



THE PEOPLE'S PLAN FOR PRISON CLOSURE

by Californians United for a Responsible Budget

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Executive Summary

As a coalition of more than 80 organizations working to reduce the number of people in prisons, reduce the number of existing prisons, and redirect funding to build the infrastructure of vulnerable communities, **Californians United for a Responsible Budget (CURB)** strongly supports Governor Gavin Newsom's proposal for prison closures.

Our community is proud to share this report: **The People's Plan for Prison Closure (PPPC)**. The PPPC is a visionary roadmap that demands bold commitments to justice reinvestment. It provides detailed recommendations including: the prioritization of ten prisons to close in the next five years, and why; a call to close all women's prisons; an analysis of cost-savings to be captured and reinvested in impacted communities; and data-driven information about the roles racism and draconian sentencing continue to play in both prison expansion and overcrowding.

The California Department of Corrections and Rehabilitation (CDCR) has been entrusted with the responsibility of creating and delivering a plan for prison closures, including which prisons to prioritize. Instead, the legislature and Governor's administration continue to receive more requests from CDCR to increase the Corrections budget by billions of dollars for infrastructure repairs and expansion projects.

CDCR has no actual vision for prison closures. Our coalition firmly believes that any roadmap created to close prisons must be participatory, centering the voices of Californians who are most impacted by incarceration, including people who are currently incarcerated; formerly incarcerated people; their family members across the state; and people living in prison towns. Informed and co-written by directly impacted people, this report offers an initial roadmap for shutting down state owned prisons, starting with ten prisons by 2025.

Why ten prisons? The better question is: why not all 34? The administration's own nonpartisan Legislative Analyst's Office (LAO) calculated that shutting down five adult prisons in California would save \$1.5 billion per year by 2025.

However, their report (released in November of 2020), is focused only on addressing the economic cost of incarceration in California. The unprecedented events of 2020—both the pandemic, and the historic uprisings in support of Black life—have revealed to all Californians what marginalized communities have always known: racism and incarceration are public health crises.

Black and vulnerable communities have been 'disappeared' into California's prisons for forty years. The price of this social abandonment is of course incalculable. How can we begin to address racism in America with a response that is anything less than unapologetically bold? Closing ten prisons in five years would be a truly bold step toward accountability and racial justice in the interest of public health.

Over the past decade, Californians have been working diligently at righting the wrongs of the past by changing public safety policies on the ballot and in the legislature, resulting in reduced prison populations with the goal of shifting public safety to center care, not cages. In order to meet the people's goal of cutting wasteful spending on corrections, the state must continue to work to dramatically increase prison releases—not transfers—and change 'tough on crime' laws and policies that drive the incarceration crisis.

Prisons prioritized for closure must be emptied and all functions of the prison must be shut down. In fact, due to the toxic land on which prisons have been built, and the danger to public health that is exacerbated during a global pandemic, prisons must be torn down. The state must focus on creating a sustainable

vision to clean and repair the land and the communities that have suffered the most from the environmental injustices caused by prisons and support community investment.

Key Findings

CURB strongly recommends that the Legislature:

1. Withhold any prison infrastructure spending;
2. Further accelerate plans for state-owned prison closure to close ten state owned prisons in the next five years;
3. Include additional criteria for prison closures that CDCR has not considered in selecting which prisons to close first;
4. Divest from the Corrections budget and invest in strategies for durable, long-lasting decarceration; and
5. Ensure that closed prisons remain closed and are not repurposed for any other carceral uses.

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INTRODUCTION

02

Prison Expansion in California: History & Context

The ever-unfolding story of prison expansion in California is inarguably one of the most calamitous events in our state's history.

Starting in the 1970s, the pace and scale of incarceration grew rapidly, as racist, “tough on crime” laws were passed to both incarcerate huge swaths of our population—especially Black, Brown, Indigenous, and low-income folks—and sentence them for longer and longer periods of time. California constructed 22 prisons between 1984 and 2013,¹ costing taxpayers billions of dollars and requiring massive ongoing funding allocations for the continued maintenance and operation of warehouses for human beings, filled with the most marginalized communities by design.

Prisons are systemically racist. California disproportionately cages more non-whites than any state of the former Confederate South, while having one of the highest incarceration rates in the world. Between 1986 and 2006, the state prison population jumped to staggering heights,

from 60,000 to nearly 175,000 people.²

This prison construction boom proved insufficient to meet California's addiction to incarceration, leading to massive prison overcrowding. As populations swelled to twice their capacity, a reported 72 gymnasiums and 125 dayrooms were being used to cage people.³ This resulted in less programming space, increased violence, and prolonged lockdowns,⁴ as well as major violations of human rights and Constitutional protections.

A Supreme Court ruling forced then-Governor Jerry Brown to finally address prison overcrowding. However, rather than acknowledge the failures of the state's reliance on incarceration; repeal the draconian sentencing laws that led to this crisis; and take concrete steps towards decarceration, California attempted to address overcrowding “while avoiding early release” of incarcerated people.⁵

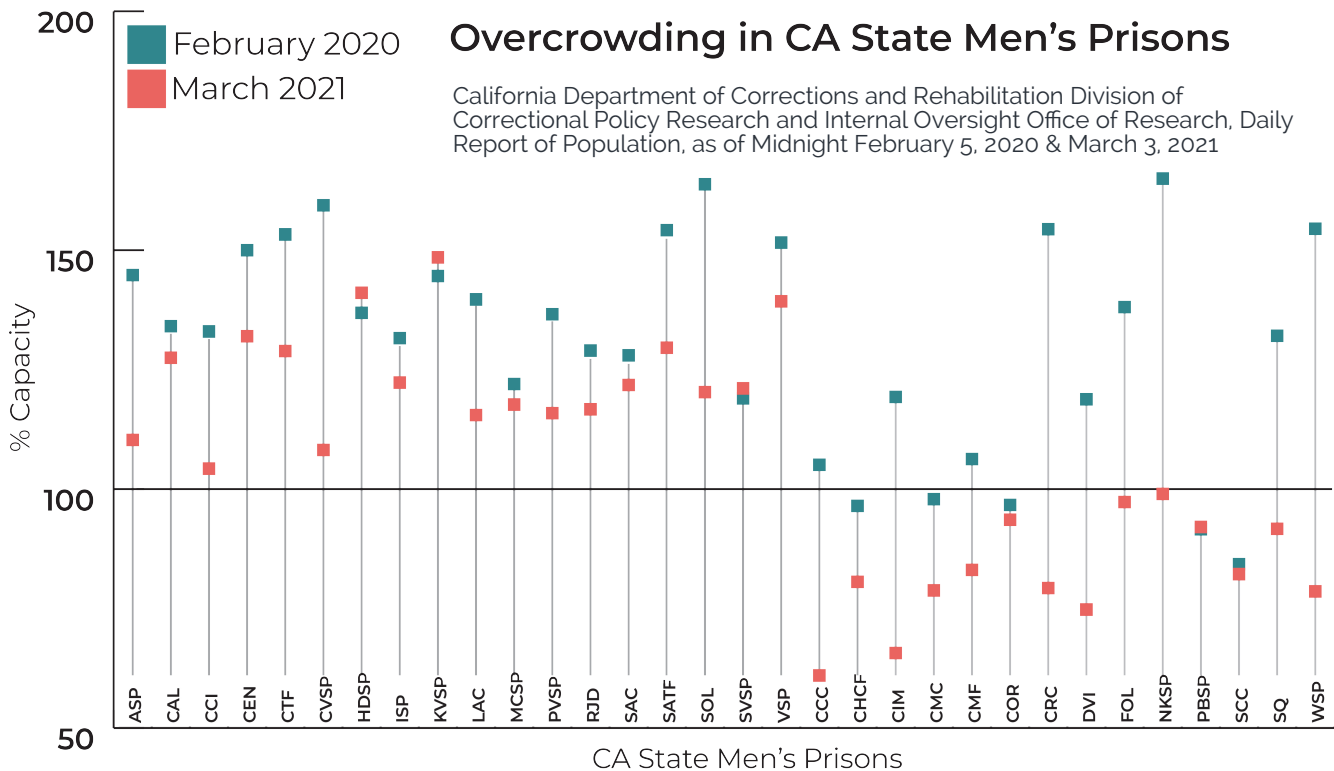
1 O'Neil, Caitlin. The 2020-21 Budget: Effectively Managing State Prison Infrastructure. Legislative Analyst's Office, February 28, 2020. <https://lao.ca.gov/reports/2020/4186/prison-infrastructure-022820.pdf> (accessed February 22, 2021), p. 4.

2 Brown, Edmund G. Governor's Budget Summary 2014-15. State of California. <http://www.ebudget.ca.gov/2014-15/pdf/BudgetSummary/FullBudgetSummary.pdf> (accessed February 22, 2021), p. 74.

3 Brown, Edmund G. Governor's Budget Summary 2012-13. State of California. <http://www.ebudget.ca.gov/2012-13-EN/pdf/BudgetSummary/FullBudgetSummary.pdf> (accessed February 22, 2021), p. 126; California Department of Corrections and Rehabilitation. The Future of California Corrections: A blueprint to save billions of dollars, end federal court oversight and improve the prison system. 2012. <http://www.ccpoa.org/files/futureofcorrections2012.pdf> (accessed February 22, 2021), p. 10.

4 California Department of Corrections and Rehabilitation. The Future of California Corrections: A blueprint to save billions of dollars, end federal court oversight and improve the prison system. 2012. <http://www.ccpoa.org/files/futureofcorrections2012.pdf> (accessed February 22, 2021), p. 10.

5 Brown, Edmund G. Governor's Budget Summary 2014-15. State of California. <http://www.ebudget.ca.gov/2014-15/pdf/BudgetSummary/FullBudgetSummary.pdf> (accessed February 22, 2021), p. 65.



The cornerstone of this strategy was Public Safety Realignment (“Realignment” or AB 109). Broadly, Realignment shifted the responsibility of numerous penal programs from state jurisdiction to county jurisdiction, moving tens of thousands of people who were serving time in state prison for non-serious, non-sexual, and non-violent convictions and parole violations to county jail.⁶ Realignment reduced the state’s prison population but led to a significant increase in the number of people in county jails, including people serving long sentences.

A survey by the California State Sheriff’s Association in 2013 discovered that “1,109 prisoners in county jails were serving five- to ten-year sentences,” 44 were serving terms of more

than ten years, and one person—caged in Los Angeles County—was serving a 43-year sentence.⁷

In 2015, California Department of Corrections (CDCR) finally came into compliance with the court-ordered population cap of 137.5 percent of design capacity. It should be noted, however, that the court-ordered cap was for CDCR as a whole, not per facility. Some facilities continue to operate at more than 137.5 percent capacity today.⁸

It took a combination of court-ordered programs, citizen ballot initiatives, and sentencing reform policies (led by impacted communities and grassroots organizations) to do what CDCR was unwilling to do—move toward a real decarceration strategy. In the courts, this included the

6 Brown, Edmund, G. Governor’s Budget Summary 2011-12. State of California. <http://www.ebudget.ca.gov/2011-12-EN/pdf/BudgetSummary/FullBudgetSummary.pdf> (accessed February 22, 2021), pp 22-24.

7 Sacramento Bee & ProPublica. “A Brief History of California’s Epic Journey Toward Prison Reform.” Pacific Standard, May 29, 2019. <https://psmag.com/social-justice/a-brief-history-of-california-prison-reform> (accessed February 22, 2021); Brown, Edmund G. Governor’s Budget Summary 2014-15. State of California. <http://www.ebudget.ca.gov/2014-15/pdf/BudgetSummary/FullBudgetSummary.pdf> (accessed February 22, 2021), p. 85.

8 California Department of Corrections and Rehabilitation. Weekly Report of Population as of Midnight March 3, 2021. Office of Research. <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2021/03/Tpop1d210303.pdf> (accessed March 4, 2021).

California disproportionately cages more non-whites than any state of the former Confederate South, while having one of the highest incarceration rates in the world.

establishment of credit earning programs as well as medical and elder parole programs that continue to be in place today.⁹

Three citizen ballot initiatives took steps towards decarceration: Proposition 36 (2012) created the possibility of resentencing for approximately 35 percent of people sentenced under the Three-strikes Law; Proposition 47 (2014) reclassified certain felonies to misdemeanors and was applied retroactively, leading to an immediate reduction in prison and jail populations;¹⁰ and Proposition 57 (2016) expanded parole eligibility by modifying opportunities for people in prison to earn time off their sentences by completing certain types of rehabilitation and educational programming.

Directly impacted communities led efforts to create new parole opportunities for people sentenced when they were youth,¹¹ repealed and reformed numerous sentence enhancements,¹² and created avenues for resentencing large

numbers of incarcerated people.¹³

Despite this consistent pressure from California voters, bad system actors would rather build cages instead of schools; hire prison guards instead of health care workers; and use punishment systems steeped in racial injustice instead of investing in community-based systems of care. California's 30-year policy of prison expansion—while millions of residents struggle for basic needs—is inexorably tied to our state's current social and fiscal instability, wasting much needed resources on a system of unprecedented injustice.

Drastically reducing the number of prisons in the state, as well the number of people in them, is the single greatest investment we can make in public health protection, racial justice equity, and the economic sustainability we all want for California's future.

9 Brown, Edmund G. Governor's Budget Summary 2014-15. State of California. <http://www.ebudget.ca.gov/2014-15/pdf/BudgetSummary/FullBudgetSummary.pdf> (accessed February 22, 2021), p. 77.

10 Bird, Mia, et al. The Impact of Proposition 47 on Crime and Recidivism. Public Policy Institute of California, June 2018. https://www.ppic.org/wp-content/uploads/r_0618mbr.pdf (accessed February 22, 2021).

11 For example: SB 260 (2013 - Hancock), SB 261 (2015 - Hancock), and AB 1308 (Stone - 2017).

12 For example: SB 180 (2017 - Mitchell), SB 1393 (2018 - Mitchell), and SB 136 (Wiener - 2019).

13 For example, SB 1437 (2018 - Skinner) and AB 2942 (2018 - Ting).

California Must Close State-Owned Prisons

03

Prisons Are Public Health Disasters

The consequence of caging human beings is lethal. Although Governor Gavin Newsom ordered a moratorium on the death penalty in 2019, people are still dying in California-owned cages.

People in state prisons die early, and they are more vulnerable to dying from chronic conditions like cancer, heart disease, liver disease, and respiratory disease.¹⁴ It's said that each year of life served in prison decreases an individual's life expectancy by two years.

Another leading cause of death in prison is suicide. Incarcerated people diagnosed with serious mental health disorders account for a third of the total state prison population, and receive 12 percent longer sentences on average across all conviction categories.¹⁵ Draconian sentencing laws have been a sure pathway to death by incarceration for many. Since 2000, the prevalence of incarcerated people being treated for "serious mental disorders" (e.g. schizophrenia, psychotic, and bipolar disorders) has increased by 150 percent. In 2018, CDCR

reported the the highest suicide rate (26.3 per 100,000) since the recording of annual frequency began back in 1990.¹⁶ The suicide rate in California prisons was nearly 80 percent higher than the national average, and according to the US Supreme Court, over 72 percent of suicides in California's prisons were "most probably foreseeable and/or preventable."¹⁷

The mortality rate in California state prisons increased by 41 percent (from 183 to 258 per 100,000 incarcerated people) from 2001 to 2016. During this same period, California accounted for 11 percent of the nation's state prisons deaths.¹⁸ This crisis is further exacerbated by infectious disease pandemics like COVID-19.

The mortality rate in California state prisons increased by 41% from 2001 to 2016.

¹⁴ Widra, Emily. "Deaths in state prisons are on the rise, new data shows. What can be done?" Prison Policy Initiative, February 13, 2020. <https://www.prisonpolicy.org/blog/2020/02/13/prisondeaths/> (accessed February 22, 2021).

¹⁵ Stanford Justice Advocacy Project. The Prevalence and Severity of Mental Illness Amongst California Prisoners On the Rise. 2017. <https://law.stanford.edu/wp-content/uploads/2017/05/Stanford-Report-FINAL.pdf> (accessed February 22, 2021).

¹⁶ Report on Suicide Prevention and Response within the California Department of Corrections and Rehabilitation. October 1, 2019. <https://cchcs.ca.gov/wp-content/uploads/sites/60/MH/CDCR-2018-SB-960.pdf> (accessed February 22, 2021).

¹⁷ Stanford Justice Advocacy Project. The Prevalence and Severity of Mental Illness Amongst California Prisoners On the Rise. 2017. <https://law.stanford.edu/wp-content/uploads/2017/05/Stanford-Report-FINAL.pdf> (accessed February 22, 2021).

¹⁸ Carson, E. Ann and Mary P. Cowhig. Mortality in State and Federal Prisons, 2001-2016 - Statistical Tables. US Department of Justice, Bureau of Justice Statistics, February 2020. <https://www.bjs.gov/content/pub/pdf/msfp0116st.pdf> (accessed February 22, 2021).



The consequence of caging human beings is lethal.

As of February 25, 2021, CDCR reported 49,000+ confirmed COVID-19 cases with 211 deaths. Testing rates at some individual prisons in the previous 14 days were as low as six percent of their total population. This low testing rate could dramatically underestimate the true number of total CDCR COVID-19 cases.¹⁹

Sitting in any of the 34 California state-owned prisons, thousands of people remain in danger of foreseeable (and often preventable) illnesses and deaths in CDCR. This includes the more than 6,000 people sentenced to death or life without parole (LWOP), in addition to many others with virtual life sentences under term enhancements.

People who have been diagnosed with serious mental health disorders account for 1/3 of the total state prison population.

¹⁹ California Department of Corrections and Rehabilitation. "Population COVID-19 Tracking." <https://www.cdcr.ca.gov/covid19/population-status-tracking/> (accessed February 25, 2021).

Prisons Are Environmental Hazards

The physical and psychological devastation caused by prisons is intensified by persistently unaddressed environmental hazards including toxic water quality, poor air quality, and soil fungus that causes the lung infection Valley Fever, all exacerbating threats to life.

At least 21 state prison water sources are toxic and unsafe for human consumption, yet people who are incarcerated in these prisons—more often than not—have no other option but to drink and shower in contaminated water. Unaddressed water toxicity issues plaguing California state prisons include high nitrate levels, which can be fatally toxic; *Helicobacter pylori*, which is linked to stomach ulcers and stomach cancer; and Legionnaires' disease, which has caused at least four recorded deaths in California prisons in the last decade.²⁰

Some prisons stand out for their particularly egregious violations of human rights. High Desert State Prison (HDSP), for example, provides tap water that contains levels of arsenic that are 2,264 times higher than what is considered to be safe for human health. HDSP has been cited over a dozen times for their arsenic levels, in addition to radium levels that are 13 times higher than health recommendations,²¹ yet the problems

remain. According to State Water Resources Control Board records, since 1993 state regulators have cited California prisons at least 199 times for violating drinking water standards.²²

High Desert State Prison (HDSP) provides tap water that contains levels of arsenic 2,264 times higher than what is considered to be safe for human health.

While the majority of incarcerated people in California suffer without clean water, others are smothered in toxic air and exposed to Valley Fever. Valley Fever is an infection caused by a fungus in the soil of the Southwestern United States and parts of Mexico²³ that is contracted when a person breathes in microscopic fungal spores from the air. While 60 percent of those affected are asymptomatic, 40 percent experience a range of symptoms including fever, cough, chest pain, shortness of breath, and, if the infection spreads outside the lungs, skin rashes, bone lesions, and inflammation of the heart and/or brain.²⁴

20 Dannenberg, John E. "Prison Drinking Water and Wastewater Pollution Threaten Environmental Safety Nationwide." IWW Environmental Unionism Caucus, November 17, 2007 <https://www.prisonlegalnews.org/news/2007/nov/15/prison-drinking-water-and-wastewater-pollution-threaten-environmental-safety-nationwide/> (accessed February 22, 2021); Venteicher, Wes. "Legionnaires' Disease Confirmed in Dead Stockton Prison Inmate." Sacramento Bee, March 26, 2019. <https://www.sacbee.com/news/politics-government/the-state-worker/article228460594.html> (accessed February 11, 2021).

21 Environmental Working Group. CDCR - High Desert State Prisons. <https://www.ewg.org/tapwater/system.php?pws=CA1805004> (accessed February 22, 2021).

22 Sabalow, Ryan, Kasler, Dale, and Wes Venteicher. "Toxic water in California prisons: Sickening inmates and costing taxpayers millions." Sacramento Bee, May 3, 2019. <https://www.sacbee.com/news/politics-government/capitol-alert/article229294374.html> (accessed February 11, 2021).

23 Crum NF, Lederman ER, Stafford CM, et al. Coccidioidomycosis: a descriptive survey of a reemerging disease. Clinical characteristics and current controversies. *Medicine*. 2004;83(3):149-175. <https://pubmed.ncbi.nlm.nih.gov/15118543/> (accessed February 15, 2021).

24 Ruddy BE, Mayer AP, Ko MG, et al. Coccidioidomycosis in African Americans. *Mayo Clinic Proceedings*. 2011;86(1):63-69. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3012635/> (accessed February 11, 2021).

Currently, sixteen state prisons are located in California's Central Valley, an area known for its toxic air. In the early 1990s, four new California prisons were built in counties with the highest Valley Fever contraction rates.²⁵ Since 2005, 4,000 imprisoned people in California have been diagnosed with Valley Fever, causing at least 53 deaths.²⁶ In 2015, a federally-ordered screening found that eight percent of imprisoned people in California tested positive for Valley Fever.²⁷

Studies also show that Black patients with Valley Fever are 14 times more likely than white patients to suffer from an infection that spreads outside the lungs.²⁸ These statistics underscore that California's state prison system is perpetuating environmental racism by caging Black people and people of color at disproportionate rates and forcing them to survive in toxic and unhealthy environments.

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Environmental injustice is not limited to those inside prison walls. California prisons also have a well-documented history of poisoning local ecosystems and waterways, posing detrimental impacts on the health of Californians in prison towns. This includes the dumping of a mixture of industrial waste, sewage, gray water, and stormwater that contains Volatile Organic Compounds (VOCs) and Semivolatile Organic Compounds (SOCs) into Mule Creek;²⁹ the discharging of toxic water into streams that feed into the Sacramento-San Joaquin Delta by Deuel Vocational Institute (DVI) in Tracy;³⁰ and numerous wastewater spills by Folsom State Prison³¹ and California Men's Colony (CMC) in San Luis Obispo. California prisons have a ruinous effect on the environment, individuals, and entire communities.

25 Bayles, Cara. "Behind Bars on Polluted Land: Do American prisoners suffer from environmental discrimination?" The Atlantic, May 24, 2016. <https://www.theatlantic.com/health/archive/2016/05/behind-bars-on-polluted-land/484202/> (accessed February 22, 2021).

26 Gilna, Derek. "California Tests State Prisons for Valley Fever Amid Lawsuits, Deaths." Prison Legal News, June 3, 2015. <https://www.prisonlegalnews.org/news/2015/jun/3/california-tests-state-prisoners-valley-fever-amid-lawsuits-deaths/> (accessed February 25, 2021).

27 Bayles, Cara. "Behind Bars on Polluted Land: Do American prisoners suffer from environmental discrimination?" The Atlantic, May 24, 2016. <https://www.theatlantic.com/health/archive/2016/05/behind-bars-on-polluted-land/484202/> (accessed February 22, 2021).

28 Ibid.; Ruddy BE, Mayer AP, Ko MG, et al. Coccidioidomycosis in African Americans. Mayo Clinic Proceedings. 2011;86(1):63-69. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3012635/> (accessed February 11, 2021).

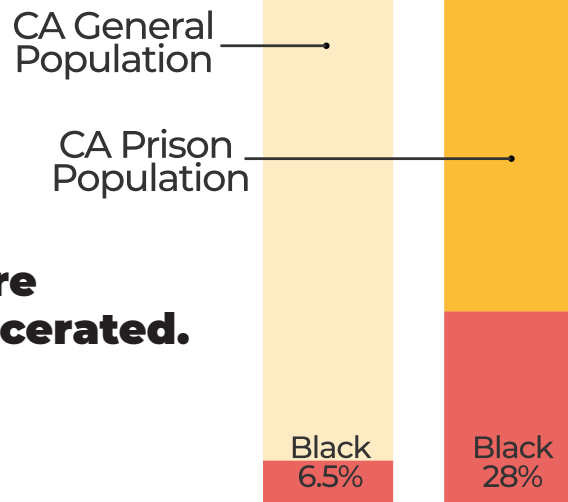
29 Mitchell, Jack. "Sewer and Water-Quality Issues - a Widespread Issue Across California Prisons." Ledger Dispatch, December 15, 2018. http://www.ledger.news/news/local_news/sewer-and-water-quality-issues-a-widespread-issue-across-california-prisons/article_8e721282-ff1c-11e8-ad8a-93e1f0c7276a.html (accessed February 22, 2021).

30 Tsolkas, Panagioti. "California Prison Spends \$417,000 on Bottled Water as Contamination, Violations Continue." Prison Legal News, August 7, 2018. <https://www.prisonlegalnews.org/news/2018/aug/7/california-prison-spends-417000-bottled-water-contamination-violations-continue/> (accessed February 22, 2021).

31 Ortiz, Edward. "City of Folsom smokes out sewer leaks." Sacramento Bee, March 11, 2015. <https://www.sacbee.com/news/local/article13652915.html> (accessed February 11, 2021).

Prisons Are Systemically Racist

Brown & Black people are disproportionately incarcerated.



Black people—as well as Latinx and Indigenous people—face continuous generational damage to their families and communities because of California’s racist system of imprisonment. In 2017, the rate of imprisonment of Black men in California was ten times that of white men, worse than Mississippi, which has a disparity of three to one, and Louisiana, which has a disparity of four to one.³² According to the US Census Bureau, Black people make up approximately 6.5 percent of California’s population;³³ however, in December 2018, they made up 28.5 percent of California’s prison population.³⁴

The Exceptions Clause of the 13th Amendment to the US Constitution, subsequent Jim Crow laws, and similar forms of criminalization, transformed prisons to resemble the enslavement-dependent industries of the South, with exploitation along similar racial lines. Black, Latinx, and multiracial people overwhelmingly make up the majority of people on death row and those sentenced to

life without parole (LWOP) and other extreme sentences, accounting for nearly 68 percent of people serving these death sentences.³⁵ The proportion of Black and Brown people who are in prison on death row and serving LWOP and other draconian sentences exposes the enforced disposability and expendability of Black and Brown lives in our cities, state, and country.

Systemic racism ensures the Black community (as well as Indigenous and Brown people) are disproportionately subjected to long sentences, representing less than 15 percent of the national population, but comprising as much as as much as 55 percent of people serving actual and virtual life sentences. To effectively confront racism and our incarceration addiction, California must invest in healthy communities that center care and offer equity, resources and healing as the cornerstones of public safety—not revenge and unending punishment.

³² Nellis, Ashley. The Color of Justice: Racial and Ethnic Disparity in State Prisons. The Sentencing Project, June 14, 2016. <https://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/> (accessed March 15, 2021).

³³ United States Census Bureau. "QuickFacts: California" <https://www.census.gov/quickfacts/CA> (accessed February 11, 2021).

³⁴ California Department of Corrections and Rehabilitation. "Offender Data Points for the 24-month Period Ending in June 2018." Division of Correctional Policy Research and Internal Oversight Office of Research, January 2019. https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2019/08/DataPoints_062018.pdf (accessed February 11, 2021).

³⁵ Jackman, Tom. "Study: 1 in 7 US prisoners is serving life, and two-thirds of those are people of color." Washington Post, March 2, 2021. <https://www.washingtonpost.com/nation/2021/03/02/life-sentences-growing/> (accessed March 10, 2021).

Prisons Endanger Our Economy

Let's talk about budgets.

California's longtime partiality to punishment as an answer to public safety has revealed that spending on corrections is a wasteful investment of taxpayer dollars. California's own Penal Code affirms that "criminal justice policies that rely on building and operating more prisons to address community safety concerns are not sustainable, and will not result in improved public safety."³⁶

While California struggles through reforming its penal system—and a global pandemic—prison budgets continue to rise and spending for public health remains desperately underfunded, impacting the most marginalized communities. For example, years of budget cuts to public health led to the elimination of more than 55,000 positions within local health departments from 2008 through 2017.³⁷

If the state is truly decreasing its reliance on punitive answers to public safety, then why has the Corrections budget increased from \$8.9 billion (2012-2013) to this coming year's proposed \$13.1 billion? This figure is also misleading, because CDCR plans to spend a lot more.

Governor Newsom's 2021-22 proposed budget for Corrections³⁸ includes \$13.1 billion in the

general fund and special funds close to \$3 billion, totaling just over \$16 billion of state funding for corrections. This is one of the highest expenditures of its kind in the country.³⁹

The general fund includes \$1.4 billion to support local community Corrections, nearly \$500 million for enhancing law enforcement activities and growth, and about \$1 billion to the Board of State and Community Corrections (BSCC), a significant increase to the amount allocated to the agency last year. This includes a one time allocation for \$12.1 million to county probation departments—despite their historic mismanagement—to "support" the expedited release of some individuals from prison as related to the COVID-19 pandemic.

The state prison population has gone from 200 percent of design capacity to just below the court-ordered cap of 137.5 percent, as of 2019. The relentless activism of the community during the pandemic freed people and saved lives, contributing to the prison population's 20 percent reduction. However, many of these so-called "reductions" are due to COVID-19 safety guidelines that placed a hold on transferring people from county cages to state-owned cages.

On February 11, 2021, CDCR official Chris Lief (Deputy Director of Facility Planning) faced deserved scrutiny by the Senate Subcommittee 5 as he struggled to answer even the most basic

³⁶ Cal. Penal Code § 17.5(a)(3)

³⁷ Johnson, Steven Ross. "Report: Public Health funding falls despite increasing threats." Modern Healthcare, April 24, 2019. <https://www.modernhealthcare.com/government/report-public-health-funding-falls-despite-increasing-threats> (accessed March 10, 2021).

³⁸ Newsom, Gavin. Governor's Budget Summary, 2021-22: Criminal Justice. January 2021. <http://ebudget.ca.gov/2021-22/pdf/BudgetSummary/CriminalJustice.pdf> (accessed March 15, 2021).

³⁹ Cruz, Ingrid. Policing and Corrections Spending by State. MoneyGeek, February 2021. <https://www.moneygeek.com/living/state-policing-corrections-spending/> (accessed March 15, 2021).

questions about CDCR's proposed infrastructure repairs at various facilities: toxic water supplies contaminated with arsenic and manganese at Valley State Prison (VSP) and Central California Women's Facility (CCWF); expensive capital projects at multiple institutions; as well as opaque—or nonexistent—plans to close prisons in California as instructed to by Governor Newsom.⁴⁰

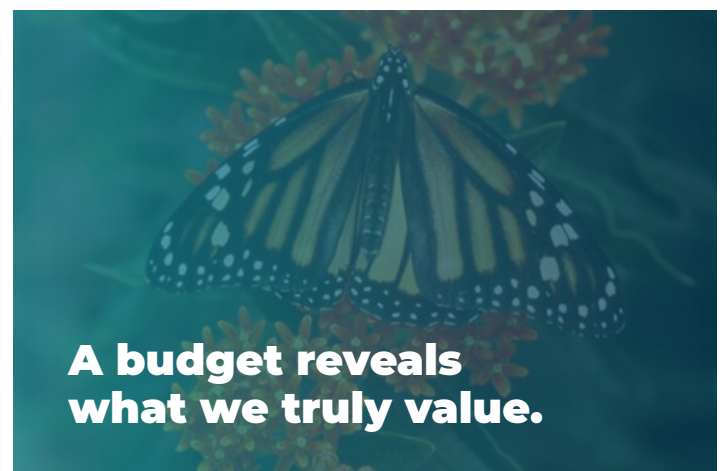
During the proceedings, Chair María Elena Durazo (D-CA) accused CDCR of leaving the legislature "in the dark" as they requested billions for prison projects without giving the "full picture" necessary for the legislators to make responsible decisions.

It was a revelation to all that CDCR—and the Newsom administration itself—has no specific, overarching plans for prison closure, despite the Governor's statements on the issue and the nonpartisan Legislative Analyst's Office (LAO) report that outlines \$1.5 billion in savings if California could close five prisons by 2025.⁴¹

The LAO also questioned CDCR's fiscal analysis.⁴² They explained that while CDCR reported a repair backlog of approximately \$1 billion, the actual cost for prison repair projects would actually be closer to \$13 billion. In addition to this backlog, the LAO reports that according to an in-depth assessment conducted by an external contractor, an additional \$11 billion in capital outlay would be required to maintain the 12 oldest prisons, plus additional billions to maintain the remaining facilities.⁴³

This is not our—or anyone else's—definition of a responsible budget.

Prisons and CDCR infrastructure costs are bottomless pits of wasteful spending. It's clear CDCR has no plan for prison closure. It's well past time to deny any increases to the Corrections budget for infrastructure needs. We care very much for people living in unsafe prisons, but state officials continue to fail to do what will actually protect people in prisons and provide public safety—investing in communities and releasing people from dilapidated, poisonous prisons and jails.



A budget reveals what we truly value. California must redefine its priorities and completely reexamine its relationship with justice and safety to prioritize care. Divestment from ineffective, punitive responses to harm—like prisons—is necessary in order to reallocate resources toward community-based answers to public safety and provide a sustainable fiscal future for all Californians.⁴⁴

40 Nguyen, Linhchi. "Lawmakers, Watchdogs Criticize CDCR's Inability to Explain Multi-Billion Dollar Prison Infrastructure Plan." Davis Vanguard, February 19, 2021. <https://www.davisvanguard.org/2021/02/lawmakers-watchdogs-criticize-cdcrs-inability-to-explain-multi-billion-dollar-prison-infrastructure-plan/> (accessed March 15, 2021).

41 Venteicher, Wes. "California should close 5 prisons to save money after releasing 25,000 inmates, analyst says." Sacramento Bee, November 19, 2020. <https://www.sacbee.com/article247304129.html> (accessed March 15, 2021).

42 Nguyen, Linhchi. "Lawmakers, Watchdogs Criticize CDCR's Inability to Explain Multi-Billion Dollar Prison Infrastructure Plan." Davis Vanguard, February 19, 2021. <https://www.davisvanguard.org/2021/02/lawmakers-watchdogs-criticize-cdcrs-inability-to-explain-multi-billion-dollar-prison-infrastructure-plan/> (accessed March 15, 2021).

43 O'Neil, Caitlin. The 2020-21 Budget: Effectively Managing State Prison Infrastructure. Legislative Analyst's Office, February 28, 2020. <https://lao.ca.gov/reports/2020/4186/prison-infrastructure-022820.pdf> (accessed February 22, 2021).

44 Cowan, Jill. "Why Los Angeles Officials Voted to Cancel an Almost \$2 Billion Contract." New York Times, August 15, 2019. <https://www.nytimes.com/2019/08/15/us/los-angeles-jails.html> (accessed February 22, 2021).

California Must Release More People From Prisons

04

Free 50,000 Incarcerated People

In June 2020, after visiting San Quentin and recording a startling range of unsafe conditions, a team of University of California health experts concluded that the prison should be substantially emptied, its population reduced by 50 percent.⁴⁵ The First District Court of Appeal in California agreed, writing that CDCR had shown “deliberate indifference” to incarcerated people during the COVID-19 pandemic and consistently took inadequate steps to protect their health. The lack of urgency exhibited around the pandemic’s impact in state prisons by CDCR and government officials, the court wrote, is “morally indefensible and constitutionally untenable.” The court cited the Eighth Amendment, which prohibits cruel and unusual punishment.⁴⁶

Months of unrelenting pressure from health and human rights activists since mid-March 2020 moved system actors to reduce California’s

prison population to slightly less than 100,000 people by November 2020 (not including those held in county jails who await transfer to a state facility). However, despite continued efforts to free people in prison who face chronic illness or death from COVID-19, expedited releases have virtually stopped. Between July 10th and August 9th 2020, more than 4,000 people in prison were released (according to court documents).⁴⁷

Between August 9th and November 30th 2020, CDCR released fewer than 450 people from prison, some sources report.⁴⁸ Statewide, the number of infected incarcerated people increased 130 percent the week of December 12th, 2020, logging 3,684 new cases, with one facility’s (California Substance Abuse Treatment Facility in Corcoran) infection rate rising to 2.5 times the average at California’s other prisons, and 17 times that of the state’s free population.⁴⁹ Now more than 49,000 people in prison—in excess

45 Fagone, Jason. “California could cut its prison population in half and free 50,000 people. Amid pandemic, will the state act?” San Francisco Chronicle, August 14, 2020. <https://www.sfchronicle.com/culture/article/Can-California-cut-its-prison-population-in-half-15482084.php> (accessed February 11, 2021).

46 Griesbach, Rebecca and Timothy Williams. “San Quentin Ordered to Reduce Prison Population by Half Over Virus Fears.” New York Times, October 21, 2020. <https://www.nytimes.com/2020/10/21/us/san-quentin-prison-coronavirus.html> (accessed February 11, 2021).

47 Amended Joint Case Management Conference Statement at 1, Plata v. Newsom, (N.D. Cal. Nov 11, 2020). https://calmatters.org/wp-content/uploads/2020/11/Dkt-3487-PLATA-Amended-Joint-CMC-Statement_11.18.20_0489.OVR_-2.pdf (accessed February 11, 2021).

48 Lyons, Rhonda. “COVID-19 infections hit record high in California prisons.” CalMatters, November 30, 2020. <https://calmatters.org/justice/2020/11/california-prisons-covid/> (accessed February 11, 2021).

49 Winton, Richard and Anita Chabria. “Coronavirus numbers for inmates soar across the state.” Los Angeles Times, December 12, 2020. <https://www.latimes.com/california/story/2020-12-12/soaring-coronavirus-numbers-for-inmates-and-staff-at-state-substance-abuse-prison-leads-to-six-deaths> (accessed February 11, 2021).

of 50 percent—have tested positive for COVID-19. At least 211 incarcerated people have died from COVID-19.⁵⁰

In January 2021, the union for California state correctional officers—the California Correctional Peace Officers Association (CCPOA)—invited staff members from every prison to gather in Las Vegas,⁵¹ defying a statewide ban on non-essential travel and threatening the health of everyone in their communities. While this event was ultimately canceled, it was the latest example of CDCR's continued ineptitude and gross negligence. Incarcerated people—who have no ability to social distance and must fight for access to water, soap, hand sanitizer and masks⁵²—struggle against both the virus and their jailers to stay safe.

More than 50% of incarcerated people in California have tested positive for COVID-19.

Statistics about COVID-19 infection rates inside California prisons are dizzying, often inaccurate, and seem to worsen daily.⁵³ The fact that California's prisons remain at well over 100 percent capacity⁵⁴ during a global pandemic for which social distancing and personal hygiene

are the only defense is unconscionable. History will judge our collective moral and public health failures.

If and when California prisons reach the dubious status of “herd immunity” from COVID, it is ultimately meaningless. Prisons are notorious petri dishes⁵⁵ for infection. The novel coronavirus will not be the last pandemic the US faces during our lifetime;⁵⁶ it may not even be the worst. The status quo in all California prisons is unsustainable in a changing world.

Given the present prison population, California must immediately release at least 50,000 people in the interest of public health, prioritizing individuals over age 55 and those who are medically vulnerable. This is not a radical idea. In fact, this number is low. It reflects only one, specific decarceration strategy: a direct response to the COVID-19 pandemic, irrespective of the other basic, universally acknowledged reasons why we must reduce prison populations, such as systemic racism.

Prison closures must go hand in hand with multiple strategies for mass releases. Releasing 50,000 people from prison is the floor, not the ceiling. The same logic used by the experts cited in the San Quentin court decision would apply to all overcrowded state prisons and jails.⁵⁷ In

50 California Department of Corrections and Rehabilitation. “Population COVID-19 Tracking.” <https://www.cdcr.ca.gov/covid19/population-status-tracking/> (accessed February 25, 2021).

51 Venteicher, Wes. “Update: California prison union headed to Las Vegas for board meeting amid COVID-19 surge.” Sacramento Bee, January 7, 2021. <https://www.sacbee.com/news/politics-government/the-state-worker/article248318735.html> (accessed February 11, 2021).

52 Jarosz, Brooks. “Inmates: ‘inhumane conditions’ at California prison amid COVID-19.” Fox KTVU, May 27, 2020. <https://www.ktvu.com/news/inmates-inhumane-conditions-at-california-prison-amid-covid-19> (accessed February 11, 2021).

53 Clayton, Abenè. “‘People are terrified’: a coronavirus surge across California’s prisons renews calls for releases.” The Guardian, December 29, 2020. <https://www.theguardian.com/us-news/2020/dec/29/california-coronavirus-cases-prison-system> (accessed February 11, 2021).

54 California Department of Corrections and Rehabilitation. “Weekly Report of Population as of Midnight January 20, 2021.” Division of Correctional Policy Research and Internal Oversight, Office of Research. <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2021/01/Tpop1d210120.pdf> (accessed February 11, 2021).

55 Yan, Holy. “Prisons and jails across the US are turning into ‘petri dishes’ for coronavirus. Deputies are falling ill, too.” CNN, April 10, 2020. <https://www.cnn.com/2020/04/09/us/coronavirus-jails-prisons/index.html> (accessed February 11, 2021).

56 McLaughlin, Kelly. “WHO chief warns that COVID-19 won’t be the world’s last pandemic as he tells countries to prepare for future emergencies.” Business Insider, December 27, 2020. <https://www.businessinsider.com/who-chief-warns-covid-19-wont-be-worlds-last-pandemic-2020-12> (accessed February 11, 2021).



History will judge our collective moral and public health failures.

fact, a second judge in Orange County recently ordered a 50 percent reduction in their county jail population.⁵⁸

Decarcerating roughly half of the current prison population is the only reasonable response to the public health threat of viruses like COVID-19—a threat that prisons will continue to pose to all Californians until they are permanently shut down.⁵⁹ We must act now and prioritize mass releases before the next, inevitable tragedy strikes our extremely vulnerable prison population and surrounding communities.

57 Fagone, Jason. "California could cut its prison population in half and free 50,000 people. Amid pandemic, will the state act?" San Francisco Chronicle, August 14, 2020. <https://www.sfchronicle.com/culture/article/Can-California-cut-its-prison-population-in-half-15482084.php> (accessed February 11, 2021).

58 De Leon, Kristine and Chip Yost. "Court orders 50% reduction at Orange County jails due to COVID-19." KTLA5, December 11, 2020. <https://ktla.com/news/local-news/court-orders-50-reduction-at-orange-county-jails-due-to-covid-19/> (accessed February 11, 2021).

59 Ollove, Michael. "How COVID-19 in Jails and Prisons Threatens Nearby Communities." PEW, July 1, 2020. <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2020/07/01/how-covid-19-in-jails-and-prisons-threatens-nearby-communities> (accessed February 11, 2021).

Release Elders and Medically Vulnerable People

On any given day, 37 percent of the total California prison population (as much as 37,000 people in January of 2021) have at least one underlying condition that the US Center for Disease Control and Prevention (CDC) says puts them at risk for complications from a serious viral illness, such as COVID-19.⁶⁰

The growing number of older adults⁶¹ in California prisons is alarming as well, not only because they are considered a higher medical risk.⁶² Aging prison populations are due in large part to draconian sentencing laws that have ravaged entire generations of marginalized communities. As of June 2019, nearly one in four people in California prisons is age 50 or older, or 24 percent of the total prison population.

24% of the total prison population is over 50.

That's over 30,000 people.⁶³

California must end extremely long sentences, most of which are being served by people who statistically pose minimal risk of rearrest. Incarcerated people over the age of 50 tend to have low rates of recidivism and high rates of parole success.⁶⁴ For people 55-59 years old, the national arrest rate is around 0.14 percent. It is estimated that it costs two to three times more to incarcerate elderly people than non-elderly individuals, with most costs deriving from their expensive medical care.⁶⁵

Compassionate releases for medically vulnerable individuals in prison (such as those who suffer from diabetes; chronic obstructive pulmonary disorder; other lung conditions; high blood pressure; and those with cancer)⁶⁶ and incarcerated people over age 50 will save lives and reduce the need to provide complex medical

60 Cruz, Mimi Ko. "The Pandemic Experience in Prisons." UCI School of Social Ecology, September 9, 2020. <https://socialecology.uci.edu/news/pandemic-experience-prison> (accessed March 15, 2021); Sugie, Naomi, Reiter, Keramet, and Kristin Turney. "California needs to protect its prison staff and inmates during COVID-19 pandemic." CalMatters, May 30, 2020. <https://calmatters.org/commentary/california-needs-to-protect-its-prison-staff-and-inmates-during-covid-19-pandemic/> (accessed March 15, 2021); Li, Weihua and Nicole Lewis. "This Chart Shows Why the Prison Population is so Vulnerable to COVID-19." The Marshall Project, March 19, 2020. <https://www.themarshallproject.org/2020/03/19/this-chart-shows-why-the-prison-population-is-so-vulnerable-to-covid-19> (accessed March 15, 2021).

61 Booker, Meredith. "BJS data shows graying of prisons." Prison Policy Initiative, May 19, 2016. <https://www.prisonpolicy.org/blog/2016/05/19/bjsaging/> (accessed February 11, 2021).

62 National Council on Aging. "NCOA Statement: Congress Must Protect Old Adults from COVID-19." [Press Release] March 3, 2020. <https://www.ncoa.org/article/ncoa-statement-congress-must-protect-older-adults-from-covid-19> (accessed February 11, 2021).

63 California Department of Corrections and Rehabilitation. Offender Data Points: Offender Demographics for the 24-Month Period Ending June 2019. Office of Research, October 2020. <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2020/10/201906-DataPoints.pdf> (accessed February 11, 2021).

64 California Department of Corrections and Rehabilitation. 2013 Outcome Evaluation Report. Office of Research, January 2014. https://web.archive.org/web/20160710214750/http://www.cdcr.ca.gov/Adult_Research_Branch/Research_Documents/Outcome_Evaluation_Report_2013.pdf (accessed February 22, 2021).

65 Legislative Analyst's Office. Elderly Inmates in California Prisons. May 11, 2010. http://www.lao.ca.gov/handouts/crimjust/2010/Elderly_Inmates_05_11_10.pdf (accessed February 22, 2021).

66 The Justice Collaborative, et al. "Letter to Governor Newsom - CDCR and COVID 19." March 13, 2020. https://thejusticecollaborative.com/wp-content/uploads/2020/03/Letter-to-Governor-Newsom_CDCR_COVID_19-1.pdf (accessed February 22, 2021).

For people 55-59 years old, the national arrest rate is around 0.14% and parole success is high.

It costs 2-3x times more to incarcerate elderly people than non-elderly individuals, with most costs deriving from their expensive medical care.

care or make transfers to hospitals during emergencies like a global pandemic, in which healthcare workers inside and outside of prisons are stretched thin.

All persons aged 50 years and older who have served at least 15 years of their sentence, regardless of their conviction type, should be eligible to petition for streamlined parole suitability hearings. In addition, after any elderly parole hearing at which parole was denied, the Board of Parole Hearings (BPH) should be required to schedule the next parole consideration within one or two years. The parole of elders and people at high medical risk for illness or death will be an essential component of prison population reduction and facility closure.

Abolish Draconian Sentencing

As crime rates fell over the past two decades, the number of people sentenced to lengthy prison terms continued to rise. People were not inflicting more harm within their communities. The penal code became more harsh, condemning thousands upon thousands of people to unending incarceration.

California's Three-strikes Law (1994, amended 2012) as well as other sentence enhancements and special circumstances charges have driven the proliferation of lengthy or life sentences, some without the possibility of parole. People are serving longer sentences because of added prison time due to mandatory minimums for previous felonies and/or the current charge; the use or presence of firearms; state identified gang affiliation (which is often racially biased); and elevated abettor convictions which encourage the maximum possible punishment. Increases to sentencing were implemented under an overzealous prosecutorial culture and the "tough on crime" era.

Between July 2018 and June 2019, only 3.2 percent of people serving life sentences were released, and only 0.4 percent of people serving "Third Strike" sentences were released.⁶⁷ These and other "tough on crime" policies must be abolished and people impacted by these draconian sentences must have their cases reevaluated. This includes a population that is generally forgotten when discussing reprieve, people serving life without the possibility of parole (LWOP).

The average age of a person sentenced to LWOP is 19 years old. This country is alone in comparable Western democracies in sentencing youth to life in prison, with more than 7,000 youth nationwide serving life sentences and another 2,000 serving virtual life prison terms of 50 years or more.⁶⁸ LWOP confines people behind bars for their entire lives with almost no chance for release, regardless of whether or not they have demonstrated personal growth or present no current threat to our communities.

According to The Sentencing Project, between 1992 and 2017 the population of people serving LWOP in the US grew by 400 percent, from 12,453 to over 50,000. Over 5,200 people are now serving LWOP sentences in California state prisons, one of the largest populations in the country. Virtually the only way a person currently serving LWOP has an opportunity for release is through a rare commutation by the Governor.

Ending LWOP, the most severe punishment in California (alongside the other death penalty, capital punishment), is key to ending extremely long sentences and the culture of perpetual punishment. Our transformation of punishment systems must address all forms of sentences in order to meaningfully reduce our prison population, especially the most severe. LWOP, enhancements, Three-strikes, and other draconian tools of a bygone era have crowded prisons in California that are already over capacity. California sentences one in four women to life in prison, which is a higher proportion of

67 Note: According to a CDCR footnote, these numbers include people who died in prison. California Department of Corrections and Rehabilitation. Offender Data Points: Offender Demographics for the 24-month Period Ending June 2019." Office of Research, October 2020. <https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2020/10/201906-DataPoints.pdf> (accessed February 22, 2021).

68 The Sentencing Project. Virtual Life Sentences. August 2019. <https://www.sentencingproject.org/wp-content/uploads/2019/08/Virtual-Life-Sentences.pdf> (accessed February 22, 2021); Yoon, Hayne. "Back to School: A Common-Sense Strategy to Lower Recidivism." Vera Institute of Justice, September 19, 2019; <https://www.vera.org/blog/back-to-school-a-common-sense-strategy-to-lower-recidivism> (accessed February 22, 2021).

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***In comparable Western democracies**

women serving life sentences than anywhere else in the country.⁶⁹

Women serving life sentences are found to have suffered the highest rates of traumatic abuse prior to their incarceration. Through our lived experience, we know that virtually everyone who harms another person also reports enduring harm, with little opportunity for harm-addressing treatment that would center accountability alongside healing, safety, and justice. We must interrupt these cycles of harm—ones that our prisons have failed to disrupt and instead, perpetuate further—with community-based systems of care and an expansion of the social safety net.

We need more reliable data on how many incarcerated California residents are impacted by all forms of draconian sentencing, as well as a race and gender equity-based examination of all factors—often arbitrary—that lead to long-term sentences, and what factors undermine or enable

commutation or parole. In fact, few studies exist that track all forms of extremely long sentences and the breadth of their impact. The information that is available is significant and indicative.

We must confront and reverse a punishment culture that has fueled unprecedented levels of imprisonment.

We must confront and reverse a punishment culture that has fueled unprecedented levels of imprisonment. California should end all forms of extended sentencing in the interest of public health, fiscal responsibility, and to facilitate the number of releases necessary for prison closure.

69 California Department of Corrections and Rehabilitation. Offender Data Points: Offender Demographics for the 24-month Period Ending December 2018." Office of Research, January 2020. https://www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2020/01/201812_DataPoints.pdf (accessed October 8, 2020).

Increase Commutations

“Mercy is a remission of punishment...a remedial mechanism to correct unjust results.”

-Stephen P. Garvey

Relief from draconian sentences through commutations is critical to the work of closing prisons. To reduce prison populations, Governor Newsom must look beyond placing the burden of release on incarcerated people via systems like “credit earning” and use his executive authority to grant clemencies in the form of reprieves, commutations, and pardons.

Commutation is often the final opportunity for redress of unfair trials, extremely long sentences, and the denial of equal rights that may result from systemic injustice on the basis of gender, race, or sexual bias, though the process historically favors white people.⁷⁰ Prior to a translation provided by the advocacy group California Coalition for Women Prisoners (CCWP), a Spanish language commutation guide

did not exist.⁷¹ Individuals in women’s prisons also report the commutation process compounds the institutionalized disparities women face at trial and reinforces the retributive criminalization of women.⁷²

Nevertheless, commutation remains a powerful tool to address the injustices of extended sentences through the reduction of excessive prison terms.⁷³ Clemency can serve as a vital correction in a criminal legal system that far too often produces unfair and unnecessarily harsh outcomes.⁷⁴

A commutation allows an incarcerated individual to go before the Board of Parole Hearings (BPH), at which point the Parole Commissioners assess whether or not each applicant is “suitable” for release.⁷⁵

70 Jacobsen, Carol, and Lora Bex Lempert. “Institutional Disparities: Considerations of Gender in the Commutation Process for Incarcerated Women.” *Signs* 39, no. 1 (2013): 265-89. <https://www.jstor.org/stable/10.1086/670772?seq=1> (accessed February 11, 2021).

71 California Coalition for Women Prisoners. *Guía para la Solicitud de Conmutación*. <https://droplwop.files.wordpress.com/2019/07/ccwp-commutation-application-guide-spanish-revised-july-2019.pdf> (accessed February 22, 2021).

72 Jacobsen, Carol, and Lora Bex Lempert. “Institutional Disparities: Considerations of Gender in the Commutation Process for Incarcerated Women.” *Signs* 39, no. 1 (2013): 265-89. <https://www.jstor.org/stable/10.1086/670772?seq=1> (accessed February 11, 2021).

73 Office of Governor Gavin Newsom. “Clemency - Commutations & Pardons.” <https://www.gov.ca.gov/clemency/> (accessed February 22, 2021).

74 arkel, Dan. “State, Be Not Proud: A Retributivist Defense of the Commutation of Death Row and the Abolition of the Death Penalty.” 2004. <https://pdfs.semanticscholar.org/a631/ba923eff3f28bcc654a06a863ff1d60c5715.pdf?ga=2.131290442.415385685.1596960466-1910687207.1596960466> (accessed February 11, 2021).

The Governor's powers under the state Constitution are further defined in the California Penal Code, Title 6, Reprieves, Pardons, and Commutations, Chapter 1, which also describes the duties and responsibilities of the Board of Prison Terms. The Board of Prison Terms⁷⁶ advises the Governor by making recommendations for clemency consideration. At the Governor's request, the Board investigates and reports on clemency applications, making appropriate recommendations. The Board theoretically examines and considers all existing evidence. They also have the power to take testimony and to examine witnesses under oath, as well as fully and completely investigate applications.⁷⁷

The final decision about each individual is up to the Governor, unless the incarcerated person has two or more felony convictions. The state Constitution then requires a majority of the California Supreme Court to approve a grant of clemency.⁷⁸ With this exception, the Governor of California has vast authority to commute sentences and expedite releases.

For decades, California Governors have failed to execute this important responsibility of their office. From 1975 to 1982, then-Governor Jerry Brown granted one commutation.⁷⁹ However, during his most recent term, Brown commuted the sentences of 283 people in California state

prisons, far more than any California Governor since the 1940s. 52 percent of people commuted by Brown were serving LWOP sentences, including 30 women.⁸⁰ Sadly, this is a record number of commutations for California. As many as 5,200 people are currently serving the racist, arbitrary, and inhumane sentence of LWOP, including about 200 women, more than any other state in the nation.⁸¹

Up to 5,200 people are currently serving the racist, arbitrary, and inhumane sentence of LWOP - more than any other state in the nation.

Brown clearly articulated his reason for increasing commutations. It was to directly acknowledge that prisons were places of punishment and despair, with dwindling prospects of turning lives around to prepare people in prison for release to the free world.⁸² "Many people in today's society do not believe in either forgiveness or redemption," said Brown in an article in the San Francisco Chronicle. "They believe that what you do is who you are. That philosophy is not something that I share [and it] does not comport with historical notions of

75 Office of Governor Gavin Newsom. "Governor Newsom Grants Executive Clemency 6.26.20." June 26, 2020. <https://www.gov.ca.gov/2020/06/26/governor-newsom-grants-executive-clemency-6-26-20/> (accessed February 22, 2021).

76 Cal. Penal Code §§ 4800 through 4814.

77 The National Governors' Association Center for Policy Research. Guide to Executive Clemency Among The American States. US Department of Justice, March 1988. <https://www.ncjrs.gov/pdffiles1/Digitization/114588NCJRS.pdf> (accessed February 22, 2021).

78 Egelko, Bob. "Gov. Jerry Brown sets record for pardons, commutations in California." San Francisco Chronicle, December 24, 2018. <https://www.sfchronicle.com/politics/article/Gov-Jerry-Brown-sets-record-for-pardons-13487741.php> (accessed February 22, 2021).

79 Ibid.

80 California Coalition for Women Prisoners. Commutation Application Guide. <https://droplwop.com/commutations-application-guide/> (accessed February 22, 2021).

81 Winton, Richard, Chabria, Anita and Kim Christensen. "Amid COVID-19, California releases some inmates doing time for murder. Advocates push to free more." Los Angeles Times, August 9, 2020. <https://www.latimes.com/california/story/2020-08-09/covid-19-california-releases-violent-crime-murder-prisoners> (accessed February 11, 2021).

82 Egelko, Bob. "Gov. Jerry Brown sets record for pardons, commutations in California." San Francisco Chronicle, December 24, 2018. <https://www.sfchronicle.com/politics/article/Gov-Jerry-Brown-sets-record-for-pardons-13487741.php> (accessed February 22, 2021).

justice.”⁸³ It should be noted that he did nothing to commute the death sentences of any of the state’s 739 condemned prisoners who face the same systemic inequality as people serving life or LWOP.⁸⁴ The capital system has a proven track record of error in determining guilt⁸⁵ and racial discrimination.⁸⁶ There is much evidence to suggest that these disparities extend to all forms of punishment culture.

Governor Newsom has granted a total of 63 pardons and 78 commutations as of October 2020.⁸⁷ These numbers fall drastically short. Despite public pressure, Newsom has failed to use his executive power to decarcerate in significant enough numbers to meaningfully impact public health, especially by releasing at-risk populations such as elders or the medically vulnerable, or those who have served decades of their long sentences. It is well established that people who have been freed after serving long sentences have an extremely low rate of recidivism. In this context, commutations and mass releases could be a powerful public health tool to both mitigate threats from illnesses like COVID-19 due to prison overcrowding and address the racial and social injustices of long sentences, creating an additional pathway to prison closure.

Mass clemencies have a historical precedent⁸⁸ and are an effective strategy to release the

number of people necessary to reduce the bloated Corrections budget and facilitate prison closure. In *Unger v. Maryland*, nearly 200 prisoners, most of whom had been convicted of very serious crimes and had been incarcerated for decades, were released in 2012 when their convictions were overturned due to unconstitutional jury instructions. Six years later, all but one had safely reintegrated into society—a 0.5 percent rate of recidivism.⁸⁹ There is no evidence to suggest releasing people at a greater scale would yield a statistical difference. Mercy is a remission of punishment. In part or in whole, mercy through commutations acts as a remedial mechanism to correct unjust results.⁹⁰

83 Ibid.

84 Ibid.

85 Markel, Dan. "State, Be Not Proud: A Retributivist Defense of the Commutation of Death Row and the Abolition of the Death Penalty." 2004. <https://pdfs.semanticscholar.org/a631/ba923eff3f28bcc654a06a863ff1d60c5715.pdf?ga=2.131290442.415385685.1596960466-1910687207.1596960466> (accessed February 11, 2021).

86 Liptak, Adam. "A Vast Racial Gap in Death Penalty Cases, New Study Finds." New York Times, August 3, 2020. <https://www.nytimes.com/2020/08/03/us/racial-gap-death-penalty.html> (accessed February 22, 2021).

87 Office of Governor Gavin Newsom. "Governor Newsom Grants Executive Clemency 6.26.20." June 26, 2020. <https://www.gov.ca.gov/2020/06/26/governor-newsom-grants-executive-clemency-6-26-20/> (accessed February 22, 2021).

88 Wagner, Peter. "Large scale releases and public safety." Prison Policy Initiative, April 9, 2020. <https://www.prisonpolicy.org/blog/2020/04/09/large-scale-releases/> (accessed February 22, 2021).

89 Siegel, Robert and Matt Ozug. "From a Life Term to Life On The Outside: When Aging Felons are Freed." NPR All Things Considered, February 18, 2016. <https://www.npr.org/2016/02/18/467057603/from-a-life-term-to-life-on-the-outside-when-aging-felons-are-freed> (accessed February 22, 2021).

90 Garvey, Stephen P. "Is it Wrong to Commute Death Row? Retribution, Atonement, and Mercy." (2004). Cornell Law Faculty Publications. Paper 278. <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1331&context=facpub> (accessed March 10, 2021).

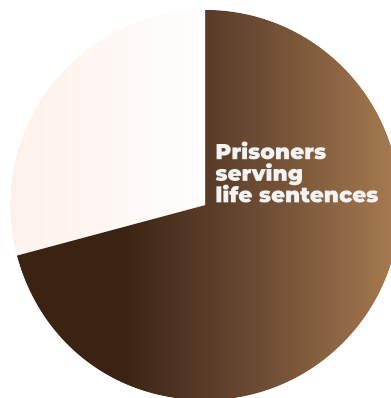
Create Equitable Parole Outcomes

The Board of Parole Hearings (BPH) will make decisions regarding the freedom of more than half of the people who are currently in CDCR custody.

A long-standing critique of BHP by community members is that parole-release decisions are arbitrary—based on race, class, and gender—and capricious. In California, providing a young person with a life sentence that includes a parole hearing date automatically makes their sentence constitutional, so long as the hearing provides “a meaningful opportunity for release.”

Despite the California Penal Code statute that directs BHP to “normally” grant parole, the parole denial rate has averaged at above 80 percent for the last four decades. It is unacceptable that BHP would rather violate its own mandate than allow people to safely leave prison. Data shows that the parole grant rate currently hovers at 20 percent and has not exceeded 22 percent in 40 years.⁹¹ Parole grant rates are said to be even lower for women, transgender, gender variant, and intersex (TGI) people, domestic violence survivors, and people who are neurodivergent.

As this report indicates, it is a well established fact that racial disparity pervades every aspect of our penal system. We have discussed that Black and Brown people are incarcerated at highly disproportionate rates, representing over 70 percent of the California prison population, and more than two-thirds of those serving life sentences. Why would parole outcomes be any different?



Black & Brown people make up approx. 42% of California's population, but account for more than 70% of prisoners serving life sentences.

Black and Brown people represent over 70% of the prison population and 2/3 of those serving life sentences.

BHP has refused to release demographic information about parole outcomes that would shed light on how the racial inequities inherent to our legal system impact the parole process.

BPH must release more data about parole hearing outcomes, but this does not go nearly far enough. BHP has already demonstrated their unwillingness to uphold the parole grant statute or engage in transparency around issues of race and racial bias.

BPH must be mandated to share more information about parole outcomes, including demographic information such as race, gender, and county of commitment.

⁹¹ Wattley, Keith. "California Parole is Not the Norm." Memo to the Committee on the Revision of the Penal Code, October 30, 2020. <http://clrc.ca.gov/CRPC/Pub/Memos/CRPC20-15s1.pdf> (accessed March 10, 2021).

Despite the California Penal Code statute that directs the Board to “normally” grant parole, the parole denial rate has averaged at above 80% for the last four decades.

Data shows the parole grant rate currently hovers at 20% and has not exceeded 22% in 40 years.

There are currently some 35,000 people serving life sentences in California, 38 percent of the state’s overall prison population. Over the last several years, sentencing reforms, like SB 260 (Hancock, 2013), SB 261 (Hancock, 2015), and AB 1308 (Stone, 2017), have created and expanded the Youth Offender Parole process with language stating an intent to create meaningful opportunities for release for people who were given life sentences before the age of 26.

During that same time period, California developed an Elderly Parole plan which created the opportunity for people who are 60 years of age, and have served at least 25 years to also have a parole board hearing. Today, thanks to the

passage of AB 3234 (Ting, 2020), incarcerated individuals over the age of 50 who have served at least 20 years are eligible for elderly parole hearings. While having earlier opportunities for parole board hearings is a positive step, the reality is that more than eight out of ten people are not found suitable for release via the parole board process. Increasing that percentage is a direct path to closing prisons and saving lives and depends on the state eliminating restrictions such as conviction type or sentencing structure, which will allow for greater capacity in the elderly parole program and other opportunities for parole.

California Must Create a Prosperous Future

05

Closed Prisons Must Stay Closed

Governor Gavin Newsom's administration recently announced plans to shut down Deuel Vocational Institution (DVI; Tracy, California) by September 2021,⁹² a first attempt to fulfill his personal pledge to close one or more state prisons by 2023.⁹³

During a protracted admission to the Senate Subcommittee 5 hearing on Corrections and Public Safety on February 11, 2021, CDCR officials let it slip that in fact, DVI is slated to be deactivated, but not actually to be closed.⁹⁴

In a deft sleight of hand, the prison will be kept in "warm shutdown" mode, which keeps plumbing, electrical, and water treatment operations active—and staff on hand—in case of an "emergency." CDCR freely admits that this is because they believe there are "too many unknowns" to permanently close DVI, or any other prison for that matter.

Despite decades-long overcrowding in California's prison system, not a single person is scheduled to be released because of DVI's "closure." The 1,200 people incarcerated at DVI will simply be transferred to other prisons. Now is the time to permanently close facilities. We must lock in billions of dollars of savings

while continuing to review and revise the penal code to sustain a reduced incarcerated population. We must shift spending to investments in community-based safety strategies to protect California's long-term health and ability to thrive.

While prison closure across the United States has often resulted in the repurposing of facilities by state governments and private investors, CURB recommends that CDCR decommission the remaining buildings. Prisons of highest priority for closure are already in expensive disrepair; are far from community centers; are in geographic areas with unhealthy air quality, and have toxic drinking water systems.

Considering the toxicity of land, water, and air in communities surrounding prisons, any plans to fund the maintenance of closed facilities for CDCR activities, or otherwise, is wasteful and irresponsible to public safety.

The repurposing of these facilities for any human use would cost the state millions of dollars that should otherwise be spent on life-affirming services that Californians need now more than ever. Prison closure is an opportunity for reinvestment in communities, but only if these

92 Sheeler, Andrew. "California Prison employing 1,100 to close in 2021 — and Newsom Wants to Shut Another." *Sacramento Bee*, September 25, 2020. <https://www.sacbee.com/news/politics-government/the-state-worker/article246013385.html> (accessed March 15, 2021).

93 Venteicher, Wes. "Gavin Newsom Speeds Up Plans to Close Two California Prisons, Worrying Employees." *Sacramento Bee*, May 19, 2020. <https://www.sacbee.com/news/politics-government/the-state-worker/article242828301.html> (accessed February 21, 2021).

94 Senate Budget Subcommittee No. 5 on Public Safety. Agenda. February 11, 2021. https://sbud.senate.ca.gov/sites/sbud.senate.ca.gov/files/02.11.2021%20Agenda_PART%20A.pdf (accessed March 15, 2021).

buildings are permanently closed and sweeping reforms are implemented that reverse the state's reliance on punishment driven systems as an answer to public safety.

We must shift spending to investments in community-based safety strategies to protect California's long-term health and ability to thrive.

A serious plan for prison closure means that closed prisons stay closed; prison populations are reduced through releases, not transfers to other unsafe facilities; Corrections budgets are slashed; investments in reentry and other services are prioritized; voices of justice-impacted people are heard; and that labor solutions for displaced prison staff are front and center.

A SERIOUS PLAN FOR PRISON CLOSURE MEANS:

Closed prisons must stay closed;

Prison populations must be reduced through releases, not transfers;

Corrections budgets are slashed;

Investments in reentry and other services are prioritized;

Voices of justice-impacted people are heard;

Labor solutions for displaced prison staff are front and center.

Good Jobs for All Californians

A particularly pervasive misconception that remains today is that prisons are employment engines for the communities in which they are situated. This is untrue in several respects.

Most of the money from prison contracts flows into large national retailers, and out of the local economy, ravaging local businesses and employing very few local residents.

First, when a new prison is opened, the vast majority of new full-time jobs go to veteran correctional personnel from other jurisdictions, not community residents.⁹⁵ In fact, local residents of prison towns are often ineligible for prison jobs because they lack the necessary skills and/or are unable to compete for prison jobs because of the seniority of prison job classifications. Many local residents are likewise unfamiliar with the stringent state employment application process, including registration and required testing, and how to provide proof of training, experience, creditworthiness, and licensing for specialized positions.⁹⁶ For instance, when two new prisons

were opened in Corcoran in the 1980s, only ten percent of jobs were initially filled by local residents and the number of local residents living in poverty rose.⁹⁷

Prisons also negatively impact other forms of local employment. An analysis of prison construction jobs in New York shows that most of the money associated with these contracts flows out of the county to big construction contractors in urban areas.⁹⁸ Similarly, once prisons are up and running, they require suppliers for food, linens, medicine, commissary items, building maintenance, and more. These contracts also typically go to large national retailers that provide mass services at low prices, rather than creating economic opportunities for local businesses.⁹⁹

The impact on local businesses doesn't end there. In many communities—including numerous California prison towns—prison construction has been followed by the construction of big box stores that flood the market with low-paying jobs and drive out small businesses.¹⁰⁰ In Tehachapi, California, home to California Correctional Institution (CCI), a remarkable 741 locally-owned businesses closed in the 1990s after big box stores moved into town on the heels of an expansion of CCI in the mid-

95 Huling, Tracy. "Building a Prison Economic in Rural America." In *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*. Eds. Marc Mauer and Meda Chesney-Lind, The New Press, 2002. https://www.prisonpolicy.org/scans/huling_chapter.pdf (accessed February 25, 2021).

96 Gilmore, Ruth Wilson. *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*. University of California Press: 2007.

97 Ibid.

98 King, Ryan S., Mauer, Marc, and Tracy Huling. *Big Prisons, Small Towns: Prison Economics in Rural America*. The Sentencing Project, February 2003. <https://www.sentencingproject.org/wp-content/uploads/2016/01/Big-Prisons-Small-Towns-Prison-Economics-in-Rural-America.pdf> (accessed February 25, 2021).

99 Ibid.

100 Ibid.

At least 1 in 3 California Correctional Officers has symptoms of PTSD; 10% have experienced suicide ideation, and they are 4x more likely than the general population to die by suicide.

1980s.¹⁰¹ Additionally, as Tracy Huling notes, “In California, all new prison towns have had great difficulty attracting other industries”¹⁰² in part because prisons typically don’t have to follow state environmental standards. This has led to water quality and quantity issues in California prison towns like Avenal and Tehachapi that have significantly disincentivized other businesses or economic ventures from taking root in these communities.¹⁰³

Prisons are traumatic, unhealthy places that lead to lasting physical and emotional health impacts for incarcerated individuals, their families, and the people that work in these facilities. A 2014 study found that 30% to 60% of men in state prisons had post-traumatic stress disorder (PTSD), compared to 3% to 6% of the general male population, and at least 36.7% of women in state prisons experienced childhood abuse, compared to 12-17% of all adult women in the U.S. At least half of incarcerated women identify at least one traumatic event in their lives.¹⁰⁴

Prisons cause trauma. How could we expect anyone to heal from pre-existing trauma inside places that cause trauma? In terms of trauma and the prison labor force, a 2017 California Correctional Officer Survey found that 22 percent of correctional officers (COs) have or are at high

risk of diabetes; one in three have symptoms of post-traumatic stress disorder; and ten percent have experienced suicidal ideation.¹⁰⁵ Rates of suicide among California correctional officers are up to four times higher than those of the general population.¹⁰⁶

While local economic concerns about prison closure will doubtlessly be raised, it is important to keep these realities in mind. By closing prisons, California not only has the opportunity to right the wrongs of reliance on cages, it also has the chance to reinvest in communities in creative and generative ways, creating connections to job development that support community reinvestment. Far from hurting local economies, closing prisons presents an opportunity to transform them for the better.

101 Huling, Tracy. “Building a Prison Economic in Rural America.” In *Invisible Punishment: The Collateral Consequences of Mass Imprisonment*. Eds. Marc Mauer and Meda Chesney-Lind, The New Press, 2002. https://www.prisonpolicy.org/scans/huling_chapter.pdf (accessed February 25, 2021).

102 Ibid.

103 Ibid.

104 Widra, Emily. “No escape: The trauma of witnessing violence in prison.” Prison Policy Initiative, December 2, 2020. <https://www.prisonpolicy.org/blog/2020/12/02/witnessing-prison-violence/> (accessed March 10, 2021).

105 Lerman, Amy E. Officer Health and Wellness: Results from the California Correctional Officer Survey. University of California, Berkeley, November 2017. https://gspp.berkeley.edu/assets/uploads/research/pdf/executive_summary_08142018.pdf (accessed February 25, 2021).

106 Thompson, Don. “Study examines California prison guards’ high suicide rate.” The Mercury News, January 9, 2018. <https://www.mercurynews.com/2018/01/09/study-examines-california-prison-guards-high-suicide-rate/> (accessed February 25, 2021).

“Care First”

Economies, Communities, and Transformative Justice

California’s prison-building boom occurred alongside a massive disinvestment in community-based services in addition to massive industry job losses of the last 40 years. Prison closure is not only about decreasing spending on incarceration, but more importantly, it is about reinvesting the funds that were once spent on operating that facility back into education, job creation, community investment, health care, and human services that keep communities healthy and safe. Today, California currently spends more than \$91,067¹⁰⁷ to incarcerate a person in a state prison per year. We envision a world where instead of spending \$16 billion on a racist system that is punitive and carceral, we invest in building healthy, sustainable, and equitable communities for all Californians.

In order to achieve this, California must do the following:

1. **Build sustainable community infrastructure** by creating state grant programs held outside of CDCR and any law enforcement agencies that prioritize funding for community-based organizations and community leaders, to make investments in education, health and family justice, environmental justice, economic justice, and housing justice in California. The process to identify how money is allocated and for what purposes must be transparent and deeply informed by people most impacted
2. **Invest in state and local programming outside of law enforcement**, probation or parole that promotes non-carceral accountability such as transformative justice and healing justice, violence reduction, non-carceral crisis intervention, healing and wellness, reentry support, capacity building to local nonprofits, advocates, and community based organizations, and voluntary pre-trial support.
3. **Create statewide commissions to study reparations for people who have been impacted** by the ‘War on Drugs’, mass criminalization, police violence, and immigration enforcement and border militarization, as well as reparations for Black, Brown, Latinx, Indigeneous, Asian, and other populations of color to hold the state of California accountable for its actions of historical injustice. Include a plan to roll out payments to Californians who have been impacted.
4. **Create and invest in jobs that center environmental justice and overall wellness** that may sustain community investment. These jobs must not be exclusive

107 2020-21 State Budget. “5225 Department of Corrections and Rehabilitation.” <http://www.ebudget.ca.gov/2020-21/pdf/Enacted/GovernorsBudget/5210/5225.pdf> (accessed October 8, 2020), CR, 7.

to people without any past convictions and must center folks who are returning to the community from state and local imprisonment. Access to good jobs actually prevents crises and people's encounters with law enforcement. More than two dozen empirical studies among a variety of adult and young adult populations consistently confirm that labor market success in the form of employment, high wages, job stability, and occupational prestige are correlated with reduced criminalized behaviors.¹⁰⁸

5. **Shift the state's response to harm from a reliance on punishment and invest in transformative/restorative justice models.** Restorative justice, though a modern and recently coined term from 1970, at its core, is an Indigenous concept and healing practice. Restorative justice in the Westernized sense often indicates the implementation of practices used to address a conflict or criminalized behavior outside of the usual criminal legal system. Indigenous peacemaking and traditions of interrelationships among humans, the Earth, and the spiritual are inseparable from the restorative healing practices we now use.

Restorative Justice places a heavy emphasis on the relationships between people and establishing or reestablishing equity in a relationship. When a harm occurs, our current legal system asks: What law was broken? Who did it? How should they be punished? A restorative framework asks: Who was harmed? What are their needs? Whose obligation is it to meet those needs? Restorative justice offers a paradigm shift in the way we view and address criminalized behavior. When looking at harms and subsequent needs, we must center the needs of the victim

and/or survivor, as well as the needs of the community and the person responsible for the harm. When considering obligations that have resulted due to a harm, restorative justice considers both the person responsible and the community's responsibility to meet the needs of the person harmed. Engagement of those who have a legitimate interest or stake in the impact of the harm reduces further opportunities for harm and keeps the public safe.

Restorative justice offers a paradigm shift in the way we view and address criminalized behavior. When looking at harms and subsequent needs, we must center the needs of the victim, as well as the needs of the community and those responsible for the harm.

Centering these tactics to build healthy, sustainable, and equitable communities is key in preparing California to be a reduced carceral state, as well as providing the necessary infrastructure to support the success of people returning from prisons and jails as California moves forward with prison closures.

108 Criminal Justice, "The Empirical Relationships Between Employment and Crime," Employment and Crime. <http://criminal-justice.iresearchnet.com/crime/employment-and-crime/2/> (accessed March 3, 2021).

The People's Roadmap for Prison Closures

06

The Voices of Impacted People and Families

In 2020, Governor Newsom announced his intention to close two state-owned prisons in the next three years.¹⁰⁹ A few months later, CDCR announced that the first of the two prisons to be closed would be Deuel Vocational Institution (DVI) in Tracy, California.¹¹⁰

For years, the Legislature has asked CDCR to present a roadmap for prison closure in the state, including criteria, plans, and timeframes for choosing which prisons to close, and when.¹¹¹ To date, the Legislature is still waiting for the CDCR to offer their plan. The Budget Act of 2018 codified this need and offered some initial criteria for prison closure, which are now found in Penal Code section 2067(b). This includes: operational costs, workforce impacts, subpopulation and gender-specific housing needs, long-term investments in facilities; public safety and rehabilitation, and the ability to continue to address prison overcrowding.¹¹²

Missing from these criteria, discussions, and decisions are the people with the most at stake and who are best positioned to lead these decisions: currently incarcerated people. Without their involvement, decisions will continue to prioritize profits over people; the state will fail

to consider vital criteria—like the distance that people are caged from their loved ones and the deplorable conditions they are caged in; and decisions around prison closure will be driven by the self-serving interests of a Department that has a vested interest in keeping people incarcerated.

Without the involvement of our currently incarcerated community members, decisions made by the state will continue to prioritize profits over people.

109 Davis, Charles. "California governor proposes closing 2 prisons in response to COVID-19." Business Insider, May 15, 2020. <https://www.businessinsider.com/california-governor-closing-2-prisons-in-response-to-covid-19-2020-5> (accessed February 22, 2021).

110 California Department of Corrections and Rehabilitation. "CDCR Announces State Prison Closure." September 25, 2020. <https://www.cdcr.ca.gov/news/2020/09/25/cdcr-announces-state-prison-closure/> (accessed February 22, 2021).

111 See, for example, Assembly Budget Subcommittee No. 5 on Public Safety, Agenda. February 22, 2021. <https://abgt.assembly.ca.gov/sites/abgt.assembly.ca.gov/files/Feb%202022%20Sub%205%20Agenda.pdf> (accessed February 22, 2021).

112 Cal. Penal Code § 2067(b).

The People's Criteria for Prison Closures

In Summer 2020, a team from the Essie Justice Group developed a survey to gain input and insight from systems impacted people into which criteria the state should consider when choosing which prisons to close. The survey was distributed to formerly incarcerated individuals and family members via movement organizations and social media. It was also mailed to many thousands of currently incarcerated individuals by Initiate Justice and the Ella Baker Center for Human Rights. Nearly 2,000 surveys were filled out and returned, representing every state prison in California.

The survey asked each respondent to rank the top five criteria that they felt the CDCR should prioritize when making decisions about closing prisons. An initial list of 15 criteria was offered and space was given for people to suggest additional criteria. Countless respondents said that if they could have chosen all 15, they would have. A copy of the complete list of the criteria offered can be found in Appendix A.

The following are the top five criteria, as chosen by the respondents of this survey.

1

Unsafe health conditions (i.e. water contamination, poison, asbestos, mold, etc.)

The Eighth Amendment of the US Constitution supposedly protects against cruel and unusual punishment, yet California continues to knowingly cage people in deplorable conditions, leading to chronic health issues and death. These

unsafe health conditions are far and above the most important criteria that survey respondents want the Legislature to consider.

Survey respondents offered pages of harrowing accounts of the conditions that they are confined in, from exposure to Valley Fever and other environmental-related diseases to high levels of arsenic and other dangerous compounds in their drinking water to exposure to lead, mold, and asbestos. These testimonials were often coupled with descriptions of the horrific medical care that many who have fallen ill due to exposure to these conditions have experienced.

Being sentenced to prison in California means being sentenced to chronic health issues, and for many, early death.

While some attributed the unsafe health conditions to the age of the prison and the crumbling infrastructure of California's oldest prisons, many also highlighted the fact that California chose to build new prisons in the 1980s and 1990s on toxic land. Importantly, respondents chose "unsafe health conditions" over other similar criteria, including age of prisons, cost of repairs for prison, and even the rate of the spread of viruses like COVID-19.

Neither CDCR nor the state of California makes available data on the numerous unsafe health conditions that incarcerated individuals are exposed to. As a result, a team of researchers, advocates, and community members worked together to analyze a wide array of information to understand the severity of these health issues

in prisons, including water contamination, toxic air, place-based diseases such as Valley Fever, fire and seismic safety issues, and exposure to asbestos, lead, mold, and leaky roofs. The methodology used to assess unsafe health conditions in prisons is found in Appendix A.

Being sentenced to prison in California means being sentenced to chronic health issues, and for many, early death. This must be the Legislature and Governor's top priority when considering prison closure in California.

2

Most overcrowded

Survey respondents chose overcrowding as the second most important criteria for the state to consider when choosing which prisons to close. In making this choice, respondents made clear that prison closure must be accompanied by mass releases—otherwise, it will only exacerbate the issue of overcrowding.

The crisis of overcrowding is a decades-long issue in California prisons that has also been unequivocally linked to Eighth Amendment violations. While very modest improvement has been made over the past ten years, facilities remain grossly overcrowded—a situation that exacerbated the spread of COVID-19 and is directly linked to the deaths of at least 211 incarcerated individuals to date.¹¹³

Respondents shared testimonials that illustrate just how bad overcrowding still is. Several commented that in their decades of incarceration, they had never once been to a prison that wasn't severely overcrowded. Many others highlighted the cascading impacts of overcrowding: viruses run rampant, health and safety is compromised, access to programming and basic services is

impinged, access to basic necessities like showers and phone calls are affected, and more.

Finally, many pointed to the structural deficiencies with the court's population cap order, which instructed CDCR to reduce its overall prison population to 137.5 percent of its total facility capacity. Because this order was not made on a per facility basis, numerous prisons were well over 150 percent capacity in the weeks before the pandemic. Many survey respondents commented that it took a global pandemic that has infected nearly half of the prison population and claimed the lives of at least 211 people to finally bring population levels down significantly. Even still, many facilities remain dangerously overcrowded - a situation that will get worse when jail intake resumes unless the state or courts intervene.

Impacts of overcrowding: viruses run rampant, health and safety is compromised, access to programming and basic services is impinged, access to basic necessities like showers and phone calls are affected, and more.

3

The cost of incarceration

The third factor that the respondents feel should be prioritized is the cost of incarceration. A large majority of comments received focused on the importance of reinvesting the funds currently spent on cages into the community.

¹¹³ California Department of Corrections and Rehabilitation. "Population COVID-19 Tracking." <https://www.cdcr.ca.gov/covid19/population-status-tracking/> (accessed February 25, 2021).

Respondents reflected on the importance of investing specifically in communities of color, and in particular on the need for more funding for education, rehabilitation programs, after-school programs, community-based physical and mental healthcare, job training, and low-cost housing. As one respondent wrote: “I worry about what the future generations will look like having given billions to prisons instead of education and mental health.”

For decades, California has made the choice to invest billions of dollars annually in cages that are cesspools for harm, trauma, and disease.

For decades, California has made the choice to invest billions of dollars annually in cages that are cesspools for harm, trauma, and disease. It is time we end this horrific experiment and reinvest these funds in our communities instead.

4

Location of the prison and distance from loved ones (including inaccessible travel)

The fourth criteria that respondents prioritized is the location of the prison and distance from loved ones. Here, respondents emphasized the importance of family and connection with loved ones for rehabilitation and recovery.

Many expressed frustration and outrage about CDCR’s hypocrisy when it comes to visiting - noting that CDCR says visiting is important to rehabilitation, but then creates cruel and unnecessary barriers to maintaining contact. Several respondents commented that prison officials cancel visits as a form of retaliation against incarcerated individuals, while others drew connections between overcrowding and visiting, sharing stories of loved ones being

turned away from visits because the visiting rooms were too crowded.

CDCR says visiting is important to rehabilitation, then creates cruel and unnecessary barriers to maintaining contact. Respondents commented that prison officials cancel visits as a form of retaliation against incarcerated individuals.

Dangerous and excessive transportation were other themes that arose. The roads leading to Pelican Bay State Prison, and California Correctional Center and High Desert State Prison in Susanville were highlighted as being particularly treacherous. Others commented on the immense sacrifices and burden on families that comes with being incarcerated hundreds of miles from home, sharing that families get torn apart over the distance. No family should have to travel 400 miles each way to visit their loved one.

In addition to the extreme distance between home and prison, several respondents highlighted that prisons located near the US/Mexico border have nearby checkpoints, making it too dangerous for undocumented loved ones to visit.

Finally, several respondents commented that prisons that are remotely located—like Pelican Bay State Prison (PBSP), California Correctional Center (CCC), and High Desert State Prison (HDSP)—lack oversight and attention because of their isolation, which can lead to more abusive conditions.

Threaded between each of these themes was the cloud of COVID-19. The individuals responding have not had visits with loved ones since March 2020. Access to phones has been limited, especially during quarantines and lock-downs, and the roll-out of video visiting has been riddled



“I worry about what the future generations will look like having given billions to prisons instead of education and mental health.”

-Survey Respondent

with issues. Several testimonials spoke to the egregious lack of communication with families during this time, including family members not being notified when their incarcerated loved ones tested positive for COVID-19, and incarcerated individuals not being notified of the loss of loved ones on the outside due to the disease.

As one individual commented, “Loneliness can be deadly.” Proximity to family and loved ones must be part of any decision around prison closure.

staff. Many also see rates of homicides and suicides as a symptom of many of the other issues discussed—overcrowding, unsafe conditions, isolation from family and loved ones, and more.

The number of homicides and suicides at a prison is an indicator of corruption and mismanagement.

5

Highest number of homicides and suicides

The fifth criteria that survey respondents prioritized was the highest number of homicides and suicides at a facility. Here, many respondents commented that they felt that the number of homicides and suicides at a prison was an indicator of corruption within and mismanagement of a prison, including abusive

As one respondent stated: “If a prison has such awful conditions that people’s loved ones would be driven to suicide, it must be shut down. Period. Something is wrong.”

Ten Prisons to Close by 2025

On the basis of the five criteria outlined above, which were prioritized by currently incarcerated and systems-impacted people, we recommend the following ten prisons to be closed by 2025. *(For more details on our methodology, please see Appendix A, and our Conclusion for reflections on closing women's prisons).*

- *California Rehabilitation Center*
- *Kern Valley State Prison*
- *Pleasant Valley State Prison*
- *California Correctional Institution*
- *North Kern State Prison*
- *California Substance Abuse Treatment Facility*
- *California State Prison - Los Angeles County*
- *California Medical Facility*
- *Avenal State Prison*
- *California Men's Colony*

These prisons include some of the worst when it comes to exposure to Valley Fever, contaminated water, isolation from loved ones, overcrowding, and more.

California Rehabilitation Center (CRC), which came out on top of our survey results, has been slated for closure several times in the past decade, only to be kept open and have millions of dollars poured into it, to keep it barely functional, including almost \$7 billion dollars in the 2021-22 proposed budget for Corrections. This is a travesty for the incarcerated community, that has been caged in horrendous conditions, and to all Californians, who have seen their tax dollars wasted on dangerous facilities that should have been condemned and permanently shuttered years ago.

It is time for the legislature to take bold action and permanently close all prisons, starting with these ten, and redirect the funds we have wasted on these torturous cages to real, durable community-based solutions for health and safety.

Recommendations Summary

CURB endorses the following recommendations to increase releases and close more prisons:

Update Penal Code section 2067(b) on recommendations for prison closure to include unsafe health conditions, location of the prison and distance from loved ones, and highest number of homicides and suicides.

Immediately release at least 50,000 people in the interest of public health.

Amend Sections 3041, 3046 and 3055 to Penal Code §§ 3000 et seq. to remove restrictions on qualifications for elderly parole based on conviction type and sentence to be implemented by the CDCR in the California Code of Regulations, Title 15.

Repeal draconian sentencing and lengthy sentencing enhancements with retroactive implementation including, but not limited to, the following:

- **Three-strikes Law**—increases punishment for felony convictions when the defendant has a prior conviction for a serious or violent felony (“strikes”). There are two consequences for having **one prior strike**: First, the sentence for any new felony conviction doubles. (PC 667(e)(1) and 1170.12(c)(1).) Second, a 5-year enhancement applies in addition to the doubling if the new felony is a “serious” felony. (667(a).) If a person has **two or more prior strikes** the three-strikes law calls for a 25-to-life sentence for any new felony.

- **Gun Enhancements PC 12022.53.** The 10-20-life enhancement: Personally using a firearm during a violent felony will get you a 10-year, 20-year, or 25-to-life enhancement under PC 12022.53. The **10-20-life enhancement** applies to specific “violent” felonies. Penal Code 12022.53(a) lists 16 felonies that are considered “violent,” including among others: murder, kidnapping, robbery, carjacking, and rape. In addition, any felony that carries a life sentence or the death penalty counts as a “violent felony.” Attempts also trigger the enhancement, except for attempted assaults. The 10-20-life law creates three gun enhancements: **1- for using a gun, 2- for discharging a gun, 3- for discharging a gun and causing great bodily injury or death.**
- **Gang Enhancements** are in California’s Street Terrorism Enforcement and Prevention Act (called STEP). (PC 186.22.) This is an especially complex statute that contains sentencing enhancements, alternative sentencing schemes, and a minimum parole eligibility period, among other provisions. It applies to crimes having to do with criminal street gangs.
- **Life Without the Possibility of Parole (LWOP) and Special Circumstances**—eliminate LWOP sentencing beginning with the **passing of the Sentencing Reform Act (SB 300, Cortese 2021)** to amend section 190.2 of the Penal Code addressing limiting the application of special circumstances.

- **Pass the Racial Justice Act for All (AB 256 Kalra 2021)** to allow currently incarcerated people to challenge sentences that were racially motivated and extend opportunities for release in the name of racial justice.
- **Pass the RISE Act (SB 483 Allen 2021)** to retroactively apply Senate Bill 180 of the 2017–18 Regular Session and Senate Bill 136 of the 2019–20 Regular Session to all persons currently serving a term of incarceration in jail or prison for these repealed sentence enhancements.
- **Amend PC § 1170(d)(1)** to create a process that prioritizes enhancement time being removed when laws pass that repeal or make discretionary certain enhancements, regardless of their retroactivity. People should not serve decades of enhancement time when those enhancements would not have been added today.

Also amend PC § 1170(d)(1) to explicitly include incarcerated people serving life without the possibility of parole (LWOP); an automatic sentencing review after a period of time; a self-referral option; clarification on a person's immediate right to notice and counsel when a resentencing referral is initiated.

Offer formal legislative recommendations to the Governor to exercise their executive authority as outlined in California Penal Code, Title 6, Reprieves, Pardons, and Commutations, Chapter 1, to grant mass releases.

Create more equitable parole outcomes by eliminating exclusions based on conviction type; eliminate the use of uncorroborated allegations from in-custody confidential informants, and prevent such allegations from being the basis for denying parole; disallow BPH denials based on “lack of insight”; parole reforms must include people sentenced to Life Without Parole (LWOP) with mandatory parole board hearings after

a certain number of years for everyone with lengthy, life, and LWOP sentences.

Close at least ten state-owned prisons over the next five years.

Reinvest billions of dollars previously allocated to the CDCR into community based services and resources as outlined in this report.

Conclusion

07

As a society, we must begin to ask ourselves some big questions. Is our obsession with punishment so absolute that we will continue to spend billions on incarcerating people...when the data shows us that we can and must find another way?

Beginning in March of 2020, advocates from California Coalition for Women Prisoners (CCWP)¹¹⁴ warned that illness and death would soon come to our state's women's prisons due to the negligence of both CDCR and the Newsom Administration.

"We know what's going to happen," said Romarilyn Ralston, an organizer with CCWP, in a press release on April 21, 2020. "We only have to look at the news reports from other states. This is not a surprise. This is an emergency. Governor Newsom has two options: prevent more tragedy now, or regret it later."

The Central California Women's Facility (CCWF) was designed to house 2,004 people. Yet on January 22, 2021, in the midst of a global pandemic, it was on the verge of overflowing with human beings, with only 12 beds available according to a recent CDCR report.¹¹⁵

By January 6, 2021 more than one-in-four people locked in CCWF, California's largest women's prison, had already tested positive for the coronavirus.

Despite having months of preparation to avoid a possible outbreak, CCWF officials did not have effective protocols in place to stop the rise in coronavirus infections. Additionally, CCWF officials questioned imprisoned women and TGI (transgender, gender-nonconforming and intersex) persons' need for access to prescription drugs in the face of rising anxiety and depression, and often refused care. This tracks with the prison's notoriously substandard approach to mental health services.¹¹⁶

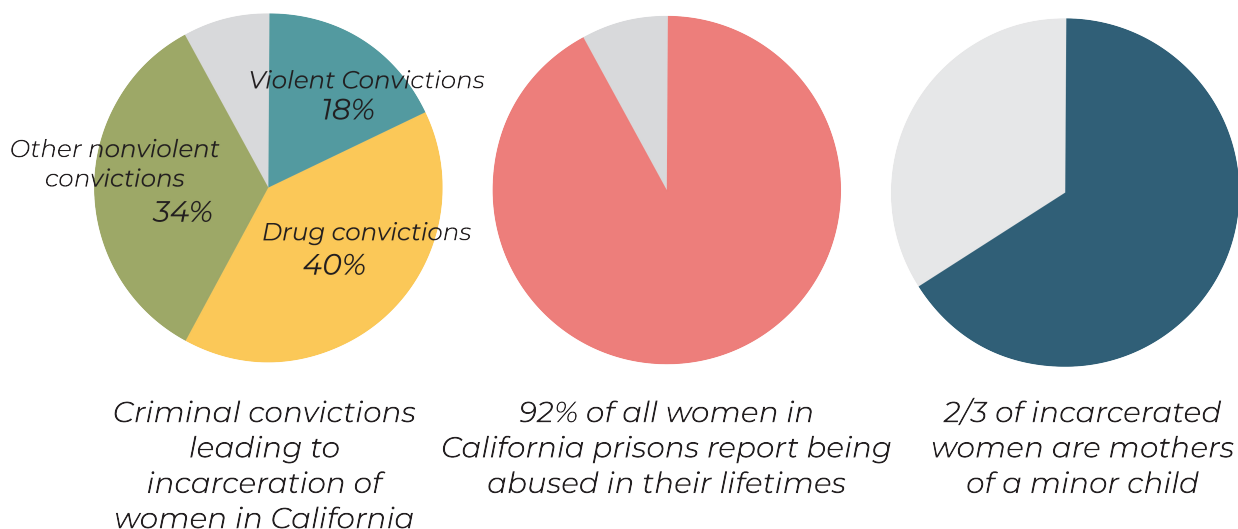
"What about the women who are there? What about people with medical conditions like my daughter who are loved by people like me? There are many women in there who made mistakes and instead of rehabilitating them, the system

¹¹⁴ California Coalition for Women Prisoners. <https://womenprisoners.org/> (accessed February 25, 2021).

¹¹⁵ Robles, Kervy. "Cómo una cárcel de mujeres de California se convirtió en la que tuvo más contagios de coronavirus en EEUU." Univision, January 22, 2021. <https://www.univision.com/local/san-francisco-kdtv/una-carcel-de-mujeres-de-california-se-convirtio-en-la-que-tuvo-mas-contagios-de-coronavirus> (accessed February 25, 2021).

¹¹⁶ Bliss, Kevin. "20 years sees no improvement in California prison's mental health care; suicide results in \$1.5 million settlement." Prison Legal News, February 4, 2020. <https://www.prisonlegalnews.org/news/2020/feb/4/20-years-sees-no-improvement-california-prisons-mental-health-care-suicide-results-15-million-settlement/> (accessed February 25, 2021).

Women Incarcerated in California



is threatening them and forcing them to live in fear,” said Lisa, who preferred to use that name because she believes that her daughter, incarcerated in CCWF, could suffer retaliation inside the prison for her mother’s cooperation with the press in exposing some of the many horrible ethical violations by CDCR during the COVID-19 pandemic.¹¹⁷

Forty percent of criminal convictions leading to incarceration of women in 2000 were for drug crimes; 34 percent were for other non-violent crimes; and seven percent were for public order offenses. Only 18 percent of women in prison have been convicted because of so-called “violent” conduct, yet advocates say that 92 percent of all women in California prisons report being battered or abused in their lifetimes. Among female state prisoners, two-thirds are mothers of a minor child.¹¹⁸ When people in women’s prisons routinely suffer cruel and unusual punishment,

we must ask: why are people in women’s prisons at all? When women commit more serious crimes, they’re almost exclusively against the backdrop of an abusive relationship or clinical mental illness.¹¹⁹ Any loss of life is rarely random and reasonable people would find it difficult to imagine the accused as a general threat to public safety. According to Professor Mirko Bagaric (Director of the Centre for Evidence-Based Sentencing at Deakin University, Melbourne), our starting position should be that no female offender should be imprisoned.¹²⁰ And this isn’t a fringe opinion.

Professor Patricia O’Brien (Jane Addams College of Social Work at University of Illinois at Chicago) says “it sounds like a radical idea: stop incarcerating women, and close down women’s prisons. But in Britain, there is a growing movement to do just that.”¹²¹ In Britain, advocates are proposing community care for “nonviolent

117 Robles, Kervy. “Cómo una cárcel de mujeres de California se convirtió en la que tuvo más contagios de coronavirus en EEUU.” Univision, January 22, 2021. <https://www.univision.com/local/san-francisco-kdvt/una-carcel-de-mujeres-de-california-se-convirtio-en-la-que-tuvo-mas-contagios-de-coronavirus> (accessed February 25, 2021).

118 ACLU. “Facts about the over-incarceration of women in the United States.” <https://www.aclu.org/other/facts-about-over-incarceration-women-united-states> (accessed February 25, 2021).

119 Bagaric, Mirko. “Why we should close women’s prisons and treat their crimes more fairly.” The Guardian, June 1, 2016. <https://www.theguardian.com/commentisfree/2016/jun/01/why-we-should-close-womens-prisons-and-treat-their-crimes-more-fairly> (accessed February 25, 2021).

120 Ibid.

121 O’Brien, Patricia. “We should stop putting women in jail. For anything.” Washington Post, November 6, 2014. <https://www.washingtonpost.com/posteverything/wp/2014/11/06/we-should-stop-putting-women-in-jail-for-anything/> (accessed February 25, 2021).

“...one thing that we have learned is, where life is precious, life is precious.”

– Ruthie Wilson Gilmore, 2021

offenders” and small custodial villages near their families for women convicted of the most serious crimes.¹²²

As a society, we must begin to ask ourselves some big questions. Is our dark obsession with punishment so absolute that we will continue to spend billions on incarcerating people in women’s prisons when the data shows us that we can and must find another way?

Essentially, the case for closing women’s prisons is not unfamiliar to us. It’s the case against the prison industrial complex and for community-based treatment, which has proven time and time again to work better than incarceration. How much more must marginalized communities suffer before we learn that incarceration harms individual well-being and does not improve public safety?

The case for closing all women’s prisons is articulated through the lived experience of formerly and currently incarcerated women, TGI folks and their allies. It will be articulated further in CURB’s forthcoming report (2021-22) calling for the closure of all women’s prisons in California. We know that people in women’s

prisons can be incredible community builders¹²³ who can follow paths to wholeness—when and if they receive the respect and support they deserve. Isn’t that what all people need? If we can imagine a world without women’s prisons, what else could we achieve with a deeper shift in thinking?

We hope ***The People’s Plan for Prison Closure*** sparks such a shift. In the interest of public health, racial justice, and a responsible budget, California must envision a roadmap to shut down all prisons and cages in the entire state—not just the initial ten we’ve recommended in this report. California can and should be a leader in the United States in shifting from incarceration to care. Caging humans can not be our solution to addressing criminalized behavior and social problems like poverty and addiction.

We can look to the Swedish prison system as an imperfect but progressive example. The Swedish Prison and Probation Service reports that their emphasis on rehabilitation reduced recidivism from 42 percent to 29 percent over 16 years. In the US, the recidivism rate for people in state prisons is 68 percent, according to the latest US Bureau of Justice Statistics report.¹²⁴ As beautiful as California is, the ugly truth is that our state

February 25, 2021).

122 McBain, Sophie. “Choking to death: should we stop sending women to prison?” New Statesman, January 28, 2014. <https://www.newstatesman.com/2014/01/choking-death-should-we-stop-sending-women-prison> (accessed February 25, 2021).

123 O’Brien, Patricia. “The case for closing down women’s prisons.” The Conversation, November 6, 2014. <https://theconversation.com/the-case-for-closing-down-womens-prisons-33000> (accessed February 25, 2021).

124 Jackson, Liane. “Behind Bars In Scandinavia, And What We Can Learn.” ABA Journal, February 1, 2020. <https://www.aba.org>.

continues to lock people up at more than double the rates of our closest international allies.¹²⁵

Prior to Senate Bill 439 (Mitchell, 2018), California incarcerated children as young as five years old.¹²⁶ Our state still incarcerates children under 12 for certain convictions. California helped birth draconian sentencing during the war on drugs era. We have been suffering from the consequences ever since. Will the “tough on crime” era be everlasting? Even today, politicians seek to introduce new legislation that would incarcerate people for crimes of poverty, or would treat addiction as a crime rather than an illness.¹²⁷

This cruelty towards one another keeps us in an endless cycle of punishment, incarceration, and useless spending on prison cages. Our communities are kept sick and void of real services and resources. We cannot continuously create a class of people who are alienated from society and outcast for the mistakes they have made.

We created The People's Plan for Prison Closure to communicate our community's knowledge, wisdom and resolve. We know that closing prisons in California is a huge undertaking with innumerable moving parts. That's why it's vital that any roadmap to prison closure isn't cooked up in some dark, smoke-filled room in Sacramento. Community members must also have a seat at the table. We are ready, willing and able to partner with all stakeholders to actualize a new vision for public safety that protects all of California's residents.

For the second time in our report, we name that a serious plan for prison closure means that

closed prisons stay closed; prison populations are reduced through releases, not transfers to other unsafe facilities; corrections budgets are slashed; investments in reentry and other services are prioritized; voices of justice-impacted people are heard; and that labor solutions for displaced prison staff are front and center. Let's not forget the enduring need for a reckoning on racial injustice. That means not only dramatically increasing prison releases, but changing laws and policies that drive the incarceration crisis, filling the state's empty prison beds and reinforcing a toxic culture of perpetual punishment.

We are ready, willing and able to partner with all stakeholders to actualize a new vision for public safety that protects all of California's residents.

Prison abolition will uplift our society's needs. Cages are used to “solve” problems created by political actors and failed policies. People have intrinsic value that can and must not be so easily discarded. Let's leave what we know has failed us where it belongs: in the dustbin of California's history.

“...one thing that we have learned is, where life is precious, life is precious.”¹²⁸

– Ruthie Wilson Gilmore, 2021

abajournal.com/magazine/article/behind-bars-in-scandinavia-and-what-we-can-learn (accessed March 3, 2021).

125 Wagner, Peter and Wendy Sawyer. “States Of Incarceration: The Global Context 2018.” Prison Policy Initiative, June 2018. <https://www.prisonpolicy.org/global/2018.html> (accessed March 3, 2021).

126 Garnette, Laura. “Juvenile Court Is No Place For Kids - California Must Set A Minimum Age.” San Francisco Chronicle, August 13, 2018. <https://www.sfchronicle.com/opinion/openforum/article/Juvenile-court-is-no-place-for-kids-13153447.php> (accessed March 3, 2021).

127 McCarty, Kevin. AB-1542: County of YOLO: Secured Residential Treatment Program. https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1542 (accessed March 3, 2021).

128 “Ruth Wilson Gilmore Makes the Case for Abolition.” Intercepted Podcast, June 10, 2020. <https://theintercept.com/2020/06/10/ruth-wilson-gilmore-makes-the-case-for-abolition/> (accessed March 3, 2021).

Appendix A

08

In Fall 2020, CURB developed a survey, with leadership from the Essie Justice Group and Initiate Justice, to prioritize and center the voices of incarcerated people when determining state prison closure priorities. The survey was distributed through online platforms to formerly incarcerated individuals and their loved ones, in addition to mailing paper copies to individuals inside all California state prisons. 2,386 surveys were received from currently incarcerated people, with 1,822 surveys responding to the ranking of top five criteria accurately—choosing only five from a list of 16, and ranking their selections with one being their top choice and five being their last choice. Surveys were received back from every state prison in California.

The original list of 16 criteria in the survey included:

- The cost of incarceration
- Highest cost of repairs
- Oldest prisons
- The number of people in solitary confinement
- Largest prison populations
- Most overcrowded
- Highest number of homicides and suicides
- Use of force
- Unsafe health conditions (i.e. water contamination and poison, asbestos, mold, etc.)
- Location of the prison and distance from loved ones (including inaccessible travel)
- Frequency that facilities send loved ones home who come to visit
- The number of lawsuits against a prison
- An inability to access healthcare in prison
- Highest rate of virus and disease spread inside a prison.
- Frequency that facilities communicate accurate updates and information to families about their incarcerated loved ones (i.e. fires, evacuations, COVID-19 and other

viruses, incarcerated loved ones' health, etc.)

- The way that prisons release individuals (i.e. not during night time, etc.)
- Other: [Write-in]

CURB recorded survey results and ranked participants' priorities by assigning points based on the ranking of criteria. "Unsafe health conditions (i.e. water contamination and poison, asbestos, mold, etc.) was by far the highest ranking priority.

The top five criteria that survey respondents chose were:

- Unsafe health conditions (i.e. water contamination and poison, asbestos, mold, etc),
- Most overcrowded,
- The cost of incarceration,
- Location of the prisons and distance from loved ones (includes inaccessible travel), and
- Highest number of homicides and suicides.

To determine which of California's 34 state-owned prisons should be of priority for prison closure, CURB gathered and synthesized data to correspond with each of the top five criteria and ranked prisons accordingly.

For most overcrowded, we utilized a CDCR facility report from February 5, 2020, before the COVID-19 pandemic. CURB chose a pre-pandemic report because current capacity rates are likely artificially low due to a number of factors caused by the pandemic. In particular, we know there are many thousands of people awaiting transfer to CDCR from county jails, which will boost the population. Therefore, the February 2020 rates of crowding are most likely a better overall representation of overcrowding in CDCR.

For the cost of incarceration, we used a 2018

Annual Performance Measures Report released by CDCR that showed the per capita cost of incarceration per facility. CURB has not been able to obtain more recent figures.

For the location of prisons, we examined the shortest driving distance to each facility from each of California's top ten most populous cities. We then compared the distance to the nearest of those cities and ranked each prison accordingly.

For the highest number of homicides and suicides, we looked at each facility's 2019 SB 601 Statistical Report, which includes the number of reported homicides and suicides at each facility. CURB recognizes that this data is likely not accurate, as the number of reported homicides and suicides depends on CDCR's internal reporting.

Determining the ranking of the unsafe health conditions criterion was by far the hardest to calculate. While it is a top concern for incarcerated individuals, CDCR nor any other state entity collects data sets to inform the ranking of health conditions inside state prisons. As a result, CURB created our own data set for ranking health conditions. Publicly-available data on environmental health conditions were reviewed for each prison and used to calculate an unsafe conditions indicator. Each prison was evaluated and scored for the following sub-indicators: water safety, air quality, place-based disease, leaks, mold, asbestos, lead, fire safety, and seismic challenges. Points were assigned for the presence and severity of environmental harms associated with each sub-indicator. Points were then summed across sub-indicators to calculate a cumulative unhealthy conditions score. Sub-indicator calculations are described below.

Using the 2019 CDCR Master Plan and Kitchell architectural reports on the 12 oldest prisons, CURB assigned a point to the prison if there was evidence of leaks/mold, asbestos and lead, or major fire and seismic challenges that could

impact a person's health. CURB also incorporated qualitative responses from survey results and added a point if an individual mentioned one of these issues and a point had not already been allocated to the prison mentioned.

CURB recognizes that incarcerated individuals are experts and their testimonies are additional evidence of the presence of such issues, especially as no comprehensive report has been done to assess unhealthy conditions at all CDCR facilities.

Points were also assigned for the severity of the place-based disease presence (i.e., four points for significant Valley Fever outbreaks, three points for Valley Fever presence, two points for *H. pylori* presence, one point for *Campylobacter* presence).

Prison location was evaluated to assess air quality violations. Prisons were assigned one point if located in a county that was designated as currently in nonattainment for any criteria pollutant. This analysis was performed based on the EPA Green Book, which documents National Ambient Air Quality Standards (NAAQS), as of December 2020.

Neither CDCR nor the State Water Resources Control Board (SWRCB) maintain a record of prison water system providers, so this report matches prisons to the public water system (PWS) that likely provides their drinking water using direct matching via the state's Safe Drinking Water Information System (SDWIS) and spatial correlation using Tracking California's PWS Boundaries Tool. The report then assesses water quality violations associated with each prison's PWS. Prisons were scored if they violated the legal limit for a primary drinking water standard (i.e., a maximum contaminant level, or MCL, violation) in 2019 or 2020 (two points), or if they received a monitoring violation from the SWRCB in 2019 or 2020 (one point). Prisons also received a point for significant sewage concerns or the lack of a publicly available consumer confidence report (CCR) on SDWIS.

CURB recognizes that incarcerated individuals are experts, and their testimonies are additional evidence of the presence of such issues, especially as no comprehensive report has been done to assess unhealthy conditions at all CDCR facilities.

After compiling each of the five data-sets, CURB weighted the outcomes of each one to correspond with the ranking of the criteria, to come up with a final score for each prison. Unsafe health conditions were weighted 30 percent, Most overcrowded 25 percent, Cost of incarceration 20 percent, Location 15 percent, and Homicides and Suicides 10 percent.

CURB's goal was not to find a perfect statistical way to represent prisons. Our goal was to demonstrate what people currently incarcerated in California state prisons, and their loved ones, believe should happen when it comes to prison closure. Ultimately, we believe all prisons should be closed. However, prisons that are killing incarcerated folks at the highest rates—through unsafe conditions, overcrowding, lack of investment in home communities, isolation from loved ones, and homicides and suicides—should be prioritized. We have done our best

to express which men's prisons we believe this includes, but our list is, by no means, exhaustive. CURB affirms that there are many viable paths to release more people from California prisons and shut them down. As one example, our coalition believes ending the incarceration of cis women and LGBTQIA+ people is an achievable goal in our state, and should be prioritized concurrently with all other release strategies. CURB will share recommendations focused on the closure of women's prisons in early 2022.

Acknowledgments

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American Friends Service Committee



American Friends Service Committee, California Coalition for Women Prisoners, Decarcerate Sacramento, Ella Baker Center for Human Rights, Essie Justice Group, Initiate Justice, Showing Up for Racial Justice (SURJ) Bay Area, Success Stories

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