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The End of Mass Incarceration in California

What comes next?

Very slowly, the era of mass incarceration is ending in California. We are sentencing fewer people to prison, prison sentences are getting shorter, and those who are released from prison are increasingly less likely to return for violating conditions of their paroles. Whether you think these changes are for the better or not, they are happening, and they provide us with two staggering challenges that if met—with vigor, with empathy, and with practicality—will make California a safer and more humane place for all.

Between 1980 and 2006, the prison population in California increased more than sevenfold, and the amount of money the state spent on corrections tripled.¹ The system became stretched to the breaking point: prisons were dangerously overcrowded, conditions were terribly poor, and provision of mental and physical health care woefully inadequate. In October 2006, the California Department of Corrections and Rehabilitation (CDCR) housed over 170,000 people at its thirty-three prisons, its camps, and in private facilities. More than 15,000 people were living in common areas like gymnasiums, which provided unsuitable accommodation for those housed there and deprived other prisoners the use of those common areas. Governor Arnold Schwarzenegger declared a state of emergency, noting that the overcrowding posed “a significant risk to the health and safety of the men and women who work inside these prisons and the inmates housed in them.” At the time, CDCR officials projected that the prison population would grow to more than 193,000 by 2011 if nothing were done to ease this crisis.

In 2009, a Federal court demanded that the state take action and reduce its prison population to 137.5% capacity, which would reduce the total prison population by about

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Martinez Detention Center, Contra Costa. Photograph by Taiyo Watanabe.

40,000 people. California got to work. That same year, the state tweaked policies relating to probation and parole that would reduce the number of released offenders sent back to prison. In 2011, public safety realignment made counties and their jail systems responsible for nonserious, nonviolent offenders, which in one year reduced the prison population—if not the total number of incarcerated men, women, and children—by more than 27,000. Two voter initiatives—Proposition 36 in 2012 and Proposition 47 in 2014—amended California’s Three Strikes law and reclassified some felony drug and property crimes as misdemeanors. Through all of these efforts, the state reduced its prison population by 26 percent in less than a decade. In August 2015, CDCR facilities housed 111,400 people and another 16,600 were in camps, public facilities, and private facilities in California, Arizona, Mississippi, and Oklahoma.² On 31 July 2013, Governor Jerry Brown declared the emergency over.³

We now find ourselves moving into a new era—one moving away from mass incarceration, and away from crisis management, to one working with new insights, open to experimentation and new possibilities. Right now in California, we have the opportunity to address two related challenges that have plagued us from the start: how do we make prisons humane, and how do we make sure those who are released from prison lead productive lives—and don’t go back? While conditions have improved, we have much work left to do. Though California’s prisons met the target set by the court, its population numbers are still well above their actual design capacity of 82,707.⁴ A recent spike in suicides and suicide attempts at the California Institution for Women is drawing renewed attention to the woefully inadequate provision of mental health services in prison. Once released, former prisoners struggle to find the kind of suitable housing and employment that would encourage them

to stay out of prison, and so the prison-to-Skid Row pipeline or other homeless situations become the fate of many former prisoners.

Increasingly, we want a kind of justice that feels more like fairness and less like primitive forms of vengeance, except for when we don't—when we hope a sex offender is violated in prison, when we cheer the death sentence of a multiple murderer, when we hope that someone who hurt someone we love gets locked away forever. So it can be useful to think about prisons in terms of wider society, and not about what to do with individuals found guilty for crimes. Even when we do want to punish, we must remember that the vast majority of people who enter prison will eventually leave it.

If prisons must exist—and it's difficult to imagine a future without them—what do we want from them? Are they merely for punishment and suffering, or separating dangerous people from society to provide public safety? Or are they places where those incarcerated for crimes can learn to contribute more positively to society and even experience forms of healing, growing in empathy, remorse, and understanding? California's long-running ambivalence about the answers to these questions is perhaps best reflected by the name of the department that runs its prisons: the California Department of Corrections and Rehabilitation didn't add “and Rehabilitation” to its name until 2004. Now that it seems that the immediate crisis is over, we can step back and begin to consider anew, as a society, what role prisons should play in California.

These are big questions, and the answers to them are complicated. But the signs are encouraging that we are finally moving in a direction that can allow us to grapple with them. The public has shown a willingness to move beyond the “tough on crime” stance that characterized the past several decades. When Proposition 47 passed in 2014, it did so with more than 60 percent of the vote. When realignment was instituted in 2011, its purpose wasn't just to reduce the state prison population, as mandated by a federal court. By transferring responsibility for some prisoners from state prisons to county jails, through closer proximity this also opened up the possibility for local jurisdictions to try different approaches to working with low-level offenders and parolees—approaches that the state could never attempt with its one-size-fits-all ways of working. Counties have responded by expanding mental health and substance abuse

counseling, cognitive behavioral treatment, and employment and housing programs, in addition to experimenting with alternatives to incarceration.⁵

Initial results have been encouraging. California's prisons are no longer illegally overcrowded. Conditions within them have improved, recidivism rates are mostly unchanged, and a 2015 Public Policy Institute of California report indicated that violent crime rates were down—though it found that a rise in auto thefts was likely attributable to realignment. The story in 2016 is different. Crime rates are up in many California cities, but they are also up in cities across the country where these reforms have not been enacted. California once again, as ever, is at a crossroads. We can either commit to staying on the path of reform we've been on, or commit to spending billions of dollars building new facilities to house more of our fellow Californians.

Eventually, however, we will need to look past systemic changes and see the people they are affecting most directly. They are easy to ignore. Housed in often enormous complexes, they tend to be in out-of-the-way places, in low-lying buildings that blend into the background. Yet in June 2016, California's state prisons were home to more than 113,000 men, women, and children.⁶ Fire camps, private, and out-of-state facilities incarcerated 15,000 more. If we think only about state budgets and public safety, we will miss the opportunity to consider what these men, women, and youth have to offer California. They are people, like you and me. Imperfect, like you and me. And like you and me, they will be shaping California's future. They are not the sum of their offenses, even as we are not the sum of ours. Writing them off, banishing them forever, has not only been shown to be a failure as a policy, it's also irresponsible and ultimately immoral.

While Jerry Brown, CDCR leadership, and the voters of California keep steady at reforming the policies that have inadequately governed our prisons, working to make them safer and more purposeful, a small army of activists, artists, writers, and counselors focuses on the people inside them. But much work remains. Improving inmate health care is of increasing importance as our prison population ages into their late senior years. Providing reliable access to good mental health care and counseling and ongoing job training are necessary for prisoners who will be released into a society with an economy vastly different from the one they left. Regulation of private prisons is desperately needed.



San Francisco County Jail #1. Photograph by Taiyo Watanabe.

Substance abuse treatment both inside and outside of prisons must be made available, as well as affordable housing, a community, and the list goes on.

In 2013, *Boom* interviewed Sharon Dolovich, a professor at UCLA's School of Law, about the inhumane present and potential futures of prisons in California. She told us, "If in 2050 we look back on the current situation as a disaster that we managed to escape from with thoughtful, wise reforms, it will only be because in the intervening years we started to think differently about the shared humanity of the people in custody." That shift has begun. It must continue. **B**

Notes

- ¹ Public Policy Institute of California, January 2016, http://www.ppic.org/content/pubs/report/R_116MLR.pdf.
- ² Public Policy Institute of California, January 2016, http://www.ppic.org/content/pubs/report/R_116MLR.pdf.
- ³ [https://www.gov.ca.gov/docs/Terminating_Prison_Overcrowding_Emergency_Proclamation_\(10-4-06\).pdf](https://www.gov.ca.gov/docs/Terminating_Prison_Overcrowding_Emergency_Proclamation_(10-4-06).pdf).
- ⁴ <http://www.cdcr.ca.gov/news/3-judge-panel.html>.
- ⁵ http://www.ppic.org/content/pubs/report/R_116MLR.pdf.
- ⁶ http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/WeeklyWed/TPOP1A/TPOP1Ad160622.pdf.