

Vera Institute of Justice

Criminal Justice Issues and Prisoners' Rights

<https://www.vera.org/blog/the-unfulfilled-promise-of-realignment-in-california>

Public Facing Advocacy Writing

In the most recent issue of the [Federal Sentencing Reporter](#), leaders of Californias criminal justice system comment on the states Realignment policy, which aims to reduce the prison population by transferring certain lower-level inmates to county jails. In this guest blog post, Vera asked Don Specter, executive director of the non-profit Prison Law Office, to add his point of view. The Prison Law Offices challenge to the poor conditions found in Californias overcrowded prisons ultimately led to the landmark Supreme Court ruling of [Brown v. Plata](#), which found the conditions violated the constitutional ban on cruel and unusual punishment and prompted the state to adopt its Realignment policy.

The back story behind the Realignment policy is Californias stubborn unwillingness to confront the serious problems that have plagued its prison system for decades. The Prison Law Office and its co-counsel, most notably Rosen, Bien, Galvan & Grunfeld, have spent decades attempting to force California to provide humane conditions to its now 123,000 state prisoners. Although the Supreme Court held in *Brown v. Plata* that overcrowding was preventing prison officials from providing essential health care to prisoners, California remains deliberately indifferent to their basic needs. Earlier this month a federal judge wrote that state officials have simply divorced themselves from reality.

Realignment is Californias incomplete response to the Supreme Courts order. It does not reduce the population to court-ordered levels, and the Governor has stated he will not comply absent another unfavorable ruling from the Supreme Court.

Realignment gave the counties virtually unlimited discretion to reform their own criminal justice system; it left them free to develop cost-effective evidence-based programs or to continue their reliance on incarceration. What realignment didn't do is address the underlying causes that led to prison overcrowding or the implications of the Supreme Court's decision to place a limit on California's prison population.

The Governor's and legislatures decision not to change the length of any sentences means that the number of offenders incarcerated will not abate, while the Supreme Court's decision upholding a population cap effectively made prison and jail beds a scarce resource. As several of the articles in the current issue of *Federal Sentencing Reporter* recognize, this untenable situation calls for the creation of a public safety commission to devise a sentencing scheme that is based on data, risk, proven practices, and available resources.

In the meantime, some counties, such as San Francisco, will continue to find new ways to reduce recidivism and lower jail populations through successful alternatives to incarceration, while other counties will continue the failed policies of the state by overcrowding their jails and, in the process, deprive prisoners of their right to be free from the cruel and unusual conditions that the Supreme Court recently condemned.

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