

**Rehabilitating Corrections in California
The Health Impacts of Proposition 47**

Full Health Impact Assessment Report



Human Impact Partners
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Human Impact Partners works to transform the policies and places people need to live healthy lives by increasing the consideration of health and equity in decision-making. For more about Human Impact Partners, please see www.humanimpact.org

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This report is a Health Impact Assessment. For more information about Health Impact Assessment and the methodology applied to this report, see our Technical Report at www.Prop47impacts.org

Executive Summary

Reforming California's sentences for low-level crimes would alleviate prison and jail overcrowding, make communities safer, and strengthen families, and shift resources from imprisoning people to treating them for the addictions and mental health problems at the root of many crimes. A Health Impact Assessment of reforms proposed by a state ballot initiative predicts the changes would reduce crime, recidivism, racial inequities in sentencing, and save the state and its counties \$600 million to \$900 million a year – but only if treatment and rehabilitation programs are fully funded and implemented properly.

Human Impact Partners conducted an in-depth assessment of the public health and equity impacts of reclassifying six non-serious offenses – crimes of drug possession and petty theft – to misdemeanors.^a The Safe Neighborhoods and Schools Act, Proposition 47 on the November 2014 state ballot, would also allow people currently in prison for those crimes to apply for lower sentences, release, and to have their records cleared of the crime, and redirect savings from the reduction in the prison population to mental health and substance abuse programs, truancy and dropout prevention, and services for victims of violent crime.

Fundamentally, prison is not a healthy environment. Every day, conditions in California's dangerously overcrowded prisons and jails causes physical and mental harm – disease, depression, violence, rape, suicide, and more – on thousands of incarcerated men and women. Many of these people were convicted of crimes that pose no serious threat to others, but can be traced to their own substance abuse and mental health problems. They need treatment, not punishment. And treatment is much less costly than punishment, returning \$3.77 in benefits for every dollar spent.

A shift in how we charge and sentence people who have committed non-serious, non-violent, and non-sexual crimes has far-reaching implications for the health and well-being not only of those who commit these offenses, but of their families, their communities, and the public. This Health Impact Assessment predicts that full implementation of the Safe Neighborhoods and Schools Act would:

- Decrease state corrections spending by \$200 million to \$300 million a year, and county corrections spending by \$400 million to \$600 million a year, according to estimates by the state Legislative Analyst's Office.^b
- Increase state funding for mental health and substance abuse programs, school truancy prevention and victim services by \$200 million to \$300 million a year.
- Reduce the number of people convicted of felonies by more than 40,000 a year, and the number sentenced to prison by more than 3,000 a year.
- Allow more than 9,000 people now in prison for felonies for low-level crimes to apply for reduced sentence and release. This includes about 1,500 people who are serving extended sentences for a second strike for one of these low-level offenses.

^a Most of the low-level crimes addressed by Prop. 47 are currently "wobblers" which may be charged as a felony or misdemeanor depending on the facts of the case and the criminal history of the person arrested. Prop. 47 would require that they always be charged as misdemeanors.

^b Personal communication, Legislative Analyst's Office to Human Impact Partners, June 16, 2014.

- Reduce violent and property crime by reducing the number of people who re-offend by at least 10% a year among people who participate in treatment programs.
- Reduce the rates of incarceration of African-Americans and Hispanics, who are more likely to be sentenced to prison, county jail, or probation as whites for the same low-level crimes. African-Americans are only 7% of California's population but they represent almost one-fourth of prison admissions. Hispanics are arrested at a slightly higher rate than their share of the population, but are imprisoned at higher rates and are 60% more likely than whites to be jailed.

The impacts of sentencing reform would reach far beyond the criminal justice system.

- Almost 4,900 parents in prison, currently separated from more than 10,000 children, could apply for release and return to their families or serve their sentences in a county jail closer to home. Family unity and stability have profound impacts on children's lifelong health, well-being, educational achievement, and success. In one of the extensive focus groups conducted for this study, a young woman whose mother is in prison said: "People don't understand that when you lock someone up, it makes their family go through that trauma every day. Locking someone up tears families up."
- More than 40,000 people a year would avoid the additional punishments of a felony conviction – restricted access to jobs, housing, voting, benefits, and other opportunities – and tens of thousands could have their felony records cleared. In California there are almost 3,000 additional punishments, also known as "collateral consequences," for those convicted of crimes imposed by state or federal laws. As one person who had been in prison said: "So, I get out of prison with a felony, and you want me to be successful, and I can't get housing, can't get food stamps. I can't even get on my own two feet."

The key to achieving the full benefits of sentencing reform is funding and implementation of the treatment, prevention, and recovery services called for in the initiative.

- Evidence is overwhelming that providing treatment to offenders who have substance abuse problems or mental illnesses reduces crime and recidivism. Treatment instead of punishment not only benefits their health and well-being, but that of their families and the entire community.
- Truancy and dropout prevention programs keep children in school, greatly reducing the chance that they will run afoul of the justice system. One study found that a 10% increase in California's high school graduation rate could lead to a 20% decrease in violent crime, preventing 500 murders and over 20,000 aggravated assaults annually.
- A statewide network of trauma recovery centers – modeled on the successful program at the University of California, San Francisco – will help 12,000 to 18,000 people a year heal from the physical and emotional impacts of being a victim of violent crime. Victims of violent crime are at increased risk for post-traumatic stress disorder, depression, and substance abuse. Victims who use the UCSF trauma center are also more likely to report the crimes to the police and cooperate with prosecutors.

The sentencing reforms called for in Proposition 47 are a crucial next step in rehabilitating California's broken corrections system. In 2011, realignment mandated by Assembly Bill 109 transferred responsibility for those committing many non-serious crimes from the state to counties, but thousands are still sent to prison each year for the low-level offenses addressed by Proposition 47. The Safe Neighborhoods and Schools Act would not only remove that consequence, but provide the treatment, prevention, and recovery services that will make California safer and healthier.

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“The need for fundamental change in the state correctional system had been building for years as the state confronted the difficulty of complying with federal court orders regarding the provision of a constitutional level of medical and mental health services with an ever-increasing number of prisoners and a recidivism rate of 70%. . . . Correctional policy was evolving and developing better ways to rehabilitate offenders. . . . Lower-level offenders have the best chance of successfully reintegrating into society when they remain linked to community-based support systems that provide services geared to help them rebuild their lives.”

– Gov. Jerry Brown, 2014-15 Budget Summary¹

Introduction and Background

There is universal consensus that California’s justice system is in need of repair. Lengthy mandatory sentences and excessive use of prison as punishment for crimes that are not violent or serious have created a harmful and dangerous situation that has only begun to change with the intervention of the United States Supreme Court.

As a result of the Supreme Court’s order, realignment of the state’s justice system began in 2011 in response to the dangerously overcrowded conditions that inflict direct physical and mental harm to people in the custody of the state of California. The Court affirmed that a criminal conviction does not give the state license to treat people inhumanely. By decreasing overcrowding, the realignment mandated by Assembly Bill 109 attacked the most grievous harms and made a start in protecting the basic human and health rights of people in prison. But more remains to be done.

In November 2014 a ballot initiative – Proposition 47, the Safe Neighborhoods and Schools Act – will put the question to California voters: Should six low-level, non-serious crimes – crimes of drug possession and petty theft – be charged as misdemeanors rather than felonies? And with the resultant savings from not sending these offenders to prison, should we fund mental health and substance abuse treatment programs, programs to keep our youth in school, and services for victims of violent crime?

A shift in how we charge and sentence people who have committed non-serious, non-violent, and non-sexual crimes would have far-reaching implications for the health and well-being not only of those who commit those offenses, but of their families, their communities and the public. This report uses the research and public engagement tool of Health Impact Assessment to consider how the implementation of the Safe Neighborhoods and Schools Act could affect not only health, but the underlying determinants of health: access to mental health and substance abuse treatment services; opportunities for jobs, housing, and other benefits; family and community ties; and education for at-risk youth. For more information about Health Impact Assessment and further technical details on the analyses, see the accompanying Technical Report at www.Prop47impacts.org.

Proposition 47: The Safe Neighborhoods and Schools Act²

Passage of the Safe Neighborhoods and Schools Act would mean that the following crimes could only be charged as misdemeanors:

- Petty theft of money or property valued between \$50 and \$950
- Shoplifting of property valued at less than \$950
- Receiving stolen property valued at less than \$950

- Writing bad checks of less than \$950
- Check forgery of less than \$950
- Drug possession for personal use with no intent to distribute.

People arrested and charged with these crimes in the future would be charged with misdemeanors. People who are currently serving sentences in prison, jail, or probation for these crimes could apply to have their charge and sentence reduced, potentially moving them from prison to jail or misdemeanor probation. People who have already served their time could apply to change the felony on their record into a misdemeanor and potentially have it stricken from their record.

Savings from the reduction in the prison population would fund three areas: 65% to mental health and substance abuse programs, 25% for truancy prevention, and 10% for services for victims of violent crime.

Sentencing in California

In 2012-2013, between 43,000 and 55,000 people were convicted in California for felonies that the federal government and 13 other states charge as misdemeanors. Whether an offense is a felony or misdemeanor determines the sentence imposed.

What is a felony?

A felony is more serious than a misdemeanor and carries a harsher sentence. Some crimes, such as murder, rape, and robbery, are *straight felonies* that are always charged as felonies. Often these types of felonies have a mandatory designated sentence – for example, first degree robbery carries a sentence of three, six, or nine years in prison.

Other crimes are considered *wobblers* – they can be charged as either a felony or misdemeanor depending on the facts of the case and the criminal history of the person arrested. Most of the crimes addressed by Proposition 47 are wobblers. When this type of crime is charged as a felony, people can be sentenced to serve their sentence either in state prison, in county jail, in the community on felony probation, or through a combination of jail plus felony probation. With public safety realignment in place, the chances of going to prison for these crimes is low, but it does happen based on any past criminal justice history the person may have.

Felony probation³ is more stringent than misdemeanor probation. It is set by a county probation department, lasts from three to five years, and typically has conditions including meeting with the probation officer, payment of restitution to the victim of the crime, participation in individual or group therapy, submission to drug testing, community service, compliance with stay-away orders, not associating with gang members, and not violating any laws.

What is a misdemeanor?⁴

Misdemeanors are considered less serious than felonies, and carry a sentence of county jail, misdemeanor probation, a fine, or some combination of the three. Most misdemeanors are punishable by fines or probation, although in some cases people are sentenced to jail or jail and probation. In California, misdemeanors hold a maximum of one year in county jail. However, most misdemeanors get much less in time or fines. Wobblers sentenced as misdemeanors are punishable by a maximum of one

year in county jail and a fine not to exceed \$1,000. Misdemeanor probation⁵ is set by a judge, requires infrequent reporting to that judge, and may have other conditions similar to felony probation.

Racial inequalities

Incarceration is one of the biggest causes of inequities in health for people of color, and in particular black Americans. Today, more than 60% of people in prison are racial and ethnic minorities,⁶ and racial inequalities exist at every step on the criminal justice pathway, from policing and arrests to representation in court, prosecution and conviction, sentencing, and appeals.⁷

Over the last 30 years, the dramatic growth of the U.S. prison population is largely attributed to the War on Drugs that began in the 1980s, increases in rates of prison admissions, and growing sentence lengths.⁸ Drug-related convictions are disproportionately punishing black Americans, even though rates of drug use do not differ significantly by race. Between 1999 and 2005, although African-Americans represented only about 13% of drug users, they were 36% of those arrested and 46% of those convicted for drug offenses, and although they are just 7% of the population in California, African Americans represent 77% of people sentenced to California prisons for the possession of crack cocaine for sale.⁹ At current rates, one of every three African-American males and one of every six Latino males born today will be incarcerated during his lifetime, compared to one of every seventeen white males.¹⁰

Consequences of being convicted of a felony

- **People are more likely to go to prison.** Approximately 12.5% of all people convicted of felonies in California are sentenced to state prison. Nationally, only 3% of those charged with misdemeanors go to prison.¹¹ In post-realignment California, people charged with misdemeanors do not go to prison. Most people charged with misdemeanors are sentenced to either misdemeanor probation or a fine.
- **People have longer sentences.** Prison sentences for people convicted of a felony are longer than jail terms for people convicted of a misdemeanor. The average time served in prison in 2013 for the six drug possession and petty theft crimes, if charged as felonies, was between 19 and 22 months. A typical sentence for the six crimes, when they are charged as misdemeanors currently, is one year in county jail, excepting petty theft, which is six months.
- **People have a felony on their record.** This carries additional punishments that last far longer than the time served. Inability to apply for public housing, background checks and mandatory exclusion from consideration for many jobs and licenses, and denial of application for general assistance and other benefits are just some of the thousands of laws that exclude people with felony convictions from full participation in society. Misdemeanor convictions carry a lower level of burden as a person returns to the community after having served their sentence.
- **People face second strikes.** Under California law, people convicted of any additional felony after a conviction for a serious or violent felony receive a sentence that doubles the time usually required for the base sentence of the crime. People in this situation have heightened concern about any felony conviction.

This report examines the impacts of being convicted of a misdemeanor instead of a felony. A misdemeanor sentence is better for individuals and for public health: less exposure to prison, less time in jail, more time in the community, more connection with family and friends. But there are serious concerns about the misdemeanor system that Proposition 47 will not address:

- Lack of access to legal representation, which leads to people who are charged with misdemeanors accepting plea bargains to get out of jail when they do not understand the repercussions.¹² In 2012 there were 792,000 misdemeanor arrests in California.¹³ Public defenders already lack adequate resources to handle the increased workloads from realignment. They have been overwhelmed by new responsibilities, mostly imposed without adequate funding.¹⁴ This leads to pressure on the courts to move misdemeanor cases through quickly.
- Misdemeanor convictions can still limit employment opportunities, ability to get professional licenses, some student loans, and other types of government assistance.¹⁵ This, combined with a cumbersome process to expunge one's record, means that even a misdemeanor conviction can lead to additional punishments long after a person has served their sentence.
- A final concern is the lack of transparency and accountability due to the lack of data monitoring. The lack of public data and ongoing monitoring about misdemeanors makes it impossible to know how many people arrested are ultimately convicted. However, prosecutors rarely decline to prosecute, and California prosecutors moved forward with charging someone arrested of a misdemeanor in 94% of arrests in 2012.¹³ Nationally, 90% to 95% of misdemeanor defendants plead guilty. The bottom line is that if you are arrested for a misdemeanor you are very likely to be convicted.¹⁵

Incarceration and Health

"There are other countries that have drug problems, and they treat it as a health issue. They have success, and it is a lot less expensive. Why can't we treat instead of incarcerate?"

-Family Members Focus Group, San Francisco

Rates of mental illness and substance abuse in the criminal justice population

Rates of mental health problems and addiction are much higher for people who are in prison or jail, or who are at risk of becoming involved in the criminal justice system. This is crucial in understanding this study, as people who commit the low-level crimes that would be reclassified under Proposition 47, the Safe Neighborhood and Schools Act, often do so in the context of mental health and substance abuse problems.

Mental health. Approximately 16% of the general adult population of California have mental health care needs, and one out of every four of those has severe mental illness.^{16 17} By contrast, roughly half of people in state prison and 6 in 10 people in jail experienced symptoms of mental health disorders in the past year. The number of mentally ill people in California's prisons has almost doubled in the past 15 years. In 2014, Stanford researchers, using data from the California Department of Corrections and Rehabilitation (CDCR), estimated that 45% of people in state prison have been treated for severe mental illness in 2014.¹⁸ For most of the past decade, suicide rates in California prisons have substantially exceeded the national average for suicides in state prisons. In 2012, on average, a person in a California state prison committed suicide every 11 days.¹⁹

Substance abuse. In 2012, 7.7% of Californians abused alcohol and 3% abused illicit drugs.²⁰ In comparison, one government estimate was that nationally, 60% to 80% of people under the supervision of the criminal justice system have a substance abuse-related issue,¹⁷ and roughly half of all people in prison meet the Diagnostic and Statistical Manual for Mental Disorders criteria for drug abuse or dependence.^{21 22} People on parole or probation in the United States also report higher rates of illicit drug use – roughly three times the rate as people not on probation or parole.¹⁷ Alcohol and other drugs were involved in over three-fourths of all crimes.²³

Mental health and substance abuse. Since the 1980s, national surveys have found a high prevalence of co-occurrence of drug use and mental illness. In California, 55% to 69% of individuals with a substance abuse disorder also have a mental health disorder, and up to 60% of those who have been diagnosed with a mental disorder also have a substance use disorder.²⁴

Prisons and jails are not the best place to treat problems of mental illness and substance abuse, and there is reason to believe that the exposure to prison and jail makes these issues worse.

Physical health impacts

Premature mortality. Every year in prison increases the odds of premature mortality by almost 16% – almost a two-year decline in life expectancy for each year served in prison. For example, a three-year stay in prison decreases life expectancy by almost six years.²⁵ The risk is highest upon release from prison and declines over time.

Infectious disease. People in jail or prison have higher rates of certain infectious diseases. Incidence of hepatitis C, HIV, sexually transmitted infections, and tuberculosis are all higher in incarcerated populations than in the general population.²⁶ Prisons and jails can be seen as mechanisms for the spread of infectious disease: Incarceration concentrates, amplifies, and disseminates diseases, contributing to a cycle of deterioration and re-incarceration of people with poor health.²⁷

Obesity and chronic disease. People in jail and prison have higher odds of hypertension, asthma, and arthritis.²⁸ Women in prison have higher rates of chronic and infectious disease, as well as higher rates of reproductive health issues such as cervical cancer. Incarceration can exacerbate health conditions such as asthma attacks, weight gain, poor nutrition, and smoking.²⁹

Injury and sexual violence. One in ten people in state prison is injured in fights, and sexual abuse and physical injuries due to sexual abuse are common in prison.³⁰ In 2011-12, an estimated 4% of state and federal prison and 3.2% of people in jail reported experiencing one or more incidents of sexual victimization by another inmate or facility staff in the past 12 months or since admission to the facility, if less than 12 months.³⁰

Mental health impacts

Mental health. The negative impacts of incarceration on mental health range from post-traumatic stress disorder, hyper vigilance and personal distrust, psychological distancing and social withdrawal, a long-term dependence on institutional structures (*institutionalization*), excessive self-control of one's emotions, and a diminished sense of self-worth and personal value.³¹ One focus group participant said incarceration exacerbated existing depression and anxiety symptoms: "*The first time I was locked up, I broke down. It disrupts the little amount of happiness you have left*" (Formerly Incarcerated Focus Group, Oakland). Isolation units have been shown to induce panic, anxiety, and hallucinations.²⁶

Suicide and overdose. Prison overcrowding is strongly linked to increased likelihood of prisoner suicide.³² The rate of suicide in California's prisons – 24 suicides per 100,000 prisoners – is 48% higher than the national average for prisons.³³ Suicides occur disproportionately more often in solitary confinement than elsewhere in prison.³⁴ In the first two weeks after release from prison, there is a three- to eight-times greater risk of drug-related death than in subsequent weeks.³⁵

Impact of incarceration on determinants of health

Access to health care. People in jail and prison do not always have their health care needs met. Nationally, two out of every ten people in state prison and seven out of every 10 people in jail with a persistent medical issue did not receive a medical examination since their incarceration.³⁶

Social determinants of health. Incarceration is linked to worsening employment prospects, reduced current and future income, limited housing options, decreased access to benefit programs and educational assistance, contributing to family breakup, and worsening of community conditions.^{37 38} These factors ultimately determine health outcomes directly and by shaping behavior choices that are available.

Proposition 47 stands to decrease exposure to prison and jail, which could mitigate these grave health outcomes.

Overview: The Numbers

“All the people in prison for these crimes – that is a LOT of people. These people are not people with heinous crimes. These are nonviolent.”

-Service Provider Focus Group Participant, Los Angeles

The Safe Neighborhoods and Schools Act would significantly affect the number of people who are sent to prison, jail, and probation in California for drug possession and petty theft.

Key findings

- More than 42,000 people in California are convicted of felonies each year for the six low-level crimes related to drug possession and petty theft. This represents more than one-fifth of all felony convictions each year. One in ten felony convictions were for possession of methamphetamines or similarly classified drugs.
- More than 3,000 of those convicted are sentenced to prison, where people served on average over a year and a half. For about 1,500 of those convicted, this felony represents their second strike, which doubles their prison sentence.
- More than 20,000 of those convicted are sentenced to county jail.
- More than 9,000 people are currently in prison for a felony for one of the six crimes.
- The prison population is significantly more male, minority, and younger than the general population of California.
- Little data is available about sentences for those convicted of misdemeanors. For example, statistics are not available regarding the percent of those arrested for misdemeanors that are convicted, what their penalties are, and if they are sentenced to jail, how much time they serve.

Existing conditions

Felony convictions and sentencing in California

According to a report by the California Attorney General,¹³ in 2012, 202,413 adults were convicted of all types of felonies in the state. Of those:

- 13% (29,727) were sentenced to state institutions – prison, California Rehabilitation Center, or the Division of Juvenile Justice.
- 12% (29,518) were sentenced to probation.
- 49% (115,832) were sentenced to probation with jail.
- 9% (20,736) were sentenced to jail.
- 3% (6,587) received a fine or another type of sentence.

In other words, in the first year after realignment, about one in eight persons convicted of felonies were sentenced to state prison. Serious, violent, and sex offender felony convictions continue to result in prison but fewer non-serious, non-violent, and non-sex offender felonies result in prison. About half of people convicted of felonies were sentenced to jail plus probation, another one in eight sentenced to felony probation only, and fewer than one in 10 were sentenced to jail only.

Approximately 30% of all new prison admissions in California in 2012 were in Los Angeles County.³⁹

Felony convictions and sentencing for drug and property offenses

In 2012, 68.5% of arrests for felonies resulted in convictions.¹³ Of those felonies:

- 28% (55,674) were convictions for drug offenses and 26% (53,475) were convictions for property offenses.
- For those convicted of drug-related felonies, 9% (4,796) were sentenced to state institutions; 35% (19,711) were sentenced to felony probation; 44% (24,637) were sentenced to felony probation with jail; and 12% (6,530) were sentenced to jail.
- For property-related felonies 12% (6,595) were sentenced to state institutions; 9% (4,586) were sentenced to probation; 65% (34,960) were sentenced to probation with jail; and 14% (7,334) were sentenced to jail.

A small proportion of people convicted of felony drug offenses end up in state prison. Well more than half spend time in jail with a jail-only or a jail-felony probation split sentence, and more than three out of 10 receive felony probation only. The majority end up with some term of felony probation.

For people convicted of property offenses, a slightly larger proportion – one in eight – went to state prison. More than three-fourths are sentenced to jail plus probation or jail only, with the smallest proportion receiving felony probation only. Most people convicted of property offenses get some term of supervision by county probation departments.

Felony convictions and sentencing for the six crimes related to drug possession and petty theft

In 2012, there were between 42,900 and 55,400 people in California convicted of a felony involving one of the six crimes (without having an additional serious crime).

- Between 3,500 and 5,200 people went to prison,⁴⁰ between 4,300 and 6,500 were sentenced to jail, between 16,400 and 23,600 were sentenced to jail plus probation, and between 16,300 and 17,300 people were sentenced to felony probation alone.⁴¹
- Of those that were sentenced to prison, between 1,500 and 2,200 were sentenced for a second strike and five or fewer were sentenced for a third strike.⁴⁰
- A total of between 20,700 and 30,100 served some time in jail and between 32,700 and 40,900 served some time on felony probation.
- The six crimes addressed by Proposition 47 represent between 21% and 27% of the people convicted of felonies in the state (202,413).¹³ One out of twelve people – several thousand each year – convicted of the six crimes is sent to prison.

As a point-in-time example, in July 2014, of the more than 135,000 people in prison,⁴² there were 9,156 people in prison for a felony involving one of the six crimes.⁴³ This was 6.8% of the total prison population. The number of people currently in jail for felonies related to the six crimes was not available.

“Because of my past record, I can get charged with petty (theft) with a prior. If I come into contact with the police, they can throw a charge at me and I have that strike already so I would get thrown in prison”

-Formerly Incarcerated Focus Group, Los Angeles

“I just did two decades on a third strike for receiving [\$20 worth of] stolen property. If this law was in effect in 1994 I would have gone to a drug program, because my crime was because of addiction.”

-Formerly Incarcerated Focus Group, Los Angeles

Table 1. Numbers and sentences for the six low-level crimes in California, 2012

The six crimes: Drug possession, petty theft, shoplifting, writing bad checks, forgery						
Sentence	Probation only	Jail + Probation	Jail only	Prison		Total
Number convicted of felonies	16,300 – 17,300	16,400 – 23,600	4,300 – 6,500	3,500 – 5,200		42,900 – 55,400
				2nd strikes	3 rd strikes	
				1,500 – 2,200	< 5	
Number convicted of misdemeanors						8,700 – 12,900

Sources: (1) California Department of Corrections and Rehabilitation as provided by the Legislative Analyst’s Office (2014), FY12/13 CDCR Admissions Data By Principal Offenses. (2) California Department of Justice, Hawkins Data Center as provided by the Legislative Analyst’s Office (2014). Convicted Offenses - 2010 & 2012 - Type of Disposition by Offense for Selected Offenses.

Misdemeanor convictions and sentencing in California

Little data is available about the sentencing and punishment of those convicted of misdemeanors in California. The California Department of Justice provides data about felony convictions, sorted by gender, race and ethnicity, and age; no such data is available for misdemeanors. The Attorney General provides data on number of misdemeanor arrests, but not convictions. Similarly, punishments for those convicted of misdemeanors are not available.

Demographics of people convicted of felonies

California’s prison population is significantly more male, black and Hispanic, and younger than the general population.

Calendar year 2012 state prison admissions data³⁹ indicate:

- 91% of new admissions for property and drug offenses were male and 9% were female;

- 26% of new admissions were white, 24% were black, 45% were Hispanic, and 5% considered themselves to be part of another racial or ethnic group;
- 46% of new admissions were between the ages of 18 and 29, 26% between 30 and 39, 19% between 40 and 49, and 11% were 50 years old and above.
- The average age for male new admissions was 33 and the average age for female new admissions was 35.

For comparison, the population in California is approximately 38 million people and is:^{44 45}

- 50% male and 50% female.
- 39% white (not Hispanic); 38% Hispanic; 7% black; 14% Asian; 4% other or two or more races.
- 18% between the ages of 18 and 29; 14% between 30 and 39; 14% between 40 and 49; and 29% 50 and above.

“In the 80’s all you heard about was ‘crack this’ and ‘crack that’, and you always saw a black face. So black people were demonized, and we are still feeling the effects”

-Service Providers Focus Group, Los Angeles

“The impact [is] on families of color. There is a different application of law for people of color. White women don’t have convict husbands”

-Family Members Focus Group, San Francisco

Time served in prison and jail

The average time served in California prisons for the six crimes was between 18.7 and 21.9 months.⁴⁶ Based on a sample of 17 counties, in 2013 the average time served in jail for those sentenced to any crime was approximately 49 days.⁴⁷

People who have served their time but have felony convictions on their records

Statistical models estimate that as of 2010 there were approximately 2.3 million people with felonies who have served their time in California.⁴⁸ Of those, approximately 625,000 are African-American. It is unknown how many of these people have felonies for only one of the six crimes and not for other non-serious and non-violent crimes.

How do wobblers get charged and sentenced?

Some of the code violations that would be changed by the ballot initiative are currently *wobblers* – felonies by default, but prosecutors have the discretion to charge them as misdemeanors and judges have the discretion to reduce them to misdemeanors. A specific example is California Health and Safety Code Section 11377(a), which makes it illegal to possess certain drugs, including methamphetamine. Possession of cocaine or heroin are currently always felonies.

In 2007, 11% of all felonies charged in California were for violations of Section 11377(a). A county-by-county analysis showed that there was a wide discrepancy with regard to how often judges and

prosecutors reduced those crimes to misdemeanors.⁴⁹ Some counties, such as Fresno, never charged violations of Section 11377(a) as a misdemeanor, while others, such as Mendocino, did so often. Los Angeles charged this offense as a misdemeanor one-third of the time.

For our predictions on how Proposition 47 would impact the numbers of people sentenced to prison, jail and probation, see the Predictions section of this report.

Public Safety

“If I had help for mental illness, I wouldn’t have went to prison. If I had a job, I wouldn’t have gone to prison.”

-Formerly Incarcerated Focus Group, Oakland

The Safe Neighborhoods and Schools Act has the potential to reduce crime and recidivism, but only if distribution of the funds from savings of the reclassification of the six crimes follows evidence-based principles.

Key findings

- Crime is at near-historic lows nationally and in California.
- California’s Public Safety Realignment shifted non-serious, non-violent, non-sex offenders from state prison to county jail and probation. Therefore, it serves as a reasonable proxy in terms of the population that Proposition 47 would apply to.
- Using different methodologies, researchers at the Public Policy Institute of California (PPIC) and the Center on Juvenile and Criminal Justice (CJCJ) have analyzed the impact that realignment has had on crime.^{50 51 52} These studies find that realignment has had no impact on violent crime.^{50 52}
- Property crime increased by 7.6% in California between 2011 and 2012. A Public Policy Institute of California study found that of all types of property crime, only motor vehicle theft had a statistically significant increase in terms of its relationship to realignment.⁵⁰ The Center on Juvenile and Criminal Justice study concluded that realignment did not impact any type of property theft, including motor vehicle theft.⁵²
- People with property and drug convictions traditionally have a higher rate of recidivism, as do people with mental health issues, including substance abuse. There is also a high unmet need for rehabilitation and treatment in this population, practices which are known to reduce recidivism.
- Addressing substance abuse and mental health issues reduces crime.
 - Drug treatment programs delivered in community-based settings have been documented to reduce re-arrest, self-reported crime, and money earned from illegal activities, as well as have positive impacts on substance abuse.
 - Meta-analyses of multiple drug court evaluations show a reduction of recidivism by an average of 12%.
 - Of the many studies of recidivism of mental health and substance abuse interventions, the most rigorous all show declines of recidivism by at least 10%.
- Since realignment was implemented:
 - Re-arrest has gone down by 2%.
 - The likelihood of conviction after arrest has gone up 3%, driven almost entirely by increased felony reconvictions.
 - Probation departments are handling a 34% increase in caseload.
 - Some counties have increased collaborations to decrease recidivism and implemented some innovative programming, such as day reporting centers, electronic monitoring coupled with rehabilitative services, and increased use of risk and needs assessments.

- Realignment’s success depends on improved mental health and substance abuse programs and services, yet only 23% of counties are allocating increased funds to those programs. Thirty-six percent of counties are allocating funds to increase law enforcement.
- There is no requirement for evaluation of implementation of realignment on the county level, thus no accountability mechanism to ensure the changes are having positive outcomes.

Existing conditions and review of existing research

Realignment under AB 109 is one of the largest natural experiments in criminal justice history. People with non-serious, non-violent, and non-sex offender felony convictions were moved from state prison to county jail and/or probation. Because Proposition 47 would have similar effects for a similar population, the impacts of realignment can in many cases be used as a proxy for the likely impact of the ballot initiative.

As a result of realignment, in 2012 more than 29,000 people were sentenced to serve their time at the local level instead of state prison, and probation departments are now responsible for the majority (61%) of California’s offenders.⁵³ However, violent crime has not increased, and property crime has not increased with the possible exception of motor vehicle theft (see below for more detail).^{52 50}

Crime

Crime rates. Crime rates in California and across the country have been declining in recent decades and are near historic lows.^{13 51} In 2012, there were just under 161,000 violent crimes and just over one million property crimes in California, a slight increase over the previous year.¹³ From 2011 to 2012, the violent crime rate rose by 3.4% and the property crime rate went up by 7.6%.⁵⁰ Of the arrests in 2012, 420,000 were felony arrests and 792,297 were misdemeanor arrests.¹³ Despite an increase in crime, the re-arrest rate was 2% lower in 2012 than in 2011.⁵⁴ However, the felony re-arrest rate *increased* by 2.1%, while the misdemeanor re-arrest rate *decreased* by 1.2%.

As discussed in the Overview section above, for the crimes addressed by Proposition 47 in 2012 between 3,500 and 5,200 people went to prison,⁴⁰ between 4,300 and 6,500 were sentenced to jail, between 16,400 and 23,600 were sentenced to jail plus probation, and between 16,300 and 17,300 were sentenced to felony probation alone.⁴¹

“Crimes are different magnitudes. Prosecution should match that. For small crimes, you shouldn’t have to keep paying for it after you paid for it once! When I went to jail, I lost my apartment, job, and everything. I paid so much for a small crime ”

-Formerly Incarcerated Focus Group #1, Oakland

Table 2 shows the racial and ethnic disparities in arrests, and prison and jail admissions. While blacks represent only 7% of California’s population, they represent 20% of felony arrests, 15% of misdemeanor arrests, 24% of prison admissions, and are jailed five times more often than whites. Hispanics are arrested at a slightly higher rate than their proportion in the general population, but are imprisoned at higher rates and are 60% more likely than whites to be jailed.

Table 2. California Felony Arrests and Sentences, 2012, by Race and Gender

	White	Black	Hispanic	Other race		Male	Female
California Population	39%	7%	38%	14% Asian 4% other		50%	50%
Felony							
Arrests	35%	20%	40%	6%		79%	21%
Prison Admissions	26%	24%	45%	5%		91%*	9%*
Jail Relative Rate**	1.0	4.9	1.6	Native Am. 2.2, API, 0.2		N/A	N/A
Misdemeanor							
Arrests	39%	15%	39%	7%		75%	25%

Sources: For California race/ethnicity: U.S. Census Bureau State and County Quick Facts and American Factfinder. Felony and misdemeanor arrests: Crime in California 2012, California Attorney General, California Department of Justice; Prison admissions: California Department of Corrections and Rehabilitation, Data Analysis Unit⁴⁰. Relative rate: National Council on Crime and Delinquency. Created Equal⁵⁵. Victims: U.S. Department of Justice, Bureau of Justice Statistics. Criminal Victimization 2012.⁵⁶

*For felony property and drug offenses.

**Relative rate is in relation to whites, i.e., blacks have almost 5 times the risk of being jailed nationally as whites.

Impact of incarceration on crime. Increasing use of incarceration leads to lower crime rates only up to a point, after which it leads to higher crime rates.⁵⁷ This effect has been found repeatedly in various studies, including those controlling for neighborhood-level poverty, reentry rates, and violent crime the prior year.⁵⁸ Research from the University of California at Berkeley finds that incarceration can lead to lower crime only if between 325 to 525 people per 100,000 are in prison or jail. California's pre-AB109 incarceration rate, for prison and jail, was 615 per 100,000.⁵⁹ California's Three Strikes law and similar tough-on-crime laws have not resulted in lower crime rates.⁶⁰

“The government could lower the crime rate if they stopped punishing people so much”

-Formerly Incarcerated Focus Group, Oakland

Impact of realignment on violent and property crime. Using different methodologies, several researchers at the Public Policy Institute of California (PPIC) and the Center on Juvenile and Criminal Justice (CJCJ), in separate studies, have analyzed the impact that realignment has had on crime.^{50 51 52} These studies all find that realignment has had no impact on violent crime.^{50 52}

Property crime increased by 7.6% in California between 2011 and 2012, and researchers came to different conclusions. The Public Policy Institute of California study found that of all types of property crime, only motor vehicle theft had a statistically significant increase in terms of its relationship to realignment.⁵⁰ The Center on Juvenile and Criminal Justice study concluded that realignment did not impact any type of property theft, including motor vehicle theft.⁵²

For more detail about these studies, see the Technical Report, Predictions section, at www.Prop47impacts.org.

Recidivism

Studies of recidivism follow people released from custody to assess whether they return to prison, are rearrested, and/or are reconvicted. The only information widely available is on recidivism of people with felonies. No information is available on recidivism for people with misdemeanors or for those released from jail.

“Some people say they don’t want to go back [to criminal activity] when they get out. You try to get a job, try and try, but they say no prior convictions. So you have to go back to make some quick money.”

-Formerly Incarcerated Focus Group, Oakland

Returns to prison. The California Department of Corrections and Rehabilitation (CDCR) measures recidivism as those who return to prison for new offenses and for parole violations. According to CDCR, 61% of those released from prison in 2008-2009, pre-realignment, had returned to prison three years later.⁶¹ Of those released in 2008 who returned to prison, 19% returned to prison for new convictions – 7% for property crimes, 6% for drug crimes, 4% for crimes against persons and 2% for other crimes.⁶¹ In Los Angeles, half of those released in 2008-2009 returned to prison for both parole violations and new crimes.

Re-arrest. Rates of re-arrest may be more indicative of new crime than return to prison. But re-arrest depends on law enforcement decisions that may not measure true criminal activity.

PPIC found that re-arrest rates were 2% lower after realignment.⁶² In Los Angeles, 54% of pre-realignment releases were rearrested within one year versus 52% of post-realignment releases.⁶² Misdemeanor arrests declined by 1.2%, but felony arrests increased by 2.1%, suggesting that when people are re-arrested, they are more often charged with felonies. Another important finding was that the rate of being rearrested multiple times was up: About 7% of people released post-realignment were re-arrested multiple times.

Reconviction. PPIC found that the likelihood that a re-arrest will lead to a conviction has increased by 3%.⁵⁴ In Los Angeles, reconviction is down about 1%; twenty-two percent of pre-realignment releases were reconvicted within one year versus 21% of post-realignment releases.⁶²

In March 2014 the Associated Press reported that the increase in new convictions likely is due to a change in prosecutor behavior. Nearly all the post-realignment reconvictions are felony charges. Prosecutors have the discretion to charge certain offenses as they deem appropriate, and sometimes that means filing a misdemeanor charge instead of a felony charge, or vice versa. The AP report notes that in the 2013-2014 fiscal year, counties sent nearly 5,500 people with second felony convictions to state prisons, up by one-third over the previous year, indicating that prosecutors are more aggressively using the second strike provision to send people to prison instead of county jail for a felony conviction. This sends people back into state custody and transfers costs to the state.⁵⁹

There is an additional concern with prosecutorial discretion on charging. Researchers have found, in other settings, racial disparities in charging decisions wherein prosecutors are more likely to charge blacks than comparable whites with crimes that carry heavier penalties.^{63 64}

Recidivism rates for types of offenses. Several studies show that people who commit property offenses and drug crimes recidivate at higher rates than those who commit violent offenses.^{61 65} The most recent CDCR report shows that people with felonies released from prison in 2007 – 2008 (before realignment) had the following rates of return to prison (the rate of return to prison includes those returned because of technical violations of parole as well as those returned due to convictions for new crimes):⁶¹

- Petty theft with a prior felony: 68%
- Controlled substance possession: 65%
- Drug offenders generally: 61%
- Burglary – second degree (commercial): 64%
- Burglary – first degree (home): 63%
- Other property: 60%
- Robbery: 60%
- Violent offenses, generally: 57%
- Forgery/fraud: 53%

Statewide, the average recidivism rate for all offenses was 61%. For all serious and violent offenses, the recidivism rate was 58%. For all non-serious, non-violent offenses, it was 62%.

Additionally, those with mental health and substance abuse disorders fail to complete probation at higher rates⁶⁶ and also are at high risk for returning to prison.⁶¹ Nationally, only about 10% of those on probation report receiving any substance abuse treatment in the last year,⁶⁶ and only 16% of the CDCR releases had been enrolled in any kind of mental health treatment while in prison.⁶¹

Probation

Number of people on probation. People on probation represent the largest portion of those under correctional supervision. In 2012 in California, there were 294,993 adults on active probation. At the end of 2012, there were 83,787 people on felony probation in Los Angeles alone.

Nationally in 2012, two thirds of people on probation completed their term of supervision or were discharged early.⁶⁷ About 15% of those on probation are rearrested for a felony crime; nationally the most common crimes were car theft and burglary.¹¹ A study of rearrests of those on probation in four cities in California found that people on probation contribute to a greater share of drug arrests (24%) than they do to violent arrests (11%).

County probation departments are responsible for the quantity, quality, and philosophy of supervision for the majority of those under correctional control. According to Joan Petersillia, co-director of the Stanford Criminal Justice Center, *“If realignment is to amount to more than an experimental, emergency response to a court director over prison crowding, it will depend heavily on how well probation agencies deliver effective programs and services.”*¹⁴ The number of people on probation has increased by 34% since realignment.⁶⁸

Probation is often underfunded, resulting in high caseloads for probation officers and insufficient availability of services for people on probation or parole.⁶⁹ As the Vera Institute of Justice points out, *“Without sufficient funds to ensure that people are receiving appropriate and individualized supervision,*

communities may see high failure rates . . . as understaffed agencies return probationers to costly jail and prison beds on technical violations of probation conditions.”⁷⁰

A 2009 analysis by the Legislative Analyst’s Office of the status of California’s adult probation system found that many county probation departments are not operating according to the best practices identified by experts.⁷¹ The LAO found that risk assessments were not being used consistently, programs and services were not always available, there were high supervision caseloads, graduated sanctions were rarely used, and program evaluations were usually not conducted.

The philosophy of probation departments is of great importance. When probation departments have to choose between a surveillance or case-management philosophy of supervision, increased surveillance usually wins. National studies consistently show that if increased surveillance is not accompanied by well-implemented case management with adequate programs and services, it leads only to more incarceration and higher recidivism.^{72 73 74}

Programs and services

The evidence is overwhelming that providing treatment services to people involved in the criminal justice system who have substance abuse issues and mental illnesses reduces recidivism and crime.^{70 75}
^{68 76} Although rehabilitative treatment is chronically underfunded and rarely implemented according to best practices, there is consensus from a wide variety of researchers and policy makers that these programs work:

- *“National research has clearly demonstrated that the right level of probation supervision combined with substance abuse treatment that corresponds to the severity of that person’s addiction can have a significant impact on the likelihood of a person . . . reoffending.”* – Steven Aos and Elizabeth Drake, Washington State Institute for Public Policy⁷³
- *“Not treating a drug-abusing offender is a missed opportunity to simultaneously improve both public health and safety.”* – Dr. Redonna Chandler, *Journal of the American Medical Association*³²
- *“Interventions with offenders will not be effective unless they involve a strong rehabilitative component . . . but rehabilitative programs will not work if they are implemented without regard to evidence or if fidelity to treatment integrity is undermined by low funding. If reducing recidivism is a serious goal . . . community corrections must be viewed as a fully viable option on equal footing with incarceration.”* – Joan Petersilia, Stanford Criminal Justice Center⁷¹

Evaluations of drug treatment programs

In a primer on drug addiction, crime, and treatment, Lurigio (2007) details several large-scale evaluations of drug treatment programs offered in community-based settings, including:⁷⁵

- *Drug Abuse Reporting Program.* This was a national evaluation of 52 federally funded treatment programs involving 44,000 participants. It found that arrest rates declined 74% and employment rates increased 24% after treatment.

- *Treatment Outcome Prospective Study.* This evaluation involved 11,000 participants admitted to 341 drug treatment programs in 10 cities. Three to 5 years after treatment, those engaged in crime decreased by one-third to one-half.
- *Services Research Outcome Study.* This evaluation was conducted by the federal Substance Abuse and Mental Health Services Administration and looked at 1,800 participants from a random sample of 100 facilities nationwide. Five years after treatment, the study reported 23% to 38% reductions in crimes such as burglary, selling drugs, and prostitution.

A meta-analysis by the Washington State Institute for Public Policy found that community supervision with *risk-need-responsivity* principles for probationers with high and medium risk of reoffending reduced crime by 14%.⁷⁷ Another recent meta-analysis looking at 92 independent evaluations of drug courts found that they decrease recidivism from 50% to 38% on average.⁷⁸

Status of programs and services at the county level. A study of the impact of probation and parole on arrests in Los Angeles, San Francisco, Sacramento, and Redlands concludes that because drug offenders are a large share of the arrests of people under supervision, there is significant potential for realizing a reduction in total arrests through evidence-based practices in probation and parole. But in focus groups for this study, police and probation officers expressed frustration with the insufficient availability of substance abuse treatment and mental health services.⁶⁹ They noted that treatment was either unavailable or not intensive enough for most offenders, and noted especially the need for services for the mentally ill.^{14 79}

“When they shut down mental health, they turned people out on the streets. When people are drinking out on the streets, they are constantly going back to prison. Mental health services are very (much) needed”

-Service Providers Focus Group, Los Angeles

County data about availability and access to programs and services is not readily available, making it difficult to assess quality of community-based treatment programs. An analysis found a statewide tendency to continue to prioritize law enforcement interventions instead of treatment. Stanford researchers coded counties’ realignment plans and historical philosophy by their *control orientation*. *High control* means more money spent on law enforcement, prioritizing surveillance and custody. *Low control* means more money spent on treatment, and *medium control* falls in between.⁸⁰ Their analysis show that counties are not significantly changing their practices as a result of realignment.

Table 3. County control orientation pre-realignment and in their realignment plans

# of counties	Pre-Realignment	Realignment Implementation Plan	Change
Low control	18	19	+1
Medium control	20	21	+1
High Control	20	18	-2

Source: Petersilia & Lin. *Follow the Money: How California Counties are Spending Their Public Safety Realignment Funds.* Stanford Criminal Justice Center, Stanford Law School.

The researchers found that 36% of counties targeted realignment funding for more sheriff and law enforcement staff and initiatives and 23% targeted programs and services.⁸⁰ The top items that counties

are funding are risk assessment (76%), hiring or training of probation officers (43%), mental health treatment (45%), and electronic monitoring (40%). Evidence indicates that the first three, if implemented well, would reduce crime and recidivism. It is less clear whether electronic monitoring produces positive results, if not paired with rehabilitative programming.^{81 70 82}

Other programs that have strong evidence of effectiveness are being funded less often. Only 24% of counties' realignment implementation plans mentioned specialty courts, 36% mentioned substance abuse treatment, 28% mentioned cognitive behavioral interventions, and 29% mentioned evidence-based programming.

Researchers concluded that some county officials are working more collaboratively toward reducing recidivism and that new funding has fostered innovative programming. But they also conclude that counties "are struggling, often heroically, to carry out an initiative that was imposed upon them almost overnight."¹⁴ There is no mandatory evaluation and monitoring of the implementation of realignment interventions⁸³ at the county level. This is a significant lack of accountability for the billions of dollars realignment has directed toward counties, the safety of people in those counties, and the rehabilitation of offenders.

For our predictions on how Proposition 47 would impact public safety, see the Predictions section of this report.

Additional Punishments

“Today it is perfectly legal to discriminate against criminals in nearly all the ways that it was once legal to discriminate against African-Americans. Once you’re labeled a felon, the old forms of discrimination — employment discrimination, housing discrimination, denial of the right to vote, denial of educational opportunity, denial of food stamps and other public benefits, and exclusion from jury service — are suddenly legal. As a criminal, you have scarcely more rights, and arguably less respect, than a black man living in Alabama at the height of Jim Crow. We have not ended racial caste in America; we have merely redesigned it.”

– Michelle Alexander, *The New Jim Crow*³⁸

The dramatic growth in the number and scale of additional punishments levied against people with criminal records creates enormous barriers to employment, housing, educational opportunities, and cash assistance at the time when people trying to reenter society need those supports the most. By changing felony drug possession and the other five low-level crimes to misdemeanor convictions, Proposition 47 will likely result in increasing this population’s ability obtain employment and housing. Since this is a small proportion of a large amount of people, the impact will be considerable.

Proposition 47 will increase the number of people who are eligible for dismissal, or *expungement*, of their criminal records. Expungement increases eligibility for employment opportunities, occupational licenses, and private or public housing; decreases voter disenfranchisement; increases federal loan eligibility; and increases the number of individuals able to serve on a jury. These changes will affect not only the formerly incarcerated, but also their families, who may have been penalized for having a person with a criminal record in their household.

Key findings

- One out of four of American adults have a criminal record.
- There are 3,000 laws that create more than 4,800 additional punishments for those with a criminal record in California.
 - 58% limit employment and occupational licensing opportunities
 - 73% are permanent or do not have a specified time when the consequence ends
 - 45% are mandatory or automatic consequences that occur regardless of individual circumstances or judicial discretion
- The vast majority of employers conduct criminal background checks on some or all candidates.
- 60% to 75% of people formerly in prison are unemployed up to one year out of prison. By age 48, the average person who spent time in prison has earned \$179,000 less than if he had never been incarcerated.
- Record expungement increases employment, occupational licensing, housing, and educational loan opportunities for the formerly incarcerated.
- In Santa Clara County, expungement resulted in an additional \$6,190 in income in the year following record clearance. In Alameda County, 73% reported finding employment 4 months after expungement.
- Only about 15% of currently or formerly incarcerated people in Santa Clara county report being aware of the opportunity for expungement.

- Starting in 2015, individuals charged with felony drug possession, use or distribution will be eligible for CalWORKs and CalFresh benefits.
- Up to 40,000 people each year would not have to report a felony conviction on employment or housing applications, and over 3,000 people each year would not have voting rights suspended.

Existing conditions and review of existing research

Today in the United States, roughly one of every four adults has a criminal record.⁸⁴ The number of laws limiting participation in society by banning employment, limiting occupational licenses, access to public housing, educational loans, other government benefits, or limiting voting or jury service has dramatically increased over the past few decades, in part due to the increased availability and use of background checks. As noted by Silva (2011): *“The ex-offender faces a double penalty: he pays his debt through incarceration and also pays through loss of opportunity. This opportunity cost is socioeconomic, political, and seemingly never-ending.”*⁸⁵

“Felonies make it legal to discriminate”

-Formerly Incarcerated Focus Group, Oakland

Additional punishments faced by those with convictions in California

As of July 2014, the American Bar Association had identified 44,407 collateral consequence laws for all 50 states plus the District of Columbia, Virgin Islands, Puerto Rico and other federal jurisdictions. In California, there are 2,965 additional punishment – 1,808 in California law and 1,157 more federal punishments that also apply in California.⁸⁶

Of the almost 3,000 California and federal laws identified that create 4,800 additional punishments, 58% were related to employment or occupational licenses or certificates, such as licensing to be a home health aide, a barber, an engineer, or an emergency medical technician. Thirty-eight percent of additional punishments were related to business licenses or other property rights and 17% were related to government contracts, programs, benefits, loans, or grants. Three-quarters of these additional punishments are permanent or do not have a specified term when the consequence ends. Also, 44% of these laws are mandatory or automatic – the judge does not have discretion whether to apply the punishment or not.⁸⁶

“It used to be you do the crime, you do the time, but it’s no longer like that. The felony conviction on your record lasts for a long time. You can’t get a job, you can’t get housing, and you recidivate”

-Service Providers Focus Group, Los Angeles

The Technical Report (www.Prop47impacts.org) provides a more detailed overview of California and Federal additional punishments by consequence category.

Employment

Employment is one of the most important factors for successful re-entry,⁸⁷ as well as a key determinant of health. Those who find jobs after release are half as likely to return to prison,^{88,89} less likely to use

drugs or alcohol, more likely to reunite with their families, and less likely to have mental or physical health conditions.^{90,91,87}

People who spent time in prison face many barriers to getting jobs. Nationally, about two-thirds of this population worked before being incarcerated,³⁷ but less than half of those exiting prisons and jails find employment following their release. In California, only 21% of people on parole had a full-time job, 9% had “casual” jobs, and 70% were unemployed.⁹²

Employers are more likely to hire applicants convicted of drug crimes than those convicted of violent or property crimes, and are more likely to hire applicants on public assistance or lengthy unemployment than those with a criminal record.^{93,94} A survey of employers in Los Angeles found that twice as many employers would not be willing to hire an applicant with a criminal record as those who would be, with their willingness to hire dependent upon the crime: 46% would hire someone with a drug offense, 40% with a property offense, and 9% with a violent offense.⁹⁵

There is also a wage penalty for those who can get jobs. Western and Pettit (2010) found that serving time in prison reduced hourly wages for men by approximately 11% and annual earnings by 40%,⁹⁶ which on average results in \$179,000 less income earned by age 48. Incarceration disproportionately depresses wages of people of color: White males’ wages were depressed by 2%, Hispanic males by 6%, and black males by 9%.⁹⁶ High levels of unemployment in neighborhoods that have disproportionate numbers of residents with criminal records can lead to a vicious cycle: Lacking jobs, former offenders may turn again to crime.^{85,97}

“When you look for a job, you’re down to minimum wage no matter what. With a felony on your record it’s hard to get an interview... You end up looking for jobs that are not even enough to pay rent, lights. You don’t have enough money because you can only look for a job that will accept you. Your expectations are really limited. It’s a barrier, it really is.”

-Formerly Incarcerated Focus Group, Los Angeles

“Some people say they don’t want to go back when they get out. You try to get a job, try and try, but they say no prior convictions. So you have to go back [to criminal activity] to make some quick money.”

-Formerly Incarcerated Focus Group #1, Oakland

The greater one’s earnings after release, the less likely one is to return to prison. In one study, people who made more than \$10 an hour were half as likely to return to prison as those making less than \$7 an hour.⁹⁸ In Philadelphia, the ability to find jobs for 100 people who had been in prison was estimated to increase income tax contributions by \$1.9 million and save more than \$2 million annually by keeping them out of the criminal justice system.⁹⁹ People who spent time in prison who do find work are more likely to find low-wage jobs.⁹⁰

For people who were formerly in prison, there are many barriers to obtaining reliable and decently paid work including background checks, occupational bans, employer hiring practices, and underlying socio-economic inequalities. One of the most important barriers is the growth in the use of background checks in hiring processes, particularly since 9/11.^{95,100} A national survey of human resources personnel found

that 73% perform criminal background checks on all job candidates, and 19% on selected job candidates.¹⁰¹ Only 7% did not conduct any type of background check.

“My son, his whole life is screwed, because he can’t get a job. He will have to check the box that he has been convicted [of] a felony”

-Family Members Focus Group, San Francisco

“I have a bachelor’s degree, computer training and truck driving, but I can’t get a job because of my felony. With the Internet, anyone can tell I have a felony. I have all these qualifications, but instead I am sitting here collecting a social security check.”

-Formerly Incarcerated Focus Group #2, Oakland

The most common background checks are conducted by private credit reporting agencies that keep large databases of arrests, convictions, and offenses, updated infrequently. Reporting agencies are allowed to check elements of a person’s background that employers are not.^{102,103} In California, credit reporting agencies are prohibited from disclosing criminal convictions more than seven years old.¹⁰⁴ However, due to infrequent updating, databases at times include convictions beyond seven years, in violation of the law.

Federal Bureau of Investigation (FBI) and California Department of Justice background checks are more comprehensive. Only criminal justice agencies, occupational licensing agencies, bail bond agencies, and certain employers – such as nuclear power plants, public utilities, positions with supervision over minors, child day care facilities, private schools, public employment, and health care facilities – are allowed to obtain this type of background check.¹⁰⁵ The National Employment Law Project estimates that 1.8 million workers a year are subject to FBI background checks that include faulty information.¹⁰⁶

“There (are) a lot of things that go out the door with a felony. My son, who has a degree in finance, was told he wouldn’t ever be able to work in finance because of his felony” –

Family Members Focus Group, San Francisco

Housing

People leaving prison or jail must find somewhere to live. Roughly 60% to 88% of ex-offenders live with a family member in the initial months after release, but 30% to 50% stated these were only temporary arrangements.^{107,108} Families living in public or Section 8 housing may risk being evicted if they allow a person released from prison back in their homes.¹⁰⁹ When searching for a new place to live, people released from prison are confronted with high costs, competition from other renters, security deposits, and discrimination by landlords and property owners. State and federal law prohibits housing discrimination on the basis of race, religion, gender, sexual orientation, disability and other factors,¹¹⁰ but does not bar consideration of criminal convictions.

Private housing. Many landlords use credit reports, rental history, employment status, and income to determine who they will select as tenants.⁸⁵ Since many ex-offenders have no reliable income and poor

credit history, they face more barriers than most applicants. A study of landlord and property managers found that two thirds would not accept an applicant with a criminal history, regardless of whether it was a felony or a misdemeanor.¹¹¹

“When you look for housing, they have that box there too on the application. If you have a felony, they won’t even accept your money for a deposit. You have to pay for a background check and knowing that you won’t get the place. You end up living in a place that you don’t really want to live in.”

-Formerly Incarcerate Focus Group, Los Angeles

Public housing. At the same time that Congress banned people with felony drug convictions from receiving food stamps and cash assistance, it also gave local housing authorities great discretionary power to refuse Section 8 vouchers and deny a spot in public housing from people with criminal convictions.⁸⁵ This policy was upheld by the Supreme Court, which permitted housing authorities to evict residents on the basis of a drug arrest on or off the premises of anyone in the household.⁸⁵ Entire families are punished for the past criminal behavior of one family member or guest and their housing subsidies are jeopardized if they seek to reunite with a family member returning from prison or jail.

People who are not able to secure housing or shelter due to their convictions often end up on the street. One study found that about 10% of people on parole are homeless, but in areas like San Francisco and Los Angeles, up to half are homeless.¹¹² Formerly incarcerated individuals with severe mental illness are more likely to be homeless than those without severe mental illness.¹⁶

“When I came out, the most important thing would have been housing”

-Formerly Incarcerated Focus Group, San Francisco

Government benefits

Under the Clinton Administration, as part of welfare reform, Congress passed lifetime bans on people with felony drug convictions from receiving cash benefits and food stamps, and temporary bans on educational loans and public housing. As one attorney stated, “A newly released ex-offender is barred from receiving food and minimal cash assistance at the very moment he would most need it.”⁸⁵

“So, I get out of prison with a felony, and you want me to be successful, and I can’t get housing, can’t get food stamps. I can’t even get on my own two feet”

-Family Members Focus Group, San Francisco

CalWORKs (cash assistance). CalWORKs provides monthly income, assistance, and employment-related services aimed at moving children out of poverty and helping families meet basic needs and become self-sufficient. As of August 2012, 563,000 families were participating in CalWORKs, including more than one million children, nearly half under 6 years old. A family of three receives an average of \$467 per month – \$15.56 per day.¹¹³ In 1996 Congress banned people with felony drug offenses from being able

to receive Temporary Assistance for Needy Families (TANF is the federal source of funding that CalWORKS draws upon).

CalFresh (food stamps). The Supplemental Nutrition Assistance Program (SNAP), known historically as food stamps and in California as CalFresh, has been called the cornerstone of the nation's nutrition safety net.¹¹⁴ In 2013, almost 2 million households were receiving CalFresh benefits with an average household benefit of \$336 a month, or \$5.13 per day.¹¹³ According to the U.S. Department of Agriculture, only 55% of all those eligible in California receive CalFresh benefits – the lowest rate of any state in the nation.¹¹³

California efforts to ease the ban on benefits. In 2004, California removed the lifetime ban for CalFresh for those with felony drug possession convictions but maintained the ban for the sale, manufacturing, and transporting of drugs.¹¹⁵ However, in order to receive CalFresh benefits, those who were convicted of felony drug possession must complete, participate, enroll, or be on the waiting list for a government-recognized drug treatment program or have other evidence that they're no longer using drugs. The new law made an estimated 57% of people with felony drug convictions eligible for CalFresh.¹¹³

In June 2014, AB 1468 included a partial removal of the ban on CalWORKs and CalFresh benefits. As of April 1, 2015, AB 1468 will allow people with a felony offense for the possession, use, or distribution of a controlled substance will be eligible for CalWORKs and CalFresh benefits. Those who are ineligible because they violated a condition of probation or parole would regain eligibility once they are no longer in violation.¹¹⁶

Education

In 2003, the Bureau of Justice Statistics reported that 41% of people in prison or jail lack a high school diploma or its equivalent, compared to 18% of the general population.¹¹⁷ A study by the FBI found that people in prison who were employed full time or attended school for at least six months within two years before they entered prison had a recidivism rate of 26%, compared to 60% of those who weren't employed full time or actively engaged in school.⁹¹

“(Having a) felony cuts your money on your grants or student loans. And no one coming out of prison has money to go to school, for sure”

-Formerly Incarcerated Focus Group, San Francisco

Despite the value of education for ex-offenders, people with state or federal drug-related offenses are disqualified from receiving federal student loans, grants, or work study for varying time periods, depending on the number and nature of convictions. The first time an individual is convicted of possession of a controlled substance results in one year of ineligibility for grants, loans, and work assistance. The second conviction results in two years of ineligibility, and the third in an indefinite ineligibility.^{c 118}

^c A student whose eligibility has been suspended may resume eligibility before the end of the ineligibility period if the student satisfactorily completes a drug rehabilitation program that includes two unannounced drug tests, successfully passes two unannounced drug tests conducted by a drug rehabilitation program, or the conviction is reversed or set aside. (<http://www.law.cornell.edu/uscode/text/20/1091>)

In 2005, the General Accounting Office estimated that in the 2001-2002 academic year, 23,000 students were denied Pell grants and 41,000 students were denied student loans because of drug convictions. The total amount of student loans forfeited by these students range from \$139 million to \$164 million a year.¹¹⁹

Civic participation

Voter disenfranchisement. Almost all people convicted of felonies temporarily or permanently lose their right to vote depending upon the state they were convicted in and the sentence. In 2000, an estimated 4.7 million adults nationally were legally disenfranchised, of whom roughly three fourths were either supervised in the community or had completed their felony sentences.¹²⁰ That same year, over 10% of African-Americans were disenfranchised in 15 states.¹²⁰

In California, the Election Code specifies that a person convicted of a felony loses the right to the right to vote only while in prison or on parole.¹²¹ The courts have made clear that people convicted of misdemeanors and people convicted of felonies and placed on probation do not ever lose the right to vote, even while in jail.¹²² Those individuals who lose the right to vote while in prison or on parole automatically regain their rights upon completing their prison and parole term. A person whose prison sentence is suspended does not lose the right to vote unless and until actually incarcerated.

As a result of the Criminal Justice Realignment Act of 2011, there are now additional felony sentences that are not enumerated in California's constitutional or statutory disenfranchisement laws. The Secretary of State has stated that no one serving a sentence or under supervision pursuant to Realignment can vote¹²³; however, this is currently being challenged in California's courts. In 2014, the Superior Court of Alameda County held that individuals living in the community under a Realignment supervision term—post-release community supervision or mandatory supervision—have the right to vote.¹²⁴ This decision is currently stayed pending the Secretary of State's appeal.

According to our assessment (see the Overview section), in July 2014, of the 135,000 people in prison, 9,156 were in prison for a felony for one of the six crimes covered by Proposition 47.

Jury service. In California, individuals who have a felony record are ineligible to serve on juries, unless their civil rights are restored through record expungement or a governor's pardon.¹²⁵ Other punishments include ineligibility to run for elected office, commissions, and boards, to distribute voting cards, or to serve as a mentor to a foster child.⁸⁶

Additional punishments have disproportionate impacts on people of color and women. The additional punishments of conviction also disproportionately impact people of color and women, especially African-Americans. Although African-Americans represent roughly 13% of drug users, they represent 36% of those arrested and 46% of those convicted for drug offenses.¹²⁶ Studies in Milwaukee and New York City found that white job applicants with a criminal record were called back for interviews more often than equally-qualified black applicants who did not have a criminal record.¹²⁷

Women are more likely to support children and families, so their exclusion from welfare benefits can disproportionately hurt others. Since 46% of women convicted of felony drug offenses are African-American or Hispanic, women of color are disproportionately likely to be banned from food stamps and cash assistance.¹²⁸

Expungement

In California, individuals with a criminal record may be eligible for a certain degree of rights restoration through *expungement* (removal of a conviction from one's record), requests for dismissal, obtaining a certificate of rehabilitation, a governor's pardon, or in some rare cases, the sealing of criminal records.

The potential for expungement of a criminal record is of particular importance to those who may be affected by Proposition 47. If an individual's request for dismissal is granted under Penal Code 1203.4 or 1203.4(a), the individual's criminal record will be changed to a plea of not guilty, the case will be dismissed, and the offender is released from all penalties and disqualifications.

Expungement of a criminal record has these benefits:

- People gain the ability to truthfully state on private job applications that they were not convicted of a crime
- California government employers and licensing agencies may not discriminate against an individual based on the fact that he or she has expunged convictions
- People may become eligible for professional licenses, student loans, and housing assistance
- Employers cannot inquire into misdemeanor conviction history

However, expungement does not seal a person's criminal record, allow someone to avoid deportation, overturn a driver's license suspension, remove sex offender registration requirements, prevent the conviction from being used in subsequent conviction processes, or change ineligibility to possess guns.

In 2014, researchers estimated that expungement in Santa Clara County resulted in an average of \$5,760 in net benefits per client and an additional \$6,190 in income in the year following expungement. Since its inception in 2008, the Record Clearance Project had filed 680 petitions for expungement, with a success rate of 99%.¹²⁹ In Alameda County, 73% of clients at the East Bay Community Law Center each year reported finding employment within 4 months after record expungement, and clients who were previously employed experienced a 20% increase in wages after expungement.¹³⁰

Despite its potential value many former offenders do not know about the potential for clearing their record. According to recent surveys of Santa Clara County Jail detainees and participants in a legal assistance program's information sessions, only about 15% reported being aware of mandatory dismissals.¹³¹

For our predictions on how Proposition 47 would impact additional punishments, see the Predictions section of this report.

Families

“People don’t understand that when you lock someone up, it makes their family go through that mental turmoil, that trauma every day. Locking someone up tears families up. It makes them go crazy”

-Family Members Focus Group, San Francisco

If the Safe Neighborhoods and Schools Act passes, more people would have potential for employment, improving financial resources for their families. More resources would improve overall health, access to healthcare, and would reduce stress from financial strain. Families of affected populations would benefit from increased access to resources such as public housing and education, which would improve material resources and physical health.

Children of parents who have a felony conviction will have improved mental health and social outcomes such as improved psychosocial functioning, less risk of involvement in the foster care system, fewer behavioral problems, fewer risky health behaviors, and better educational outcomes. As a result, communities will likely benefit from a reduction in crime as these children stay integrated in society.

People who were formerly in prison and their families would no longer have to live with the label “felon,” which would reduce social stigma and exclusion and improve self-esteem.

Key findings

- Youth with a parent in prison have lower self-esteem and are more susceptible to peer pressure and risky behaviors.
- Recent incarceration of a partner increases a mother’s risk of major depression by 54%, regardless of her prior mental health.
- Children whose fathers served time in prison start using illegal drugs earlier, use more drugs, and use them for a longer period of time than youth whose father never went to prison.
- Previously incarcerated men provide about \$1,300 per year less to their families than men who have not been incarcerated.
- Children of mothers arrested for a felony were five times more likely to be placed in foster care than children of mothers arrested for a misdemeanor or violation of an ordinance.
- Each year of spousal separation from imprisonment increases the odds of separation or divorce by 32%.
- Children who grow up in a single-parent household are more likely to have worse emotional and behavioral health outcomes, even when accounting for household socio-economic status and other factors.

Passage of Proposition 47 would result in fewer people separated from their families by incarceration, and those who are would be separated for less time and be closer to their families. Fathers and mothers sentenced to misdemeanor probation would remain with or near their children. These changes will help keep families together, improving family resources and income, and protecting mental and emotional health for both the parents and children.

Existing conditions and review of existing research

Nationwide, approximately 53% of people in state and federal prison are parents, with an average of about 2.1 children each. In 2012, there were 266,890 adults in California's prisons, and an average of 157,924 adults in county jails.¹³² From these figures we estimate that in 2012, there were 142,326 parents in California prisons with 299,943 children. In 2012, there were an average of 84,217 parents with 177,482 children in California jails.¹³²

There are currently over 9,000 people serving time in California's prisons for the six felonies that would be changed by the ballot initiative. An estimated 4,900 of these people serving time are parents to 10,200 children.

In 2012, 42,900 and 55,400 people were arrested for the six crimes. Of these, 3,500 to 5,200 people were sentenced to prison for a felony that would be changed by the ballot initiative. Moving forward, an estimated 1,900 to 2,800 of these people sentenced to prison with a felony every year would instead be charged with a misdemeanor. This would affect 3,900 to 5,800 children a year.

Families' material resources

Imprisonment of a parent can increase poverty, decrease household income, increase the need for public assistance, and impact the trajectory of a child's financial life. Incarceration in prison of adults can increase poverty levels. High rates of adult incarceration have been linked to increased levels of child poverty.^{133 134} This relationship is especially strong in counties with high proportions of people of color. After a father's incarceration in prison, families are 2.5 times as likely to be under the federal poverty limit than they are to be higher income (over 300% of the federal poverty level).¹³⁴

"When you take a partner out of the house, you gotta have someone getting food stamps, and government assistance. Society pays for that"

-Family Members Focus Group, San Francisco

A father's incarceration is also associated with a decrease in a father's contribution to his family's income. One study found that, on average, men who were previously incarcerated provide about \$1,300 per year less to their families than men who have not been incarcerated.¹³⁵ The Pew Charitable Trusts reported on that family income averaged over the years a father is incarcerated is 22% lower than the year before he was incarcerated. Even in the year after the father is released, family income remains 15% lower than the year before incarceration.¹³⁶

Research has found that children are 25% more likely to experience material hardship when their father is incarcerated than if children do not have an incarcerated father.¹³⁷ They are also around 11% to 19% more likely to receive public assistance.¹³⁷ One study found that the proportion of children growing up poor increases by 8.5% and that family income declines by \$8,726 in the years that a father is incarcerated.¹³⁸

Children whose parents go to prison face poor economic futures. One study showed that by age 32, over half of men who had a parent imprisoned during their childhood had poor life success – measured by

housing stability, success with children, employment history, fights, substance abuse, anxiety and depression, and criminal convictions – compared to 20% of men who had not had a parent in prison.¹³⁹

Material hardship can affect adults in the household as well, and not just from a lack of income. Several focus group participants spoke of the additional expenses associated with maintaining a relationship with an incarcerated family member.

“My partner being in prison has been rough. I’m broke... I send up to half of my money to him when I can. It is so expensive to even have a phone call”

-Family Members Focus Group, San Francisco

“Our phone bills were thousands of dollars a month”

-Family Members Focus Group, San Francisco

“It’s financially a rough thing. Prisons are so far away. They take the greyhound or carpool, gas is expensive, food inside the prison is expensive”

-Family Members Focus Group, Los Angeles

Welfare of children

Incarceration of a parent creates several obstacles for children, putting them at increased risk of poorer educational outcomes, worse psychosocial functioning, and increased likelihood of entering foster care.

Children with incarcerated parents score lower on tests, even when accounting for variables such as socioeconomic status, compared to their peers without incarcerated parents.¹⁴⁰ It is less clear how parental incarceration affects high school graduation rates. A few studies in smaller regional areas (Texas¹⁴¹ and Cook County, Illinois.¹⁴²) have found that having a parent incarcerated is a risk factor for failure to graduate from high school. However, a review of research on this topic failed to find a significant trend between parent or guardian incarceration and high school graduation when accounting for other risk factors.¹⁴³

A study that looked at households, rather than just parents/guardians, and accounting for several other risk factors, found that children who had an extended household member incarcerated were twice as likely to fail to graduate from high school as their peers.¹⁴⁴ However, the same study found that children with a sibling or parent incarcerated, specifically, were not significantly more likely to fail to graduate from high school.¹⁴⁴

A father’s incarceration decreases his child’s highest level of educational attainment, even when accounting for income and the child’s grades.¹⁴¹ This pattern exists in all racial and ethnic groups, but because incarceration disproportionately affects people of color, research suggests that parental incarceration leads to lowered educational outcomes across generations that marginalizes communities of color.¹⁴¹ Children of fathers with a history of incarceration face a much higher risk of being expelled or suspended from school than children without incarcerated fathers (23% vs. 4%).¹³⁶

Studies reveal an alarmingly high level of post-traumatic stress disorder symptoms as well as high levels of withdrawn behavior among children of incarcerated parents.¹⁴⁵ These children also have more limited resources to cope with these symptoms.¹⁴⁵ A comprehensive meta-analysis found that children with incarcerated parents face a 10% increase in risk of antisocial behavior.¹⁴³ Post-traumatic stress symptoms have been linked to depression, anxiety, and aggression in children.¹⁴⁶ Children with incarcerated parents were 44% more likely to display aggressive behavior than their peers without incarcerated parents.¹³⁷

Research has also shown that parental incarceration has been linked to increases in depression and anxiety into adulthood for boys.¹⁴⁷ Other research has found that a father's incarceration increases aggressive behavior and attention problems.¹⁴⁸

A mother in a focus group described how the incarceration of her son's father has taken an emotional toll on her son:

"When he went to jail my son was nine months and now he's eight years old. He gets emotional because [he] sees other kids' daddies... and they tease him. He asks me, 'Mommy, do I have a card from daddy? Why didn't my daddy write me?'"

-Family Members Focus Group, Los Angeles

Another participant said of her father's incarceration:

"For a long time, I villainized my dad. To cope, I used to tell people that he was dead because it was so hard to tell people that he was in jail. It became hard to have a relationship with him. My little brother is traumatized because he didn't grow up with a father"

-Family Members Focus Group, San Francisco

Children of a mother arrested for a felony were five times more likely to be placed in foster care than children whose mother was arrested for a misdemeanor or violation of an ordinance.¹⁴⁹ Recent studies show that children of incarcerated parents have become a much larger share of the foster care system.^{150 151} Other research has estimated that an increase in female imprisonment was the largest contributor to the growth in foster care cases and contributed to a third of the increase in foster care caseloads from 1985 to 2000.¹⁵² Recent estimates found that one of every nine women in prison has a child living in foster care.¹⁵³

Self-esteem, social stigma and exclusion, and civic involvement

Having a parent incarcerated may worsen children's self-esteem and encourage them to engage in harmful behavior. Youth with a parent in prison exhibit a diminished sense of self-worth, susceptibility to peer pressure, and risky behaviors.¹⁵⁴ Other research has shown that children of incarcerated parents are more likely to feel discriminated against by other people when compared to their peers without incarcerated parents.¹⁵⁵

One national study found that children of incarcerated parents are less likely to trust the government and less likely to vote. This study controlled for other elements, such as parental civic involvement and the youth having ever been stopped by the police, and found that even accounting for these, parental incarceration diminished trust in government.¹⁵⁵

Mental health

Incarcerating parents leads to worse mental health outcomes for families and puts children's health at risk. One study found that having a male partner imprisoned puts mothers at higher risk of depression. Even when controlling for a number of factors including previous depression, women who had a child with a recently imprisoned man were 54% more likely to be depressed.¹⁵⁶

Research also suggests that parental imprisonment can generate feelings of shame, grief, guilt, abandonment, and anger in children, as well as an impaired ability to cope with future stress and trauma.¹⁵⁰ The Urban Institute cited a series of studies demonstrating an "independent effect of parental incarceration on child anti-social behavior . . . [and] an independent effect of parental imprisonment on child mental health, drug use, school failure, and unemployment."¹⁵⁰

A focus group participant speaking about the toll that her mother's incarceration has taken on her said:

"Sometimes, I don't know how I manage every day. The woman who gave me life now is locked up. It's really hard to wake up every day. It really makes me want to go crazy. I am sitting here questioning my life. Does my mom really love me? People don't understand that – when you lock someone up, it makes their family go through that mental turmoil, that trauma every day. Locking someone up tears families up. It makes them go crazy"

-Family Members Focus Group, San Francisco

Children whose father has been incarcerated abuse drugs and alcohol at higher rates. Both boys and girls whose fathers served time in prison were more likely to start using marijuana and other drugs earlier, use more drugs, and use them for a longer period of time than youth whose father never went to prison.¹⁵⁷ A young woman whose mother is in prison said her sister has turned to drugs and alcohol for comfort:

"My little sister stays out all night, smokes and drinks, and I sit up waiting for her, worried sick. It makes me sick. She says, 'It's Mom, it's Mom' "

-Family Members Focus Group, San Francisco

Divorce, relationships, and family separation

Imprisonment of a spouse is associated with increased likelihood of divorce. Among married men, those who were imprisoned were nearly twice as likely to divorce or separate compared to those who were never incarcerated.¹⁵⁸ Additionally, each year of separation due to imprisonment increases the odds of separation or divorce by 32%.¹⁵⁹

Speaking about the difficulties her family has faced due to her father's incarceration, and particularly her parents' relationship, a focus group participant said:

"The shorter a person's sentence in correctional facilities is, the better chance they have of reconciling with their families, and those repaired relationships are going to help them stay away from crime. It's like the system doesn't know what it is doing, what the implications are."

-Family Members Focus Group, San Francisco

Bureau of Justice Statistics data show that nationwide more than half of people in prison who have children live over 100 miles from where they lived before prison.¹⁵⁵⁾ Over half of incarcerated parents do not receive any visits from their children during their sentence, and 40% of mothers and 60% of fathers report no weekly contact of any kind.¹⁶⁰ Parental imprisonment also affects a child's ability to have a healthy relationship with other guardians. Sixty-three percent of children with mothers in prison did not have secure attachments to their current caregivers.¹⁶¹

Focus group participants reiterated a number of barriers to visitation that result from a family member's imprisonment. Family members spoke to how exhausting prison visitation can be:

"Some families don't go visit because they don't want the harassment, the long drives, the long wait. Guards take their time processing your visiting pass. Even once you're processed you take a shuttle maybe, and that guard takes their time. . . . They say you get a six-hour visit, but it's not. The processing can take two hours. Then you have to wait for them to now call for them to bring your partner. One time I had to wait for an hour at that point because the guard forgot to call him. Then, if you complain, they can terminate your visit."

-Family Members Focus Group, Los Angeles

"What I would witness when I was at the prison, it would break my heart when kids would go see their parents. Fathers are limited in the physical contact they allow... Prisoners are limited to a brief hug and kiss, if the child is clinging on to their father, the guards have no regard for that, and they would threaten the prisoner to give them a write up with excessive contact... If someone has a life sentence in California they don't qualify for family visits."

-Family Members Focus Group, Los Angeles

Children who grow up in a single-parent household are more likely to have worse emotional and behavioral health outcomes, even when accounting for household socio-economic status and other factors.¹⁶² Children who grow up in single-parent households are at increased risk of trouble in school, delinquency, drug use, and suicide.¹⁶³

Many focus group participants discussed the cycle that can develop when one family member is incarcerated, and then other generations follow.

"I wanted to be like ... my dad – whenever he came out of prison, they threw him a party. When I went to juvenile hall and then got out I was excited because I got a party. My older brother died in 1981 from gang violence. All my other siblings are in prison or can't come back to CA. Traditions are handed down, that's what incarceration does to families"

-Formerly Incarcerated Focus Group, Los Angeles

"I am the oldest, and some of my siblings went to jail, and now I wonder if I started some sort of trend. It makes me depressed to think about my siblings"

-Formerly Incarcerated Focus Group, Oakland

“Families are affected because kids are without a parent or both parents, raised by grandparent or out on the streets. The cycle continues, becomes this revolving door. Kids model what they see, so if that’s what they see, that’s what they do”

-Service Providers Focus Group, Los Angeles

For our predictions on how Proposition 47 would impact families, see the Predictions section of this report.

Budget

“One specific option the Legislature could consider [in the plan to reduce prison overcrowding] is to reclassify certain crimes from felonies and wobblers to misdemeanors. This could result in state savings...annually within a few years of implementation due to the ongoing reduction in the prison population and...significant correctional savings for counties.”

-Legislative Analysts Office, 2014-2015 Budget: Administration’s Response to Prison Overcrowding Order¹⁶⁴

Key findings

- The State of California spends more than \$10 billion annually on corrections.
- The state budget for corrections has increased more than 1,500% since 1980, while spending on K-12 education has increased slightly (from 35.3% to 39.2%) and on higher education has decreased slightly (from 15.2% to 12.7%).

Existing conditions and review of existing research

The State of California spent more than \$10 billion on corrections and rehabilitation in FY 2013.¹⁶⁵ California counties spent more than \$5 billion in 2011 on corrections, the latest year for which data is available.^{d 166}

In FY 2013, the average annual cost per person in prison was \$59,954.¹⁶⁵ In 2012, the average cost per person in jail was \$41,610.¹⁶⁷ However, a substantial amount is for facilities and other fixed costs. The marginal cost per person in prison is \$29,491.¹⁶⁸ This is a more accurate estimate of how much would be saved per person in prison if no facilities are closed.

There are currently 33 prisons operated by the California Department of Corrections and Rehabilitation and 124 county jails. There are more than 13,000 state probation officers¹⁶⁹ and each of California’s 58 counties has a probation department.

State spending on corrections has increased by more than 1,500% since 1980-81, when spending was \$604.2 million.¹⁷⁰ While spending on corrections as a percent of total state spending has tripled, from 2.9% to 10.5%, since 1980-81, spending on K-12 education has only increased slightly, from 35.3% to 39.2%, and on higher education, spending has decreased slightly, from 15.2% to 12.7%.¹⁷⁰

For our predictions on how Proposition 47 would impact state and county budgets, see the Predictions section of this report.

^d Some of the funding for county corrections is provided by the state, so there is likely overlap between these budget estimates. The total spent on corrections in the state about \$15 billion.

Mental Health and Substance Abuse Treatment

“When I went to prison, there were 25 of us on the bus who all needed help [with substance abuse problems] and there was no treatment in prison. It would be much cheaper to have a drug facility to assist in getting treatment instead of imprisoning people.”

-Formerly Incarcerated Focus Group, Los Angeles

Mental illness and addictions are diseases, but society has prioritized incarceration over treatment for them. The prevalence of mental illness and substance abuse is significantly higher among people in prison and jail compared to the general population and there are comparatively fewer resources for people struggling with those diseases in correctional facilities. Despite high rates of suicide and orders from the Supreme Court to improve its treatment of the mentally ill, California’s prisons continue to offer little treatment or programs, allocating less than 6% of the total \$10 billion budget for mental health and substance abuse services in FY 2013-2014. More detail on current treatment services in the prisons and jails is in the Technical Report.

Proposition 47 would result in an estimated increased of \$130 million to \$195 million per year to support treatment services and diversion programs. We estimate there is currently \$544 million available for treatment services in state prisons and \$19 million to \$95 million in county realignment budgets, a total of \$563 million to \$639 million, not including current jail and probation funding. Thus, Proposition 47 would increase funds for treatment by up to 31%. We predict that this increased funding will help reduce rates of recidivism, and if invested in community-based treatment, will help improve mental health and substance abuse outcomes. We also predict that by helping decrease overcrowding in prisons, the initiative will help reduce the risk of suicide and inmate victimization among the mentally ill who remain in prisons and are not transferred to jails or probation.

Key findings

- **There is a high prevalence of mental illness and substance abuse among the correctional population.**
 - Nationally, people in prison and jail are 5 to 6 times as likely to have a mental health disorder and 10 to 20 times as likely to have a substance use disorder as the general population. Close to 50% of incarcerated people have both mental health and substance abuse problems.
 - Nationally, there are ten times as mentally ill people in prisons and jails as there are in state psychiatric hospitals. Los Angeles County Jail has been called the largest mental health provider in the nation.
 - In California, the number of mentally ill people in prison has almost doubled in the past fifteen years. Since realignment, the proportion of severely mentally ill people in prison in California now represents 26% of the total prison population.
- **Conditions and access to treatment in California’s prisons and jails are poor.**
 - In 2012, a person in a California state prison died by suicide every 11 days on average.
 - Mental health treatment is only available to the severely mentally ill people in California’s prisons, not for persons with post-traumatic stress disorder, sex offenders, and those with anti-social personality disorders.

- 80 to 85% of people in prison who could benefit from drug abuse treatment do not receive it.
- As of 2013, only 2 of California’s 33 prison facilities offer substance abuse treatment programs and 36 of 101 surveyed jail facilities do not offer any.
- **Treatment works, but isn’t prioritized.**
 - Californians receiving publicly funded treatment showed increased alcohol and drug abstinence (76%); employment (47%); and use of social support services (58%).
 - Numerous studies have found that providing comprehensive drug abuse treatment to people who have committed crimes both reduces drug abuse and criminal recidivism.
 - For every state and federal dollar spent to address substance abuse (not just corrections dollars), less than 2 cents goes toward treatment and prevention of substance abuse and 96 cents funds the consequences of substance abuse.
 - In FY 2013-14, only 5.8% of CDCR’s more than \$10 billion annual budget was allocated to mental health and substance abuse services.
 - Nationally, drug education – not drug treatment, which is more effective – is the most common service provided to people in prison with substance abuse problems

Existing conditions and review of existing research

Mental health services available in California

Starting in the 1950s, California led the nation in the closure of state mental hospitals and the deinstitutionalization of the mentally ill. But with no increased funds for community mental health programs, communities were ill prepared to treat and care for all the mentally ill in their populations and many families had no available treatment resources. As a result, the mentally ill were released onto the streets with little support.^{171 172} As noted by the California Corrections Standards Authority, *“There was nowhere to turn for help, except to the one place that MUST accept almost everyone brought to it – the jail. Rather than deinstitutionalize people with mental illness, California has shifted many of them from one kind of institution – mental hospitals – to another – its jails and prisons.”*¹⁷³ Today, there are ten times more mentally ill people in prisons and jails nationwide than there are state psychiatric hospitals nationwide.¹⁷⁴ For detail on public funding for mental health, please see the Technical Report.

“The mental health piece is big in terms of services needed. It would be setting people up for failure to send people out to society without getting their mental health needs addressed. True rehab would prevent recidivism.”

-Service Providers Focus Group, Los Angeles

“The situation is so bad we need everything and then some. The need for services wouldn’t change. Keep all that you have in place. Are there enough that we could serve all those people? No, we don’t have enough now.”

-Service Providers Focus Group, Los Angeles

“If I had help for mental illness, I wouldn’t have went to prison.”

-Formerly Incarcerated Focus Group, San Francisco

“Some people get locked up for crimes they committed because they have things like schizophrenia or bipolar.”

-Formerly Incarcerated Focus Group, Oakland

Mental health treatment services in California’s prisons and jails

While Realignment decreased the size of the prison population by 16%, it decreased the proportion of mentally ill prisoners by only 3% such that currently 26% of those in state prisons have severe mental illness.¹⁷⁵ California’s prisons have five levels of care for patients with mental illness: Correctional Clinical Case Management System, Enhanced Outpatient Program, Mental Health Crisis Beds, Inpatient Intermediate Care Facility, and Acute Psychiatric Program.¹⁷⁶ The Technical Report provides a brief overview of the different levels of care.

The lowest level of mental health care available, case management is similar to outpatient therapy and is only for those with serious mental illness (schizophrenia, psychotic disorder, bipolar disorder, major depressive disorder, etc.). The other levels of care are for those who are unable to function in the general population and/or need 24-hour nursing care because they may be a threat to themselves or others.¹⁷⁷ CDCR does not treat conditions unless they cause significant disability or dysfunction. Conditions like post-traumatic stress disorder, sex offender disorder, anti-social personality disorder, and substance abuse disorders are usually excluded.¹⁷⁷ For the most part, in California’s prisons mental health treatment is only available to those diagnosed with severe mental illnesses, not those with post-traumatic stress disorder or even common depression.

In 2013, the California Board of State and Community Corrections and the Jail Programs Association surveyed county jails to assess the availability and types of programs available to people in jail. Of the 101 jails participating in the survey, 38 offered anger management and violence prevention related programs, 38 offered awareness raising programs, 36 offered life skills programs, and 14 offered counseling-focused programs.¹⁷⁸

Stanford University’s assessment of AB 109 county realignment plans found that 91% of counties mentioned providing services for the mentally ill, 28% mentioned providing medications for the mentally ill, and 7% mentioned providing risks and/or needs assessment for the mentally ill.^{179,180}

Unlike state prisons whose finances and reporting are mostly centralized through the state budget process, funding for county jails can come from federal, state, county, and city sources. Therefore, a statewide picture of mental health delivery systems in California county jails is not available. The Board of State and Community Corrections survey and the Stanford University realignment plan analysis are the only centralized reporting available of mental health treatment in county jails. While these sources are helpful for understanding what is basically available, there is clearly a gap in assessment of these services for a population that has a higher need than the general population for them.

In 2006, less than half of incarcerated people nationally with a mental health problem had *ever* received treatment for their problem.¹⁸¹ A third or fewer received mental health treatment right after admission. One very common form of mental health treatment for people who are incarcerated is psychotropic medication. Of 13,000 active mental health cases open each month in California’s local jails, about 64% of those treated received psychiatric medication.¹⁸² In the Los Angeles County Jail, roughly 15% of the

jail population receives psychotropic medications each month,^{178,183} totaling \$5.7 million for Los Angeles in 2012.¹⁷⁸

“There are no services for people dealing with depression unless you are seriously mentally ill with something like schizophrenia. I went to a psychologist and she said because my mental health issues were “situational” – because they were occurring because I was in prison – she couldn’t do anything for me.”¹⁸⁴

“Everyone [in prison] has untreated PTSD, which contributes to recidivism and people being unable to move forward with their lives.”

“I still am not even adjusted back to society yet. They give you all these pills to take, and make you feel like a zombie. You can’t even feel anything. You should at least be able to feel something, even if the feelings are negative.”

-Formerly Incarcerated Focus Group, Oakland

Substance abuses services available in California

According to one expert, California’s substance abuse treatment system “has benefits that are so limited that they do not allow practitioners to provide best practices or evidence-based services, and the reimbursement rates are so low that it is often difficult to find providers.”¹⁸⁵

“They need more programs instead of building jails – programs for alcoholics and addicts, for people who are coming from prison, rehab services that will really rehabilitate us so we don’t come back. There was money (for treatment programs). Then, 12 years ago or so, the money went away.”

-Service Providers Focus Group, Los Angeles

Substance abuse treatment services in California’s prisons and jails

Despite the high rates of addiction, 80% to 85% of people in prison nationally who could benefit from drug abuse treatment do not receive it.^{186,181} Nationally, drug education – not drug treatment – is the most common service provided to incarcerated people with substance abuse problems.¹⁸⁷ The National Criminal Justice Treatment Practices survey found that 74% of prisons and 61% of jails offered substance abuse education, 55% of prisons and 60% of jails offered group-counseling for less than 4 hours a week, and roughly one-third participated in self-help, peer counseling or education/awareness programs. On average fewer than 10% of people in prison and 8% of people in jail participated in those programs.¹⁸⁸

The 2013 survey of county jails conducted by the California Board of State and Community Corrections and the Jail Programs Association assessed the availability and types of substance abuse programs available to people in jail. Of the 101 jails participating in the survey, 65 offered substance abuse

programs. Fifty-two percent of those programs were Alcoholics Anonymous and/or Narcotics Anonymous, 26% were educational approaches, and 8% were counseling-focused; the remaining programs were other forms of treatment and relapse prevention.¹⁷⁸ Stanford University's assessment of AB 109 county realignment plans found that 66% mentioned at least one paragraph about providing in-jail substance abuse treatment and 83% mentioned implementing community substance abuse treatment.^{179,180}

The In-Prison Substance Abuse Treatment Program is offered at two of California's 33 prisons, and is only eligible to people in prison who have a moderate-to-high risk to recidivate, medium-to-high need for substance abuse treatment, and are within seven to twelve months of release. The Long-Term Offender Pilot Program is only offered in three prisons and is only available to a small proportion of people meeting particular criteria.¹⁷⁶

In 2007, State Inspector General Matthew Cate (now head of the California State Association of Counties), wrote a scathing report of the status of in-prison substance abuse treatment programs in California, which at the time were predominantly using the therapeutic communities model. He wrote that the programs were a "\$1 billion failure:"

"[F]ailure to provide an environment that would allow the programs to work; failure to provide an effective treatment model; failure to ensure that the best contractors are chosen to do the job at the lowest possible price; failure to oversee the contractors to make sure they provide the services they agree to provide; failure to exert the fiscal controls necessary to protect public funds; failure to learn from and correct mistakes—and most tragically, failure to help California inmates change their lives and, in so doing, make our streets safer."¹⁸⁹

This report resulted in a new Division of Addiction and Recovery services, establishment of a Treatment Advisory Committee and changes to contractor bidding and monitoring. But, according to CDCR, recent budget cuts resulted in a dramatic reduction of funding for substance abuse programs in prisons and in the community. As of October 2011, substance abuse program capacity had been reduced by 72% in prisons and 43% in jails.¹⁹⁰

Nationally, in prisons and jails that do offer treatment services often less than 10% of those incarcerated have access to it.¹⁸⁸ Among those who do, people in prison are likely to have longer periods of time in treatment compared to those in jails or community corrections programs. Nearly two thirds of those in prison involved in drug education programs were in the programs for more than 90 days and 58% of people in prison involved in short-term group counseling were in the programs for more than 90 days, compared to 20% of people in jail involved in drug education and 48% of short-term group counseling.¹⁸⁸ Length of treatment is well-documented as important to recovery success.¹⁸⁸

Of 66 evaluations of incarceration-based drug treatment programs identified in one meta-analysis, only 20 measured post-release drug use, while the rest measured recidivism. This meta-analysis found that only therapeutic community intervention was effective in reducing post-release drug use.¹⁹¹ People participating in these programs were 28% more likely to abstain from drug use after release compared to those with no treatment during prison, although the finding was not statistically significant.¹⁹¹ Research shows that punishment alone is an ineffective public health and safety intervention for people whose crime is directly related to drug use.¹⁹²

Lessons Learned from Proposition 36

Proposition 36, or the Substance Abuse and Crime Prevention Act, required that people convicted of non-violent drug possession must be offered treatment on probation with no incarceration. Prop 36 was passed in 2000 and allocated \$120 million for treatment services annually for five years (2001-2006). (LAO 2000) Similar to drug courts, Prop 36 was part of the criminal justice system, not a community-based alternative. Admission to the program required a conviction for a drug offense, and failure to maintain abstinence resulted in expulsion from the program and imposition of conventional sentencing.

Between 2001 and 2006, 36,000 people were enrolled annually and the number of people in California prisons for drug possession dropped by more than 27%. More than 80% of patients received out-patient drug-free (non-methadone) programs and roughly 10% received long-term residential programs. Half of outpatient and one third of long-term residential treatment clients received at least 90 days of treatment. Methadone maintenance and detoxification, other detox and short-term residential treatment were used infrequently. Evaluations of Prop 36 found that completion rates for drug treatment were comparable to other criminal justice programs (roughly one third), there were no adverse effects on crime, and in the five years of operation the program saved taxpayers an estimated \$1.4 billion. (Urada 2008)

However, after the four year period, California entirely eliminated treatment funding for Prop 36. As noted by the Drug Policy Alliance, "Despite Prop. 36's demonstrated cost savings and public safety record, funding decisions ten years later confirm that treatment in California remains secondary to punishment."

Community-based treatment

When community-based treatment is implemented as intended, it works. A meta-analysis of 78 studies of general drug treatment programs not in the correctional system showed a 15% reduction in drug use for those in treatment as compared to no treatment or minimal treatment. Drug treatment programs had a 57% success rate vs. the no treatment/minimal treatment comparison groups, who had a 42% success rate.¹⁹³ Two of the elements that have the most effect on success of treatment are whether or not it is implemented as intended and commitment of the implementer to the treatment.¹⁹³

After receiving publicly funded alcohol and other drug treatment services in California, 76% of clients reported abstinence from the primary drug, 58% reported participating in social support services, 47% reported securing full or part-time employment.¹⁹⁴ According to the U.S. Surgeon General, the evidence for mental health treatment being more effective than placebo is overwhelming, and even placebo is more effective than no treatment.¹⁹⁴

"A program that is offered to you in prison doesn't have a crack house two blocks away, doesn't have a liquor store down the block. In prison, I didn't have the temptation. When you go to a drug facility on the street, if you are not able to get clean you can rely on the support of the community facility."

-Formerly Incarcerated Focus Group, Los Angeles

"Instead of having (treatment) services they have five (cannabis) dispensaries and 10 liquor stores on every block. No programs to help people resist temptation."

-Family Members Focus Group, Los Angeles

Prison- or jail-based treatment combined with community treatment

Prison-based treatment followed by community-based treatment after release can have longer-lasting and more optimal outcomes.¹⁹⁵ One study found that those who participated in both were seven times more likely to be drug-free and three times less likely to be re-arrested for criminal behavior than those not receiving treatment.²¹ Researchers conclude that incarcerated individuals should complete six weeks of treatment¹⁹⁶ and that in community-based settings, at least 90 days of treatment is necessary.¹⁹⁷ As noted by Joan Petersilia of the Stanford Criminal Justice Center, “Ironically, more intense supervision (meaning probation) without treatment has been shown to lead to higher rates of revocation, but when more supervision is coupled with treatment, recidivism drops by 20% to 30%.”¹⁹⁸

“You can’t leave everything in the hands of the criminal justice system. It’s like the fox in the henhouse. There’s no oversight or transparency”

-Service Providers Focus Group, Los Angeles

Key factors for successful treatment

The National Institute on Drug Abuse,¹⁹⁵ the National Drug Court Institute,¹⁹⁹ the National Alliance for the Mentally Ill,²⁰⁰ the Substance Abuse and Mental Health Service Agency,²⁰⁰ and the National Commission on Correctional Health Care²⁰¹ have identified key principles or components for effective treatment. Based on these principles, some key factors include:

- Access to treatment
- Amount of time in treatment
- Having a range of services to meet the differing needs of individuals
- Coordination and integration of services among various professionals
- Monitoring and updating of treatment plan
- Balance of rewards and sanctions
- Adequate staffing and capacity with trained staff

Because of the wide number and diversity of programs in all settings and the lack of publicly available information about many of those programs, it is not currently possible to assess what proportion of individual treatment programs in any setting comply with or meet best practice standards for treatment in California. However, there is greater access to mental health treatment and a wider range of potential services offered in community-based settings compared to incarceration-based settings.

Funding of treatment services in California’s prisons and jails

Based on our analysis of the CDCR budget, we estimate that the prisons spent roughly \$544 million in FY 2013-2014 on mental health and substance abuse services and programs – less than 6% of the total corrections budget.

In 2013-2014, California planned to distribute \$2 billion to counties for realignment to “help local governments shoulder the costs of housing and supervising [the] new stream of offenders” and planned

to allocate an additional \$4.4 billion by 2016-2017, for an average of \$1.65 billion a year. According to the Stanford Criminal Justice Center, 23% of the funding will be allocated to programs and services.¹⁸⁰ Averaging counties' planned expenditures, this equates to 23% of \$1.65 billion each year, or \$379 million on programs and services between 2013 and 2017. As part of the realignment process, California has given counties considerable responsibility and discretion in how the realignment dollars may be spent to meet the new demands. Using the Stanford analysis of AB 109 realignment plans,¹⁸⁰ we estimate that 5% to 25%^e of the \$379 million, or \$19-\$95 million per year, will be allocated to treatment services for people in county jail.

Treatment is cost-effective

Community-based treatment is more cost-efficient and cost-effective than incarceration-based treatment. The average annual cost of incarcerating someone in prison is \$59,954,²⁰² in jail is \$41,610,¹⁶⁷ and placement in a state hospital is \$194,732. By comparison, the costs of annually housing and treating someone with mental illness in the community in Los Angeles are \$20,412.²⁰³

Federal, state and local governments spent \$74 billion on incarceration, court proceedings, probation, and parole for substance-involved people who have committed crimes in 2005, but spent less than 1% of that amount on prevention and treatment, according to researchers from Columbia University.¹⁸⁶ That same year, Washington State Institute for Public Policy looked at a wide range of evidence-based treatment of alcohol, drug, and mental illness and found that on average, evidence-based treatment reduced the short-term incidence or seriousness of alcohol disorders by 15%, drug disorders by 22%, and serious mental illness by 22%. On average, evidence-based treatment generates about \$3.77 in benefits for every one dollar of treatment cost.²⁰⁴

In his review of California's substance abuse programs, former Inspector General Cate noted: "Even a seven percent reduction in long-term recidivism among the 9,200 inmates now receiving in-prison substance abuse treatment would translate to 640 fewer inmates returning to prison and a savings of nearly \$40 million in reduced custody and criminal justice costs."¹⁸⁹

Other treatment services and programs

Programs to divert people from prison and jails offer services for those suffering from mental illness and substance abuse disorders, problem-solving courts, day reporting centers, crisis intervention teams, and other diversion programs. In California, there are over 370 problem-solving courts, which combine judicial supervision with rehabilitation services that monitor and focus on recovery. Problem-solving courts include a team approach to decision-making, integration of social and treatment services, community outreach, direct interaction between defendants and judge, and a proactive role for the judge inside and outside the courtroom.²⁰⁵

Drug courts. Drug courts are specialized court programs that target individuals with alcohol and other drug problems who have become involved in the criminal justice system.²⁰² Using risk and needs assessments, judicial interactions, monitoring and supervision, graduated sanctions and incentives, and treatment and rehabilitation services, adult drug courts seek to reduce drug use relapse and criminal recidivism.²⁰⁷

^e Given all the competing needs for programs, services, enforcement, and other budgetary demands, it is believed that 5% is a conservative estimate, while 25% is an ambitious but reasonable statewide estimate.

Most evaluations show that drug courts are effective in reducing recidivism. One systematic review of 92 adult drug court evaluations found that on average there was a decrease in recidivism from 50% among non-participants to 38% for drug court participants.⁷⁸ Los Angeles has a robust drug court program, with 15 drug courts. Over 11,000 participants have entered drug court between 2000 and 2010 and over 4,300 participants graduated.²⁰⁸ About 70% remained conviction-free in the five years following their graduation.²⁰⁹

“Substance treatment... on your record is better than having jail on your record. It might not even come up on a background check. Not only can it have an impact on your behavior, but it can also help by not having jail on your record”

-Formerly Incarcerated Focus Group, Oakland

Mental health courts. Each person who consents to participate in the mental health court receives screening for eligibility, intensive case management, and supervision focused on accountability and treatment monitoring.²¹⁰ Recent evaluations of mental health courts have found that participants are more likely to be connected to and engage in treatment (receive counseling sessions, take prescribed medications), less likely to be re-arrested, less likely to violate probation, and have fewer incarceration days compared to the comparison group, usually those in traditional courts. Although initially some mental health courts may result in greater treatment costs than criminal justice savings, multiple longer-term studies have shown substantial cost savings from reduced recidivism and associated jail and court costs avoided and decreased use of expensive treatment such as hospitalizations and inpatient care.^{203,210}

Re-entry courts. Re-entry courts are designed to prevent people with a history of substance abuse or mental illness who violate their parole from returning to prison by providing enhanced services and supervision.²¹¹ In 2009, the Legislature allocated \$10 million to establish or enhance re-entry courts in Alameda, Los Angeles, San Diego, San Francisco, San Joaquin, and Santa Clara counties. As of 2012, more than 1,100 people on parole had enrolled in the program. Ninety-nine percent had substance abuse problems – more than half who had been substance abusers for more than 20 years – and 38% had mental health disorders.²¹¹ An evaluation of the pilot re-entry courts found that participants had lower rates

of recidivism and better housing and employment outcomes than they did at the beginning of the program. Specifically, in the first year of program entry, 31% of reentry court participants were returned to prison (24% for a violation and 7% on a new charge), compared to the 46% recidivism rate for all people re-entering society after prison. Preliminary evaluations of the six pilot sites found that one-third

Number of Collaborative Justice Courts in California, July 2014

- Adult drug courts: 92
- Juvenile drug courts: 38
- Adult mental health courts: 39
- Juvenile mental health courts: 8
- Boys’ court: 1
- Community courts: 6
- CSEC court: 1
- Dependency/family drug courts: 30
- Domestic violence court: 11
- Dual diagnosis court: 5
- DUI court: 8
- Elder abuse court: 8
- Family law drug court: 2
- Girls courts: 5
- Homeless court: 14
- Mandatory supervision court: 1
- Reentry court: 12
- Truancy court: 4
- Veterans' court: 20
- Youth/peer court: 66
- “Stand-down”: 9

Source: Center for Families, Children, & the Courts, Judicial Council of California, Administrative Office of the Courts, July 24, 2014.

of re-entry court participants graduate, and that of those who graduate, only 12% returned to prison within one year, 30% had obtained permanent housing, and 20% had obtained a higher level of education. Of those unemployed at the time they entered the program, 38% secured employment.²¹¹

“There should be a pre-release assessment: what do you need, what are you lacking, do you have your family ties, do you have health issues, what skills do you have, do you need training, do you have housing. They could get out and hit the ground running, they could have a plan... There’s a window when they get out if they don’t get something pretty soon, they go back to what they know [crime]”

-Service Providers Focus Group, Los Angeles

For our predictions on how Proposition 47 would impact mental health and substance abuse outcomes, see the Predictions section of this report.

Truancy and Dropout Prevention

“The high rate of truancy in California is an issue of accountability that the Department of Justice will prioritize, and that must be prioritized at every level of education and law enforcement. Our laws and our state’s future demand no less.”

-California Attorney General Kamala Harris from ‘In School + On Track’²¹²

Channeling the money saved from reclassifying felonies into programs to reduce truancy and dropout will result in more youth graduating from high school and higher educational achievement for California youth. Educational achievement is highly correlated with the ability to get a job and also correlated with how much people earn in their lives. Keeping youth in school will also reduce crime and involvement in the criminal justice system. These truancy prevention efforts will supplement reforms proposed in the ballot initiative to reduce the problem of intergenerational incarceration.

Key findings

- About three out of ten children in California are truant.
- Up to 20% of California public school students do not graduate on time, with 12% dropping out.
- Each day of a student’s absence decreases the likelihood that they will graduate high school.
- Youth who are truant are 2.5 times more likely to be arrested in the same month they are truant.
- Youth who do not finish high school are over eight times more likely to be incarcerated than those who have a high school diploma.
- Youth who are truant have a higher likelihood of committing violent crime as adults.
- From 2004 to 2008, 94% of San Francisco’s victims of homicide under the age 25 had not completed high school.
- In Los Angeles, truancy prevention programs through the Los Angeles Unified School District increased the ninth grade attendance rate from 51% to 63%. Truancy prevention programs for students referred to the Los Angeles district attorney’s office improved their attendance by eight days per year.
- Best practices for truancy programs show that reaching out early to families of truant students is key for successfully resolving truancy.

The Safe Neighborhoods and Schools Act calls for 25% of the money saved from the reclassification of the six crimes to be redirected to truancy and dropout prevention. This funding would go to the California Department of Education, to be granted to public agencies, other than schools, to deliver truancy prevention and other interventions to keep at-risk youth in school. The money is specifically routed to public agencies in order to not conflict with Local Control Funding Formula and Proposition 98 funding.

Truancy prevention can decrease crime, as illustrated by a comprehensive 2014 report on truancy by California’s attorney general in which she calls for an increase in truancy prevention programs.²¹² Attorney General Kamala Harris’s call for increased truancy prevention is separate from Proposition 47, but supports the reasoning behind the ballot initiative.

Students who are absent from school are less likely to do well academically, more likely to drop out, and more likely to be incarcerated and face a lifetime of low wages. Failure to complete high school is associated with premature death and a variety of other poor health outcomes. Men without a high school diploma live an average of seven years less than men with a high school diploma; for women, the number is six years less.²¹³

Existing conditions and review of existing research

Truancy

In the California Educational Code, truancy is considered a total of three unexcused absences or showing up more than 30 minutes late. Recent data show that about three out of ten children are truant. In 2012-2013, over 29%, or 1.9 million of California's students were truant at some point.²¹⁴ In Los Angeles, the rate was 34%. Over 980,000 truant students statewide were in elementary school.²¹⁴

Truancy has long-lasting effects on students' school experiences. Children who are absent in their early years of school are more likely to have difficulty academically in their later years of school.^{215 212} Students who are unable to keep up academically are more likely to develop behavior problems and become disengaged.²¹⁶ Other research using national data shows that children who miss over 10% of school days in kindergarten score five points lower in math, reading, and general knowledge tests in the first grade, when compared to their peers who miss less than 3% of kindergarten.²¹⁷ In 2014 the California Attorney General released a report on truancy, noting: "Children who miss 10% or more days of school in a year are the most likely to suffer lower academic performance in subsequent school years."²¹²

Studies of Chicago students have shown that both elementary and early high school attendance are strong predictors of whether a student will graduate.^{218 219} One study showed that each day absent leads to a 7% decrease in the likelihood a student will graduate.^{218 219} Another study estimates that first grade students who miss nine or more days of school are twice as likely to drop out of high school compared to their peers with regular attendance.²¹²

Even though graduation and drop out rates have been getting better recently in California, there is still need for improvement. Over 80% of public school students who entered high school in the 2009-10 school year graduated on time in 2013, a small increase from the year before.²¹² The dropout rate for California's public high schools has also been improving: 12% of students who began high school in the 2009-2010 year dropped out before graduation in 2013, a small decrease from the prior year.

Employment and Income

An analysis of national data from the U.S. Department of Education revealed that the median annual earning of young adults ages 25-34 with a high school diploma or the equivalent was \$9,000 higher than young adults who did not finish high school.²²⁰ Another study estimates an additional year of education, on average, can lead to an 8% increase in earnings.²²¹

Graduating from high school is linked with an increased likelihood of having a job. Among adults aged 25-64, 66% with a high school degree had a job, compared with 53% of those who did not finish high school.²²⁰ Unemployment rates only take into account those who are searching for work, but they provide evidence that not having a high school degree makes finding employment more difficult. In

2013, the unemployment rate for adults over the age of 25 years who did not finish high school was 11%, compared to 7.5% for high school graduates.²²² While evidence that links truancy directly to income and employment outcomes is lacking in the U.S., researchers in Britain have found that students who are truant in school are twice as likely to be unemployed in their early 20s compared to their non-truant peers.²²³

Crime

Truancy is a predictor of both youth and adult crime. One study found that children who were truant in a given month were 2.5 times as likely to get arrested in that same month compared to their peers who were not truant. As many as 60% of daytime crimes are committed by truant youth.²²⁴ Another study that followed people from youth through adulthood showed that truancy is a strong predictor of committing violent crime as an adult. The analysis showed that people who skipped school one or two days as students were 1.5 times as likely to be charged with a violent crime as adults than people who were not truant.²²⁵ People who were truant ten or more times as a student were over 2.5 times as likely to be charged with a violent crime as adults.²²⁵

The link between high school graduation and reduced crime has been well established.^{226 227} One study found that a 10% increase in California's high school graduation rate could lead to a 20% decrease in violent crime, by preventing 500 murders and over 20,000 aggravated assaults annually in the state.²²⁸ Truancy and chronic absence from school is strongly linked with juvenile delinquency, such as substance use and gang involvement.^{229 224 230} Further, juvenile delinquency is a consistent risk factor for adult criminal behavior.²²⁹ A Bureau of Justice Statistics report showed that adults who did not complete high school were more than eight times as likely to be incarcerated than their peers who had a high school diploma.²³¹

Not finishing high school is also risk factor for being a victim of violent crime. Young adults who commit homicides and who are victims of homicide are likely to have not finished high school. In California, a study showed that 94% of San Francisco's victims of homicide under age 25 from 2004 to 2008 did not complete high school.²³² Similarly, the same study found that 94% of those who committed homicide also did not complete high school.²³² California's Office of the Attorney General found that 76% of adult victims of homicide under age 25 who attended school in San Bernardino County did not complete high school.

National estimates of people in prison report that 41% do not have a high school diploma, compared to 18% for the general population.²³¹

Truancy prevention programs

California law requires public schools to track attendance, and report to parents or guardians if their child becomes truant.²³³ This notification is the first level of intervention. If a child is absent or tardy five or more times in a school year they are considered a habitual truant, and are referred to a School Attendance Review Board hearing.^{234 235} This is the second level of intervention.

Review board hearings take place after a parent has been notified if there is no improvement in attendance. The hearings take place before a parent or guardian is referred to court, in an effort to reduce the criminalization of parents of truants, and address the underlying cause of truancy. The attorney general's report found that out of 58 of California's county offices of education, 43 had

attendance review boards in place, and the remaining 15 did not.²¹² The third level of intervention is a referral to court to be prosecuted, which is used as a last resort, used only for parents and children who are non-cooperative after review board hearings.

One of the most important elements of effective truancy prevention programs is involving parents and guardians early.²³⁶ Another effective approach identified by the attorney general's report was hiring social work and psychology interns, which is a low-cost way to provide much needed counseling and therapy.²¹² Truancy should be treated holistically. Often, a child's absence is not because the child simply did not want to show up. Truancy is often a symptom of other issues in resource-poor households. One study found that "public elementary schools with high truancy rates are likely to have significant numbers of economically disadvantaged students. As poverty rates increase, so do rates of truancy in California's elementary schools."²¹²

Los Angeles

Los Angeles provides an example of how strategic planning and holistic services can improve school attendance. Los Angeles Unified School District initiated a district-wide plan to combat truancy. In addition to public awareness campaigns and special events designed to recapture students who had been chronically absent, attendance improvement counselors were placed at 52 elementary schools and 25 high schools with high truancy rates. The counselors were able to help "track data, reach out to students and parents, create incentives for good attendance, and build capacity in the school community."²³⁷

Kindergarten and the ninth grade are often the grades with the highest levels of truancy. Los Angeles has had a large amount of success increasing proficient attendance (those who are in attendance at least 95% of the time) and reducing truancy through a network of anti-truancy initiatives, as shown by the 2011-2012 school year outcomes:

- The rate of proficient attendance in kindergarten increased to 62% from 37% in the previous school year.²³⁷
- The rate of proficient attendance in the ninth grade increased to 63% from 51% in the previous year.²³⁷

Not only did LAUSD take large steps toward reducing truancy, but the Los Angeles County's District Attorney's Office also got involved by spearheading the Abolish Chronic Truancy (ACT) program, which has proven successful in reducing truancy of elementary students. ACT program staff members work with families to inform them of their legal responsibility to ensure that their children attend school. Staff also link parents and guardians and students with referrals to services that help them improve their attendance. Students in the program improve their attendance by an average of 8 days per year within 12 months of referral.²³⁸

Truancy prevention program costs

School districts do not report expenses for operating attendance review boards or other truancy prevention programs to the California Department of Education. School districts are empowered to set up policies and programs that suit the environment and needs in their district. Because the amount spent varies widely among school districts, it is not possible to estimate a total statewide amount.

Schools receive general purpose funds they can spend without specific reporting requirements. However, there are areas in which schools report related spending through truancy mandates, alternative schools for at-risk youth, and a spending code called “attendance and social work services.”

- *Truancy notification.* California school districts spent approximately \$23.9 million in 2012-2013 on tracking, identifying, and notifying families of truant students.²³⁹
- *Intervening with habitual truants.* School districts spent \$6.2 million in 2012-2013 to intervene when a student became habitually truant. Activities included reaching out to habitual truants, activities that include tracking habitual truants, and scheduling and holding parent conferences.²³⁹
- *Attendance and social work services.* California schools reported spending \$175 million in 2012-2013 in this category, which is defined as “activities designed to improve student attendance at school and prevent or solve student problems involving the home, the school, and the community.”²³⁹

For our predictions on how Proposition 47 would impact truancy and dropout, see the Predictions section of this report.

Funding for Survivors of Violent Crime

“Crime victims and survivors deserve to be treated with dignity and validated as persons who have been harmed by crime, with their autonomy and privacy respected at all times.”

—Guiding Principles for Crime Victims and Survivors in America²⁴⁰

Proposition 47 would channel 10% of the money saved from the reclassification of the six crimes to the Victim Compensation and Government Claims Board, which in turn offer grants to trauma recovery centers to provide services to victims of violent crime.

There is currently one trauma recovery center in California at the University of California, San Francisco, which the authors of Proposition 47 hold as a model. Two more trauma recovery centers are opening up in 2014 in Los Angeles and Long Beach. The California Policy Research Center conducted an evaluation of services provided to victims of crime, summarizing up the approach of UCSF’s Trauma Recovery Center (TRC): *“The TRC model addresses key problems in the current system by providing comprehensive services—including assertive outreach, case management, and trauma-focused psychotherapy—designed to increase access to the victim services system, victim benefits, and mental health care.”²⁴¹*

Key findings

- In 2012 there were 160,944 violent crimes in California.
- Being a victim of violent crime increases one’s risk of post-traumatic stress disorder, depression, and substance use.
- One out of five Californians surveyed had been a victim of any crime, and one out of ten had been a victim of violent crime.
- Half of Californians who were raped did not report the crime to the police.
- One-third of victims of assault and robbery, and three of every five victims of stalking, did not report it to the police.
- Trauma recovery center patients were over twice as likely, and survivors of sexual assault were eleven times as likely to access mental health care following the crime.
- 74% of trauma recovery center participants experienced an improvement in mental health symptoms.
- Receiving services at the trauma recovery center led to a 69% increase in the number of police reports filed by recipients and a 44% increase in cooperation with district attorney’s offices.

People who experience violent crime are at risk for increased post-traumatic stress disorder, depression, and substance use.²⁴² Violent crime is one vehicle that perpetuates racial and socioeconomic disparities in mental health, as people of color and people of lower socioeconomic status are more likely to be victims of violent crime. The trauma recovery center model has been shown to be an effective way of addressing the negative mental health impact of violent crime in California.²⁴³ Funding trauma recovery holds the promise of addressing the needs and improving mental health outcomes of people victimized by violent crime in California.

Existing conditions and review of existing research

Violent crime and victims of crime in California

Data from national surveys estimating crime victimization are not available at the state level, but a commonly used metric is to use the incidence of crime. In 2012 in California, there were 160,944 violent crimes.²⁴⁴ Of those, 59% of people were assaulted, 35% were robbed, 5% were raped and 0.01% were murdered.

Los Angeles accounted for 18,547 of those violent crimes.²⁴⁴ In Los Angeles, 48% of victims were robbed, 45% were assaulted, 5% were raped, and 0.02% were murdered.

Research has shown that people who are victimized by violent crime tend to underreport to the police.²⁴⁵ In a 2013 survey of Californians, half of people raped did not report to the police.²⁴⁵ Similarly, more than one of every three victims of assault and robbery, and three of every five victims of stalking did not report the crime to the police in the same year.²⁴⁵

Victims of crime in California

Victims of crime fall into two categories: violent (homicide, robbery, sexual assault, domestic violence, and assault and battery) and non-violent (property crimes, fraud, check forgery, and other non-violent property crimes). In a survey of Californians commissioned by Californians for Safety and Justice, one-fifth of the participants reported being a victim of crime in the last five years, and one out of ten reported having been a victim of violent crime.²⁴⁵

Two-thirds of crime victims report being victims of more than one crime in the last five years,²⁴⁵ and victims of violent crime are more likely to be low-income, younger, and are disproportionately black or Hispanic.²⁴⁵ When asked why they reported crimes to the police, 14% of victims of violent crime in California said it was because they wanted to receive services.²⁴⁵ The same study found that 22% of survivors of crime in California were unaware of the availability of mental health services provided through the criminal justice system, but were interested in accessing them if they were available.²⁴⁵

Table 4. Victims of Violent Crime

	White	Black	Hispanic	Other race	Male	Female
California Population	39%	7%	38%	14% Asian 4% other		
Victims of Violent Crime	25 per 1,000 people	34 per 1,000 people	25 per 1,000 people	Asian – 16/1,000 Nat Amer – 47/1,000	29 per 1,000	23 per 1,000

Sources: U.S. Census State and County QuickFacts - California⁴⁴; Bureau of Justice Statistics, *Criminal Victimization 2012*.⁵⁶

Effects of being a victim of crime

In the survey, two out of three victims of crime said they had anxiety, stress, trouble sleeping, and difficulty at work after the crime.²⁴⁵ One-quarter of victims say they were very affected by the crime.²⁴⁵ A majority of victims report that it takes more than six months to feel that they have recovered after the crime, and up to one-fifth of victims of violent crime say it takes more than two years to recover.²⁴⁵ Nine out of ten crime survivors report that their quality of life is impacted by crime in their community.²⁴⁵

Effectiveness of the UCSF Trauma Recovery Center

California's current Trauma Recovery Center is implemented by the University of California, San Francisco, serving victims of gun and knife violence, physical and sexual assaults, and domestic violence.²⁴³ A randomized control trial evaluating the effectiveness of the center showed that the program boosted access to mental health care, improved physical and mental health outcomes, and helped participants stay employed and avoid homelessness.

Mental health care improved for those enrolled in the program. Victims of crime were over twice as likely to access mental health care following their victimization.²⁴³ The difference in outcomes for survivors of sexual assault, who are much less likely to access mental health services than other victims of violent crime, was even more pronounced. Survivors of sexual assault were over eleven times as likely to access mental health care following their use of the TRC program.²⁴³ Employment and housing outcomes also improved. Fifty-six percent more Trauma Recovery Center participants returned to work following their victimization, compared to the usual care group, and also experienced a greater reduction in homelessness than those in usual care.²⁴³

The UCSF model shows promise in addressing the mental, emotional, and physical health of victims of crime. After completing treatment in the Trauma Recovery Center, 74% of participants experienced an improvement in mental health symptoms, and 51% saw improvements in physical health.²⁴³ Further, participants also decreased their alcohol and drug use following treatment.²⁴³

The UCSF Trauma Recovery Center also increases cooperation with law enforcement. People accessing the center have increased cooperation with police, with a 69% increase in the number of police reports filed by recipients of the center's services. Additionally, participants increased their cooperation with the district attorney's office by 44% in comparison to victims that did not have trauma center services.²⁴³

Currently, the UCSF Trauma Recovery Center serves about 700 people per year.²⁴⁶ Because of funding constraints, the wait list is approximately three weeks for a new patient to begin accessing services.²⁴⁶ The annual budget is \$1 million.²⁴⁶

Current funding of trauma recovery programs in California

The Victim Compensation and Government Claims Board administers two programs, the California Victim Compensation Program and the Government Claims Program. The Victim Compensation Program provides compensation for victims of violent crime by providing eligible victims reimbursement for many crime-related expenses. The Government Claims Program resolves claims against the State.

Because of the effectiveness of trauma recovery centers, the California Legislature and the authors of the ballot initiative have elevated this model of victim services for expansion. In 2007, the annual cost of operating the UCSF Trauma Recovery Center was \$1.6 million, and provided services at the rate of \$66.81 per hour, compared to \$101.84 for other Victim Compensation and Government Claims Board providers.²⁴³ Senate Bill 78, signed into law in June 2013, authorized \$2 million annually for trauma recovery centers to replicate the UCSF's success. The funds were distributed to trauma recovery centers that will be established in Los Angeles and Long Beach.²⁴⁷ Savings from the Safe Neighborhoods and Schools Act will also be directed to this fund for the establishment of additional centers.

For our predictions on how Proposition 47 would impact victims of crime, see the Predictions section.

Predictions
How will Proposition 47 impact health and equity in California?

If Proposition 47, the Safe Neighborhoods and Schools Act, passes and treatment and rehabilitation programs and services identified are implemented according to evidence-based practices, Proposition 47 will improve the lives of all Californians, most directly of those who have been and who will be convicted of these six crimes, their families, students at risk of dropping out of school, and victims of crime. For more detailed information about how we arrived at these predictions, please see the Technical Report at <http://www.Prop47impacts.org/>.

Table 5. Proposition 47 Predictions

	If the ballot initiative passes and...		
	Mental health and substance abuse programs are <i>fully funded and implemented true to evidence</i>	Mental health and substance abuse programs are <i>not fully funded</i> as set out in the ballot initiative or are <i>not implemented according to best practices</i>	People are <i>unaware</i> of the resentencing option and/or the expungement opportunity
Overview: The Numbers	++	++	++
Public Safety	+	~	+
Additional Punishments	+	+	~
Families	++	+	~
Budget	++	++	++
Mental Health and Substance Abuse Treatment	++	+	++
Truancy and Dropout Prevention	++	++	++
Victim Services	++	++	++

Legend:

- ++ positive impact on determinants of health; large number of people affected (more than 10,000 or more than \$100 million)
 - + positive impact on determinants of health
 - ~ no change
 - negative impact on determinant of health
- Red font indicates a change in the prediction

All Californians would benefit from:

- Reduced crime
- Decreased county and state spending on corrections
- Improved mental health and decreased substance abuse in the population, less truancy, and improved services for victims of crime

People who have committed the six crimes, or will commit in them in the future, will benefit from:

- Fewer people in state prison: 9,000 people currently would be eligible for resentencing and over 3,000 every year would potentially not go to prison
- Fewer people in county jails and on felony probation
- Fewer people with felony convictions on their records. More than 40,000 people every year would get misdemeanor sentencing for these crimes, and tens of thousands of people who have served their sentence already could change their felony conviction to a misdemeanor.
- Decrease in second and third strikes and decreased risk of long-term imprisonment. Currently there are between 1,500 and 2,200 people serving time for a second strike for these crimes.
- Recidivism in California will decrease by at least 10% a year among people involved in the criminal justice system who participate in treatment programs either in the community or within the criminal justice system.
- Increased employment, access to housing, and eligibility for CalWORKs if people go through the record expungement process.
- Increased eligibility for federal education loans and ability to serve on a jury.
- Decrease in separation from children and family.
- Improved mental health and substance abuse treatment services in institutions and in the community.

Family members of people who have committed or will commit the six crimes would benefit from:

- Punishments that allow the person convicted of the crime to stay home or to be absent for less time, such as county jail or misdemeanor probation. Compared to prison, county jail sentences could result in improved family visitation. This would minimize the damage to social ties to the family, which would mean:
 - Better outcomes for youth: less risky behavior such as drug use, less involvement in crime, less depression, post-traumatic stress disorder and anxiety, and better behaviors
 - Better outcomes for partners: less divorce and separation, and less maternal depression
 - More than 10,000 children who currently have a parent in California prisons eligible for resentencing could maintain their social connection with parents, if parents are resentenced.
 - Up to 5,800 children a year of parents convicted of the six crimes in the future would benefit from social connection with parents, who would be in jail or misdemeanor probation rather than prison.
- Reduced material hardship: avoidance of reduced household income and expenses related to prison such as phone calls, travel to visit, food, and supportive funds for the incarcerated person.
- Better outcomes for children due to reduced risk of being placed in the foster care system.

People who suffer from mental illness or substance abuse, in the criminal justice system or just in the community, would benefit from:

- A 31% increase in funding for services targeted to them – up to \$195 million annually.
- Improved recovery from substance abuse and ability to manage mental illness.
- Decreased suicide rates and victimization of incarcerated people.

Public school students who are at risk of truancy and high school dropout and their families would benefit from:

- An increase of up to \$75 million for truancy and dropout prevention programming, providing 1.9 million at-risk youth with increased access to services.
- Improved academic outcomes, graduation rates, and work and income into adulthood.
- Decreased involvement in the juvenile and adult criminal justice system, and a decreased risk of being a victim of crime.

Victims of crime would benefit from:

- An increase of up to \$30 million for trauma recovery centers, providing up to 17,800 more victims of crime with improved access to mental health services
- Improved physical and mental health, ability to remain employed, and decrease in homelessness

Law enforcement would benefit from:

- Reduced recidivism and crime
- Improved mental health and reduced substance abuse rates
- Improved cooperation with victims of crime, potentially leading to more case closures.
- Decreased overcrowding in prisons and jails
- An influx of funds for rehabilitation to community corrections and in community-based settings

The important benefits outlined here of the Safe Neighborhoods and Schools Act passing are dependent on the thoughtful, fully-funded, and effective implementation of mental health and substance abuse treatment, both in community-based settings as well as in community corrections and institutional-based settings. In particular, our prediction of a reduction in crime is dependent upon implementing these programs following evidence-based principles and secure future funding. Additional effects on decreased recidivism and crime are based on well-implemented truancy prevention and victim services.

Recommendations

If Proposition 47 passes, **our highest priority recommendation (recommendation #1) is to allocate the full amount of designated funding to the mental health and substance abuse, truancy and dropout prevention, and victim services programs and to implement these programs according to best practices.** The full health and equity benefits of the proposition will not be realized if this is not done.

Other high priority recommendations with regard to implementation of Proposition 47 include:

Implementation of re-entry, mental health and substance abuse, truancy prevention, and victim services programs			
Recommendation	Detail	Agency	Rationale
<p>2. Develop clear guidance on how counties should utilize SNSA funds, including identifying and promoting evidence-based best practices for re-entry to address mental health, substance abuse, housing, employment, and related needs; truancy prevention; and victim services.</p>	<p>The Board of State and Community Corrections (BSCC) should consult with the Mental Health Services Oversight and Accountability Commission (MHSOAC) (and other mental health and substance abuse experts, education, and trauma recover experts) to develop clear guidance on how counties should utilize Safe Neighborhood and Schools Act funds. Partners should identify and promote best practices and counties should be held accountable to following this guidance.</p> <p>With the Department of Health and Human Services (DHHS) and Community Corrections Partnerships (CCP), MHSOAC should conduct a county-by-county needs assessment to determine: 1) current and projected mental health and substance abuse needs of the formerly incarcerated population; 2) services currently available; and 3) additional capacity necessary to address unmet needs.</p> <p>Ensure that rehabilitation programs address the underlying causes of criminal behavior including mental health issues, trauma, addiction, housing, employment, and education. Rehabilitation programs should use elements of cognitive behavioral therapy, motivational interviewing, and other methods known to be effective.</p> <p>Incorporate participation of people who have been involved in the criminal justice system and have used these services into developing the guidance.</p>	<p>Board of State and Community Corrections</p> <p>Mental Health Services Oversight and Accountability Commission</p>	<p>Reductions in crime, recidivism, substance abuse, and truancy and improvements in re-entry, mental health, and utilization of victim services are dependent on implementation of evidence-based practices. Given the availability of evidence-based implementation best practices, counties should be provided with guidance.</p>

<p>3. Increase planning, implementation, and evaluation of wraparound re-entry services, including Full Service Partnerships. Ensure long-term funding for re-entry services such as these.</p>	<p>County agencies should develop and implement re-entry plans.</p> <p>Increase the amount of funding that people are given upon release from prison from the current \$200. Determine funding through evaluation of cost of transportation, housing, clothing, and food.</p> <p>Ensure that people have proper identification upon leaving prison.</p>	<p>CA Legislature to allocate funds</p> <p>MHSOAC and California Department of Corrections and Rehabilitation (CDCR) to implement changes</p>	<p>Re-entry services are vital to one's ability to enter society after imprisonment, but difficult to access. Available tools are valuable for ensuring that those leaving prison are successful.</p>
<p>4. Reduce barriers to re-entry (e.g., related to employment, housing, welfare benefits) in California.</p>	<p>Provide funding to a third party evaluator with legal and social scientific expertise (university partner or legal advocacy organizations) to systematically review existing additional punishments in California and recommend opportunities to reduce them. Develop a framework to assess each punishment's utility, effectiveness, and unintended consequences. Data sources should include interviews and/or focus groups with law enforcement, judges, service providers, and those with convictions on their records, in addition to more traditional data sources. Based on this review's recommendations, pass legislation to reduce barriers.</p>	<p>California Legislature</p>	<p>In order to reduce barriers to successful re-entry so that those convicted of crimes are given a better opportunity to lead productive lives after completing their sentences.</p>
<p>5. Use multiple sources of funding to support mental health and substance abuse treatment and rehabilitation programming in the community and in institutions.</p>	<p>When possible, use funding and programs available through the Affordable Care Act (ACA) for rehabilitation.</p> <p>Require counties to use a minimum of 15% of AB 109 funding for mental health and substance abuse programs in jails and during community supervision.</p> <p>Require all prison and jail facilities to provide mental health and substance abuse programs for those incarcerated.</p>	<p>Governor and legislature</p>	<p>There is extensive unmet need for mental health and substance abuse services, though there are multiple funding streams that can be used for these purposes, including the ACA and AB 109.</p>

Outreach to people eligible for resentencing			
Recommendation	Detail	Agency	Rationale
6. Launch an education campaign to notify individuals eligible for Proposition 47 (Safe Neighborhood and Schools Act) resentencing and expungement of their eligibility. Support legal representation for those who apply for resentencing and expungement. Evaluate the process and outcomes and adjust outreach and process as needed to maximize the use of resentencing and expungement by those eligible.	<p>Allocate funding and/or partner with foundations to support media and community outreach/notification, legal representation, and evaluation.</p> <p>Create media campaign and distribute materials among agencies responsible for notification including: Re-entry service providers, CDCR, County Jails, County Community Corrections Partnerships, drug treatment centers, probation offices, parole offices, other community supervision, Collaborative Justice Courts.</p> <p>Ensure that there is legal clarity regarding how to apply for Safe Neighborhood and Schools Act resentencing and expungement. Provide responsible parties, including law enforcement, courts, and others with explanatory materials and training.</p>	<p>California Legislature</p> <p>California Department of Justice</p>	In order to be successful in reducing obstacles to employment, housing, government benefits, and civic participation, people who are eligible to have their conviction reclassified and have their records expunged must know their rights and have support available.
Data collection on misdemeanors			
Recommendation	Detail	Agency	Rationale
7. Track and make public data related to dispositions of adult misdemeanor convictions.	<p>Data should include number of convictions, sentences (jail, probation with jail, probation, fine, other), average time served in jail, and recidivism for people with misdemeanors.</p> <p>Data should be made available annually and broken out by type of crime and by race/ethnicity, age, and gender. Data should also be tracked and made available by county.</p>	<p>The California Department of Justice</p> <p>Judicial Council</p>	Because of the inability to get any data on misdemeanors, it is impossible to understand outcomes for those convicted for misdemeanors and there is a lack of accountability in the justice system for those outcomes.

Additional recommendations with regard to implementation of Proposition 47 include:

Evaluation of outcomes			
Recommendation	Detail	Agency	Rationale
8. Evaluate outcomes of the Safe Neighborhood and Schools Act implementation.	<p>Provide funding to a third party evaluator with legal and social scientific expertise (university partner or non-partisan evaluation researcher) to systematically review outcomes of implementation of the Safe Neighborhoods and Schools Act.</p> <p>Outcomes should include: crime rates and recidivism at the state and county level; substance abuse recovery, ability to manage mental health, employment, and housing and family stability for those with criminal records; graduation rates for at-risk youth; and mental and physical health for crime victims.</p>	<p>California Department of Justice</p> <p>Board of State and Community Corrections</p> <p>The California Victim Compensation and Government Claims Board</p>	In order to hold the justice system and other stakeholders accountable, to make sure that programs and services are being implemented according to best practices, and to inform future practice, outcomes must be tracked and evaluated.
Family visitation improvements			
Recommendation	Detail	Agency	Rationale
9. Ensure that people sentenced to jail have opportunities for visitation with their families.	<p>County jail systems should place those incarcerated as near to their family as possible.</p> <p>County jail systems should ensure that jails have adequate spaces, appropriate lengths of visitation, and limited processing and wait times for those incarcerated to see their family.</p>	County Sherriff's Offices	Family support and visitation maintains important connection and relationships.

Monitoring Plan

As put forth in the recommendations, we have suggested evaluation of the implementation and outcomes if the Safe Neighborhoods and Schools Act passes.

We recommend that the California Department of Justice, through the Attorney General's Office, oversee an external evaluation of the savings from the reclassification of the six crimes. The evaluation would track changes in the following indicators:

- Misdemeanors (arrests, convictions, sentences, recidivism)
- Felonies (arrests, convictions, sentences, recidivism)
- Funding: How Proposition 47 funding is allocated on a county-by-county basis; how much each program is funded for; an account of funding of programs and services in community corrections; the proportion of CDCR's and county jail budgets put toward mental health and substance abuse programs.
- Process outcomes: the number of mental health and substance abuse treatment programs implemented; the number of rehabilitation programs in community corrections at the county level; fidelity of implementation of treatment and rehabilitation programs, truancy and dropout prevention, and victim's services programs to evidence-based practices; numbers of people who know of expungement possibility.
- Impact outcomes: the number of people who have their crime reclassified and sentence changed, violent and property crime rates, substance abuse recovery, ability to manage mental health, number of people who have their records expunged, employment, income, housing, family unity, truancy, graduation rates, mental health outcomes for victims of crime.

We suggest that annual publications reporting the progress of Proposition 47 implementation and outcomes are posted on the websites of the attorney general and other relevant agencies.

Limitations

Available data

Certain types of data that were lacking or not publicly available would have made predictions of change due to the Safe Neighborhoods and Schools Act more precise.

- The number of people currently charged as felons for second-degree burglary or grand theft who actually committed shoplifting as described in the Safe Neighborhoods and Schools Act.
- Data on misdemeanor convictions, sentencing, re-arrest, and returns to custody
- Estimates for budget savings were limited by the same lack of data mentioned above on how felony convictions are currently sentenced.
- California-specific estimates of parents in prison and the number of children with incarcerated parents.
- Data on truancy prevention spending, mental health and substance treatment, number of people served by programs in jails and community supervision
- County-by-county overview of how much spent on treatment services relative to need
- The proportion of employers and property owners that use credit reporting agency or FBI/CA DOJ background checks, by type of employment and type of housing

Research and evidence

There were research gaps that also would have provided more confidence in the predictions of the potential impacts of the Safe Neighborhoods and Schools Act:

- Studies about recidivism of those charged with misdemeanors
- County-level assessments of the status of community-based mental health and substance abuse treatment and prevention services, and rehabilitation services through community correction - and evaluations of these services that includes mental health and substance abuse outcomes
- A more thorough investigation of the impact of imprisonment on children, and specifically the different effects of felony versus misdemeanor conviction among parents and their children.
- Research on the impact of prison and jail distance on family visitation.
- Evaluations of correctional- and drug court-settings that track mental health and substance abuse outcomes
- Evaluations of comprehensive (wraparound) services that include mental health and substance abuse treatment, housing, and employment support outcomes.
- Research on the impact of the involvement of victims of crime on case closure.

Other methodological limits

With any study of how an intervention affects outcomes, there are a myriad of social changes that impact the ability to make predictions of change. In this case, for example, impacts of public safety realignment and other changes in criminal justice policy in California may also impact the outcomes of interest studied in this report.

Also, many of our conclusions were drawn from the studies of the impact of realignment. The people released to county supervision under realignment are not perfect proxies for the people who might have their sentences changed due to the reclassification of the six crimes, however we believe that the non-violent, non-sexual, non-serious offenses that make people eligible for transfer to the county or release

on post-release community supervision are similar to the low-level crimes addressed by Proposition 47. Realignment has led to a population that is at slightly higher risk for recidivism than we consider the people who would be eligible for the reclassification of the six crimes. Therefore we feel that our estimates are conservative. Finally, our estimate of the amount of funding spent annually on programs and services through realignment is based on analysis of county Realignment Implementation Plans, and is not from budget data.

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