

Evaluating the Effects of California's Corrections Realignment on Public Safety

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with research support from Katherine Kramer

Summary

In response to a court order to reduce the population in its seriously overcrowded prisons, California began implementing a major new corrections realignment plan in October 2011. The plan shifts responsibility for a substantial number of non-serious, non-violent, non-sexual felony offenders from the state to its 58 counties. Ultimately, this reform is projected to reallocate about 30,000 low-risk felons from state prisons to either county jails or an alternative form of community corrections. Additionally, county probation departments will take on the supervision of roughly 60,000 additional offenders on Post-Release Community Supervision (PRCS). Although the counties receive funding to cover the cost of supervising these felons, the state has not established any statewide standards, nor provided any funding, for evaluating county policies and practices in managing this new program.

This report provides guidelines on how to monitor the effects of realignment—most fundamentally, is it achieving the goals of assuring public safety and doing so efficiently? It also presents a brief review of the various data that can be used to monitor the effects and evaluate the success of realignment at the local level. Finally, it describes several research designs for accomplishing these tasks.

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Introduction

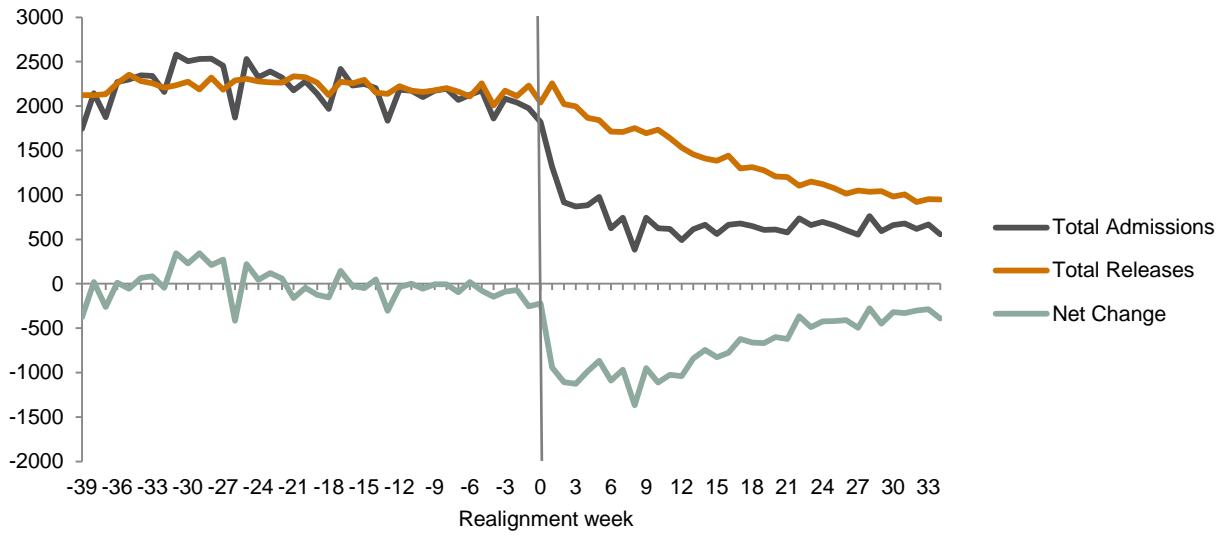
On October 1, 2011, the state of California and its 58 counties began implementing Assembly Bill 109, shifting responsibility for a substantial number of non-serious, non-violent, non-sexual felony offenders from the state to its counties. AB 109, commonly referred to as “realignment,” is perhaps the largest change to adult corrections in the state since the adoption of determinate sentencing in the 1970s. Ultimately, this reform is projected to reallocate about 30,000 low-risk felons from state prisons to either county jails or some alternative form of community corrections. County probation departments will see dramatic increases in caseloads, undertaking the supervision of roughly 60,000 additional offenders on Post-Release Community Supervision (PRCS). The legislation also makes it more difficult to return parolees to prison for non-felonious parole violations, and instead generally caps sanctions for these violations to incarceration at a county jail.

This reform came about largely as a result of overcrowding in the state’s 33 prisons. In 2009, a federal three-judge panel ordered the state to reduce its prison population to 137.5 percent of design capacity—a reduction of roughly 30,000 prisoners—within two years. The state appealed but the U.S. Supreme Court upheld the mandate in May 2011, and the state then determined that the best way to reduce the prison population was to shift a substantial share of the corrections responsibility to the counties.

Proponents of this decision argued that counties are better suited—and also have a greater stake in the outcomes—than the state when it comes to handling low-level felons. The AB 109 felons sent to county jails are from local communities and presumably will return to those communities after serving their sentences. The counties thus have an incentive to handle these felons in ways that are more likely to reduce the chance of recidivism, since responsibility for local public safety, as well as the cost of repetitive crime, resides within the county. The goal is for counties to rely less heavily on incarceration (a virtual necessity given the funding structure) and to turn instead to alternative evidence-based approaches. Counties also administer a variety of programs that support the rehabilitative goal, such as mental health treatment, drug and alcohol abuse treatment, job training, and housing. The greater proximity to support networks of family and friends is also often helpful.

Some of the effects of realignment are already evident. The state prison population has declined by more than 25,000 felons (from 160,482 on September 28, 2011, to 135,202 on June 27, 2012), meeting the court ordered targets thus far. However, the pace of the declining prison population has slowed, as shown by the “net change” (the difference between weekly admissions and releases) in Figure 1. The primary reason for the shrinking prison population has been that technical violations (such as missed appointments with a parole officer) are no longer punishable by time in state prison. Although the initial contribution of this factor was considerable, its role in the reduction of the prison population steadily declined (Figure 2). Additional, smaller reductions were achieved as the responsibility for incarcerating new felony offenders was shifted to the counties. In addition, counties are also newly responsible for those released from prison after serving sentences for low-level crimes (as of the end of May 2012, counties were supervising slightly more than 29,000 offenders released from prison to county PRCS).

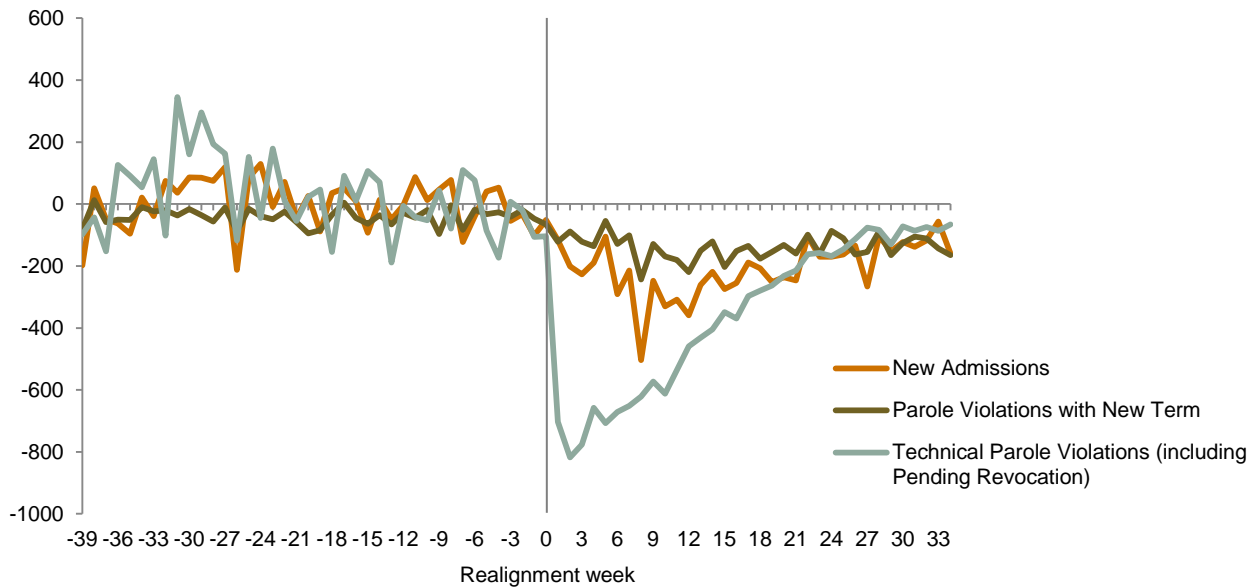
FIGURE 1
Weekly changes in state prison population, January 2011–May 2012



SOURCE: Authors' calculations based on weekly county-level data provided by the California Department of Corrections and Rehabilitation.

NOTE: The first week of realignment (i.e., the first week of October 2011) is represented by the vertical bar and is labeled Realignment Week 0.

FIGURE 2
Weekly net flows in state prison population, by new admissions and parole violations, January 2011–May 2012



SOURCE: Authors' calculations based on weekly county-level data provided by the California Department of Corrections and Rehabilitation.

NOTE: The first week of realignment (i.e., the first week of October 2011) is represented by the vertical bar and is labeled Realignment Week 0.

Ideally, the state’s post-realignment criminal justice system will maintain, or even reduce, California’s historically low crime rates—but at lower fiscal and social costs than during the pre-realignment period. Determining whether such is the case will require careful and reliable monitoring and assessment of the realignment approaches of counties throughout the state. Disseminating the findings of such assessments will enable counties to consider “best practices” and to tailor their community corrections systems in ways best suited to local conditions. Hopefully, such information sharing will also prevent arbitrary cross-county differences in the treatment of similar offenders.

Counties have considerable latitude in how they spend their realignment money. The state allocated nearly \$1 billion to pay for the cost of realignment and proposed to permanently guarantee the funding by placing it in the state constitution through a ballot measure to be considered by voters in November 2012. While the state legislation authorizing realignment shifted considerable responsibility and flexibility to local governments, it did not set performance standards, nor did it call upon state authorities to determine the success or failure of local decisions. Rather than direct supervision, the legislation called for the state to establish a new government entity to assist counties as they implement their realignment programs. This new Board of State and Community Corrections (BSCC), consisting of state and local appointees, is to work with local organizations such as the California State Sheriffs’ Association, the Chief Probation Officers of California, the Administrative Office of the Courts, and the California State Association of Counties and, together, to collect data that measures the effects of realignment, to share information about local experiences and make information publicly available through a state website.

The objective of this report is to provide guidelines on how to monitor realignment and to determine whether it is achieving the goals of assuring public safety and doing so more efficiently than was accomplished by the state. As such, we hope these guidelines are of particular interest to the members of the BSCC and local organizations seeking to determine whether these goals are achieved. We provide a list of outcomes that are important for understanding and determining the effects of realignment, a brief review of the data currently available for evaluations, and finally, to help in the challenging tasks of evaluating the effects of realignment, we describe research designs useful for assessing the various effects of public safety realignment.

Measurable Outcomes

Given the scope of realignment, it is likely to produce a wide range of effects. Our objective here, however, is not to provide a comprehensive list of all the various changes relating to realignment but rather to generate a set of measurable outcomes that, taken together in thoughtful analyses, will prove useful in assessing the overall impact of realignment on public safety and its cost to local government. These two goals—public safety and cost—are critical considerations when it comes to measuring the success of realignment. We discuss below the outcomes that need to be monitored in determining whether these goals are being achieved. Given the unprecedented nature of realignment and the wide variety of experiences statewide, it is likely that some policy adjustments will be needed in the coming months and years. The success of such adjustments will depend, at least in part, on properly understanding the information provided in the measures we describe below. On a final note, accurate evaluation of outcomes obviously depends on current and accurate data collection by the state and its counties, including the BSCC and local organizations.

Crime Rates

California's overall crime rate has declined every year since 2003 and has now reached its lowest level in the past 50 years. This declining trend is similar to those in the rest of the United States. Arguably, the most important outcome to track in the case of AB 109 is its effect on California's crime rate, both at the state and local levels. It is not obvious whether realignment will increase or decrease crime rates or whether the effect might vary by county, particularly since counties will differ in how they use the state funds designated for realignment. Crime rates might in fact rise if offenders are incarcerated for shorter periods of time. But crime rates might decline if counties use intervention policies—such as job assistance or drug treatment—that are found to change offender behavior. Finally, given the significant heterogeneity in the prison population in terms of offenses committed, AB 109's effect on crime may be limited if it effectively identifies less serious offenders.

In addition to analyzing the relationship between realignment and the overall crime rate, researchers should assess its effect on specific crime categories, which is likely to vary. Of course, crime fluctuations may involve numerous other factors as well, including the changing demographics of the population and changes in citizen or police activities.

The necessary data for tracking realignment's potential impact on crime are publicly available. The Division of California Justice Information Services (CJIS) in the Office of the Attorney General collects information on arrests, crime totals, and crime clearances, and these data are published annually in a statewide overview entitled "Crime in California." The data are reported by local agencies to the state Attorney General's office and then forwarded to the Federal Bureau of Investigation (FBI). With a lag, the FBI reports monthly crime statistics by local agency in the Uniform Crime Reports (UCR) for the seven felony offenses of murder, rape, robbery, aggravated assault, burglary, larceny, and motor vehicle theft, as well as arrest totals by reporting agency for a wider range of offenses. Data from the UCR can be aggregated up to the county level.

Offender Recidivism

A major goal of realignment is to reduce California's historically high rate of recidivism. There are a number of ways in which realignment may do so. AB 109 gives county officials discretion to decide what mix of

sanctions and interventions to use, including jail terms. The extent to which counties will use their AB 109 funds to invest in community-based alternatives rather than expanded jail capacity is an open question.

In either case, counties will be responsible for managing offenders in the community who would have been incarcerated or under parole supervision prior to realignment. Hence, in assessing the effects of realignment on public safety, it will be important to identify the most effective techniques for promoting long-term criminal desistance and successful reentry to society. These techniques may include drug treatment, job assistance, housing stability, family reunification, and other approaches. The research community has established objective measures for each of these domains, and they should be incorporated into any rigorous evaluation of realignment. It will also be particularly important to distinguish technical (administration) parole and probation violations from new criminal arrests and convictions.

To assess the effect of recidivism, researchers need individual-level data on felons released from prison, including demographic information, county of commitment, most serious offense resulting in the current prison term, and whether the offender is a PRCS release or a release to parole authorities. These data are available in two databases—the Supervised Release File (SRF) and the Automated Criminal History System (ACHS)—maintained by the FBI’s office of Criminal Justice Information Services. The information can be linked across databases using the Department of Justice Criminal Identification Index (CII) number.

Currently available data are not sufficiently detailed to allow for a statewide assessment of the role of specific county approaches (e.g., the use of flash incarceration, electronic monitoring, and substance abuse programs). For individuals released to parole, additional post-release information is added to the SRF through the Paroled LEADs data set. For PRCS releases, whether additional information is added to the SRF depends on the voluntary efforts of the county. A small number of counties electronically synchronize their data systems’ monitoring of active probationers with the SRF (at this early stage of realignment, about 15 percent of PRCS releases reside in participating counties, but there is some indication that the share is increasing). This electronic coordination represents the best of all worlds, since post-release outcomes for PRCS individuals in these counties—such as whether someone absconds or there are any post-release flash incarcerations—can be observed and analyzed. Most counties, however, submit paper records to the SRF.

Some valuable descriptive information can also be generated from recent efforts by state probation officers and sheriffs to coordinate data collection from the counties’ probation and sheriff departments. The new data provide county-level information on the numbers of PRCS offenders and absconders as well as offenders under supervision with and without violations. The Jail Profile Survey also includes monthly data on the number of PRCS offenders booked, including parole/PRCS violators jailed through so-called flash incarceration.

Prosecutorial Discretion, Plea Bargaining, Judicial Sentencing, and Court Processing

A big unknown is how judges, prosecutors, and sheriffs might adjust their behavior in response to realignment. With a fixed realignment budget and the flexibility to allocate funds as they see fit, counties may try to reduce the proportion of low-level offenders sent to local jails through changes in criminal charges, court sentences, or incarceration policies. In the case of sheriffs, this may be achieved through a greater use of alternative sanctions such as electronic monitoring, day check-in centers, and community service sanctions. It may also be achieved by the decisions of county prosecutors, who may or may not charge offenders with more serious crimes that might lead to a sentence in state prison. And also by judges,

who now have the authority to issue split sentences through which offenders serve some time in jail and some on probation.

These potential impacts of realignment could represent a significant change in the practice of criminal punishment in California. For example, the choices available to local officials are likely to affect the state's policy of determinate sentencing, adopted in 1977 to reduce disparities in punishment for similar crimes. Going forward, it is important for policymakers to know whether disparities in punishment statewide are traced to realignment-related adjustments by judges, prosecutors, or sheriffs.

To monitor the effects of realignment on these domains, it is necessary to track charges, type and length of sentence imposed by type of crime, and criminal records. It is also necessary to pay particular attention to how these charges and sentences vary with the demographic characteristics of the defendants (e.g., age, race, gender) which, in an ideal world, should not affect outcomes. Data elements to track in this case include information on charges, plea bargains, and sentencing outcomes. A simple first-pass analysis could compare plea-bargaining outcomes for comparable crimes before and after realignment, paying particular attention to those offenses on the margin of eligibility for realignment. The Administrative Office of the Courts is also preparing to collect realignment-related data and to pass them on to the BSCC. Hopefully, these data will facilitate the monitoring of realignment developments along these lines.

Aside from this county-level analysis, offender-level data on original charges and sentencing outcomes are available for some large California counties through the State Court Processing Statistics Program, operated by the U.S. Bureau of Justice Statistics. This program collects detailed information on felonies filed in May of the survey year and disposition information within one year of filing for a sample of large counties throughout the United States. The dataset always includes some California counties (Los Angeles in particular). Since this dataset is produced every two years, it will eventually include data on charges and sentencing outcomes preceding and following the implementation of AB 109. These detailed offender-level data are also more likely than county-level data to facilitate a thorough analysis of the effects of realignment on court-related outcomes.

Although the State Court Processing Statistics Program file for the post-realignment period will not be available for some time, the codebook for this file can be used as a guide for those seeking information on charges and dispositions.

Jail Populations, Jail Overcrowding, and Early Releases

One concern about realignment is that the overcrowded conditions that forced the state to reduce its prison population will shift to counties, where many jails are already at or beyond capacity. Currently, 17 of California's 58 county jails are operating under a court-ordered population cap, and 20 more have a self-imposed cap on their jail populations. Realignment may also lead to changes in bail and other pretrial decisions. For example, some counties are adopting changes to their bail and own-recognizance policies that are focused less on a person's ability to pay the bail and more on the offender's risk to public safety.

To assess the effect of realignment on county jail populations, authorities should track the average daily population—including the peak day for each month—distinguishing between the population of convicted felony inmates, the population awaiting trial, and the inmates being housed for other jurisdictions. Data on the availability of health care (including mental health) and the health care needs of inmates would also

prove useful, as would information on how many inmates are released from jail but subject to alternatives such as electronic monitoring and work release. The expansion of jail capacity is another important outcome that merits attention.

The most useful source for monitoring changes in the county jail population is the Jail Profile Survey (JPS), maintained by BSCC (previously maintained by the Corrections Standards Authority). The JPS provides monthly counts of jail inmates by county, with data disaggregated by level of offense and current status (awaiting trial or serving a sentence). These data are updated quarterly after about a one-quarter time lag. Additional data will also be collected by county sheriffs and reported to the BSCC, providing more-direct measures of the effects of realignment on jails, including the precise number of PRCS offenders and other low-level offenders who will now be sentenced to county jails instead of state prison.

Prison Population

Under court order, California is required to reduce its prison population to 137.5 percent of the system's design capacity by June 2013. As shown in Figure 1, the reduction is already under way and is projected to shift responsibility for more than 30,000 offenders to the counties by next year. However, the projections are subject to a variety of unexpected developments, such as the new discretion available to local law enforcement and court systems. Given that overcrowded state prisons were partly responsible for the passage of AB 109, the success of this policy will be determined to some degree by the state's ability to reduce its prison population. Thus, one important measure in the evaluation of realignment should be total prison population. In addition, a closer look at security levels and the traffic in reception centers will help identify where realignment is relieving population pressures. Data tracking the prison population are readily and publicly available in CDCR's Weekly Report of Population.

Cost and Fiscal Implications

The funding the state provides to local authorities for realignment is based on a set of assumptions, including past crime trends, number of convictions, length of sentences, and jail operation costs. One important question that should be addressed in considering the effects of realignment is whether the current plan for state funding will fully pay for the new county responsibilities or whether the true cost to local government will drain funding from other county services. In other words, as local authorities strive to meet the goals of realignment, what kind of budget choices are they making? To address this question and all of its ramifications, researchers will need to thoroughly analyze county budgets and expenditures.

Research Design

To reliably assess the effects of AB 109, care should be taken to ensure that the measured changes in outcomes are driven by realignment and not by other factors influencing the outcome of interest. A number of approaches are available, with varying degrees of reliability. One common approach in reliable statistical methods is to compare a treatment area (e.g., California or a particular county) or group (e.g., low-level felons) directly affected by realignment to a comparison area or group that is not affected by it. The estimated effects are then obtained by comparing the changes in outcomes between the treatment and control groups before and after the implementation of realignment. In addition to no differences (or very small differences) in the outcome measure in the period before realignment, it is important that the selected comparison areas or groups are very similar in terms of other factors that drive the relevant outcome. To further increase the reliability of the analysis, statistical methods that incorporate factors that adjust the estimates from potentially confounding influences will typically improve the reliability of the estimates. However, it should be noted that an approach limiting the analysis to a *single* area or group comparison of an outcome before and after realignment is very unlikely to generate estimates reflecting the true effect of realignment.

A fundamental challenge in evaluation is identifying a group or area that can plausibly represent the outcomes for the treated unit if the policy intervention had not been put in place; in other words, to find a valid counterfactual. In the case of AB 109, the appropriate comparison area or group will differ depending on the effect being evaluated and the relevant unit of observation (e.g., state, county, or individual).

Arguably, the least challenging assessment of realignment's effects lies at the state level, with other states serving as natural and viable candidates for valid before and after comparisons. To be suitable as valid counterfactuals, the comparison states should have similar relevant public safety trends and characteristics to California before the implementation of AB 109 and must not have implemented their own reforms during the period under analysis. Once such states have been identified, researchers can address key questions (such as realignment's effect on crime) by comparing differences in outcomes before and after implementation of AB 109.

Estimating the effects of realignment at the county level is also possible. However, researchers should be cautious in comparing outcomes across the state's counties since all counties are essentially affected by the reform, albeit in varying degrees. Before and after comparisons can theoretically be made between local areas inside California and comparable areas outside the state. Another approach is to take advantage of the fact that AB 109 poses different levels of challenges to counties, depending on the magnitude of their new responsibilities (which can be measured by the size of the PRCS and the low-level offenders now sentenced to county jail under penal code 1170(h)). Various effects can be determined by examining whether there are relationships between growth in the PRSC/1170h population at the county level and outcomes such as crime rates.

Individual-level effects, such as the effect of AB 109 on recidivism rates, can be assessed by comparing post-release outcomes for those released through PRCS to the outcomes for comparable individuals released from prison to state parole prior to the implementation of realignment. This will require selecting cohorts of individuals from different counties who have similar criminal histories and sentences (i.e., individuals incarcerated for non-sexual, non-violent, non-serious offenses, as defined by AB 109) and that only differ by whether they were released to state parole or PRCS. Other county-level factors relevant to recidivism can be

incorporated in the pre-post analysis, and cohorts can also be defined more precisely by such characteristics as age, gender, and race. With appropriately defined cohorts, and after allowing for a sufficient length of time after the implementation of AB 109, the cohorts can be examined at different points in time after release from prison.

And finally, realignment presents an opportunity for counties to identify the most effective evidence-based practices for dealing with the realignment offender population in California. Many counties will face budget constraints in both incarcerating and providing services to this population. Local authorities will also have to decide which services or interventions are to be provided and to whom. In these situations, and when public safety will not be compromised, counties may want to consider random assignment of the interventions, which can offer a fair-to-all method of rationing early access and can also facilitate later evaluations. These experiments, comparing individuals randomly assigned to treatment and control groups, are generally considered to provide the most reliable estimates on the effects of interventions.

Conclusions and Recommendations

AB 109 embodies one of the most ambitious reforms of a state criminal justice system since incarceration rates began their steep increase in the late 1970s. If all goes well, California will serve as an example to the rest of the nation on how to reduce the prison population in a manner that maintains public safety. Arriving at successful outcomes, however, requires that we monitor what is happening in the state and its counties, that we learn from the successes and failures of individual counties, and that we communicate our findings and act upon them, working toward a best-practices model.

The need for statewide monitoring and assessment is self evident, but who should be responsible for these tasks is less clear. The BSCC may be best suited to undertake such endeavors, but a state mandate may not be politically or fiscally feasible. The approach taken by the state so far has been to charge BSCC with the task of developing a structure for tracking corrections realignment.

The intent of this brief report is to provide a set of principles and suggestions for consideration during this process and to offer some fundamental guidelines for the corrections research community. We have outlined some key outcomes of interest, identified available datasets that can be used to evaluate the effects of AB 109, and suggested some basic yet fundamental characteristics of effective research design, noting in particular that randomization embodies the gold standard for evaluation research. Short of randomized controlled experiments, carefully chosen comparison groups, comparisons of outcomes before and after the introduction of AB 109, and similar strategies will be helpful in identifying current trends and assessing the overall effects of this reform.

Of course, the research community must have access to timely and accurate data if it is to provide reliable and sound evaluations of realignment. Making data publicly and quickly available in a central, easily accessible locations such as the BSCC website would support this goal. However, the implementation of AB 109 will almost certainly also increase requests from the research community for non-public data, placing additional strain on local and state agencies. Coordination among researchers for such requests, and streamlining the data access process, will enhance the likelihood that much-needed evaluation research will be conducted and disseminated in a judicious manner.

Publicly Available Data Sources

Crime

State of California Department of Justice, Office of the Attorney General, “California Criminal Justice Profile”

<http://oag.ca.gov/crime>

Post Release Community Service (PRCS) and 1170(h) populations

Chief Probation Officers of California, “California Realignment Dashboard”

<http://cpoc.org/php/realign/dashboardinfo/dashboard.swf>

Parole population

California Department of Corrections and Rehabilitation, “Weekly Wednesday Total Parole Population”

www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/WeeklyWed/Weekly_Wednesday_Parole_Archive.html

Court processing

Bureau of Justice Statistics, “State Court Processing Statistics”

<http://bjs.ojp.usdoj.gov/index.cfm?ty=dcdetail&iid=282>

Prison population

California Department of Corrections and Rehabilitation, “Weekly Population Report”

www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/WeeklyWed/Weekly_Wednesday_Tpop1a_Archive.html

California Department of Corrections and Rehabilitation, “Three-Judge Court-Ordered Targets”

www.cdcr.ca.gov/News/3_judge_panel_decision.html

Jail population

Board of State and Community Corrections, “Jail Profile Survey”

www.bscc.ca.gov/programs-and-services/fso/resources

County budgets

California State Controller, “Counties Annual Reports”

www.sco.ca.gov/ard_locrep_counties.html

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