau. (2019). *Annual county resident population estimates by age, sex, race, and Hispanic origin: April 1, 2010 to July 1, 2019 (CC-EST2019-ALLDATA)* [Data file].
<https://www.census.gov/data/tables/time-series/demo/popest/2010s-counties-detail.html>.
- ⁸⁵ Wagner, P. & Bertram, W. (2018). *States of incarceration: The global context 2021*. Prison Policy Initiative. <https://www.prisonpolicy.org/global/2021.html>
- ⁸⁶ Ibid.
- ⁸⁷ Nellis, A. (2021). *No end in sight: America's enduring reliance on life imprisonment*. The Sentencing Project.
<https://www.sentencingproject.org/publications/no-end-in-sight-americas-enduring-reliance-on-life-imprisonment/>
- ⁸⁸ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ⁸⁹ Ibid.
- ⁹⁰ Grattet, R. (2017, September 27). *Sentence enhancements: Next target of corrections reform?* Public Policy Institute of California.
<https://www.ppic.org/blog/sentence-enhancements-next-target-corrections-reform/>
- ⁹¹ Committee on Revision of the Penal Code. (2020). *Annual report and recommendations*. http://www.clrc.ca.gov/CRPC/Pub/Reports/CRPC_AR2020.pdf
- ⁹² Both race and ethnicity groups were categorized under CDCR's "ethnicity" variable. This way of reporting race and ethnicity hinders the ability to identify both a person's race and ethnicity. We included the following ethnicities under "Latinx": Colombian, Cuban, Guatemalan, Mexican, Nicaraguan, Puerto Rican, Salvadorian, and Hispanic. We included the following ethnicities under "Asian": Cambodian, Chinese, Filipino, Indian, Japanese, Korean, Laotian, Thai, Vietnamese, and Other Asian. We included the following ethnicities under Native Hawaiian/Pacific Islander: Guamanian, Hawaiian, Samoan, and Pacific Islander. Four people who identify their ethnicity as Jamaican are included in the "Other" category.
- ⁹³ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ⁹⁴ U.S. Census Bureau. (2019). *Annual county resident population estimates by age, sex, race, and Hispanic origin: April 1, 2010 to July 1, 2019 (CC-EST2019-ALL DATA)* [Data file]. <https://www.census.gov/data/tables/time-series/demo/popest/2010s-counties-detail.html>; California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ⁹⁵ Ibid.
- ⁹⁶ Ibid.
- ⁹⁷ Otherwise known as the "relative risk ratio"; see Tenny, S., & Hoffman, M. R. (2019). *Relative risk*. StatPearls Publishing.
- ⁹⁸ See Appendix for methodology.
- ⁹⁹ See Appendix for methodology.
- ¹⁰⁰ See Appendix for methodology.



Endnotes

- ¹⁰¹ California Department of Corrections and Rehabilitation. (2021, November 12). *Population COVID-19 tracking*. <https://www.cdcr.ca.gov/covid19/population-status-tracking/>
- ¹⁰² *Ibid.*
- ¹⁰³ Westervelt, E. (2020, July 4). COVID-19 outbreak devastates California's San Quentin prison. *NPR*. <https://www.npr.org/2020/07/04/887239267/covid-19-outbreak-devastates-californias-san-quentin-prison>
- ¹⁰⁴ *In re Ivan Von Staich*, 56 Cal.App.5th 53 (2020).
- ¹⁰⁵ *Ibid.*
- ¹⁰⁶ Clayton, A. (2020, October 20). California must cut San Quentin prison population amid pandemic, court rules. *The Guardian*. <https://www.theguardian.com/us-news/2020/oct/22/california-san-quentin-prison-population-court-covid>
- ¹⁰⁷ *Ibid.*
- ¹⁰⁸ Winton, R. (2020, October 21). Court orders San Quentin prison to sharply cut inmate population after COVID outbreak. *Los Angeles Times*. <https://www.latimes.com/california/story/2020-10-21/san-quentin-ordered-to-reduce-prison-population>
- ¹⁰⁹ Thomas, R. (2021, April 15). Will COVID-19 vaccinations mean more prison overcrowding deaths? *High Country News*. <https://www.hcn.org/issues/53.5/ideas-justice-will-covid-19-vaccinations-mean-more-prison-overcrowding-deaths>
- ¹¹⁰ Harris, H., Goss, J., Hayes, J., & Gumbs, A. (2019). *Just the facts: California's prison population*. Public Policy Institute of California. <https://www.ppic.org/publication/californias-prison-population/>
- ¹¹¹ *Ibid.*
- ¹¹² Mai, C. & Subramanian, R. (2017). *The price of prisons*. Vera Institute of Justice. <https://www.vera.org/downloads/publications/the-price-of-prisons-2015-state-spending-trends.pdf>
- ¹¹³ California Department of Finance. (2021). *California state budget 2021-22*. <http://www.ebudget.ca.gov/FullBudgetSummary.pdf>
- ¹¹⁴ Mai, C. & Subramanian, R. (2017). *The price of prisons*. Vera Institute of Justice. <https://www.vera.org/downloads/publications/the-price-of-prisons-2015-state-spending-trends.pdf>
- ¹¹⁵ California Department of Finance. (2021). *2021-22 Governor's Budget: Entire corrections and rehabilitation budget*. <http://www.ebudget.ca.gov/2021-22/pdf/Enacted/GovernorsBudget/5210.pdf>
- ¹¹⁶ Cal. Penal Code § 1170, subd. (d)(1).
- ¹¹⁷ Cal. A.B. 2942, 2017-18 Reg. Session. (2018). https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2942
- ¹¹⁸ See Appendix for methodology.
- ¹¹⁹ Cal. A.B. 2942, 2017-18 Reg. Session. (2018). https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB2942
- ¹²⁰ Cal. Penal Code § 1170, subd. (d)(1).
- ¹²¹ *Dix v. Superior Court*, 53 Cal.3d 442, 456 (1991).
- ¹²² Cal. Penal Code § 1170, subd. (d)(1).
- ¹²³ *Ibid.*
- ¹²⁴ *Ibid.*
- ¹²⁵ *Ibid.*
- ¹²⁶ Cal. A.B. 1540, 2021-22 Reg. Session. (2021). https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1540.
- ¹²⁷ *Ibid.*
- ¹²⁸ Fair and Just Prosecution. (2021). *Joint statement on sentencing second chances and addressing past extreme sentences*. <https://fairandjustprosecution.org/wp-content/uploads/2021/04/FJP-Extreme-Sentences-and-Second-Chances-Joint-Statement.pdf>
- ¹²⁹ Irvine, A. (2020). *New survey results: District attorneys support the review and revision of past prison sentences in California*. Ceres Policy Research.
- ¹³⁰ Graves, S. (2021). *Racial disparities in California's state prisons*. California Budget & Policy Center. <https://calbudgetcenter.org/wp-content/uploads/2021/06/R-FP-Prison-Racial-Disparities.pdf>
- ¹³¹ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ¹³² California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. The proportion of Black people that would be eligible for early release under either of these criteria is greater than the proportion of every other race/ethnicity group except the "Other" category. Besides four people identifying as Jamaican whom we grouped into the "Other" category, the specific ethnicities of people in the "Other" category are unknown. The number of people incarcerated in each of the following race/ethnic groups are as follows: Black (n=27,636), Latinx (n=42,255), white (n=18,187), Asian (n=1,045), American Indian (n=1,090), Native Hawaiian/Pacific Islander (n=296), and Other (n=3,897). See Appendix for full methodology.
- ¹³³ *Ibid.*



Endnotes

- ¹³⁴ Offenses deemed “serious” are defined under Cal. Penal Code § 1192.7(c) and 1192.8. The offense categories labeled in CDCR data are relatively broad, so while most serious crimes were included in our estimates (including all sex crimes), several were unable to be captured, including sales of certain controlled substances to minors; carjacking; exploding a destructive device or explosive with intent to injure; throwing acid or flammable substance; and intimidation of victims or witnesses. These offenses do not have distinct categories in the CDCR data and are subsumed under broader categories; we infer this is because relatively few people have offenses in these categories. Additionally, as the offense categories did not specify which grand theft cases involved a firearm—which would deem these offenses as serious—we included all 250 grand theft cases as “serious” offenses. A full list of serious offenses may be found at <https://www.cdcr.ca.gov/parole/serious-offenses-defined/>.
- ¹³⁵ Offenses deemed “violent” are defined in Cal. Penal Code § 667.5(c) and include “assault with the intent to commit a specified felony.” While not all assault cases fall under this category, we created conservative estimates by including all “assault with a deadly weapon” cases (9,728) and “other assault/battery” cases (14,353) under “violent” offenses. A full list of violent offenses may be found at <https://www.cdcr.ca.gov/parole/violent-offenses-defined/>.
- ¹³⁶ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ¹³⁷ Luna, E. (2003). Introduction: The Utah restorative justice conference. *Utah Law Review*, 2003, 1. <https://collections.lib.utah.edu/details?id=723036>
- ¹³⁸ *Ibid.*
- ¹³⁹ Sered, D. (2017). *Accounting for violence: How to increase safety and break our failed reliance on mass incarceration*. Vera Institute of Justice. <https://d3n8a8pro7vnm.cloudfront.net/commonjustice/pages/82/attachments/original/1506608259/accounting-for-violence.pdf>
- ¹⁴⁰ Cal. Const. art I, § 28(b).
- ¹⁴¹ Californians for Safety and Justice. (2019). *California crime survivors speak: A statewide survey of California victims' view on safety and justice*. https://safeandjust.org/wp-content/uploads/ASJ_CACrimeSurvivorBrief-RD1-1.pdf
- ¹⁴² *Ibid.*
- ¹⁴³ *Ibid.*
- ¹⁴⁴ Nagin, D. S. (2013). Deterrence in the twenty-first century. *Crime and Justice*, 42(1), 199-263.
- ¹⁴⁵ Tonry, M. (2006). Purposes and functions of sentencing, *Crime & Justice*, 34(1), 1-53. https://scholarship.law.umn.edu/faculty_articles/495
- ¹⁴⁶ Mauer, M. & Nellis, A. (2018). *The meaning of life*. The New Press.
- ¹⁴⁷ Nellis, A. (2021). *No end in sight: America's enduring reliance on life imprisonment*. The Sentencing Project. <https://www.sentencingproject.org/publications/no-end-in-sight-americas-enduring-reliance-on-life-imprisonment/>
- ¹⁴⁸ *Ibid.*
- ¹⁴⁹ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ¹⁵⁰ *Ibid.*
- ¹⁵¹ Mauer, M. (2006). *Race to incarcerate*. The New Press.
- ¹⁵² Travis, J., Western, B., & Redburn, S. (Eds.) (2014). *The growth of incarceration in the United States: Exploring causes and consequences*. National Research Council. National Academies Press, p. 283.
- ¹⁵³ Mauer, M. (2006). *Race to incarcerate*. The New Press.
- ¹⁵⁴ Clayton, G., Richardson, E., Mandlin, L., & Farr, B. (2018). *Because she's powerful: The political isolation and resistance of women with incarcerated loved ones*. Essie Justice Group. https://www.becauseshespowerful.org/wp-content/uploads/2018/05/Essie-Justice-Group_Because-Shes-Powerful-Report.pdf
- ¹⁵⁵ duVuono-powell, S., Schweidler, C., Walters, A., & Zohrabi, A. (2015). *Who pays? The true cost of incarceration on families*. Ella Baker Center, Forward Together, Research Action Design. <http://whopaysreport.org/who-pays-full-report/>
- ¹⁵⁶ *Ibid.*
- ¹⁵⁷ Wagner, P. & Rabuy, B. (2017). *Following the money of mass incarceration*. Prison Policy Initiative. <https://www.prisonpolicy.org/reports/money.html>
- ¹⁵⁸ Lee, H., McCormick, T., Hicken, M. T., & Wildeman, C. (2015). Racial inequalities in connectedness to imprisoned individuals in the United States. *Du Bois Review*, 12(2).
- ¹⁵⁹ Clayton, G., Richardson, E., Mandlin, L., & Farr, B. (2018). *Because she's powerful: The political isolation and resistance of women with incarcerated loved ones*. Essie Justice Group. https://www.becauseshespowerful.org/wp-content/uploads/2018/05/Essie-Justice-Group_Because-Shes-Powerful-Report.pdf
- ¹⁶⁰ *Ibid.*
- ¹⁶¹ Maruschak, L. M., Bronson, J., & Mariel Alper, M. (2021, March). *Parents in prison and their minor children*. U.S. Department of Justice, Bureau of Justice Statistics. <https://bjs.ojp.gov/library/publications/parents-prison-and-their-minor-children-survey-prison-inmates-2016>
- ¹⁶² duVuono-powell, S., Schweidler, C., Walters, A., & Zohrabi, A. (2015). *Who pays? The true cost of incarceration on families*. Ella Baker Center, Forward Together, Research Action Design. <http://whopaysreport.org/who-pays-full-report/>
- ¹⁶³ Elderbroom, B., Bennett, L., Gong, S., Rose, F., & Towns, Z. (2018). *Every second: The impact of the incarceration crisis on america's families*. Fwd.us. <https://everysecond.fwd.us/downloads/EverySecond.fwd.us.pdf>



Endnotes

- ¹⁶⁴ Hatzenbuehler, M. L., Keyes, K., Hamilton, A., Uddin, M., & Galea, S. (2015). The collateral damage of mass incarceration: Risk of psychiatric morbidity among nonincarcerated residents of high-incarceration neighborhoods. *American Journal of Public Health*, 105(1), 138-143.
- ¹⁶⁵ Satterberg, D. & Wright, R. (2018, November). *Prosecution that earns community trust*. Institute for Innovation in Prosecution at John Jay College. https://static1.squarespace.com/static/5c4fbee5697a9849dae88a23/t/5c5349c053450aa58b860a1a/1548962240915/Community_Trust+FINAL.pdf.
- ¹⁶⁶ Ibid.
- ¹⁶⁷ Alliance for Safety and Justice. (2016). *Crime survivors speak: The first-ever national survey of victims' views on safety and justice*. <http://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>
- ¹⁶⁸ Alliance for Safety and Justice. (2019). *California crime survivors speak: A statewide survey of California victims' views on safety and justice*. https://safeandjust.org/wp-content/uploads/ASJ_CACrimeSurvivorBrief-RD1-1.pdf
- ¹⁶⁹ Alliance for Safety and Justice. (2016). *Crime survivors speak: The first-ever national survey of victims' views on safety and justice*. <http://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>
- ¹⁷⁰ Fair and Just Prosecution. (2017). *Building community trust. Procedural justice: Enhancing the legitimacy of the justice system*. <https://fairandjustprosecution.org/wp-content/uploads/2017/09/FJPBrief.ProceduralJustice.9.25.pdf>
- ¹⁷¹ Alliance for Safety and Justice. (2016). *Crime survivors speak: The first-ever national survey of victims' views on safety and justice*. <http://allianceforsafetyandjustice.org/wp-content/uploads/documents/Crime%20Survivors%20Speak%20Report.pdf>
- ¹⁷² Jayadev, R. (n.d.) *About participatory defense*. Participatory Defense. <https://www.participatorydefense.org/about>
- ¹⁷³ Salonga, R. (2021, May 10). 'See the chapters that still have to be written': San Jose man's redemption held up as testament to Landmark Prison-Reform Law. *The Mercury News*. <https://www.mercurynews.com/2021/05/08/see-the-chapters-that-still-have-to-be-written-san-jose-mans-redemption>
- ¹⁷⁴ Shaddox, R. (2020, December 7). New resentencing law grants second chance to California inmates. *Fox40*. <https://fox40.com/news/local-news/new-resentencing-law-grants-second-chance-to-california-inmates/>
- ¹⁷⁵ Figueroa, T. (2021, May 3). In push to fix unjust and harsh sentences, 84-year-old San Diego man to be released on parole. *The San Diego Union Tribune*. <https://bit.ly/3oOaa9J>
- ¹⁷⁶ See Appendix for methodology.
- ¹⁷⁷ Goger, A., Harding D., & Henderson, H. (2021, April). *A better path forward for criminal justice: Prisoner reentry*. Brookings Institution. <https://www.brookings.edu/research/a-better-path-forward-for-criminal-justice-prisoner-reentry>
- ¹⁷⁸ Ibid.
- ¹⁷⁹ Prison Policy Initiative. (2021, November 10). *Recidivism and reentry*. https://www.prisonpolicy.org/research/recidivism_and_reentry/
- ¹⁸⁰ For the People & The Center for Employment Opportunities. (2021, September 22). *For The People and The Center for Employment Opportunities partner to provide cash assistance and reentry services to people released via resentencing in California*. Cision PR Newswire. <https://bit.ly/3GJAcG5>
- ¹⁸¹ The Center for Employment Opportunities. (n.d.). *Returning citizens stimulus*. <https://ceoworks.org/rcs>
- ¹⁸² Anti-Recidivism Coalition. (n.d.). *Supportive services*. <https://antirecidivism.org/our-programs/supportive-services/>
- ¹⁸³ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ¹⁸⁴ Ibid.
- ¹⁸⁵ See Appendix for methodology.
- ¹⁸⁶ Goldstein, D. (2015). Too old to commit crime? *The New York Times*. <https://www.nytimes.com/2015/03/22/sunday-review/too-old-to-commit-crime.html>
- ¹⁸⁷ American Civil Liberties Union. (2012). *At America's expense: The mass incarceration of the elderly*. <https://bit.ly/3yjfGER>
- ¹⁸⁸ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data]. See Appendix for methodology.
- ¹⁸⁹ Kang-Brown, J., Montagnet, C., & Heiss, J. (2021). *People in jail and prison in 2020*. Vera Institute of Justice. <https://www.vera.org/publications/people-in-jail-and-prison-in-2020>
- ¹⁹⁰ Wagner, P. & Sawyer, W. (2020, March). *Mass incarceration: The whole pie 2020*. Prison Policy Initiative. <https://www.prisonpolicy.org/reports/pie2020.html>
- ¹⁹¹ Wagner, P. & Sawyer, W. (2018, June). *States of incarceration: The global context 2018*. Prison Policy Initiative. <https://www.prisonpolicy.org/global/2018.html>
- ¹⁹² Ghandnoosh, N. (2021). *Can we wait 60 years to cut the prison population in half?* The Sentencing Project. <https://www.sentencingproject.org/publications/can-we-wait-60-years-to-cut-the-prison-population-in-half/>
- ¹⁹³ Travis, J., Western, B., & Redburn, S. (Eds.) (2014). *The growth of incarceration in the United States: Exploring causes and consequences*. National Research Council. National Academies Press, pp. 52-55; see also Mauer, M. (2018). Long-term sentences: Time to reconsider the scale of punishment. *UMKC Law Review*. <https://www.sentencingproject.org/wp-content/uploads/2018/11/UMKC-Law-Review-Scale-of-Punishment.pdf>
- ¹⁹⁴ 14% could be safely released because they had already served a long portion of their sentence, while 25% could be safely released because sentencing the person to an alternative to prison would have been a more appropriate measure to begin with; Eisen, L-B., Austin, J., Cullen, J., Frank, J., & Chettiar, I. (2019, December 9). *How many Americans are unnecessarily incarcerated?* Brennan Center for Justice. <https://www.brennancenter.org/our-work/research-reports/how-many-americans-are-unnecessarily-incarcerated>



Endnotes

- ¹⁹⁵ Virtual life sentences are defined by Nellis as 50 years or more; see Nellis, A. (2021). *No end in sight: America's enduring reliance on life imprisonment*. The Sentencing Project. <https://www.sentencingproject.org/publications/no-end-in-sight-americas-enduring-reliance-on-life-imprisonment/>
- ¹⁹⁶ Ghandnoosh, N. (2021). *A second look at injustice*. The Sentencing Project. <https://www.sentencingproject.org/wp-content/uploads/2021/05/A-Second-Look-at-Injustice.pdf>
- ¹⁹⁷ Widra, E. (2020, May 11). *Since you asked: How many people aged 55 or older are in prison, by state?* Prison Policy Initiative. <https://www.prisonpolicy.org/blog/2020/05/11/55plus/>
- ¹⁹⁸ Ghandnoosh, N. (2021). *A second look at injustice*. The Sentencing Project. <https://www.sentencingproject.org/wp-content/uploads/2021/05/A-Second-Look-at-Injustice.pdf>
- ¹⁹⁹ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data].
- ²⁰⁰ California Department of Finance. (2021). *2021-22 Governor's budget: Entire corrections and rehabilitation budget*. <http://www.ebudget.ca.gov/2021-22/pdf/Enacted/GovernorsBudget/5210.pdf>
- ²⁰¹ Arias, E., & Xu, J., (2019). United States life tables, 2017. *National vital statistics report*, 68(7), 1-25
- ²⁰² Patterson, E.J. (2013). The dose-response of time served in prison on mortality: New York State, 1989-2003. *American Journal of Public Health*, 103(3), 523–528.
- ²⁰³ U.S. Census Bureau. (2019). *Annual county resident population estimates by age, sex, race, and Hispanic origin: April 1, 2010 to July 1, 2019 (CC-EST2019-ALLDATA)* [Data file]. <https://www.census.gov/data/tables/time-series/demo/popest/2010s-counties-detail.html>
- ²⁰⁴ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data].
- ²⁰⁵ Prison Policy Initiative. (2021). *Prison populations and the census – FAQ*. <https://www.prisonersofthecensus.org/faq.html>
- ²⁰⁶ U.S. Census Bureau. (2019). *Annual county resident population estimates by age, sex, race, and Hispanic origin: April 1, 2010 to July 1, 2019 (CC-EST2019-ALLDATA)* [Data file]. <https://www.census.gov/data/tables/time-series/demo/popest/2010s-counties-detail.html>
- ²⁰⁷ California Department of Corrections and Rehabilitation. (2021). *State prison population (2021_01)* [Unpublished raw data].
- ²⁰⁸ *Ibid.*
- ²⁰⁹ California Department of Corrections and Rehabilitation. (2021). *CDCR Recidivism Data FY 2015-17* [Unpublished raw data].
- ²¹⁰ Cal. Code Regs. tit. 15 § 3768.1.
- ²¹¹ Howle, E. (2019). *California Department of Corrections and Rehabilitation: Several poor administrative practices have hindered reductions in recidivism and denied inmates access to in-prison rehabilitation programs*. California State Auditor. <https://www.auditor.ca.gov/pdfs/reports/2018-113.pdf>
- ²¹² Monahan, J., & Skeem, J. L. (2013). Risk redux: The resurgence of risk assessment in criminal sanctioning. *Federal Sentencing Reporter*, 26, 158.
- ²¹³ Ghandnoosh, N. (2021). *A second look at injustice*. The Sentencing Project. <https://www.sentencingproject.org/wp-content/uploads/2021/05/A-Second-Look-at-Injustice.pdf>
- ²¹⁴ California Department of Corrections and Rehabilitation. (2021). *CDCR Recidivism Data FY 2015-17* [Unpublished raw data].
- ²¹⁵ Gelb, A. & Velázquez, T. (2018). *The changing state of recidivism: Fewer people going back to prison*. The Pew Charitable Trusts. <https://www.pewtrusts.org/en/research-and-analysis/articles/2018/08/01/the-changing-state-of-recidivism-fewer-people-going-back-to-prison>
- ²¹⁶ Bureau of Justice Statistics. (2021). *Recidivism of prisoners released in 24 states in 2008: A 10-year follow-up period (2008–2018)*. https://bjs.ojp.gov/BJS_PUB/rpr24s0810yfup0818/Web%20content/508%20compliant%20PDFs
- ²¹⁷ California Department of Corrections and Rehabilitation. (2021). *CDCR recidivism data FY 2015-17* [Unpublished raw data].
- ²¹⁸ Butts, J. A. & Schiraldi, V. (2018). *Recidivism reconsidered: Preserving the community justice mission of community corrections*. Harvard Kennedy School. https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/recidivism_reconsidered.pdf