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Monterey County Lags in Implementing Realignment

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It was no surprise to me to read in Arvin Temkar’s article “Big House Quota” the hard numbers compiled by Michael Males demonstrating that Monterey County’s criminal justice system is not living up to the Legislature’s mandate for realignment. Terry Spitz’s comments on statistics are representative of the “head-in-the-sand” attitude of the local district attorney’s office that is driving this poor compliance record. What is not addressed by the article is how we got into the predicament requiring reevaluation of the dollars and sense of relying upon incarceration as a means of fulfilling penal objectives.

The year 2011 marked the fifth consecutive year of decline in violent crimes and the ninth straight year in which property and violent crimes collectively decreased. This is in spite of economic downturn which is generally considered an impetus for higher crime rates. Since 1991 violent crimes have fallen 43 percent and property crimes by 41 percent. At best, there is dubious support for the claim that law enforcement efforts, incarceration and other penal methods are even responsible in some tiny amount for that result. Increasingly, law enforcement came to focus upon drug offenses and the percentage of drug arrests shot up exponentially, increasing by 68% from 1993 to 2010, to account for approximately 12% of all arrests. Possession charges (rather than dealing or manufacturing, which saw a decrease in arrests) came to constitute over 80% of drug arrests. By 2010, nearly half of these were for marijuana possession. Apparently stabilizing, there was a slight uptick in crime rates in 2012. Although crime rates are the lowest they have been in over thirty years, the United States still spends more than $100 billion annually on police, funding some 715,000 police officers.

The falling crime rate has not been reflected in the population rates of national or state correctional institutions. Increased incarceration was propelled by the criminalization of more and more conduct, imposition of sentences that in harshness are starkly in contrast with all other advanced nations of the world, and a growing population. In 2005, there were 2.2 million persons incarcerated nationally, which translates to 737 per 100,000 in the American population as a whole. This was despite a falling crime rate for over a decade. Similarly, California, with the nation’s largest correctional system, saw violent crime fall between 1992 and 1997 by 23% and the murder rate drop by 28%. During this same period California’s prison population grew by 30%. By 2007, the number of people in U.S. prisons had risen eight fold since 1970 with little impact on crime, but at great cost to taxpayers and society. With the launch of the ineffective war on drugs campaign in the early 1970s, our nation saw 100 persons out of 100,000 incarcerated. For three quarters of a century before that point, the incarceration rate never exceeded 125 or fell below 75 per 100,000. What followed was over 30 years of continuous rise in incarcerations. By 2002, the United States prison and jail population was a staggering 2.16 million, a 2.6 percent increase from 2001, with 702 offenders incarcerated per 100,000. The cost of incarceration per prisoner increased and in 2007 the states spent
over 49 billion on corrections, up by 20 billion from 20 years earlier. In 2008, there were 2,319,258 adults held in jail or prison or 751 people in prison or jail for every 100,000. That’s 1 in every 99.1 men & women. Sentences got longer, but national recidivism was unchanged with about half the inmates returning within 3 years. For men ages 20-34, 1 in 30 was behind bars. For black men between 20-34, 1 in 9 was incarcerated. That was the high water mark. In June 30, 2009, we saw 748 inmates per 100,000 U.S. residents. Court orders addressing prison over-population in tandem with public concern over the toll this was taking on taxpayers and the dropping crime rate began to have some effect on the growth of American penal institutions.

The overflow of jail capacity may be attributed to another contribution factor. Increasing reluctance of trial judges to allow release of defendants on their own recognizance or through bail within defendants’ means has resulted in another peculiar institutional shift with unanticipated consequences. The unsentenced component of jail populations (typically those awaiting trial) had generally hovered at around half of the total population. In California, in 1986 it was 47%. This gradually increased and reached 71% in 2011. One consequence is that persons not incarcerated for punishment purposes take up a significantly greater share of jailhouse beds in overcrowded jails. Since they cannot be released, this means early release for sentenced inmates. Also, this means that accused persons awaiting trial on average spend more time in jail than sentenced inmates – those who cop an early plea. This anomalous situation may have changed somewhat with California’s realignment.

Bear in mind, the foregoing numbers are not counting those on probation or parole. Three quarters of all offenders in the United States under penal sanction are not imprisoned. Probation is the most common sanction imposed, with 2/3 or 2,870,000 persons on probation in 1994. When we consider the number of Americans under all forms of correctional supervision, the figure passed 7 million in 2009 - 1 in every 31 Americans. Of that approximately 7 million persons, probation and parole populations account for 5 million.

With California prisons operating at about twice capacity for over 11 years now and jails and prisons bloated to the point that court orders issued to alleviate the overcrowding, parole and probation became the overflow. The correctional system came to increasingly expand its reach into society. Reformist measures designed to rehabilitate offenders and to prevent prisons from becoming breeding grounds for increasingly hardened criminals were overwhelmed by the influx of prisoners. The same pattern seen with prison as a penal mechanism has been duplicated with probation and parole. Volume overwhelmed the rehabilitative function. Increasing numbers of offenders were routed into each system, but the financial support to operate those systems in the manner in which they were conceived for effectiveness has lagged. Prison capacities became overtaxed and
rehabilitative objectives were increasingly difficult to fulfill. Likewise, increasing case loads are imposed upon probation and parole officers preventing less intensive interpersonal interaction with individual offenders in the field.

With passage of Proposition 13, California probation departments were cut to bear bones in many counties in the late 1970s. In addition to the resultant caseload increase from those financial cuts, after 1980, the parole population in California grew exponentially, reaching 125,000 some years ago. Between 1980 and 2010, California’s probation population increased by 94%, the jail population increased by 171%, the prison population increased by 572%, but the parole population soared by 708%, vastly exceeding general state population growth of 57% during that period. Probation population following its growth spurt, grew over 26% from 265,000 in 1989 to 359,000 in 1993, and declining to around 330,000 in 2010. Probation was instituted initially for low level offenders posing little threat to public safety. It’s ought to provide needed rehabilitative steering to those whose exposure to more hardened criminals in the prison and jail settings could prove counter-productive to re-socialization objectives. But achieving these objectives ran up against attempts to alleviate jail and prison overcrowding and probation came to be regarded as providing an economical alternative to incarceration, rather than a device to reform persons who deserve that opportunity. This alteration in perspective was enabled by development of surveillance technology such as ankle bracelets and other monitoring devices. As a result, probation has become increasingly populated by offenders potentially posing greater risk to the community and supervising officers. The ratio of supervisors to the supervised has lagged behind these jumps in parole and probation populations and the increase in the percentage of individuals warranting increased supervisory interaction.

The upshot of these changes for community-based corrections is that less effort is placed into rehabilitation efforts and focus has shifted away from that more demanding objective to the more basic goals of control and surveillance. This is significant in terms of preventing parole and probation from functioning as revolving doors. With a national recidivism rate showing 67% nationally and 66% in California (accounting for 70,000 California prison admissions annually) for parolees returning to prison within three years this becomes significant in light of the evidence that notable reduction in this recidivism is accomplished through interaction and strategies consistent with a rehabilitative model, not a control model. What has happened instead is that the ratio of officers to offenders has decreased. Interactions with supervisees have decreased and have tended to occur more in institutional settings rather than in the field. The means to achieve this reduction and alleviate the economic burden upon taxpayers and increased victimization involved in recidivism have been identified by the Division of Adult Parole Operations as requiring a change in the organizational culture and philosophy. This change involves officers developing new knowledge and skills and realigning their approaches, strategies and tools to increase the degree, nature and focus of interaction with those under their supervision, particularly those who are at risk. This will take some doing to reverse
ossified methods. The nature and focus of relations has been propelled towards control
techniques and strategies rather than towards embracing methods shown to effectively
curtail recidivism. A current survey of California County probation departments
establishes that the departments give minimal priority to rehabilitation and social
integration and are entrenched in emphasizing traditional law enforcement objectives in
the handling of those they supervise.

California’s realignment presents a golden opportunity for needed change. In California
the state had operated the parole supervision system. With realignment, however,
responsibility for released prisoners has been shifted in large part to county agencies.
The marching order from the Legislature is that counties, including Monterey County,
should use this control and opportunity to implement evidence-based methods to reduce
unacceptable recidivism rates. In other words, they are to focus upon actual public safety
considerations and rehabilitative techniques that are proven, and they are encouraged to
relinquish the punitive and ineffective control devices that have been in place. Policy and
practice is to be driven by evidence based methods designed to prevent recidivism and
promote reintegration rather than control and surveillance devices advancing retributive
and deterrent objectives. What this means is that local agencies must overcome policies,
practices and attitudes that have become entrenched over the last few decades. Mr. Males
has revealed that Monterey County is lagging behind the rest of the state in this regard.

- Steven J. Andre