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California Gets Four Week Extension To Reduce Prison Population

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Three federal judges overseeing California's prison system granted the state a four-week extension to get the prison population down to 137.5% capacity. In [2011](#), the United States Supreme Court ruled in *Brown v Plata* that the "court-mandated population limit is necessary to remedy the violation of prisoners' constitutional rights." In the two years since the ruling, California has scrambled to figure out how to reduce the prison population from a high of 144,000 to a constitutionally acceptable figure of [approximately](#) 110,000 inmates. The prison population is [currently](#) around 120,000, not including over 8,500 in out-of-state contracted facilities or thousands of others working in fire camps. California now has until the end of January 2014 to meet the court order.

To this end, California passed a "[realignment](#)" plan that made several important reforms. Overall, it has served to shift significant responsibility to the county level. For instance, realignment ended the practice of automatically sending parole violators back to state prisons and instead allowed for alternative sanctions such as incarceration in county jails. Before realignment, parole violators made up the majority of inmates returning to state prisons.

Significantly, realignment has also allowed for those convicted of non-violent, non-serious, and non-sex offenses to serve time in county jails rather than state prisons. In addition, realignment made significant investments in public-private-partnerships such as Day Reporting Centers (DRCs). DRCs serve as "check-in" centers for formerly incarcerated offenders deemed most at risk of reoffending, and often provide important services such as anger management therapy, life skills classes, and substance abuse treatment. Merced County, for example, currently receives funding through the realignment plan to operate a DRC. Merced contracts with a private company to provide DRC to 65 high-risk clients. According to the [latest](#) Grand Jury Report, the DRC has been highly successful, with participants recidivating at half the state and county average.

California has also benefited in the past year from the voter-approved [Proposition 36](#) in 2012, which authorized the resentencing of "third strikers" who were sentenced to mandatory life sentences for non-violent offenses under the 1994 Three Strikes Law. **Since November 2012, over 1,000 California inmates once serving life sentences have been resentenced and released from state prisons. Over 2,000 other current "third strikers" are still in the petition process to have their sentences reviewed.** According to a recent Stanford Law School and NAACP report, of the 1092 applicants for resentencing under Proposition 36, only 2% were denied resentencing. Even more impressively, those released have thus far recidivated at substantially lower rates than state and national averages. It has been [estimated](#) that, should this trend continue, taxpayers will likely save a billion dollars over a decade from the releases.

This said, things haven't necessarily going so smoothly. Governor Jerry Brown has repeatedly attempted to lift federal oversight of medical and mental health delivery in state prisons. A bid in April of this year to lift federal oversight of mental health services was rejected, with federal Judge Lawrence Karlton [finding](#) that “systemic failures persist in the form of inadequate suicide prevention measures, excessive administrative segregation of the mentally ill, lack of timely access to adequate care, insufficient treatment space and access to beds, and unmet staffing needs.” In fact, California prisons lead the nation in suicides. California's efforts to curb prison suicides have been so abysmal that the federally appointed advisor to the California Department of Corrections and Rehabilitation (CDCR) resigned, [saying](#) “it has become apparent that continued repetition of these recommendations would be a further waste of time and effort.”

In July, medical experts reviewing health care delivery at California State Prison, Corcoran told federal health monitors that the system [posed](#) “an ongoing serious risk of harm to patients.” Further, California has been in the national spotlight in recent years for massive prisoner [hunger strikes](#) protesting against long-term solitary confinement. In the most recent hunger strike, which began in July, 30,000 inmates refused meals, one participant committed suicide, and forty refused meals for two months.

For some reason, California has refused to consider further sentencing reforms, including further reform of Three Strikes, as my colleague Lauren Galik recently [suggested](#). There are currently over 14,000 “second strikers” serving enhanced sentences under Three Strikes for nonviolent drug and property offenses. In the latest legislative session, sentencing reform was nowhere to be spotted.

Currently sitting on Governor Brown's desk is SB 649, which would grant local prosecutors discretion in determining whether or not suspects arrested for drug possession should be charged with a misdemeanor instead of a felony. It is unclear if Governor Brown will accept the modest proposal.

Instead of talking about sensible sentencing reform, California approved a [\\$300 million](#) spending bill to authorize the expansion of contract beds in and out-of-state to ease overcrowding. The rushed proposal is currently still under review by federal courts to determine the extent to which it will enable California to meet the prison population reduction order. Either way, it would be far more beneficial for California to begin having serious discussions on the state prison system and sentencing reform, especially considering that the state is currently allocating \$11 billion towards a still unconstitutionally-maintained state prison system.
