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Realignment: California's criminal justice experiment

A four-piece radio series, aired on KALW Public Radio in San Francisco

By Nicole Jones, Class of 2012

Abstract

Over the last 30 years, California's prisoner population expanded eightfold, from roughly 20,000 in the early 1970s to 160,000 in mid-2000. For at least 11 years, prisons have operated at double of their intended capacity. It's created dangerously overcrowded prisons, making it nearly impossible for any sort of rehabilitation to occur.

These conditions and 20 years worth of litigation led to the U.S. Supreme Court's landmark decision in May 2011 ordering California to release 46,000 inmates over the next two years. Now Governor Brown's prison population reduction strategy, or AB 109 Public Safety Realignment, is unfolding in what's been the most significant reform of the state's criminal justice system in more than three decades.

In order to comply with the Supreme Court's decision, California is in process of reducing the number of inmates housed in state prisons from approximately 144,000 to 110,000 by mid-2013. AB 109 is the state's plan for satisfying this order by shifting many criminal justice responsibilities from the state to the county level.

Realignment was implemented on October 1st, which means low-level offenders must serve their sentences locally with a jail term and/or probation. Before AB 109, convicted felons were sentenced to state prison. Inmates currently in state prison will remain there until their sentence is finished.

With realignment and the option of no longer sending low-level offenders or parole violators to state prison, counties must use effective and economical alternatives to incarceration at all stages of the local criminal justice process. That means counties will be faced with the question of whether to spend more money on incarceration or use it for rehabilitation services.

Four radio pieces, which have aired on KALW Public Radio, are taking a close look at how realignment is unfolding. The first piece looks how legislation in California is starting to respond to the Supreme Court's order by ending bans of public services like food stamps for drug offenders. The second piece takes a look at how San Mateo County is balancing their realignment priorities of building more jails or investing in programs like drug court. The third piece examines CDCR's Alternative Custody Program, a bill that puts women and parents with low-level offenses on early release. But it's been a slow moving process due to the lack of funding for wrap-around services like housing, substance abuse treatment and job training, which was not including in the bill. The fourth piece looks out how Contra Costa County's Sheriff and Probation Office are handling realignment with what they say is a flawed funding formula from the state.

Pieces

1. Drug felons take fight for food stamps to the capitol

Transcript:

You may have heard by now that California's prisons are overcrowded. Last May, the U.S. Supreme Court ruled that California must decrease its prison population by over 30,000 inmates in the next two years. Lawmakers are debating exactly how to go about doing this, but it's clear by now that if any prisoners are released on early parole, many will be non-violent drug offenders. But re-entry resources like job training, affordable housing, and healthcare, are already in short supply for people leaving prison.

One potential resource is outright banned. In California, people with prior drug-related offenses are banned from receiving food stamps. Some say this makes it even more difficult for ex-offenders to reintegrate into society. KALW's Nicole Jones has more.

NICOLE JONES: Selena Winn was in her early twenties when she was first convicted of selling drugs in Oakland. She was in and out of prison for more than a decade and has been on parole since 2007. She says she still has trouble supporting herself.

SELENA WINN: It's really hard for me right now. And I'm doing the best I can.

Winn says the \$296 she gets from the county's welfare program every month barely pays her rent. She's also been diagnosed with post-traumatic stress disorder, and can only afford her medication thanks to help from a friend.

WINN: There's nothing left for me to buy food. And being that I'm a felon for sales I can't get food stamps.

The food stamps ban dates back to the mid-'90s when President Bill Clinton introduced the Welfare Reform Act. It gave states the choice to make former drug offenders ineligible for food assistance – a move meant to discourage them from exchanging food stamps for drugs.

Most states that decided to enact the ban have since removed it. But California's law is still on the books. Oakland Assemblyman Sandre Swanson says for ex-offenders like Selena Winn, trouble accessing food stamps is just one more barrier to starting a new life.

SANDRE SWANSON: We have to come up with reentry strategies that help us address recidivism. When someone has paid their debt to society and are attempting to return to the community they need basic tools to survive, and food is fundamental to that.

Swanson has authored a bill to lift the ban. His argument isn't just a moral one.

SWANSON: We have seven out of 10 of the inmates in California return to state prison – that's at \$50,000 a year – we need money for education.

Advocates of lifting the ban say food stamps benefit local economies through sales-tax revenue and increased business at grocery stores. And Swanson says the fear that ex-offenders will misuse food stamps is misguided.

SWANSON: The old notion of having food stamps as the paper food stamps that could be traded for drugs is very much outdated. The security around these are much improved. I would say that 99% of those receiving food stamp assistance are using the money for food stamps.

This isn't the first time Swanson has made attempts to repeal the food stamp ban – he proposed similar legislation in 2007, 2008, 2009, and 2010 – but without any luck. Former Governor Arnold Schwarzenegger explained his veto to assembly members explaining back in 2008:

ARNOLD SCHWARZENEGGER (from letter to the Assembly): Extending food stamp eligibility to drug dealers or traffickers, upon the condition that they engage in drug treatment, will not ensure these individuals will stop selling or trafficking illegal drugs.

This past spring, lawmakers voted to move Swanson's newest food stamps bill to the state senate, again.

ECATERINA BURTON: Any kind of way that we can decrease barriers to food stamps is incredibly important.

Ecaterina Burton is an organizer with the Alameda County Food Bank. On May 17 of this year, she and other activists traveled to Sacramento to lobby legislators to lift the ban.

BURTON: We think that this particular ban on drug felons hurts families' abilities to feed themselves because ultimately the families that do have people who are formerly incarcerated with these kinds of felonies – they are splitting less amount of food among more people.

Frankie Fardella, a former drug offender, was one of the people at the capitol that day.

FRANKIE FARDELLA: I'm not a criminal anymore.

Fardella was 21 when he went to prison for a drug sale conviction. He's now 27, has stayed out of trouble, and recently graduated from a drug rehabilitation program. He says the food stamp ban unfairly targets drug offenders.

FARDELLA: Even people who are murderers or rapists or child molesters – they’re eligible for food stamps. And it’s heartbreaking when you think about it. People need to eat. Even when you’re in jail or prison, you get “three hots and a cot.”

SABRINA LOCKHART: This would allow people convicted of felony drug trafficking, drug dealing, and drug manufacturing to be eligible for food stamps.

Sabrina Lockhart is a spokeswoman for Republican Assembly member Connie Conway of Los Angeles. Conway was one of 23 legislators who opposed moving Swanson’s bill to the Senate.

LOCKHART: We need a safety for Californians in need but expanding programs especially during these difficult budget times puts services at risk for other families who truly need them.

But Ecaterina Burton, of the Alameda Food Bank, says former felons are among the people who need food stamps the most. And she’s hoping legislators will share her view.

ECATERINA BURTON: We have high hopes for this year, that we actually will get rid of this ridiculous policy that makes it hard for someone after having done their time to become a fully functioning member of society.

Since her release, Selena Winn has completed courses at Laney College, and followed all the rules of her parole. She’s looking for a job and volunteering with the Alameda County Food Bank. But she’s still worried about her future.

WINN: I got one more month on parole and I’ll be totally off. I’ve got no violations or anything, but I’m still going to be punished.

Meanwhile, Sandre Swanson’s bill to repeal the food stamp ban is currently in committee. It may not get a vote until the fall.

In Oakland, I’m Nicole Jones for Crosscurrents.

2. New inmates mean big decisions for San Mateo County

Transcript:

As realignment is becoming a reality in California, counties are scrambling to put together plans to deal with thousands of new offenders who will become their responsibility. Fundamentally, counties face a choice: Invest in more jail space to lock people up, or figure out other ways to handle those who commit crimes.

KALW’s Nicole Jones went to San Mateo county to see how it’s dealing with this difficult choice.

NICOLE JONES: Hundreds of people are gathered outside Justice Hall in Redwood City. They're here to demonstrate to the world, that people who get caught up in the criminal justice system can change – if they're given recovery services.

LINNELL BONNER: You know, I've been doing drugs for 19 years, so this is a big movement for me.

Linnell Bonner has been clean for one year.

BONNER: Recovery really does work. Oh and we look super good.

About 70% of the people in San Mateo County jails have substance abuse problems. Because of that, the county has started to look at crime in a new way, says Superior Court Judge Richard Livermore.

JUDGE RICHARD LIVEMORE: We have a huge sea change from the old convict-and-incarcerate attitude and if it's a substance abuse issue we want to be as good about it as we possibly can to let us see what we can do to truly understand what makes this defendant work. If it's a substance abuse issue, we need to address it.

That means investing in things like substance abuse programs and relying less on locking people up. Over the past decade, San Mateo County has developed a wide range of alternative programs for drug offenders. San Mateo County Sheriff Greg Munks says the county has invested so much in alternatives, that they've actually gotten rid of jail space.

SHERIFF GREG MUNKS: Over the last 15 years we've lost about 380 beds to our system.

That means, the jail is often overcrowded with not enough beds for inmates.

MUNKS: So we really created our own overcrowding problem and now we're trying to address that.

Munks is proposing to build a new jail with 750 beds in downtown Redwood City. And with realignment right around the corner, he says it needs to happen fast.

MUNKS: I've been in this business for 34 years and this is the most significant shift and change we have experienced in the criminal justice system. It is big. It is huge.

Under the state's prison realignment program, San Mateo County is expected to get 300 new inmates over the next year. The new jail would make space for these inmates. It would also cost up to \$165 million dollars to build, and another \$30 million a year to operate.

As San Mateo County continues to struggle with a \$50 million structural deficit, Supervisor Dave Pine says that money will be hard to find. And it very well may have to come from the sorts of programs that keep people from re-offending.

DAVE PINE: When we think about public safety, to me it's more than just courts and jails. Public safety is not just courts and jail. It's also preventative programs, substance abuse programs; it's trying to help people from not getting in jail in the first place.

Pine says there are a lot of people in jail that don't need to be there – like people who are awaiting trial and can't afford bail.

PINE: I do think that the study that we received, showing that our county has an extraordinary high number of people awaiting sentencing, should give us pause. We should investigate whether or not some of those individuals could be out on their own.

Jails tend to work in one way, Pine says: If you build them, you'll fill them up instead of pursuing alternatives. But Sheriff Munks is adamant that's not the case in San Mateo County.

MUNKS: We use our jail system judiciously. We do not just throw low-level offenders in for no reason. People that are in custody, we're pretty certain are people that need to be in custody for one reason or another. This isn't a building project; it's a reform effort. What we want is to design and build a facility that will help facilitate that process.

Back at the march, Jason Wright says even in San Mateo County, there are many people in jail who'd be better off in treatment.

WRIGHT: A lot of people think drug addicts need to be locked up and that we're bad people. A lot of us have done bad things, but most of us wouldn't have done those things if we weren't under the influence, kind of being controlled by this addiction

Wright has been in and out of state prison for decades on drug-related, non-violent crimes.

WRIGHT: They started locking me up, throwing me in these cages and then I went to prison, so it was like a revolving door for me, where I would be clean in jail or prison and get out and just go back to getting high.

Now at 42, Wright is living in a treatment center sponsored by the county. He's been clean for eight months and thinks he's finally turning his life around.

WRIGHT: People don't have to take it as long as I did. I see a lot of young people getting it, learning it and having phenomenal lives.

Under realignment, a person like Wright may get the chance to change earlier. Instead of prison, he'd be dealt with at the county level. The only question is what the county level will look after October 1st, when realignment becomes real.

In Redwood City, I'm Nicole Jones for Crosscurrents.

3. One year later, early release program brings parent inmates home

Transcript:

Last January, an alternative custody program was made law in California. So far 10 women have been released early and by the end of the next year, the California Department of Corrections expects 500 women to be back in their communities. The goal? To thin out the state's overcrowded prisons and to help reunite families. KALW's Nicole Jones reports on how this early release program is rolling out one year later.

NICOLE JONES: A handful of prison inmates who are also mothers came home last month. They're not done with their sentences. But they have qualified for the Alternative Custody Program. It's a new program that could help California both meet its court-ordered prison reduction, and help struggling families.

VELDA DOPSON-DAVIS: Normally the female is the primary caregiver before being sent to prison and actually, they continue to parent from behind the wall.

Velda Dopson-Davis is Chief Deputy Warden at Valley State Prison for Women. She's also the team leader for the Alternative Custody Program. There are over 8,000 women in prison in California. And about 6,400 of them are parents.

DOPSON-DAVIS: This was a goal to get them back into the community and allow them an opportunity to interact with their children and reenter society more easily.

The program was designed by the legislature to help struggling families break the cycle of generational incarceration. It allows primary caregivers, mainly mothers, to serve only a portion of their sentence. Once released, they serve out the rest of their time on state parole.

Karen Shain is the policy director at Legal Services for Prisoners with Children based in San Francisco. She says the program is a smart move for the state.

KAREN SHAIN: The vast majority of women in prison are there for non-violent crimes, mainly drug-related crimes. Most women, 60-80% of women in prison, had custody of their children before they went in. They're mothers of dependent children, so sending a woman to prison – it may be a great punishment, but it doesn't look at what the impact is on a community.

Based on the bill's language, 4,000 inmates were supposed to qualify for early release in 2011. In reality, CDCR released 10. The state says it hopes to release 500 by the end of next year. But for Shain, that's way too slow.

SHAIN: There are a lot of problems and the Alternative Custody Program is really not equipped to deal with those.

Inmates must meet specific criteria to participate, like being non-violent, non-serious, non-sex offenders. They must have a home or program to go to once released. But with no funding attached to the bill, qualified inmates are required to find their own transitional housing. Shain says those requirements are so strict the program has come to a standstill.

SHAIN: People can say they want to do it. They totally qualify and there's nothing for them to do. Some of them don't have housing or homes and they are trying to get into drug treatment programs, halfway houses, which are very few and far between. Basically what happens is women who have a husband at home, who have so-called stable household – they're much more likely to qualify.

But Shain says those families that already have stable parents at home, aren't the ones the state should be most concerned about.

SHAIN: And it's not really fair for the vast majority of women who are in prison, who have multiple convictions, who don't have the kind of houses that the Department of Corrections would necessarily want them to be in.

Realignment, one of the biggest changes in the state's criminal justice system, transferred the custody of thousands of inmates, and in only a couple months. Medical parole, on the other hand, which only affected 40 inmates, took almost a year to roll out. CDCR's Velda Dopson-Davis says the state is doing its best to implement the new Alternative Custody Program, but it's been difficult.

DOPSON-DAVIS: This was very new and unique for us and to train the staff to realign duties. We all were loaned to this project, not assigned as a position, which means our work behind us continued. And then it's quite a lengthy process to get to where you begin to implement something even though it is law, there are steps into getting into the books.

Realignment is already straining parolee services. And with the lack of funding for things like transitional housing and rehabilitation programs, CDCR staff has to be more cautious about the rate of inmates it releases early.

DOPSON-DAVIS: We have to make sure we are putting eligible participants out that are going to be successful, that desire to work toward that goal, that families are willing to

work with them, that parole is able to supervise them, and that there are resources available to them to support their needs.

Despite delays, Dopson-Davis says there's much excitement in prisons about the new program.

DOPSON-DAVIS: My team and I went out to Valley and talked to over 250 women and they were all ready to go right there: "Hook 'em up, put my bracelet on, I can go home." And that excitement remains.

It remains to be seen whether that excitement leads to more parents coming home.

For Crosscurrents, I'm Nicole Jones.

4. Realignment funding formula not adding up in all counties

Transcript:

Realignment is the state law that took effect last October. It reduces California prison populations by shifting lower level offenders to county jails.

That shift is the result of a Supreme Court decision ordering the state to reduce its prison population and fix the dire inmate healthcare system. Without prison realignment, California would have had to build up to nine prisons. So, last week state officials announced they would halt the planned prison construction, saving the state 1.5 billion dollars.

But county officials are concerned with this massive criminal justice transformation. The state has not guaranteed the money to pay for increasing populations in jails and under county supervision in the long-run. Gov. Jerry Brown has plans to place that guarantee in the state Constitution as part of a tax-hike initiative he is proposing for the November ballot. But, until that happens, counties are having to figure out how to do more with less money.

KALW's Nicole Jones reports on one Bay Area county is handling the transition.

NICOLE JONS: Not too long ago, the men in this room were in prison.

PHILIP KADER: I want to ask how long have you been in prison"real quick, three time, six, twice, at least twelve, holy moly!!

Now they're getting a taste of their new found freedom. Thanks to realignment, they're here under a new program called post-release community supervision. They're having dinner with the probation officers that are responsible for them. Sharing a meal together is how they start their weekly class called "Thinking for a Change."

SECOQUIAN: "We'll model the skill for you: He's coming in for the first time and I will review his conditions for probation..."

Case manager Yuri Sequoian is explaining how to do active listening and how to have successful interactions with probation officers--in other words, how to stay out of jail. He gives an example:

SECOQUIAN: "This is my first time coming in to meet probation officer....get in and get out without trouble....Hello, Good afternoon Mr. Williams. thank you for coming in. Go over the conditions of your probation. You need to obey all laws, attend counseling, register, do not travel outside without my permission.....do you understand that? Dang, hope you don't test me today..."

KADER: And it's not just chit-chat, we're not trying to build relationships so we go have barbeque dinner and go to the Giants game together, although I'm not against either of those things.

Chief Adult Probation Officer Philip Kader says his first goal is public safety. Kader is in charge of making realignment work in Contra Costa County. Part of that is reducing recidivism. Before realignment, nearly two-thirds of state parolees were back in custody within three years. Now that these lower level offenders are the county's domain, officers want to make sure these guys don't end up back behind bars.

CASE MANAGER: "Okay Mr. Sequoian, I think I can handle that...so I will see you next week"

KADER: The idea of them believing that we want them to have success, and that is something several of these guys that have been to prison, 2, 3, 4 times have told us, they're just not used to. They're just not accustomed to feeling as if the people that are dealing with them are really rooting for them.

And that's one of the really new things happening in Contra Costa County. Probation officers are now called case managers--they're building relationships and trying to anticipate problems before they escalate.

DAMIEN LIVINGSTON: The thing that they have us on right now, I think it's way better than the way it was before.

Damien Livingston has been in prison 6 times for receiving stolen property and grand theft auto. He's been out since December and decided to sign up for this 26-week class, which also cuts time off his supervision.

LIVINGSTON: Now you have probation officers you can talk to, right, and when they come to your house, they don't come to your house like you're a member of the Taliban or something. Five or 6, 7 polices surrounding your house. Your neighbors look at you like you are really a criminal even if you're trying to get it together.

Livingston's been on state parole before. He says it's like someone's just waiting for you to mess up to send you back to prison.

LIVINGSTON: I couldn't do parole. But this probation stuff is working. I like it. I'm here, because if it was parole, I wouldn't even be here. So I'm thankful for it. They're trying to do something different, they ain't just throwing you back in jail, and that's a plus.

Chief Kader says this kind of program gives hope to guys like Livingston. But without guaranteed funding, it may not continue. Since realignment began last October, counties are absorbing 2-3 times more offenders than the state projected.

KADER: But, no county government official will tell you they're surprised that the state may have underestimated or underfunded something. The difficulty we're having in this county is not so much our will, or even our infrastructure to support it, but it is funding, which we believe is based on a flawed formula.

That formula goes like this: The state bases each county's share of realignment money mainly on how many people it sent to prison prior to realignment.

KADER: Where the formula is flawed is we have been avoiding sending people to prison for many years. We're right in the middle of the state average arrest rate, yet, we are the lowest per capita of people that are being sent to prison.

Meaning, if a county was sending offenders to programs instead of prison, now they have less money to spend on programs. For realignment, Contra Costa, with 1 million residents was given 4.6 million dollars, while Tulare County, with about half the population got 5.7 million. Both counties have a similar crime rate.

KADER: It's just, intuitively, it doesn't make sense, that the formula is set up that way that doesn't give us the added benefit of tools to use that we think could expand the service delivery options to our clients.

MID-BREAK BY HOLLY KERNAN: You're listening to Crosscurrents, I'm Holly Kernan. We're examining the major prison overhaul underway in California. Reporter Nicole Jones just took us to Contra Costa County, where officials are struggling to find funding for programs that keep people out of jail. In this next report, Nicole Jones takes us inside of jail to find out how realignment is working there.

AMBI: Sounds of jail door opening.

MATT SCHULER: This is unlike any other jail you're really going to run into.

Commander Matt Schuler and Captain Jeff Nelson are taking me on a tour of the West County jail in Richmond. It's an open campus setting. Birds are chirping over a beautiful yard the inmates created in a landscaping class.

(on tape) NICOLE TO NELSON: (birds chirping) It's really a kind of peaceful facility.

JEFF NELSON: It does kind of have a bucolic feel. But it lends to that because I worked out here in 1993, this was dirt, you know having some trees and flowers out here gave them the opportunity to learn that stuff but it also gives a better vibe to the whole place.

NICOLE JONES: Nelson says Contra Costa has always been a reform-oriented county. It was the first in the country to use direct supervision. It's a kind of jail model that lets inmates move freely amongst the deputy staff. They offer GED classes, anger management and other services. Nelson says inmate morale is typically better in this set-up.

NELSON: Probably not surprising it goes without saying, if you lock somebody up in a room and they're in there for the majority of the day and they can't move around in a day room atmosphere like this, they get testy. So this provides us with actually in the long-run a more secure environment because it's better for the deputies, it's better for the inmates, without sounding too touchy feely, they all get along a lot better.

And unlike other counties, many of which have overcrowded facilities, Contra Costa has kept its jail population pretty low, mostly by expanding the use of electronic monitoring. Schuler says the county also expanded the maximum security facility Marsh Creek. What's been tough, Schuler says, is figuring out what to do with inmates who require special custody, like gang members.

SCHULER: It's going to be tough for the inmates that are going to be staying with us for long-term, it's always going to be tough because these facilities weren't built for that.

Before realignment, the state paid the county \$77 for housing parole violators. Now the county is only getting reimbursed at about \$25 a day.

AMBI: "I'll show you a typical room" (sounds of jail door opening) "This is a room for a male or female.."

Regardless of its struggles with realignment, Contra Costa County has had some success. Since October, the county's recidivism rate is only about 15 percent, which is much lower than it was at the state level.

And, there may be some relief with regard to funding. County officials like those in Contra Costa will continue to lobby the state to consider a new and what they say is a more fair funding formula.

For Crosscurrents, I'm Nicole Jones

Source List (in the order they appear):

Selena Winn, former drug offender

Oakland Assemblyman Sandre Swanson

Ecaterina Burton, an organizer with the Alameda County Food Bank.

Frankie Fardella, former drug offender

Sabrina Lockhart, spokeswoman for Republican Assembly member Connie Conway of Los Angeles

Linnell Bonner, former drug offender

Superior Court Judge Richard Livermore, San Mateo County

Sheriff Greg Munks, San Mateo County

Supervisor Dave Pine, San Mateo County

Jason Wright, former drug offender

Velda Dopson-Davis, Chief Deputy Warden at Valley State Prison for Women.

Karen Shain, policy director at Legal Services for Prisoners with Children based in San Francisco.

Case Manager Yuri Seqoquian, Contra Costa County Probation Office

Chief Adult Probation Officer Philip Kader, Contra Costa County

Damien Livingston, probationer

Commander Matt Schuler, Contra Costa County Sheriff's Office

Captain Jeff Nelson, Contra Costa County Sheriff's Office