

California Prison Realignment One-Year Anniversary:

An American Civil Liberties Union Assessment



September 27, 2012

Introduction

In response to a historic U.S. Supreme Court decision ordering California to reduce overcrowding in its dangerously bloated state prisons, one year ago the state Legislature enacted the Public Safety Realignment Act (AB 109). The new law tasked counties with implementing the most significant change in California's criminal justice system in decades. Realignment diverts newly convicted non-violent, low-level inmates to county-run jails and local probation programs, rather than warehousing them in state prison facilities. Additionally, the law includes reforms to the parole system aimed at reducing recidivism. In enacting realignment, the Legislature explicitly encouraged counties to use evidence-based alternatives to incarceration, recognizing that "building and operating more prisons to address community safety concerns [is] not sustainable, and will not result in improved public safety."¹

This briefing paper describes obstacles to the realization of realignment's intent and provides recommendations for improving implementation in year two.

Realignment Year One: Sacramento Must Lead, Not Pass the Buck

Based on our close monitoring of the first year of implementation of realignment, the ACLU of California is deeply concerned about the state's commitment to realignment's success. The state has failed to adopt modest sentencing reforms and other proposed improvements to the criminal justice system that are necessary to stem the tide of people into the state's prisons and jails. Realignment alone will not be sufficient to address California's incarceration crisis.² Notwithstanding realignment, the state continues to lock up too many people for far too long. In addition, without incentives, guidance, or directives from the state, many counties are investing extensively in jail expansion and bolstering law enforcement budgets at the expense of evidence-based alternatives to incarceration. These alternatives are programs and practices that have been proven to reduce recidivism and often do so at a fraction of the cost of incarceration. This is why evidence-based alternatives are at the core of the stated legislative intent of realignment.³

Californians across the state and across the political spectrum overwhelmingly support smart-on-crime policies, including alternatives to incarceration for many low-level offenses, and especially for people who are awaiting trial and who pose little risk to public safety. When voters so strongly support evidence-based public policy, elected officials must be able to follow through. This will require our local and state political leaders to overcome outdated fears of being labeled "soft on crime" by the law enforcement lobby.

Just as important, the state should discourage counties from repeating the same failed policies that led to California's prison overcrowding and recidivism crises. Sacramento must end incentives for jail expansion, which come at the expense of more effective crime prevention tactics, including drug treatment, mental health and job placement programs. Instead, funding must be allocated in a way that incentivizes the outcomes all Californians want: safe neighborhoods and prudent spending. This cannot happen, however, absent any accountability measures. Despite the fact that hundreds of millions

of tax dollars are being spent on realignment and the health and safety of our communities is at stake, the state has not established sufficient mandates, incentives, or oversight as part of realignment.

The Local Incarceration Boom

At its worst, realignment will reveal itself to be nothing more than a shell game, simply moving bodies out of California's dangerously and unconstitutionally overcrowded prisons to local jail facilities. As the state prison population has fallen dramatically in the last year (by nearly 25,000), counties have increased their own jail capacity by more than 7,000 beds, spending tens of millions in state realignment dollars to expand jail capacity.⁴ On top of that, one billion dollars more in state lease-revenue bonds is now in the pipeline to build another 10,000 county jail beds.⁵ This explosion of jail expansion flies in the face of the express legislative intent of realignment to implement proven recidivism-reducing policies, including alternatives to incarceration.⁶

There are some exceptions. In an effort to alleviate jail overcrowding, Monterey has allocated significant realignment funds to implement a pretrial program for the first time in the county's history.⁷ In Sacramento County, the Probation Department has utilized realignment funds to open a new day reporting center, where up to 600 reentering offenders will be referred to mental health, housing, and employment services.⁸ Other counties are making good use of new sentencing options, like split sentencing⁹ for low-level realigned offenses. Contra Costa, for instance, has an 82% split sentencing rate – well above the statewide rate of 24%. This practice safely reduces the jail population and gives the county an opportunity to supervise convicted individuals post-release, where they would otherwise receive no supervision at all.¹⁰

However, far too many counties are using an incarceration-only model and pursuing business as usual in the realigned era. A great many counties – San Mateo, for example – are pushing ahead with jail expansion plans without first instituting better pretrial release programs, which could provide an effective and safe means of alleviating the county's overcrowding problems. Very few counties are making use of the alternative sanctions authorized and contemplated under realignment such as split sentencing with a mandatory supervision tail, electronic monitoring of sentenced defendants and other community supervision options for both pretrial and sentenced individuals.¹¹

The State's Unfinished Work

California must not rely solely on realignment to address the state's over-incarceration crisis. Without further reforms, the state prison overcrowding crisis will persist¹² and counties will be left without the tools and incentives they need to successfully implement realignment. In 2012, however, Sacramento refused to adopt even modest sentencing reforms and other cost-saving improvements to the criminal justice system – reforms which have been successful in several other states, including Michigan, Rhode Island, South Carolina, Wisconsin, and Virginia.¹³ In 2013, the state must show it is serious about reducing prison overcrowding and making realignment succeed by following through on the intentions of the program and supporting county efforts to realize realignment's fullest promise.

Missed opportunities in 2012 included:

- *Passing Moderate Pretrial Reform.* Nearly 70 percent of people in county jails statewide are being held pretrial. A significant portion of these individuals remain in jail waiting for their day in court, not because they present a risk to public safety, but because they cannot afford to pay bail. Notably, Latino and black defendants are more likely than white defendants to be held in jail because of an inability to post bail.¹⁴ SB 210, introduced by Senator Loni Hancock (D-Oakland), would have provided a framework by which pretrial detainees whom the court determines present a minimal risk to public safety could be released to community supervision while they await trial – instead of taking up jail space because they cannot afford bail.¹⁵ This bill simply would have required judges to *consider* whether defendants were appropriate for community monitoring even if they could not afford bail. Jurisdictions across the county that have implemented similar reforms have been able to avoid or reduce jail overcrowding while protecting public safety and saving tax dollars.
- *Passing Fair Drug Sentencing Laws.* SB 1506, introduced by Senator Mark Leno (D-San Francisco), would have added California to the list of 13 states, the District of Columbia, and the federal government which currently treat possession of drugs for personal use as a misdemeanor rather than a felony.¹⁶ This bill would have saved state and county governments a billion dollars over the next five years, according to the non-partisan Legislative Analyst's Office,¹⁷ and allowed communities to preserve jail space for people who pose a risk to public safety. It also would have reduced recidivism by eliminating the lifetime barriers to employment, housing, and education that accompany felony convictions.¹⁸

It is important to note that the public strongly supports each of these reforms. *See* Appendix, Tulchin Research Memorandum. According to data from Tulchin Research surveys conducted in May and September 2012, seven out of 10 likely voters (70 percent) favor allowing courts to require monitoring in the community instead of jail for those who cannot afford to post bail. Another 70 percent support reducing the penalty for simple possession of a small amount of drugs for personal use. Despite this incredibly strong public support for these reforms, Sacramento failed to enact either bill.

Just as troubling, the Governor and Legislature – in the name of county flexibility and autonomy – have refused to mandate data collection that would help counties implement evidence-based recidivism reducing policies, as they are urged to do in AB 109. (The Board of State and Community Corrections (BSCC) and Chief Probation Officers of California (CPOC) have begun collecting data but only on a voluntary basis.)¹⁹ This leaves taxpayers continuing to foot the bill and suffer the public safety consequences of over-incarceration. These consequences include California's dubious distinctions of having the second-highest recidivism rate in the nation, at 65.1 percent²⁰ and one of the country's lowest per-student education spending rates.²¹

The Law Enforcement Lobby, Status Quo's Only Supporter

The dialogue among the state, the counties and voters around public safety policy in California is seriously undermined by the oppositional posture of the state's law enforcement lobby. For years, the District Attorneys', Sheriffs' and Police Chiefs' Associations have aggressively fought virtually any change to the failed public safety status quo. This lobby has exhibited a knee-jerk, pro-incarceration view that many of its individual members do not share; yet these special-interest groups continue to be allowed to engage in unjustified fear-mongering without accountability. Indeed, these lobbying organizations have made a rational discussion about public safety next to impossible in Sacramento.

In what has become a typical display of resistance, the Sacramento law enforcement lobby uniformly opposed SB 210, SB 1506 and a number of other bills, including one that would have helped decrease barriers to employment for individuals with a past conviction, and one that would have increased the opportunity for people who have turned their lives around to have a past conviction expunged.²² And when the law enforcement lobby opposes a bill, legislators listen, wary of being labeled "soft on crime." Policy-makers lend undue credence to the content of law enforcement objections, even where other vested interest groups garner a healthier dose of skepticism.

It is time for this to end. Legislators' fears of being voted out of office for being labeled soft on crime are vastly overblown and outmoded. As Californians are making ever clearer, the politics of fear are giving way to the politics of fiscal responsibility. Today's voters want their elected representatives to be *smart* on crime and are fed up with the billions spent each year incarcerating those who commit low-level non-violent crimes, at the expense of public health, college tuition, primary education and the overall economic health of the state.

The Tulchin Research surveys demonstrated that likely voters are entirely more concerned with the state's poor economic condition, lack of jobs, the state budget and cuts to education than with crime and related issues. Barely 1% ranked crime, drugs, gangs and violence *combined* as the most serious problem. Nearly 4 out of 5 voters (78%) believe that our prisons and jails are overcrowded and we should look for alternatives while only 15% disagree. When given a choice as to how to spend law enforcement dollars, voters overwhelmingly prefer investing in "more prevention and alternatives to jail for non-violent offenders" than building "more prisons and jails" (75% compared with only 12%). Perhaps most significant for state legislators, voters, when asked which candidate they would support for the Legislature – a candidate who supports pretrial release versus a candidate who opposes pretrial release – prefer by a nearly 3-to-1 margin a candidate who supports this reform (63% to 23%). And over half of all likely voters would be more likely to vote for a state representative who supported revising the penalty for simple possession of drugs from a felony to a misdemeanor. Bottom line: politicians need not run from reforms like SB 210 and SB 1506; indeed, they risk losing elections when they submit to the law enforcement lobby and oppose such reforms that voters support so overwhelmingly.

Legislators who bend to the law enforcement lobby risk more than just re-election, however. The safety and well-being of our state demand that legislators stop directing our scarce criminal justice dollars to costly and ineffective means of dealing with social and economic problems and stop maintaining harsh sentencing laws that do nothing to make our communities safer. The overly punitive sentencing laws and prison expansion over the past decades are precisely what got us into our current constitutional and fiscal incarceration crisis and led California to its alarming recidivism rate. High recidivism means more new crimes and more new victims, not more safety.

Year Two and Beyond: Recommendations for the State

While more far-reaching reforms are necessary in our state criminal justice system, the policy recommendations listed below are modest steps that can and should be taken in the next year to help ensure that realignment is successful.

- **Enact statewide front-end sentencing reforms** to expand county flexibility to manage jail space and support successful reentry, including:
 - Revising the penalty for possession of a small amount of drugs for personal use from a felony to a misdemeanor.
 - Revising the penalties for low-level, non-violent property offenses – like minor vandalism or writing a bad check – from felonies to misdemeanors.
 - Limiting the maximum sentence that a person can be incarcerated in a county jail for a non-violent, non-serious and non-sex offense.

- **Amend statewide pretrial detention laws** to limit the number of persons detained in county jails while they await trial to those who actually pose a risk to public safety, including by expanding the availability of release on one’s own recognizance and providing a framework for counties’ provision of pretrial services and conditions of release.

- **Mandate standardized data collection and reporting requirements** to ensure policy-makers’ ability to monitor which policies are working to reduce recidivism and to reduce reliance on incarceration, and then to base policy and budget decisions accordingly, including:
 - Providing the BSCC with an explicit statutory mandate to collect county data to measure the impact of state tax dollars on local public safety practices and outcomes.
 - Defining the parameters of the information required from the counties and expanding upon the data currently being furnished to the BSCC and CPOC.
 - Earmarking a portion of state funding to pay for data collection and reporting.
 - Making the data from the counties available to the public in real time, instead of waiting until agencies have compiled all of the data.

- **Revise rules on how state funding can be used** in order to reduce recidivism and increase use of cost-effective alternatives to incarceration instead of simply expanding jail capacity, including by:
 - Revising the realignment allocation formula to incentivize best practices.
 - Suspending AB 900 and SB1022 funding until recipient counties have implemented less costly and more effective alternatives to incarceration, including pretrial release programs or encouraging counties to use the funds to expand space for rehabilitation, such as Adult Day Reporting Centers and drug treatment facilities.

Conclusion

Our political leaders have the power to improve our state's justice system, saving both money and lives. They can do so by rejecting the law enforcement lobby's fear-mongering and insisting upon programs and policies that maximize public safety return for taxpayer investment. Doing so will not only help to relieve our prison and jail crowding crisis, but will help to make our criminal justice system more rational and effective for all Californians. We call on Sacramento to step up to the challenge and make the policy changes necessary to truly reform our state's broken system.

¹ Cal. Penal Code § 17.5(a)(3).

² The state is now asserting it cannot meet the population reductions ordered by the U.S. Supreme Court in *Plata v. Brown*, and are urging the three-judge *Plata* panel to allow California's prisons to operate indefinitely at 145% of design capacity. See Defendant's September 2012 Status Report in Response to June 30, 2011 Order (Sep 14, 2012), p. 2 (hereinafter "CDCR Status Report"). Updated figures are available at http://www.cdcr.ca.gov/News/3_judge_panel_decision.html.

³ See Cal. Penal Code § 17.5, codifying the following legislative findings: "California must reinvest its criminal justice resources to support community-based corrections programs and evidence-based practices Realigning low-level felony offenders who do not have prior convictions for serious, violent, or sex offenses to locally run community-based corrections programs, which are strengthened through community-based punishment, evidence-based practices, improved supervision strategies, and enhanced secured capacity, will improve public safety outcomes among adult felons and facilitate their reintegration back into society. Community-based corrections programs require a partnership between local public safety entities and the county to provide and expand the use of community-based punishment for low-level offender populations. Each county's Local Community Corrections Partnership . . . should play a critical role in developing programs and ensuring appropriate outcomes for low-level offenders." Section 17.5 defines "community-based punishment" as "correctional sanctions and programming encompassing a range of custodial and noncustodial responses to criminal or noncompliant offender activity."

⁴ See ACLU of California, *Public Safety Realignment: California at a Crossroads*, (2012) (hereinafter "California at a Crossroads"), Appendix A, County Profiles, available at https://www.aclunc.org/docs/criminal_justice/public_safety_realignment_california_at_a_crossroads.pdf. ACLU staff analyzed the realignment implementation plans of the 25 counties receiving the largest funding allocations from the state for fiscal year 2011-2012 and recorded the number of jail beds each county intended to add or reopen in its facilities using realignment funds, as stated in its plan. The sum of the allocations to these 25 counties comprised 92 percent of the total realignment allocations from the state.

⁵ Public Safety and Offender Rehabilitation Services Act of 2007, A.B. 900, 2007-2008 Regular Session, Ch. 7 (Cal. 2007); S.B. 1022, 2011-2012 Regular Session, Ch. 42 (Cal. 2012); see also Cal. Gov't Code § 15819.40, et seq. This Act, commonly referred to as "AB 900," authorized \$1.2 billion in lease revenue bonds for the construction and expansion of county jail facilities. In June of 2012, the state passed SB 1022, which added Cal. Gov't Code section 15820.922 authorizing an additional five hundred million in lease revenue bond authority for local jail construction. Distribution of the funds is managed by the Board of State and Community Corrections.

⁶ See Cal. Penal Code § 17.5, *supra* note 3.

⁷ See Monterey County Board of Supervisors, AB 109 Budget FY 12-13 Attachment A, (Sept. 25, 2012), available at <http://monterey.legistar.com/View.ashx?M=F&ID=2125945&GUID=8A3F0C2D-7483-48C4-90BF-449A4C225101>.

⁸ Sacramento County Community Corrections Partnership, 2011 Public Safety Realignment Plan (Nov. 1, 2011), available at http://www.calrealignment.org/component/docman/doc_download/101-sacramento-county-plan.html?Itemid.

⁹ Cal. Penal Code § 1170(h)(5)(B) authorizes judges to reduce the sentence of someone convicted of a non-violent, non-serious, non-sex-offense, and place him or her on a "concluding supervisory term." For instance, if a defendant is to be sentenced for a period of three years, a judge may require a defendant to serve eighteen months in county jail, and then serve the remaining time on mandatory supervision.

¹⁰ See Chief Probation Officers of California, *Contra Costa Realignment Dashboard* (March 2012), available at http://67.199.72.34/php/realign/dashboardinfo/dashboard_county.swf (hereinafter "March 2012 CPOC Dashboard") (showing that 80 of the 98 individuals convicted of 1170(h) eligible offenses in Contra Costa County between October 2011 and March 2012 were issued split sentences).

¹¹ For example, Kern, Monterey and San Bernardino Counties are sentencing the vast majority (89%, 95% and 84% respectively) of individuals convicted of 1170(h) eligible offenses to jail only. See March 2012 CPOC Dashboard, *supra* note 10.

¹² See CDCR Status Report, *supra* note 2.

¹³ Vera Institute of Justice, *Realigning Justice Resources A Review of Population and Spending Shifts in Prison and Community Corrections*, (September 2012), p. 2, available at <http://www.vera.org/files/Full%20Report.pdf>.

¹⁴ Stephen Demuth, *Racial and Ethnic Differences in Pretrial Release Decisions and Outcomes: A comparison of Hispanic, Black, and White Felony Arrestees*, 41 *Criminology* 873-907 (2003).

¹⁵ S.B. 210, 2011-2012 Regular Session (Cal. 2012), available at http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0201-0250/sb_210_bill_20120822_amended_asm_v95.pdf; the bill history is at: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0201-0250/sb_210_bill_20120822_history.html.

¹⁶ S.B. 1506, 2011-2012 Regular Session (Cal. 2012), available at: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1501-1550/sb_1506_bill_20120522_amended_sen_v98.pdf; the bill history is at: http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_1501-1550/sb_1506_bill_20120531_history.html.

¹⁷ See Letter from Mac Taylor, Legislative Analyst, to Mark Leno, California State Senator, San Francisco, Marin and Sonoma, (Feb. 28, 2012); see also Senator Leno's announcement of the bill and Legislative Analyst's Office estimates, available at <http://sd03.senate.ca.gov/news/2012-02-27-leno-bill-revises-penalty-simple-drug-possession>.

¹⁸ See Christy Visher, Sara Debus & Jennifer Yahner, *Employment after Prison: A Longitudinal Study of Releasees in Three States*, Justice Policy Center Research Brief (Oct. 2008), available at http://www.urban.org/UploadedPDF/411778_employment_after_prison.pdf (study indicating that inmates who were employed and earning higher wages after release were less likely to return to prison the first year out); see also National Employment Law Project and Rubicon Programs, *Education and Job Training Programs are Key to a Successful Realignment Initiative*, included in California at a Crossroads, *supra* note 4, Appendix C (explaining how research has demonstrated that employment is a key factor in reducing recidivism).

¹⁹ As the Legislative Analyst's Office has noted in a recent report, the precise role and duties of the BSCC need to be further specified: "The Legislature has defined BSCC's mission broadly, requiring that it collect and disseminate data and information, provide technical assistance to counties, and offer leadership in the area of criminal justice policy. However, the Legislature has not specifically laid out in statute BSCC's responsibilities in fulfilling this mission, leaving open a number of questions that need to be addressed. For example, how should BSCC be structured, what types of data should it collect, what form should its technical assistance take, and how can it help ensure local accountability and success?" See LAO Report, *The 2012-13 Budget: The 2011 Realignment of Adult Offenders—An Update*, p. 9, (Feb. 22, 2012), available at

http://lao.ca.gov/analysis/2012/crim_justice/2011-realignment-of-adult-offenders-022212.pdf.

²⁰ See California Department of Corrections and Rehabilitation, *2011 Adult Institutions Outcome Evaluation Report* (November 2011), p. 12, available at:

[http://www.cdcr.ca.gov/Adult_Research_Branch/Research_Documents/ARB_FY_0607_Recidivism_Report_\(11-23-11\).pdf](http://www.cdcr.ca.gov/Adult_Research_Branch/Research_Documents/ARB_FY_0607_Recidivism_Report_(11-23-11).pdf) (noting the 65.1% recidivism rate); see also table comparing state recidivism rates in: The Pew Center on the States, *State of Recidivism April 2011: The Revolving Door of America's Prisons*, pp. 10-11, available at

http://www.pewtrusts.org/uploadedFiles/wwwpewtrustsorg/Reports/sentencing_and_corrections/State_Recidivism_Revolving_Door_America_Prisons%20.pdf (finding that California has the second-highest recidivism rate in the nation).

²¹ California is ranked 35th in the nation in per pupil spending. See US Census Bureau, *2010 Annual Survey of Local Government Finances - School Systems* (June 2012), Table 11: States Ranked According to Per Pupil Public Elementary-Secondary School System Finance Amounts 2009-10, available at <http://www.census.gov/govs/school/>.

²² See A.B. 1831 (Dickinson), 2011-2012 Regular Session (Cal. 2012), available at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB1831&search_keywords= (held in the Senate Committee on Local Governance <http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml>); A.B. 2263 (Bradford), 2011-2012 Regular Session (Cal. 2012), available at http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB2263&search_keywords= (held in the Senate Committee on Appropriations <http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml>).

Appendix

Tulchin Research

Survey Results

**New California Statewide Poll Finds Strong Support for Alternatives to
Incarceration, Strong Opposition to Building More Jails**

September 27, 2012

To view survey results from May 2012, visit

https://www.aclunc.org/issues/criminal_justice/asset_upload_file19_10808.pdf.

September 27, 2012

To: Interested Parties

From: Ben Tulchin, Corey O'Neil and Isaac Hale; Tulchin Research

Re: New California Statewide Poll Finds Strong Support for Alternatives to Jail for Non-Violent Offenders, Strong Opposition to Building More Jails

Tulchin Research recently conducted a statewide survey among likely California voters to assess public opinion toward budget priorities and criminal justice issues one year into the state's "realignment" plan to shift certain public safety responsibilities and resources to the counties. In general, **voters believe our elected officials should invest much more into alternatives to incarceration than they are doing now** and **they do not want taxpayer dollars used to build more prisons and jails**. Specifically, voters in California strongly support reforming pre-trial release policies to require supervised monitoring in the community instead of jail while awaiting trial and they are willing to hold elected officials accountable for not supporting this reform. We provide below a summary of key findings from the survey.

Summary of Survey Results

As state and local elected and law enforcement officials continue to implement "realignment" and make critical decisions about resources for public safety programs, the signal from voters could not be any clearer – **invest in prevention and alternatives to incarceration and NOT more prisons and jails**.

- Voters fundamentally believe that "our prisons and jails are overcrowded and we should find other ways to hold people accountable for non-violent offenses" as nearly four out of five voters (78 percent) agree with this statement to only 15 percent who disagree. The remaining seven percent are undecided.
- In deciding how to spend law enforcement budgets, California voters demand that the state and counties should "invest in more prevention and alternatives to jail for non-violent offenders" as three quarters (75 percent) share this view to only one out of six (12 percent) who feel the state and counties should "build more prisons and jails".

Invest in Alternatives for Non-Violent Offenders vs. Build More Prisons and Jails

When it comes to priorities for law enforcement budgets, should the state and counties:

Invest in more prevention and alternatives to jail for non-violent offenders

75%

Build more prisons and jails

12%

Both

1%

Neither

2%

Don't Know/NA

9%

The survey found that voters of all parties – Democrats, Republicans and independents – agree that our jails are overcrowded and overwhelmingly want the state and counties to invest in prevention and alternatives to prison and jail instead of building more prisons and jails. Notably, four out of five Democrats (82 percent) and independents (80 percent) as well as nearly two-thirds (62 percent) of Republicans prefer investing in alternatives to incarceration for non-violent offenders over building more prisons and jails.

In looking at specific policy options for alternatives to incarceration, **a solid majority of voters (70 percent) favors allowing courts to require supervised monitoring in the community for people charged with non-violent offenses instead of jail while awaiting trial.** In fact, twice as many voters **strongly support** this reform than oppose it in total (39 percent strongly support this proposal compared to 19 percent who either strongly or somewhat oppose it), with the remaining 11 percent undecided. The table below shows the specific percentages in support as well as the exact question language that we used.

Pre-Trial Release (Monitoring in the Community Instead of Jail): Favor vs. Oppose

<i>Currently, many people remain in jail awaiting trial because they cannot afford to pay for bail. Would you favor or oppose allowing courts to require monitoring in the community for people charged with non-violent offenses instead of jail while awaiting trial, which could save the state and counties tens of millions of dollars per year?</i>	
Total Favor	70%
Strong Favor	39%
Somewhat Favor	31%
Total Oppose	19%
Strong Oppose	12%
Somewhat Oppose	7%
Undecided	11%
Favor – Oppose	+51

Similar to the support we saw for alternatives to incarcerating non-violent offenders, the backing for pre-trial release is strong among a wide range of demographic groups throughout the state.

- Large majorities of Democrats (79 percent), independents (71 percent) and Republicans (55 percent) favor this proposed change in criminal justice policy.
- Voters in every region of the state would like to see this reform implemented.
 - Voters in the Bay Area, LA County and the counties surrounding LA County including Orange County and the Inland Empire support this proposal at equally high levels (73 percent);
 - Other regions also support it as two-thirds of voters in the Central Valley (66 percent), nearly two-thirds of San Diego County voters (63 percent), and almost three out of five voters in the Sacramento area and the far northern part of the state (58 percent) want to see this reform become law.
- Voters 50 and over (70 percent) back this proposed new law at slightly higher levels than voters under 50 (68 percent).
- There is no discernible gender gap as both women (71 percent) and men (68 percent) want to see more pre-trial release with monitoring in the community.

- There is solid support across ethnic lines as 86 percent of African Americans, 75 percent of Asians, 70 percent of Caucasians, and 68 percent of Latinos would like the courts to begin requiring community monitoring for people charged with non-violent offenses awaiting trial.

The table below shows support for this proposed reform by key demographic groups.

Support for Pre-Trial Release by Demographic Groups

	<u>Favor</u>	<u>Oppose</u>	<u>Favor - Oppose</u>
<i>Total</i>	70%	19%	+51
<i>Party</i>			
Democrat	79%	10%	+69
Republican	55%	34%	+21
DTS/Other	71%	20%	+51
<i>Region</i>			
LA County	73%	16%	+57
LA Area	73%	20%	+53
Bay Area	73%	16%	+57
San Diego	63%	28%	+35
Sacramento/North	58%	26%	+32
Central Valley	66%	23%	+43
<i>Race</i>			
White	70%	20%	+50
Latino	68%	19%	+49
Black*	86%	11%	+75
Asian*	75%	21%	+54
<i>Gender</i>			
Male	68%	23%	+45
Female	71%	17%	+54
<i>Age</i>			
18-49	68%	23%	+45
50+	70%	18%	+52

*small sample size

The survey presented to voters a hypothetical match-up between two potential candidates for the State Legislature – one candidate who voted **in favor of** allowing more monitoring in the community instead of jail for people awaiting trial for non-violent offenses running against a candidate who voted **against** this proposal. The reform candidate won by a nearly 3-to-1 margin with 63 percent to only 23 percent for the candidate opposing the reform. The reform candidate drew bipartisan support and led among Democrats (74 percent to 14 percent), independents (64 percent to 22 percent) and even Republicans (46 percent to 36 percent).

How a State Legislative Candidate Fares by Supporting or Opposing Reforming Pre-Trial Release for Non-Violent Offenders

Here are two descriptions of candidates for State Legislature and their positions on the proposal to allow for more monitoring in the community instead of jail for people charged with non-violent offenses. Please tell me which candidate you would vote for.

<i>A candidate who voted in favor of this reform because it will save money, create room in our crowded prisons for dangerous criminals and is a smarter way to fight crime.</i>	63%
<i>A candidate who voted against this proposal because it is opposed by law enforcement and would make our communities less safe.</i>	23%
Both	0%
Neither	1%
Don't Know/NA	13%

In sum, voters want elected officials to invest in more alternatives to incarceration for non-violent offenders, strongly oppose efforts to build more prisons and jails, firmly support reforming pre-trial release policies to allow for monitoring in the community instead of holding people charged with non-violent offenses, and indicate they will hold state legislators accountable if they do not support these popular reforms.

Survey Methodology: From September 19-23, 2012, Tulchin Research conducted a telephone survey among 500 Likely November 2012 voters in California using live, professional interviewers calling both landlines and cell phones. The margin of error for this survey is +/- 4.4 percentage points.