

CALIFORNIA BUDGET PROJECT

SEPTEMBER 2011

BUDGET BACKGROUNDER

MAKING DOLLARS MAKE SENSE

STEADY CLIMB: STATE CORRECTIONS SPENDING IN CALIFORNIA

California's correctional system is on the verge of profound change. Beginning October 1, 2011, counties will assume responsibility for incarcerating, supervising, and rehabilitating "low-level" offenders – a change that is intended to divert, over the next few years, tens of thousands of men and women from the state's correctional system to county custody and supervision. This historic "realignment" of responsibility from the state to the counties was prompted by a number of factors, including rising state corrections expenditures, the costly cycling of low-level offenders through the state's prison system, and a recent federal court order requiring the state to significantly reduce prison overcrowding over the next two years. Shifting low-level offenders to county supervision has the potential to substantially reduce state spending on corrections, thereby reversing the trend of recent decades, in which an increasing share of the state budget has gone toward state prisons and parole. This *Budget Backgrounder* provides a snapshot of the state's correctional system, highlights the increase in state corrections spending over the past generation, examines some of the factors that have driven the growth in corrections spending, and describes the major components of the criminal justice realignment that will take effect beginning in October.

A Snapshot of California's State Correctional System

The primary purpose of California's correctional system is to enhance public safety by incarcerating offenders, supervising those who have served their sentences, and helping individuals reintegrate into their communities. The California Department of Corrections and Rehabilitation (CDCR) oversees 147,920 adult inmates in 33 prisons and 42 fire camps and contracts

with public and private agencies in California and other states to house an additional 13,362 adult offenders. In addition, more than 105,500 ex-offenders are on state parole.¹ Nearly all adult offenders under the CDCR's jurisdiction – more than 99 percent – are felons.² The CDCR provides rehabilitative services, including substance abuse treatment and vocational education, for adult offenders, although experts have identified significant deficiencies with these programs in recent years.³ In addition, the CDCR's Division of Juvenile Justice supervises and provides rehabilitative, educational, and vocational services for 1,254 youth offenders in five youth correctional facilities and two youth fire camps.⁴

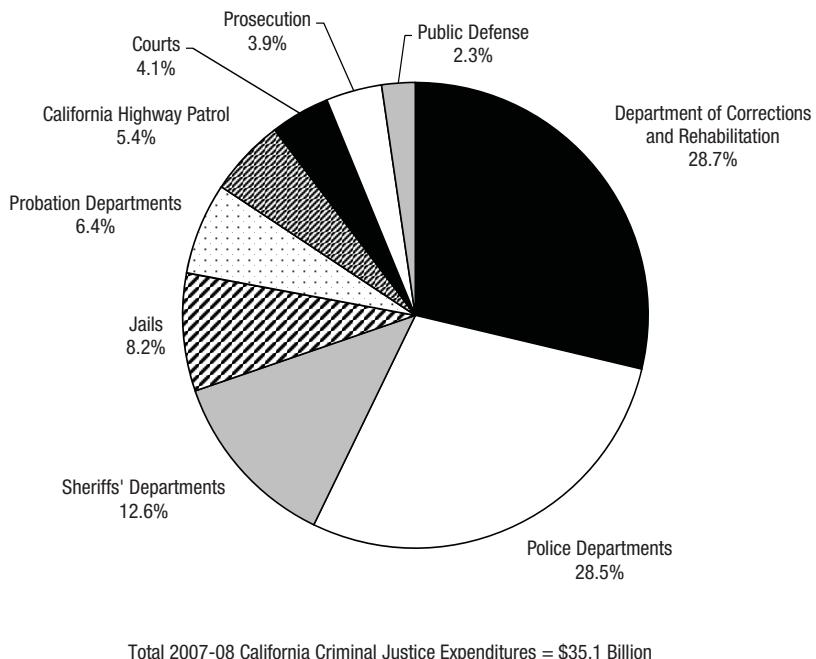
State Corrections Is the Largest Component of California's Criminal Justice System

The state's correctional system is the largest component of California's criminal justice system, which also includes local law enforcement, county jails and probation departments, prosecutors, and public defenders. The CDCR accounted for more than one-quarter (28.7 percent) of total state and local criminal justice expenditures of \$35.1 billion in 2007-08, the most recent year for which data are available (Figure 1).⁵ In contrast, jails accounted for 8.2 percent and probation departments accounted for 6.4 percent of total criminal justice expenditures.

California Has More Than 260,000 Adult Inmates and Parolees

Approximately 161,470 adult offenders are serving prison sentences, and an additional 105,555 adults are on state parole.⁶ As of August 10, 2011, the state's adult inmate population consisted of:

Figure 1: State Correctional Expenditures Comprise the Largest Share of State and Local Criminal Justice Expenditures, 2007-08



Source: California Department of Justice

- 143,820 offenders in 33 prisons designed to hold 79,606 prisoners;
- 9,596 offenders in correctional facilities located in Arizona, Michigan, Mississippi, and Oklahoma;⁷
- 4,100 minimum-security offenders in 42 fire camps;
- 3,766 offenders in local correctional facilities operated by private companies or local governments in California; and
- 192 offenders in state hospitals operated by the California Department of Mental Health.

Most Offenders Are Men Serving Time for Violent Crimes

The vast majority (94.0 percent) of state prisoners are men, although the number of women in prison has increased at nearly twice the rate for men since 1970.⁸ More than two-thirds (68.7 percent) of inmates are black or Latino.⁹ In contrast, blacks and Latinos comprise 43.4 percent of California's population.¹⁰ More than half (58.3 percent) of prison inmates were convicted of crimes against persons, with the rest serving sentences for property crimes (18.6 percent), drug crimes (15.3 percent), or other crimes (7.8 percent).¹¹

Tens of Thousands of Offenders Churn Through the Prison System Each Year

Tens of thousands of Californians move in and out of the state's prison system each year. In 2009, for example, 131,785 first-time offenders and parole violators entered prison, while a slightly larger number of inmates – 134,564 – were paroled, discharged, or otherwise released from custody during the same year.¹² Felon parole violators comprised nearly two-thirds (64.3 percent) of prison "arrivals" in 2009 – 84,779 out of 131,785.¹³ More than one out of five felon parole violators (21.9 percent) were returned to prison for committing a new crime. The remaining felon parolees (78.1 percent) were returned to custody for "technical" violations of their parole conditions.¹⁴ Some technical violations involve failure to report to a parole officer or to take a drug test. However, California also "uses technical violations to address a wide range of serious criminal behavior that other jurisdictions would handle through re-arrest and prosecution," according to one expert.¹⁵ Parolees sent back to prison for technical violations generally serve short sentences of just a few months.¹⁶ This churning of large numbers of parole violators has contributed to overcrowding in the state's prison system and is one of the factors that led the state to shift responsibility for low-level offenders and parolees to the counties beginning October 1, 2011 (see box).

State Shifts Responsibility for “Low-Level” Offenders to Counties

In April 2011, Governor Brown signed AB 109 (Committee on Budget), which will transform both the state and county criminal justice systems over the next several years.¹⁷ AB 109, as amended by AB 117 (Committee on Budget), shifts responsibility for certain “low-level” offenders and parolees – generally defined as those who have committed non-violent, non-serious, non-sex crimes – from the state to the counties on a prospective basis beginning October 1, 2011.¹⁸ This criminal justice “realignment” is intended to divert tens of thousands of men and women from the state’s correctional system and is part of a larger restructuring plan included in the 2011-12 budget agreement, which also provides a dedicated source of funding for counties to carry out their new responsibilities.¹⁹ The changes included in AB 109 are projected to reduce the number of prison inmates by nearly 40,000 – approximately one-quarter of the current prison population – and the number of state parolees by 77,000 – approximately three-quarters of the current parole population – at full implementation in 2014-15.²⁰

A number of factors prompted the Legislature’s decision to shift low-level offenders to the counties, including rising state corrections expenditures, the costly cycling of low-level parole violators through the state’s prison system, and a recent federal court order requiring the state to significantly reduce prison overcrowding over the next two years. In 2009, a panel of federal judges ruled that overcrowding was the main cause of the state’s inability to provide constitutionally adequate health care and mental health services to prisoners and ordered the state to reduce the population of its 33 prisons to 137.5 percent of “design capacity” within two years – approximately 34,000 inmates below the current level.²¹ The state appealed to the US Supreme Court, which upheld the lower court’s order on May 23, 2011.²² As a result, the two-year clock has begun ticking, and in order to comply with the Supreme Court’s decision, California must reduce the number of inmates housed in state prisons from approximately 144,000 to 110,000 by mid-2013.²³

AB 109, as amended by AB 117, significantly changes how tens of thousands of convicted felons and parolees will serve their sentences and be supervised each year. Specifically, these bills:

- **Require offenders convicted of a low-level felony on or after October 1, 2011 to serve their sentences locally, rather than in state prison.** Currently, convicted felons are sentenced to state prison or to death. Beginning October 1, low-level offenders must serve their sentences locally with a jail term and/or probation, depending on the sentence received. Low-level offenders are defined as those who do not have a *current* or *prior* conviction for a violent, serious, or sex crime – the so-called “non-non-non” offenders. Convicted felons who do not qualify as low-level offenders – for example, anyone who has even been convicted of a serious or violent felony – will continue to be sentenced to state prison. There are significant exceptions to these new rules, however. Specifically, the Legislature excluded approximately 60 non-violent, non-serious, non-sex felonies from the definition of low-level offenses. As a result, individuals convicted of these crimes must serve their sentences in state prison.
- **Require counties to supervise low-level offenders released from state prison on or after October 1, 2011.** Currently, most offenders who complete their prison sentences are paroled to their home counties, supervised by state parole officers.²⁴ Beginning October 1, low-level parolees must be supervised locally rather than by the state. AB 109 refers to this new local responsibility as “post-release community supervision” in order to distinguish it from state parole. For the purpose of local supervision, “low-level” means that the released inmate:
 - Did not serve his or her *just-completed* prison term for a violent or serious felony, although the inmate could have served a *prior* prison term for a violent or serious felony;
 - Is not classified as a high-risk sex offender;
 - Is not a third-striker under the state’s Three Strikes law; and
 - Is not required to undergo treatment by the Department of Mental Health.

The CDCR will continue to supervise parolees who do not meet the above criteria as well as offenders who were paroled prior to October 1, 2011, with the exception of certain parolees being held in state prison for a parole violation on October 1 and who are released on or after November 1, 2011. These parolees will be supervised by the CDCR unless they meet the eligibility requirements for post-release community supervision, in which case they will be supervised by the counties.

AB 109 requires low-level inmates to enter into a community supervision agreement prior to their release. The agreement includes a number of conditions designed to ensure that parolees report to the county, can be tracked, and take steps toward rehabilitation. Counties, in turn, must establish a review process to assess and refine low-level parolees' "program of post-release supervision." Counties may impose additional conditions beyond those included in AB 109, as well as require "appropriate rehabilitation and treatment services, determine appropriate incentives, and determine and order appropriate responses to alleged violations," which can include "immediate sanctions up to and including ... flash incarceration in a county jail."²⁵ Moreover, AB 109, as amended by AB 117, *requires* counties to discharge parolees who do not violate the conditions of their community supervision agreement for one year and *allows* counties to discharge parolees who go without a violation for six months. Parolees must be discharged from community supervision no later than three years after their release from prison.

- **Prohibit counties and the state from returning most parolees to state prison for "technical" parole violations committed on or after October 1, 2011.** Currently, parolees who violate a condition of their parole – which can range from missing an appointment with a parole officer to allegations of new criminal activity – can be returned to state prison.²⁶ Beginning October 1, counties and the CDCR will be prohibited from returning most parolees to state prison for violating a condition of parole – a so-called "technical" violation. Instead, AB 109, as amended by AB 117, establishes a maximum penalty of 180 days in a county jail for parole violators, whether they are supervised by counties or the state. The major exception relates to parolees who were released from prison after serving a life sentence with the possibility of parole – these individuals may be returned to state prison if they violate the conditions of their parole. Parole revocation decisions for individuals who are supervised locally will be made by court-appointed hearing officers, who may respond to a violation in a number of ways, including imposition of jail time or referral to a reentry court.²⁷ Revocation decisions for state parolees will be made by the state Board of Parole Hearings until July 1, 2013, at which point decisions will be made by court-appointed hearing officers.
- **Adopt new policies to help counties manage their local offender and parolee populations.** AB 109 allows counties to expand the use of home detention in lieu of jail time; AB 117 allows counties to contract with other local public agencies to house offenders in community correctional facilities; and AB 109, as amended by AB 117, allows inmates to earn four days of credit for every two days served for good behavior. Under the latter change, an inmate who earned the maximum credits allowed would be released after serving half of his or her sentence – reducing a six-month term to three months.²⁸

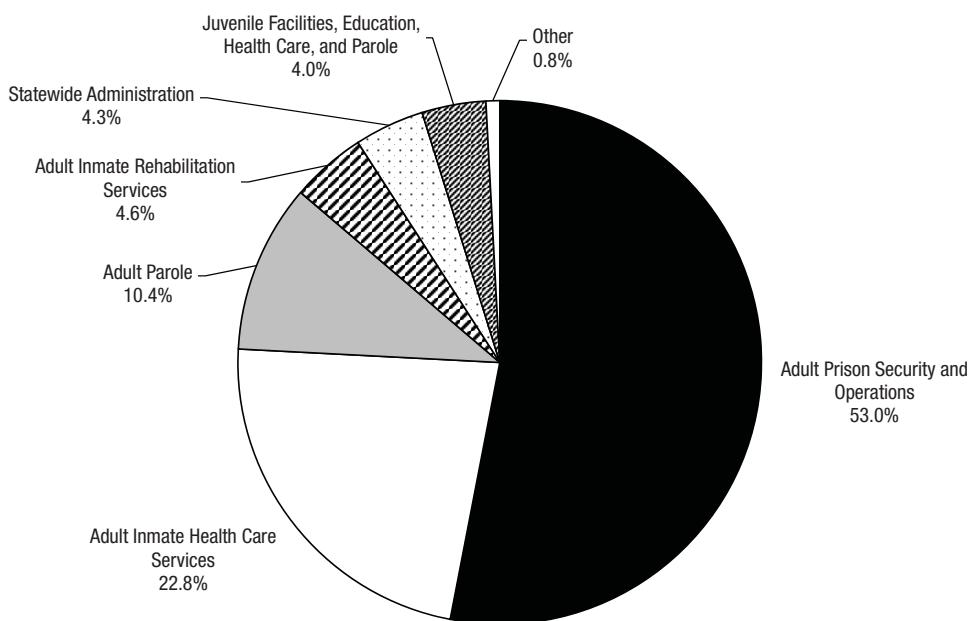
These changes provide an opportunity for counties to focus on substance abuse treatment, basic skills education, and other rehabilitative services that can improve outcomes for offenders and potentially result in significant correctional savings over time. Implementation, however, will depend on decisions made by local officials and the courts and is therefore likely to vary among counties. "Successful implementation of realignment will require a significant paradigm shift in our public safety communities," according to the California State Association of Counties. "The successful model will not be an incarceration model, but one that seeks to divert and rehabilitate citizens," allowing them to become "productive members of our community."²⁹ Women are particularly likely to benefit from realignment, given the fact that the majority of women prisoners – 55.5 percent – are serving time for property or drug crimes, compared to less than one-third of men (32.5 percent).³⁰ Improving outcomes for offenders and parolees would, in turn, increase public safety by keeping low-level offenders near their families and providing opportunities for them to receive the assistance they need to reintegrate successfully into society.

What Does the State Corrections Budget Pay For?

The state corrections budget primarily supports the cost of incarcerating adult felons, providing inmates with health care services, and supervising offenders who are released back into their communities on state parole. California spent an estimated \$9.6 billion on corrections in 2010-11. More than half (53.0 percent) of the corrections budget supports prison security and

operations, which includes the cost of salaries and benefits for correctional officers and various inmate support services, including meals and clothing (Figure 2). More than one-fifth (22.8 percent) of corrections spending supports adult health care services – including health, dental, and mental health care – while roughly one-tenth (10.4 percent) funds the cost of supervising parolees. Relatively small shares of the corrections budget go toward adult rehabilitation services (4.6 percent) – including adult education and substance abuse treatment – and services for juvenile offenders (4.0 percent).

Figure 2: Most Spending on State Corrections Supports Prison Security and Adult Inmate Health Care, 2010-11



Source: Department of Finance

State Corrections Spending Has Increased Significantly Over the Past Generation

State spending on corrections rose from \$604.2 million in 1980-81 to \$9.6 billion in 2010-11, a nearly 1,500 percent increase that significantly outpaced the growth of total state General Fund spending during the same period (Figure 3). As a result, state spending on corrections has more than tripled as a share of General Fund expenditures, rising from 2.9 percent in 1980-81 to 10.5 percent in 2010-11 (Figure 4).

What Factors Have Driven the Growth in State Corrections Spending?

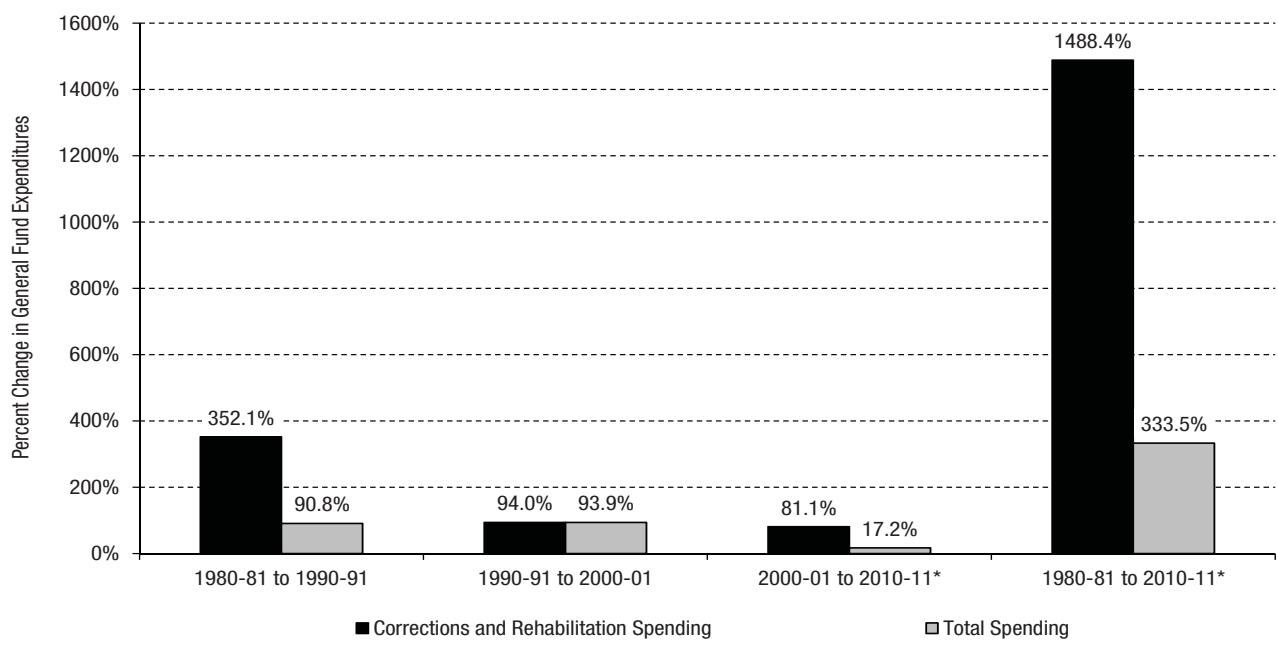
The increase in state corrections spending is related to the significant growth of the inmate and parolee population that occurred in the 1980s and 1990s and to the rising cost of corrections as measured by spending per inmate or parolee. The increase in the offender population is primarily attributable to significant changes in sentencing laws and to more aggressive local law enforcement and prosecution. Higher per inmate or parolee expenditures primarily reflect the dramatic increase in

inmate health care spending as well as the rising cost of prison security and adult parole.

The Number of Prisoners and Parolees Has Increased Dramatically

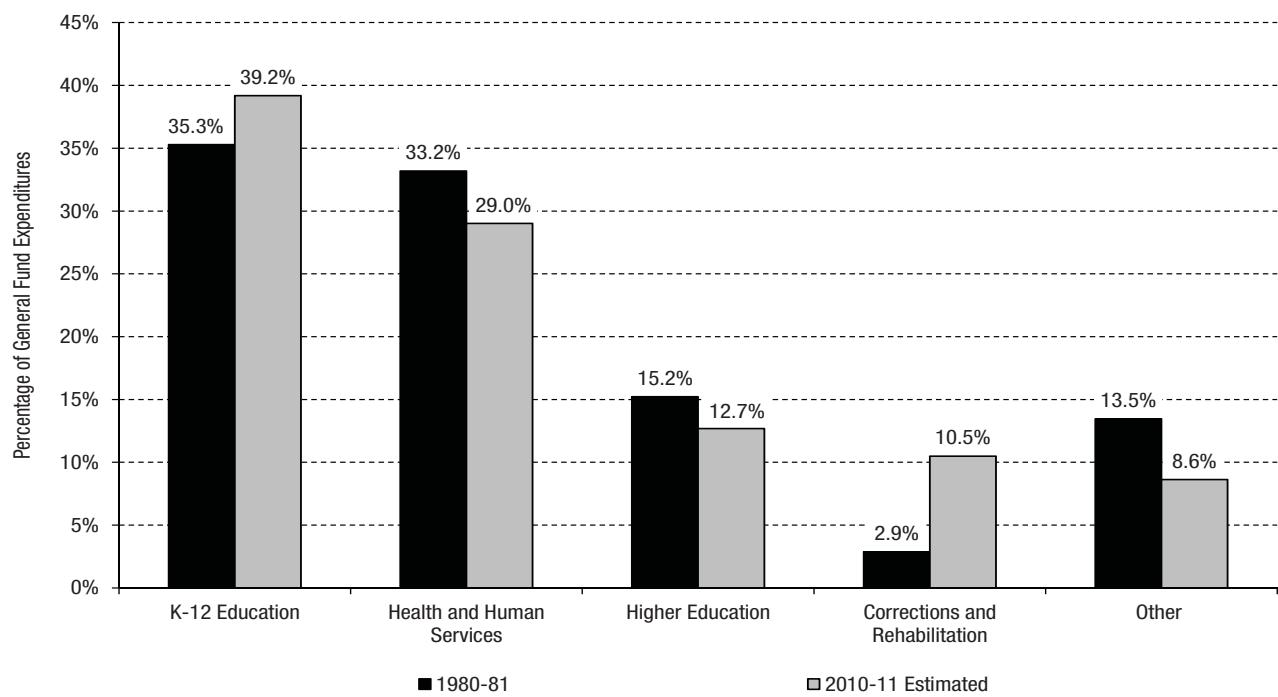
California's prison and parolee populations have increased dramatically over the past generation. The number of inmates rose from 25,033 in 1970 to 172,528 in 2006, before dropping to 162,976 – 153,196 men and 9,780 women – in 2010 (Figure 5).³¹ Most of this growth occurred during the 1980s and 1990s, when the prison population increased at a significantly faster rate than the state's population as a whole (Figure 6). California built 21 prisons from the 1980s through the mid-2000s, nearly tripling the number of adult correctional facilities – from 12 to 33 – in an effort to accommodate the rising inmate population. However, the state was never able to "catch up," and the prison population has consistently exceeded the prisons' design capacity since at least the mid-1980s.³² The number of parolees also increased steadily in the 1980s and 1990s as offenders served their sentences and were returned to their communities. In 1983, for example, the CDCR supervised fewer than 19,000 parolees, but by 2007 the number of parolees had reached nearly 127,000.³³ The parolee population has since declined to approximately 105,600.³⁴

Figure 3: Corrections Spending Has Grown at More Than Four Times the Rate of General Fund Spending as a Whole Since 1980-81



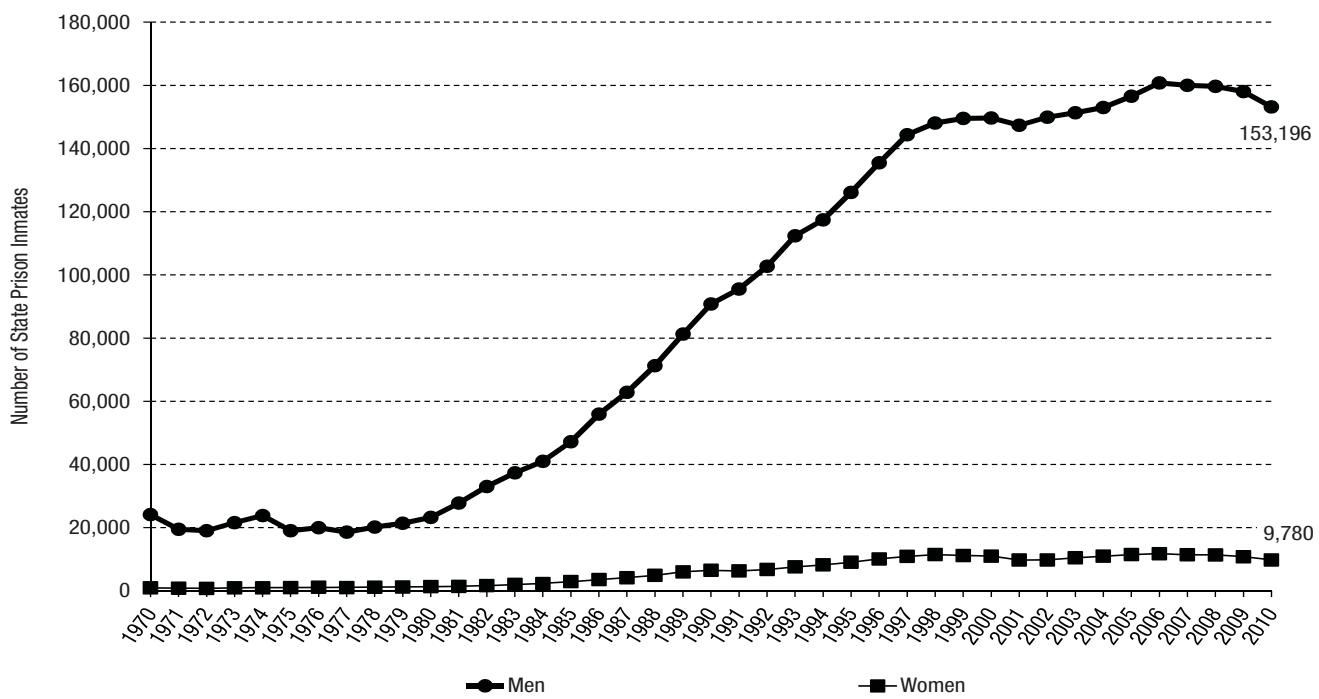
* 2010-11 estimated.
Source: Department of Finance

Figure 4: Spending on Corrections Has More Than Tripled as a Share of Total State Spending Since 1980-81



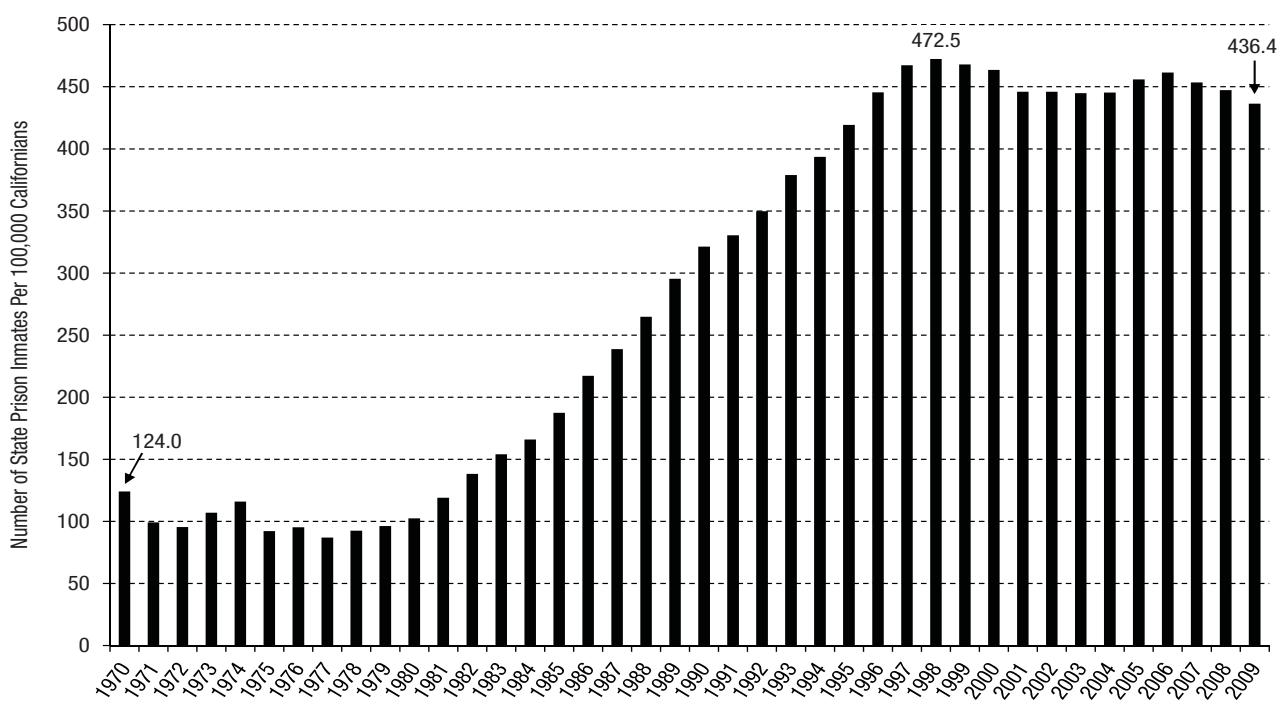
Source: Department of Finance

Figure 5: California's Prison Population Increased Significantly During the 1980s and 1990s



Note: Data are as of December 31 of each year.
Source: Department of Corrections and Rehabilitation

Figure 6: The Number of Prisoners Per 100,000 Californians Increased Steadily During the 1980s and 1990s



Note: Data are as of December 31 of each year.
Source: Department of Corrections and Rehabilitation

The increase in the number of offenders is attributable to a number of factors, including:

- **The enactment of “determinate sentencing.”** In 1976, the Legislature passed a determinate sentencing law, under which a judge must impose a specified term depending on the crime. Under determinate sentencing – which applies to the majority of state prison inmates – “offenders serve a statutorily determined portion of the term the judge has assigned and are *automatically* released from prison once that period has elapsed.”³⁵ In contrast, under the state’s previous system of “indeterminate sentencing,” judges specified a minimum and maximum length of incarceration, and offenders “were released as a result of a decision made by a parole board, which attempted to evaluate each individual’s degree of rehabilitation.”³⁶ Since determinate sentencing was established, both the Legislature and the voters have enacted a number of sentencing “enhancements,” particularly in response to media coverage of sensational crimes. These enhancements have “ratcheted up penalties and therefore the size of the prison population,” according to experts.³⁷
- **The enactment of the “Three Strikes and You’re Out” law.** In 1994, the Legislature and the voters approved the “Three Strikes and You’re Out” law, which increased prison terms for certain felony offenders.³⁸ Offenders with one prior conviction for a violent or serious felony who are convicted of *any* new felony – a “second-strike” offense – receive a prison term that is twice what it would otherwise be under state law. Offenders with at least two prior violent or serious felony convictions who are convicted of *any* new felony – a “third-strike” offense – receive a life sentence with a minimum term of 25 years. The law also limited the number of credits that “strikers” can earn to reduce their prison terms and required strikers who are convicted of multiple crimes to serve consecutive rather than concurrent sentences.³⁹ Due to these and other changes, “the striker population in prison grew quickly in the first years of the law,” although the rate of growth subsequently slowed as second strikers completed their sentences and were paroled, according to the Legislative Analyst’s Office (LAO).⁴⁰ California’s prisons housed 34,365 second strikers and 8,667 third strikers as of December 31, 2010 – slightly more than one-quarter (26.4 percent) of all state prison inmates (Figure 7).⁴¹
- **More aggressive local law enforcement and prosecution.** The LAO recently analyzed the growth in the prison population between 1987 and 2007 and concluded that much of the

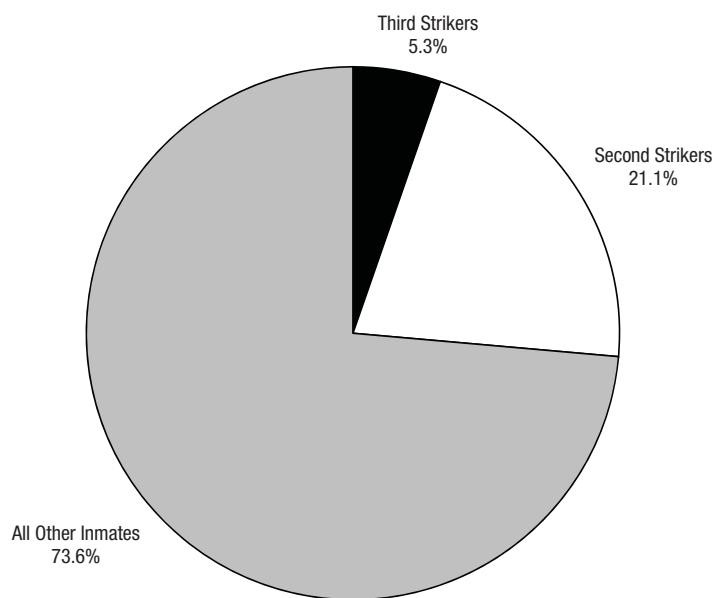
increase was attributable to changes in local law enforcement and prosecution practices.⁴² Specifically, the LAO found that approximately two-thirds of the prison population growth was attributable to an increase in the number of first-time felons sent to prison, along with an increase in the number of parolees returned to prison for committing new felonies. Rising crime does not explain this trend because crime rates in California declined during the period that the LAO examined. Instead, the LAO notes that the number of adult felony arrests increased slightly even as the crime rate dropped and points out that “the number of felony charges filed, convictions achieved, and prison sentences ordered by the courts have significantly increased during the same time period.” Due to these factors, a felony arrest in 2007 was “almost twice as likely to result in a prison sentence” as it was in 1987.⁴³ The LAO suggests that this trend was largely the result of changes in law enforcement and prosecution practices, which in turn contributed to a significant share of the increase in the state’s prison population.

Spending Per Offender Has Increased Substantially

The increase in corrections spending is also attributable to the rising cost of incarcerating and supervising individual offenders. Spending per inmate, for example, nearly doubled in recent years, rising from \$25,307 in 2000-01 to an estimated \$49,016 in 2010-11.⁴⁴ In contrast, inflation increased by 28.6 percent in California during the same period. The significant increase in spending per inmate partially reflects the dramatic increase in health care expenditures for prison inmates that occurred in response to various federal court orders and settlements, including the appointment of a federal Receiver in 2006 “to take over the direct management and operation of the state’s prison medical care delivery system.”⁴⁵ Spending on inmate health care more than tripled during the past decade – from \$662.1 million in 2000-01 to more than \$2.1 billion in 2010-11, becoming the fastest-growing component of the corrections budget. As a result, health care expenditures jumped from 12.4 percent of total corrections spending in 2000-01 to 22.8 percent of total corrections spending in 2010-11 (Figure 8).

Other corrections-related expenditures increased sharply over the past decade as well. For example, spending for prison security and operations, which includes salaries and benefits for correctional officers and various inmate support services, rose from \$3.2 billion in 2000-01 to an estimated \$5.0 billion in 2010-11, a 57.1 percent increase. In addition, the cost of supervising parolees increased by 76.3 percent, rising from \$553.1 million in 2000-01 to \$974.9 million in 2010-11.

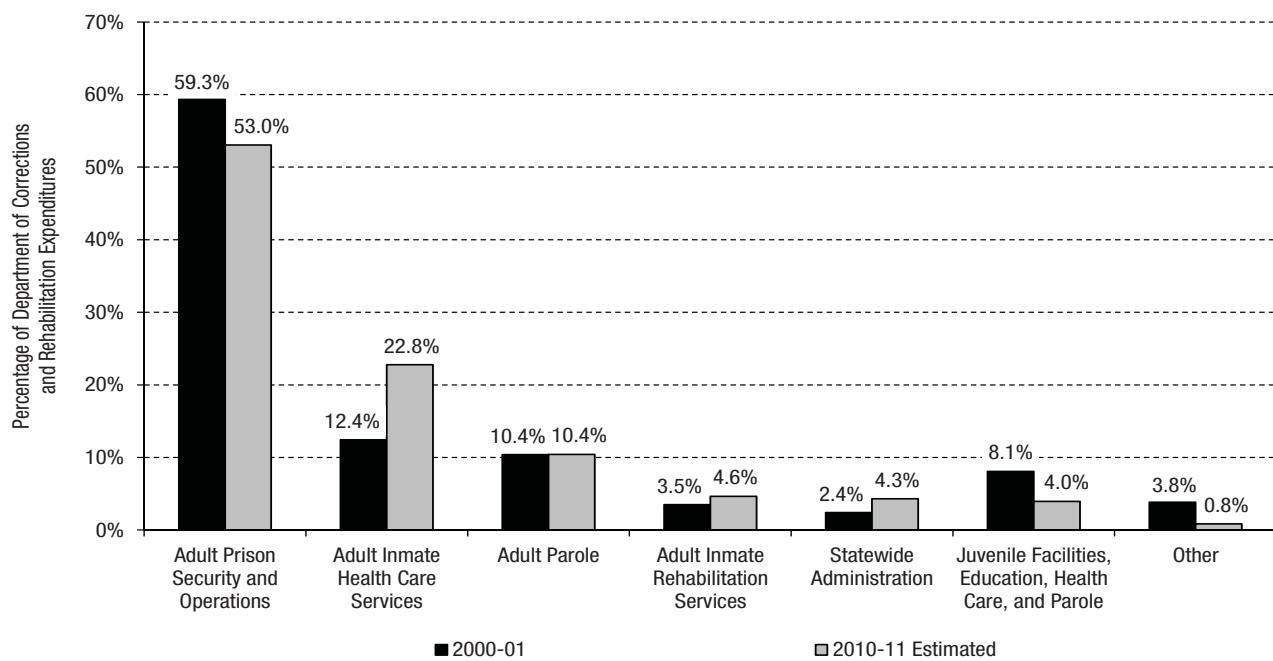
Figure 7: Second and Third Strikers Comprise Slightly More Than One-Quarter of State Prison Inmates



Total Number of State Prison Inmates as of December 31, 2010 = 162,976

Source: Department of Corrections and Rehabilitation

Figure 8: Spending on Adult Inmate Health Care Has Nearly Doubled as a Share of Total Corrections Spending Over the Past Decade



Source: Department of Finance

Conclusion

State corrections spending has increased dramatically over the past generation due to a number of factors, including changes to sentencing laws, more aggressive law enforcement and prosecution, and the rising cost of incarcerating and supervising offenders. Rising expenditures, along with a recent federal court order requiring a significant reduction in the prison population, prompted the Legislature to transfer responsibility for low-level

offenders and parolees from the state to the counties. Criminal justice realignment provides an opportunity and the incentives for counties to improve outcomes for offenders by shifting from a predominantly incarceration-based model toward alternatives, including adult education and substance abuse treatment. This historic shift has the potential not only to improve public safety, but also to reduce state and local correctional costs over the long term, generating savings that could be reinvested in education, child care, health care and other public services that help build a strong economy and protect California's quality of life.

Scott Graves prepared this Budget Backgrounder with assistance from Enrique Ruacho. This Budget Backgrounder was made possible in part by a grant from the Rosenberg Foundation. The California Budget Project (CBP) was founded in 1994 to provide Californians with a source of timely, objective, and accessible expertise on state fiscal and economic policy issues. The CBP engages in independent fiscal and policy analysis and public education with the goal of improving public policies affecting the economic and social well-being of low- and middle-income Californians. General operating support for the CBP is provided by foundation grants, subscriptions, and individual contributions. Please visit the CBP's website at www.cbp.org.

ENDNOTES

- ¹ Inmate and parolee population data are from Department of Corrections and Rehabilitation, *Weekly Report of Population as of Midnight August 10, 2011* (August 15, 2011). Because the vast majority of inmates are incarcerated in 33 prisons, this *Budget Backgrounder* uses the term "state prison inmates" and similar phrases to refer to all offenders – including those in fire camps and out-of-state correctional facilities – serving a sentence for a felony conviction. The CDCR assigns minimum-security inmates to fire – or conservation – camps that are jointly operated with the California Department of Forestry and Fire Protection. Inmates help fight fires, respond to other emergencies, and work on conservation projects on public lands.
- ² Felonies include – but are not limited to – murder, rape, robbery, burglary, motor vehicle theft, and a range of drug-related crimes. In addition to felons, the CDCR supervises a small number of "civil narcotic addicts" – offenders who are civilly committed for treatment of a narcotic addiction – and other types of offenders, including federal prisoners and prisoners from other states. The adult prison population data reported in this *Budget Backgrounder* also include a small number of Division of Juvenile Justice (DJJ) youth offenders who are supervised by the CDCR's adult division. For example, 31 DJJ wards were included in the adult offender population count as of December 31, 2009. Department of Corrections and Rehabilitation, *California Prisoners and Parolees 2009* (2010), preface and Table 2A, p. 6.
- ³ See, for example, Joan Petersilia, *Understanding California Corrections* (California Policy Research Center, University of California: May 2006), p. 39 and Legislative Analyst's Office, *Reforming Inmate Education to Improve Public Safety* (March 10, 2009), p. 4.
- ⁴ Department of Corrections and Rehabilitation, Division of Juvenile Justice, *Population Overview as of December 31, 2010* (no date). According to the Legislative Analyst's Office, counties are responsible for all juvenile offenders who are not committed to state facilities and also supervise all youth offenders "upon their release from state youth correctional facilities, including some who previously were state responsibility." Legislative Analyst's Office, *The Budget Package: 2011-12 California Spending Plan* (August 2011), p. 37.
- ⁵ California Department of Justice, *Crime in California 2009* (no date), p. 156.
- ⁶ Department of Corrections and Rehabilitation, *Weekly Report of Population as of Midnight August 10, 2011* (August 15, 2011). This *Budget Backgrounder* focuses on adult offenders, rather than juvenile offenders, because nearly all state corrections funding goes toward adult offenders and the state's role in juvenile corrections has diminished in recent years due to the transfer of "key juvenile offender responsibilities to counties." Legislative Analyst's Office, *California Department of Corrections and Rehabilitation* (March 19, 2009), p. 3.
- ⁷ California began sending prisoners to out-of-state correctional facilities in October 2006.
- ⁸ The percentage of prisoners by gender is from Department of Corrections and Rehabilitation, *Prison Census Data as of December 31, 2010* (February 2011). The number of female prisoners rose by 1,065.1 percent between December 31, 1970 and December 31, 2009, compared to a 555.5 percent increase in the number of male prisoners during the same period.
- ⁹ Department of Corrections and Rehabilitation, *Prison Census Data as of December 31, 2010* (February 2011).
- ¹⁰ US Census Bureau.
- ¹¹ Department of Corrections and Rehabilitation, *Prison Census Data as of December 31, 2010* (February 2011).
- ¹² Department of Corrections and Rehabilitation, *California Prisoners and Parolees 2009* (2010), p. 1.
- ¹³ Felon parole violators made up 99.3 percent of parole violators returned to state prison in 2009. The others consisted of 581 civil narcotic addicts. Department of Corrections and Rehabilitation, *California Prisoners and Parolees 2009* (2010), p. 3.
- ¹⁴ Department of Corrections and Rehabilitation, *California Prisoners and Parolees 2009* (2010), p. 3.
- ¹⁵ Joan Petersilia, *Understanding California Corrections* (California Policy Research Center, University of California: May 2006), p. 73. This study reports evidence that only one out of five parolees returned to prison for technical violations "could be considered purely technical violators of the sort seen in other states. The rest of the violations that are labeled technical or administrative involved allegations of new criminal activity, despite their mild description" (p. 74).
- ¹⁶ Legislative Analyst's Office, *2009-10 Budget Analysis Series: Judicial and Criminal Justice* (January 30, 2009), p. CJ-19. See also Joan Petersilia, *Understanding California Corrections* (California Policy Research Center, University of California: May 2006), pp. 74-75.
- ¹⁷ AB 109 was enacted as Chapter 15 of 2011.

- ¹⁸ The Governor signed AB 117 (Chapter 39 of 2011) on June 30, 2011. AB 117 made substantive and technical changes to AB 109. Therefore, the criminal justice realignment will reflect changes included in both AB 109 and AB 117. The fact that the changes included in AB 109 and AB 117 are “prospective” means that counties will gradually assume responsibility for low-level offenders who are convicted or paroled on or after October 1, 2011, with full implementation expected to occur in 2014-15.
- ¹⁹ The larger realignment framework shifts responsibility from the state to the counties for a number of programs, including Child Welfare Services, Foster Care, substance abuse treatment, and mental health services. The entire realignment package – which includes the criminal justice restructuring – transfers \$6.3 billion in program costs to counties in 2011-12, rising to a projected \$6.8 billion in 2014-15. Funding to support realigned programs comes from transferring revenues from an existing 1.0625 percent state sales tax rate to counties – which is estimated to provide \$5.1 billion in 2011-12 – along with \$453 million in Vehicle License Fee revenues each year and \$763 million in Proposition 63 funds on a one-time basis in 2011-12. Several aspects of realignment remain unresolved. For example, the Legislature set funding allocations to support counties’ new criminal justice responsibilities for the first year only – October 2011 through June 2012. Allocations for future fiscal years will be determined by subsequent legislation.
- ²⁰ Legislative Analyst’s Office, *The Budget Package: 2011-12 California Spending Plan* (August 2011), p. 36. The inmate and parolee population reductions are expected to result in state savings of \$453 million in 2011-12, rising to \$1.5 billion in 2014-15.
- ²¹ At the time that this order was issued on August 4, 2009, the state’s prison population was more than 40,000 above the population cap established by the three-judge panel. However, the judges stayed implementation of the order while the state appealed to the US Supreme Court and the state’s prison population has declined by approximately 6,500 inmates since the order was issued.
- ²² Department of Corrections and Rehabilitation, *Three-Judge Panel and California Inmate Population Reduction* (May 23, 2011).
- ²³ Legislative Analyst’s Office, *A Status Report: Reducing Prison Overcrowding in California* (August 2011), p. 3.
- ²⁴ Since January 25, 2010, certain low-level offenders have been placed on “non-revocable parole,” a non-supervised version of parole in which individuals “cannot be returned to custody for a parole violation for any reason.” Low-level offenders include those without a current or prior conviction for a violent, serious, or sex-related offense. Nearly 12,600 of the state’s roughly 106,000 parolees were on non-revocable parole as of August 4, 2011. See Department of Corrections and Rehabilitation, *Non-Revocable Parole Frequently Asked Questions (FAQ) Sheet* and Department of Corrections and Rehabilitation, *Non-Revocable Parole: Active Status Parolees in M/NRP Units CalParole Report Date 8/4/2011*, downloaded from http://www.cdcr.ca.gov/Parole/_pdf/Actual_NRPs_by_County.pdf on August 19, 2011.
- ²⁵ Flash incarceration is defined as a period in a county jail of not more than 10 consecutive days for any violation of post-release supervision conditions.
- ²⁶ Joan Petersilia, *Understanding California Corrections* (California Policy Research Center, University of California: May 2006), pp. 72-73.
- ²⁷ Reentry courts allow parole violators to receive rehabilitative treatment in the community rather than being sent back to prison for their parole violations.
- ²⁸ AB 109 also allows counties to contract with the CDCR to house offenders convicted of low-level felonies in state prison rather than in jail.
- ²⁹ Memorandum from Paul McIntosh, executive director, California State Association of Counties, to county supervisors and county administrative officers (July 20, 2011).
- ³⁰ Department of Corrections and Rehabilitation, *Prison Census Data as of December 31, 2010* (February 2011), Table 3.
- ³¹ Data are as of December 31 of each year. See Department of Corrections and Rehabilitation, *California Prisoners and Parolees 2000* (June 2000), Table 8; *California Prisoners and Parolees 2009* (2010), Table 7; and *Prison Census Data as of December 31, 2010* (February 2011), Table 1.
- ³² “California’s inmate population has far exceeded the design capacity of the state’s prison system for over twenty-five years.” US District Courts for the Eastern District of California and the Northern District of California, US District Court Composed of Three Judges, *Coleman v. Schwarzenegger* and *Plata v. Schwarzenegger*, p. 42, downloaded from <http://www.prisonlaw.com/pdfs/3JudgeCourtOrder.pdf> on August 10, 2011.
- ³³ Data are as of December 31 of each year. See Department of Corrections and Rehabilitation, *California Prisoners and Parolees 2000* (June 2000), Table 58; and *California Prisoners and Parolees 2009* (2010), Table 42.
- ³⁴ This figure is from Department of Corrections and Rehabilitation, *Weekly Report of Population as of Midnight August 10, 2011* (August 15, 2011). The substantial drop in the number of parolees since 2007 primarily reflects the impact of a policy change implemented by the CDCR in 2009. Specifically, the CDCR discharged from parole approximately 12,000 foreign-born parolees who had previously been turned over to US immigration authorities and who were confirmed as having been deported to their countries of origin by the federal government. Prior to this change, deported parolees continued to be counted in the parole population until they were required to be discharged by state law or they were found to have illegally reentered the US.
- ³⁵ Joan Petersilia, *Understanding California Corrections* (California Policy Research Center, University of California: May 2006), p. 59. Emphasis in original. Petersilia reports that more than four out of five California prisoners serve statutorily determined sentences. This includes inmates who were sentenced under the state’s determinate sentencing law, “second strikers” convicted under the state’s Three Strikes law, and inmates sentenced to life without the possibility of parole. Only prisoners “convicted of very heinous crimes” and “third strikers” still receive an indeterminate sentence “that could, at least in theory, be terminated through discretionary parole release” (p. 60).
- ³⁶ Joan Petersilia, *Understanding California Corrections* (California Policy Research Center, University of California: May 2006), p. 60.
- ³⁷ See Joan Petersilia, *Understanding California Corrections* (California Policy Research Center, University of California: May 2006), p. 62. See also US District Courts for the Eastern District of California and the Northern District of California, US District Court Composed of Three Judges, *Coleman v. Schwarzenegger* and *Plata v. Schwarzenegger*, p. 37, downloaded from <http://www.prisonlaw.com/pdfs/3JudgeCourtOrder.pdf> on August 10, 2011.
- ³⁸ The Three Strikes law was initially enacted as AB 971 (Jones, Chapter 12 of 1994) and then passed by the voters as Proposition 184 in the November 1994 general election.
- ³⁹ Legislative Analyst’s Office, *A Primer: Three Strikes – The Impact After More Than a Decade* (October 2005), pp. 5-7.
- ⁴⁰ Legislative Analyst’s Office, *A Primer: Three Strikes – The Impact After More Than a Decade* (October 2005), p. 15. In addition, the LAO notes that by lengthening sentences for second and third strikers, the Three Strikes law also increased the average time served by all felons from 21 months in 1994 to 25 months in 2004 (pp. 19-20).
- ⁴¹ Department of Corrections and Rehabilitation, *Prison Census Data as of December 31, 2010* (February 2011), Table 10. Second and third strikers comprised a similar share of the total prison population (25.8 percent) on June 30, 2001.
- ⁴² Legislative Analyst’s Office, *2009-10 Budget Analysis Series: Judicial and Criminal Justice* (January 30, 2009), pp. CJ-10, CJ-11, and CJ-13.
- ⁴³ Legislative Analyst’s Office, *2009-10 Budget Analysis Series: Judicial and Criminal Justice* (January 30, 2009), p. CJ-13.
- ⁴⁴ Spending per parolee also more than doubled, growing from \$2,859 in 2000-01 to an estimated \$6,377 in 2010-11.
- ⁴⁵ Legislative Analyst’s Office, *Overview of Adult Correctional Health Care Spending* (March 18, 2010), p. 1.