

CHANGING GEARS

CALIFORNIA'S SHIFT TO SMART JUSTICE



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CHANGING GEARS: California's Shift to Smart Justice

PROP 47 YEAR ONE

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The report is available online at www.acluca.org/Prop47

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PROP 47 YEAR ONE

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The national will to maintain the world's highest incarceration rate is quickly evaporating. Presidential candidates, politicians, law enforcement leaders, criminologists, and community members from all walks of life and political persuasions are calling for an end to harsh, expensive, and counter-productive punishments. There is now little opposition to the notion that we have too many people behind bars in this country and that we need to change gears from the one-size-fits-all approach of incarceration to smarter crime prevention strategies.

California leads the nation in transforming this notion into reality, with voters out in front. Since 2000, Californians across the political spectrum have repeatedly voted to reduce the incarceration of people convicted of petty offenses and to invest instead in addressing underlying issues such as substance use disorders and mental health issues. During that time, crime rates fell to historic lows.¹ (See Figure 1, page 4, and Crime Rates, page 6) After nearly 15 years of reforms and falling crime rates, California voters once again overwhelmingly chose to reduce harsh sentences and redirect resources to prevention strategies.

PROP 47 - The Safe Neighborhoods & Schools Act

PASSED by 60% of voters in November 2014, Proposition 47 reclassified six low-level drug and property felonies to misdemeanors in order to reduce spending on incarceration and reinvest those resources in the community.

It also created the opportunity for hundreds of thousands of Californians to reduce an old conviction on their record, removing the life-long barriers to success that accompany a felony conviction. (See: *Prop 47 In Detail, page 4*)

Prop 47 is more than changing punishments to better fit the crime. It is a voter mandate to address problems that have long challenged our communities. As voters well know, Prop 47 will not itself solve addiction, mental illness, or homelessness. What Prop 47 did is reduce the overly harsh penalties that had been making those problems worse and squandering resources that could be more wisely invested in making communities stronger. Prop 47 is a voter mandate to expand effective prevention strategies.

Prop 47 is now the law, but it is not yet the new normal. To get a clearer picture of what is happening on the ground, the ACLU of California undertook an enormous project to collect and review hundreds of pages of public records related to Prop 47 implementation from all 58 counties. (See: *Methodology, page 5*) These documents provide critical information on how local criminal justice agencies across the state have reacted to Prop 47 during its first year.

THIS report highlights six major findings and ten recommendations for policymakers at the state,

Policymakers have a responsibility to facilitate honest dialogue about prevention and to provide the necessary resources.

county, and municipal levels as California enters the second year of Prop 47. (See: *Appendix A for local data on 40 counties, in which 98.7% of the state population resides.*²)

To realize the promise offered by Prop 47, state and local agencies must work collaboratively to expand programs and services demonstrated to prevent future crime. California policymakers have a responsibility to facilitate honest dialogue about prevention and to provide the necessary resources.

Using information provided in this report, policy-makers can start by asking law enforcement agencies to explain the choices they are making to arrest or not, to detain people or not, and to require community supervision or not, and ask how county and municipal agencies are adjusting their practices and funding allocations to expand programs that connect people with the resources they need.

More broadly, policymakers should ask their local Community Corrections Partnerships or public safety committees how they will recommend the county allocate more funding to services rather than incarceration, as per the intent of Prop 47.

PROP 47 IN DETAIL

The Safe Neighborhoods and Schools Act appeared on the California ballot as Proposition 47 in November 2014. Proposed by San Diego Police Chief William Lansdowne and San Francisco District Attorney George Gascón and approved by nearly 60% of California voters, the measure:

- 1. Reclassified six low-level drug and property offenses** from felonies or “wobblers” (i.e., offenses that could be charged as either felonies or misdemeanors) into misdemeanors. This reclassification does not apply to individuals with a previous conviction for one of a select list of serious or violent offenses. The maximum penalty for a misdemeanor is a sentence of up to 364 days in jail, a fine, or both; community supervision (e.g., probation) may be ordered by the court. Prop 47 created a \$950 threshold for misdemeanor property offenses. Theft above that amount may still result in felony charges. An estimated 80% of cases affected by Prop 47 are for drug possession for personal use.³
- 2. Captures savings from reduced state incarceration costs** associated with Prop 47 and reinvests those savings via grant programs in the following way: 65% will be administered by the Board of State and Community Corrections to fund drug treatment, mental health care, and supportive housing; 25% will be administered by the Board of Education to reduce school truancy; and 10% will be administered by the California Victim Compensation Program to expand trauma recovery services for crime survivors. Prop 47 was silent on county-level savings, so it is up to each county to capture and reallocate local savings resulting from Prop 47.
- Allows individuals currently serving a felony sentence for a low-level drug or property offense – whether behind bars or in the community under supervision – to ask to **be considered by a judge for resentencing** to a misdemeanor penalty, which could include up to a year in jail, a fine, community supervision, or some combination thereof. The law requires the court to resentence eligible individuals who do not pose an unreasonable risk to public safety.
- Allows people with a past low-level drug or property conviction to **apply to have that reduced to a misdemeanor** on their record. This process is called “redesignation” or “reclassification.” If an offense and the individual meet eligibility criteria (including that the applicant does not have a serious prior conviction that would bar them from such relief), their conviction will be reduced to a misdemeanor on their record.

The deadline to apply for either resentencing or reclassification is November 2017. There will be some exceptions for petitions filed after that date, but the process will become more onerous.

For more on Prop 47, visit: <http://www.safeandjust.org/prop47faq> or <http://tinyurl.com/pf6ng4x>

YEAR ONE SUCCESSES

AFTER Prop 47’s first year, there is cause to celebrate. By June 2015, almost 160,000 petitions had been filed to reduce a felony to a misdemeanor.⁴ Although many are still waiting for their petitions to be reviewed, thousands of people have already been resentenced or had an old felony reduced on their record, opening up paths to employment, education, and other opportunities. People like Maria Alexander, Susan Burton, Jill Jenkins, Anthony Walker, and Kerry Walls. (See: *Faces of 47*, page 8, 14)

Because of reduced sentences, the number of people behind bars for a low-level offense in California’s jails and prisons has dropped significantly statewide⁵ – and savings are adding up. The Legislative Analyst’s Office expects savings to reach \$100-200 million in 2016-17 alone.⁶ Those savings will be reinvested in communities through programs to keep young people in school, to provide mental health and substance use disorder treatment, and to support survivors of crime.⁷

Thanks to Prop 47, people who commit a petty crime are

now held accountable without being locked up for lengthy sentences or saddled with the life-long barriers that accompany a felony conviction. Several thousand people have been able to complete a shortened sentence behind bars and return to their families.⁸ Women are particular beneficiaries of Prop 47, as they are twice as likely to be incarcerated for petty theft as men and 63% more likely to be incarcerated for simple drug possession.⁹

Changes in California Crime and Incarceration Rates, 2006-2014

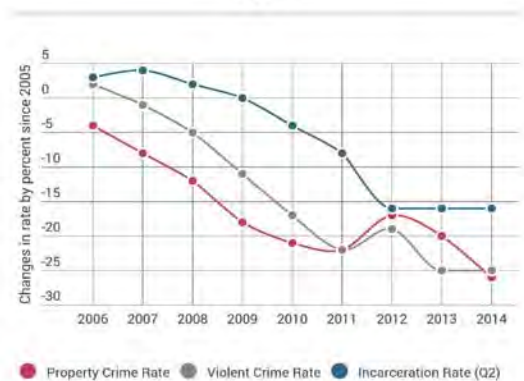


Figure 1.

According to records obtained by the ACLU, local agencies in many counties moved quickly to implement resentencing. Courts, public defenders, and district attorneys swiftly established procedures to identify, evaluate, and process individuals eligible to apply for resentencing. Sheriff's and probation departments – which house and supervise most people eligible for Prop 47 resentencing – informed individuals of their right to be considered for resentencing. Police and sheriffs immediately began to exercise their discretion to cite and release rather than to arrest individuals facing petty charges.¹⁰

In short order, jail administrators determined whether to prioritize jail space for people facing petty charges, which ones, and under what conditions. And public defenders, pro bono reentry legal service providers, and community-based organizations across the state rallied to educate people on their options under Prop 47 to reduce a felony sentence or conviction and to assist them in that process.¹¹

Agencies are to be commended for the speed with which they addressed resentencing. With the exception of a \$27 million state allocation to courts,¹² no new state funds were provided for this effort. Most public defenders and district attorneys relied on existing resources to take on the work of resentencing. Some agencies got creative. In Fresno, they tapped local Community Corrections funding. In Alameda, the public defender's office secured grant funding.

One year is not much time to change criminal justice practices at the local level. Yet cities and counties across California are taking the Prop 47 voter mandate seriously and have already expanded existing programs or created new ones designed to increase access to services and alternatives to incarceration. According to documents obtained by the ACLU:

- Kern County included Prop 47 implementation goals, including expanding access to treatment services, in its most recent Community Corrections strategic plan.¹³
- Placer County expanded its drug courts to include people charged with misdemeanor drug offenses, and Fresno County established a drug court specifically for people facing misdemeanor drug charges.
- In Los Angeles, District Attorney Jackie Lacey has convened a broad taskforce to expand diversion from jail for the mentally ill.¹⁴ LA City Attorney Mike Feuer is convening various county agencies to rethink approaches to low-level crime.¹⁵
- In November 2014, San Diego City Attorney Jan Goldsmith created the Community Court Program, which gives people the option to be held accountable through community service rather than a jail sentence.¹⁶

These are just some of the changes agencies and counties are already making to help California shift from the one-size-fits-all approach of incarceration to smart, effective, and cost-effective approaches to crime prevention.¹⁷

METHODOLOGY

For this report, the ACLU requested public records from sheriffs, probation departments, district attorneys, and behavioral health departments in all 58 counties related to how county agencies address low-level offenses, manage people charged with low-level offenses, and allocate funding to programs demonstrated to reduce future crime, including substance use disorder treatment and mental health care. We conducted an in-depth analysis of these records to identify key findings at the state and county levels. (See: *Appendix A for local data on 40 counties*)

In addition to obtaining public records by request, we reviewed documents and data in the public domain. We examined information published by the state Department of Justice, the Bureau of State and Community Corrections (BSCC), the Judicial Council of California, the state Department of Finance (DoF), the Legislative Analyst's Office (LAO), the California State Association of Counties (CSAC), and the Chief Probation Officers of California (CPOC) as well as other state and local government representatives, agencies and departments.

For each county, our analysis included, among other elements, reviews of:

- Agency and cross-agency plans, training materials, or meeting minutes related to Prop 47
- Numbers of filings for Prop 47 resentencing and reclassification
- Waiting periods for drug treatment and mental health services
- Proportion of county Community Corrections funds allocated to sheriff's and probation departments vs. other departments and programs
- Changes to misdemeanor arrest and booking procedures since October 2014
- County jail populations
- Jail capacity expansion plans

We invite researchers, advocates, and county or state officials to contact us for additional information about our methodology.

YEAR ONE CHALLENGES

Despite the many successes, much more remains to be done to address serious issues that have long challenged our communities. Unfortunately, there has been a disappointing level of resistance from some in law enforcement.¹⁸ Some are making irresponsible and inaccurate statements linking Prop 47 and crime. (See: *Crime Rates, below*) Others are falsely claiming that they are no longer able to arrest people for petty crime or that a misdemeanor is not a “real” penalty.¹⁹ These statements are both untrue and counterproductive.

Local agencies – from law enforcement to behavioral health departments – must bolster strategies to link people with the services they need. Where existing funding streams are inadequate, policymakers need to come through with funding for those programs and services. Meeting the challenge to address substance use disorders, mental health needs, and homelessness will take a collaborative effort. For too long, we have asked law enforcement agencies to deal with these challenges while underfunding the services that people need. Law enforcement agencies cannot solve these problems alone; however, they must be part of the solution.

The transformation of California’s local criminal justice systems began four years ago with the enactment of Public Safety Realignment (“realignment”), which transferred responsibility for most people convicted of low-level drug possession and theft offenses from the state to counties and provided counties wide latitude and significant funding to manage this population. When realignment was first taking effect in October 2011, the ACLU noted that it had “put California’s 58 counties in the driver’s seat. Each county will choose its own path.”²⁰ Counties – and local law enforcement and behavioral health agencies – are again in the driver’s seat in implementing Prop 47. (See: *Realignment In Detail, page 13*)

Prop 47 did not change where most people convicted of low-level offenses would be managed, nor did it diminish the flexibility or resources counties have to hold people accountable for low-level offenses and to provide prevention services, including mental health care and drug treatment. What’s different after Prop 47 is that people are no longer sentenced to lengthy, multi-year sentences for a single petty offense and no longer carry the life-long barriers to success that accompany a felony conviction.

CRIME RATES

On three separate occasions since 2000, California implemented reforms that significantly scaled back overly harsh penalties for nonviolent offenses that had crowded state prisons and cost taxpayers billions. Despite repeated assertions by some in law enforcement that each of these reforms would lead to a “spike” in crime, the data tells another story: crime rates have continued to decline over the past 15 years and California by 2014 had the lowest violent crime rate since 1967.²¹ Can we do more to make our communities safe? Yes. That’s why California voters overwhelmingly approved Prop 47.

After Californians voted to mandate treatment instead of incarceration for people convicted of petty drug offenses in 2000, the number of people in state prison for drug possession plummeted by 5,000 in one year – and another 6,500 by 2010.²² Crime fell in California during that time. After voters demanded reforms to the Three Strikes law (2012), some 2,000 people were resentenced. Crime continued to fall. In 2011, legislation closed state prison doors to people convicted of a low-level offense who had not previously committed a serious or violent offense; they stayed at the county level instead, either in jail or on probation. Crime rates again stayed at historic lows (despite a small increase in vehicle thefts).²³

Approved by 60% of voters 2014, Prop 47 reclassified six low-level drug possession and petty theft offenses and mandated that savings be reinvested in services to address underlying issues like substance use disorders, mental health needs, and homelessness. Prop 47 is the latest focus of the sky-is-falling rhetoric of an impending crime wave. The fact is that it’s way too early to assess 2015 crime rates in California at all, let alone potential causes.²⁴

While some communities may be experiencing increases in some crimes, that is far different from a statewide trend that can be linked to a particular cause. The San Diego Association of Governments, for example, reports that crime rates remain at historic lows in the region.²⁵ In states that have implemented similar sentence reductions, crime trends remained unchanged. For example, after Washington State reduced the penalty for low-level theft in 2009 (SB 6167), the crime rate for theft continued to decline.²⁶ After Rhode Island eliminated mandatory sentences for drug possession in 2009 (HB 5007), arrest rates for drug law violations declined.²⁷

The fact that crime in California is at a historic low is little comfort to the communities where it is concentrated. Instead of fighting for the return to a failed lock-’em-up-and-throw-away-the-key approach, county leaders and law enforcement should listen to voters and invest our resources more wisely. Recent research right here in California suggests the counties that invest more in reentry services get better results than those who rely more heavily on traditional law enforcement tactics.²⁸ People with drug and mental health problems who haven’t committed violent crimes don’t belong in prison, but they don’t belong on the street either; they should be in rehabilitation programs and supportive housing.

PROP 47 YEAR ONE: SUMMARY OF MAJOR FINDINGS

- 1** Thousands are waiting for their Prop 47 resentencing / reclassification petitions to be reviewed.
- 2** Jail populations fell after Prop 47, but they are rising again.
- 3** Some in law enforcement have prioritized low-level arrests while others de-prioritized them.
- 4** Some county jails are making room for people charged with low-level offenses.
- 5** A majority of counties already require supervision for some people convicted of a low-level offense.
- 6** Agencies have been focused on individual agency roles, rather than collaborative planning.

SUMMARY OF RECOMMENDATIONS

- 1** Allocate more resources to resentencing and reclassification, including outreach efforts.
- 2** Simplify the process to clean up a criminal record, including expunging old convictions.
- 3** Local criminal justice and health agencies should focus on solutions.
- 4** Ensure that prevention strategies do not ignore people charged with misdemeanors.
- 5** Rely more on locally validated risk and needs assessments to aid decision-making.
- 6** Give law enforcement more options than to arrest.
- 7** Design programs and strategies to leverage the power of incentives, not just the threat of jail.
- 8** Tap into Local Community Corrections (realignment) funding.
- 9** Tap health funding streams to expand access to services and supports.
- 10** Track county costs, savings, and other impacts of agency responses to Prop 47.

For detailed Findings, see page 9. For detailed Recommendations, see page 11.

MARIA ALEXANDER, Los Angeles, CA.

As the Executive Director of the Center for Living and Learning in Los Angeles, Maria "Alex" Alexander isn't who most people would think would benefit from Prop 47. But Alexander knows better than most how a felony conviction can hold you back. She not only experienced it, she sees it in her clients every day.



Before becoming the executive director in 2005, Alexander herself had graduated from the Center's apprenticeship program and completed an executive management program. Her apprenticeship began upon completion of residential drug treatment after years of homelessness and incarceration. **Until Prop 47, she still carried the burden of old drug convictions.** Now, she says, she is finally free of that weight.

"We see people daily who have a minor felony who have not yet applied to reduce it to a misdemeanor under Prop 47. They are excluded from the workforce, even for minimum wage warehouse jobs," said Alexander. "Prop 47 will allow so many more of our clients to not only obtain entry-level positions, but to also advance in their careers."

The Center for Living and Learning serves more than 300 individuals annually transitioning from treatment, incarceration, and welfare with employment, mentoring, and supportive services.

SUSAN BURTON, Los Angeles, CA.

Susan Burton is a prime example of how burdensome an old felony conviction can be on people trying to turn their lives around. Susan suffered from addiction, but worked hard to get sober in the 90s. Today, **she provides the very reentry support and resources that she was unable to access** in the fifteen years she spent moving in and out of the criminal justice system.



She started simply, by inviting people recently released from jail to her Los Angeles home. Her program, A New Way of Life Re-Entry Project, has mushroomed, and now has five homes for women reentering after serving their sentences.

Before she was able to reclassify her own felony conviction under Prop 47, though, she was often barred from even entering these prisons and jails to help prepare the women about to be released.

"We need a movement to uphold and implement Proposition 47 and to hold accountable every judge, prosecutor, attorney, jail administrator and probation officer responsible for putting it into practice," said Burton.

JILL JENKINS, Oakland, CA.

Three years ago, Jill Jenkins was struggling with drug addiction and got caught stealing a turkey sandwich from a CVS in Oakland. Because of prior petty thefts, she was convicted of a felony, creating huge barriers to jobs, housing, education, and more.

But Jenkins was determined to turn her life around. She entered and completed a yearlong rehab program and then re-enrolled in college to become a paralegal.

When Proposition 47 passed in November 2014, Jenkins applied to have her felony conviction lowered to a misdemeanor. The judge agreed and changed her sentence.

Today, she helps others get a second chance in her job as a paralegal at the Alameda County Public Defender's office. **"I crusaded for the Proposition 47 campaign and voted for it, and now I'm a recipient of it and working to advocate for it for others,"** Jenkins said. "It's very freeing, and I'm proud of myself. Three years ago, I would have never imagined being in this position at all."



Photo: D. Ross Cameron, Bay Area News Group.

KERRY WALLS, Bay Pointe, CA.

Prop 47 gave Kerry Walls the fresh start he had longed for. Walls struggled with addiction for years, shuttling in and out of prison but never getting real access to the treatment and services he needed. He embodied the stark example of how broken our current criminal justice system is: relapse, lost jobs, and broken homes and relationships.



"I wasn't in jail, but I was still trapped," said Walls. He finally was referred to a psychiatrist, and diagnosed with severe depression, greatly complicated by his addiction.

Once Walls got treatment, he was able to turn his life around. He reached out to the Contra Costa Public Defender's office about cleaning up his record. "I'll never forget the day I got a call from Sheena and Ellen at the Contra Costa Public Defender's office telling me my felony charge had been cleared from my record. These two women—and Prop 47—changed my life."

Today Walls is working full-time and training to be a mental health peer counselor and running a sober living home. "I fully accept who I am and I share my story because I want others to know that if I can do it, they can too. Help is out there. You are not alone."

YEAR ONE FINDINGS

For this survey, the ACLU obtained and reviewed public records from sheriffs, probation chiefs, district attorneys, and behavioral health departments from around the state. The findings below are offered as a starting point for policymakers and advocates working to better understand the choices local agencies are making in responding to Prop 47 and the voter mandate behind it – and begin to evaluate whether those choices are appropriate.

1. Thousands are waiting for their Prop 47 resentencing/reclassification petitions to be reviewed. Under Prop 47, people who may be eligible to change the felony on their record to a misdemeanor have a limited time to ask the court to make the change. The November 2017 deadline to apply is now just two years away. As of June 2015, courts statewide had reported a total of about 160,000 applications for Prop 47 relief – both for resentencing and reclassification.²⁹ Responding to public records requests by the ACLU, many counties were unable to provide accurate data on how many people may still be incarcerated or under supervision awaiting resentencing.

Although most counties acted quickly to establish a process for resentencing eligible incarcerated people, it is less clear how many people eligible for Prop 47 resentencing are still serving felony sentences under community supervision. According to [Californians for Safety and Justice](#), there may be up to one million Californians who have an old felony on their record that may be eligible for reclassification. Pro bono reentry legal services providers and community-based organizations are doing their best to fill this gap, but many parts of the state remain underserved.³⁰ Even more challenging, tens of thousands of Californians may not even be aware that Prop 47 reclassification is an option for them.

2. Jail populations fell after Prop 47, but they are rising again. Due to overcrowding, jail populations in California are largely determined by jail administrators' decisions about how to manage jail capacity.³¹ They determine who will be booked into jail and who will be released, how and under what conditions. Following enactment of Prop 47, jail populations statewide dropped by almost 11% from October 2014 to March 2015.³² During the same period, the number of people who were released early due to jail overcrowding dropped by one-third.³³ However, jail populations soon began to increase again as administrators adjusted detention policies and practices.³⁴

Despite the many successes, much more must be done. Unfortunately, there has been a disappointing level of resistance from some in law enforcement.

In Los Angeles and Fresno, for example, the jail systems' average daily population (ADP) was down by just 6% in June 2015 compared to the same month in 2014. In San Diego and Orange counties, ADP was down 14% and 17% respectively in June compared to a year earlier. In contrast, San Bernardino's jail population in June 2015 was actually slightly higher than a year earlier; some small counties also saw population increases (Tuolumne, Calaveras, and Colusa). According to records obtained by the ACLU, some sheriffs are expecting the decrease in their jail populations to disappear by the end of the year, as they make room for people facing misdemeanors, reduce or eliminate early releases due to overcrowding, and leave unresolved the problem of thousands of Californians being stuck behind bars because they cannot afford to pay bail.³⁵

3. Some in law enforcement have prioritized low-level arrests while others de-prioritized them. The ACLU obtained several county sheriff departments' arrest numbers for low-level drug and property offenses for each month in 2014 through mid-2015. (Sheriff's departments represent a small sample of the hundreds of law enforcement agencies in the state.) Changes in arrests in the first six months of 2014 compared to the first six months of 2015 demonstrate that local agencies are applying their discretion to arrest for Prop 47 offenses very differently. For example, the Fresno Sheriff's Department reported that their arrests for low-level offenses went up by 77% in that period, while their Los Angeles counterpart reported an increase in low-level arrests of just 10%. In contrast, the Sacramento Sheriff's Department reported that arrests for the same offenses were actually down by 43%.

Neither public statements by local officials nor public records reviewed by the ACLU explain how law enforcement agencies in these counties are making decisions about arrest priorities. Crime rate

fluctuations might explain some of these changes, but not all. Consider, for example, that the Los Angeles County Sheriff’s Department reported 260 arrests for methamphetamine possession in the first half of 2015 (compared to seven in the first half of 2014). For the same offense, the Sacramento Sheriff’s Department reported 62 arrests in the first half of 2015 (compared to 172 in the first half of 2014). It would be illuminating for these agencies to explain these wildly divergent approaches.

4. Some county jails are making room for people charged with low-level offenses. The facts belie the claim by some in law enforcement that people facing misdemeanor charges cannot be jailed. In 2015, people facing misdemeanor charges are taking up a growing number of jail beds.³⁶ In Riverside County, for example, the misdemeanor jail population had doubled by March 2015 compared to the same month a year earlier. Other counties have opted not to detain individuals charged with petty offenses. For example, San Bernardino County’s misdemeanor jail population fell by one-quarter in the same period.

Several county jail systems provided information to the ACLU about the number of admissions to jail for low-level drug and property offenses each month in 2014 through the first half of 2015. These again show wide county variation and beg the question of how jail administrators are deciding when to book or detain people for low-level offenses and when not to. (See: *Figure 2, below*) Looking again at possession of methamphetamine, Sacramento county jails reported an average of 225 bookings each month (from all area law enforcement agencies, not just from the Sheriff’s Department) for that single offense in the first half of 2014, compared to an average of 86 bookings each month since Prop 47 took effect. In contrast, Orange County reported an average of 94 bookings a month in the first half of 2014 and 108 in the first half of 2015.

4. A majority of counties already require supervision for some people convicted of a low-level offense. In response to ACLU inquiries, 38 county probation departments reported supervising some people for misdemeanor convictions.³⁷ Other counties put misdemeanants on court probation (which does not involve active monitoring). Following Prop 47, some counties reported putting people who have been resentenced from a felony to a misdemeanor under the supervision of the probation department. Other counties have chosen not to provide formal supervision. Whether someone convicted of a low-level offense is supervised by a probation officer is a local decision, which should

be determined using established criteria and ideally a locally validated risk assessment tool. Categorically assigning all misdemeanants to active supervision is counterproductive and a waste of resources. However, it may be an appropriate option in some instances.

5. Agencies have been focused on individual agency roles, rather than collaborative planning. In records provided to the ACLU, communication among criminal justice agencies at the county level have focused on the individual roles of each agency rather than on how best to maintain the county’s overall public safety goals. Few counties appear to have made the space to discuss how various agencies and the county as a whole should adjust policies and practices to ensure that counties adhere both to the legal requirements and the voter intent behind Prop 47.

For example, there has been little discussion of Prop 47 at Community Corrections Partnerships (CCPs). CCPs – with membership comprising courts, district attorneys, public defenders, probation, sheriffs, police chiefs, and behavioral health directors – are tasked with identifying and executing strategic approaches to addressing and reducing low-level crime.³⁸ Yet, according to CCP meeting minutes from various counties in 2014-15 reviewed by the ACLU, few counties are using this venue to discuss any shared goals or needs with respect to Prop 47. Instead, discussions are largely limited to report-outs of how existing programs are being impacted as if those agencies were powerless to adapt.

Changes in jail booking rates for low-level drug and property offenses in select California counties, Jan-Jun 2014 to Jan-Jun 2015

County Sheriff’s Departments have broad discretion to manage their jail populations, including at the point of booking.

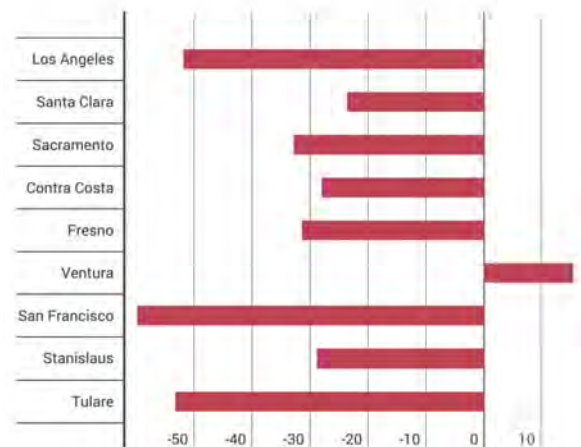


Figure 2.

RECOMMENDATIONS

In light of these findings, the ACLU makes the following recommendations to state and local policymakers:

1. **Allocate more resources to resentencing and reclassification, including outreach efforts.** In most counties, public defenders and district attorneys have not received any additional funding to handle Prop 47 resentencing or reclassification. Community-based organizations and pro bono reentry legal service providers are working feverishly to create opportunities for people to reclassify an eligible conviction to a misdemeanor. County, pro bono, and community-based entities all need more resources to locate and provide reentry legal services to the hundreds of thousands of Californians who may be eligible for relief – whether through Prop 47 or other available options. This could be funded through public dollars (including community corrections funds), but also through foundation, business, and private funding. Local agencies should consider dedicating staff to resentencing and reclassification, partnering with local law firms and law schools, and funding community-based organizations to educate the public about their options for cleaning up a criminal record. Law firms and private attorneys can help tremendously by lending their time.³⁹
2. **Simplify the process to clean up a criminal record, including expunging old convictions.** People have only until November 2017 to apply to reduce an old felony to a misdemeanor under Prop 47 (unless they have “good cause,” a term that will require some legal interpretation). Unfortunately, the process is neither simple nor standardized. State lawmakers and the Judicial Council of California should improve people’s ability to seek the relief that law provides, including by reducing the cost and wait time to access one’s own criminal record, authorizing designated local legal service providers to confirm that a person meets the criteria for a fee waiver for requesting a copy of their Department of Justice RAP sheet, offering fee waivers for fingerprinting, and creating a standard form to be used in any California Superior Court. Ultimately, the Legislature should make expungements automatic so people get the relief that law already nominally provides but that current process makes difficult to achieve.
3. **Local criminal justice and health agencies should focus on solutions.** Policymakers at the state and county levels should direct county public safety collaboratives, including Community Corrections Partnerships (CCPs), to discuss adjusting local agencies’ policies, practices, and resource allocations in order to meet county-wide community health and safety goals. CCPs, which are public entities subject to California’s open meetings law,⁴⁰ are required to have these discussions in public; they should also actively seek out the input of community partners.
4. **Ensure that prevention strategies do not ignore people charged with misdemeanors.** Until Prop 47, counties largely focused on programs and services for people facing or convicted of felony offenses.⁴¹ Through Prop 47, voters reduced several of those offenses to misdemeanors. They did not, however, intend for these individuals or offenses to be ignored. The intent of Prop 47 is to shift toward programs to connect people who commit these petty offenses to the services they need to prevent future offending, including mental health care, substance use disorder treatment, and supportive housing. Counties must not ignore people’s mental health needs or substance use disorders until felony charges are filed.
5. **Rely more on locally validated risk and needs assessments to aid decision-making.** As detailed in this report, local agencies – from police to sheriffs, courts to prosecutors, and defense attorneys to behavioral health departments – have wide latitude to establish programs. Since realignment, an increasing number of county agencies across the state rely on risk and needs assessments to aid decision-making in several ways, including whether someone will be released from jail while they await their day in court and whether and how they will be supervised in the community. In response to ACLU inquiries, several counties reported that they do not use risk or needs assessments to aid in decision-making related to people facing misdemeanor charges – and that makes it likely that these individuals are neither assessed for the help they need nor connected to that help, which could reduce future offending. This is a huge gap that county and municipal agencies need to address.
6. **Give law enforcement more options than to arrest.** In most cities in California, police officers have few options for what to do when they encounter individuals: they can attempt to resolve the issue without an enforcement action, issue a citation, take the person to jail, or possibly take them to an emergency room. Officers need more options, particularly when they encounter someone in need of mental health care or other health care, including substance use disorder treatment. Fortunately, in addition to the programs some California cities have already put in place (as noted earlier in this report), jurisdictions around the country provide additional options for California agencies to consider adopting, including:
 - In Seattle’s Law Enforcement Assisted Diversion (LEAD) program, officers have the option of diverting individuals facing petty drug and

prostitution charges into community-based services – including housing, healthcare, job training, treatment and mental health support – instead of processing them through traditional criminal justice system avenues. The program has demonstrated a 60% reduction in recidivism⁴² with associated cost savings.⁴³

- In San Antonio, the Center for Health Care Services operates a “Restoration Center”, which provides 24-hour crisis assessment and intervention, detoxification, and connection to community-based treatment resources. The center is utilized as a cost-effective alternative to jail for people experiencing mental health crises.⁴⁴

7. Design programs and strategies to leverage the power of incentives, not just the threat of jail. Our criminal justice system is steeped in coercion – that is, ordering people to services under threat of jail time. Under Prop 47, that is still an option; misdemeanors carry a penalty of up to one year in jail. However, criminal justice programs should not ignore the power of incentives. After all, if the threat of a felony was going to convince people to stay in treatment and to abstain from drug use, the drug war would have been successful. Research actually finds that incarceration makes people who use drugs worse off than they were before.⁴⁵ At the same time, research on incentives is clear: they work.⁴⁶ Incentives encourage people to engage in and remain in treatment by rewarding and reinforcing desired behavior.⁴⁷ Incentives can include services, vouchers, cash, or the chance to win one of those items. These programs leverage incentives to keep people engaged in treatment:

- In 2011, the Veterans’ Administration provided 180 treatment programs with funding to utilize incentives, namely the chance to win prizes of increasing value to veterans who attend and adhere to intensive outpatient substance use disorder treatment programs. In a 2014 paper describing the effort, implementation was regarded as highly successful, and more funding was allocated to support the use of incentives to increase treatment adherence.⁴⁸
- Full Service Partnerships are intensive, 24/7 service programs for adults with serious mental illness that employ a “whatever it takes” approach to engage people in treatment that is driven by the individual’s needs and desires. These programs have led to dramatic reductions in hospitalizations and incarcerations. By focusing on what the individual wants, full service partnerships incentivize engagement in treatment.⁴⁹

8. Tap into Local Community Corrections funding. Since Community Corrections dollars began flowing to counties in 2011, they have gone largely to pay for incarceration of and services for people convicted of low-level felony offenses. Not coincidentally, since Prop 47 changed several of these low-level felonies into misdemeanors, realignment populations were down by over 25% in 22 of 42 reporting counties.⁵⁰ State law gives counties broad discretion to allocate Community Corrections funds. Counties should tap this funding to expand access to substance use disorder and mental health care early – before there are criminal consequences. Initially allocated by the state, these funds were constitutionally protected by the voters when they passed Prop 30 in 2012 and allocations are increasing. In fiscal year 2015-16 alone, counties will receive a total of \$1.19 billion (up almost 18% from the previous fiscal year) to address and prevent low-level crime.⁵¹

9. Tap health funding streams to expand access to services and supports. Prop 47 directs the state to capture savings from reduced state incarceration costs and to redistribute those funds to counties and school districts. These funds will become available in 2016.⁵² Of the total, 65% will go to counties to provide mental health care, substance use disorder treatment, and supportive housing. In addition, there are several funding streams counties should leverage to expand access to services. Counties have immediate or imminent access to:

- *Private healthcare dollars:* Federal and state law requires all insurers, both public and private, to provide coverage for substance use disorder treatment and mental health care on par with coverage for treatment of other chronic conditions. State and county agencies should monitor private insurers and county managed care plans to ensure that people are getting reasonable coverage for these critical health services.
- *Mental Health Services Act (MHSA):* Prop 63, passed in 2004, created a 1% tax on all individuals with annual incomes over \$1 million and created a dedicated, ongoing funding stream for mental health services, most of which is divided among California’s 58 counties to be spent according to local needs. MHSA generates over \$1 billion annually for mental health services, with allocations totaling more than \$13 billion since enactment. MHSA funds are used in a variety of counties to pay for housing, full service partnerships, and crisis intervention services for people living with mental illness. State lawmakers should make these funds available for a wider array of services to ensure all monies are allocated to improve access to and quality of care.

- *Federal healthcare dollars:* The Affordable Care Act, particularly Medicaid expansion (in California, Medicaid is called Medi-Cal), dramatically expanded healthcare coverage options for low-income individuals. The ACA also requires most insurance plans, including Medi-Cal, to cover mental health and substance use disorder treatment. As many individuals who come into contact with law enforcement may qualify for Medi-Cal, there is an opportunity to enroll them into coverage and connect them with community-based treatment. By doing so, localities can draw down state and federal funds to pay for these health services.
- *Expanded substance use disorder coverage:* In 2015, California received approval from the federal government to pilot a new delivery system for the Drug Medi-Cal program. For Medi-Cal beneficiaries in counties that opt in to this new system, an enhanced array of services will be available. This will include Medi-Cal reimbursement for short-term residential treatment, medication-assisted treatment, and recovery services. The pilot will require special coordination between county health and criminal justice systems.
- *Wrap-around services:* In 2016, the State Health Homes Program is expected to be available to individuals with one or more chronic conditions, including serious mental illness or substance use disorders. This

program will provide financial support to provide Medi-Cal beneficiaries with intensive care management, coordination, and connection with social supports, including housing assistance.⁵³

- *Supportive housing:* California is currently awaiting approval from the federal government on a Medicaid waiver to provide more support services for Medi-Cal beneficiaries who need assistance with housing. If approved, Medi-Cal could help finance housing navigation services to help individuals gain stable housing and the services necessary to maintain such housing.

- 10. Track county costs, savings, and other impacts of agency responses to Prop 47.** In addition to public safety impact, the choices local agencies are making come with associated costs and savings. In response to ACLU inquiries, however, few counties reported taking steps to measure local Prop 47 cost savings due to reduced incarceration. For many counties, lack of data collection is likely a barrier to tracking savings. Only a few counties reported attempting to update their data collection methods to capture information relevant to Prop 47 implementation. This lack of transparency is likely to complicate any meaningful evaluation of whether savings from incarceration can be more wisely invested in services in the community.

REALIGNMENT IN DETAIL

Counties are well positioned to expand crime prevention strategies, because they have unprecedented flexibility and resources to design and fund local corrections programs and expand access to mental health care, drug treatment, and other services.

When Public Safety Realignment (“realignment”) took effect in October 2011, California shifted responsibility for most people convicted of low-level, non-violent offenses from the state to the counties. The state, in effect, closed state prison doors to that population. In exchange, counties were given wide latitude in managing the population it could no longer ship off to state prison and were also given substantial funding to manage people convicted of petty offenses according to local priorities. In fiscal year 2015-16 alone, counties will receive a total of \$1.19 billion (up almost 18% from the previous fiscal year).⁵⁴

At the same time, realignment implementation bolstered cross-agency collaboration at the county level. For example, the Community Corrections Partnership (CCP), which is the hub of realignment planning in many counties, is made up of the probation chief, sheriff, district attorney, public defender, presiding judge, a police chief, and a public health or social services department head appointed by the Board of Supervisors. At this table, agencies and interests come together to discuss cross-agency solutions to prevent and address crime.

Counties have more choices than ever for whether to implement smart approaches to community health and safety – or whether to continue their over-reliance on incarceration. Four years after realignment took effect, we find that counties have indeed taken different paths.⁵⁵ Recent research suggests that counties that have invested more in supports have done better than those who have invested more in incarceration.⁵⁶

With the authority and funds available to them and the experience of realignment, our local agencies have the tools they need to implement Prop 47.

CONCLUSION

Prop 47 gives California the opportunity to safely reduce incarceration while making our communities healthier and safer by investing in effective prevention strategies, including mental health care, substance use disorder treatment, and supportive housing. We must not squander this opportunity.

We have reason to be vigilant. Even though the state prison and jail populations are down, spending on incarceration has continued to increase. The California Department of Corrections and Rehabilitation received \$10.2 billion in funding in the 2015-15 fiscal year, up 4% from a year earlier.⁵⁷ New state prison and county jail beds are set to come online in 2016-17. Since 2011, California taxpayers have financed billions in jail construction.⁵⁸ Once all online, counties will have added 11,478 jail beds – and taxpayers will be on the hook for millions of dollars in annual operating expenses of these facilities. In 2016, the state will allocate another \$500 million in jail construction funds.⁵⁹

Choices law enforcement makes to increase prevention strategies and reduce reliance on incarceration will ultimately determine whether incarceration rates stay lower in California post-Prop 47.

Choices that local law enforcement agencies make – and their willingness to work with policymakers and behavioral health departments – to increase prevention strategies and reduce reliance on incarceration will ultimately determine whether incarceration rates stay lower in California post-Prop 47. Historically in California, jails and prisons have been overcrowded as soon as they are built. As more prison and jail beds come online in California, we cannot let that happen again.

Prop 47 offenses are now misdemeanors, punishable by a maximum penalty of one year in county jail. If law enforcement agencies want to, they can continue arresting people and incarcerating them. It appears that the jail space will be available. But voters asked California to reduce spending on incarceration for low-level offenses and to invest those resources into programs that address mental illness, addiction, and other needs.

Strong communities are the foundation of safe neighborhoods. California voters understand that putting people behind bars for long sentences for low-level offenses helps no one. But that doesn't mean we should simply throw people with substance use disorders and mental health needs on the street and hope for the best. California must demonstrate to ourselves and the rest of the country that we can move past a culture of overly harsh penalties and toward better approaches to prevention, making punishments fit the crime, and providing the meaningful supports people need – so we stop relying on incarceration as crisis management.

ANTHONY WALKER, Oakland, CA.

“Had I not learned about and become active in the Prop 47 campaign at my church, I might never have learned about the opportunity that existed to clean up my own record.”

Walker didn't qualify for Prop 47 reclassification, but when he filed his petition he learned that he did qualify to have his felony conviction reduced to a misdemeanor and to expunge that misdemeanor from his record under another California law.

“At 26, I still carried a felony charge on my record for possession of stolen property. A childhood mistake barred me from following my dream of becoming a professional football coach and mentor. I struggled to even hold down a fulltime job.”

Even through struggle, he secured another football scholarship and graduated from college with a 3.5 GPA. Walker is in grad school now, holding a 4.0 in a sports management masters program.

“Today, I continue to just do my best. I try to lead by example for the youth I coach on the field. I want the students I teach and coach to **recognize the importance of all the choices they make today** and to understand how seriously those decisions can impact their future. Prop 47 led me to the second chance I longed for, but my goal has always been to make sure the young people I influence just use their first chance to its fullest.”



APPENDIX A:

Local Data on 40 California Counties

Alameda

PROP 47 PETITIONS



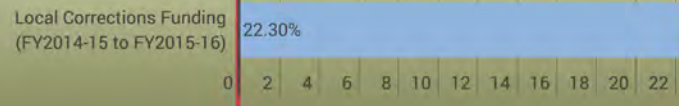
People who have a previous conviction for a low-level drug or property felony may be eligible under Prop 47 to petition for resentencing (if they are currently incarcerated or under community supervision) or to apply to have that old conviction reclassified to a misdemeanor (if they have already completed their sentence).

In 2015, thousands of Californians successfully cleared their record of a low-level felony, opening up paths to employment, education, and other opportunities. Thanks to Prop 47, California has ended draconian penalties for petty offenses, significantly reduced jail overcrowding, and freed up resources that can be better spent. At the same time, counties saw a double-digit increase in funding for crime-prevention services, including drug treatment, mental healthcare, and supportive housing. Counties should reevaluate how they allocate those resources.



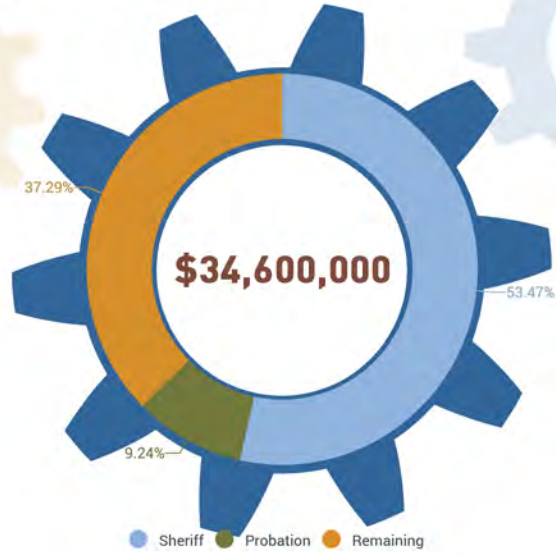
* Petitions and applications are combined in this county.
 County Population 2014: 1,583,979

CHANGE IN FUNDING & POPULATION



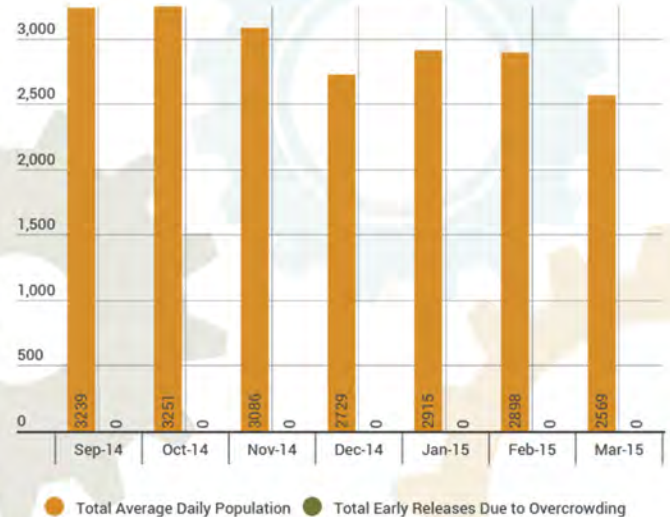
Since Prop 47, the number of people newly sentenced to, and under supervision for, low-level "realigned" felony offenses fell in most counties, while the amount counties receive to address and prevent low-level crime has increased. Counties should tap these funds to increase connections to services for people facing misdemeanor charges, including Prop 47 misdemeanors.

DISTRIBUTION OF COUNTY CRIME PREVENTION FUNDS



Counties have broad discretion in allocating these resources each year. The amount not allocated to the sheriff's & probation departments are available to cover a range of costs (including infrastructure), so it cannot be assumed that remaining dollars go toward reentry services. Research suggests that counties that invest more in reentry services experience better public safety outcomes.

JAIL POPULATION SHRANK AFTER PROP 47



Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Butte

PROP 47 PETITIONS



County Population 2014: 223,905

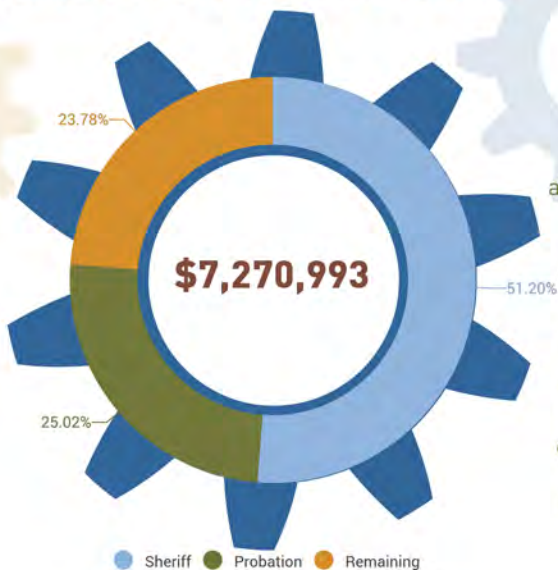
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CHANGE IN FUNDING & POPULATION



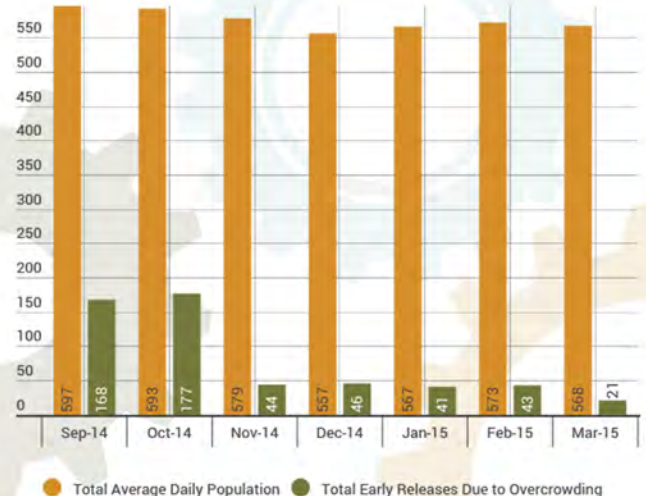
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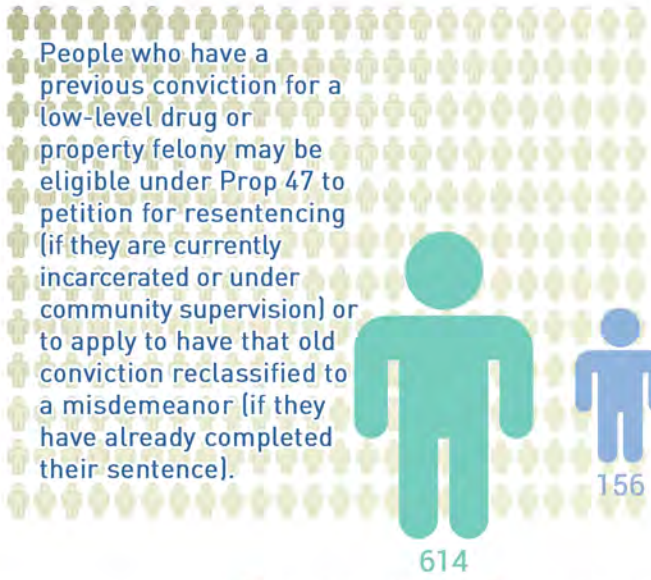


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Contra Costa

PROP 47 PETITIONS

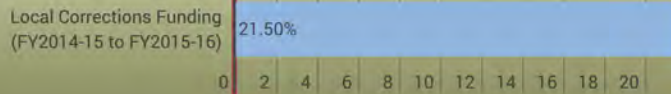


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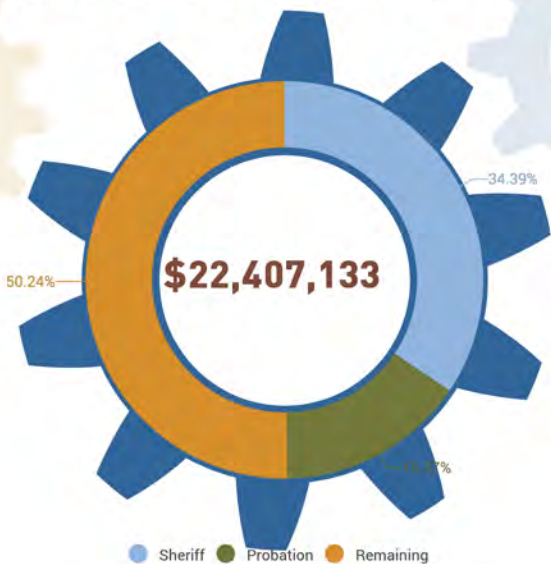
County Population 2014: 1,096,637

CHANGE IN FUNDING & POPULATION



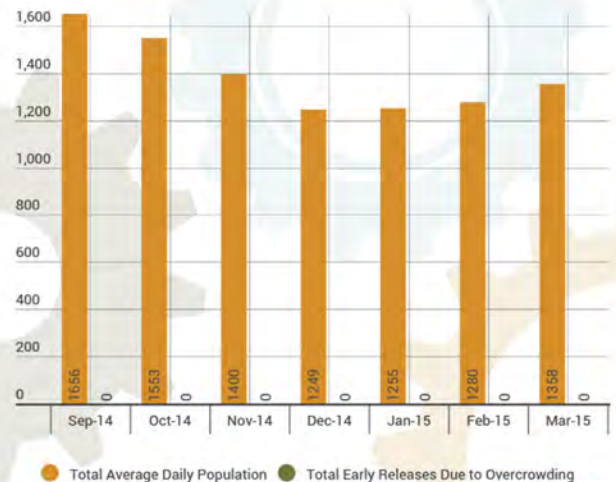
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JAIL POPULATION SHRANK AFTER PROP 47

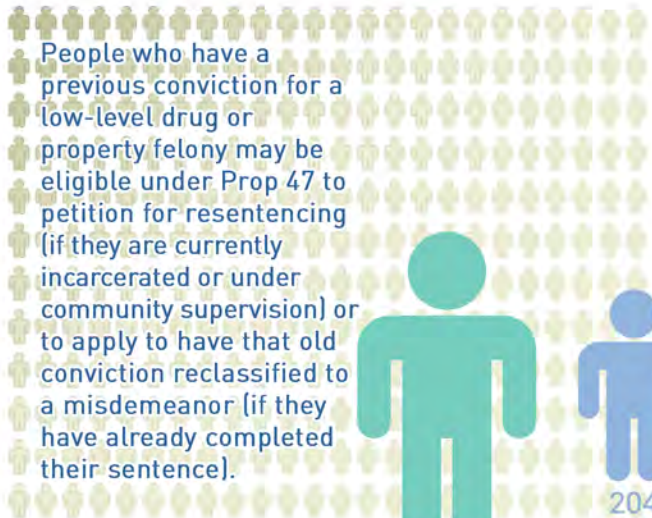


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



El Dorado

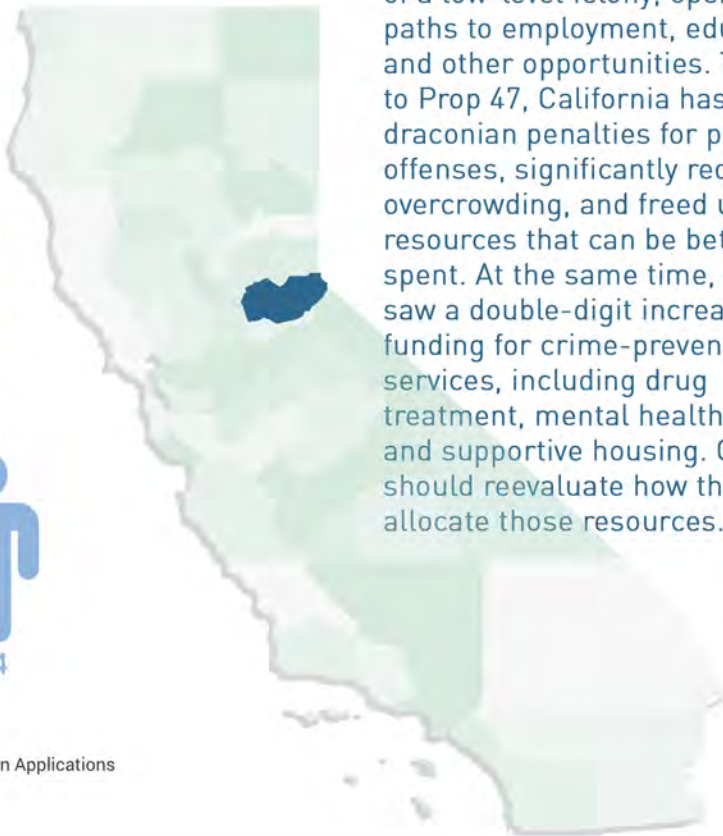
PROP 47 PETITIONS



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● Resentencing Petitions ● Reclassification Applications

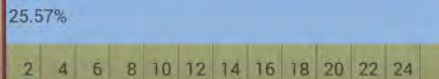
County Population 2014: 183,957



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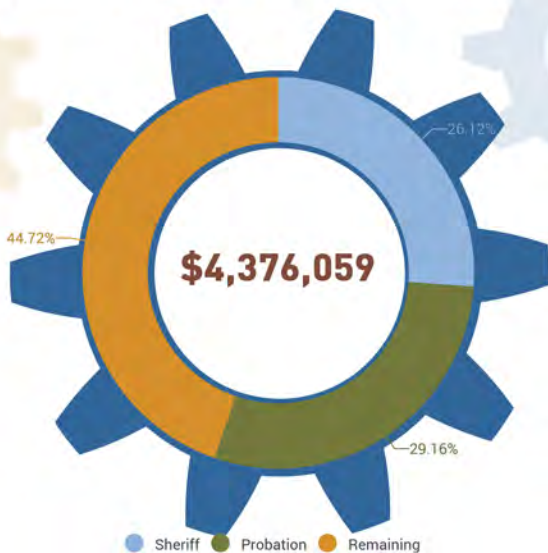
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)



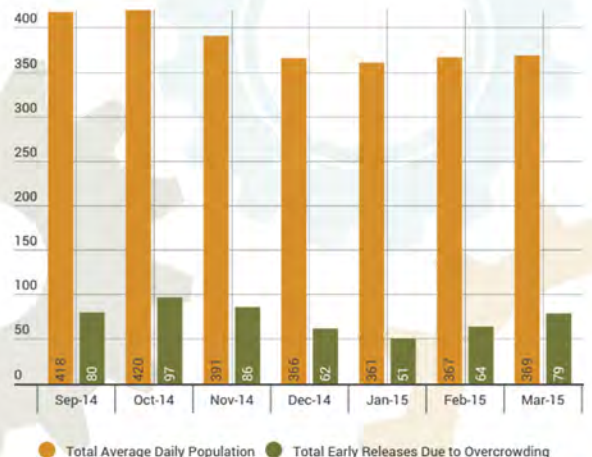
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JAIL POPULATION SHRANK AFTER PROP 47



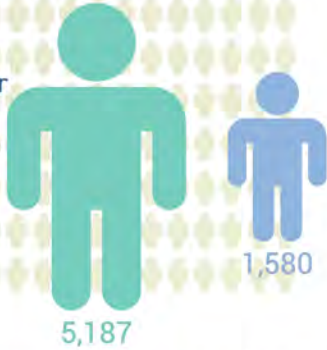
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Fresno

PROP 47 PETITIONS

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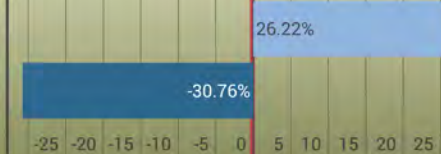
● Resentencing Petitions ● Reclassification Applications

County Population 2014: 967,491

In 2015, thousands of Californians successfully cleared their record of a low-level felony, opening up paths to employment, education, and other opportunities. Thanks to Prop 47, California has ended draconian penalties for petty offenses, significantly reduced jail overcrowding, and freed up resources that can be better spent. At the same time, counties saw a double-digit increase in funding for crime-prevention services, including drug treatment, mental healthcare, and supportive housing. Counties should reevaluate how they allocate those resources.

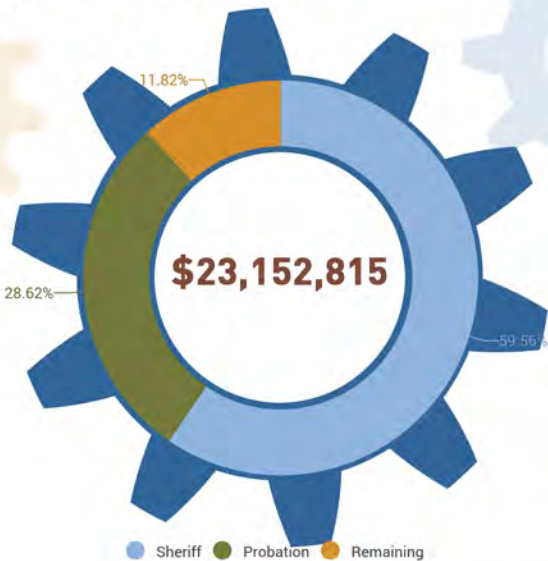
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



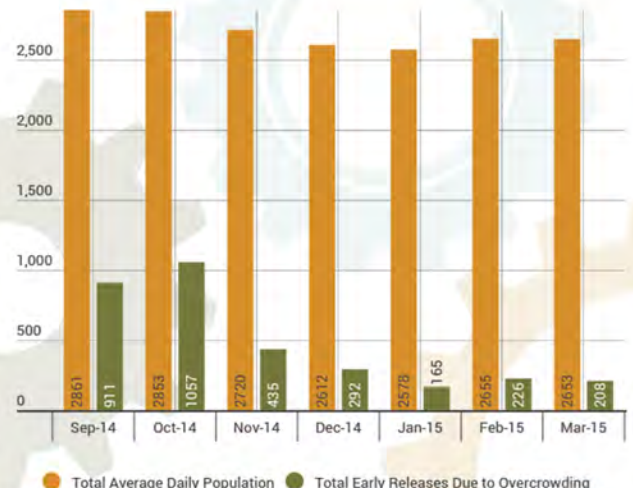
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JAIL POPULATION SHRANK AFTER PROP 47



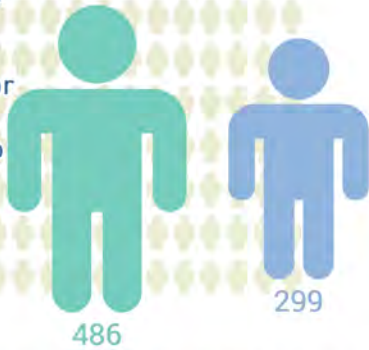
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Humboldt

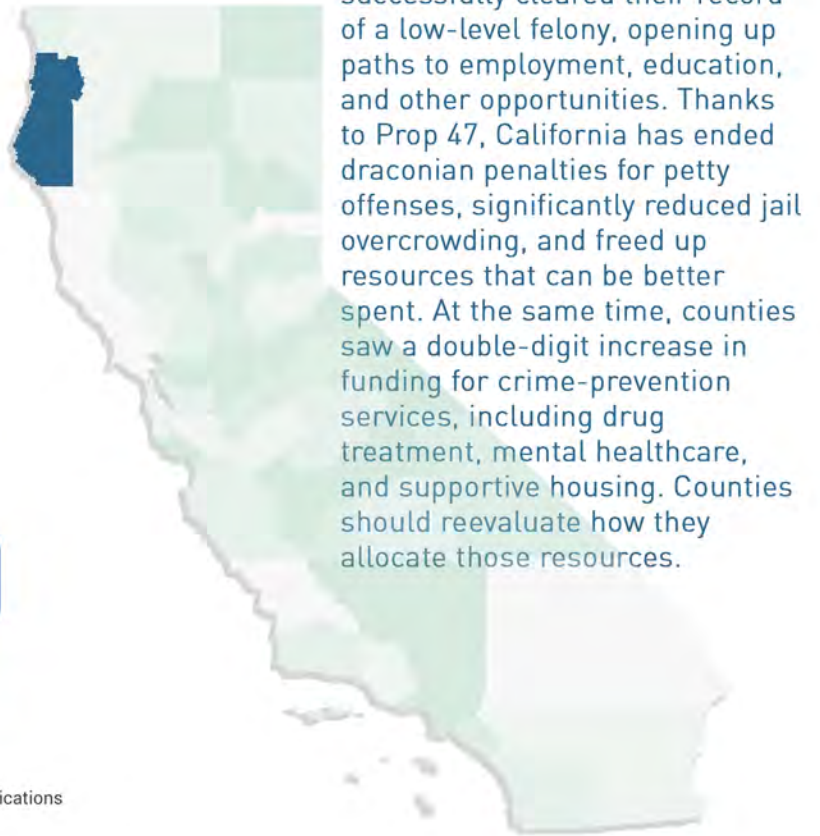
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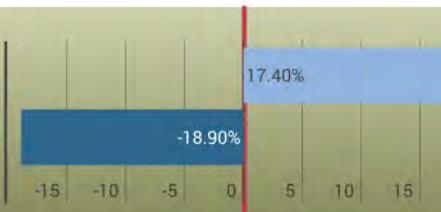
County Population 2014: 134,609



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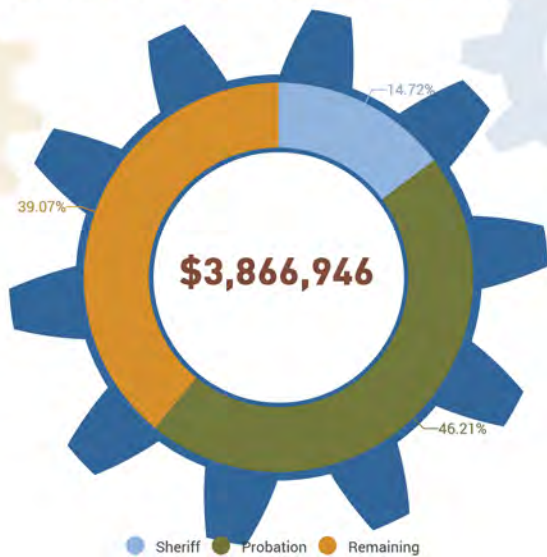
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



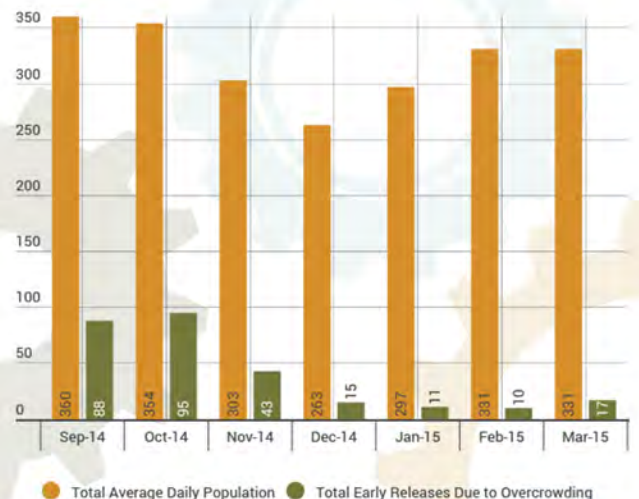
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JAIL POPULATION SHRANK AFTER PROP 47



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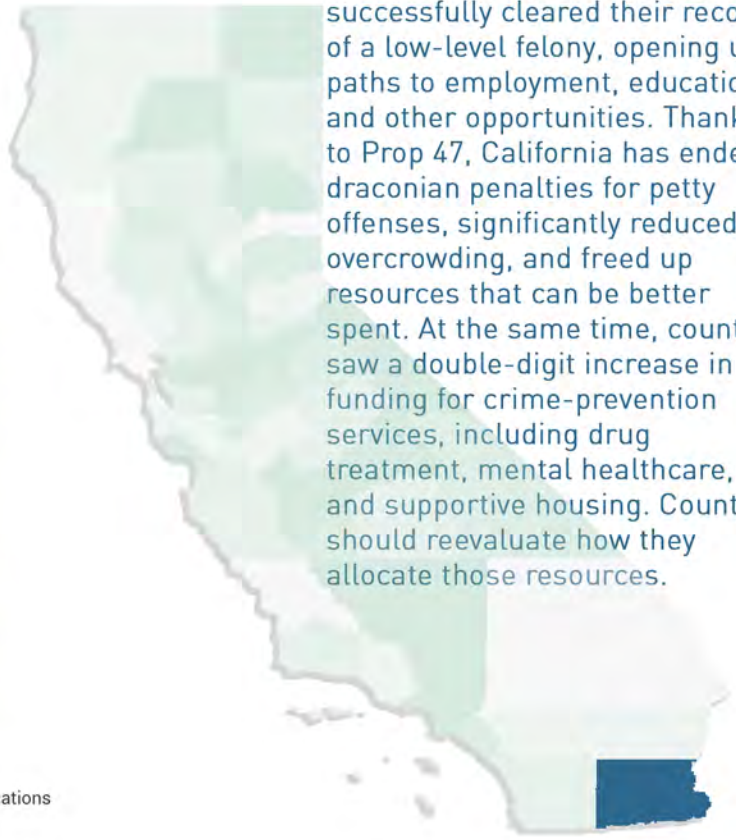
Imperial

PROP 47 PETITIONS



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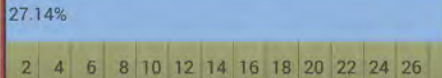
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County Population 2014: 181,103

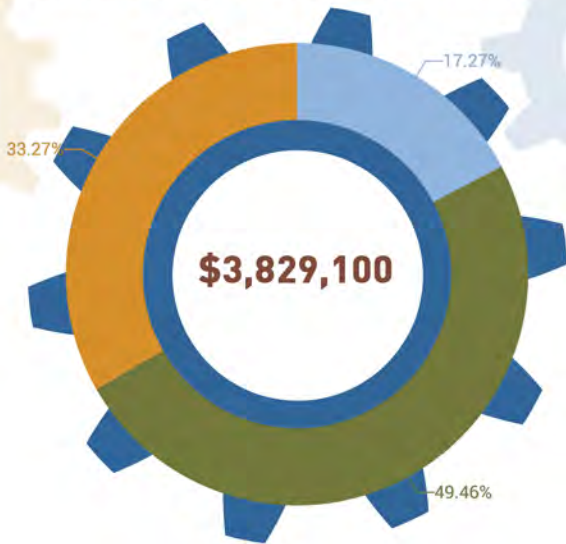
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)



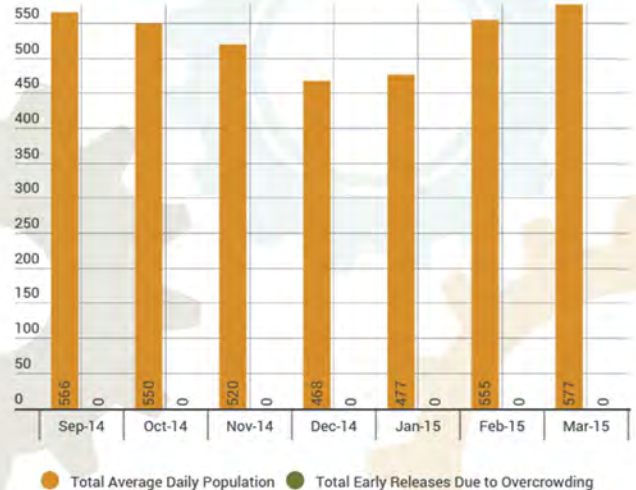
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DISTRIBUTION OF COUNTY CRIME PREVENTION FUNDS



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JAIL POPULATION SHRANK AFTER PROP 47



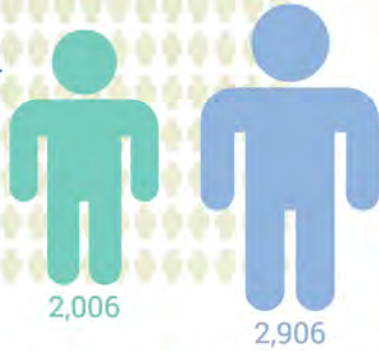
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Kern

PROP 47 PETITIONS

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● Resentencing Petitions ● Reclassification Applications

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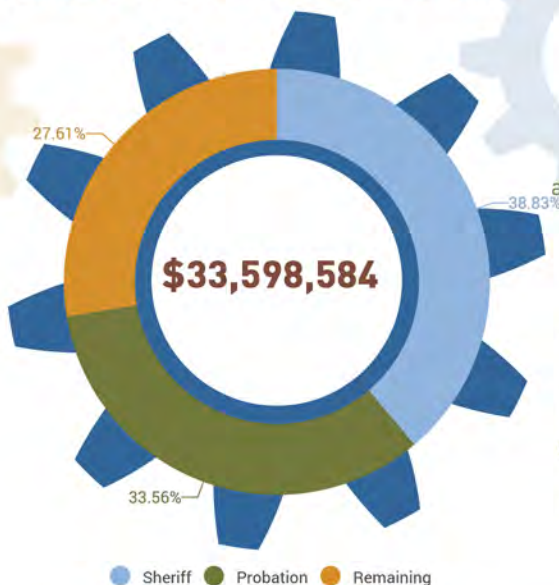
County Population 2014: 872,322

CHANGE IN FUNDING & POPULATION



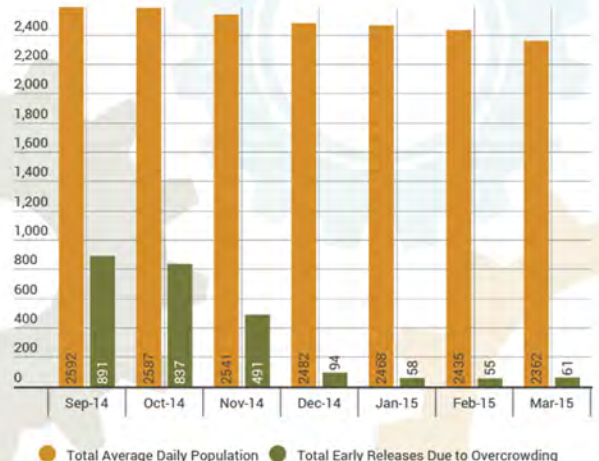
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JAIL POPULATION SHRANK AFTER PROP 47

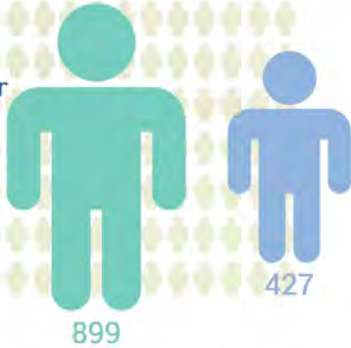
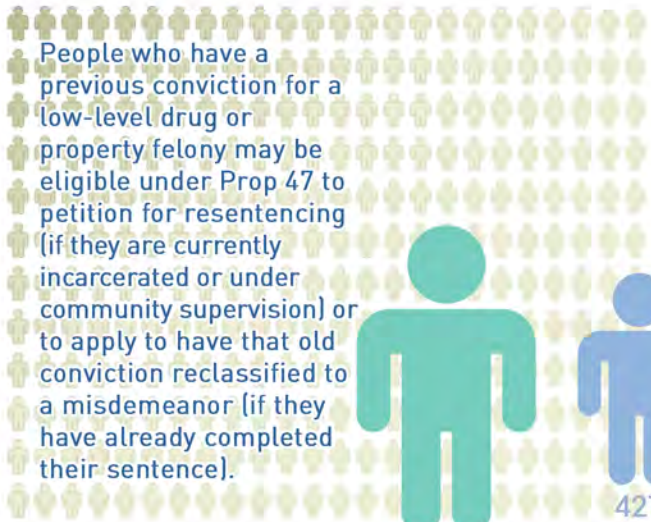


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



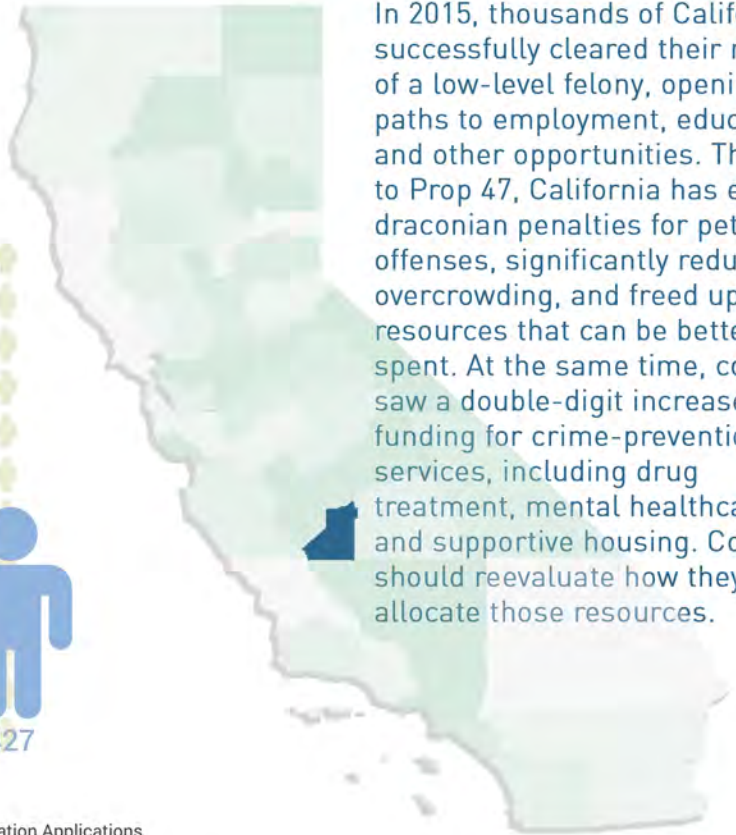
Kings

PROP 47 PETITIONS



● Resentencing Petitions ● Reclassification Applications

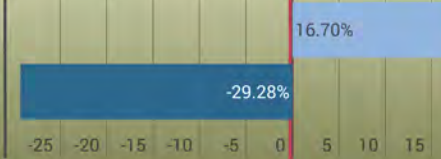
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County Population 2014: 149,788

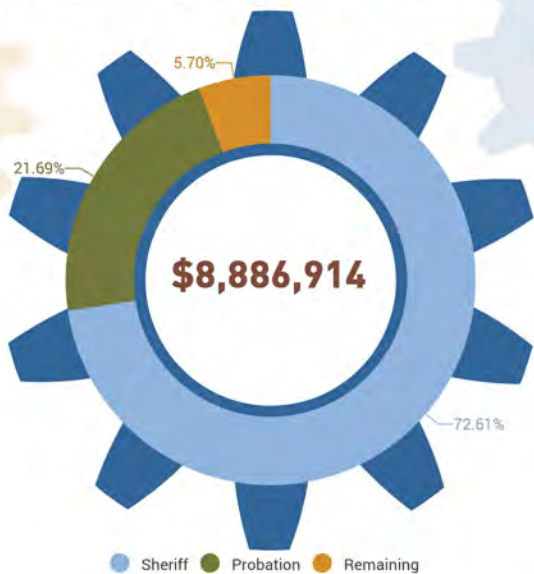
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



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JAIL POPULATION SHRANK AFTER PROP 47

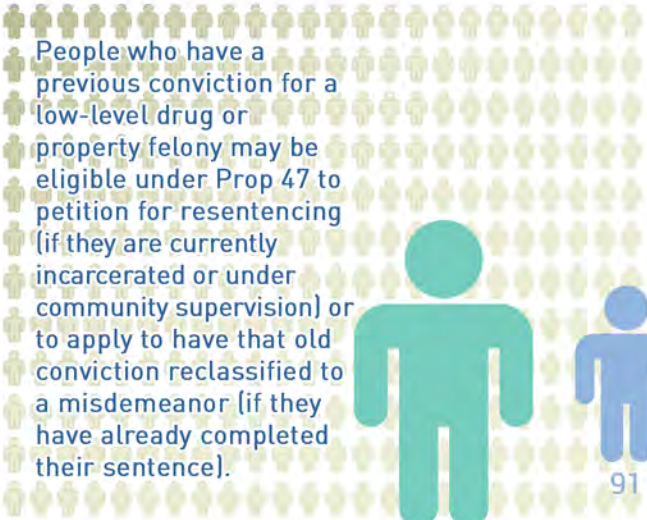


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.

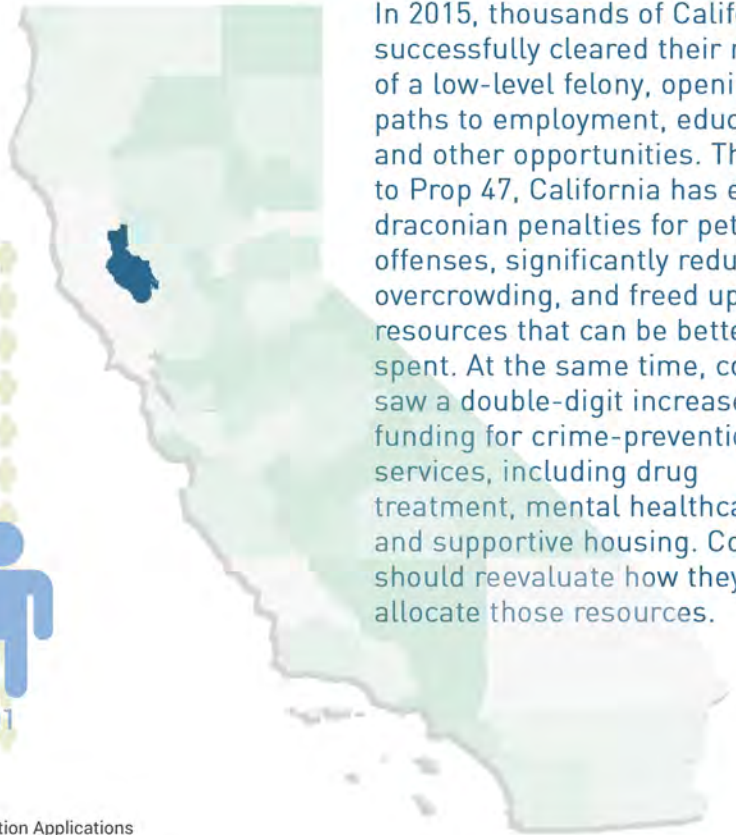


Lake

PROP 47 PETITIONS



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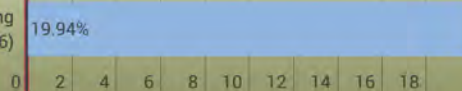


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County Population 2014: 64,744

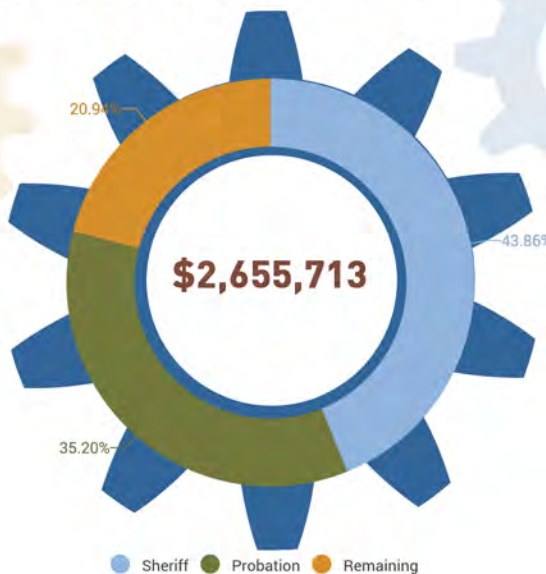
CHANGE IN FUNDING & POPULATION

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JAIL POPULATION SHRANK AFTER PROP 47



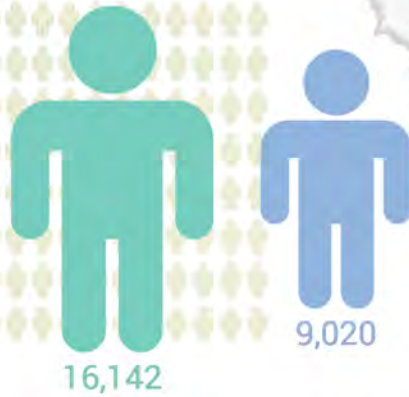
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Los Angeles

PROP 47 PETITIONS

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● Resentencing Petitions ● Reclassification Applications

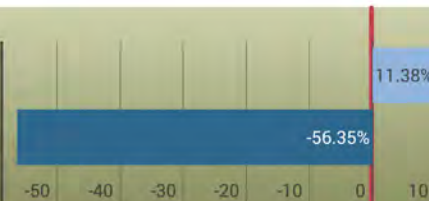
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County Population 2014: 10,069,036

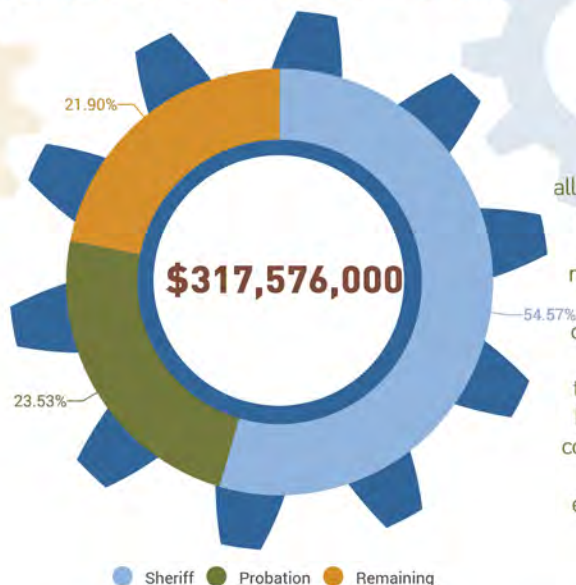
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



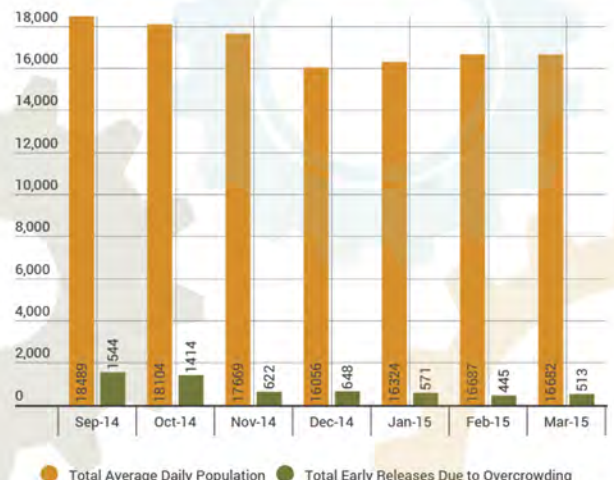
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JAIL POPULATION SHRANK AFTER PROP 47



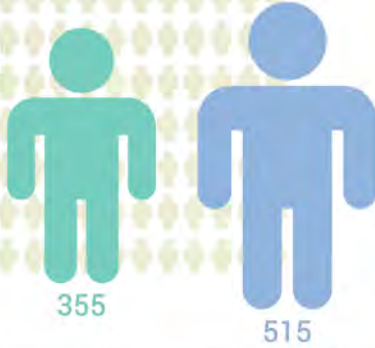
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Madera

PROP 47 PETITIONS

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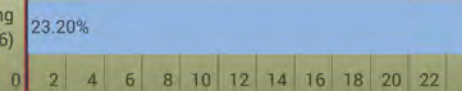
County Population 2014: 154,278

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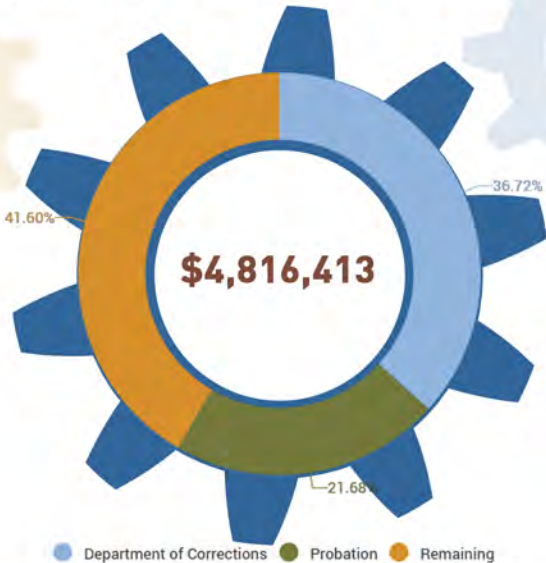
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)



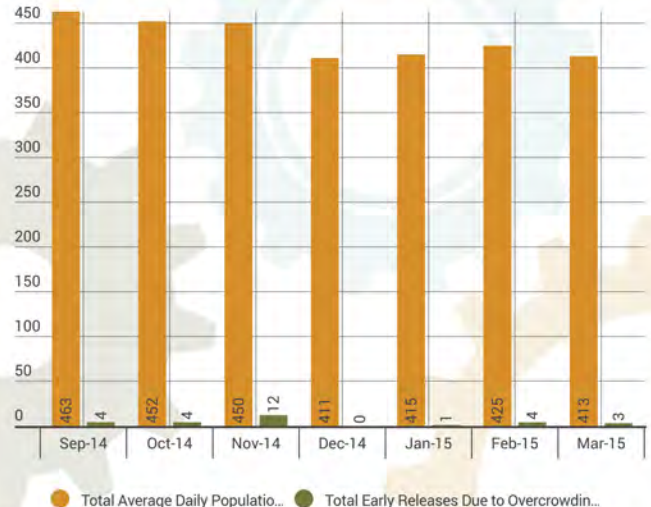
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JAIL POPULATION SHRANK AFTER PROP 47

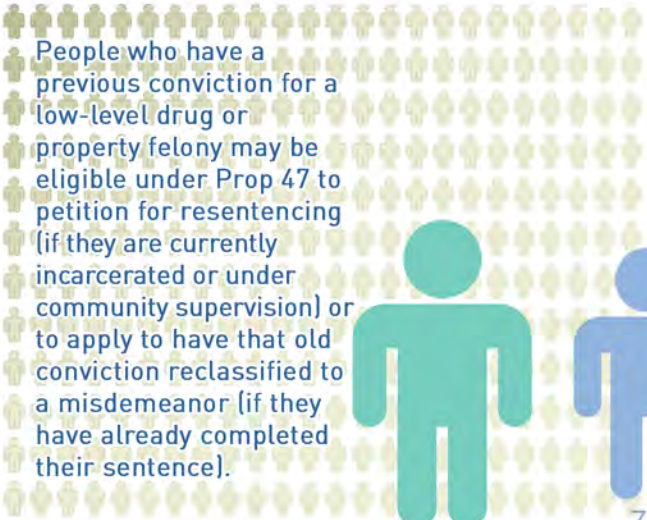


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.

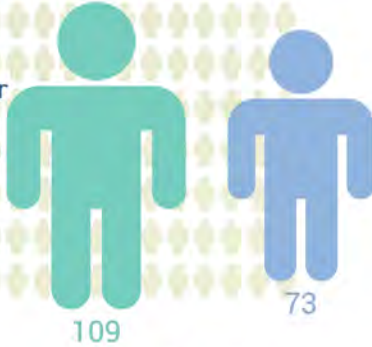


Marin

PROP 47 PETITIONS

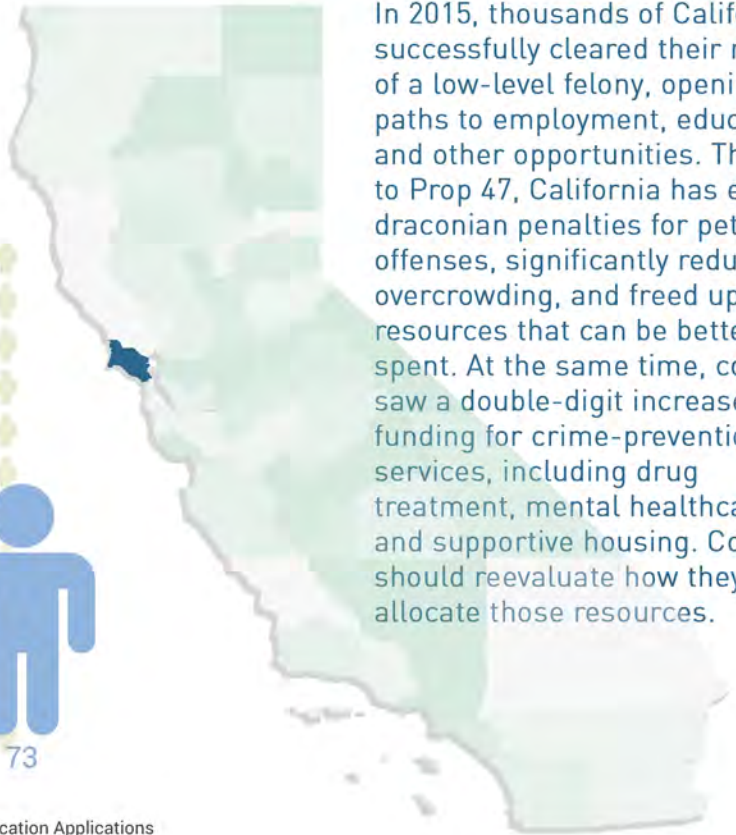


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● Resentencing Petitions ● Reclassification Applications

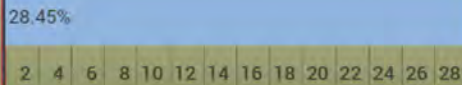
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County Population 2014: 258,324

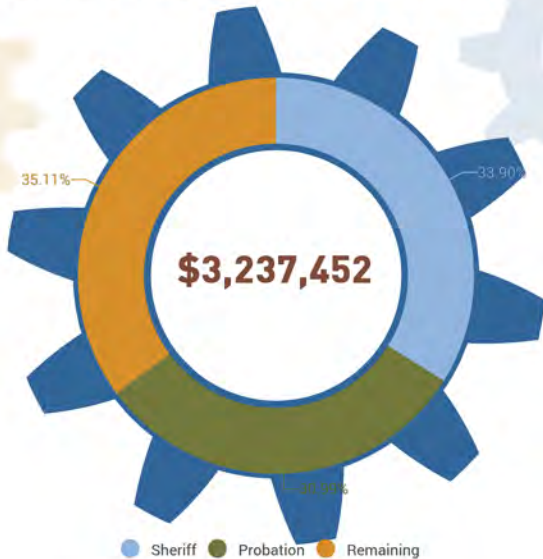
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)



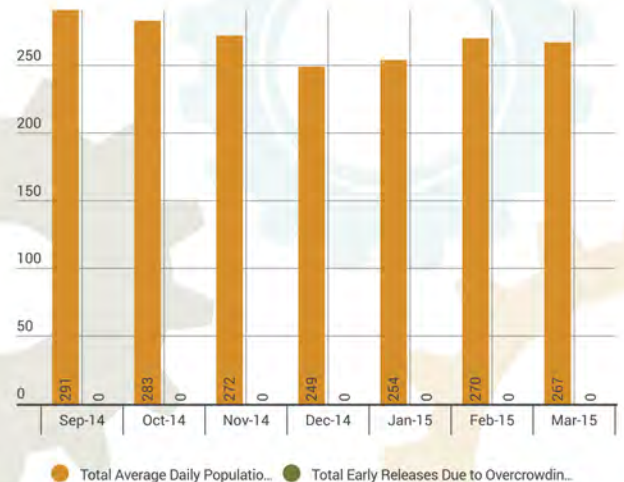
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JAIL POPULATION SHRANK AFTER PROP 47



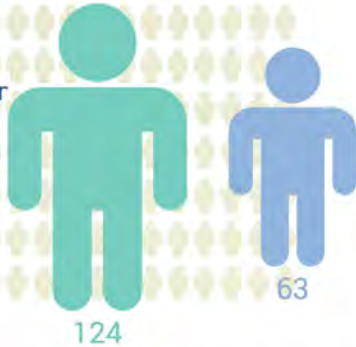
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



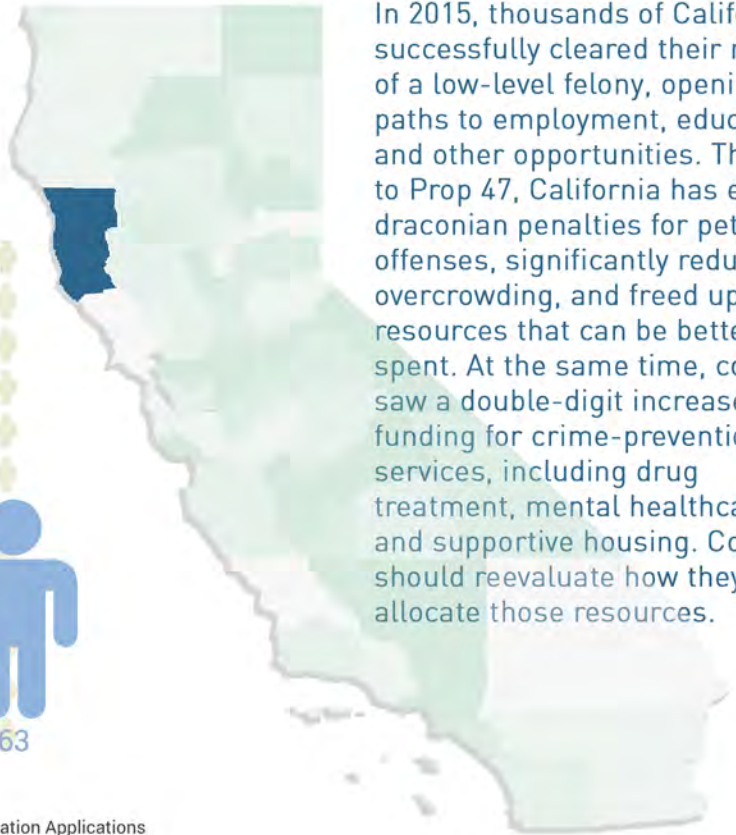
Mendocino

PROP 47 PETITIONS

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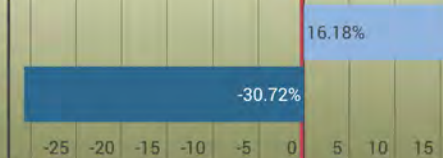


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County Population 2014: 88,545

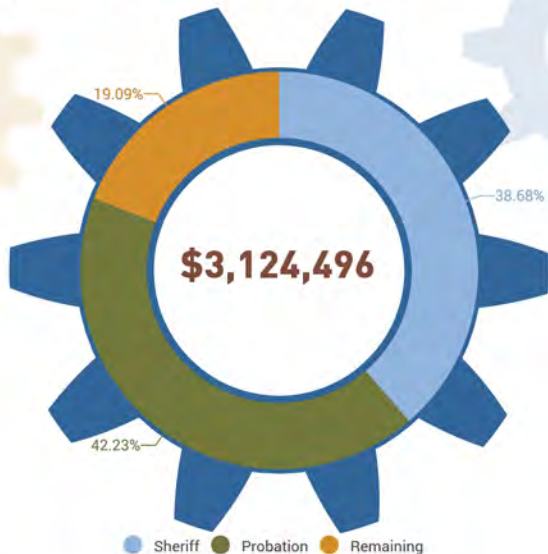
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



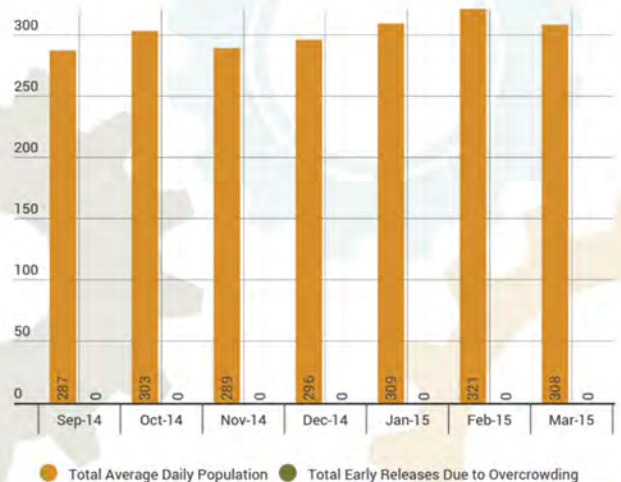
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JAIL POPULATION SHRANK AFTER PROP 47

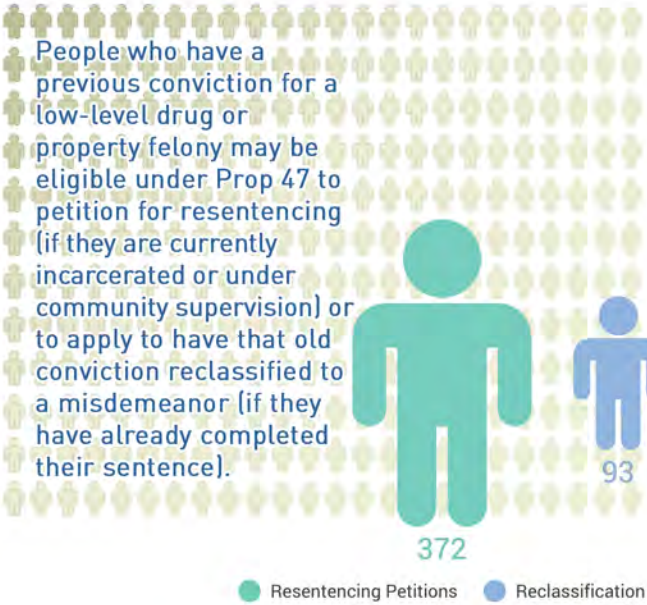


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Merced

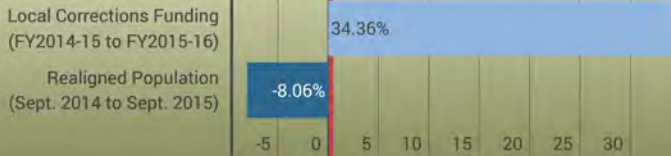
PROP 47 PETITIONS



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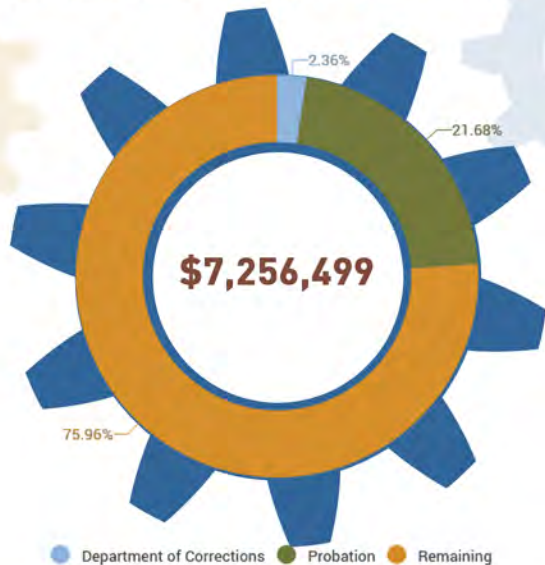
County Population 2014: 265,069

CHANGE IN FUNDING & POPULATION



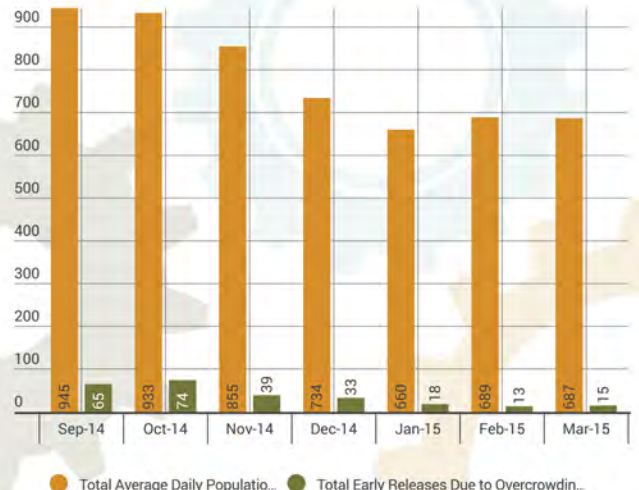
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JAIL POPULATION SHRANK AFTER PROP 47

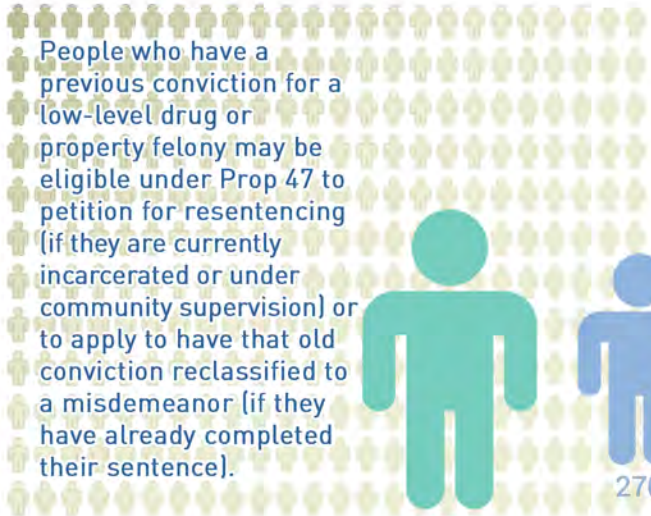


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.

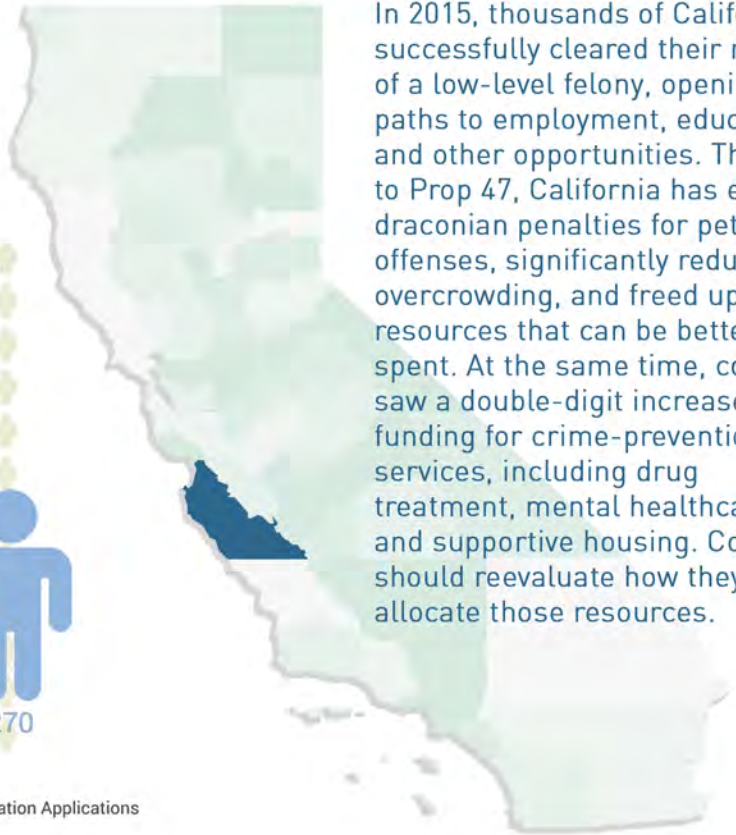


Monterey

PROP 47 PETITIONS



● Resentencing Petitions ● Reclassification Applications

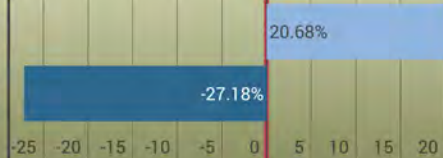


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County Population 2014: 425,365

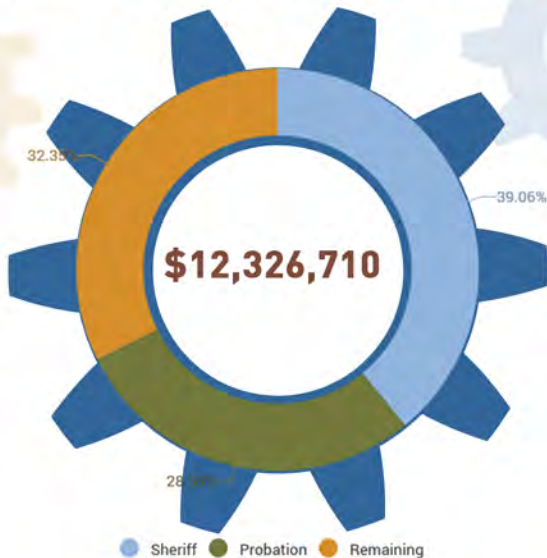
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



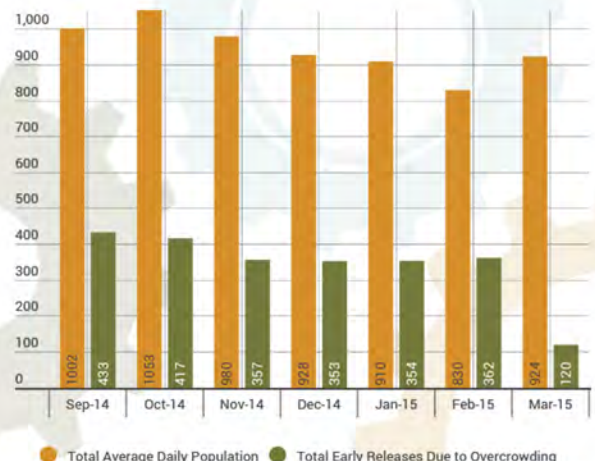
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JAIL POPULATION SHRANK AFTER PROP 47

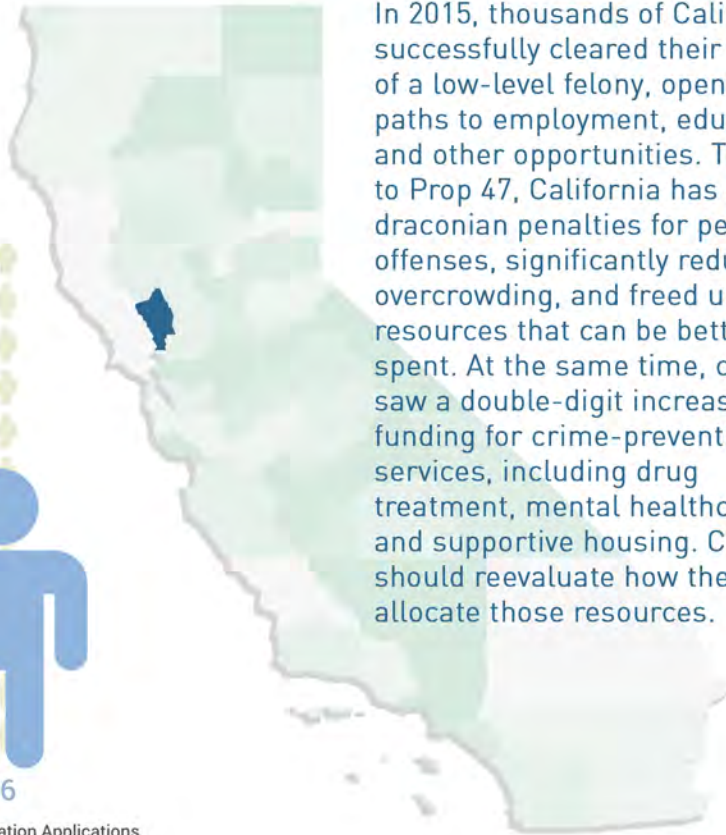
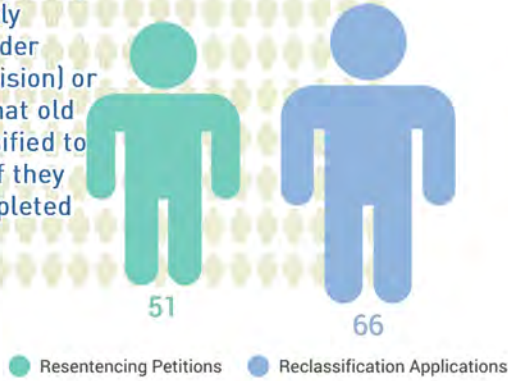
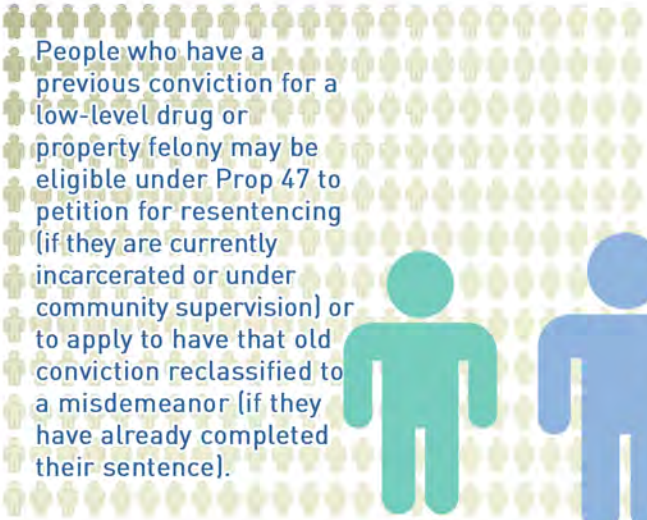


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Napa

PROP 47 PETITIONS



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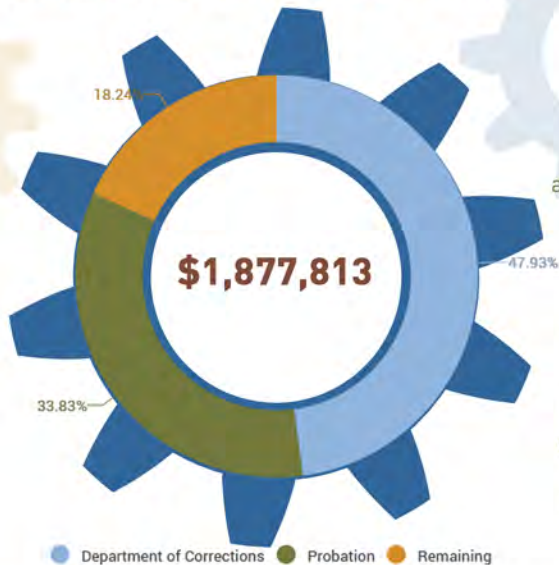
County Population 2014: 140,348

CHANGE IN FUNDING & POPULATION



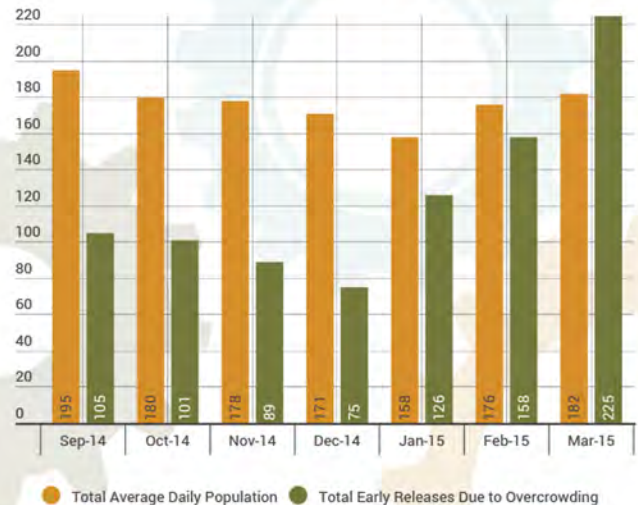
Since Prop 47, the number of people newly sentenced to, and under supervision for, low-level "realigned" felony offenses fell in most counties, while the amount counties receive to address and prevent low-level crime has increased. Counties should tap these funds to increase connections to services for people facing misdemeanor charges, including Prop 47 misdemeanors.

DISTRIBUTION OF COUNTY CRIME PREVENTION FUNDS



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JAIL POPULATION SHRANK AFTER PROP 47



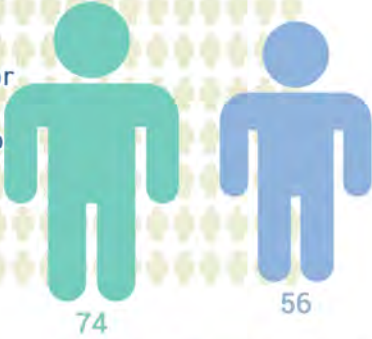
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



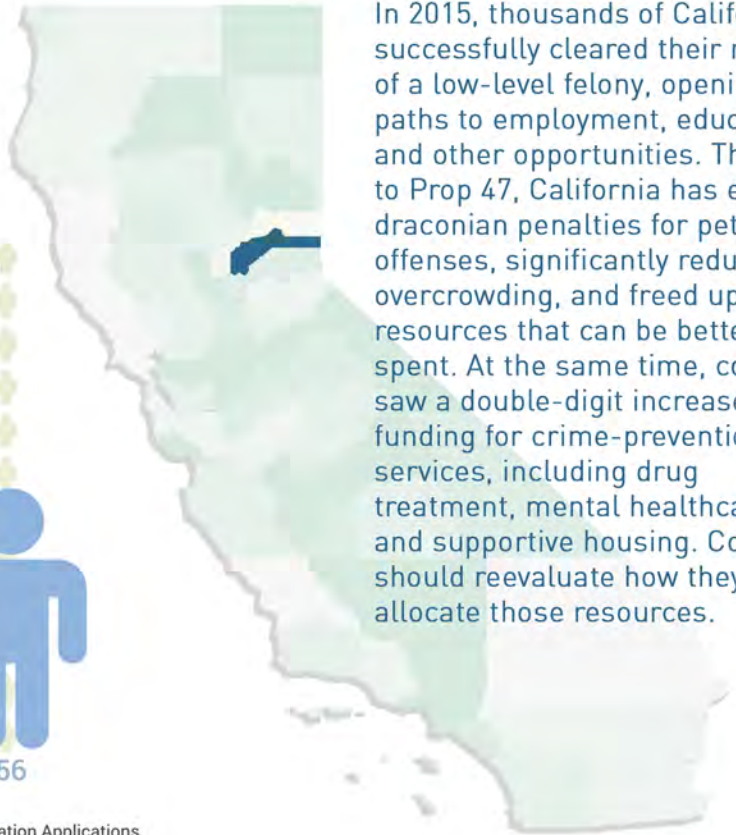
Nevada

PROP 47 PETITIONS

People who have a previous conviction for a low-level drug or property felony may be eligible under Prop 47 to petition for resentencing (if they are currently incarcerated or under community supervision) or to apply to have that old conviction reclassified to a misdemeanor (if they have already completed their sentence).



● Resentencing Petitions ● Reclassification Applications

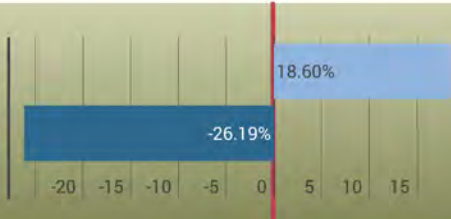


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County Population 2014: 98,235

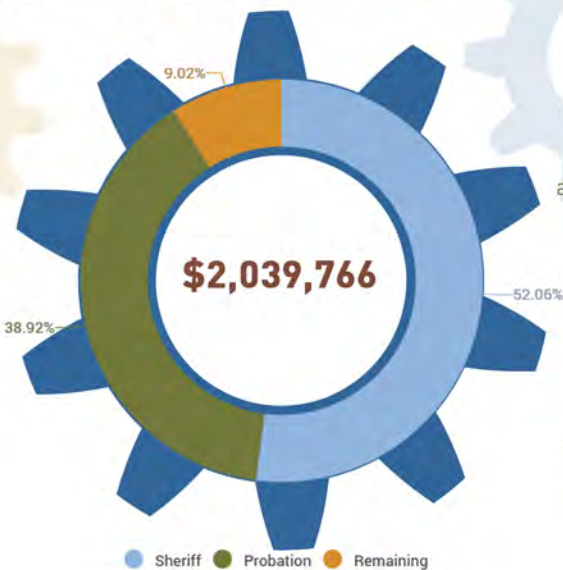
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



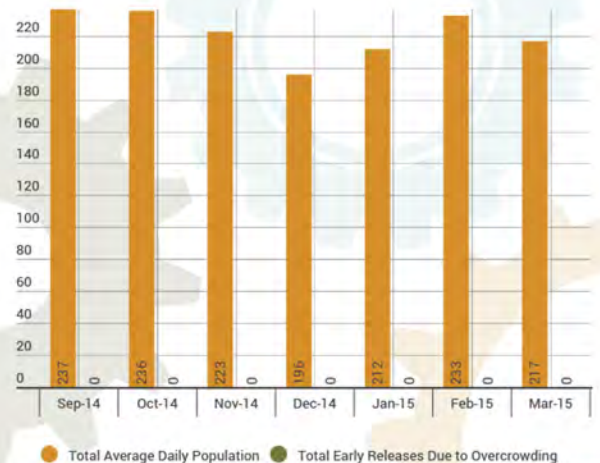
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JAIL POPULATION SHRANK AFTER PROP 47



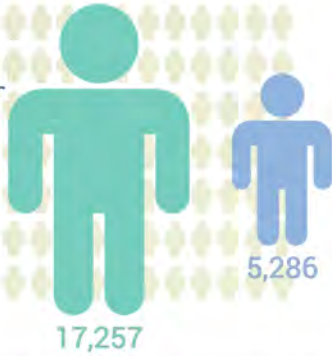
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



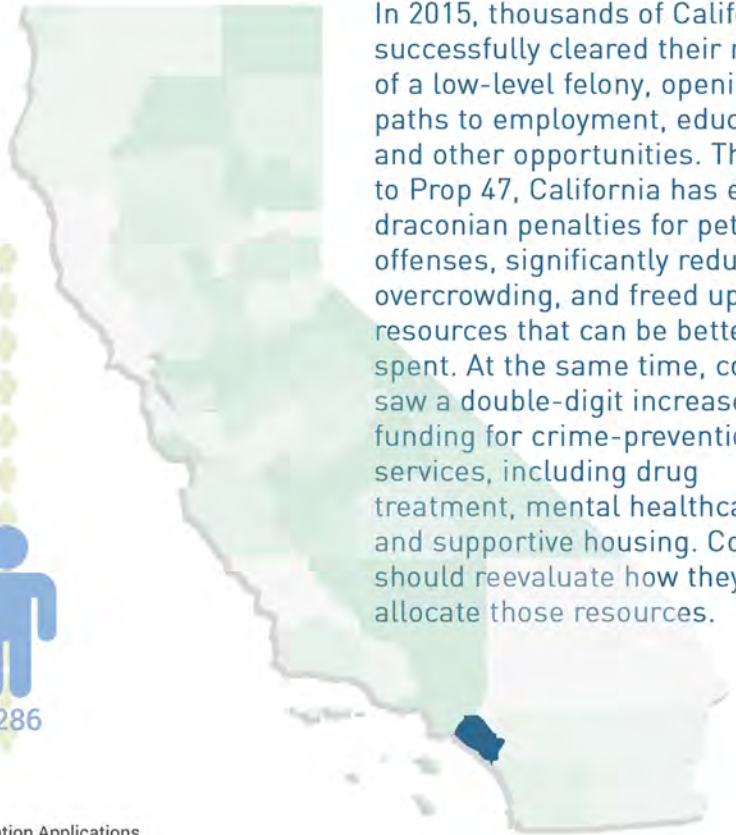
Orange

PROP 47 PETITIONS

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● Resentencing Petitions ● Reclassification Applications

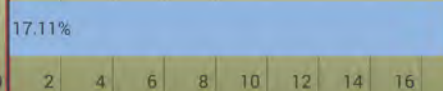


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County Population 2014: 3,132,681

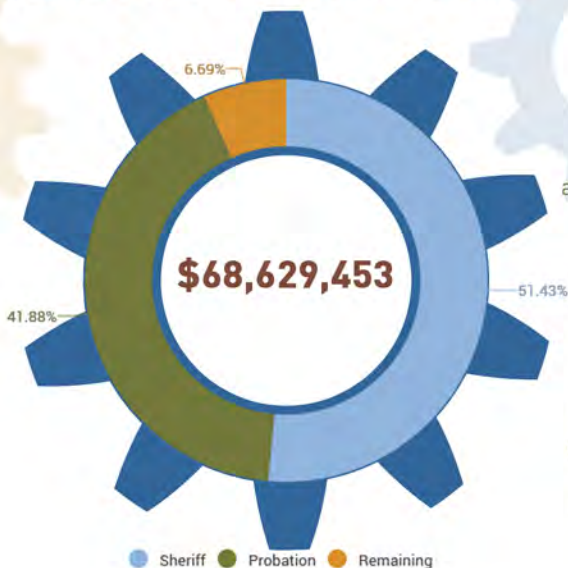
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)



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JAIL POPULATION SHRANK AFTER PROP 47

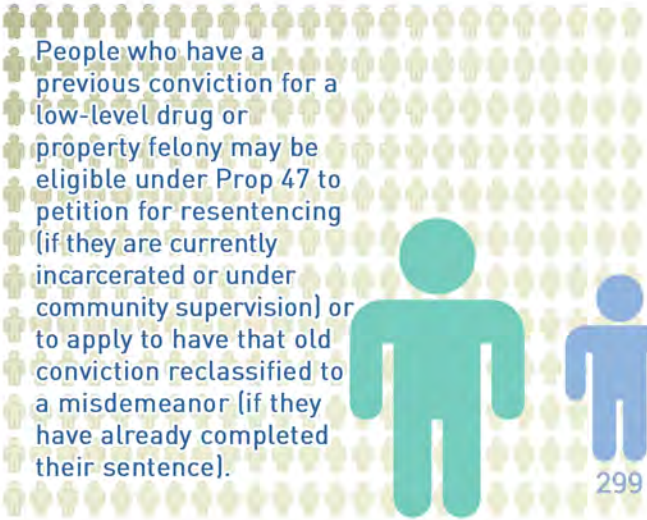


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Placer

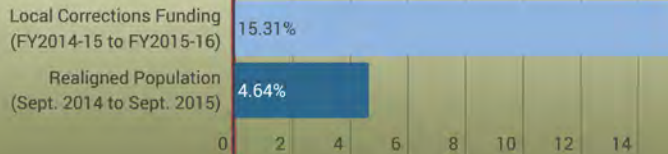
PROP 47 PETITIONS



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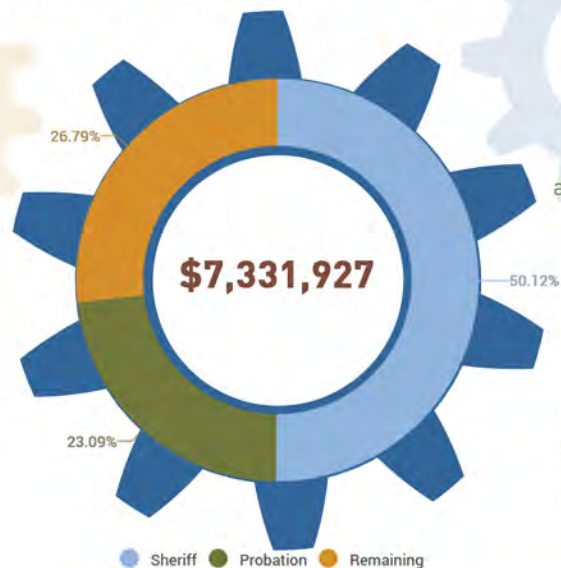
County Population 2014: 369,726

CHANGE IN FUNDING & POPULATION



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JAIL POPULATION SHRANK AFTER PROP 47



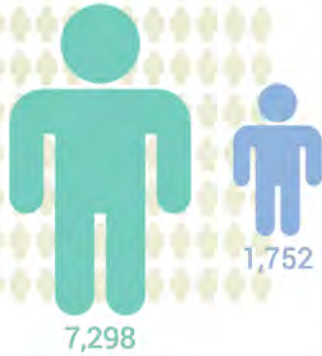
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Riverside

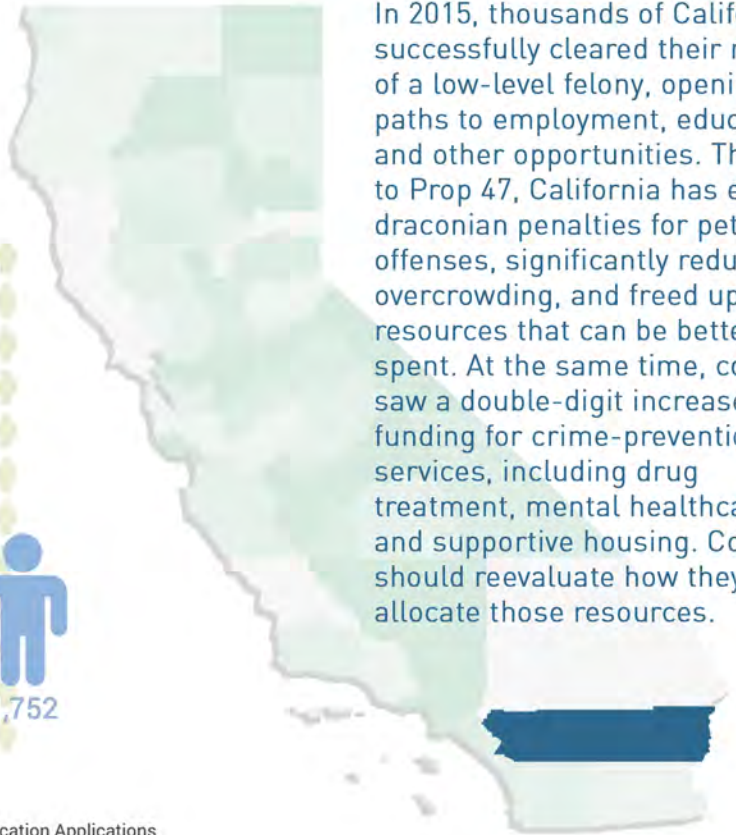
PROP 47 PETITIONS

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● Resentencing Petitions ● Reclassification Applications

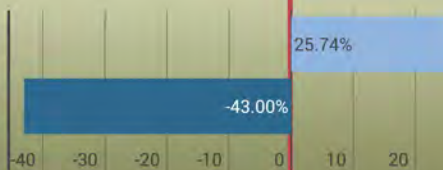
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County Population 2014: 2,295,298

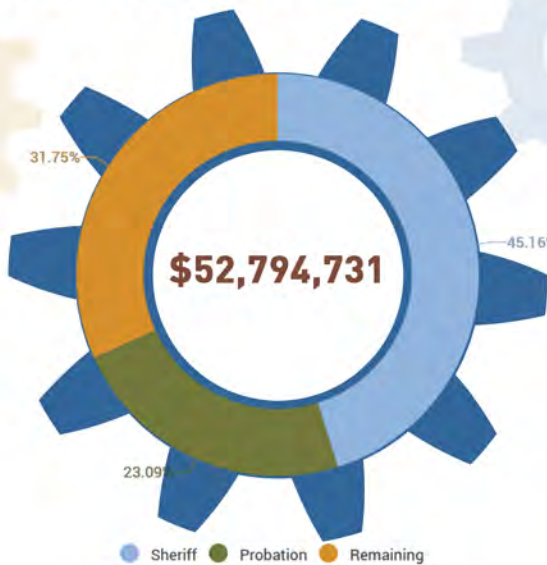
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



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JAIL POPULATION SHRANK AFTER PROP 47

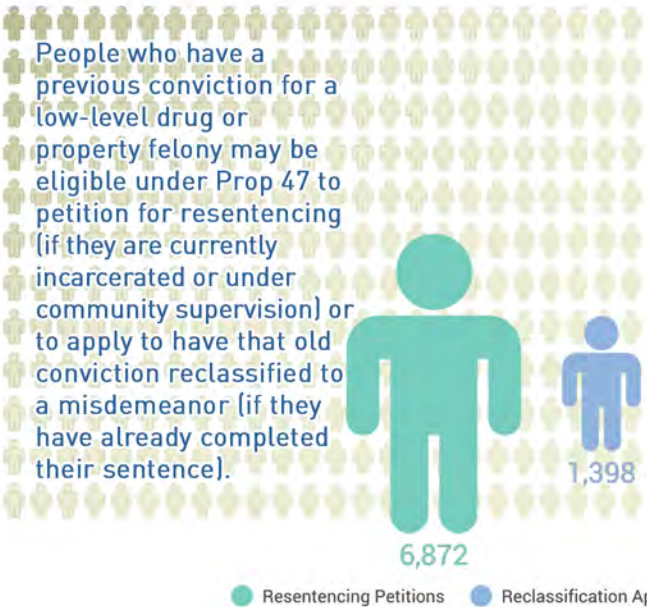


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Sacramento

PROP 47 PETITIONS



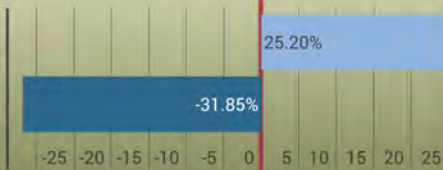
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County Population 2014: 1,460,480

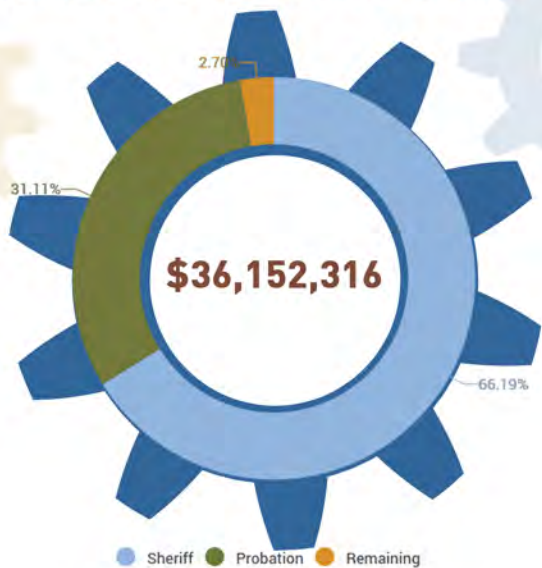
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
 Realigned Population (Sept. 2014 to Sept. 2015)



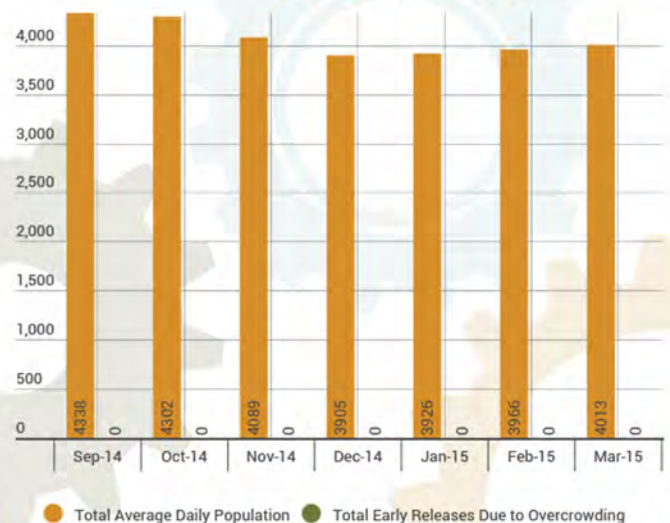
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JAIL POPULATION SHRANK AFTER PROP 47



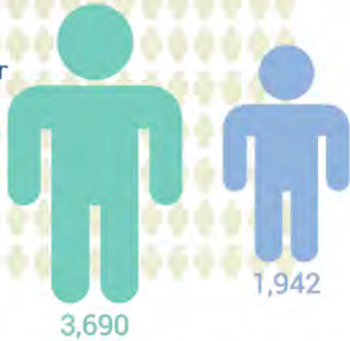
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



San Bernardino

PROP 47 PETITIONS

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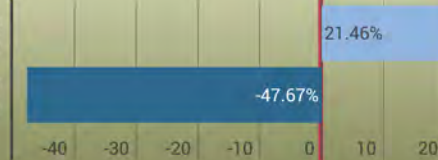
● Resentencing Petitions ● Reclassification Applications

County Population 2014: 2,091,618

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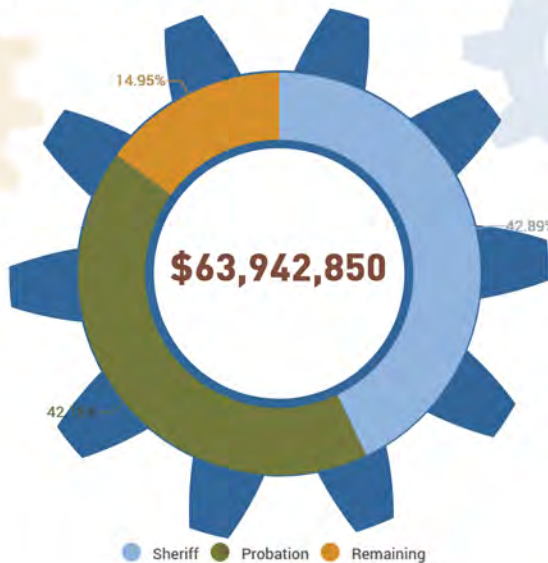
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



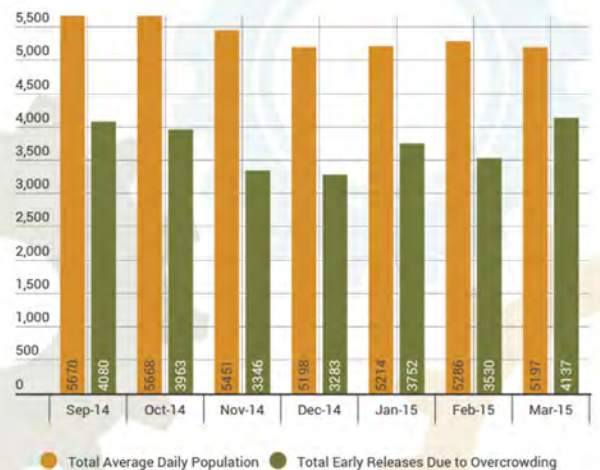
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JAIL POPULATION SHRANK AFTER PROP 47

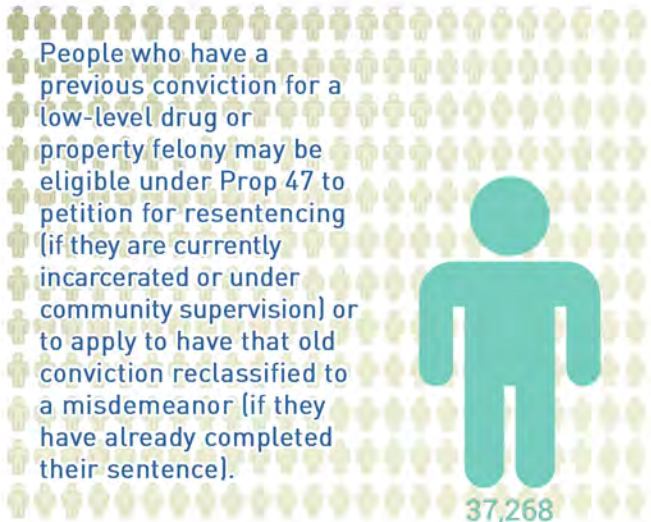


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



San Diego

PROP 47 PETITIONS



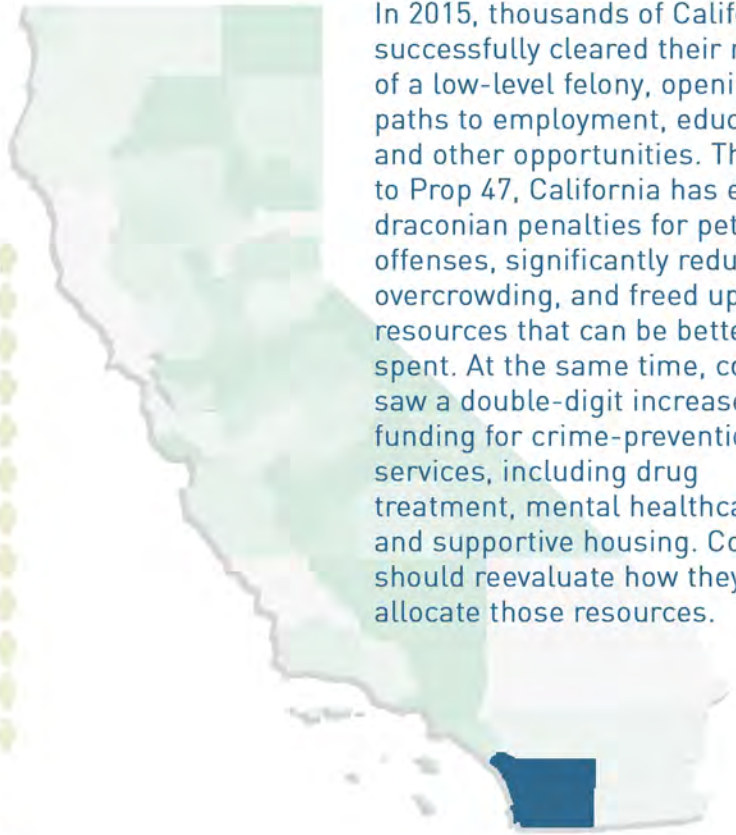
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● Resentencing Petitions

* Petitions and applications are combined in this county.

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County Population 2014: 3,212,298

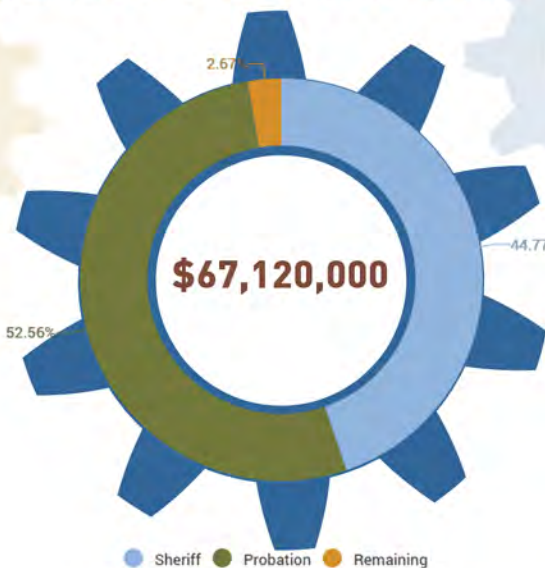
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



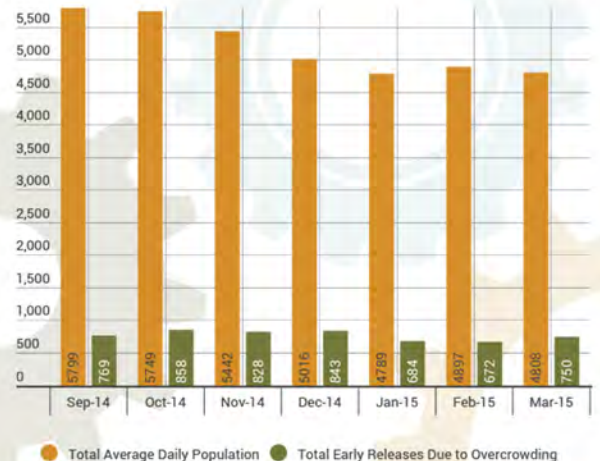
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JAIL POPULATION SHRANK AFTER PROP 47

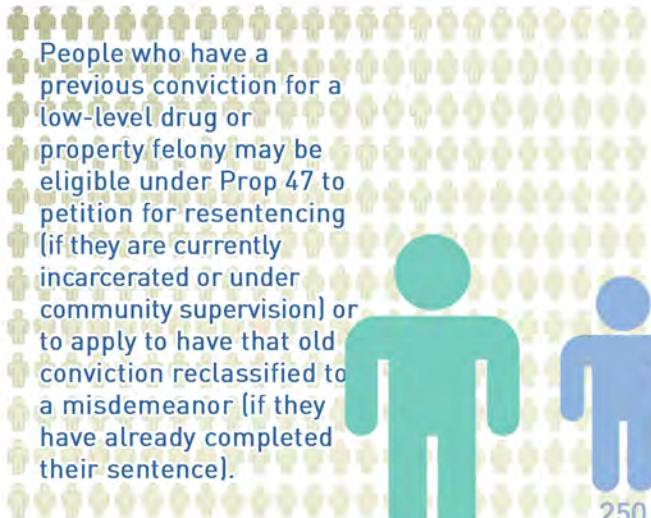


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



San Francisco

PROP 47 PETITIONS



● Resentencing Petitions ● Reclassification Applications

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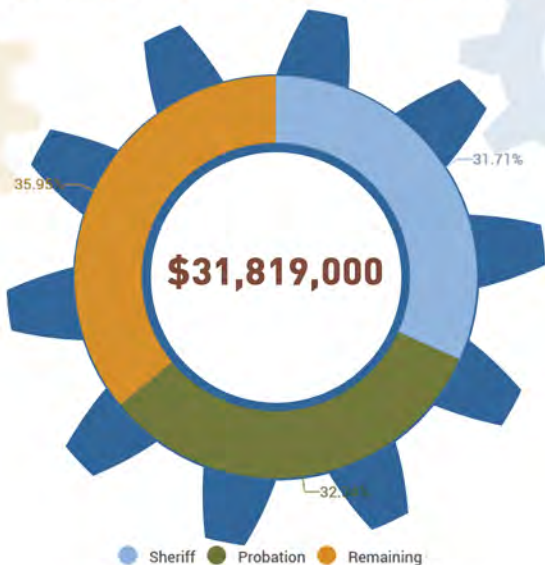
County Population 2014: 837,831

CHANGE IN FUNDING & POPULATION



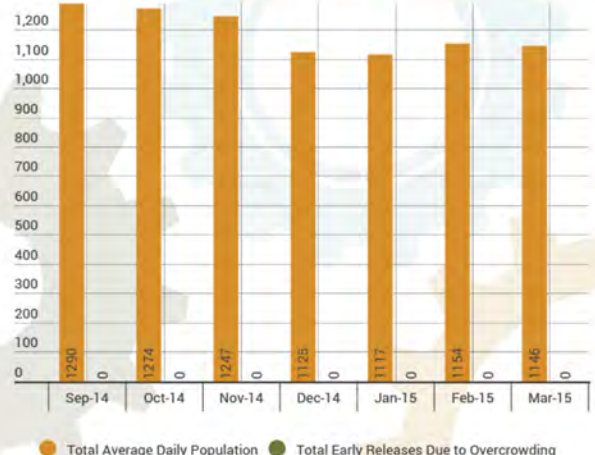
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JAIL POPULATION SHRANK AFTER PROP 47



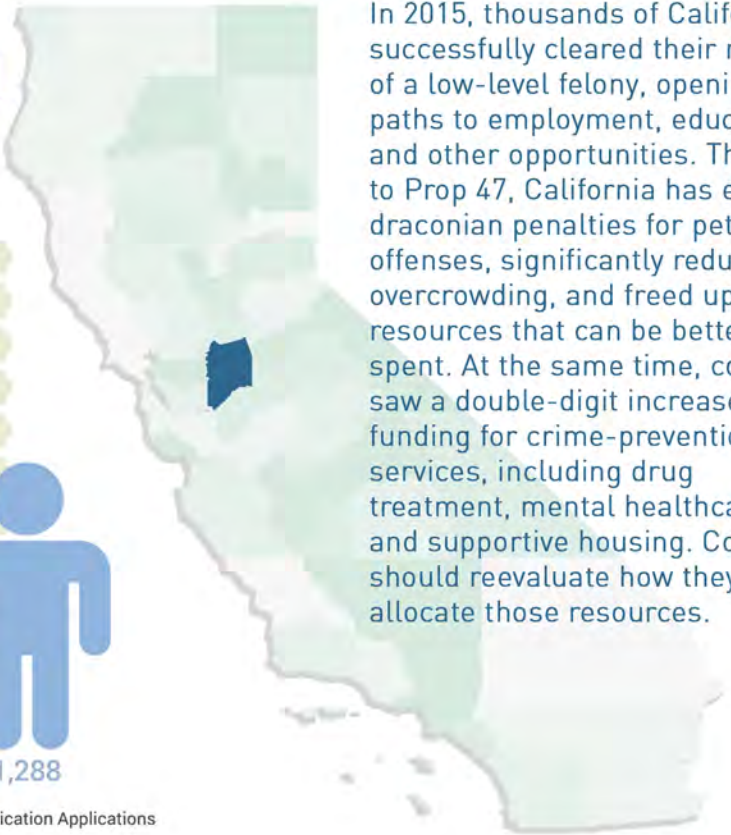
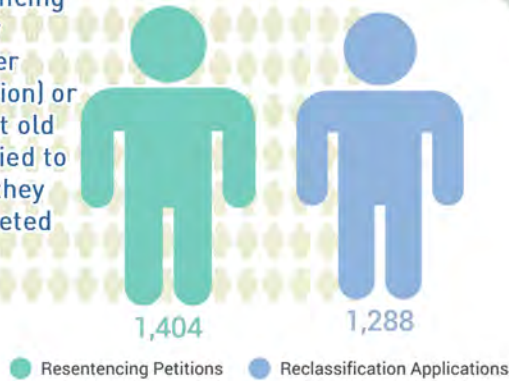
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



San Joaquin

PROP 47 PETITIONS

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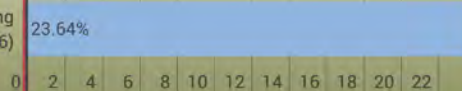


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County Population 2014: 711,797

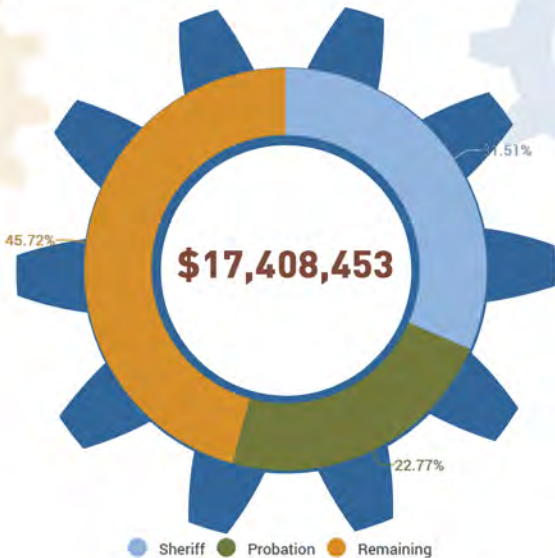
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)



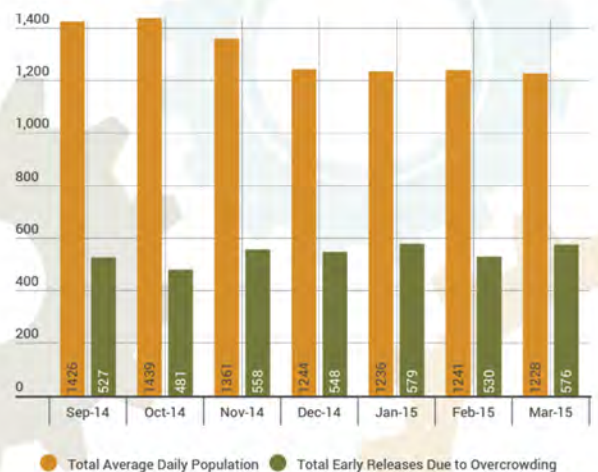
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JAIL POPULATION SHRANK AFTER PROP 47

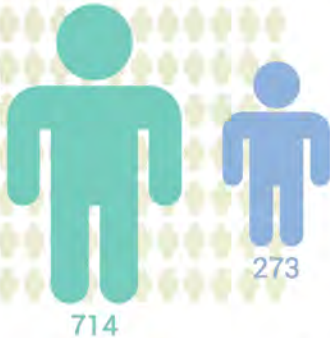
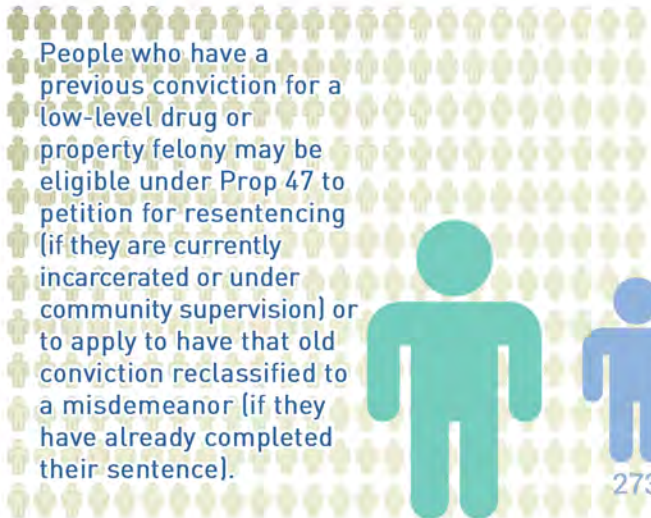


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



San Luis Obispo

PROP 47 PETITIONS



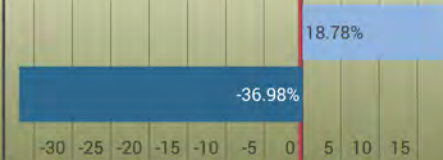
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County Population 2014: 273,323

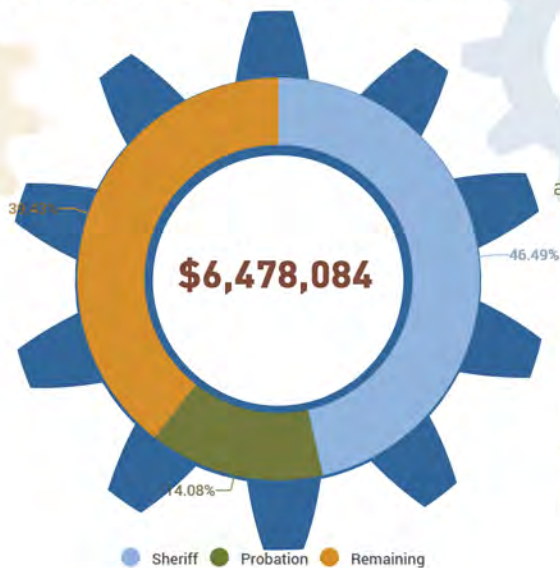
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



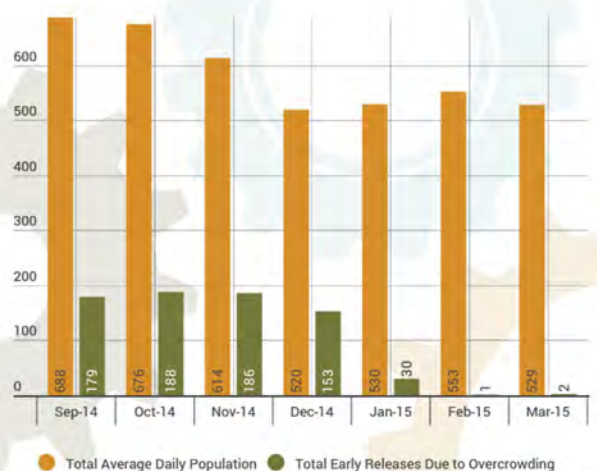
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JAIL POPULATION SHRANK AFTER PROP 47



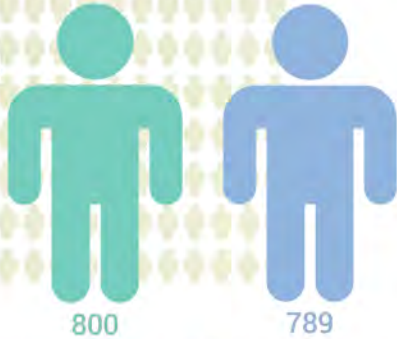
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



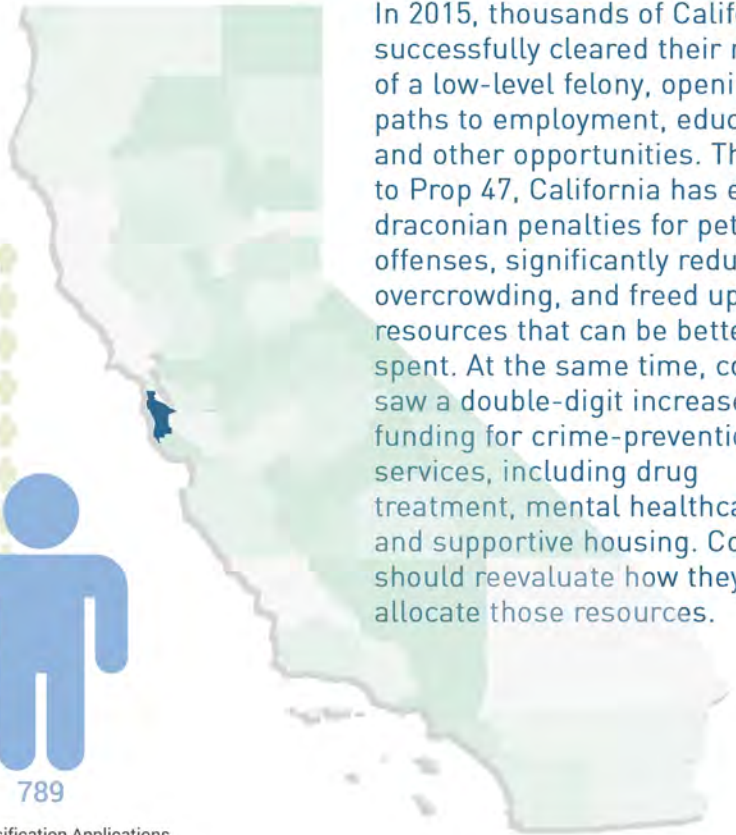
San Mateo

PROP 47 PETITIONS

People who have a previous conviction for a low-level drug or property felony may be eligible under Prop 47 to petition for resentencing (if they are currently incarcerated or under community supervision) or to apply to have that old conviction reclassified to a misdemeanor (if they have already completed their sentence).



● Resentencing Petitions ● Reclassification Applications

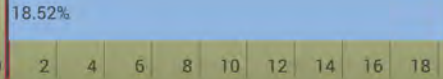


In 2015, thousands of Californians successfully cleared their record of a low-level felony, opening up paths to employment, education, and other opportunities. Thanks to Prop 47, California has ended draconian penalties for petty offenses, significantly reduced jail overcrowding, and freed up resources that can be better spent. At the same time, counties saw a double-digit increase in funding for crime-prevention services, including drug treatment, mental healthcare, and supportive housing. Counties should reevaluate how they allocate those resources.

County Population 2014: 748,438

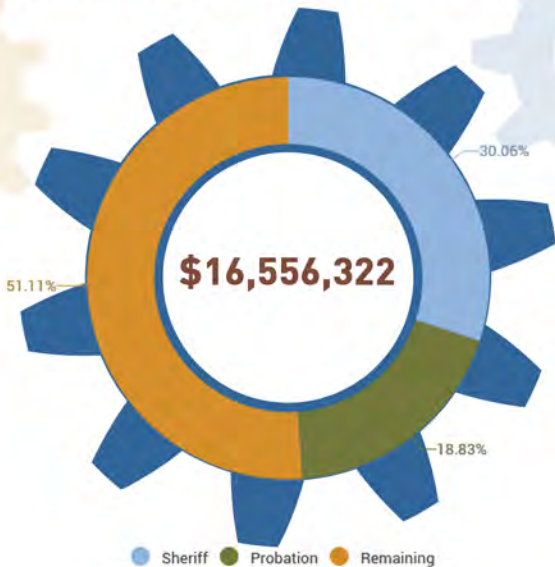
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)



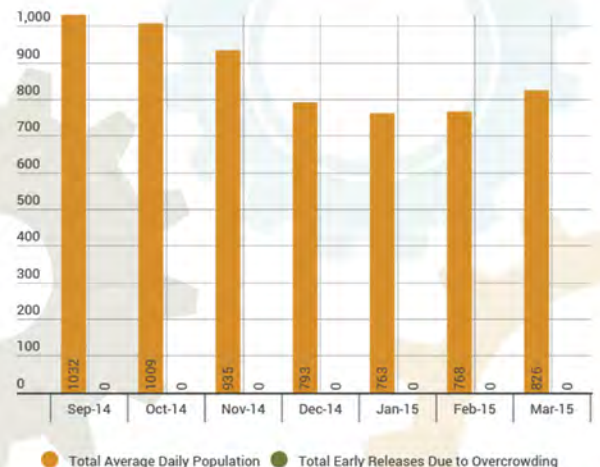
Since Prop 47, the number of people newly sentenced to, and under supervision for, low-level "realigned" felony offenses fell in most counties, while the amount counties receive to address and prevent low-level crime has increased. Counties should tap these funds to increase connections to services for people facing misdemeanor charges, including Prop 47 misdemeanors.

DISTRIBUTION OF COUNTY CRIME PREVENTION FUNDS



Counties have broad discretion in allocating these resources each year. The amount not allocated to the sheriff's & probation departments are available to cover a range of costs (including infrastructure), so it cannot be assumed that remaining dollars go toward reentry services. Research suggests that counties that invest more in reentry services experience better public safety outcomes.

JAIL POPULATION SHRANK AFTER PROP 47

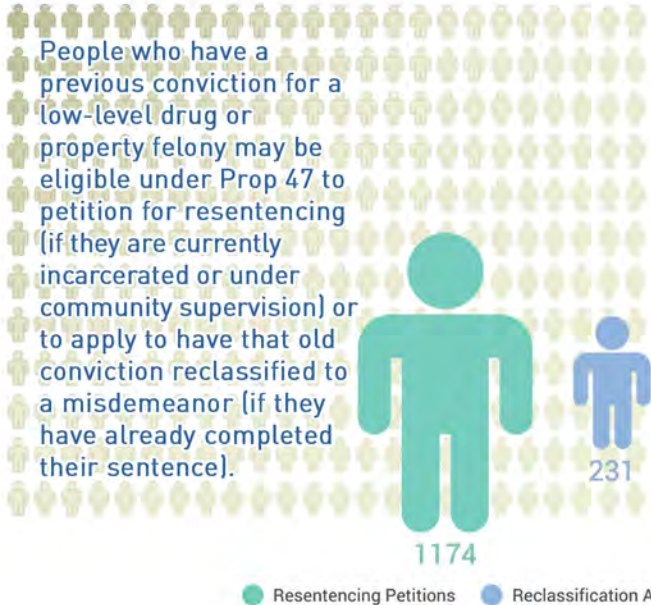


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Santa Barbara

PROP 47 PETITIONS



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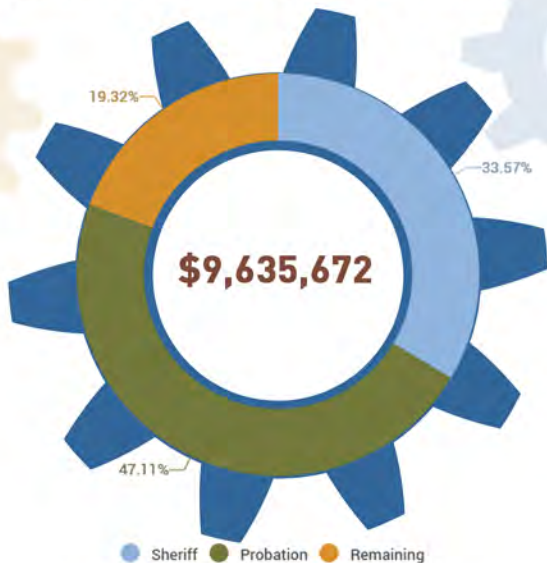
County Population 2014: 436,516

CHANGE IN FUNDING & POPULATION



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JAIL POPULATION SHRANK AFTER PROP 47

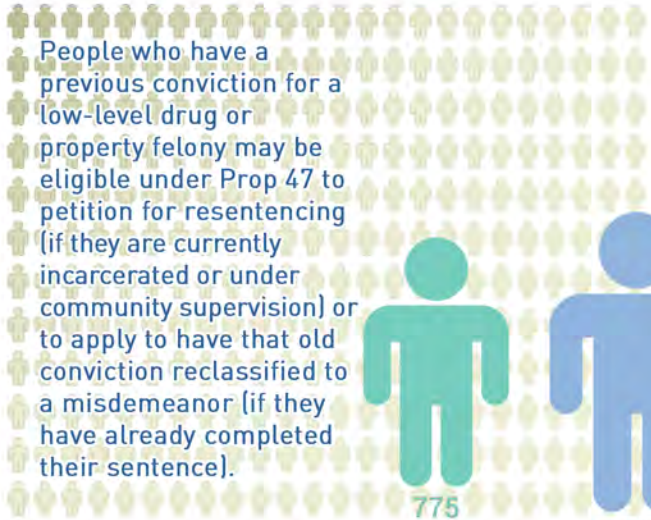


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.

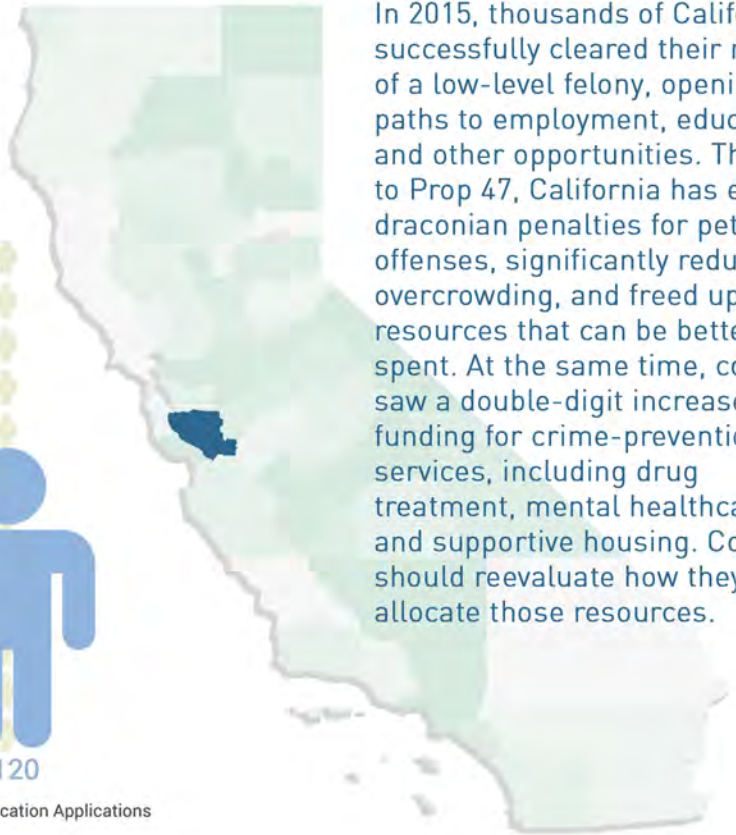


Santa Clara

PROP 47 PETITIONS



● Resentencing Petitions ● Reclassification Applications

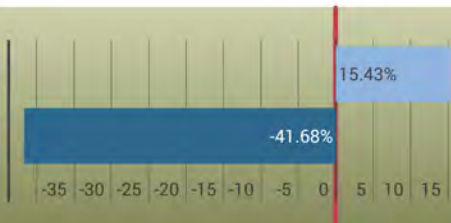


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County Population 2014: 1,874,526

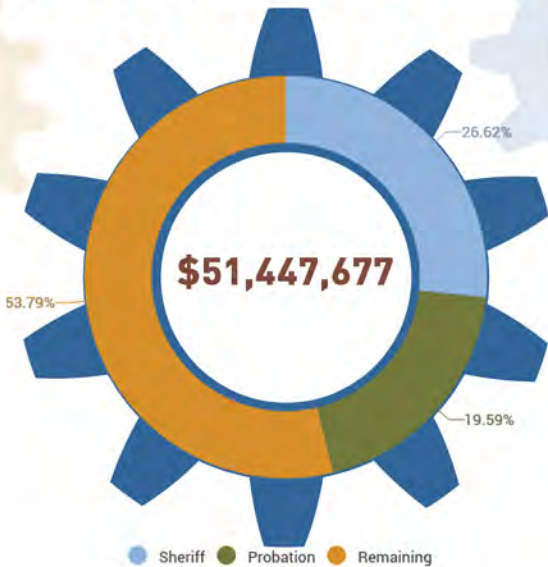
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
 Realigned Population (Sept. 2014 to Sept. 2015)



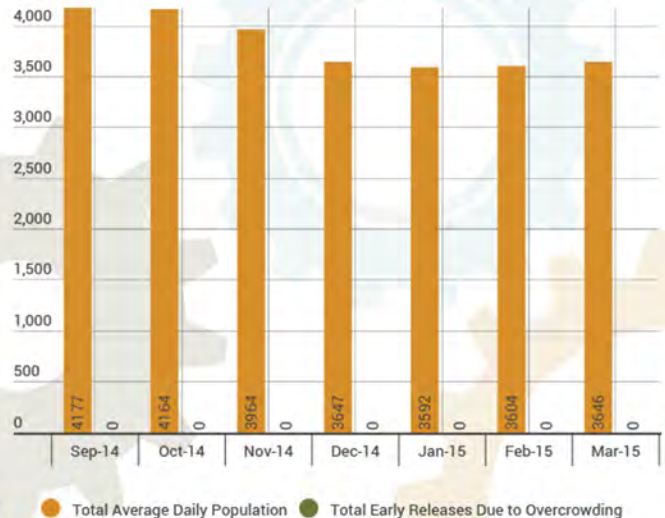
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JAIL POPULATION SHRANK AFTER PROP 47



Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Santa Cruz

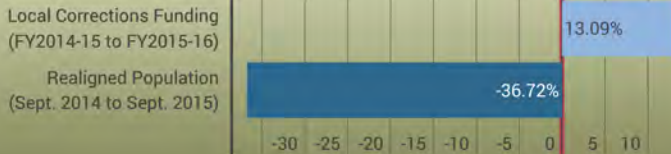
PROP 47 PETITIONS



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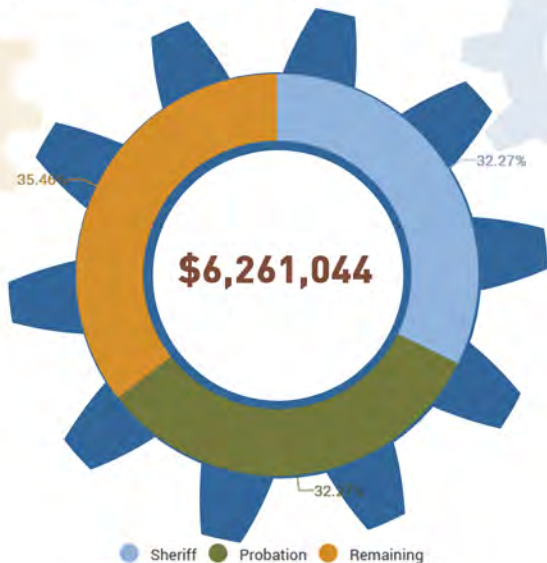
County Population 2014: 271,857

CHANGE IN FUNDING & POPULATION



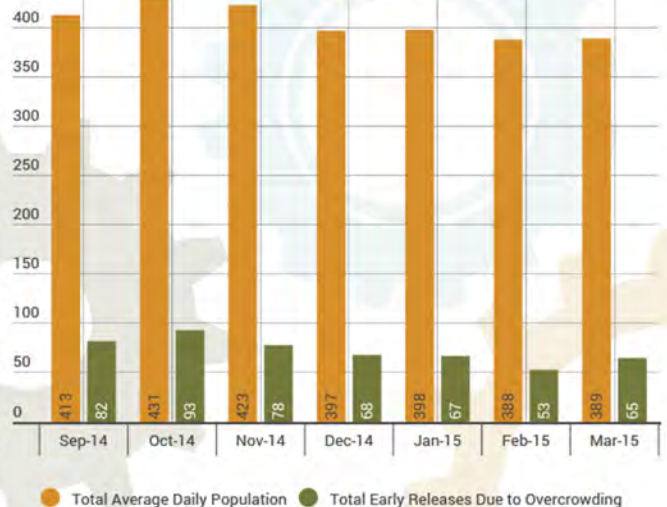
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JAIL POPULATION SHRANK AFTER PROP 47



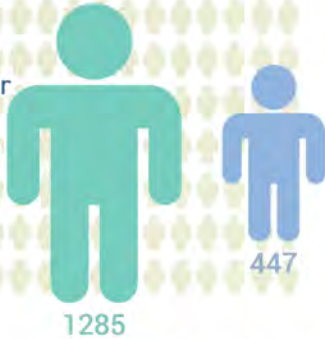
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



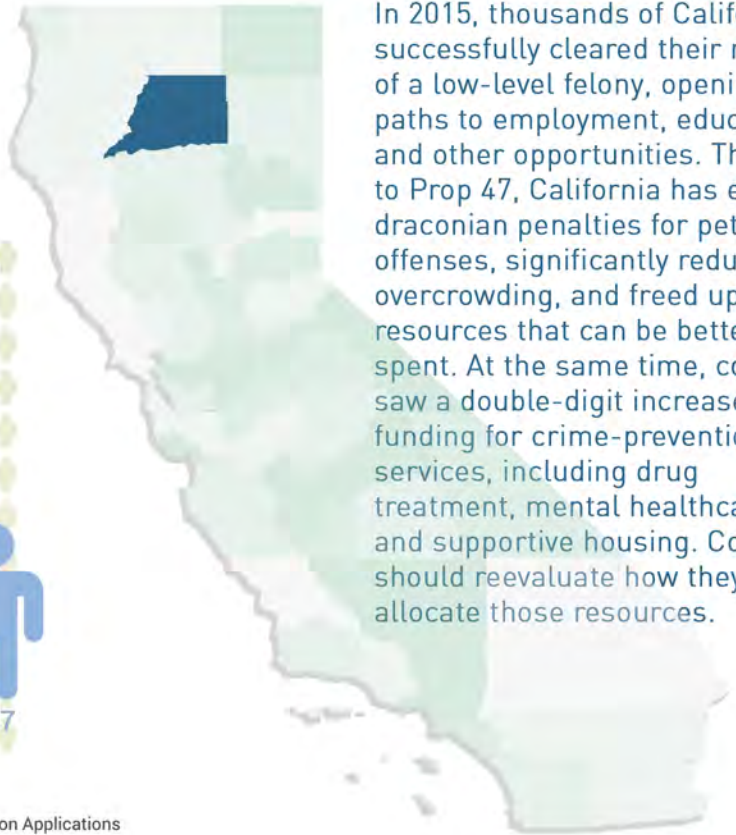
Shasta

PROP 47 PETITIONS

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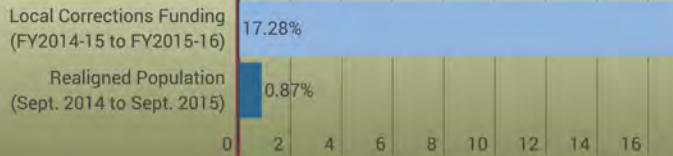
● Resentencing Petitions ● Reclassification Applications



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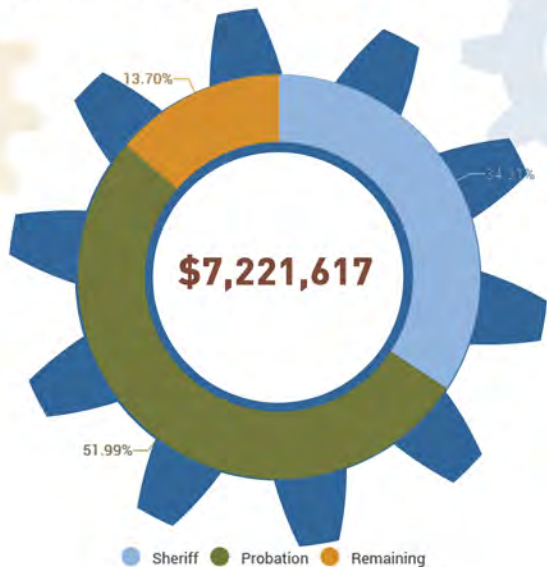
County Population 2014: 178,522

CHANGE IN FUNDING & POPULATION



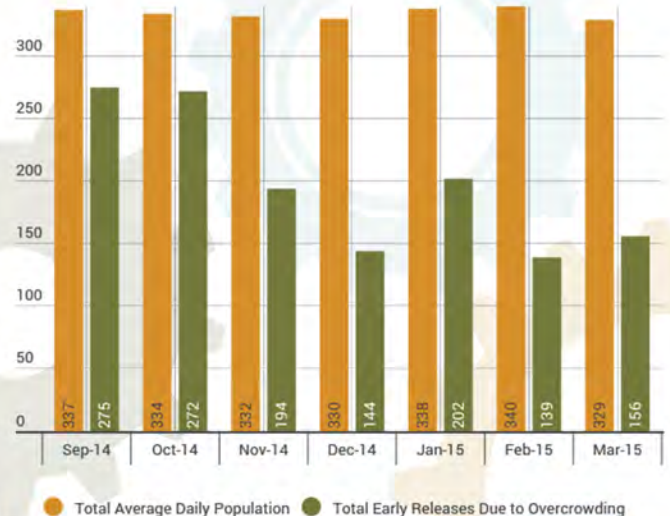
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JAIL POPULATION SHRANK AFTER PROP 47



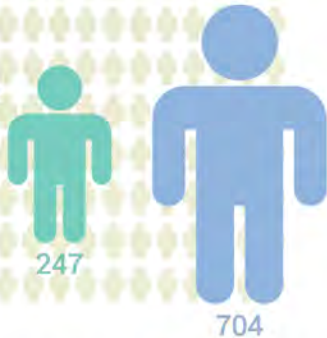
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



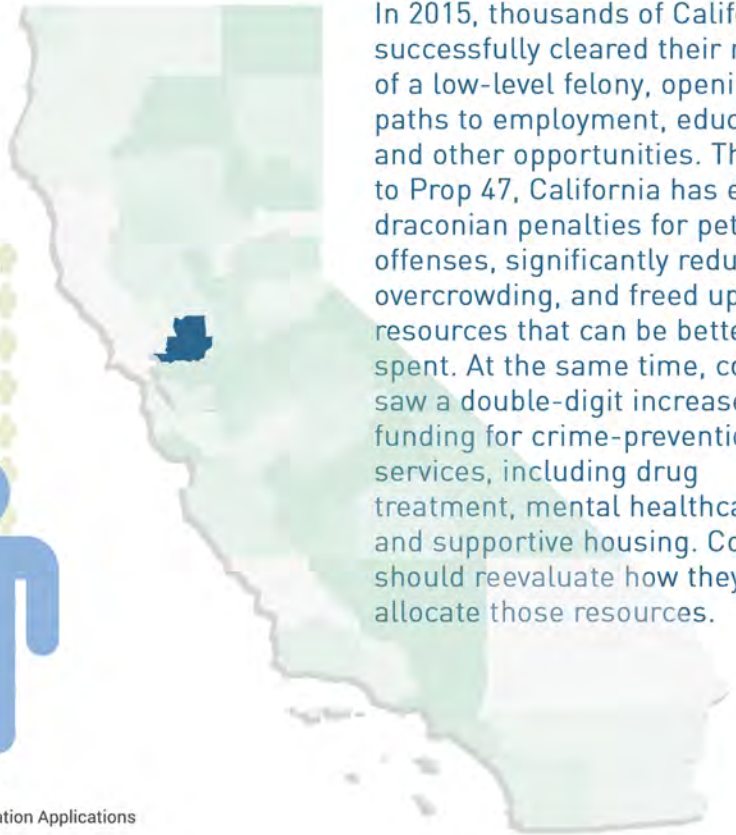
Solano

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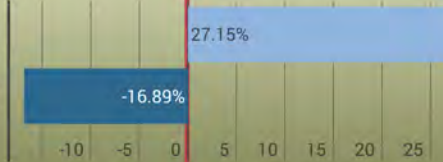


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County Population 2014: 427,743

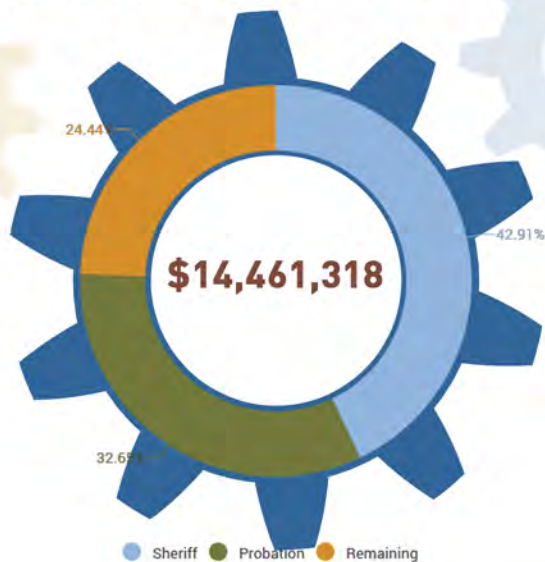
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



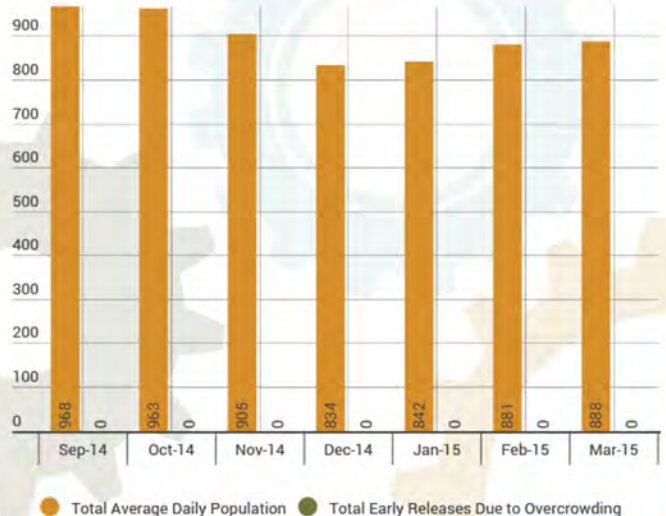
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JAIL POPULATION SHRANK AFTER PROP 47



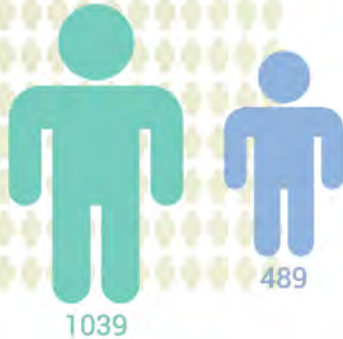
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



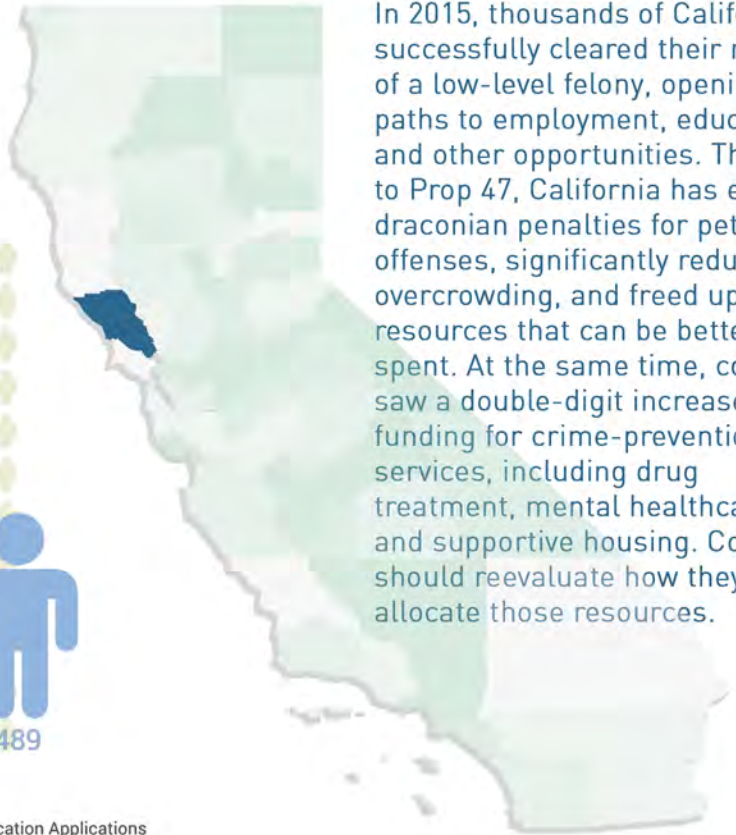
Sonoma

PROP 47 PETITIONS

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County Population 2014: 495,684

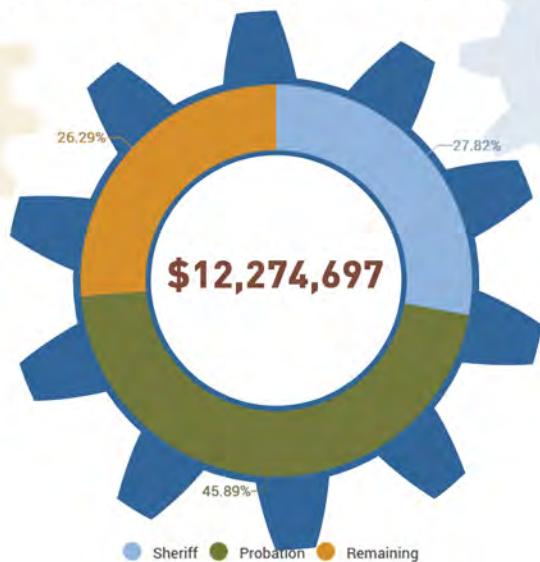
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



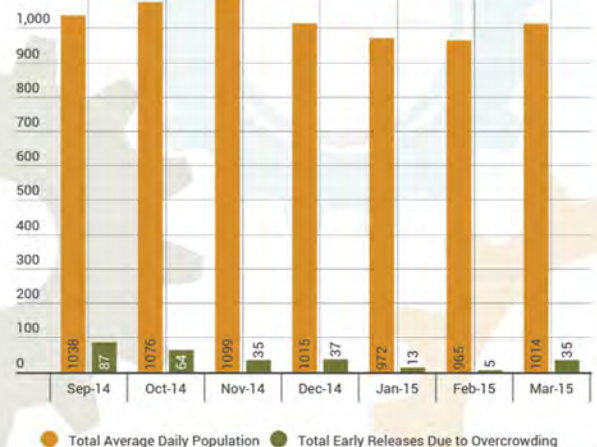
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JAIL POPULATION SHRANK AFTER PROP 47



Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Stanislaus

PROP 47 PETITIONS

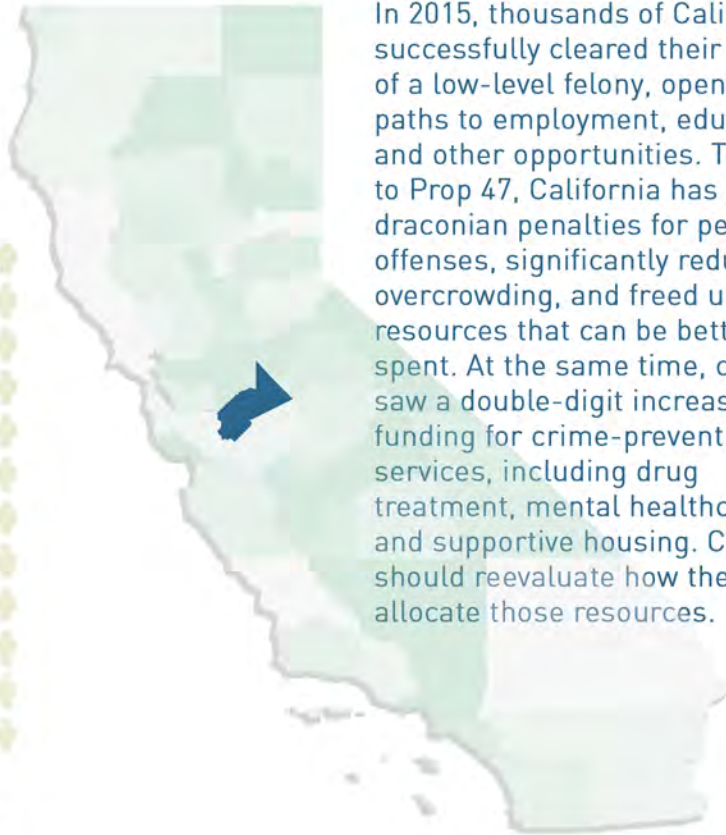


People who have a previous conviction for a low-level drug or property felony may be eligible under Prop 47 to petition for resentencing (if they are currently incarcerated or under community supervision) or to apply to have that old conviction reclassified to a misdemeanor (if they have already completed their sentence).

● Resentencing Petitions

* Petitions and applications are combined in this county.

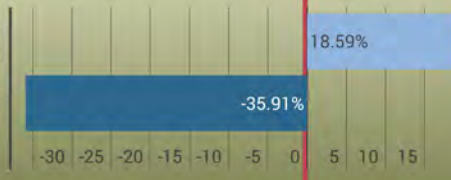
County Population 2014: 530,327



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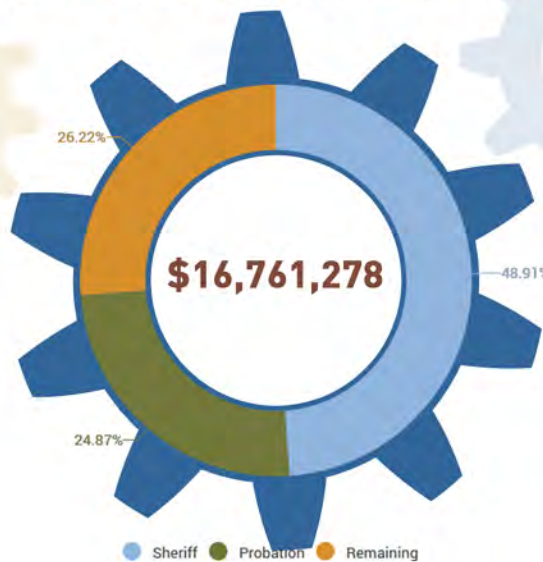
CHANGE IN FUNDING & POPULATION

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JAIL POPULATION SHRANK AFTER PROP 47

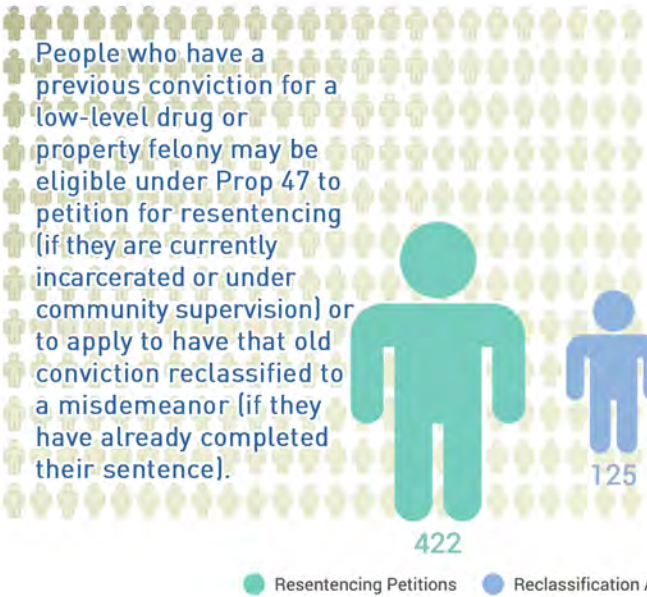


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Sutter

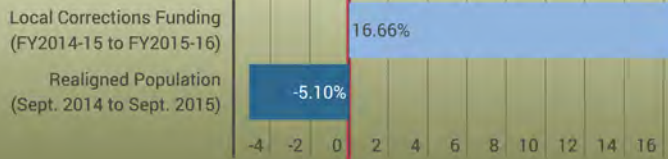
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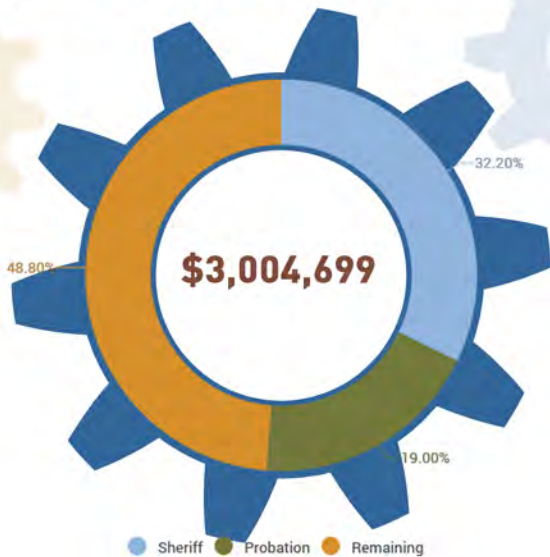
County Population 2014: 96,408

CHANGE IN FUNDING & POPULATION



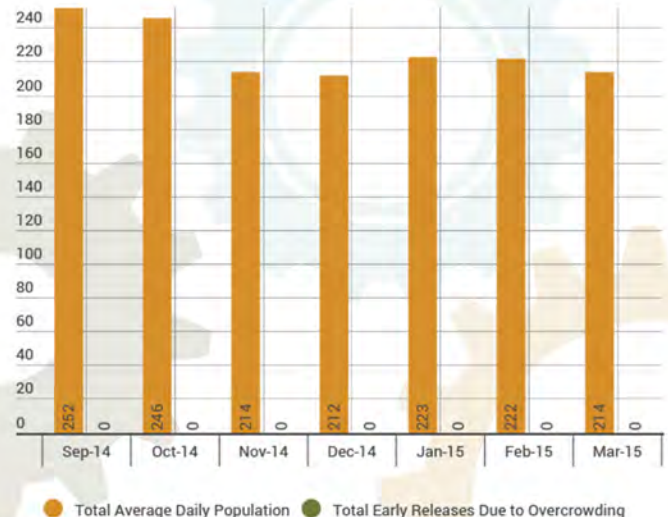
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JAIL POPULATION SHRANK AFTER PROP 47

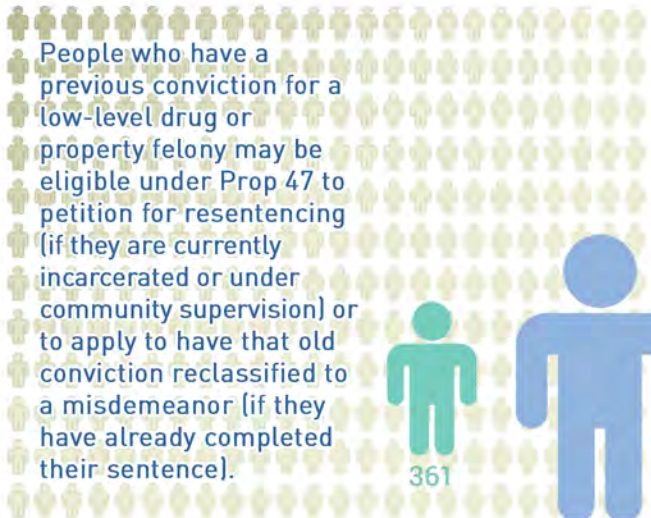


Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



Tulare

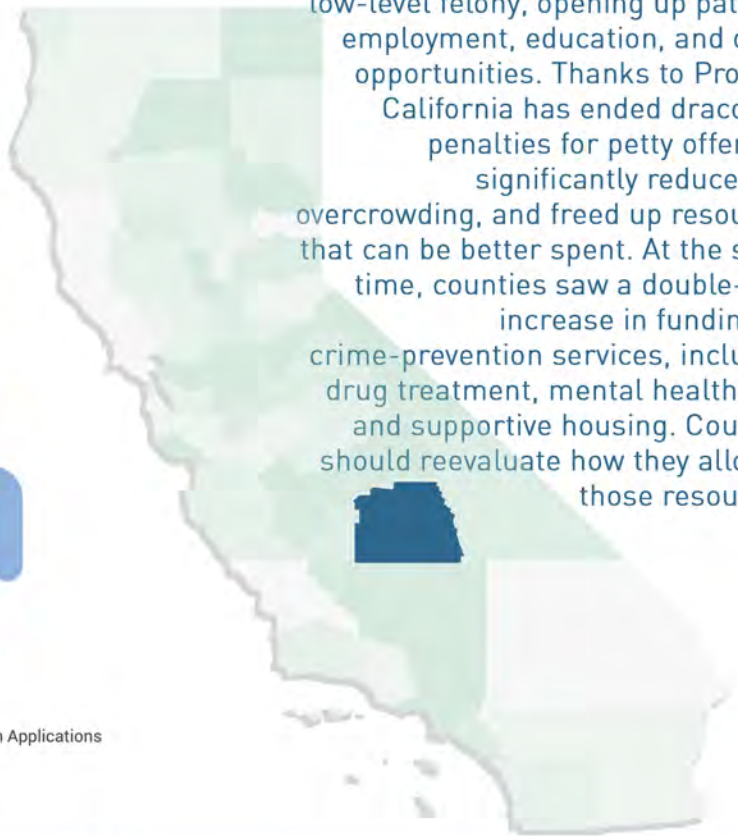
PROP 47 PETITIONS



● Resentencing Petitions ● Reclassification Applications

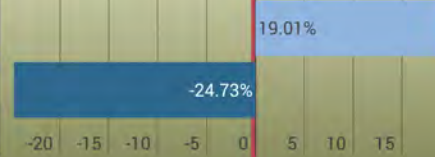
County Population 2014: 459,176

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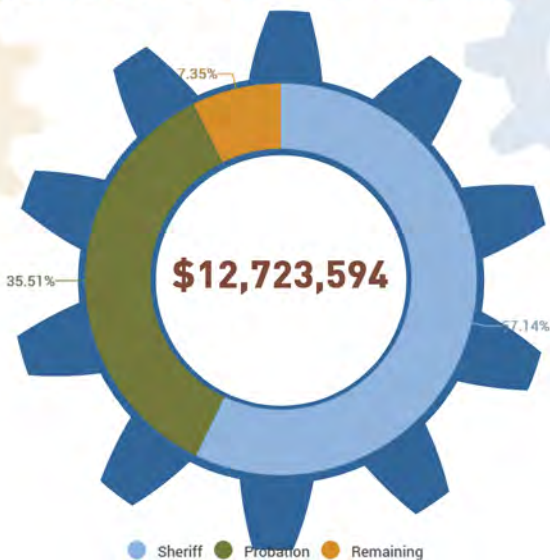
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



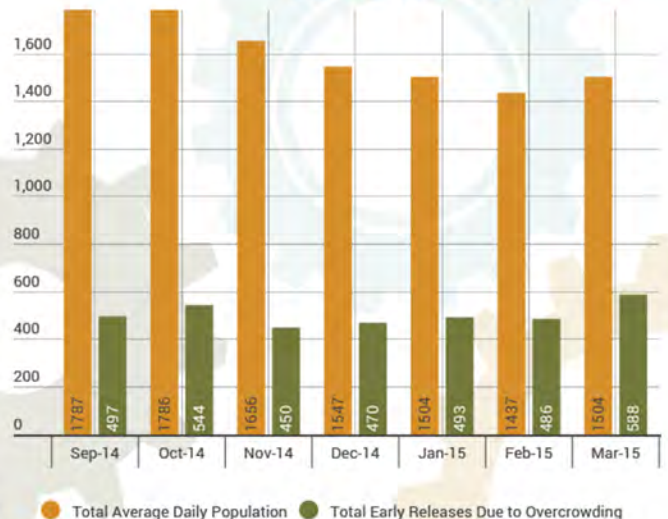
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JAIL POPULATION SHRANK AFTER PROP 47



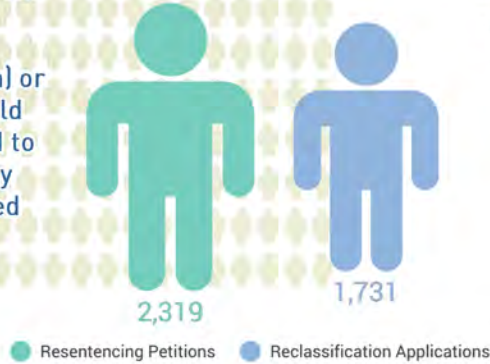
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



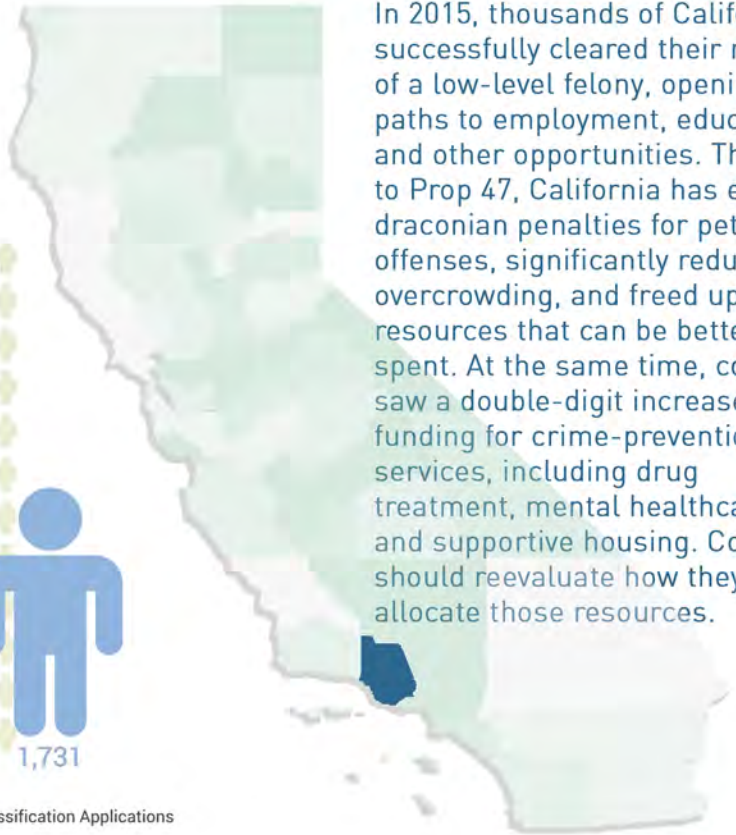
Ventura

PROP 47 PETITIONS

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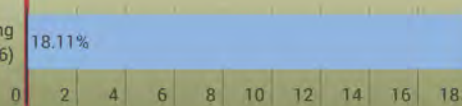
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County Population 2014: 844,259

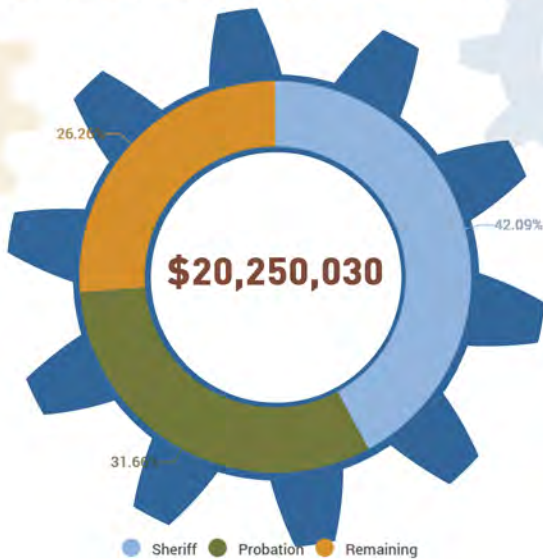
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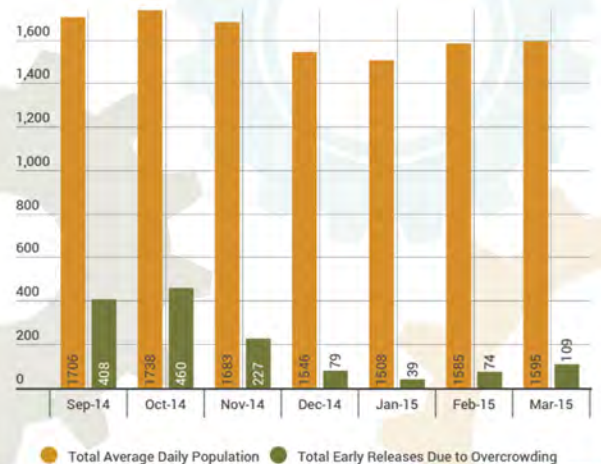
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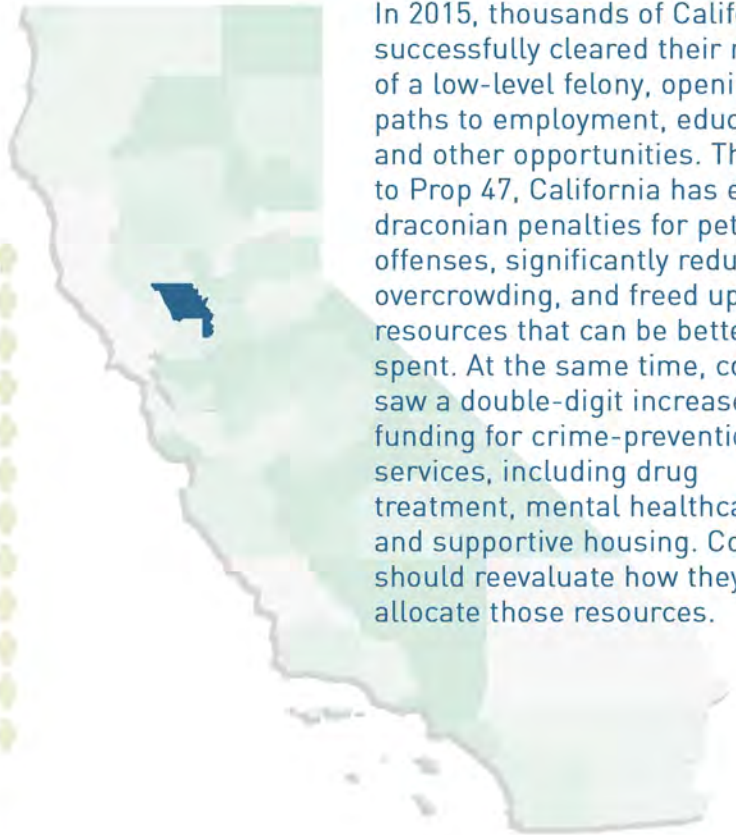
Yolo

PROP 47 PETITIONS



People who have a previous conviction for a low-level drug or property felony may be eligible under Prop 47 to petition for resentencing (if they are currently incarcerated or under community supervision) or to apply to have that old conviction reclassified to a misdemeanor (if they have already completed their sentence).

In 2015, thousands of Californians successfully cleared their record of a low-level felony, opening up paths to employment, education, and other opportunities. Thanks to Prop 47, California has ended draconian penalties for petty offenses, significantly reduced jail overcrowding, and freed up resources that can be better spent. At the same time, counties saw a double-digit increase in funding for crime-prevention services, including drug treatment, mental healthcare, and supportive housing. Counties should reevaluate how they allocate those resources.

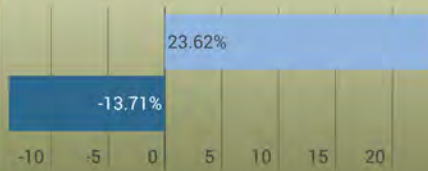


* Petitions and applications are combined in this county.

County Population 2014: 207,212

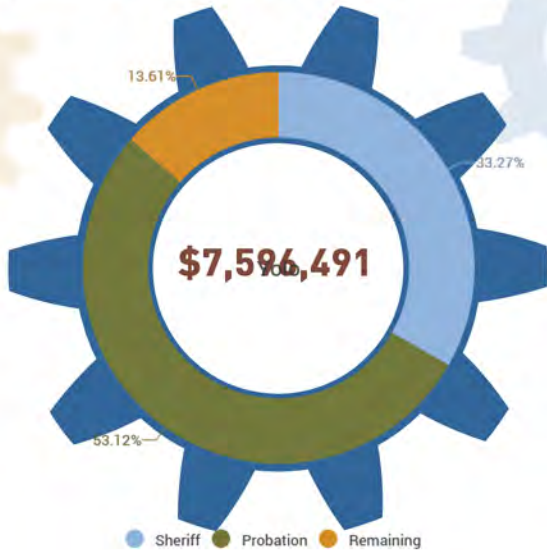
CHANGE IN FUNDING & POPULATION

Local Corrections Funding (FY2014-15 to FY2015-16)
Realigned Population (Sept. 2014 to Sept. 2015)



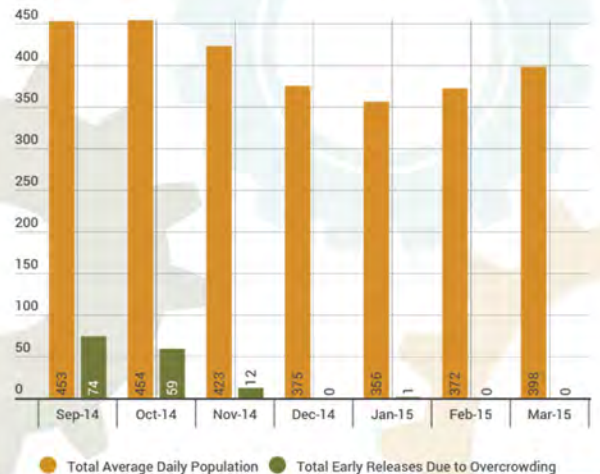
Since Prop 47, the number of people newly sentenced to, and under supervision for, low-level "realigned" felony offenses fell in most counties, while the amount counties receive to address and prevent low-level crime has increased. Counties should tap these funds to increase connections to services for people facing misdemeanor charges, including Prop 47 misdemeanors.

DISTRIBUTION OF COUNTY CRIME PREVENTION FUNDS



Counties have broad discretion in allocating these resources each year. The amount not allocated to the sheriff's & probation departments are available to cover a range of costs (including infrastructure), so it cannot be assumed that remaining dollars go toward reentry services. Research suggests that counties that invest more in reentry services experience better public safety outcomes.

JAIL POPULATION SHRANK AFTER PROP 47



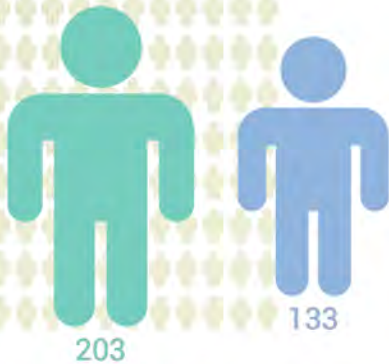
Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



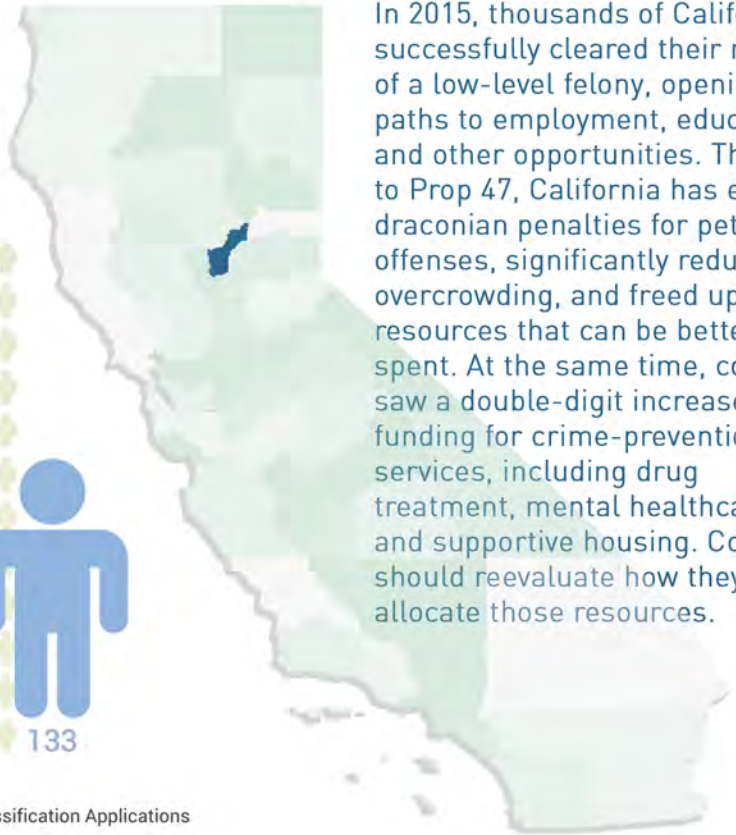
Yuba

PROP 47 PETITIONS

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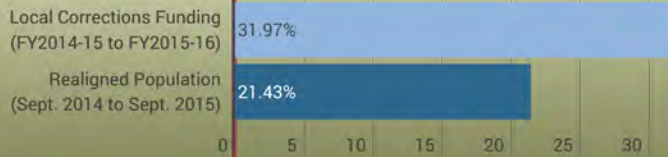
● Resentencing Petitions ● Reclassification Applications



In 2015, thousands of Californians successfully cleared their record of a low-level felony, opening up paths to employment, education, and other opportunities. Thanks to Prop 47, California has ended draconian penalties for petty offenses, significantly reduced jail overcrowding, and freed up resources that can be better spent. At the same time, counties saw a double-digit increase in funding for crime-prevention services, including drug treatment, mental healthcare, and supportive housing. Counties should reevaluate how they allocate those resources.

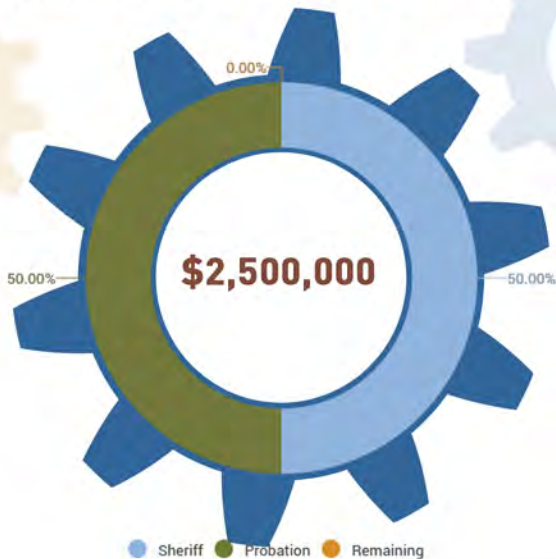
County Population 2014: 73,425

CHANGE IN FUNDING & POPULATION



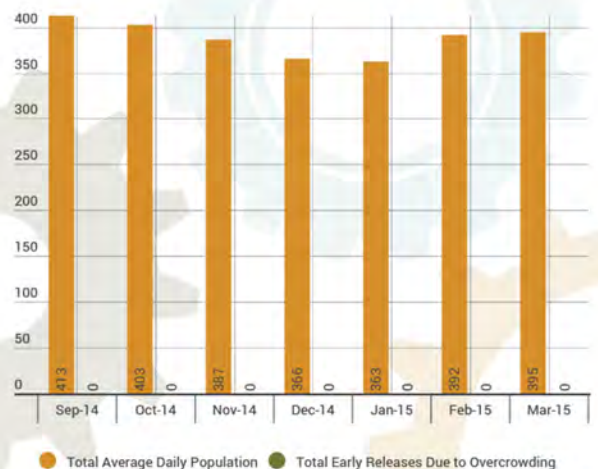
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JAIL POPULATION SHRANK AFTER PROP 47



Sources: The Judicial Council of California, The Board of State and Community Corrections, The California State Association of Counties, and County Probation Departments.



APPENDIX B

Local Community Corrections Funds

Community Corrections Funding Structure

AB 109, Chapter 15, Statutes of 2011, created, *inter alia*, a funding structure for counties to implement the requirements of Public Safety Realignment (both for social services and public safety). AB 109 monies are not designed to be funneled into a county's general fund, but rather must be spent on what is defined in the law as "public safety services." Cal. Const. Art. XIII, § 36, cl. (a). The passage of Proposition 30 by voters in November 2012, constitutionally guaranteed a percentage of both the vehicle license fee and the sales and use tax specifically for the Community Corrections Fund.

Community Corrections Funds are to be used for Public Safety Services

Article XIII grants broad flexibility in allocating Realignment funds. Cal. Const. Art. XIII, § 36, cl. (a) (2) (explaining "[t]he [2011 Realignment Legislation] shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements, as determined by the Legislature"). The public safety realignment funds must be used for "Public Safety Services," as defined in the law and as further limited by statute. *Id.*; Gov. Code § 30025(e) (funds "shall be allocated pursuant to statute exclusively for Public Safety Services as defined in subdivision (i) and as further limited by statute.")

Public Safety Services is defined in the California Constitution and statute as:

1. Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.
2. Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.
3. Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.
4. Providing mental health services to children and adults in order to reduce failure in school, harm to themselves and others, homelessness, and preventable incarceration or institutionalization.
5. Preventing, treating, and providing recovery services for substance abuse.

Cal. Const. Art. XIII, § 36, cl. (a)(1); Cal. Gov. Code § 30025(i).

Article XIII also specifies that funds deposited in the Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding existing public safety obligations. Cal. Const. Art. XIII, § 36, cl. (c)(8) ("The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services."); (Gov. Code § 30026.5(e)(6) ("The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.")).

- continued, next page -

APPENDIX B, cont.

Local Community Corrections Funds, cont.

Funds Spent in Furtherance of Realignment's Legislative Intent

By statute, the Community Corrections Growth Special Account, a subaccount of the larger Community Corrections Account into which counties' realignment funds flow, is to be funded in furtherance of the express intent of Realignment, including that defined in Sections 17.5 and 3450 of the Penal Code. See Gov. Code § 30029.07(e)(1)(E) ("the Community Corrections Growth Special Account shall be allocated ... pursuant to a schedule ... [that] shall reflect priorities that promote the effective implementation of ... Realignment, [including] Implementation of the [Realignment] in a manner consistent with the legislative intent described in Sections 17.5 and 3450 of the Penal Code."). Penal Code sections 17.5 and 3450 both include expressions of the Legislature's intent in enacting Realignment, including, *inter alia*, the importance of community corrections and evidenced-based practices and programs that will reduce the rate of incarceration and recidivism. Penal Code § 17.5; 3450.

In addition, funding for that account depends on a county's commitment to programs and evidence-based practices. "The Department of Finance shall consider a county's commitment to continuing, expanding, or initiating community corrections practices, programs and strategies that manage felony offender populations most cost effectively through the use of evidence-based practices designed to achieve improved public safety, including, but not limited to, the use of offender risk and needs assessment tools, criminogenic-based interventions, substance abuse and mental health treatment, and additional treatment and sanctions other than traditional jail incarceration alone or routine probation supervision, as well as community-based programs." Gov. Code § 30029.07(e)(2).

APPENDIX C

Key Questions about Proposition 47 Implementation to Ask Local Agencies and County Boards of Supervisors

Community Corrections Partnerships

- How will the CCP adjust and expand crime-prevention strategies and programs to include people facing Prop 47 misdemeanors?
- To support those efforts, how will the CCP determine the appropriate allocation of local Community Corrections funds?
- Will the CCP track local savings resulting from reduced incarceration and other costs?

Police & Sheriff's Departments

- How does your agency advise officers to either cite and release, or to take into custody, people charged with low-level offenses?
- What options do your officers currently have to connect someone with the services they need rather than make an arrest?
- Are there options you would like your officers to have?

Jail Administrators / Sheriff's Departments

- What are your policies regarding whether to detain a person charged with a low-level offense or to release them pending their day in court?
- How does your agency decide who to accept into the jail and who to release early?
- Does your agency use a locally validated risk assessment tool to aid in release decision-making?

District Attorneys, City Attorneys & Public Defenders

- Are there ways to simplify or speed up the processes for Prop 47 resentencing and reclassification?
- What options are available in the city/county for people facing low-level charges to be held accountable by working in the community or through completion of crime-reduction programs?

Probation Departments

- How do you advise courts on whether to order probation supervision, if any, of a person convicted of a low-level drug or property offense?
- Is your department equipped to supervise people convicted of misdemeanor offenses?

Behavioral Health Departments

- What are your department's plans to expand connections to substance use disorder treatment and mental health care?
- What is needed to eliminate waiting lists for drug treatment and mental health care in the county?

County Boards of Supervisors

- Is the county tracking savings from reduced incarceration and supervision costs resulting from Prop 47? If not, why not?

-
- ¹ California Department of Justice, *Crime in California 2014*. Available at: <https://oag.ca.gov/sites/all/files/agweb/pdfs/cjisc/publications/candd/cd14/cd14.pdf?>
- ² See Board of State and Community Corrections data file *PntComps.xlsx* (March 2015). Available at: <https://www.cubbyusercontent.com/pl/Metrics%20Website/89f5db8e38d0484e84330d20e2bdf5a6#Metrics%20Website>
- ³ Legislative Analyst's Office, *The 2015-16 Budget: Implementation of Proposition 47* (February 2015). Available at: <http://www.lao.ca.gov/reports/2015/budget/prop47/implementation-prop47-021715.pdf>
- ⁴ Judicial Council of California, *Prop 47 filings* (June 2015). Available at: http://www.courts.ca.gov/documents/for-publication_prop-47.pdf
- ⁵ Stanford Justice Advocacy Project, *Proposition 47 Progress Report: Year One Implementation* (October 2015). Available at: <https://2pe0o743k0s82lo5l6trs9j1-wpengine.netdna-ssl.com/wp-content/uploads/2015/10/Prop-47-report.pdf>
- ⁶ See Legislative Analyst's Office *supra* note 3.
- ⁷ Legislative Analyst's Office, *Proposition 47* (November 2014). Available at: <http://www.lao.ca.gov/ballot/2014/prop-47-110414.aspx>
- ⁸ See Stanford, *supra* note 5.
- ⁹ The Women's Foundation of California, *Bias Behind Bars* (2014) p.1. Available at: <http://www.womensfoundca.org/sites/default/files/Bias-Behind-Bars.pdf>.
- ¹⁰ See Cal. Penal Code § 853.6(g), which makes clear that the police are allowed to book all misdemeanants into county jail; See also Cal. Penal Code § 853.6(a)(1), which requires that individuals facing misdemeanor charges be released with a citation *unless* they meet specific criteria: (1) The person arrested was so intoxicated that he or she could have been a danger to himself or herself or to others. (2) The person arrested required medical examination or medical care or was otherwise unable to care for his or her own safety. (3) The person was arrested under one or more of the circumstances listed in Sections 40302 and 40303 of the Vehicle Code. (4) There were one or more outstanding arrest warrants for the person. (5) The person could not provide satisfactory evidence of personal identification. (6) The prosecution of the offense or offenses for which the person was arrested, or the prosecution of any other offense or offenses, would be jeopardized by immediate release of the person arrested. (7) There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested. (8) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear. (9) There is reason to believe that the person would not appear at the time and place specified in the notice. (10) The person was subject to Section 1270.1.
- ¹¹ See Listing of record-change and reentry legal services events at <http://myprop47.org/events/>
- ¹² Cal. Dept. of Finance, *Enacted Budget Summary: Statewide Issues and Various Departments* (June 2015). Available at: <http://www.ebudget.ca.gov/2015-16/pdf/Enacted/BudgetSummary/StatewideIssuesandVariousDepartments.pdf>
- ¹³ Kern County Community Corrections Partnership, *Strategic Plan Final Report* (July 2015). Available at: <http://www.kernprobation.com/wp-content/uploads/2014/04/Nada-Final-Report.pdf>
- ¹⁴ Lacey, Jackie, *Mental Health Advisory Board Report: A Blueprint for Change* (August 2015). Available at: <http://da.co.la.ca.us/sites/default/files/policies/Mental-Health-Report-072915.pdf>
- ¹⁵ Editorial Board, "California's Prop 47 Revolution: How L.A.'s city attorney filled a leadership vacuum," *Los Angeles Times* (November 2, 2015). Available at: <http://www.latimes.com/opinion/editorials/la-ed-prop-47-20151102-story.html>
- ¹⁶ See more about the San Diego City Attorney's Community Court Program at <http://www.sandiego.gov/cityattorney/divisions/criminal/commcourt.shtml>
- ¹⁷ Californians for Safety and Justice, *Breaking the Cycle of Low-Level Crime* (July 2015). Available at: <http://www.sandiego.gov/cityattorney/divisions/criminal/commcourt.shtml>
- ¹⁸ See Los Angeles Times, *supra* note 15.

ENDNOTES

- ¹⁹ Greene, Robert. "California's Prop. 47 revolution: Why are police refusing to make misdemeanor arrests?," *Los Angeles Times* (October 28, 2015). Available at: <http://www.latimes.com/opinion/opinion-la/la-ol-proposition-47-falsehoods-arrest-20151027-story.html>
- ²⁰ ACLU of California, *Public Safety Realignment: California at a Crossroads* (March 2012). Available at: https://www.aclunc.org/sites/default/files/public_safety_realignment_california_at_a_crossroads.pdf
- ²¹ Public Policy Institute of California, *Crime Trends in California* (September 2015). Available at: http://www.ppic.org/main/publication_show.asp?i=1036
- ²² Cal. Dept. of Corrections and Rehabilitation, *Characteristics of Inmate Population* (2000-2011). Available at: http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Offender_Information_Report_s.html
- ²³ Public Policy Institute of California, *Public Safety Realignment and Crime Rates in California* (December 2013). Available at: <http://www.ppic.org/main/publication.asp?i=1075>
- ²⁴ Public Policy Institute of California, *Proposition 47 and Crime* (October 2015). Available at: http://www.ppic.org/main/blog_detail.asp?i=1888&utm_source=The+PPIC+Blog&utm_campaign=196a2773e7-RSS_EMAIL_CAMPAIGN_FISCALGOV&utm_medium=email&utm_term=0_1d97666088-196a2773e7-208026041
- ²⁵ SANDAG, *Mid-Year 2015 Crime Statistics: Are We Up Or Down?* (September 2015). Available at: http://www.sandag.org/uploads/publicationid/publicationid_1971_19656.pdf
- ²⁶ FBI, *Uniform Crime Reports, Table 69*. Available at: https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/crime-in-the-u.s.-2013/tables/table-69/table_69_arrest_by_state_2013.xls
- ²⁷ *Id.*
- ²⁸ Public Policy Institute of California, *Do Local Realignment Policies Affect Recidivism in California* (August 2014). Available at: <http://www.ppic.org/main/publication.asp?i=1111>
- ²⁹ See Judicial Council, *supra* note 4.
- ³⁰ Root & Rebound. *Voices from the Field: Major Gaps & Unmet Needs in Reentry & Best Practices for Starting a Reentry Program* (May 2014). Available at: <http://static.squarespace.com/static/52f9700ee4b0eea0230aeb19/t/53892447e4b0cfc7f0c4bee1/1401496647881/Voices%20From%20the%20Field-FINAL.pdf>
- ³¹ Public Policy Institute of California, *Capacity Challenges in California's Jails* (September 2012). Available at: http://www.ppic.org/main/publication_quick.asp?i=1034
- ³² Board of State and Community Corrections (BSCC), *Jail Profile Survey Fourth Quarter Results* (2014) and *Jail Profile Survey First Quarter Results* (2015), available at http://www.bscc.ca.gov/s_fsojailprofilesurvey.php
- ³³ *Id.*
- ³⁴ Data on average daily jail populations for June 2015 and information about changes to booking procedures since October 2014 were obtained by the ACLU through Public Records Act requests.
- ³⁵ Public Policy Institute of California, *Pretrial Detention and Jail Capacity in California* (July 2015), available at: http://www.ppic.org/main/publication_quick.asp?i=1154; BSCC, *Jail Profile Survey First Quarter Results* (2015), available at http://www.bscc.ca.gov/s_fsojailprofilesurvey.php.
- ³⁶ Public records obtained by the ACLU show that the number of people in jail waiting for their day in court had actually increased in 10 counties (of the 45 that responded) in June 2015 compared to June 2014.
- ³⁷ Alpine, Amador, Butte, Colusa, Del Norte, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lassen, Los Angeles, Marin, Mariposa, Mendocino, Modoc, Mono, Monterey, Nevada, Placer, Riverside, Sacramento, San Bernardino, San Diego, San Francisco, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Siskiyou, Solano, Sutter, Tehama, Trinity, Tulare, Tuolumne, and Yuba.
- ³⁸ See Cal. Penal Code §§ 17.5(a)(6), 1230.1, 1230(b)(2). Community Corrections Partnerships (CCPs) were previously established in Penal Code Section 1230(b)(2). Realignment (AB 109 and 117) added Penal Code section 1230.1 to create an Executive Committee for each CCP, responsible for developing the implementation plan and presenting it to the county Board of Supervisors for vote and adoption. The remaining members of the CCP are the county's chief administrative officer; the head of the county department of mental health; the head of the county department of employment; the head of the county alcohol and substance abuse programs; the head of the county office of education; a representative from a community based organization with experience in successfully

providing rehabilitative services to persons who have been convicted of a criminal offense; and an individual who represents the interests of victims.

³⁹ To find out more about providing pro bono support, visit:

http://www.pli.edu/Content/Seminar/Prop_47_The_Lawyer_s_Role_in_Implementing/_/N-4kZ1z11hox?ID=260103

⁴⁰ See Cal. Government Code §§ 54950-54960.5. See also The First Amendment Project's pocket guide, available at:

<http://www.thefirstamendment.org/Brown-Act-Brochure-DEC-03.pdf>

⁴¹ The focus on felonies has been driven at least in part by state programs and funding, including SB 678 and Realignment. For more on SB 678, see *The Impact of California's Probation Performance Incentive Funding Program* (February 2012), available at:

http://www.cpoc.org/assets/QuickLinks/pew_california_probation_brief.pdf. For more on County Realignment Plans, see the *Third Annual Report on the Implementation of Community Corrections Partnership Plans* (July 2015), available at: <http://www.bscc.ca.gov/downloads/2011%20Public%20Safety%20Realignment%20Act%20-%20Third%20Annual%20Report%20on%20the%20Implementation%20of%20Community%20Corrections%20Partnership%20Plans..pdf> and *Follow the Money: How California Counties Are Spending Their Public Safety Realignment Funds* (January 2014), available at: <http://law.stanford.edu/wp-content/uploads/sites/default/files/publication/443760/doc/slspublic/Lin%20Money%20Final%20Report%20022814.pdf>

⁴² Collins, Susan et al. *Lead Program Evaluation: Recidivism Report* (March 2015), available at:

http://static1.1.sqspcdn.com/static/f/1185392/26121870/1428513375150/LEAD_EVALUATION_4-7-15.pdf?token=nlxnDUNnzDvrwr%2B8UGo7CkKk1Kl%3D

⁴³ Collins, Susan et al. *Lead Program Evaluation: Criminal Justice and Legal System Utilization and Associated Costs* (June 2015), available at:

<http://static1.1.sqspcdn.com/static/f/1185392/26401889/1437170937787/June+2015+LEAD-Program-Evaluation-Criminal-Justice-and-Legal-System-Utilization-and-Associated-Costs.pdf?token=PwpJ5VlrwxGqDuu93oTnU5Z%2FY40%3D>

⁴⁴ For more on San Antonio's Restoration Center, visit: <http://www.chcsbc.org/get-help/adults/restoration/>

⁴⁵ Spohn, Cassia and David Holleran, "The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders." *Criminology*. Vol 40, no. 2 (2002): 329 – 58.

⁴⁶ See Fitzsimons H., Tuten M., Borsuk, C. Lookatch S., Hanks, L. (2015). Clinician –delivered contingency management increases engagement and attendance in drug and alcohol treatment. *Drug Alcohol Depend.* Jul 1, 152: 62-67. <http://www.ncbi.nlm.nih.gov/pubmed/25982007>; See also Petry, N.M. & Carroll, K.M. (2013). Contingency management is efficacious in opioid-dependent outpatients not maintained on agonist pharmacotherapy. *Psychol Addict Behav.* 27(4): 1036-43. <http://www.ncbi.nlm.nih.gov/pubmed/23528194>; See also Stoops, W. W., Lile, J. A., Glaser, P. E. A., Hays, L. R., Rush, C. R. (2012). *Alternative reinforce response cost impacts cocaine choice in humans. Progress in Neuro-Psychopharmacology and Biological Psychiatry.* 36(1): 189-93. <http://www.sciencedirect.com/science/article/pii/S0278584611002867>

⁴⁷ *Id.*

⁴⁸ Petry, Nancy M. et al. "Nationwide Dissemination of Contingency Management: The Veterans Administration Initiative." *The American journal on addictions / American Academy of Psychiatrists in Alcoholism and Addictions* 23.3 (2014): 205–210. *PMC*. Web. 6 Nov. 2015. Available at:

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3986725/>

⁴⁹ For more on Full Service Partnerships, see <http://steinberginstitute.org/wp-content/uploads/2015/02/SteinbergReport-Final-3112015.pdf>

⁵⁰ September 2015 data on county realignment data was obtained through Public Records Act requests to probation departments; specifically, this data includes the active supervised population (both Mandatory Supervision and Post-Release Community Supervision) and people newly sentenced to 1170(h) offenses in January-August 2014 compared to the same period in 2015. Therefore, this decrease does not include the number of people who were already in jail for an 1170(h) sentence, nor does it include the number of people who may have been resentenced and released following enactment of Prop 47.

⁵¹ See Cal. Dept. of Finance *supra* note 12.

ENDNOTES

⁵² See Legislative Analyst's Office, *supra* note 3.

⁵³ For more on California's Health Homes Program, visit:

<http://www.dhcs.ca.gov/services/Pages/HealthHomesProgram.aspx>

⁵⁴ See Legislative Analyst's Office, *supra* note 3.

⁵⁵ See BSCC and Stanford *supra* note 41.

⁵⁶ See Public Police Institute of California, *supra* note 28.

⁵⁷ See Cal. Dept. of Finance *supra* note 12.

⁵⁸ See ACLU of California, *supra* note 20.

⁵⁹ By the August 2015 deadline, 32 counties had applied for SB 863 funding. To see which counties applied, visit:

http://www.bscc.ca.gov/downloads/SB863_LRB_Proposals_Rcvd_Funds_Rqstd.pdf. To read your county's

application, visit: <https://www.aclunc.org/article/rush-build-new-california-jails>.