



“21st Century Realities in Corrections”

California Realignment Offers Lessons in Adapting to Changing Times.



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Table of Contents

Summary: 3

The Challenge: 3

California's Solution: 5

The Details of CA Realignment:..... 7

Impact on Counties: 9

Facilities/Bed Space 11

National Implications:..... 12

Conclusion:..... 15

Summary:

For the past few decades, the direction and focus of corrections policy has been impacted by scholarly research, evidence-based practices, and a focus on improved outcomes in public safety and reduced recidivism. On the correctional healthcare front, better linkages to community care for ex-offenders to improve continuity of care and personal and public health outcomes has grown considerably.

The national economic slump and sluggish recovery caused state and local governments to adapt to cuts in funding and resources. As a result, elected officials, voters and of course corrections professionals also had to adapt by setting their priorities, identifying efficiencies, improving outcomes and reducing duplication and redundancy of services. This trend in reductions in correctional budgets has offered a unique opportunity to rethink how we “do” corrections.

This paper seeks to identify the challenges facing corrections and correctional healthcare given shrinking resources and increased demands for effectiveness and accountability. We will identify opportunities to address those challenges through technology, coordination of care and services, and policies and practices that are grounded in evidence based approaches. We focus on the state of California’s recent experiences with corrections realignment (AB109 and related) to use real-world examples applying realignment objectives. A series of suggested opportunities lies at the heart of this paper.

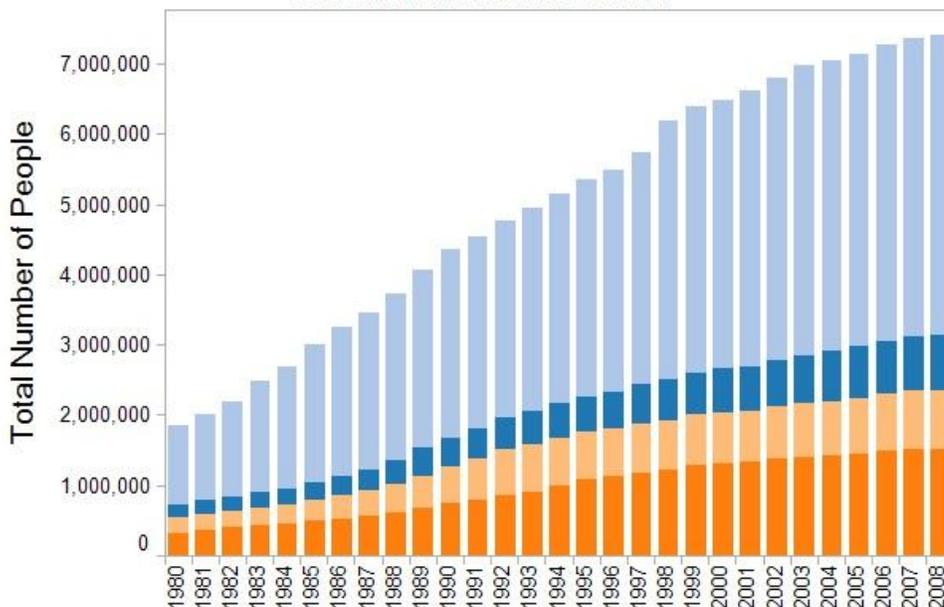
The Challenge:

Over the last three decades, correctional populations have increased, resulting in one out of 100 adults behind bars in America, and one out of 31 adults under some form of correctional control:

A Look at the U.S. Correctional Population

In 2008, **1 in every 31** adults or **3.2 percent** of all U.S. adults were in the system.

Data Source: Bureau of Justice Statistics



2008 Correctional Population: 7,308,200

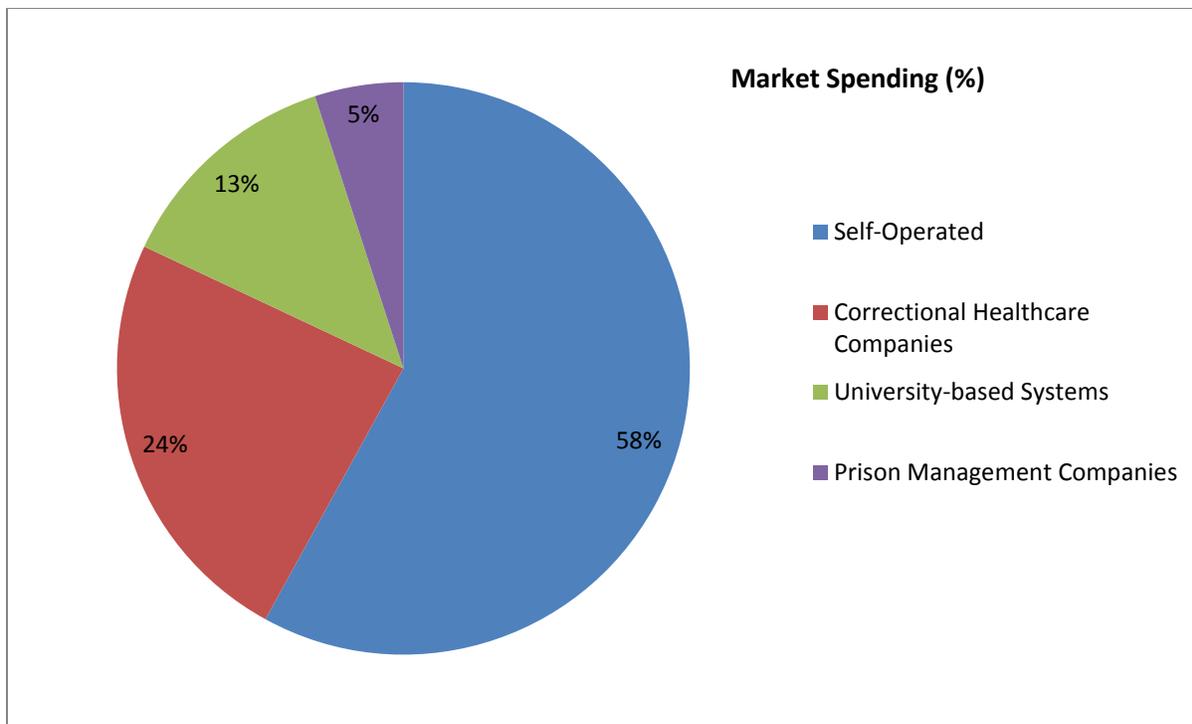
The number of people locked up in prison or in jail more than **tripled** since 1980, according to BJS data. The number on probation was up by **282%** and the number on parole was up over **275%** since 1980.

Census data show that the general population grew by **one-third** over the same time period from 227 million in 1980 to 304 million in 2008.

- On Probation
- In Jail
- On Parole
- In Prison

State combined correctional spending costs approach over \$60 billion dollars a year. Recidivism rates remain high with over half (51.8%) of the people released from state prison returning within three years (PEW 2009). Costs associated with providing constitutionally mandated healthcare for an increasingly aging inmate population with prevalence rates of chronic diseases often 3 or 4 times the rate seen in the general public reach as high as \$10 billion a year.

Correctional healthcare spending is estimated to be \$10.3 billion annually: self-operated - \$6.0 billion; outsourced - \$4.3 billion.



States face budget deficits across the country, and are looking to develop new and innovative strategies to reduce correctional spending. In the past, states have shown a preference for incarceration when in fact it is “cheaper to monitor convicts in community programs including probation and parole”. A survey that was conducted of 34 states found states spend an average of \$29,000 a year on prisoners (California spends over \$49,000), compared to \$1,250 on probation and \$2,750 on parolees. (PEW 2009). States like California are implementing new strategies to cut costs and lower prison populations.

California’s Solution:

Last year, California implemented AB109, the biggest change in its criminal justice system since 1976, when the state switched from indeterminate sentences to fixed-term sentences.

This historic legislation, signed into law by Governor Jerry Brown on October 11, 2011, transfers the responsibility for non-serious, non-violent and non- sex offenders from state prisons and state parole agents, to the county jail and county probation officers. Governor Brown stated, "For too long, the state’s prison system has been a revolving door for lower-level offenders and parole violators who are released within months—often before they are even transferred out of a

reception center. Cycling these offenders through state prisons wastes money, aggravates crowded conditions, thwarts rehabilitation, and impedes local law enforcement supervision." (California Governor's Press Release, April 5, 2011).

For years California has struggled with a correctional system plagued with overcrowding, high recidivism and exorbitant costs that consumed a greater and greater percentage of the state's budget. In 2011 California's prison population was approximately 148,000 with a parole population of approximately 126,000, at a cost of over \$9.3 billion dollars to operate. Between 1986 and 2006, California's prison population soared from around 60,000 inmates to a staggering high of 173,479, the result of passing a fury of "tough on crime" laws.

On August 4, 2009, a federal three-judge panel declared overcrowding was the primary reason that California Department of Corrections and Rehabilitation (CDCR) was unable to provide inmates with constitutionally adequate health care. The panel required California to develop a plan to reduce prison population to 137% of prison design within two years. During this period the state's prison system was at 208% of prison design.

Figure 1

Estimated Inmate Population Reductions to Meet Federal Court Ruling

Court-Imposed Deadlines	Design Capacity Limit	Population Limit	Population Reduction ^a
December 27, 2011	167.0%	133,000	11,000
June 27, 2012	155.0	123,000	10,000
December 27, 2012	147.0	117,000	6,000
June 27, 2013	137.5	110,000	8,000
Two-Year Total			34,000

^a Relative to July 13, 2011 state prison population of 143,493.

California provides a unique case study in identifying common issues and exploring productive solutions to today's challenges in corrections:

- Prison overcrowding
- Correctional healthcare costs and liabilities
- Underfunded/unexplored alternatives to incarceration
- Creating and maintaining robust, evidence-based reentry efforts
- Ongoing reductions in resources and revenue

California responded to their challenges by passing "Realignment" (AB109), which can now provide a road map of lessons learned that can be instructive to other states.

With the implementation of AB109, the hope is that it provides solutions to many of the problems experienced by California, by reducing prison and parole populations, and the enormous cost associated with these populations. The state is counting on local agencies to do

a better job of rehabilitating offenders than it has done, so fewer will end up back behind bars. A study by The Pew Center on the States argues, that it would be more "fiscally responsible" for states to spend less money on prisons and jails and more on parole, probation, and community prison programs. (PEW March 2009) California corrections officials believe that, ultimately, realignment in California could lower incarceration costs and improve public safety. (SF Gate, Oct. 12. 2011).

Closely following evidence-based practices and providing coordinated linkages to appropriate levels and types of care and services has a proven impact on reducing recidivism: "findings offer specific direction...In particular, the principles of risk, need, and responsivity (Andrews, Bonta, & Hoge, 1990; Andrews, Bonta & Wormith, 2006) now guide both administrators and clinicians in the selection of clients (i.e., targeting moderate- and high-risk offenders), the kinds of services to provide (i.e., addressing criminogenic needs), and the manner by which services are delivered (i.e., behavioral and cognitive-behavioral programs). The extent to which these principles are followed and treatment integrity is practiced correlates highly with client outcome as measured by recidivism (Andrews & Dowden, 2005; Latessa, 2004). Their importance is profound, as adherence to them determines whether or not the prescribed intervention affects recidivism, regardless of client demographics such as age, gender, and ethnicity (Andrews & Bonta, 2003)." From ***The Rehabilitation and Reintegration of Offenders, Wormith, et al, 2007.***



One of the primary benefits of realignment is the ability of the department to comply with the Court's order without releasing tens of thousands of inmates or building costly new prisons. Without realignment, and given the public safety risk associated with releasing offenders early, the state would have had to build nine new prisons and house other inmates in private contract facilities in order to comply with the Supreme Court's order. CDCR Agency Secretary, Matthew Cates stated during a press conference, "If you wanted to build your way out of the problem, you'd have to build 9 prisons at \$7.5 billion, with \$500 million in debt services and \$1.6 billion in operational cost." (The Future of California Corrections-April 2012).

As the result of prison realignment it is projected by 2016-2017 California's prisons will have 40,000 fewer inmates, leaving approximately 124,000 state prison inmates and 51,000 fewer people on parole, with approximately 26,000 remaining to be supervised on state parole.

(CDCR-Year at a Glance 2011). **Many are asking the question, “Will realignment fix CDCR, only to shift the state’s problem to the counties?”, because this major shift of responsibility under AB109 clearly causes a major shift of financial responsibility.**

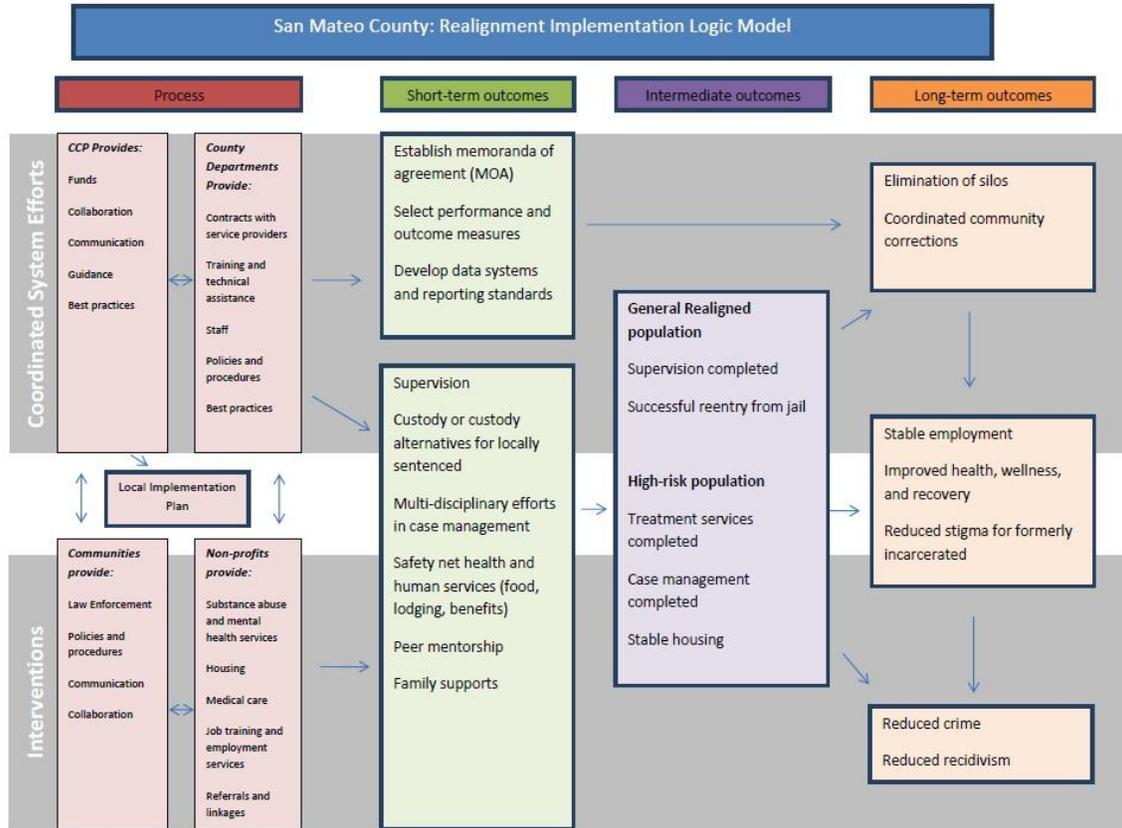
The Details of CA Realignment:

How does realignment work? California’s realignment plan transfers responsibility for housing and supervising selected offenders to county jails and county probation departments. As a result, several changes will take place. Some offenders who would have gone to state prison will now be sent to county jail. Second, some offenders released from state prison will be placed on Post Released Community Supervision (PRCS). Prior to realignment, everyone released from state prison in California served a mandatory three year parole term. Under realignment certain offenders (non-serious, non-violent and non-sex offenders) will be released onto PRCS, administered and paid for by County Probation Departments. The third change is how parole violators will serve their time in county jail instead of state prison. Prior to realignment, parolees who violated their parole could serve up to twelve months in state prison and the state paid the cost. Under realignment any parole violations that require jail time will be served in the county jail, are limited to 180 days and the county pays the cost.

As part of the realignment plan each county is required to establish a local planning committee called “The Community Corrections Partnership” (CCP). This partnership is made up of the Chief Probation Officer who is the chair, the Sheriff, District Attorney, Chief of Police, Public Defender, Presiding Judge of the Superior Court (or designee), a representative from either the County Department of Social Services, Mental Health, or Alcohol and Substance Abuse Programs, as appointed by the County Board of Supervisors. The executive committee of the CCP is charged with developing the county’s realignment plan that has to be approved by the County Board of Supervisors prior to implementation.

The Community Corrections Partnership serves many functions. What has proven to be invaluable is the process that brings all of the local stakeholders to the table requiring they communicate, develop and agree on the best plan to manage offenders returning to their community. For too long the perception of many of these stakeholders has been that this is a state problem, even though these offenders return home to their local communities. Realignment requires stakeholders collaborate to provide the best solutions for their county to help the offender achieve success.

San Mateo County offers a good example of this collaborative approach with its Community Corrections Partnership Logic Model:



Impact on Counties:

COST:

There has been too little conversation about increases in healthcare costs to the counties, based on the additional population that will be housed in the county jails under realignment. CDCR is all too acquainted with the issues, challenges and financial obligations associated with providing healthcare services to inmates in a jail setting. In April 2005 CDCR was placed under receivership to fix what was called a broken healthcare system. The federal court ruled, that the state's prison medical care system "is broken beyond repair" and was so deficient that it resulted in the unnecessary suffering and death of inmates. Specifically, the court found, among other problems, that the California Department of Corrections and Rehabilitation (CDCR) medical system was poorly managed, provided inadequate access to care for sick inmates, had deteriorating facilities and disorganized medical record systems, and lacked sufficient qualified physicians, nurses, and administrators to deliver medical services (Liptak, 2011, p.1).

The demands in healthcare have been a major cost in corrections. “As health care sparks debate across the nation, the prison community faces its own battle against rising medical costs. The elderly constitute the fastest-growing sector of the inmate population, experts say. It is a group that needs more frequent and costlier treatment, which states are required to provide under the cruel and unusual punishment clause of the Eighth Amendment to the U.S. Constitution”, as stated by Stephanie Chen with CNN, November 13, 2009.

Inmates in federal prisons (39%), state prisons (43%) and local jails (39%) reported a chronic medical condition, as described in recent publications by Dr. Wilper and colleague and the Bureau of Justice Statistics. In an article published 10/25/2010 by Ingrid A. Bingswanger, MD, MPH entitled “Chronic Medical Diseases Among Jail and Prison Inmates”, she found the most prevalent chronic medical diseases among this population to be, hypertension, obesity, arthritis, asthma and hepatitis.

The national average cost of providing prison healthcare is around \$5,000 per inmate per year. The California Prison Healthcare Services facts and figures Sheet dated February 2011 states the annual cost to care for an inmate in CDCR is \$10,600 (which does not include mental and dental healthcare). Approximately .81 of every dollar is spent on direct medical care, while approximately .10 is spent on clinical support, and .09 is spent on administrative services. As the state prison population decreases and county realignment population increases, it is anticipated the counties will see a dramatic increase in healthcare costs.

In an article on Bakersfield.com on May 7, 2012 by Brick McDill, it was noted that Kern County is already anticipating an increase in cost. Mr. McDill in his opinion piece stated, “The state has had forty-plus years of experience with prison lawsuits: Millions to upgrade mental health care, dental care, and general medical care may now need to be spent on refurbished, expanded (or new) treatment facilities, upgraded floor-mounted and moveable dental and medical treatment equipment, supplies (expendable and other), continually upgraded tools of the trade, enlarged medical/dental/mental health care staffs (specialists and administrative support), medical supervisors, and managers. Inmates will be able to demand (and expect to immediately receive) state-of-the-art mental health, dental and medical care. The same intensive plaintiff and court monitoring and oversight that exist in prisons will now likely come to county lockups. Counties will be expected to pay the legal costs of plaintiffs' attorneys, court costs, and the defense costs for county counsel as that office struggles with frequent conferences and hearings. Count those as yet-untallied direct and indirect costs in the millions as well.”

Opportunity: Correctional Healthcare providers that are able to meet these new demands in a cost-effective fashion that maximizes the use of limited taxpayer dollars will be well positioned to offer solutions to CA Counties.

Aside from the demand for physical healthcare in corrections, there is the added burden of mental healthcare. State prison inmates with mental illnesses increased from 19 percent in 2007 to 25 percent in 2012, according to the CDCR. Under realignment, counties will be faced with addressing the need for increased mental health services in County Jails that are not adequately funded. This increased demand for mental health services under realignment will doubtlessly increase the financial burden on counties.

Mental illness and drug addiction are common in California prisons, where more than half of inmates report a recent mental health problem and two-thirds report having a drug abuse problem, according to a Rand Corp. study. Many don't receive the treatment they need while incarcerated and may skip care once released, said the study's author, Lois Davis.

Counties are already experiencing increased mental health needs amongst the realignment population. In an article written by Richard K. De Atley, staff writer for the Santa Rosa Press Enterprise, dated February 2012, he reports, "County probation officers and mental health workers have had to deal with a growing number of state prison returnees who have mental health issues, which county officials say were poorly described in their state prison information packets that preceded release. After four months of California's realignment program, jail overcrowding, homelessness and inadequate mental health reporting have overburdened local agencies now responsible for prisoners shifted from state to local institutions."

Opportunity: Correctional Mental Health Care Providers that are able to address counties' needs for inmate mental health care at competitive rates

Facilities/Bed Space

Central Coast County jails are already feeling the effects of AB109. In an article written on May 29, 2012, for San Ynez Valley news by staff writer Brian Bullock, he stated, "County jails on the Central Coast are overcrowded, understaffed and insufficient for the inmate population forced into them by Assembly Bill 109, according to reports from both the Santa Barbara County Probation Department and the San Luis Obispo County Grand Jury". County jails have exceeded their capacity adding to problems of jails that are already overcrowded, such as in Santa Barbara County Jail where the average daily (ADP) population is 938 in a jail rated for a ADP of 788. In addition, the article states the county's efforts to get people out of jail and find programs for this population has been slow.

Prior to realignment counties were paid approximately \$77.00 per day by the CDCR for housing parole violators and inmates who were in custody on a parole hold only. During the planning stages of realignment there was a considerable amount of discussion around the capacity of county jails to house the additional population. At the time of these discussions 32 of the state's 58 counties were under court orders capping the number of inmates they may house.

Clearly just like CDCR's problem of prison overcrowding, many county jails in California face the same challenges. County jails normally house inmates that are awaiting trial, serving short sentences or waiting to be transferred. Under realignment, sentence lengths have not been shortened, as a result it is anticipated some inmates will be incarcerated in county jail for longer periods of time. In Riverside County Jail prior to realignment an average jail sentence was 8 months. The average jail sentences under realignment are 1 year 11 months with the longest jail sentence being 14 years and 4 months. Wendy Still former Director of CDCR Women's Programs and currently Chief probation officer with San Francisco Probation stated, "The jails in California were not built for long-term housing. In addition to just having this increased population, you are going to have problems with recreation yards, with visiting space, law libraries, education programs, medical and mental health treatment, and substance-abuse treatment services."

Opportunity: Identifying "low-level" offenders through validated risk and needs assessment tools to assist in pre-sentencing diversion, suitable post-release supervision with appropriate linkages to community programs and services, and other evidence-based approaches to reducing recidivism will be critical cost-containment strategies for counties.

National Implications:

Since California has the largest correctional system in the nation, there has been much focus on its failing system. It is important not to lose sight, however, that this is a national problem, with over 7.3 million people incarcerated in US jails and prisons, on parole, on probation, or under other forms of correctional supervision. Over 700,000 inmates return home to their communities every year, and over half will return to prison within three years. In most states correctional spending has grown at a faster rate than other state budget line items. According to the PEW report on States, corrections consume 1 in every 15 state discretionary dollars. It's the second fastest growing state budget category behind Medicaid. States are paying a high cost for their correctional systems, while receiving little return on their investments. States across the country are facing many of the same challenges experienced by California and are beginning to develop strategies to meet those challenges.

Despite mounting corrections spending, rates of re-incarceration remain high and, by some measures, have actually worsened. Several states such as, Texas, Arizona, Nevada, North Carolina, Ohio, have begun to develop a strategy by working with Justice Reinvestment - a project of the Council of State Governments Justice Center. These states are designing policies to manage the growth of the corrections system, improve the accountability and integration of resources concentrated in particular communities, and reinvest a portion of the savings generated from these efforts to make communities receiving the majority of people released from prison safer, stronger, and healthier. (Council of State Governments Justice Reinvestment Act)

The Texas Department of Corrections is the closest in size to California with approximately 155,000 people in prison. Faced with a crisis of expanding prison overcrowding and steadily growing at a rapid pace, like California, Texas had to make a decision to implement a strategy to address this crisis. This growth was contributed to years of implementing some tough on crime statutes that increased the time violent and serious offenders served in prison. Texas prison population grew as from 1982-1997 they spent over \$2.3 billion in prison construction to build over 108,000 beds to add to its system. In 2007, the prison population in Texas was projected to grow by more than 14,000 people over the next five years. Texas made a decision to become part of the Justice Reinvestment Program. The JRP is a data-driven approach to reduce corrections spending and reinvest savings in strategies that can decrease crime and strengthen neighborhoods. After reviewing the Justice Center's detailed analyses that revealed the reasons for this trend, along with a set of suggested policy options, state lawmakers enacted a comprehensive policy package to avert the anticipated growth and save \$443 million. As part of their efforts—and to improve the success rates of people under supervision—the legislature reinvested \$241 million to expand the capacity of substance abuse and mental health treatment and diversion programs, and to ensure that the release of low-risk individuals is not delayed due to lack of in-prison and community-based treatment programs. (Texas Re-Investment Act Report)

Since the enactment of the new policies in Texas, recidivism decreased significantly. The prison population has stabilized and has not been projected to grow, allowing the state to cancel plans to build any additional prisons for the foreseeable future. While these developments occurred, crime rates in nearly every major urban area in Texas have declined.

Opportunity: Evidence-based reentry practices rely upon the existence of a robust network of community-based providers working in close relationship with Departments of Correction and Community Supervision Agencies to coordinate care and services based upon individual offender needs. Funding such providers is key, as is implementing strong collaborative partnerships that allow seamless sharing of information in a secure environment.

Other correctional agencies such as the Ohio Department of Corrections faced similar problems to California: non-violent offenders such as property and drug offenders were in and out of prison creating a revolving door. In the Justice Reinvestment Analysis Report of Ohio, dated July 26, 2012 they found the following; Property and Drug offenders served short state prison sentences and were released to the community with no supervision. More than 10,000 fourth and fifth degree felony property and drug offenders were sentenced to state prison in 2008 for an average of nine months at a cost of \$189 million. After serving brief sentences, 72 percent were returned to the community with no supervision”.

Another challenge for Ohio was they had several independent agencies responsible for the probation management of this population. At the end of 2008, an estimated 260,000 people in Ohio were on probation and supervised by one or more municipal, county, or state agencies. They found the operations of these agencies overlap and lacked coordination. Training and supervision standards vary significantly, and no meaningful data was collected statewide to provide policymakers information about the overall effectiveness of the probation system. In addition, Community correction programs in Ohio do not have clear criteria to inform the selection of program participants, making it difficult for these programs to be cost-effective tools for diverting people from prison and reducing crime. Ohio invests over \$130 million annually in diversion programs, but does not provide any data-driven selection criteria for program participants. Without such criteria, judges cannot be certain they are sentencing people to programs from which they will benefit the most.

Ohio finally adopted a strategy that uses a common set of risk assessment instruments across the state's criminal justice system, community supervision and treatment resources will be consistently targeted toward offenders who need them the most. The state will also reinvest \$20 million over four years to improve felony probation supervision by providing incentive funding for agencies that reduce recidivism. (Ohio's Justice Reinvestment Report 2008).

Opportunity: Technology that can support the use of validated risk and needs assessment tools creating individualized reentry / community supervision plans, schedule appointments with appropriate community based agencies based on identified needs, monitor adherence to appointments, share case notes – all in a secure, compliant environment can assure greater oversight, robust reporting data, and measure critical outcome metrics.

Conclusion:

In California realignment is challenging counties to take a close look at the needs of the client by using evidence based practices to achieve success and develop strategies that will have the greatest impact on public safety. Counties like San Mateo and San Francisco have designed realignment plans that rely heavily on connecting offenders with community services. Chief Probation Officer Stuart Forrest said the county's local implementation plan was designed to incorporate a range of rehabilitative approaches to dealing with non-violent inmates, both before they are released from jail and after. "The local implementation plan is based on broad, interdisciplinary cooperation," Forest said. San Francisco's realignment plan focuses on using the majority of their funding to provide services. Chief Probation Officer Wendy Still stated in an interview with Berkeley Law on March 21, 2012, "The big opportunities I see for San Francisco (with realignment) are for us to create a continuum of services, and in fact that's what our realignment plan does call for. I'm very proud of the fact the Mayor and the Board of Supervisors prioritized service dollars. So as part of our realignment funding, we dedicated almost a third of that funding to services. And so an opportunity that we have is to bring more services on-line, partnering with community-based organizations and those social service agencies -- workforce development, mental health, substance abuse and so forth -- to basically expand the services that are available. I'm very excited about that."

Although realignment provides solutions to California's overcrowded prisons and reduces parole populations, the real success lies in the county's ability to allocate scarce resources for this population that they now have responsibility. The National Council on Crime and Delinquency in 2006 stated, "Offenders returning to their communities bring with them a host of problems including physical and mental health and substance abuse issues, literacy, few job skills, and minimal work history. These deficits contribute directly to continuing patterns of crime, and unless they are addressed in a comprehensive and consistent fashion-both in the institutions and in the community-parolees will continue to fail."

States across the country like Texas, North Carolina, Ohio and California are taking the lead in addressing these decades-long problems they have struggled with in corrections. Applying evidence-based approaches, connecting offenders with appropriate levels of service and supervision, and being able to monitor, measure and report on outcomes in a timely fashion using secure, cutting edge technology is the future of Corrections.