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# Reallocation of Responsibility: Changes to the Correctional System in California Post- Realignment

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Any errors and omissions are solely the responsibility of the authors.

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# Executive Summary

On October 1, 2011, California's long troubled correctional system began operating under a new framework created by Assembly Bill 109 (AB 109). Formally known as the 2011 Public Safety Realignment Act, AB 109 was largely a result of the state's failure to control overcrowding and its consequences for inmates in California's 33 state prisons. In 2009, a three-judge federal panel ordered the state to reduce its prison population to 137.5% of design capacity—a reduction of about 30,000 people—within two years. In mid-2011, the U.S. Supreme Court affirmed that order in *Brown v. Plata*.

By signing the Realignment bill, Governor Jerry Brown put the state on the path toward compliance with the court order. More broadly, his action launched a titanic policy shift in California criminal justice, perhaps the most sweeping such change since the adoption of determinate sentencing in the 1970's. Once known as a state that relied heavily on prison to punish parole violators and other lower-level offenders, California under Realignment began shifting responsibility for most non-serious, non-violent, non-sexual (N3) felons from the state to the counties. Through the initiative's first two years, counties have received more than \$2 billion to manage the new load of offenders in jails, on probation, and through evidence-based programs in the community. While several other states have also begun favoring the use of local sanctions over prison for less serious offenders, the scale of California's effort makes it an experiment of unparalleled national significance.

Although it is too early to draw solid conclusions about Realignment's effects on long-term crime and recidivism,<sup>1</sup> at least one outcome is clear: As the Legislature intended, AB 109 has shifted a large share of correctional control from the state to the local level. Two years after the law's implementation, the majority of California adults in the correctional system has been "realigned" and now undergoes local supervision as jail inmates and probationers. As a result, California now ranks below the national average in the proportion of adults it imprisons and places on parole.<sup>2</sup> The state's probation population, meanwhile, has ballooned, with the number of probationers per 100,000 jumping 30% from 2010 to 2012.

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<sup>1</sup> While it would be interesting to parallel the effects of Realignment and the changes in crime rates across California on the correctional populations during the same period, an analysis is outside the scope of this report. For an exploration of crime rates post-Realignment, see Lofstrom, Magnus and Steven Raphael, "Public Safety Realignment and Crime Rates in California," *Public Policy Institute of California* (2013). [http://www.ppic.org/content/pubs/report/R\\_1213MLR.pdf](http://www.ppic.org/content/pubs/report/R_1213MLR.pdf).

<sup>2</sup> Prior to Realignment, California's numbers of prisoners and parolees per 100,000 adult residents were consistent with the national average. After Realignment, California's rates dropped below the national average.

In addition, while Realignment’s objective was not necessarily “decarceration,”<sup>3</sup> our findings show that because of the law’s provisions, some offenders are spending less time in a correctional facility. Specifically, AB 109 mandated that realigned felons receive enhanced conduct credits, potentially reducing their jail terms by up to half. Also, released offenders who violate conditions of their supervision are now sent to jail rather than prison, a change that has reduced their potential punishment to a maximum of 180 days. Combined with other factors related to jail capacity, these measures have helped produce a drop in California’s overall incarceration rate since 2010. That year, adults held in prison and jail comprised 36% of the total correctional system. By 2012, that proportion had fallen to 31%. In addition, the number of prisoners and jail inmates per 100,000 California adults decreased by almost 12% between year-end 2010 and 2012.

In 2006, the Center for Evidence-Based Corrections at the University of California, Irvine released a bulletin on the number of adults (18 and older) held in adult county jails and state prisons, and supervised in the community on adult probation and parole.<sup>4</sup> The researchers found that at year-end 2004, 725,085 people, or 2.8% of Californians, were under some form of adult correctional control.<sup>5</sup> Given recent federal court orders and the passage of AB 109, a reanalysis of California’s adult criminal justice system was warranted. This report is the product of that reanalysis and reveals how the size and composition of California’s adult correctional control populations—consisting of prison, jail, parole, and probation—have changed since 2004. We also compare California’s rates of correctional control—and, where possible, the gender differences in those rates—to the national averages. Most importantly, we investigate whether, and to what extent, Realignment has contributed to the changes observed in California’s correctional system.

Highlights of the findings include:

- There are more adults under correctional control in California at year-end 2012 (684,563 people) than before Realignment (650,279 people at year-end 2010<sup>6</sup>), but the number of adults under correctional control per 100,000 California adults remained almost the same pre- and post-Realignment (2,326 per 100,000 in 2010

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<sup>3</sup> Decarceration here is defined as the reduction in the number of people incarcerated in prison or jail.

<sup>4</sup> Lin, Jeffrey and Jesse Jannetta. “The Scope of Correctional Control in California.” *UC Irvine: Center for Evidence-Based Corrections* (2006). This report also included analysis of the juvenile correctional population, which is not covered in this bulletin.

<sup>5</sup> Correctional control, as defined in criminological literature, refers to the overall prison, parole, jail, and probation populations. In our analysis, we recalculated the 2004 correctional control populations based on updated population numbers, and using only active parole populations in our parole population count.

<sup>6</sup> December 2010 is chosen as the “pre-Realignment” date across all correctional forms to maintain consistency, as the most recent pre-Realignment probation population figure is December 2010.

and 2,377 per 100,000 in 2012). There are fewer adults under correctional control now than the total in 2004 (690,304 people, with 2,625 per 100,000).<sup>7</sup>

- AB 109 has dramatically shifted correctional control from the state to counties. Jail inmates and probationers account for 73% of all adults under correctional control in 2012, up from 59% in 2010. In contrast, prisoners and parolees comprise 27% of adult offenders in 2012, down from 41% in 2010.
- Probation departments are now responsible for the majority (61%) of California's offenders, an increase of 104,722 people from 2010. In contrast, state parole now supervises just 8% of the total correctional population, a 46% decrease of 48,781 parolees from 2010.
- California has decarcerated under Realignment. The state prison population has decreased by 29,886 people since 2010, while the jail population has modestly increased by 8,229 people. Thus, the number of prisoners and jail inmates per 100,000 adults has decreased to 736 in 2012, down from 835 in 2010, an 11.9% reduction.
- California uses all forms of correctional control (prison, parole, jail, and probation) at lower rates than the national average, although California's total population under each form of correctional control ranks among the largest nationally.
- The population reductions in the state correctional system are projected to continue in the short term. Prison and parole populations are expected to fall to 174,154 people by June 2017, from 189,271 people in 2012. This 2017 figure marks a 41.2% drop from the population peak of 296,339 recorded in June 2007.

These and other findings detailed below raise important policy and funding questions for state and county officials as they continue to readjust to the new realities of managing offenders under Realignment. They are especially pertinent given the U.S. Supreme Court's recent refusal to grant the state reprieve from its looming deadline for reducing the inmate population still further. Given the court's position, California faces a daunting task: It must find a way to cut its prison population by an additional 10,000 people before April 18, 2014.<sup>8</sup>

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<sup>7</sup> Our 2004 correctional population figures differ slightly than Lin and Jannetta's figures, because we recalculated the 2004 correctional control populations based on updated population numbers, and using only active parole populations in our parole population count.

<sup>8</sup> "Three-Judge Court Order Further Extending Meet-And-Confer Process." *Brown v. Plata*, 131 S. Ct. (2011). (December 11, 2013). <http://www.cdcr.ca.gov/News/docs/3JP-Dec-2013/3JC-third-order-to-meet-and-confer-Dec-11.pdf>.

## Overview of Public Safety Realignment

Enacted on October 1, 2011, the Public Safety Realignment Act transfers the management of many low-level offenders from the state to the county level. Thus, specified offenders overseen by the California Department of Corrections and Rehabilitation (CDCR) are “realigned” to local agencies.

Realignment shifts three criminal justice populations from state to county responsibility:

1. Post-Release Community Supervision (PRCS): Inmates in state prison whose *current* commitment offense is non-serious, non-violent, and non-sexual (“N3”) are released to county probation, not state parole. PRCS individuals are eligible for discharge in 180 days.
2. 1170(h) Offenders: Defendants newly convicted of N3 offenses now serve their sentence locally in jail.<sup>9</sup> Three sentencing options exist for this population:
  - a) Full sentence in county jail (can be served in alternative custody programs);
  - b) A “split sentence”: Combination of a term in county jail and mandatory supervision (MS), which cannot exceed the total term chosen by the sentencing judge. Upon release to MS, a defendant is supervised by probation under the same terms, conditions, and procedures of traditional probation; and
  - c) Traditional probation, which can include up to one year maximum in county jail. A defendant who violates the terms and conditions of probation could be given a full term of imprisonment or a split sentence.
3. Parolees: State parole agents will only supervise individuals released from prison whose *current* offense is serious or violent and certain others (i.e. those assessed to be mentally disordered or high risk sex offenders).

Other key elements of AB 109 include:

- Redefining Felonies: Felonies are redefined to include certain crimes punishable in jail for 16 months, 2 years, or 3 years. Almost 500 criminal statutes were amended to require that any adult convicted of CA Penal Code §1170(h) felony crimes cannot be sentenced to prison unless they have a past serious or violent felony conviction.
- Parole and Probation Revocations Heard and Served Locally: PRCS and parole revocations are served in local jails for a maximum revocation sentence of 180 days. As of July 1, 2013, local trial courts hear PRCS and parole revocation hearings.
- Changes to Custody Credits: Jail inmates earn four days of credit for every two days served. Time spent on home detention (i.e., electronic monitoring) is credited as time spent in jail custody.
- Alternative Custody: Electronic monitoring can be used for inmates held in county jail in lieu of bail. Eligible inmates must first be held in custody for 60 days post-arraignment, or 30 days for those charged with misdemeanor offenses.
- Community-Based Punishment: Counties are authorized to use a range of community-based punishment and intermediate sanctions other than jail incarceration alone or traditional probation supervision.

<sup>9</sup> Offenders can be sentenced to prison even if they are currently convicted of a 1170(h) non-prison eligible crime if any of the following apply: (1) conviction of a current or prior serious or violent felony conviction listed in Penal Code §667.5(c) or 1192.7c; (2) when the defendant is required to register as a sex offender under §290; or (3) when the defendant is convicted and sentenced for aggravated theft under the provisions of §186.1. The Legislature also left over 70 specific crimes where the sentence must be served in state prison. See Couzens, J. Richard and Tricia A. Bigelow. “Felony Sentencing After Realignment.” *Felony Sentencing Reporter* 25 (2013).

# Adult Correctional Control

## Overview

Fewer adults are under correctional control in California at year-end 2012 than at year-end 2004, despite an increase in the California adult population in the same period. The adult population of California increased from 26,297,336 people to approximately 28,797,363 people,<sup>10</sup> a rise of 9.5%. Over the same timeframe, as shown in Table 1, the total number of people under correctional control decreased from 690,304 people<sup>11</sup> to 684,563 people, a decline of 0.08%. Only 2.4% of the California adult population was under adult correctional control in 2012 (and 2010), compared to 2.6% in 2004.

Each of the four forms of correctional control—prison, jail, parole, and probation—has seen significant change since 2004. Adult correctional control per 100,000 adult residents is lower for prisoners, jail inmates, and parolees, but higher for probationers. In terms of change in total population numbers between 2004 and 2012, the number of prison, parole, and jail inmate populations per 100,000 adult residents decreased by 25.8%, 59.8%, and 3.9%, respectively, while the number per 100,000 adult residents of the probation population increased by 11.5%.

Realignment clearly influenced these trends, our research shows. First, the majority of the population rate changes per 100,000 adults seen in each correctional method between 2004 and 2012 occurred after AB 109 was enacted. Between December 2010 and December 2012, the prison population rate decreased by 20.6% (29,886 people), the parole population rate decreased by 53.5% (48,781 people), and the jail inmate rate population increased by 8.3% (8,229 people). The probation population rate, meanwhile, grew by 29.7% (104,722 people).<sup>12</sup>

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<sup>10</sup> The 2004 and the 2012 adult populations of California were taken from the U.S. Census. The total population for 2004 is from “Table 1-RES: Estimates of the Resident Population by Selected Age Groups for the United States and States and for Puerto Rico: July 1, 2004.” United States Census Bureau. <http://www.census.gov/popest/data/state/asrh/2004/tables/SC-EST2004-01Res.pdf>. The 2012 population was taken from “American Fact Finder.” United States Census Bureau. <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml>.

<sup>11</sup> Lin, Jeffrey and Jesse Jannetta. “The Scope of Correctional Control in California.” *UC Irvine: Center for Evidence-Based Corrections* (2006). Lin and Jannetta’s report included an “other” category that we excluded from our data.

<sup>12</sup> The most recent data for the probation population pre-Realignment is December 2010, so this date is used across all other populations to maintain consistency in comparisons. Please see the Probation section below and Appendix A for a full explanation on the probation population.

**Table 1: California Adult Correctional Control at year-end 2012, Compared to 2010 and 2004**

	Status	Total Population	Number per 100,000 Adult Residents	Percent Change in Number per 100,00 Adult Residents (2010 to 2012)
2012	Prisoners	132,935	462	-20.6%
	Parolees	56,336	171	-53.5%
	Jail Inmates	78,878	274	+8.3%
	Probationers	416,414	1,446	+29.7%
	Total	684,563	2,377	+2.2%
	Prison and Jail	211,813	736	-11.9%
2010	Prisoners	162,821	582	
	Parolees	105,117	368	
	Jail Inmates	70,649	253	
	Probationers	311,692	1,115	
	Total	650,279	2,326	
	Prison and Jail	233,470	835	
2004 <sup>13</sup>	Prisoners	163,939	623	
	Parolees	110,130	425	
	Jail Inmates	75,008	285	
	Probationers	341,227	1,2297	
	Total	690,304	2,625	
	Prison and Jail	238,947	909	

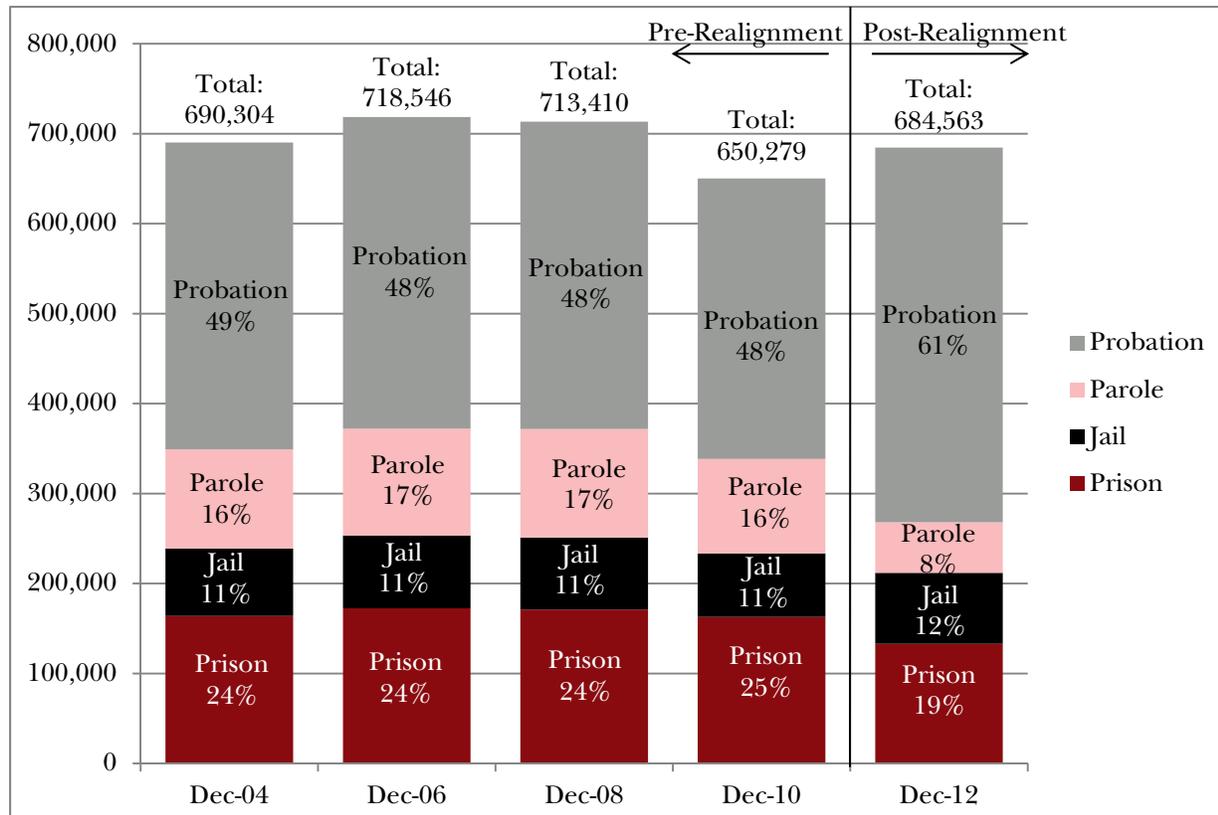
*Note: Prison and active parole population numbers for 2004, 2010, and 2012 are from the California Department of Corrections and Rehabilitation (CDCR) monthly population reports. Jail population numbers are from the Board of State and Community Corrections (BSCC) Jail Profile Survey. Probation population numbers prior to 2012 are from the California Attorney General’s “Crime in California” reports. Probation population numbers for 2012 are from the Chief Probation Officers of California Probation (CPOC) Population Census, Active Criminal Probation Population and CPOC’s Realignment Dashboard. For an explanation on the change in source for the probation population between 2010 and 2012, please see Appendix A and Figure 7. Prison, parole, and probation numbers are one-day counts as of December 31 of that year. Jail population is the average daily population for the month. Rates were created using U.S. Census population data for the adult population.*

Secondly, these effects show up clearly in the changing distribution of adults under correctional control among the four forms over time, as displayed in Figure 1. Before Realignment, the percentages of adults under each form of correctional control remained steady. Prison, parole, jail, and probation comprised on average 24.2%, 11.1%, 16.4%, and 48.4%, respectively, of the overall correctional control population from December 2004 to 2010. But, with only one exception—the jail population—that breakdown changed substantially in December 2012: Of the total corrections population,

<sup>13</sup> Our 2004 correctional population figures differ slightly than Lin and Jannetta’s figures, because we recalculated the 2004 correctional control populations based on updated population numbers, and using only active parole populations in our parole population count.

prisoners comprised 19.4%, parolees made up only 8.2%, probationers constituted a sizeable 60.8%, and jail inmates comprised 11.5%.

**Figure 1: Distribution of California Adults Under Correctional Control at year-end, 2004-2012**



*Note: Prison and active parole population numbers are from CDCR monthly population reports. Jail population numbers are from the Board of State and Community Corrections (BSCC) Jail Profile Survey. Probation population numbers prior to 2012 are from the California Attorney General’s “Crime in California” reports. Probation population numbers for 2012 are from the Chief Probation Officers of California Probation (CPOC) Population Census, Active Criminal Probation Population and CPOC’s Realignment Dashboard. For an explanation on the change in source for the probation population between 2010 and 2012, please see Appendix A and Figure 7. Prison, parole, and probation numbers are one-day counts as of December 31 of that year. Jail population is the average daily population for the month.*

The shifts in offender populations are more striking when the distribution of adults under state and county control is compared between 2010 and 2012: The prison and parole populations comprised approximately 41% of the total correctional control population in December 2010, but only about 27% by December 2012, totaling 189,271 people. Similarly, the jail and probation populations comprised 59% of the adult correctional population in 2010, but 73% in 2012, totaling 495,292 people. The prison and parole populations reduced by almost 30% from 2010 to 2012, a decline that was largely absorbed by county probation departments and jails, just as Realignment drafters

intended. The overall adult correctional control population of 684,563 people in December 2012 is 5.3% higher than the pre-Realignment total of 650,279 people in December 2010, but remains almost the same as a rate per 100,000 adults. The total adult correctional control population is slightly higher under Realignment, but still lower than both the 2004 figure of 690,304 and the December 2007 peak of 723,532 people.

## Prison

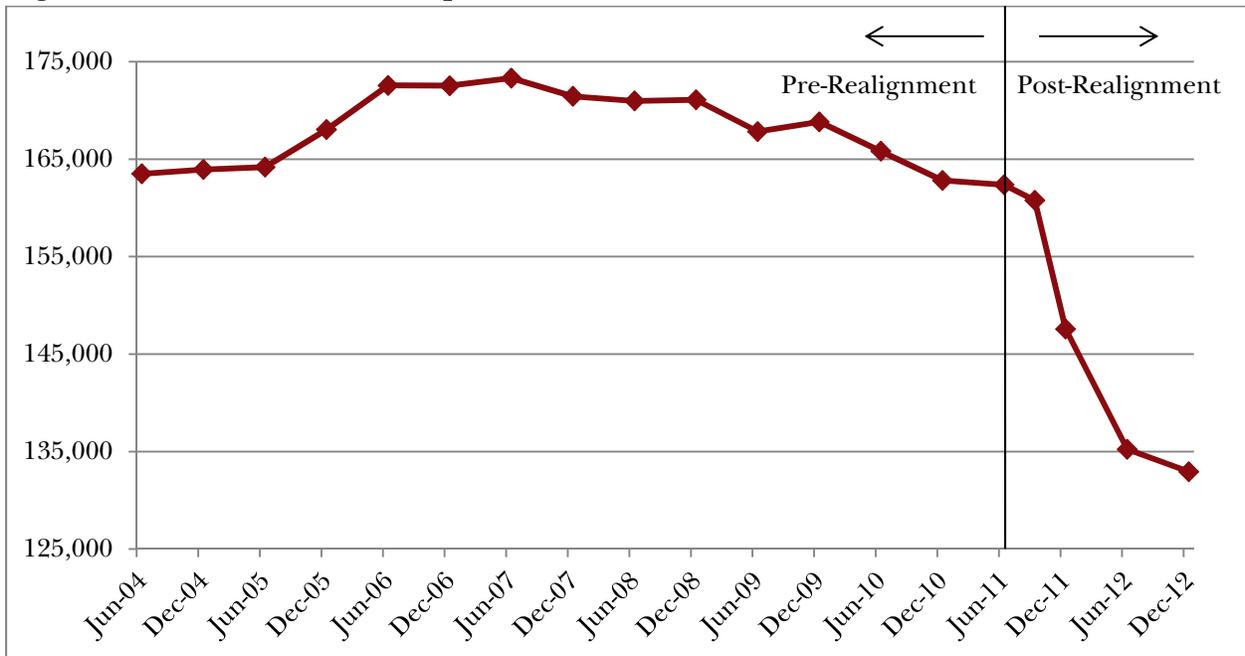
Realignment's impact on the make-up of California's correctional system emerges more vividly through a detailed look at how offender populations in prison and jail and on parole and probation have varied over time. The California Department of Corrections and Rehabilitation (CDCR) bears responsibility for convicted felons over the age of 18 who are housed in the 33 state prisons, fire camps, and private facilities both in California and in other states. As Figure 2 shows, California's total prison population peaked in August 2007 at 173,614 people, shortly after Governor Arnold Schwarzenegger issued an Emergency Proclamation declaring that the state's prisons were so overcrowded that they "posed substantial risks" to both correctional staff and inmates.<sup>14</sup> In 2009, the tide turned and the prison population gradually began to drop, falling to 160,774 people by September 30, 2011. AB 109 took effect soon after, and over the next three months the prison population fell sharply, declining to 147,578 people, a decrease of 8.2%. The total prison population decrease has now slowed, standing at 132,935 people as of December 2012, a reduction of 29,886 people since Realignment took effect. Of the 25.8% decrease in the population rate per 100,000 adults between 2004 and 2012, 18.4% occurred in the first 15 months of Realignment. As of December 2012, 119,365 offenders were housed in the 33 institutions, a significant population reduction, but still over the cap of 110,000 people set by the revised Three-Judge Court Order.<sup>15</sup>

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<sup>14</sup> "Prison Overcrowding State of Emergency Proclamation." Office of the Governor (October 2006). <http://gov.ca.gov/news.php?id=4278>.

<sup>15</sup> The Three-Judge Court Order based the 137.5% (110,000 prisoners) population cap on Governor Schwarzenegger's Emergency Proclamation; the Court only counts inmates in the 33 state institutions as part of the prison population, which had 119,365 people at year-end 2012. The prison population discussed in this report considers the total system population of 132,935 people, including those in fire camps and private facilities.

**Figure 2: California Prison Population at month-end, 2004-2012**



*Note: Prison population numbers are from CDCR monthly population reports and are end of the month one-day counts.*

## Parole

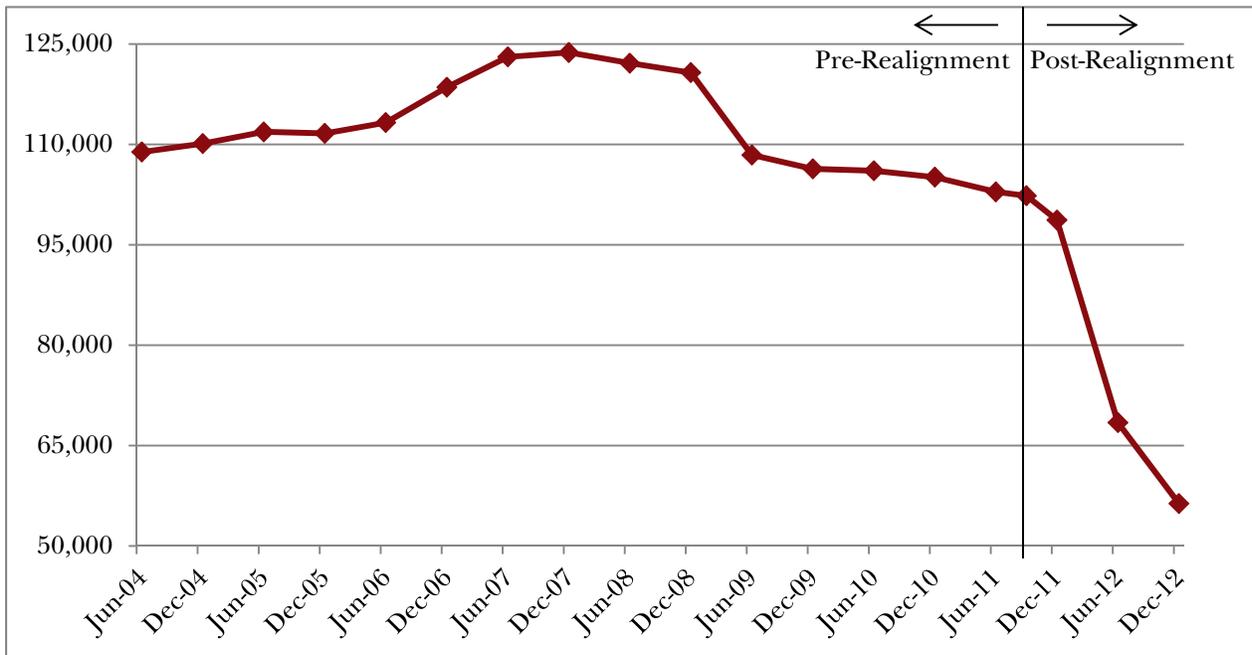
Prior to the passage of AB 109, nearly every California offender released from state prison served a term of parole, a period of community-based supervision administered by agents working for CDCR. Parole terms were typically one to three years, although violent offenders served as long as five years.<sup>16</sup> At year-end 2004, a total of 110,130 people were on parole supervision; California’s parolee population peaked at 124,621 several years later, in August 2007.<sup>17</sup> Over the next four years, the numbers began to drop, falling to 102,914 parolees by June 2011. But after Realignment took effect in October 2011, the parolee population took its most dramatic tumble, plummeting to 56,336 people in December 2012 (a reduction of 45,996 people from the start of Realignment). Of the 59.8% decrease in the parolee population rate since 2004, 44.9% occurred after Realignment was enacted. This large decline in the parolee population can mostly be attributed to one of AB 109’s fundamental provisions—requiring that realigned offenders be released to county supervision under PRCS, rather than to state parole (see *Overview of Public Safety Realignment*, p. 8).

<sup>16</sup> Petersilia, Joan. “Understanding California Corrections.” *University of California: California Policy Research Center* (2006).

<http://ucicorrections.seweb.uci.edu/pdf/UnderstandingCorrectionsPetersilia20061.pdf>.

<sup>17</sup> Parole populations include the active parole population reported by CDCR in the monthly parole population reports.

**Figure 3: California Parole Population at month-end, 2004-2012**



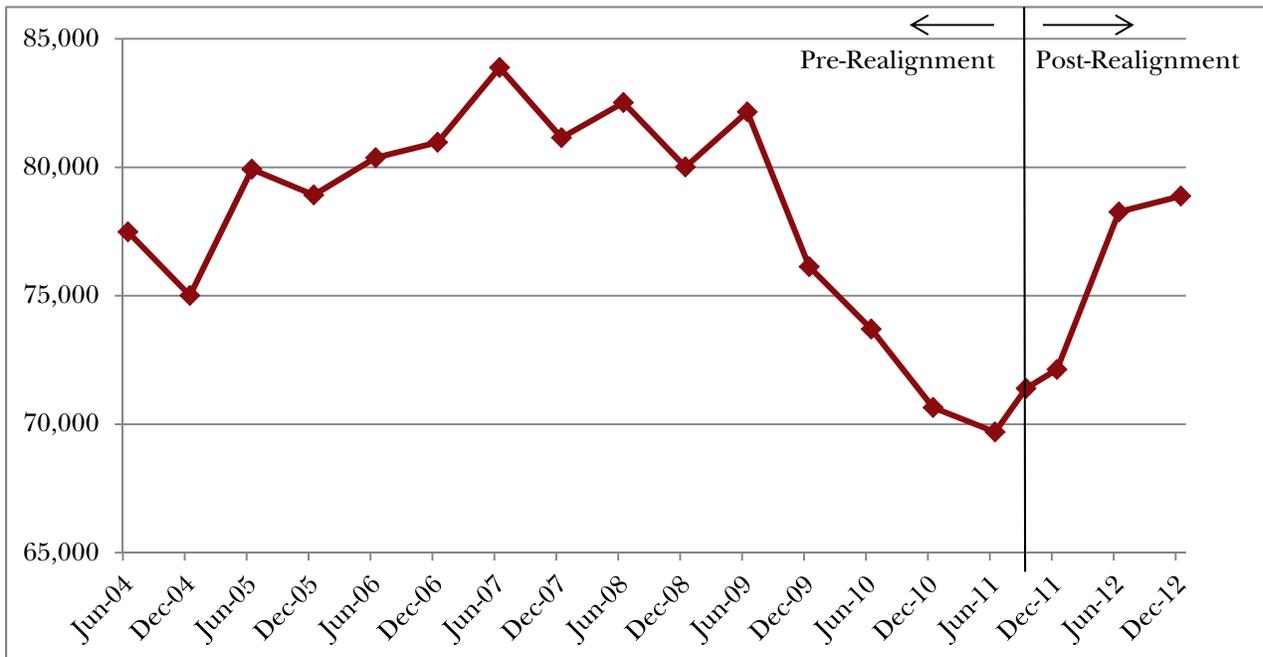
*Note: Parole population numbers are the active parole population counts from CDCR monthly population reports. The population is an end of the month one-day count.*

## Jail

Historically, jails run by the county sheriff or occasionally by municipal police departments housed both convicted offenders serving sentences of less than one year and individuals awaiting trial or sentencing. That correctional mission expanded significantly under AB 109, and the jail population numbers have jumped accordingly.

As Figure 4 shows, the jail average daily population (ADP) increased from 75,008 people in 2004 to 82,158 in June 2009 before falling to its lowest ADP of 69,404 people in May 2011. Decreased crime rates, the corresponding reduction in arrest rates, and the large number of people being sentenced to prison following parole revocations accounted for the downward slope observed between June 2009 and the start of Realignment.

**Figure 4: California Jail Average Daily Population at month-end, 2004-2012**



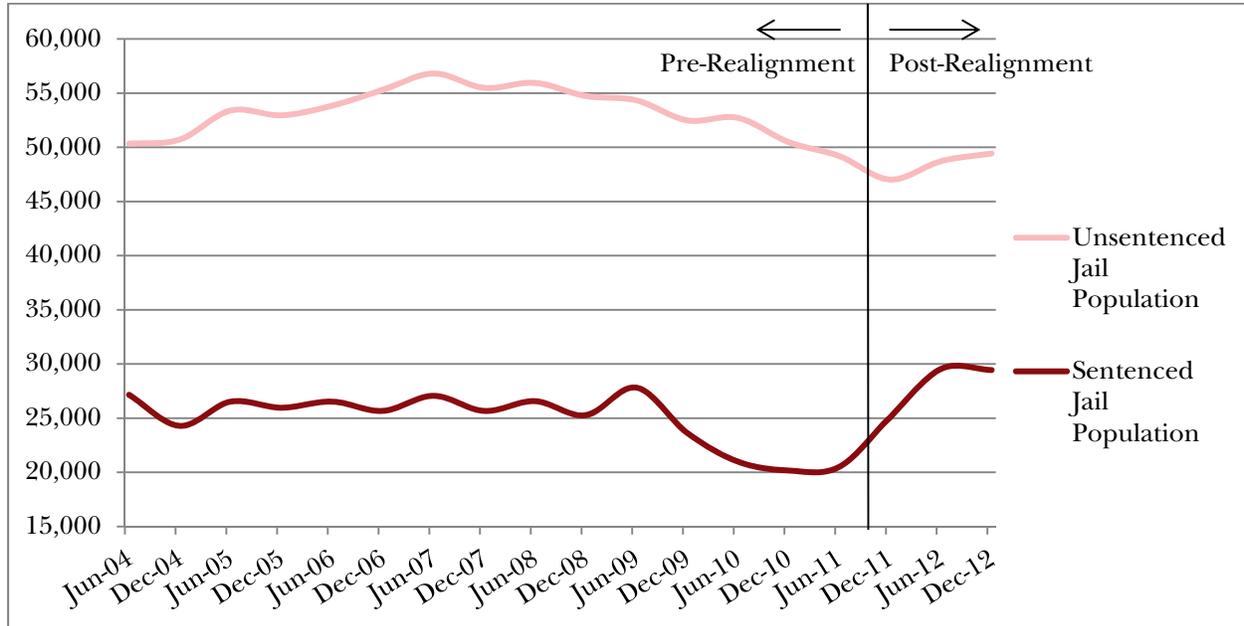
*Note: Jail population numbers are from the Board of State and Community Corrections (BSCC) Jail Profile Survey and are monthly average daily population figures.*

As AB 109 took hold, jail populations began to climb. The average daily population reached 80,864 offenders in September 2012, a number that, while high, was still below the June 2007 peak of 83,880 people. As 2012 wound to a close, the growth in jail populations leveled off, and the total number dropped to 78,878 people in December 2012. Clearly, AB 109’s core provision, diverting certain low-level felons from state prison to county control, drove jail numbers up. One countervailing force against the population growth, however, has been the mandatory use of conduct credits, which has reduced the length of some offenders’ jail terms (See *Overview of Public Safety Realignment*, p. 8). In addition, the shorter terms imposed for PRCS and parole revocations may help explain why the jail population increase has not matched the prison population decrease under Realignment. As Realignment’s third year rolls on, the jail population remains unstable, with many counties facing space pressures from self-imposed or court-ordered capacity constraints. Those pressures have led some sheriffs to employ alternative custody measures, such as GPS monitoring and home detention, and to use their discretion to release lower-level offenders to free up beds for more serious felons.<sup>18</sup> Large numbers of California adults jailed and awaiting sentencing exacerbate the space pressures experienced by many counties. Figure 5 shows that this population comprised on average 68%, or about 52,441 people, of the total jail population since

<sup>18</sup> For more information about jail overcrowding and sheriffs’ use of discretion, see Petersilia, Joan. “Voices from the Field: How California Stakeholders View California Public Safety Realignment.” *Stanford Criminal Justice Center* (2013).

June 2004. The group awaiting sentencing peaked at 71% of the total population in December 2010 before dipping to 63% by December 2012.

**Figure 5: California’s Sentenced and Unsented Jail Population at month-end, 2004-2012**

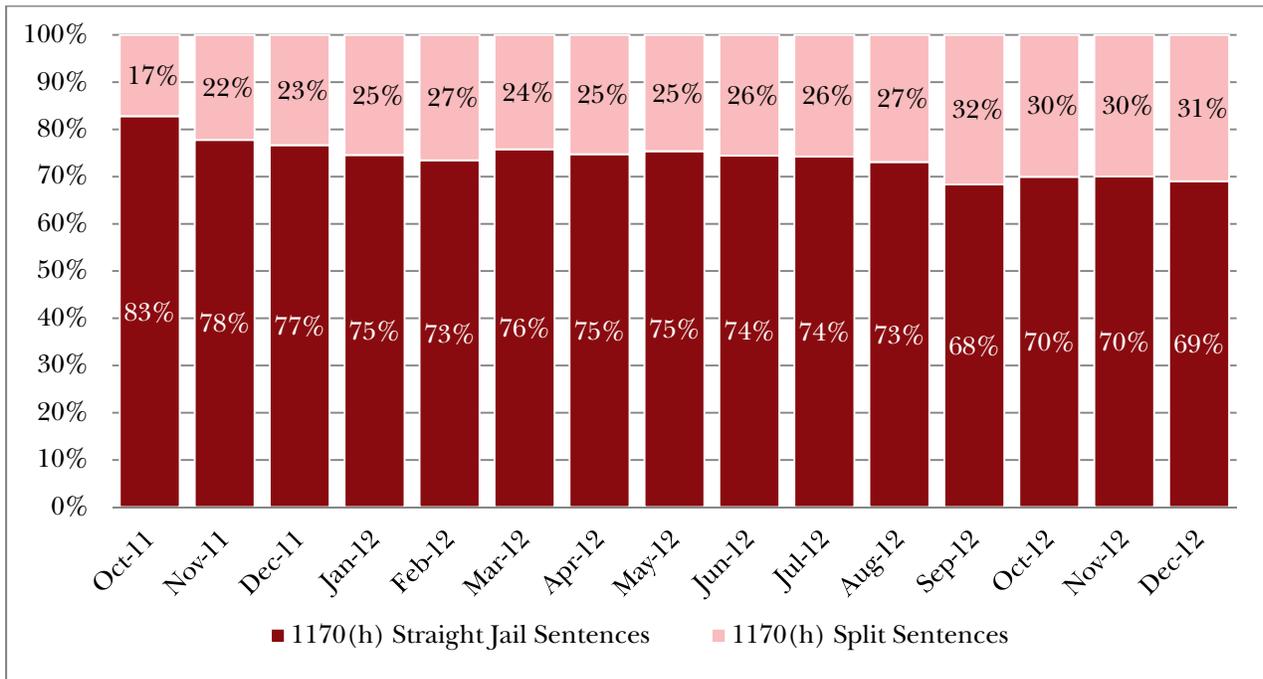


*Note: Jail sentenced and unsented population numbers are from the male and female unsented population counts from the Board of State and Community Corrections (BSCC) Jail Profile Survey. The population is a monthly average daily population.*

The type of 1170(h) sentence given to N3 offenders has changed significantly as Realignment continues to unfold. Figure 6 shows that between a straight jail and split sentence, of the 1170(h) offenders sentenced to some time in jail, most are given a straight jail term. However, sentencing judges are increasingly imposing split sentences, as they prefer 1170(h) offenders to have post-custody supervision in light of jail overcrowding and as programming and other services become available in the community.<sup>19</sup> The share of the 1170(h) population with a split sentence increased from 17% in October 2011 to 31% in December 2012.

<sup>19</sup> For a full disclosure of this issue, see Weisberg, Robert and Lisa T. Quan. “Assessing Judicial Sentencing Preferences After Public Safety Realignment: A Survey of California Judges.” *Stanford Criminal Justice Center* (2013). <http://www.law.stanford.edu/sites/default/files/child-page/183091/doc/slspublic/Weisberg%20Judges%20Report%20Nov%202013.pdf>.

**Figure 6: Percent of 1170(h) Population Given Jail Only and Split Sentences at month-end, October 2011-December 2012**



*Note: Split sentence percentages are from the Chief Probation Officers of California County Realignment Dashboard and are one-day counts at the end of each month.*

## Probation

Like the county jails, probation departments have shouldered a dramatically larger share of correctional responsibility under Realignment. Each of California’s 58 counties administers probation, a community-based sanction that can be served on its own as a full sentence or subsequent to a jail term as the “tail” of a split sentence. Prior to Realignment, California’s probation population fell from 347,199 offenders in December 2007 to 311,692 people in December 2010.<sup>20</sup> As with the dipping jail population prior to Realignment, researchers have attributed the falling probation numbers to lower crime rates and fewer felony arrests, among other factors. Realignment, of course, reversed that trend. Since AB 109 began shifting offenders to county control, the probation population has exploded, reaching a total of 416,414 people as of December 2012, as shown in Figure 7.<sup>21</sup> The recent peak is significantly higher than the population level in

<sup>20</sup> “Crime in California.” Office of the California Attorney General (OAG). 2004-2010.

<http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd12/cd12.pdf>.

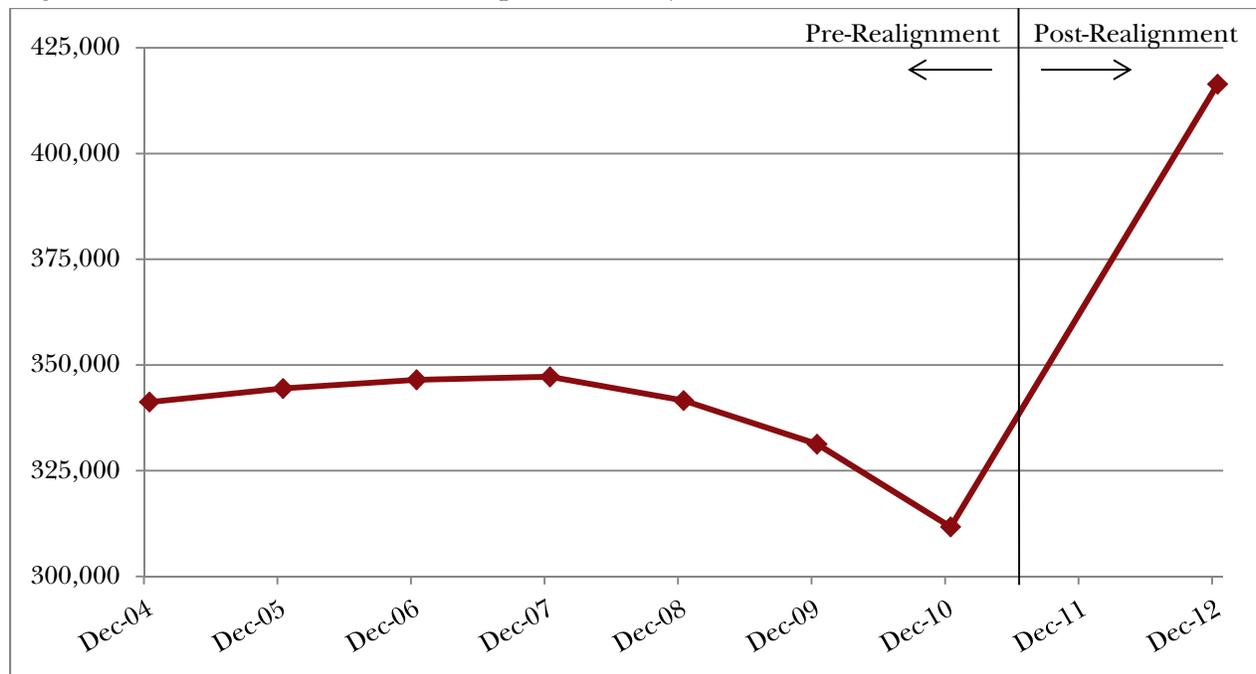
<sup>21</sup> “Probation Population Census, Active Criminal Probation Population as of December 31, 2013.” Chief Probation Officers of California.

<http://public.tableausoftware.com/views/ProbationPopulation2/AdultProbationSupervisioninCalifornia#1>; “Realignment Dashboard, as of March 2013.” Chief Probation Officers of California.

[www.cpoc.org/assets/Realignment/dashboard\\_county.swf](http://www.cpoc.org/assets/Realignment/dashboard_county.swf).

December 2004, marking a 11.5% increase in the rate per 100,000 adult Californians over the period, but a 29.7% increase since 2010.

**Figure 7: California Probation Population at year-end, 2004-2012<sup>22</sup>**



*Note:* Probation population numbers prior to 2012 are from the California Attorney General’s “Crime in California” reports. Probation population numbers for 2012 are from the Chief Probation Officers of California Probation (CPOC) Population Census, Active Criminal Probation Population and CPOC’s Realignment Dashboard. All numbers are one-day counts as of December 31 of that year. For an explanation on the change in source for the probation population between 2010 and 2012, please see Appendix A and Figure 7.

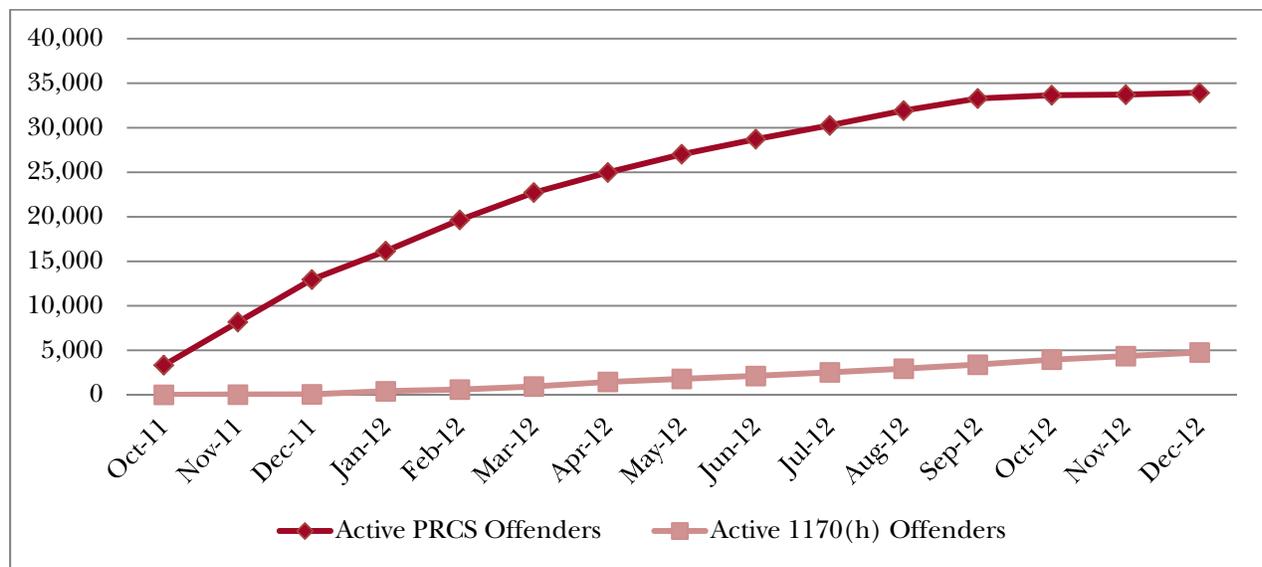
The 416,414 probation total may represent a slight overcount when comparing this number to previous years’ probation totals.<sup>23</sup> In their Adult Probation Monthly form gathered from the counties, the Office of the Attorney General (OAG) specifically asks

<sup>22</sup> The probation population source for 2012 changed for several reasons: (1) CPOC’s 2013 probation survey explicitly requested that counties provide 1170(h) and PRCS offender counts, whereas the California Attorney General’s (OAG) Adult Probation Monthly Report of Jurisdictional Cases form was last updated in 2006 and did not specifically ask for this information. The OAG later stated in their 2012 *Crime in California* report that “[s]ome counties may have counted individuals on Post Release Community Supervision,” further suggesting that realigned population totals were not uniform across counties. (2) The OAG’s year-end 2012 probation population totaled 294,993 people, a decrease from 311,692 people at year-end 2010. Given that CDCR released 43,563 people onto PRCS at year-end 2012, of which 33,930 people were actively supervised by probation under PRCS in 2012 according to CPOC, the total probation population should increase, not decrease. We believe the OAG’s total is a significant undercount. For a full explanation on the change in source and numbers for the probation population between 2010 and 2012, please see Appendix A.

<sup>23</sup> For a full explanation on the change in source and numbers for the probation population between 2010 and 2012, please see Appendix A.

counties not to include court probation, diversions, and summary probation in the probation population totals they submitted, whereas the 2012 total from the Chief Probation Officers of California (CPOC) includes at least some of these subpopulations.<sup>24</sup> In addition, the OAG did not specifically ask counties to include the realigned populations, consisting of PRCS and 1170(h) offenders, for 2012, but the CPOC probation form did. Such inclusions by CPOC contributed at least 60,000 people (those on court probation, PRCS and 1170(h)) to the final 2012 number. While the change in data source may not provide a perfect comparison of probation totals across years, the 416,414 total is a close representation of the actual probation population figure.<sup>25</sup>

**Figure 8: Active 1170(h) and PRCS Populations at month-end, October 2011-December 2012**



*Note: Active PRCS and 1170(h) populations are from the Chief Probation Officers of California County Realignment Dashboard and are one-day counts at the end of each month.*

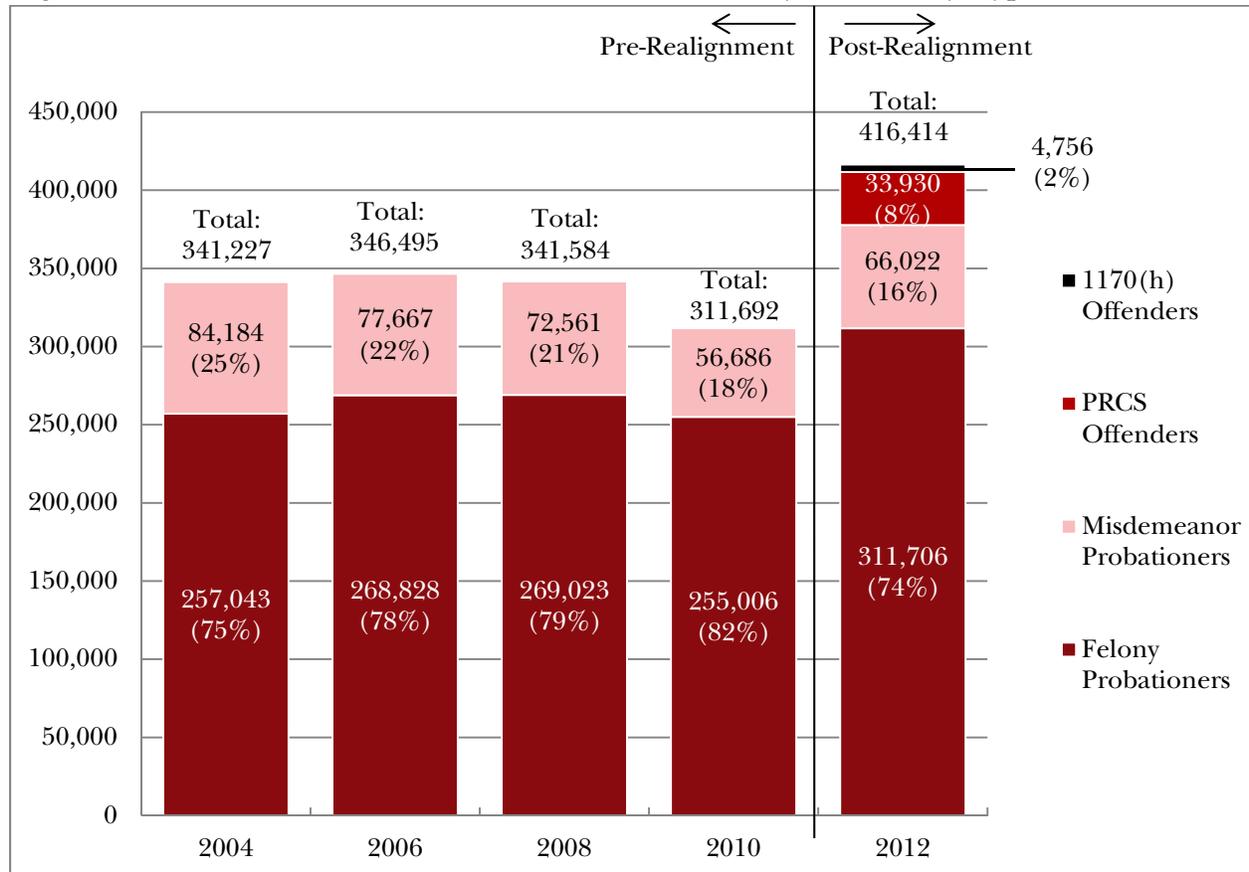
Two forces authorized by AB 109 have combined to drive the probation total up. First, the law gave county probation officers new responsibility for released state prisoners whose commitment offense was an N3 felony—a supervision job formerly performed by state parole agents. The number of active PRCS offenders has steadily increased since AB 109 was enacted, but stabilized beginning in September 2012, as shown in Figure 8. There were 33,930 people actively supervised via PRCS as of December 2012. In addition, the law authorizes judges to sentence offenders to probation via split sentencing or mandatory supervision. As of December 2012, probation was managing an additional 4,756 people as part of the active 1170(h) population, which includes those given split

<sup>24</sup> The CPOC probation survey did not specifically ask counties to exclude these subpopulations.

<sup>25</sup> We estimate that the actual probation population figure for year-end 2012 may be somewhere between 360,000 people and 416,414 people.

sentences and mandatory supervision. Thus, a total of 38,686 realigned individuals were actively supervised by probation departments as of December 2012.

**Figure 9: Count of Adults Sentenced to Probation at year-end, by Type, 2004-2012**



*Note: Probation population numbers prior to 2012 are from the California Attorney General's "Crime in California" reports. Probation population numbers for 2012 are from the Chief Probation Officers of California Probation (CPOC) Population Census, Active Criminal Probation Population and CPOC's Realignment Dashboard. All numbers are one-day counts as of December 31 of that year. For an explanation on the change in source for the probation population between 2010 and 2012, please see Appendix A and Figure 7.*

Although the probation population rate has grown 29.7% since 2010 as a result of AB 109, realigned offenders comprised only 10% of the total active probation population in 2012. As shown in Figure 9, the majority of those supervised by probation are offenders serving felony probation sentences.<sup>26</sup> Although the percentages of adults on felony and

<sup>26</sup> It is likely that the "felony probationers" category for 2012 includes offenders charged with 1170(h)-eligible crimes but were then given felony probation sentences. Significant differences exist between traditional felony probation and an 1170(h) sentence: For example, judges can impose traditional felony probation over an 1170(h) sentence if they prefer offenders to be under longer control via supervision post-custody. Traditional felony probation allows judges the option of imposing longer sentences than originally mandated if offenders violate their conditions of probation, whereas time served under 1170(h) sentences cannot exceed the original sentence imposed, even with violations. For a full explanation, see

misdemeanor probation decreased slightly since 2010, the proportions of these two populations have remained relatively steady since 2004.

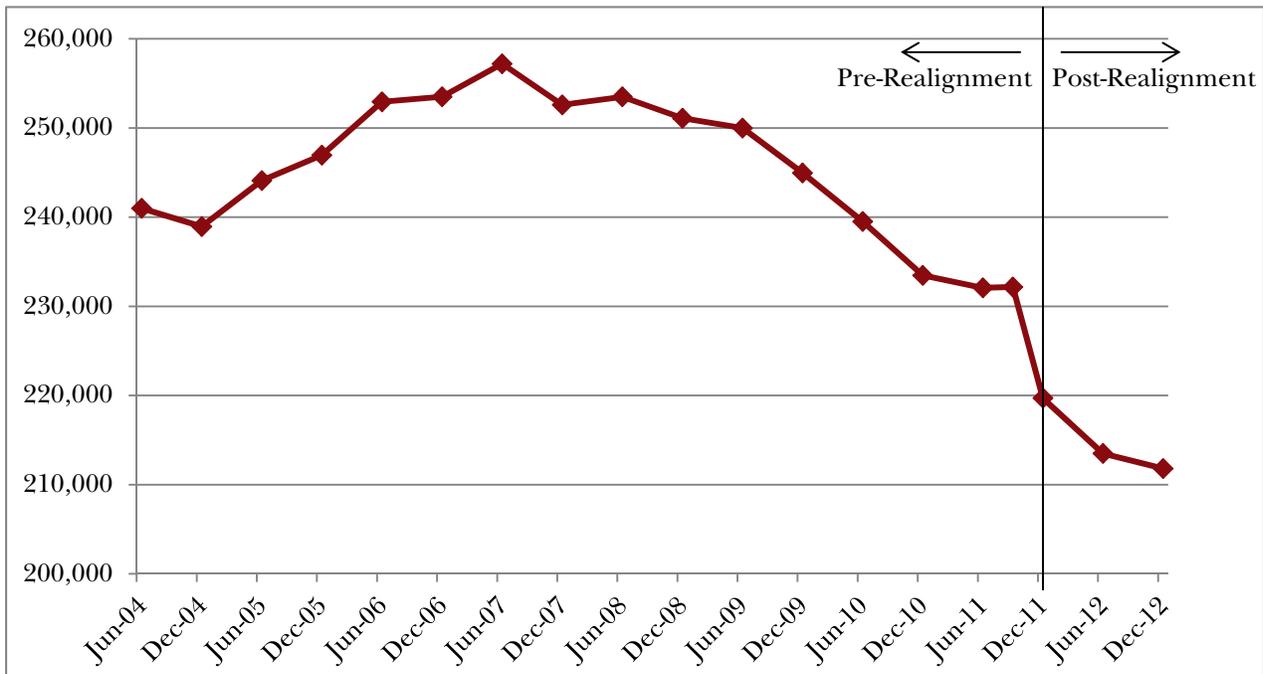
## Prison and Jail

With 238,947 adults in prison and jail at year-end 2004, this total has been decreasing since the peak of 257,192 people in June 2007. Post-Realignment, the population is even lower. As shown in Figure 10, there were 233,470 people in prison and jail at year-end 2010, which decreased to 211,813 people at year-end 2012. Although Realignment's intention may not have been "decarceration," the law's provisions have resulted in some offenders spending less time in a correctional facility (see *Overview of Public Safety Realignment*, p. 8). These measures, including enhanced conduct credits and limited time served in county jail for parole and probation revocations, have facilitated a reduction in California's overall incarceration rate since 2010 and significantly since 2004. Post-Realignment, the incarceration rate decreased 11.9%, from 835 prisoners and jail inmates per 100,000 adults in 2010, to 736 prisoners and jail inmates in 2012. Since 2004, the incarceration rate fell 19.0%, from 909 per 100,000 adults. In addition, the number of prisoners and jail inmates now comprise 31% of the total correctional population in 2012, down from 36% in 2010 (see Figure 1).

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Weisberg, Robert and Lisa T. Quan, "Assessing Judicial Sentencing Preferences After Public Safety Realignment: A Survey of California Judges," *supra*, note 19.

**Figure 10: Incarcerated Population in Prison and Jail at month-end, 2004-2012**



*Note: Prison population numbers are from CDCR monthly population reports and are end of the month one-day counts. Jail population numbers are from the Board of State and Community Corrections (BSCC) Jail Profile Survey and are monthly average daily population.*

## California Correctional Control in a National Context

In 2004, 2.6% of California adults were under some form of correctional control. That figure placed California just below the national average of 2.9%. Focusing the lens tighter, however, shows that California ranked above the national average in its use of prison and parole, and below that average in its rate of probation.

Realignment has scrambled those rates to some extent. As in 2004, California's overall rate of correctional control per 100,000 adults remained below the national average in 2012 (see Table 2), standing at 2.4% compared to the national rate of 2.9%. But the state experienced significant change in its prevalence of state prisoners, parolees, and probationers.<sup>27</sup> California now ranks well below the national average in its rate of prisoners and parolees per 100,000 adults. As for probation, California had the second most probationers of any state 2012, but the rate per 100,000 adults remained below the national average.

<sup>27</sup> National jail data is not available for comparison for 2012.

**Table 2: California Adult Correctional Control Rates in a National Context at year-end 2012, Compared to 2004**

	Status	California Number per 100,000 Adult Residents	All States' Number per 100,000 Adult Residents	Large States' Number per 100,00 Adult Residents <sup>28</sup>
2012	Prisoners	462	654	596
	Parolees	171	354	420
	Jail Inmates <sup>29</sup>	274	310	Not Available <sup>30</sup>
	Probationers	1,446	1,641	1,519
	Total	2,377	2,935	Cannot Calculate
2004	Prisoners	623	679	635
	Parolees	425	338	475
	Jail Inmates <sup>31</sup>	285	324	Not Available <sup>32</sup>
	Probationers	1,297	1,881	1,779
	Total	2,625	2,898	Cannot Calculate

*Note: California prison and parole population numbers are from CDCR Monthly population reports at year-end. California jail population numbers are from the BSCC Jail Profile Survey and are a monthly average daily population. California probation population numbers for year-end 2004 are from the California Attorney General's Crime Profiles; California probation population for year-end 2012 is from the CPOC Probation Population Census and Realignment Dashboard. Prison, parole, jail, and probation population numbers for the national context and large states for 2004 and 2012 are from year-end total populations listed in Bureau of Justice Statistics (BJS) reports. Rates were created using U.S. Census population data for the adult population in each state. For an explanation on the change in source for the California probation population between 2010 and 2012, please see Appendix A and Figure 7.*

It is also useful to examine at how California's rates of correctional control in 2012 compare with the average rates in the five most populous states. And on that index, California fell below the average. California had 462 prisoners per every 100,000 adult residents, whereas the large states averaged 596 prisoners per 100,000 adult residents. The parolee population in California was 171 per 100,000 adults, significantly lower than the large states' average of 420 per 100,000 adults. In addition, although California's probation population grew significantly since Realignment, California's probation rate of 1,446 per 100,000 adults is still lower than the large states' average of 1,519.

<sup>28</sup> States included were Florida, Illinois, New York, Pennsylvania, and Texas.

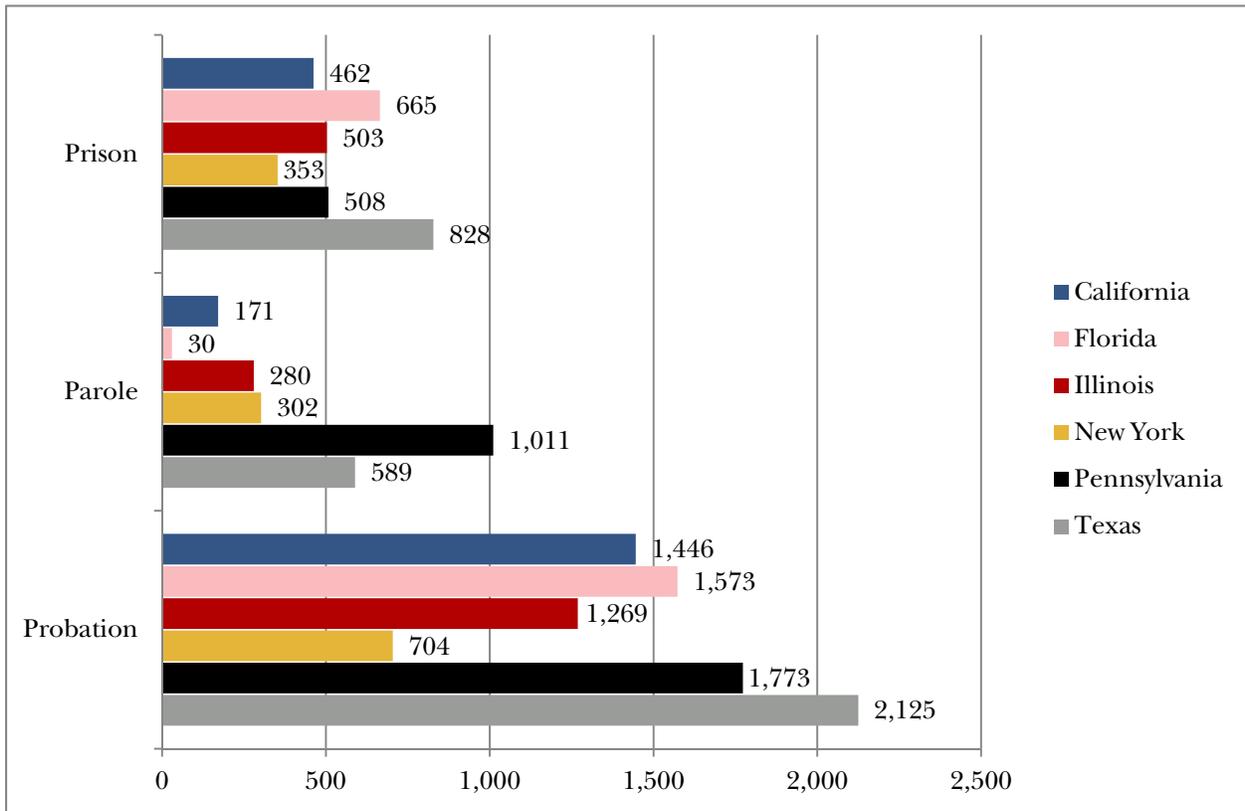
<sup>29</sup> Jail rates for other states and national context are for mid-year.

<sup>30</sup> State level jail rates were not available.

<sup>31</sup> Jail rates for other states and national context are for mid-year.

<sup>32</sup> State level jail rates were not available.

**Figure 11: Adult Correctional Control in Large States (Number per 100,000) at year-end 2012**



*Note: California prison and parole population numbers are from CDCR Monthly Population reports as of December 31. California probation population is from the CPOC Probation Population Census and Realignment Dashboard. Year-end population numbers for the national context and large states are from the Bureau of Justice Statistics. Rates were created using U.S. Census population data for the adult population in each state.*

As shown in Figure 11, California falls below average among the next five most populous states in its use of every form of correctional control. Texas used prison and parole at rates close to or more than double that of California in 2012. Florida used parole at a rate less than one quarter of California, but used both probation and prison at higher rates. New York used prison and probation at the lowest rate among these states, but used parole at the second highest rate of these states.

In addition to demonstrating that California remains close to the national averages and other large states in 2012, Table 3 illustrates differences in how California’s and the five most populous states’ rates have changed for prison, parole, and probation since 2004. Nearly all the large states reduced the number of parolees and probationers per 100,000 adult residents, with the exception of Pennsylvania and California, respectively, from 2004 to 2012. Half the large states reduced the number of prisoners per 100,000 residents (California, New York, and Texas), while the others increased the number of

prisoners per 100,000 residents. The total number of prisoners, parolees, and probationers per 100,000 adults also decreased for all large states. Most notably, Illinois significantly reduced their total (prison, parole, and probation) rate from 4,400 to 2,052 per 100,000 adults, resulting from a large decrease in their parole population.

**Table 3: Adult Correctional Control in Large States at year-end 2012, Compared to 2004**

	State	Number of Prisoners per 100,000 Adult Residents	Number of Parolees per 100,000 Adult Residents	Number of Probationers per 100,000 Adult Residents
2012	California	462	171	1,446
	Florida	665	30	1,573
	Illinois	503	280	1,269
	New York	353	302	704
	Pennsylvania	508	1,011	1,773
	Texas	828	589	2,125
2004	California	623	425	1,297
	Florida	637	36	2,099
	Illinois	465	1,417	1,518
	New York	435	509	833
	Pennsylvania	428	806	1,747
	Texas	1,036	629	2,643

*Note: California population rates for year-end 2004 are taken directly from Lin and Jannetta. For year-end 2012, California prison and parole population numbers are from CDCR Monthly Population reports. The California probation population for year-end 2012 is from the CPOC Probation Population Census and Realignment Dashboard. Year-end population numbers for the national context and large states are from the Bureau of Justice Statistics. To create the 2012 rates of correctional control for the next five largest states (Florida, Illinois, New York, Pennsylvania, and Texas), we calculated the average percentage change for each state and national total over the previous three years (2009-2011) and multiplied that percentage to the 2011 population. The rate was then determined using 2012 overall population data. Rates were created using U.S. Census population data for the adult population in each state.*

While California nationally has the second largest prisoner population (after Texas), the third largest parolee population (after Texas and Pennsylvania), and the second highest probation population in 2012 (after Georgia), California’s rates and populations of incarceration and correctional control overall are falling. California may drop to a lower ranking in these areas as Realignment continues to unfold.

## Correctional Control by Gender

Correctional control in California varies disproportionately by gender, both in statewide and national contexts. Analysis of gender composition includes trends from 2004 and

the pre-Realignment year of 2011. Additional information on the racial and ethnic differences in California’s rates of correctional control can be found in Appendix B.

Men are considerably more likely than women to be under all forms of correctional control in California. The level of gender disproportionality for males under correctional control has increased markedly since 2004, as illustrated in Table 4. Males were 14 times, just over 16 times, and over 20 times more likely to be in prison in 2004, 2011, and 2012, respectively. In those same years, males were eight and a half, over eight, and more than 13 times more likely, respectively, to be on parole. The likelihood of men being incarcerated in jails over women is the only form of correctional control that has not increased over time. In fact, the probability of men being incarcerated in jails slightly decreased from 2011 to 2012: Men were 7.0, 7.4, and 7.0 times more likely to be in jail in 2004, 2011, and 2012, respectively.

**Table 4: California Correctional Control by Gender at year-end 2012, Compared to 2004 and 2011**

	Gender	Prisoners per 100,000 Adults (within gender)	Jail Inmates per 100,000 Adults (within gender)	Parolees per 100,000 Adults (within gender)
2012	Female	41	69	29
	Male	825	482	380
2011	Female	56	61	69
	Male	930	452	652
2004	Female	83	72	92
	Male	1,177	503	783

*Note: Year-end prison and parole population numbers come from CDCR Monthly population reports. Jail population numbers are from the BSCC Jail Profile Survey and are a monthly average daily population. Rates were created using U.S. Census population data for the adult population.*

Realignment has intensified the level of gender disproportionality between males and females for prisoners and parolees, but not for jail inmates. While the number per 100,000 of male and female prisoners and parolees decreased noticeably between 2004 and 2012, the largest changes occurred between 2011 and 2012. However, the percentage reductions in the number per 100,000 of male prisoners and parolees due to AB 109 were not as sizeable as their female counterparts’ reductions. From October 2011 to December 2012, the number of female prisoners per 100,000 decreased 36.9%, while the number of male prisoners decreased only 18.6%. A parallel trend is seen in the parolee rates: between June 2011 and December 2012, the rates of female parolees decreased by 63.3%, whereas the male parolee rates decreased by 43.6%. Yet, from September 2011 to December 2012, the rate of female jail inmates increased 13.1%, while the male jail inmate rate grew 6.9%. Thus, to the extent that incarceration in jail is

seen as a lesser punishment than prison, female N3 offenders benefited more from Realignment than male N3 offenders.

**Table 5: Crime Type by Gender, 2011 and 2012**

	Gender	Percent Prisoners Property Crime	Percent Prisoners Drug Crime
December 2012	Female	20.7	10.8
	Male	13.2	9.2
June 2011	Female	33	21.5
	Male	17.5	14.3

*Note: Gender breakdown by crime is from the CDCR Prison Census for December 2012 and June 2011.*

**Table 6: California Adult Correctional Control by Gender in a National Context at year-end, 2012**

	California	United States
Female prisoners per 100,000 women	41	82
Male prisoners per 100,000 men	825	1,208
Female jail inmates per 100,000 women	69	80
Male jail inmates per 100,000 men	482	553
Female parolees per 100,000 women	29	76
Male parolees per 100,000 men	380	649

*Note: Prison and parole population numbers are from CDCR Monthly population reports at year-end. Jail population numbers are from BSCC Jail Profile Survey and are an average daily population. Year-end correctional population numbers for the national context and large states are from Bureau of Justice Statistics reports. Rates were created using U.S. Census population data for the adult population in each state.*

This disproportionality is also seen when examining the percentage of female and male prisoners by N3 crime types, as shown in Table 5.<sup>33</sup> Under AB 109, the percentage of female prisoners serving time for property and drug crimes have decreased significantly, and at a higher rate than the percentage of male prisoners. Between June 2011 and December 2012, the percentage of females in prison for property crimes decreased by approximately 37%, whereas the percentage of males in prison for property crimes decreased by approximately 25%. Similarly, the percentage of female prisoners convicted of drug crimes fell by half, compared to a roughly 36% decrease among male prisoners. This shows that, proportionally, more women than men have been realigned.

California gender differences under correctional control in 2012 somewhat mirror national rates, like in 2004. Table 6 shows that the ratio of male to female prisoners and parolees in California (20.1:1 and 13.1:1, respectively) are higher than the national ratio (14.7:1 and 8.6, respectively), but the male to female jail inmate ratio is lower than the

<sup>33</sup> Crime type by gender for parolees, jail inmates, and probationers were not available.

national ratio (7.0:1 and 6.9:1, respectively). Yet California has fewer incarcerated females per 100,000 women than the national average.

## Projections

To provide additional context on the scope of correctional control in California, and to assess the impact Realignment might have on California's criminal justice system moving forward, the populations for prison, jail, and parole (but not probation) have been projected starting in June 2014 through June 2017.<sup>34</sup> These projections are estimates of how California's correctional population would stand by 2017 if the state maintained its current criminal justice practices and did not make significant legislative or policy changes. Information about the methodology behind these projections is provided in Appendix A.

According to CDCR's Fall 2013 projections and as shown in Figure 12, the prison population is projected to increase to about 136,617 people beginning in June 2014, reaching 141,245 people by June 2017.<sup>35</sup> Although the 2017 projection is a significant reduction from the pre-Realignment population, this estimate indicates that the state's total prison population will probably not fall below approximately 135,000 inmates going forward. The number of parolees is expected to continue declining, according to projection figures from CDCR. By June 2017, the parole system is estimated to supervise only 32,909 parolees, a dramatic reduction from its peak of 124,612 people in August 2007 and 102,332 people in September 2011, just prior to the start of Realignment. The jail population is projected to increase dramatically in the next few years, to approximately 108,000 people by 2017.<sup>36</sup> No independent projection of probation was available at the time of the writing of this report. To fully understand how Realignment has and will affect the probation population in California, more data will need to be collected. Given both the increase in use of split sentencing and the movement to county supervision, the total probation population is anticipated to continue to rise.

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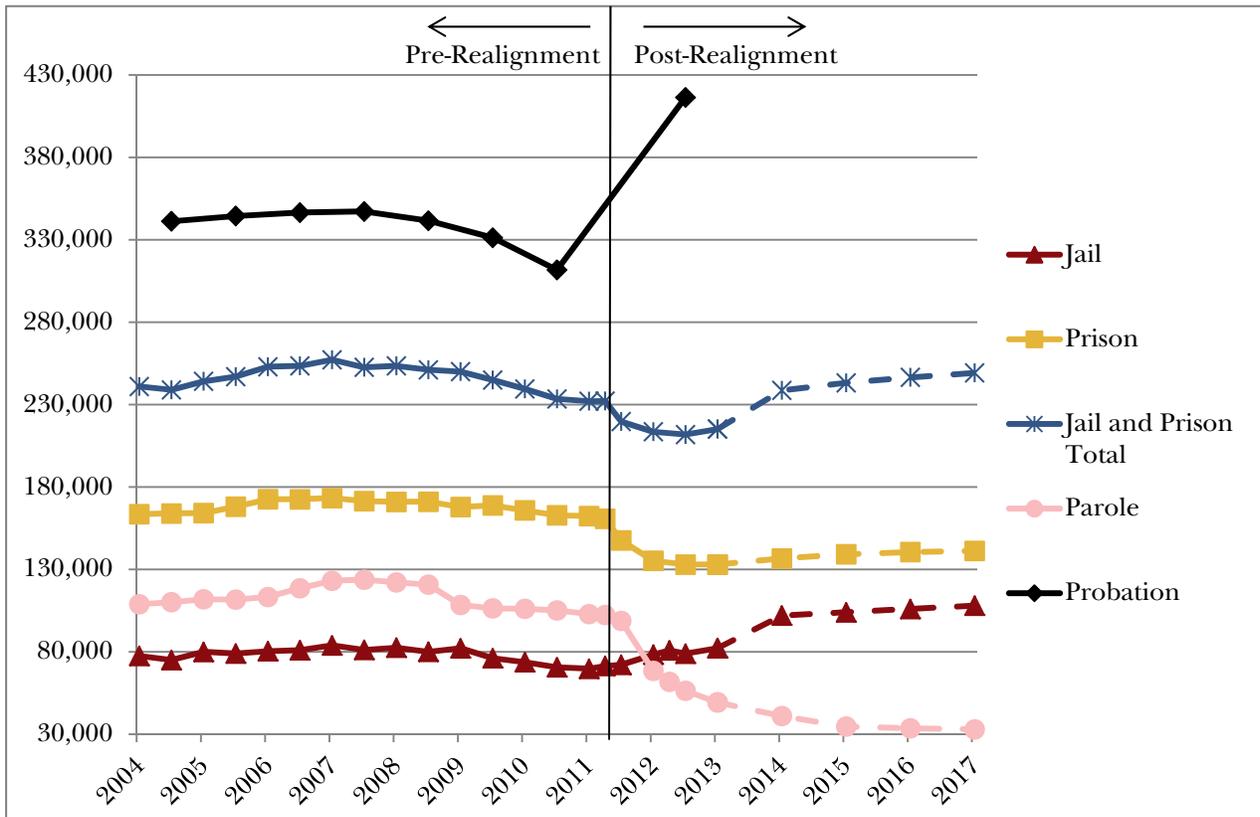
<sup>34</sup> CDCR has made projections for the prison and parole populations through June 2019. To get a view of correctional control more generally, we are using projections through June 2017 projections, because jail projections are only available through this date.

<sup>35</sup> "Fall 2013 Adult Population Projections." California Department of Corrections and Rehabilitation. (2013).

[http://www.cdcr.ca.gov/Reports\\_Research/Offender\\_Information\\_Services\\_Branch/Projections/F13pub.pdf](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Projections/F13pub.pdf).

<sup>36</sup> Jail projection estimated from "Impact of AB109 on Local Jail Population 2007-2017" graph from Jim Austin's presentation at the NIC Advisory Board Hearing, August 22-23, 2012.

**Figure 12: Recent Trends and Projections in California’s Jail, Prison, Probation, and Parole Populations, 2004-2017**

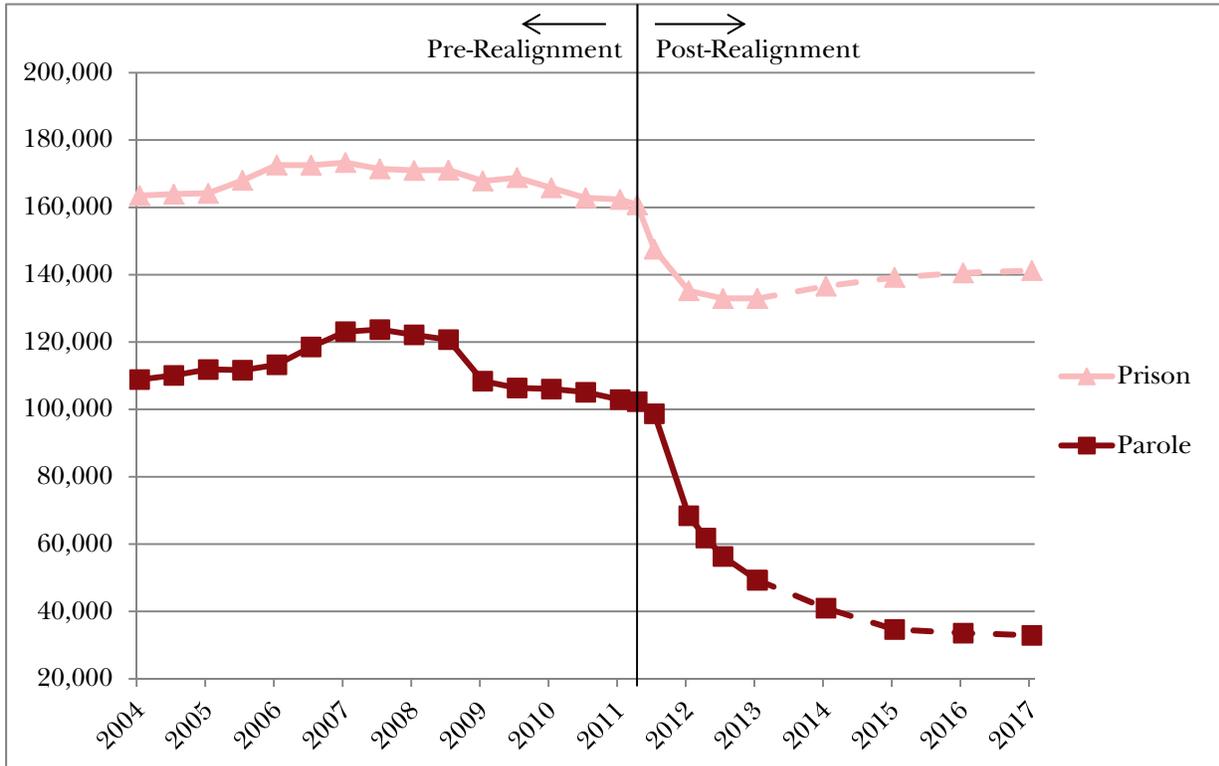


**Note:** Prison and parole population numbers are from CDCR Monthly population reports at year-end. Jail population numbers are from the BSCC Jail Profile Survey and are a monthly average daily population. Probation population numbers prior to 2012 are from the California Attorney General’s “Crime in California” reports. Probation population numbers for 2012 are from the Chief Probation Officers of California Probation (CPOC) Population Census, Active Criminal Probation Population and CPOC’s Realignment Dashboard. All numbers are one-day counts as of December 31 of that year. For an explanation on the change in source for the probation population between 2010 and 2012, please see Appendix A and Figure 7. Prison and parole projections are from the CDCR Fall 2013 Adult Population Projections. Year-end jail projections are estimated from “Impact of AB109 on Local Jail Population 2007-2017” graph from Jim Austin’s presentation at the NIC Advisory Board Hearing, August 22-23, 2012. Projections for prison, parole, and jail start in June 2014.

California’s rates of correctional control have been changing rapidly under AB 109. As shown in Figure 13, the prison and parole populations are expected to further decrease through 2017, comprising only 174,154 people, down from 189,271 people in 2012 and significantly lower than the peak of 296,399 people in June 2007. This figure illustrates the short-term effects of Realignment’s diversion of N3 offenders to the county level and the concentration of N3 offenders supervised by county agencies. This projection represents a decrease of 93,784 people across prison and parole since pre-Realignment in 2010. However, there is a projected upward trend for both populations in 2016,

suggesting that the number offenders supervised at the state level will rise if necessary steps to keep these populations down are not taken.

**Figure 13: Distribution of Prison and Parole Populations, Pre- and Post-Realignment, with Projections to 2017**



*Note: Prison and parole population numbers are from CDCR Monthly population reports at year-end. Prison and parole projections are from the CDCR Fall 2013 Adult Population Projections. Projections for prison and parole start in June 2014.*

## A Final Word

As policymakers around the country look to reshape correctional approaches after an era of mass incarceration, California under Realignment stands out as a fascinating and unfinished experiment. After just two years under the sweeping new initiative, it would be foolhardy to declare whether Realignment is either working well or faltering. What is unmistakably clear is that one of the Legislature’s core objectives in passing AB 109 has been met: control of most lower-level felons has been shifted from the state to the counties, in the hope that a community-based strategy will cut recidivism and save tax dollars while still holding offenders accountable. Our findings show that between the launch of Realignment in October 2011 and December 2012, the prison population rate per 100,000 adults has decreased by 18.4% and the parole population rate has fallen

50.7%.<sup>37</sup> In contrast, the jail population rate per 100,000 adults has grown by 9.2% over this time, and the probation population increased by a staggering 104,722 people from 2010 to 2012.<sup>38</sup>

Also evident from our analysis is that while Realignment's stated intent was not to decarcerate, some of the law's provisions have led to some offenders spending less time in a correctional facility. Enhanced conduct credits have reduced some realigned offenders' jail terms by as much as half.<sup>39</sup> Meanwhile, offenders who violate conditions of either PRCS or probation are no longer sent to prison but instead go to county jail, where their terms are much shorter, a maximum of 180 days. Therefore, whether or not it was the Legislature's plan, these effects of AB 109 are reducing overall incarceration in California. Our findings show, for example, that the increase in the jail population has not fully matched the decrease in the prison population. In addition, the smaller rise in the jail inmate population can be attributed to ongoing capacity constraints in many facilities. The increase in the number of N3 offenders and PRCS revocations, especially in counties where jails face population caps, has led sheriffs in some counties to employ alternatives to incarceration such as GPS monitoring and home detention. Some sheriffs also are using their discretion to release certain jail inmates early to live within their capacity constraints, which amounts to an unintended form of decarceration. Two statistics underscore this effect: California adults incarcerated in prison and jail comprised 31% of the total correctional system in 2012, compared to 36% in 2010; in addition, the incarceration rate for prisoners and jail inmates decreased 11.9% from 2010 to 2012.

Yet despite prompting a modest decarceration effect in California, Realignment so far has not reduced the total number of offenders under some form of correctional supervision. Instead, it merely shuffled the allocation of responsibility—from state corrections and parole to county probation and sheriffs. Whether Realignment reduces California's use of correctional control over the long term remains to be seen. But our findings show that by substantially shifting responsibility from the state to the counties, California is moving down the path set forth in the legislation. Phase two—ensuring local

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<sup>37</sup> However, the Three-Judge Court Order mandates that California's prison population across its 33 institutions must total only 110,000 people by April 18, 2014, requiring further reduction of approximately 10,000 people.

<sup>38</sup> As mentioned previously, probation populations are released year-end; the pre-Realignment figure for probation is from December 2010 and thus a percentage change cannot be calculated.

<sup>39</sup> Because of the enhanced conduct credits, a recent report found that judges prefer to impose traditional felony probation over an 1170(h) sentence because the former gives judges more control via supervision and the option of imposing longer sentences if offenders violate their conditions of probation. See Weisberg, Robert and Lisa T. Quan, "Assessing Judicial Sentencing Preferences After Public Safety Realignment: A Survey of California Judges," *supra*, note 19.

control is accompanied by effective programs to reduce recidivism while keeping crime and taxpayer costs down—will reveal whether Realignment’s true promise is fulfilled.

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## Appendix A: Methodology

This analysis was conducted using publicly available information from the state of California and the federal government. Gender, and age sub-groups were taken from the U.S. Census to the Census Bureau's estimated California, national, and other state population. To calculate the population by race/ethnicity by age for California, we multiplied total population by race/ethnicity by the age breakdown in California and the U.S. from the U.S. Census, making the assumption that the age breakdown across the state and country was similar across race and ethnicity. We merged the U.S. Census breakdown reporting race and ethnicity into white, black, Hispanic, and other to fit CDCR reporting of race that reports its populations according to these categories. For Hispanic, we used the number of individuals reporting Hispanic/Latino (of any race). From the not Hispanic or Latino group, we used the numbers for individuals reporting white only and black only.

Adult correctional control rates were calculated by dividing the number of individuals under a form of correctional control by the Census estimate of the overall adult (over 18) and sub-group adult resident population.

### Prison and Parole

All prison and parole data for 2004-2012 come from the California Department of Corrections and Rehabilitation's Monthly Reports Archive. Parole populations numbers include the active parole population. Parole population represents the active parole population. Prison gender breakdowns are from California Department of Corrections and Rehabilitation (CDCR) Monthly Reports and Prison Census. Race and ethnicity breakdown for prison is from CDCR Prison Census from December 31, 2012. The gender breakdown for parole is from CDCR Parole Census from December 31, 2012. Prison and parolee population figures are total monthly numbers as of the last day of the month. Population projections for these populations are from CDCR's Population Projection Report for Fall 2013.

### Jails

Jail population data and gender breakdowns come from the California Board of State and Community Corrections' Jail Profile Survey monthly for 2004-2012. Population numbers represent the average daily population for the quarter. Sentenced and unsentenced jail population numbers were calculated by adding the breakdown of male sentenced and female sentenced populations and male unsentenced and female unsentenced populations. Gender breakdowns were calculated by adding the breakdown

of male sentenced and male unsentenced populations and female sentenced and female unsentenced populations. Jail population projections are from the “Impact of AB109 on Local Jail Population 2007-2017” presentation by Jim Austin at the National Institute of Corrections Advisory Board Hearing, August 22-23, 2012.

## Probation

Adult probation data through 2010 are from Table 23 of the California Office of the California Attorney General’s (OAG) Criminal Justice Profiles at “Criminal Justice Profiles 2010, Table 23: Adult Probation Active Caseload as of December 31, 2010.” Office of the Attorney General California Department of Justice. (2010). December 2012 probation populations are from the Chief Probation Officers of California (CPOC) Adult Criminal Probation in California Population Census and CPOC’s Realignment Dashboard. All numbers are one-day counts as of December 31 of that year.

In gathering probation population data for this Correctional Control Bulletin, we faced difficulties in obtaining reliable and accurate data for year-end 2012 that were consistent across years. There are only two sources for probation data in California: The California Office of the Attorney General’s Criminal Justice Statistics Center and the Chief Probation Officers of California. However, it seems that both agencies’ data collection requirements and formulas differ to the point of producing significant differences in total population numbers for year-end 2012.

After much consideration, we decided to use OAG data for year-end 2004 through 2010 and CPOC data for year-end 2012. We recognize that having different sources for one data point can be problematic, especially when the data point is analyzed over time. However, we prioritized the reliability and accuracy of data over the consistency of data. We address these and other concerns below.

We changed the source of probation data for 2012 due to the magnitude of the following issues:

- (1) We were not certain the OAG data included 1170(h) or PRCS population numbers for all 58 counties because the OAG’s Adult Probation Monthly Report of Jurisdictional Cases form has not been updated since 2006 and does not specifically request that counties included this information (<https://stanford.box.com/oagprobationform>). In addition, the OAG later stated in their 2012 *Crime in California* report (page 64; <http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd12/cd12.pdf>) that “[s]ome counties may have counted individuals on Post Release Community Supervision,” further suggesting that data on the realigned

population were not uniform across counties. In contrast, CPOC's 2013 Probation Survey explicitly requested that counties provide 1170(h) and PRCS offender counts in addition to traditional felony and misdemeanor probation numbers ([http://www.cpoc.org/assets/Data/survey\\_39094513%206\\_annotated.pdf](http://www.cpoc.org/assets/Data/survey_39094513%206_annotated.pdf)).

- (2) We were concerned that the OAG's total is a significant undercount of the probation population at year-end 2012. The OAG's year-end 2012 probation population totaled 294,993 people, a decrease from 311,692 people at year-end 2010. However, CDCR reported that 43,563 people were released onto PRCS at year-end 2012. Of those, CPOC reported that 33,930 people were actively supervised by probation under PRCS in 2012. In addition, 4,756 people were supervised as 1170(h) offenders by probation. Thus, 38,868 realigned offenders were being supervised by probation at year-end 2012 in addition to probation officers' regular caseload. Given these data, the total probation population should have increased by at least 38,868 people between 2010 and 2012, rather than decreased by 16,699 people.

In addition to the realigned population, there are other differences in how the OAG and CPOC collect probation population data. The OAG specifically asked counties in their adult probation reporting form not to include court probation, diversions, and summary probation in their probation population totals (See the 2012 *Crime in California* report, page 64), whereas CPOC's total includes numbers for at least some of these subpopulations. Such an inclusion contributed at least 20,202 people (the difference between the OAG and CPOC's misdemeanor probation totals, where summary probation would have been recorded) to the final CPOC number, in addition to the 38,868 people mentioned above. Thus, CPOC's 2012 number may be a slight over-count when comparing this number to previous years' OAG probation totals. While the change in data source may not provide a perfect comparison of probation totals across years, we believe this total is much closer to the actual probation population figure than the one reported by the OAG. We estimate that the actual probation population figure for year-end 2012 may be somewhere between 360,000 people at the lower bound to 416,414 people at the highest bound.

In light of these concerns outlined above and the limited data sources, we determined that CPOC's probation total best represents the statewide probation population for year-end 2012 at this time.

## Total Adult Population

State and national population data for 2004, 2006, 2008, 2011, and 2012 are from the U.S. Census. 2004 populations are from the Census archive from tables "Table 1-RES:

Estimates of the Resident Population by Selected Age Groups for the United States and States and for Puerto Rico: July 1, 2004.” and “Table 2: Annual Estimates of the Population by Sex and Age for California: April 1, 2000 to July 1, 2004, SC-EST2004-02-06.” Populations past 2004 were taken from the State and County Quick facts and the American Fact Finder search of U.S. Census population data. Gender, and age sub-groups were taken from the U.S. Census to the Census Bureau’s estimated California, national, and other state population. To calculate the population by race/ethnicity by age for California, we multiplied total population by race/ethnicity by the age breakdown in California and the U.S. from the U.S. Census, making the assumption that the age breakdown across the state and country was similar across race and ethnicity. We merged the U.S. Census breakdown reporting race and ethnicity into white, black, Hispanic, and other to fit CDCR reporting of race that reports its populations according to these categories. For Hispanic, we used the number of individuals reporting Hispanic/Latino (of any race). From the not Hispanic or Latino group, we used the numbers for individuals reporting white only and black only.

The population rates calculated in this report used the following population numbers:

<b>California</b>	<b>2012</b>	<b>2011</b>	<b>2010</b>	<b>2004</b>
Overall Population	38,041,430	37,826,160	37,253,956	35,893,799
Adult Population	28,797,363	28,424,476	27,958,916	26,297,336
Adult Female Population	14,485,073	14,418,147	14,197,678	13,297,919
Adult Male Population	14,312,289	14,006,329	13,761,238	12,999,417
Adult White Population	11,346,161	11,247,533		
Adult Black Population	1,900,626	1,620,058		
Adult Hispanic Population	11,000,592	10,827,063		
Adult Other Race Population	4,549,983	4,725,398		
<b>United States</b>				
Overall Population	313,914,040	311,591,919		293,655,404
Adult Population	240,203,630	237,681,218		220,377,406
Adult Female Population	123,461,856	122,233,040		
Adult Male Population	116,741,774	115,448,178		

Adult White Population	151,328,287	150,375,491		
Adult Black Population	31,466,676	29,107,592		
Adult Hispanic Population	40,594,413	39,630,156		
<b>Florida</b>				
Overall Population	19,317,568			17,397,161
Adult Population	15,316,595			13,393,871
<b>Illinois</b>				
Overall Population	12,875,255			12,713,634
Adult Population	9,812,204			9,475,484
<b>New York</b>				
Overall Population	19,570,261			19,227,088
Adult Population	15,309,251			14,654,725
<b>Pennsylvania</b>				
Overall Population	12,763,536			12,406,292
Adult Population	10,026,082			9,569,283
<b>Texas</b>				
Overall Population	26,059,203			22,490,022
Adult Population	19,078,028			16,223,243

## National Corrections Data

Correctional control population data for other states and nationally comes from total populations listed in Bureau of Justice Statistics reports. Specifically, prison population data is from the BJS publications “Prisoners in 2012: Trends in Admissions and Releases, 1991-2012,” “Prisoners in 2011,” “Prisoners in 2010,” “Prisoners in 2009,” and “Prisoners in 2004.” Jail inmate population data is from “Jail Inmates at Midyear” for 2004, 2009, 2010, 2011, and 2012. Probation and parole data are from “Probation and Parole in the United States” for years 2004, 2009, 2010, 2011, and 2012. Gender and race/ethnicity breakdowns are taken from the BJS produced documents.

## Appendix B: Correctional Control by Race and Ethnicity

Correctional control in California varies disproportionately by race and ethnicity, both in statewide and national contexts. Race and ethnicity data for prison and parole is examined for 2004 and 2012.<sup>40</sup>

**Table 7: California Correctional Control by Race and Ethnicity at year-end 2012, Compared to 2004 and 2011**

	Status	Prisoners per 100,000 Adults (within Racial/Ethnic Group)	Parolees per 100,000 Adults (within Racial/Ethnic Group)
2012	Black	2,098	888
	Hispanic	495	194
	White	269	150
	Other <sup>41</sup>	175	76
2011	Black	2,673	1,746
	Hispanic	557	343
	White	319	269
	Other	197	118
2004	Black	3,048	1,854
	Hispanic	751	541
	White	367	283
	Other	245	145

*Note:* To calculate the population by race/ethnicity by age for California, we multiplied total population by race/ethnicity by the age breakdown in California and the U.S. from the U.S. Census, making the assumption that the age breakdown across the state and country was similar across race and ethnicity. We merged the U.S. Census breakdown reporting race and ethnicity into white, black, Hispanic, and other to fit CDCR reporting of race that reports its populations according to these categories. For Hispanic, we used the number of individuals reporting Hispanic/Latino (of any race). From the not Hispanic or Latino group, we used the numbers for individuals reporting white only and black only. Prison and parole population numbers are from CDCR 2012 Prison Census and 2012 Parole Census. Population and rates from 2004 are from Lin, Jeffrey and Jesse Jannetta. "The Scope of Correctional Control in California." UC Irvine: Center for Evidence-Based Corrections (2006). "Other" race and ethnicity in the general California adult population was calculated by including anyone who reported a race other than just white or just black or an ethnicity other than Hispanic/Latino.

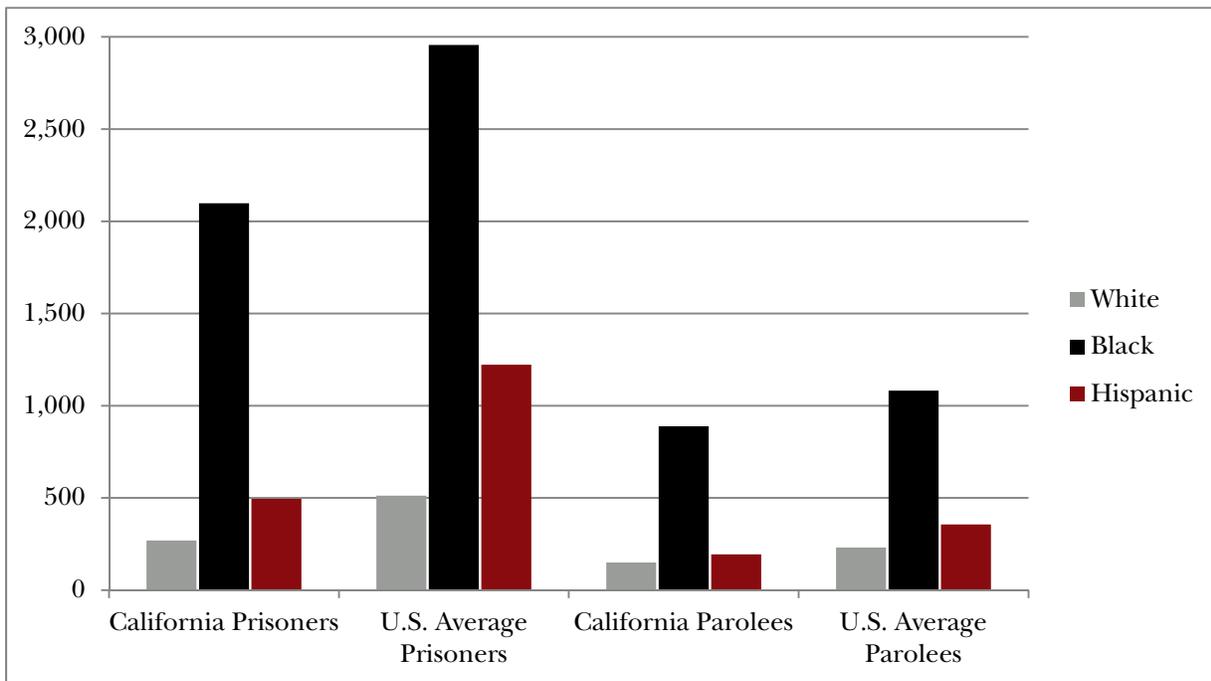
Racial and ethnic groups experience substantial differences in rates of correctional control in California. Black Californians in particular face significantly higher rates of

<sup>40</sup> To see racial and ethnic group correctional control rates overall, taking jail inmate rates into account would be necessary. Population breakdown by race and ethnicity for jail inmates are unfortunately not easily available in California past 2005.

<sup>41</sup> "Other" race and ethnicity in the general California adult population was calculated by including anyone who reported a race other than just white or just black or an ethnicity other than Hispanic/Latino.

correctional control. Table 7 demonstrates that in 2012, adult black Californians were 7.8 times and 4.2 times more likely to be in prison than adult white Californians and adult Hispanic Californians, respectively. Similarly, black Californians were 5.9 times and 4.6 times more likely to be on parole than white and Hispanic Californians, respectively. As of December 2012, roughly 3% of adult black Californians were either in state prison or on parole, compared to less than 1% for adult Hispanic and adult white Californians.

**Figure 14: Prisoners and Parolees per 100,000 Adults, by Race and Ethnicity in a National Context at year-end, 2012**



*Note: To calculate the population by race/ethnicity by age for California and the national context, we multiplied total population by race/ethnicity by the age breakdown in California and the U.S., making the assumption that the age breakdown across the state and country was similar across race and ethnicity. We merged the U.S. Census breakdown reporting race and ethnicity into white, black, Hispanic, and other to fit CDCR reporting of race that reports its populations according to these categories. For Hispanic, we used the number of individuals reporting Hispanic/Latino (of any race). From the not Hispanic or Latino group, we used the numbers for individuals reporting white only and black only. Prison and parole population numbers are from CDCR 2012 Prison Census and 2012 Parole Census. Population numbers for parole for the national context are from total populations listed in Bureau of Justice Statistics reports. Prison population rates for the national context are directly from the Bureau of Justice Statistics "Prisoners in 2012" Report.*

The probability of adult black Californians being imprisoned compared to white and Hispanic Californians has decreased slightly from 2004, where blacks were 8.3 times and 4.1 times more likely to be in prison, respectively. However, the probability of adult black Californians being supervised on parole decreased in comparison to white Californians, but increased in comparison to Hispanic Californians since 2004, where they were 6.6

times and 3.4 times more likely, respectively, to be on parole. In contrast, adult Hispanic Californians were 1.84 and 1.3 times more likely to be imprisoned or on parole, respectively, than adult white Californians in 2012, down from 1.96 and 1.9 times more likely, respectively, to be imprisoned or on parole in 2004.

The level of racial/ethnic disproportionality observed within California is highlighted in a national context, as displayed in Figure 14. In 2012, adult black Californians were 7.8 times more likely to be imprisoned than adult white Californians, while nationally they were 5.8 times more likely. Adult black Californians were 5.9 times more likely than adult white Californians to be on parole, compared to nationally, where they were 4.7 times more likely. Like in 2004, the differences of correctional control rates between adult black and adult white Californians were higher than those nationally. Adult Hispanic Californians were 1.84 times more likely to be imprisoned than adult white Californians, whereas they were 2.4 times more likely nationally. Adult Hispanic Californians were also 1.3 times more likely than adult white Californians to be on parole, while they were 1.5 more likely nationally. Again, like in 2004, the differences in correctional control between adult Hispanic and adult white Californians were less than the national average.