

**Presentation Supplemental**

**AB 109: Criminal Justice Realignment & Reform<sup>1</sup>**

**State-dependence vs. self-reliance**

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California’s fifty-eight counties vary widely in their use of incarceration both at the state and local level. While some locally self-reliant counties pursue recognized best practices by serving their offender population in county-based programs and facilities, other state-dependent counties rely heavily on mass incarceration in state prisons. This creates a justice system directed largely by geography – in which the consequence of committing an offense is determined by where the offense occurs rather than a uniform system of sentencing practices. The below table lists counties that utilized widely contrasting sentencing practices based on the rate of total adult imprisonments per adult population in 2010 (United States Census Bureau, 2010; CDCR, 2010):

<b>Top 10 Counties in 2010</b>		
	<b>State-dependent</b>	<b>Self-reliant</b>
1	Kings	Nevada
2	Shasta	Marin
3	Tehama	San Francisco
4	Tulare	Contra Costa
5	Yuba	Mono
6	Lake	Santa Cruz
7	Kern	San Mateo
8	San Bernardino	Calaveras
9	Butte	Sonoma
10	Siskiyou	Imperial

As a result of this system of justice by geography, California faces a new challenge as counties are now required to absorb greater responsibility. With the passage of Assembly Bill 109 this year and its implementation on October 1, 2011, counties are now required to serve their non-violent, non-serious, non-sex offenders at the local level, in an attempt to reduce the overburdened state prison system. This poses new challenges for all counties: locally self-reliant counties have been penalized in the funding formula for allocation of realignment money and will have to develop new innovative ways to expand

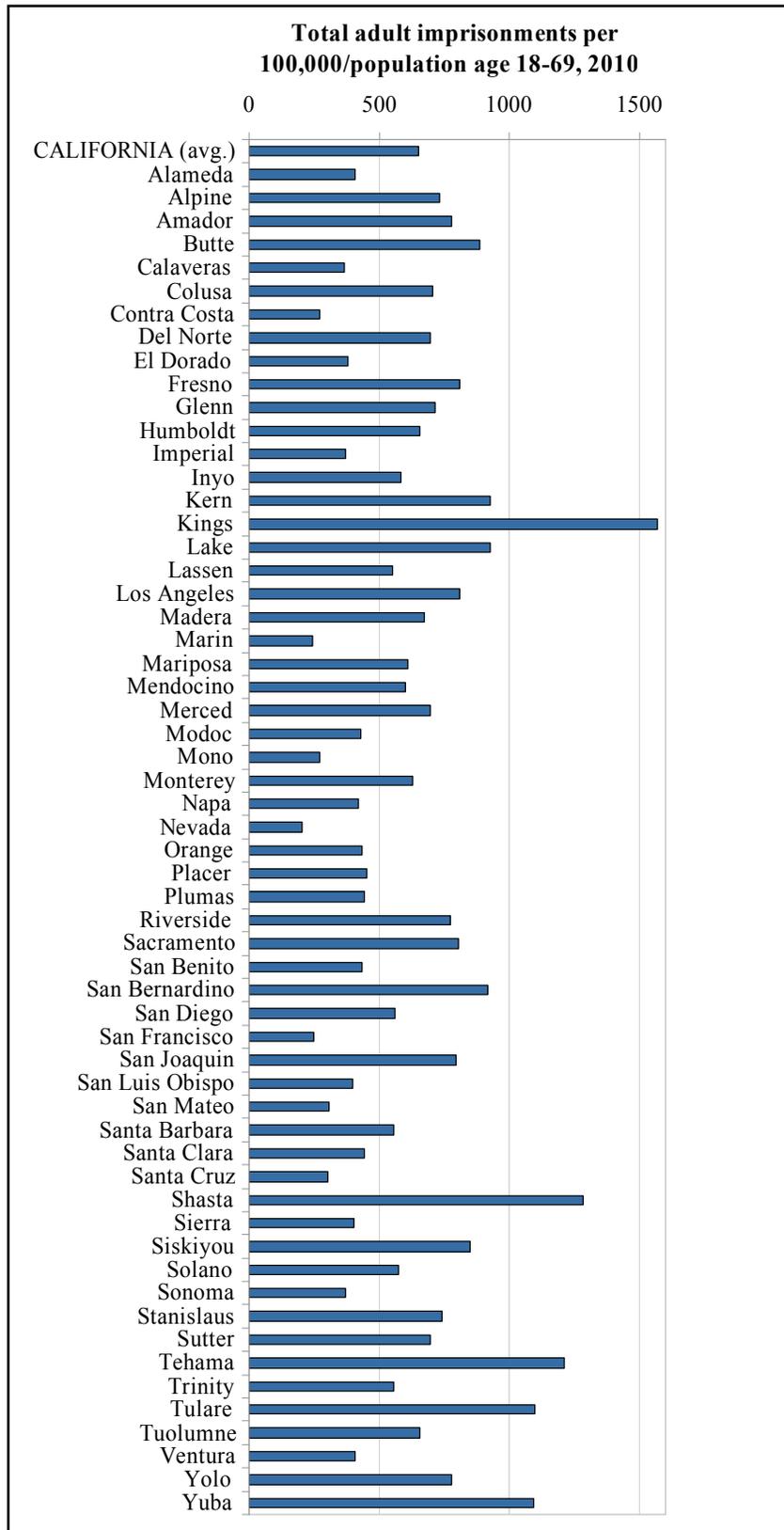
their existing programs to encompass this new population; while state-dependent counties are faced with a pivotal decision – to embrace best practices or perpetuate the mistakes of a broken prison system at a local level.

Chart 1 depicts the rates of adult imprisonments per 100,000 adult population in 2010 across all fifty-eight California counties and including the state average, showing the wide disparities in sentencing practices statewide.

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<sup>1</sup> This report was produced for CJ CJ’s Executive Director Daniel Macallair’s presentation at the conference entitled “California’s Prisons: The Good, the Bad, the Ugly” hosted by Capitol Weekly and the University of California, held on November 17, 2011. The content is derived from several CJ CJ publications available at www.cjcj.org/Resource/Center or upon request.

**Chart 1. Total adult imprisonments per adult population, all counties, 2010.**

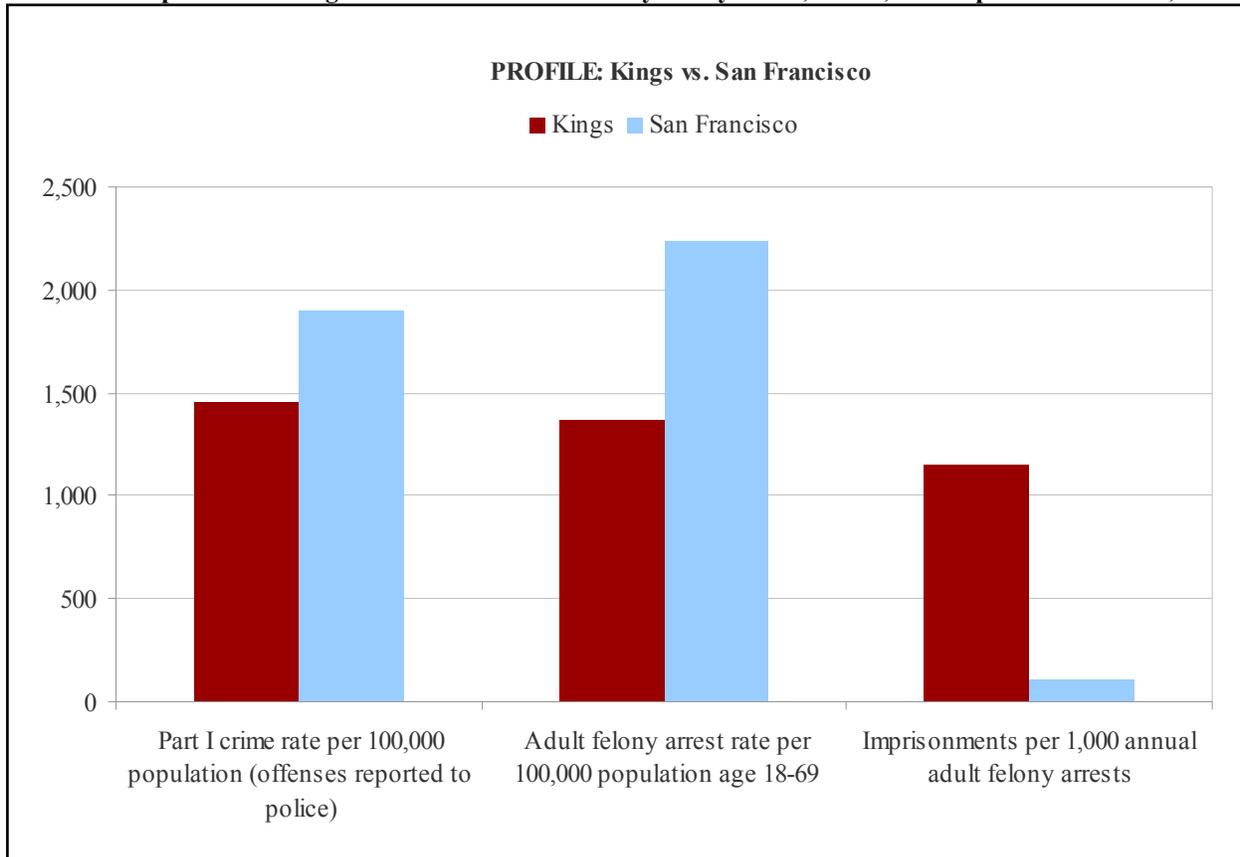


Source: United States Census Bureau, 2010; CDCR, 2010.

## State-dependent sentencing practices are NOT related to crime rates

When county sentencing and imprisonment rates are compared utilizing relative felony arrest rates wide disparities still emerge. For example, while San Francisco County experiences significantly more felony crime and arrests than Kings County, it incarcerates far fewer of those arrested for felonies.

**Chart 2. Comparison of Kings and San Francisco County felony crime, arrest, and imprisonment rates, 2010.**

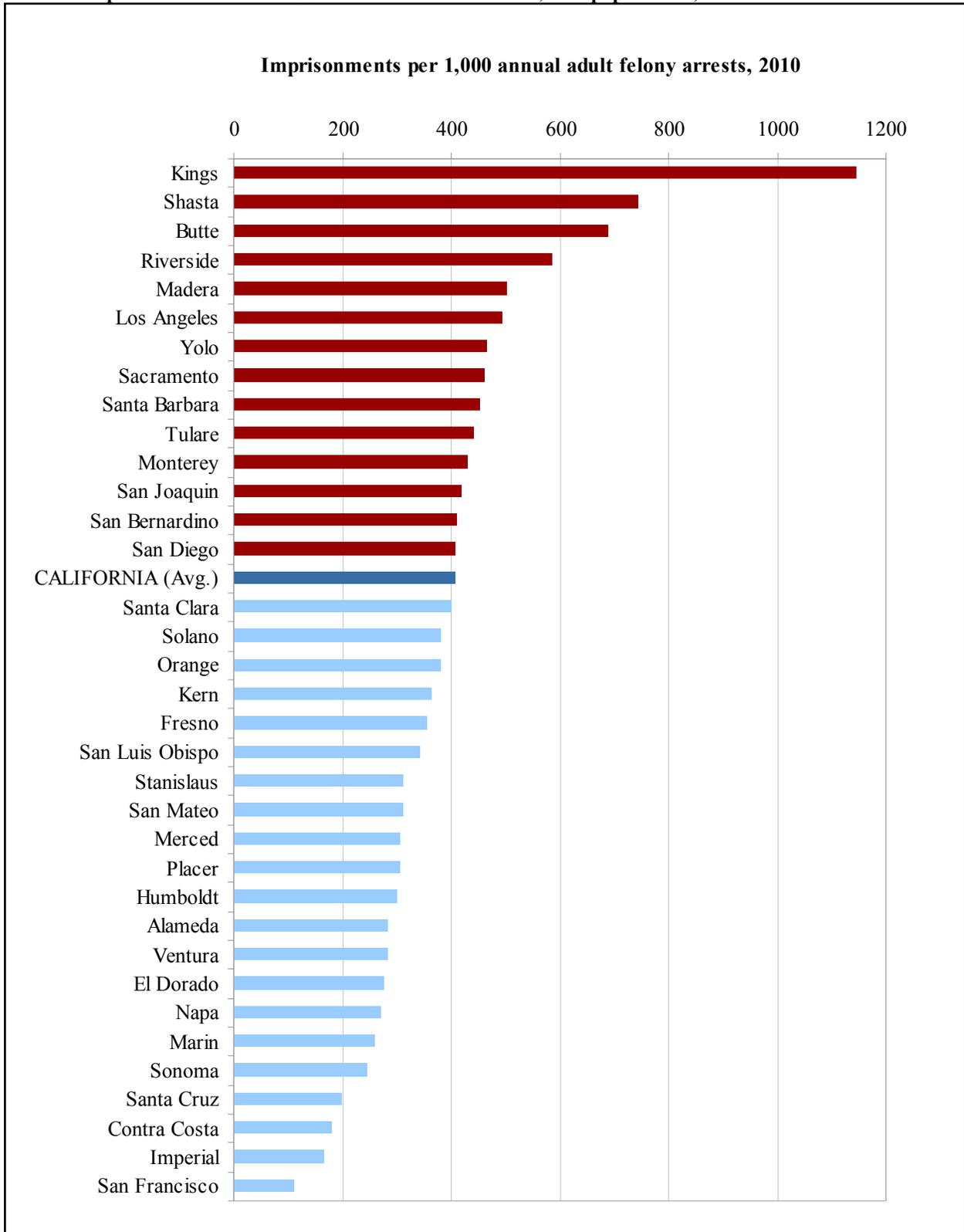


Source: CJSC, 2010; CDCR, 2010.

Instead of utilizing state prison, San Francisco County has pursued and invested in local non-incarceration interventions at both the juvenile and adult level. The city's larger than average decline in crime during the past decade indicates local non-incarceration and alternative policies for non-serious offenders are effective. In fact, between 1990 and 2010 San Francisco's serious and violent crime rate fell by 63%, compared to the rest of California which experienced a decline of 58%.

Chart 3 depicts the imprisonment rates for California counties with 100,000+ populations in 2010, demonstrating the vastly different sentencing practices across California, even when crime rates are controlled for. Fourteen state-dependent counties (pop. 100,000+) incarcerate at rates above the state average.

**Chart 3. Imprisonment rates for California counties with 100,000+ populations, 2010.**



Source: CJSC, 2010; CDCR, 2010.

## Keep low-level offenders local

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In March 2011, California spent nearly \$1.3 billion per year to imprison 26,300 offenders whose primary sentencing offense was a low-level property or drug crime. Approximately 11,000 of these were classed as second or third strikes. The remaining 15,400 low-level, non-strike prisoners who constitute approximately 9% of the state prison population, cost taxpayers nearly \$750 million annually to incarcerate. Low-level offenses are generally nonviolent and typically involve drug issues: either addiction that contributes to property offenses, or involvement in drug possession and lesser drug trade.

For California's major counties (2010 populations of 100,000 or more), where the arrest takes place for marijuana offenses is crucial to determining what the sentence will be. A resident of or visitor to Shasta County is 46 times more likely to be imprisoned for a marijuana offense than his/her Ventura County counterpart, according to March 2011 figures. For counties of more than 1 million people, San Bernardino County imprisons for marijuana offenses at a rate 14 times that of Contra Costa County and 6 times that of nearby Orange County. Thus, counties are still imposing radically varying burdens on state taxpayers to incarcerate their low priority offenders at \$50,000 each per year (LAO, 2011).

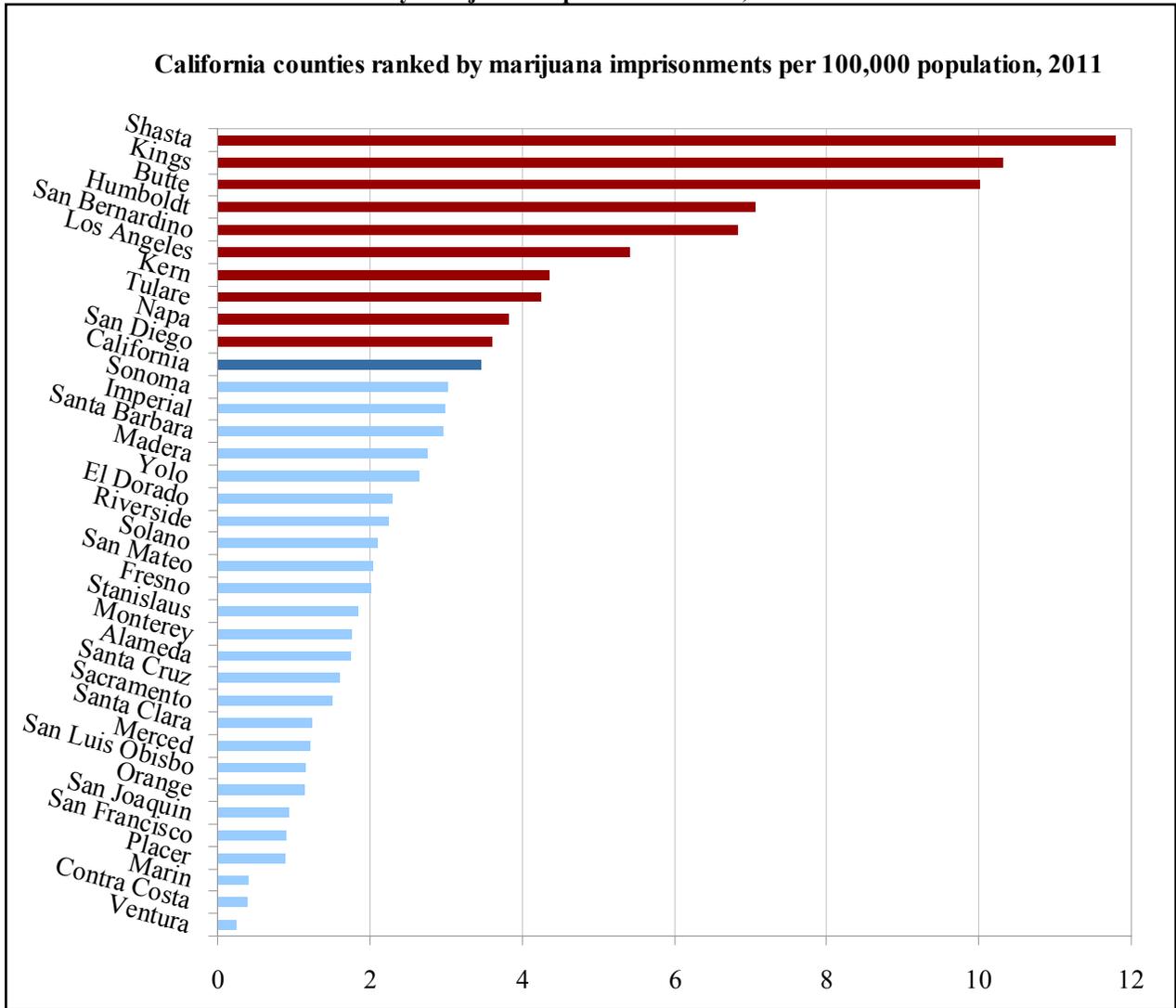
This is contrary to best practices, which recognize that many low-level drug offenders respond better to community treatment and supervision programs as opposed to incarceration, indicated by detailed independent evaluations of the drug-reform initiative, Proposition 36 (UCLA Integrated Substance Abuse Programs, 2011).

This table depicts the ten most state-dependent and ten most self-reliant counties based on the rate of imprisonments for drug possession offenses per 100,000 population in 2010 (United States Census Bureau, 2010; CDCR, 2010).

<b>Top 10 Counties in 2010 (imprisonment for drug possession)</b>		
	<b>State-dependent</b>	<b>Self-reliant</b>
1	Kings	Alpine
2	Kern	Sierra
3	Amador	Contra Costa
4	Shasta	San Francisco
5	Butte	Alameda
6	Tehama	Plumas
7	Humboldt	Inyo
8	Lake	Marin
9	Stanislaus	Santa Cruz
10	Yolo	Nevada

Chart 4, below, shows the imprisonment rates for marijuana-related offenses in 2011 for counties with 100,000+ populations using June 2011 data. Ten counties are ranked above the state average.

**Chart 4. California counties ranked by marijuana imprisonment rates, 2011.**



Source: CJSC, 2010; CDCR, 2011.

## Fiscal incentives

**Table 1. Costs added/saved from rates of imprisonments**

<b>County**</b>	<b>Costs added (millions of dollars/year)*</b>
Los Angeles	\$438.7
Riverside	\$149.2
Kings	\$47.4
Sacramento	\$41.1
Shasta	\$31.3
Butte	\$24.8
Tulare	\$10.8
Santa Barbara	\$7.2
Yolo	\$6.4
Madera	\$5.6
San Joaquin	\$4.5
San Bernardino	\$4.5
Monterey	\$4.1
San Diego	\$1.7
<b>TOTAL added from excessive imprisonments =</b>	
<b>\$782 million/year</b>	
<b>County**</b>	<b>Costs saved (millions of dollars/year)*</b>
Santa Clara	-\$3.8
Solano	-\$5.0
San Luis Obispo	-\$6.6
Napa	-\$8.8
Humboldt	-\$10.0
El Dorado	-\$10.1
Marin	-\$10.8
Placer	-\$15.6
Merced	-\$16.9
San Mateo	-\$21.5
Kern	-\$27.0
Santa Cruz	-\$27.1
Imperial	-\$27.3
Orange	-\$28.4
Fresno	-\$30.7
Stanislaus	-\$33.7
Sonoma	-\$36.6
Ventura	-\$44.4
Alameda	-\$83.9
Contra Costa	-\$109.8
San Francisco	-\$188.2
<b>TOTAL saved by locally self-reliant counties =</b>	
<b>\$746 million/year</b>	
*At Legislative Analyst-estimated cost per prisoner per year \$45,828 for 2010	
**Counties with 100,000+ population only	

Source: CJSC, 2010; CDCR, 2010, LAO, 2011.

The data indicate that residents of locally self-reliant counties save state taxpayers hundreds of millions of dollars in prison costs every year (costs that will multiply as aging prisoners require more health care). However, these counties' residents continue to pay higher taxes to shoulder the burden of other state-dependent counties that send excessive numbers of non-serious offenders to state prison.

In fact, at a Legislative Analyst-estimated cost per prisoner, per year, of \$45,828 for 2010, state-dependent counties have accrued an additional \$782 million per year due to excessive imprisonments. Los Angeles, Riverside, Kings, and Sacramento counties were the largest contributors to this extra cost, accounting for \$676 million.

Meanwhile, self-reliant counties like San Francisco, Contra Costa, and Alameda have been saving the state approximately \$746 million a year by serving their offenders locally. Whether certain counties should be allowed to continue imposing huge costs for imprisoning thousands of low-level offenders in state prisons on taxpayers from counties that manage their lower-level offenders at local expense is a question fiscal analysts and the Legislature should address.

## Maximizing jail space

In March 2011, while 24 counties with 13.5% of the State’s prison population had more than sufficient local jail space to become locally self-reliant by housing all of the low-level offenders they sent to state prison, most California counties did not. County jails had available bed space for only around 38% of the 15,400 low-level, non-strike property, and drug convicts held in state prisons.

**Table 2. percent of county jail population, unsentenced**

County	Percent of population that is unsentenced
<b>CALIFORNIA</b>	<b>71%</b>
Alameda	84%
Butte	75%
Contra Costa	87%
El Dorado	50%
Fresno	87%
Humboldt	73%
Imperial	75%
Kern	82%
Kings	56%
Los Angeles	71%
Madera	66%
Marin	81%
Merced	71%
Monterey	73%
Napa	66%
Orange	56%
Placer	66%
Riverside	78%
Sacramento	59%
San Bernardino	82%
San Diego	64%
San Francisco	83%
San Joaquin	67%
San Luis Obispo	56%
San Mateo	72%
Santa Barbara	71%
Santa Clara	77%
Santa Cruz	61%
Shasta	82%
Solano	80%
Sonoma	55%
Stanislaus	73%
Tulare	59%
Ventura	69%
Yolo	90%
Counties with 100,000+ population only	

Source: CSA, 2010.

In light of realignment two additional issues arise: (a) whether most low-level offenders require incarceration at all, and (b) for those who do, whether counties can maximize existing jail space by employing innovative and deliberate data driven community-based interventions for some or all of the 50,000 unsentenced offenders, the 6,500 inmates held on contract for other jurisdictions, and the 2,000 inmates awaiting transportation to other custodies who constitute more than two-thirds of the inmates in local jail.

Serving and supervising low-level offenders and unsentenced low-risk inmates in the community could help counties maximize on their existing jail space by reserving it for the most high-risk offenders.

## For more information

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If you would like to learn more about county sentencing disparities please visit CJCJ's California Sentencing Institute displaying the county rates of arrest and imprisonment of adults by offense, race, and sex for 2009 and 2010, at:

<http://www.cjcj.org/technical/assistance/california/sentencing/institute>

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**Please note:** Each year, every county submits their data to the official statewide databases maintained by appointed governmental bodies. While every effort is made to review data for accuracy, CJCJ cannot be responsible for data reporting errors made at the county level.

## Contact Information:

Center on Juvenile and Criminal Justice  
440 9<sup>th</sup> Street  
San Francisco, CA 94103  
(415) 621-5661  
[cjcjmedia@cjcj.org](mailto:cjcjmedia@cjcj.org)

[www.cjcj.org/blog](http://www.cjcj.org/blog)  
[facebook.com/CJCJmedia](https://www.facebook.com/CJCJmedia)  
[twitter.com/CJCJmedia](https://twitter.com/CJCJmedia)

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