

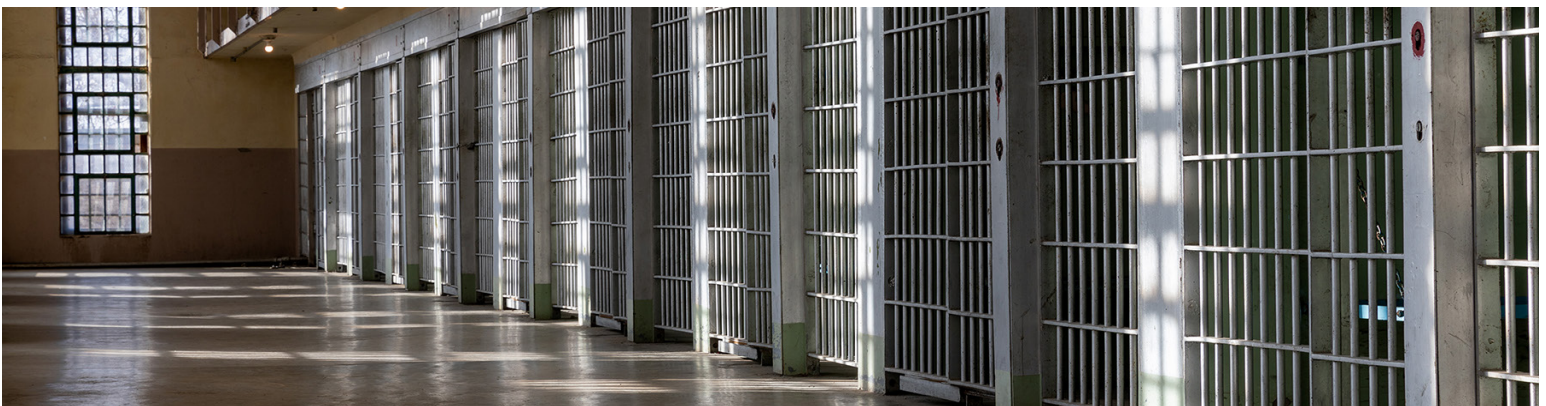


# *Public Safety Realignment*

Weak State and County Oversight Does Not Ensure That Funds Are Spent Effectively

*March 2021*

**REPORT 2020-102**





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March 25, 2021  
**2020-102**

The Governor of California  
President pro Tempore of the Senate  
Speaker of the Assembly  
State Capitol  
Sacramento, California 95814

Dear Governor and Legislative Leaders:

As directed by the Joint Legislative Audit Committee, my office conducted an audit of Alameda, Fresno, and Los Angeles counties and the Board of State and Community Corrections (Corrections Board). Our assessment focused on public safety realignment, and we determined that these three counties and the Corrections Board have not done enough to mitigate the effects of realignment or effectively overseen related spending and services.

Among the effects that these counties have experienced since 2011, when the Legislature transferred from the State to counties the responsibility for incarcerating and supervising certain offenders, are the following:

- Fresno and Los Angeles have experienced increased jail overcrowding, and neither county has met the State's jail capacity standards by reducing its jail population or taking other mitigating actions.
- Alameda and Fresno do not share sufficient information about inmates' mental health with jail staff, who are responsible for deciding about inmates' housing and safety.
- The counties' jails often lack adequate outdoor and educational facilities to provide certain vocational and rehabilitative programs for inmates who serve terms longer than three years.

To support the counties' realignment responsibilities and offset the costs of providing required public safety services, the State allocated \$6 billion to California's counties in fiscal year 2019–20. However, because the three counties we reviewed have narrowly interpreted the scope of public safety realignment funding, their Community Corrections Partnership committees—responsible for monitoring such spending—have overseen less than 20 percent of the funding the counties receive. Each county also maintains excessive realignment surpluses, which they could spend to improve public safety. Finally, the counties lack comprehensive planning and oversight for realignment spending, without which they cannot make informed decisions.

The Corrections Board has also narrowly interpreted the scope of realignment funding and it has not provided counties with sufficient guidance to report consistent information. As a result, the Corrections Board's reports to the Legislature are incomplete and inconsistent, which hinders the Legislature's ability to evaluate the effects of public safety realignment.

Respectfully submitted,

A handwritten signature in black ink that reads "Elaine M. Howle". The signature is written in a cursive, flowing style.

ELAINE M. HOWLE, CPA  
California State Auditor

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## Summary

### Results in Brief

To reduce state prison overcrowding and help lower the State's incarceration costs, beginning in 2011, the Legislature transferred the responsibility for managing certain offenders sentenced for nonviolent, nonserious offenses and for non-sex offenders, including both inmates and probationers, from the State to counties—a change in responsibility commonly referred to as *public safety realignment* or simply *realignment*. Under realignment, some newly sentenced inmates who previously would have served their sentences in a state prison instead serve their sentences in a county jail. In fiscal year 2019–20, the State allocated more than \$6 billion in public safety realignment funds to counties to offset their costs of incarcerating, supervising, and rehabilitating these offenders. State law requires each county to have a Community Corrections Partnership committee (Partnership Committee), which, among other things, is required to oversee realignment spending and make recommendations for effective use of all realignment funds the State provides. Additionally, the State established the Board of State and Community Corrections (Corrections Board) to provide statewide leadership in criminal justice and report counties' realignment efforts to the Governor and the Legislature each year.

Our audit of three counties—Alameda, Fresno, and Los Angeles—found that realignment has affected county jails in a variety of ways. We found that realignment contributed to overcrowding at the Fresno and Los Angeles county jails, and these counties have exceeded the State's jail capacity standards in the years since the State enacted realignment. However, neither county has made adequate efforts to manage its jail population to meet state standards. Along with housing the influx of inmates that resulted from realignment, state law also intended for county jails to make educational, rehabilitative, and exercise opportunities available to all inmates; however, the counties we reviewed struggled to do so. Counties generally built their jail facilities before realignment, and the jails were only intended to house inmates for sentences up to one year. As a result, officials at the three counties we reviewed stated that they lack the facilities and resources to provide a number of vocational trade programs to prepare inmates for reentry to the community. Further, these three counties' jails often lack adequate outdoor facilities for inmates to engage in physical activities or exercise sufficiently. These facility limitations are of particular concern because county jails may house some realigned inmates for significantly longer than three years and in some cases longer than 10 years. Since local facilities were generally not designed or intended to house inmates serving long terms, it may be more effective for this small portion of realigned inmates to serve their

### Audit Highlights . . .

*Our audit of the realignment fund spending of three counties—Alameda, Fresno, and Los Angeles—highlighted the following:*

- » *Realignment contributed to overcrowding in Fresno and Los Angeles, but they have not made adequate efforts to manage their jail populations.*
- » *All three counties indicate they lack the facilities to provide inmates with sufficient educational, rehabilitative, and exercise opportunities.*
- » *Alameda and Fresno lack sufficient information regarding whether inmates have mental illnesses, which hinders their ability to make critical housing and care decisions to keep inmates safe.*
- » *There is a lack of comprehensive planning and oversight because the counties have narrowly interpreted the scope of realignment funding.*
  - *The counties' Partnership Committees have overseen less than 20 percent of their public safety realignment funding.*
  - *Each county had significant surpluses in many of their public safety realignment accounts.*
  - *Counties inadequately assess the effectiveness of their realignment programs.*
- » *Similar to the counties, the Corrections Board narrowly interpreted the scope of realignment funding. As a result, its oversight of counties has been insufficient and it reports inconsistent and incomplete information to the Governor and the Legislature.*

time in state prison rather than county jails, where rehabilitative opportunities are limited. Although realignment placed additional burdens on counties, each of the counties we reviewed asserted that realignment also had a positive effect, namely, the creation of state-required Partnership Committees, which made reducing recidivism a collaborative effort among various county departments and community organizations.

We also found that two counties could do more to identify inmates with mental illnesses to keep their inmates and jail staff safe from violence or injury. Specifically, Alameda's and Fresno's mental health providers do not share sufficient information with their jail staff about inmates who have mental illnesses. As a result, they deprive jail staff of critical information needed to make housing and supervision decisions to keep these inmates and others safe. In fact, Alameda only conducts mental health assessments of inmates who exhibit certain behaviors or disclose a history of mental illness to jail staff. Without assessing all inmates, Alameda cannot be sure it is providing the mental health care they need. In contrast, Los Angeles conducts comprehensive mental health screenings for all jail inmates and mental health providers share relevant information regarding inmates' mental health history to jail staff.

Further, our audit of the oversight of realignment funding by the three counties and the Corrections Board found that they have narrowly interpreted the scope of realignment funding from the State, resulting in weak oversight of realignment efforts. As a result, the counties have not fully reported to the State all of their realignment funding sources that are meant to fund public safety realignment and have limited their oversight to only a small portion of the funding. Specifically, in Alameda and Fresno, the Partnership Committees, which state law intended to provide oversight of realignment spending, have generally planned for and overseen the funds of just one of 10 public safety realignment accounts—the Community Corrections account. In the case of Los Angeles, its Partnership Committee oversees just two accounts—the Community Corrections account and the District Attorney and Public Defender account. As a result, the funds that each county's Partnership Committee oversees represent less than 20 percent of the public safety realignment funding those counties receive. Based on our review of the realignment legislation, the counties should have included in their oversight responsibilities all 10 of the public safety accounts that state law required the counties to create as a result of realignment.

Without comprehensive planning and oversight, counties cannot ensure that their decisions regarding the use of public safety realignment funds are well informed. The counties we reviewed may have planned and spent public safety realignment funding



differently had they taken a more comprehensive view of all of the funds available for their public safety efforts. Because the counties limited their oversight of public safety realignment funding to only one or two of the 10 public safety accounts, they have underreported public safety realignment spending by at least 80 percent to the Corrections Board. We also found that each of the counties had significant surpluses in many of their public safety realignment accounts. In addition, we found that counties do not adequately evaluate their realignment programs to determine their effectiveness or to ensure that they are spending public safety realignment funding in the most prudent manner.

Similarly, the Corrections Board has failed to provide sufficient oversight of, and guidance to, the counties and, as a result, has reported inconsistent and incomplete information to the Governor and the Legislature each year. The Corrections Board did not identify that counties failed to report most of their realignment expenditures because, similar to the counties we reviewed, it also has a narrow interpretation of public safety realignment funding. Additionally, the Corrections Board has not sufficiently fulfilled its duty to identify and promote best practices, leaving counties without the tools to implement realignment effectively. Without appropriate oversight of realignment efforts by the Corrections Board, the State lacks the information needed to assess the impacts of public safety realignment, which could aid the Legislature in decision making and planning potential policy changes.

## **Selected Recommendations**

### ***Legislature***

To ensure that inmates serving lengthy terms have adequate educational, rehabilitative, and exercise opportunities, the Legislature should amend state law to limit the time inmates can spend in county jail to terms of no more than three years. In the event that the total sentence exceeds three years, it should require that the inmate serve the sentence in state prison.

### ***Counties***

To comply with the State's jail capacity standards, Los Angeles and Fresno should take steps to address overcrowding in their jails, while ensuring public safety.

To ensure that county jails identify inmates with mental illnesses and provide adequate mental health care to those inmates, Alameda should immediately begin conducting mental health screening of all inmates upon admission to the county jail.

To ensure that county jails have sufficient information to determine appropriate housing and supervision of inmates with mental illnesses, by June 2021 Alameda and Fresno should develop a process requiring mental health providers to share with jail staff the mental status of all inmates.

To ensure that the counties prudently and appropriately spend realignment funds, the Partnership Committees in Alameda, Fresno, and Los Angeles should annually review and make budget recommendations for all public safety realignment accounts. Further, the counties should ensure that they budget all realignment funds to eliminate excessive surpluses in realignment accounts and prevent future surpluses beyond a reasonable reserve.

To ensure that the programs and services they provide with public safety realignment funds are effective, Alameda, Fresno, and Los Angeles should conduct evaluations of the effectiveness of these programs and services at least every three years.

To ensure that the counties report accurate and consistent information to the Corrections Board, Alameda, Fresno, and Los Angeles should consistently report all law enforcement and non-law enforcement expenditures funded through the accounts that constitute public safety realignment.

### ***Corrections Board***

To assist counties' Partnership Committees in reporting consistent and complete information regarding their public safety realignment funding, by June 2021 the Corrections Board should do the following:

- Develop and distribute guidance to counties of its expectations for reporting financial information related to all public safety realignment accounts.
- Develop and implement a process to review and analyze the information that counties provide about their realignment activities and expenditures each year.

To ensure that it provides state leadership and promotes best practices for counties to use, the Corrections Board should annually conduct independent analyses of best practices related to public safety realignment and make the results available as guidance to counties beginning in March 2022.

### **Agency Comments**

Alameda, Fresno, and Los Angeles counties, and the Corrections Board, agreed with some of our recommendations and stated that they would take actions to implement them. However, each of the counties and the Corrections Board disagreed with our interpretation that state law requires them to oversee and report on all public safety realignment accounts.

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# Introduction

## Background

Beginning in 2011, to address a federal mandate to alleviate state prison overcrowding and help lower the State's incarceration costs, the Legislature enacted so-called realignment laws that transferred—or realigned—the responsibility for managing certain offenders from the State to counties. The U.S. Supreme Court found that overcrowding in California prisons created unsafe and unsanitary conditions, promoted unrest and violence, and caused latent mental illnesses among prisoners to worsen.<sup>1</sup> As a result, the U.S. Supreme Court ordered California to reduce its prison population from almost double its capacity to less than 140 percent of its prisons' designed capacity within two years. The U.S. Supreme Court gave the State flexibility in how it would achieve the reduction, noting that there were various available methods of reducing overcrowding that would have little or no impact on public safety. These methods included providing inmates with time credits for good behavior and diverting low-risk offenders to community programs. California chose to address some of the overcrowding by sentencing certain types of felons, who previously would have served their time in state prison, to county jails through a complex package of legislative measures commonly referred to as *public safety realignment*, here referred to simply as *realignment*. The State expected realignment to lead to lower incarceration and recidivism rates—the rate at which individuals relapse by committing crimes and return to the criminal justice system—and lower state costs.

Realignment shifted the responsibility for offenders sentenced for nonviolent, nonserious offenses and for non-sex offenders from the State to local jurisdictions. State law defines 23 offenses as violent crimes, such as murder and rape, and considers other crimes nonviolent. However, despite the implication that nonviolent, nonserious, non-sex offenders whom the State has moved to county facilities under realignment have committed lesser crimes, some of these offenders may be very dangerous. According to officials at all three of the counties we reviewed, some realigned inmates have violent criminal histories, and other offenders' convictions were the results of plea bargains for lesser charges than the crimes for which they were originally accused. For example, a defendant accused of robbery charges may plead guilty to grand theft, which is not a violent offense. Hence, although a realigned inmate's current conviction may be for a nonviolent, nonserious, non-sexual offense,

<sup>1</sup> *Brown v. Plata*, 563 U.S. 493 (2011).

the inmate may have a prior criminal history that involves more serious or violent felony offenses. We describe the impact that these inmates may have on county jails in Chapter 1.

Under realignment, counties assumed many of the State's former responsibilities for realigned inmates and individuals on probation. For instance, before realignment, state law required county jails to hold only inmates with sentences up to one year, whereas inmates with longer sentences served their time in a state prison. However, under the realignment law, nonviolent, nonserious, non-sex offenders can now serve up to three years in a county jail for each offense. A court can sentence offenders for multiple crimes but allow them to serve their sentences either concurrently—meaning at the same time—or consecutively, meaning one after the other. As a result, the counties stated that inmates whom the courts order to serve consecutive sentences may spend many years in a county jail. In addition, realignment also transferred the responsibility for postrelease supervision of certain state prison inmates from the California Department of Corrections and Rehabilitation (CDCR) to county probation departments. In an effort to reduce recidivism, state law also expresses the legislative intent that counties make educational, rehabilitative, and restorative justice programs available to inmates and individuals on probation.

### **Allocation and Use of Realignment Funds**

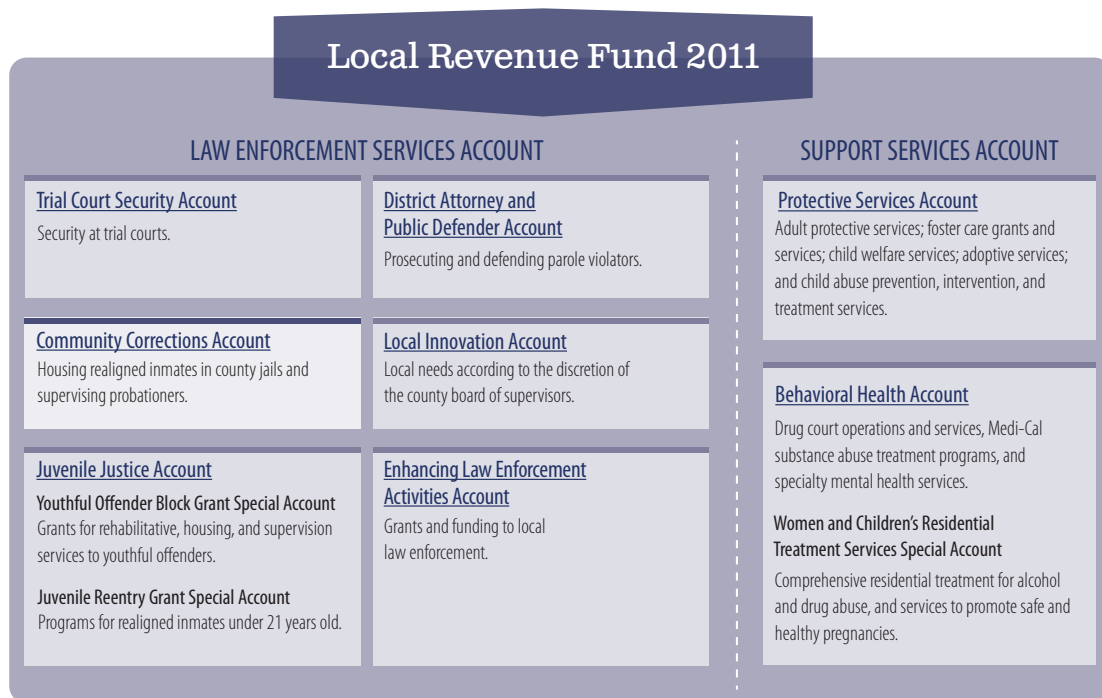
The State allocates funds to counties each year to offset their additional public safety costs associated with realignment. Realignment funds constitute a portion of the revenue from state sales tax and vehicle license fees, which vehicle owners pay annually in California. The law allows the State to provide counties an annual guaranteed amount as well as an additional amount that varies from year to year depending on whether funds are available. In fiscal year 2019–20, the State provided a total of \$6 billion in public safety realignment funds to California's counties.

When the State enacted public safety realignment, it consolidated state funding sources that previously existed to fund some of the counties' public safety services. It established the Local Revenue Fund 2011 in each county for the purpose of public safety and created eight accounts within the fund.<sup>2</sup> Figure 1 lists the counties' eight public safety realignment accounts and provides a brief summary of the purpose of each account we reviewed. As Figure 1 shows, we also reviewed two additional accounts related to public

<sup>2</sup> State law created a complex account structure for these eight public safety realignment accounts, which include accounts, subaccounts, and special accounts. For the purposes of this audit, we will refer to all of these sources as accounts.

safety realignment—the Community Corrections Performance Incentive Fund and the Recidivism Reduction Fund—that the State created after the initial 2011 legislation, for a total of 10 public safety realignment accounts. For example, before 2011, the State gave counties funds to enhance the capacity of county probation departments to provide services to youthful offenders, including mental health, drug and alcohol treatment, housing, and supervision services. After realignment, counties still received this funding, but the State designated it as a part of the Juvenile Justice account. In fact, the State allocates funding to each of the counties into the specific, designated accounts created within the Local Revenue Fund 2011. The Legislature also restricted the counties’ use of funds in the accounts listed in Figure 1 exclusively for public safety services.

**Figure 1**  
**The State Distributes Realignment Funds to Counties for Specific Public Safety Purposes**



**Recidivism Reduction Fund\***

Programs that are known to reduce recidivism and enhance public safety.

**Community Corrections Performance Incentive Fund\***

Supervision and rehabilitative services for adult felony offenders, and implementing corrections practices and programs proven to reduce recidivism.

Source: Analysis of state law and budget bills.

\* Although the Legislature created these funds after it enacted realignment legislation in 2011, we have included them in our review because they pertain to public safety programs that the counties administer.

The State appropriates realignment funds into the 10 accounts we reviewed for a variety of public safety services that counties provide to individuals both within and outside the criminal justice system through various county departments and local organizations. For example, the State provides funds in the Community Corrections account for county sheriffs to house realigned inmates in jails and for probation departments to supervise certain individuals after the State or counties release them from prison or jail. The State also provides funds for services that can reduce crime and recidivism, such as substance abuse treatment services. Non-law enforcement agencies, such as counties' health or social services departments provide most of these services, but may also contract with private organizations or community-based organizations as well. Counties may contract with private entities, such as private health care companies, to provide mental health services to inmates in their jails. Similarly, counties may contract with community-based organizations to provide counseling and substance abuse treatment to individuals on probation.

#### Each county's Partnership Committee must include representatives ...

##### ... from certain positions:

- Probation chief, as chair
- Superior court judge or designee
- A county supervisor or designee
- District attorney
- Public defender
- Sheriff
- A chief of police

##### ... from the head of specific departments or programs:

- Social services
- Mental health
- Employment
- Alcohol and substance abuse treatment

##### ... and representatives for:

- Community-based organizations that provide services to offenders
- Victims

Source: State law.

#### County Partnership Committees' Oversight and Responsibilities

State law provides the framework for each county to establish a Community Corrections Partnership committee (Partnership Committee), which is an advisory body that focuses on implementing realignment, among its other duties. State law requires the Partnership Committees to oversee county efforts to integrate offenders into society successfully. Specifically, it requires Partnership Committees to recommend plans to implement public safety realignment and include recommendations to maximize the effectiveness of resources in programs, such as drug courts, mental health treatment, counseling, education, and work training. Further, state law requires the Partnership Committees to include stakeholders with experience in successfully providing rehabilitative services to people who have been convicted of a criminal offense. The county's chief probation officer (probation chief) must chair the Partnership Committee, and it must include certain representatives, as the text box shows.

As a part of their responsibilities, Partnership Committees are required to recommend plans for how their respective counties will implement public safety realignment programs



and services. Specifically, in 2011, state law required each county's Partnership Committee to submit a realignment implementation plan to the county's board of supervisors for approval. This plan could also include recommendations to the county to maximize the effective investment of criminal justice resources, which includes realignment funds for the accounts that we describe in Figure 1. Following approval of these plans by the county board of supervisors, the Partnership Committee continues to make recommendations to the supervisors each year regarding how to spend public safety realignment funding.<sup>3</sup> Provisions of state law and the budget bills each fiscal year indicate that the Legislature intended for the Partnership Committees' oversight of public safety realignment funds to be an ongoing responsibility. Although state law does not require counties to update their realignment plans periodically, the counties we reviewed have updated their plans at least once since realignment to reflect new public safety goals.

### State Guidance and Oversight

In 2012 state law established the Board of State and Community Corrections (Corrections Board) to provide statewide leadership in both the adult and juvenile criminal justice systems. The Corrections Board states that it provides expertise on public safety realignment issues and technical assistance to counties and the Legislature on a wide range of corrections-related issues. The Corrections Board's mission includes improving public safety through cost-effective, promising, evidence-based strategies and programs, and managing and rehabilitating criminal and juvenile justice populations statewide. The Governor, the Judicial Council of California, the Speaker of the Assembly, and the Senate Rules Committee appoint a total of 13 members to the Corrections Board.

The Corrections Board has numerous statutory duties. State law requires it to collect and analyze available county data regarding the implementation of realignment and local jail conditions and to provide guidance to counties by identifying, promoting, and providing technical assistance relating to evidence-based programs, practices, and promising and innovative projects that are consistent with the mission of the board. State law also requires the Corrections Board to adopt regulations defining minimum standards for correctional facilities regarding health, sanitation, fire and life safety, security, and recreational conditions for inmates.

<sup>3</sup> Los Angeles's Countywide Criminal Justice Coordination Committee's Public Safety Realignment Team coordinates the implementation of this plan for Los Angeles, and it reports and advises on public safety matters to the board of supervisors. Because this team carries the same types of responsibilities as Alameda's and Fresno's Partnership Committees, we will refer to it as the county's Partnership Committee in our report.

For example, local detention facilities must conduct safety checks consisting of direct visual observation of all inmates at least once an hour and must have a written plan that includes the documentation of these safety checks. The Corrections Board must inspect each local detention facility, including city, county, and juvenile jails, every two years.

The Corrections Board must also submit two reports: an annual report to the Governor and the Legislature regarding counties' implementation of realignment and a biennial report to the Legislature regarding local jail facilities. Each year, the Corrections Board must report on counties' implementation of the realignment plans approved by their local Partnership Committees. To compile this report, the Corrections Board surveys county Partnership Committees annually regarding the implementation of their realignment plans and the status of their public safety realignment spending. The Partnership Committees collect information about their county's public safety realignment efforts and provide it to the Corrections Board. Although state law does not require counties to provide this information, the Corrections Board provides a financial incentive to counties to participate by providing grant funding to those counties that complete the survey.

Every other year, the Corrections Board must provide a report to the Legislature regarding its inspection of local jail facilities. The report must include an assessment of whether counties complied with minimum jail facility and safety standards, along with statistical information, such as average daily populations, including inmate demographics and jail admissions data. The report must also include the estimated cost, if any, to each facility to achieve compliance with the minimum standards set forth in state regulations. For example, if a county has inadequate space or facilities, the Corrections Board must report how much the county estimates it would cost to expand or rebuild its facilities. Unlike an entity such as the Division of Occupational Safety and Health, which is the state agency specifically authorized to enforce standards and orders prescribed to ensure workplace safety, state law does not give the Corrections Board the authority to enforce its standards and regulations, thereby limiting it to reporting on county finances and jail conditions.

## Chapter 1

### **EACH OF THE THREE COUNTIES WE REVIEWED COULD DO MORE TO ALLEVIATE THE IMPACTS OF REALIGNMENT AND TO IMPROVE INMATE CARE**

#### **Chapter Summary**

Realignment legislation from 2011 required counties to house additional inmates, even if the counties were already struggling with jail overcrowding. Since then, two of the three counties we reviewed—Los Angeles and Fresno—have exceeded their jails’ capacities, due in part to realignment. As a result, both counties have released inmates early, but they could do more to mitigate overcrowding and keep inmates safe. Along with authorizing realignment, state law also encourages counties to provide educational, rehabilitative, and restorative justice programs to prepare inmates to reenter the community. However, the three counties we reviewed explained that they lack the facilities and resources to adequately provide some of these programs. Nevertheless, although the counties have experienced challenges because of realignment, they appreciate the increased collaboration among county departments and community organizations in efforts to rehabilitate and educate inmates in order to reduce recidivism.

In reviewing the impacts that realignment has had on each of the three counties, we found that Alameda and Fresno county jails lack sufficient information regarding whether inmates have mental illnesses, which hinders their abilities to make critical housing and care decisions to keep inmates safe. Mental health providers in Alameda and Fresno do not share information on mental illness with jail staff when inmates have only mild or moderate mental illnesses because of confidentiality concerns. However, according to Los Angeles, the majority of suicide attempts in its jails occur among inmates within this mental illness range. Our review of inmate deaths at each of the three counties determined that each county conducted adequate investigations of inmate deaths. However, Alameda could improve its process by identifying whether it needs to take any corrective action steps to prevent similar deaths from occurring in the future.

#### **Realignment Contributed to Overcrowding in Two Counties and Presented Each County With Challenges and Opportunities**

Realignment worsened overcrowding conditions at two of the three county jails we reviewed. During the last decade, the jail populations in Fresno and Los Angeles have generally exceeded capacity. To address this overcrowding, both counties have released thousands of

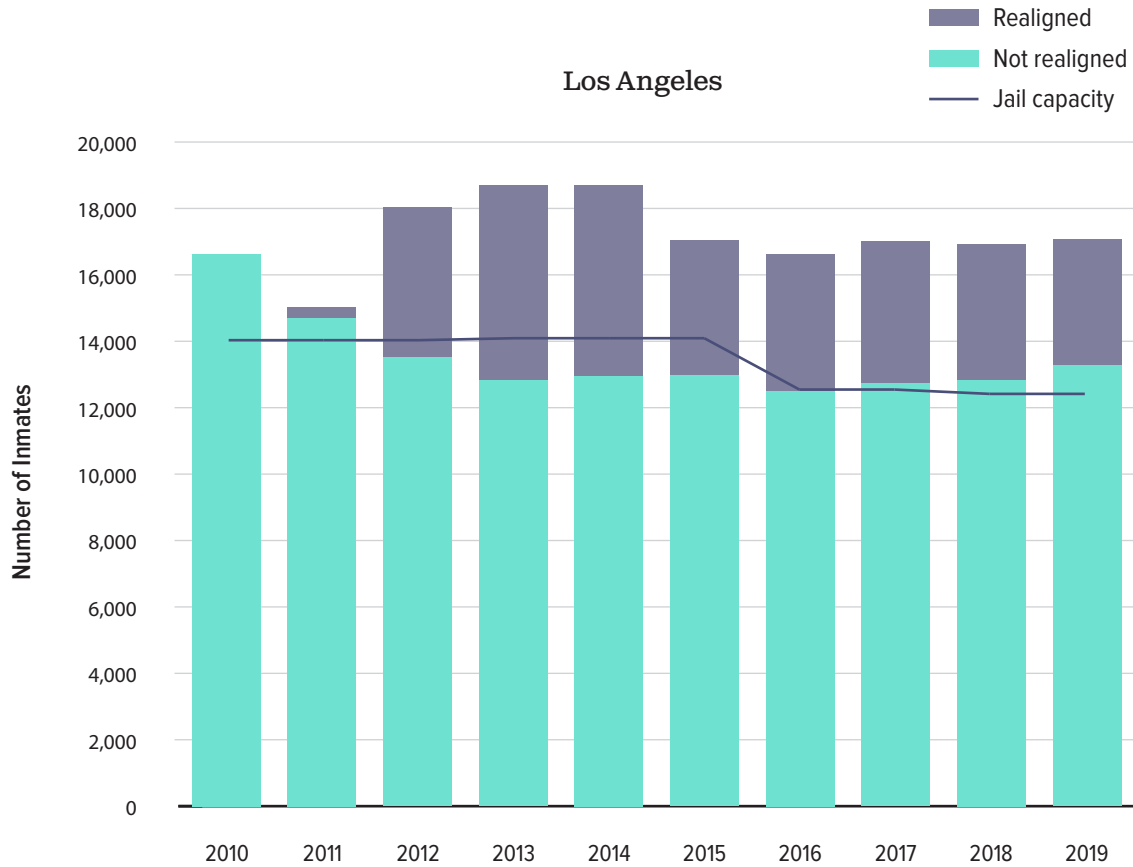
inmates early. However, the two counties each still fail to comply with the State's jail capacity standards, which determine how many inmates county jails can accommodate. Alameda and Fresno also reported that limited resources and facilities hinder their ability to provide desired vocational programs. Each of the counties noted other challenges that affect realignment, including difficulty with enrolling offenders in rehabilitative programs because state law now requires law enforcement to cite and release certain offenders, diminishing the counties' ability to enroll these people in rehabilitative programs that jails offer to reduce recidivism.

### ***Realignment Contributed to Overcrowding in Los Angeles and Fresno County Jails***

The Corrections Board collaborates with county sheriffs to determine appropriate jail capacities based on each facility's design and the space requirements for each inmate. For example, to determine the capacity, they establish the number of beds that are appropriate for each cell and dormitory, and they ensure that the jail has an appropriate ratio of showers or toilets to the number of inmates. According to a U.S. Supreme Court decision relating to California's prison population, overcrowding creates unsafe and unsanitary conditions that hamper the prisons' ability to deliver medical and mental health care effectively. The same decision notes that overcrowding can promote unrest and violence and cause inmates with latent mental illnesses to develop overt symptoms or have their conditions worsen. Overcrowding creates similar concerns in county jails. For two of the three counties we reviewed, we found that realignment contributed to overcrowding.

Los Angeles has continuously exceeded its jail capacity, both before and after realignment, causing the county to release inmates early. Despite releasing nearly 37,000 inmates early in 2010, Los Angeles continued to exceed its jail capacity each year between 2010 and 2019, as Figure 2 shows. From 2012 through 2019, an average of roughly 25 percent of Los Angeles's inmate population were realigned inmates. For example, in 2019, of its total population of 17,000 inmates, Los Angeles housed 3,800 realigned inmates. Despite the influx of realigned inmates, Los Angeles's inmate population has increased by only 3 percent overall since realignment, in part because it released inmates early to manage overcrowding. From 2011 through 2019, Los Angeles released more than 84,000 inmates early because it lacked the jail capacity to house them. Since 2015 early releases in Los Angeles have declined significantly. According to Los Angeles, the county reduced its number of early releases because it had fewer incarcerations due to the passage in 2014 of Proposition 47, which reduced the penalties, including the length of sentences, for certain nonviolent felonies, such as drug and property crimes.

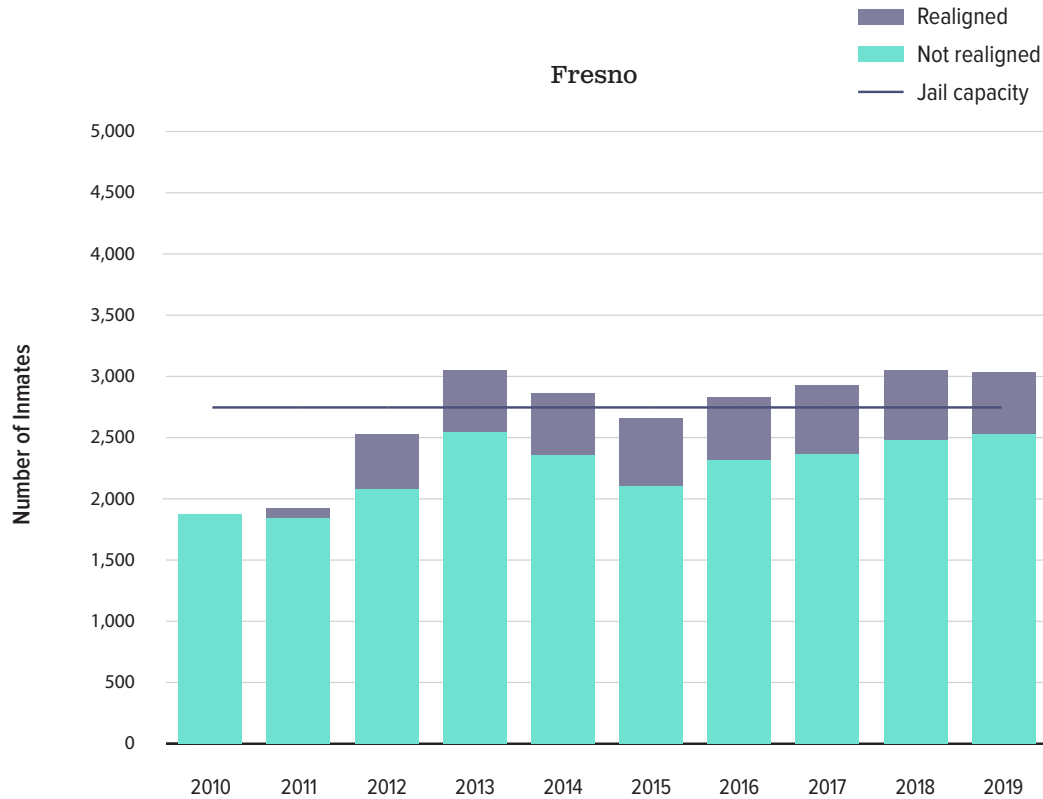
**Figure 2**  
 Los Angeles Has Consistently Exceeded Its Jail Capacity Since 2010



Source: Los Angeles's jail management system and the Corrections Board's website.

Before realignment, Fresno did not exceed its jail capacity; however, as Figure 3 shows, it has generally exceeded its jail capacity since 2013, in part due to realignment. For example, in 2019, Fresno housed an average of more than 3,000 inmates each day, which is almost 300 inmates over its capacity. In comparison to Alameda and Los Angeles, Fresno has experienced the most significant percentage increase in its inmate population since realignment, climbing by nearly 1,200 inmates, or 62 percent, between 2010 and 2019. To manage overcrowding, Fresno has also released thousands of inmates early each year. From 2011 through 2019, Fresno reported more than 74,000 early releases, the majority (approximately 64,500) between 2011 and 2014. Fresno's early releases decreased significantly after 2014, averaging around 2,000 releases a year from 2015 through 2019.

**Figure 3**  
Fresno Exceeded Its Jail Capacity After Realignment



Source: Fresno's jail management system and the Corrections Board's website.

Even though Los Angeles and Fresno have consistently exceeded their jail capacities, they have not done enough to comply with state regulations that specify capacity standards. Rather than releasing additional inmates or adding jail facilities to more adequately house its jail population, Los Angeles acknowledged that it places more beds than the Corrections Board recommends in jail housing areas and adds beds to jail areas that are not intended for housing. Los Angeles and Fresno told us that they have not released more inmates to comply with the State's jail capacity standards because the federal courts have accepted their housing practices in settlement agreements from previous lawsuits. Los Angeles explained that releasing thousands of additional inmates to meet the State's jail capacity standards could negatively affect public safety and subject the county to litigation. Similar to Los Angeles, Fresno stated that the passage of Proposition 47 in 2014 led to fewer incarcerations and made it unnecessary to release additional inmates early. Additionally, Fresno said that it does not attempt to comply with the State's jail capacity standards because the county complies with a federal court order that allows for a higher capacity

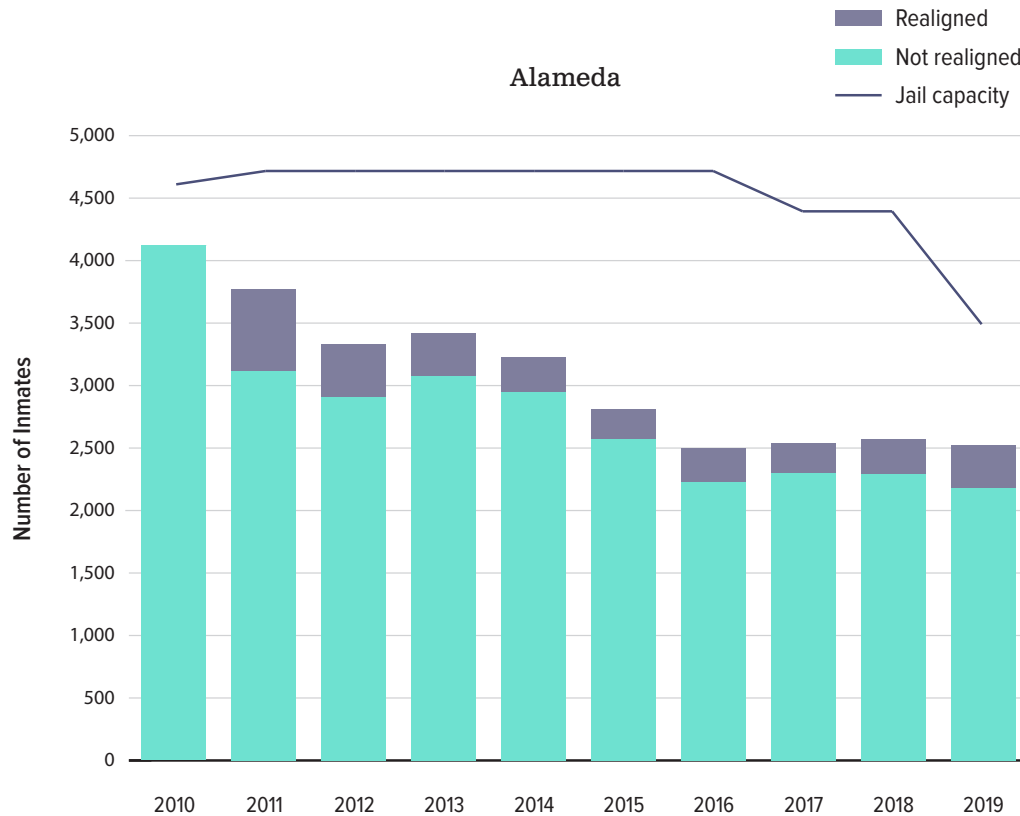
than the state standards. However, the county's compliance with a federal court order that is less restrictive than state standards is not a sufficient justification for ignoring the state standards. The Corrections Board adopted the State's jail capacity standards as regulatory law to ensure the health and safety of inmates—and counties should strive to meet these standards.

To eliminate overcrowding and comply with the State's jail capacity standards, Fresno and Los Angeles will need to collaborate with various local agencies, such as the county courts, to take steps to reduce jail populations. Specifically, state law sets forth that sheriffs must receive and confine all inmates committed to their jails. Further, state law indicates that only the courts can legally authorize an inmate's release from the county jail. Local law enforcement agencies and the courts are responsible for arrests and sentencing, respectively, which determine the counties' jail populations. Additionally, law enforcement officials may apply to the courts for authorization to release inmates early to relieve overcrowding. As an example of cooperation with local agencies to reduce jail overcrowding, the Fresno sheriff explained that she encourages local law enforcement officers to issue citations to individuals when they see fit rather than arresting them. To reduce their jail populations further to comply with state standards, counties could enhance their efforts to reduce recidivism; expand their use of alternative custody programs, such as house arrest or work release programs; or build additional jail facilities to address their housing needs.

Among the three counties we reviewed, only Alameda's jail has not exceeded its capacity since realignment, as Figure 4 shows. It had the capacity to house more than 4,600 inmates in 2010, and it had an average daily population of roughly 4,100 inmates during that year, decreasing by almost 40 percent to 2,500 inmates by 2019. Alameda explained that before realignment it had an agreement with the State to house approximately 750 state prison inmates. In February 2012, soon after the implementation of realignment, the State canceled this contract and transferred these inmates back to the state prison system. According to Alameda, it received only about 600 realigned inmates. As a result, Alameda has not needed to take any particular measures since realignment to keep its jail population within its capacity. In particular, it has not released inmates early because its jail population has not approached its inmate housing capacity.

***Among the three counties we reviewed, only Alameda's jail has not exceeded its capacity since realignment.***

**Figure 4**  
Since Realignment Alameda Has Not Exceeded Its Jail Capacity



Source: Alameda's jail management system and the Corrections Board's website.

***Counties Reported That Inadequate Facilities and Programmatic Structure Limit the Educational, Rehabilitative, and Restorative Programs They Can Provide***

The three counties we reviewed stated that they lack the resources to provide comprehensive education and exercise opportunities to inmates. As described in the Introduction, state law provides that it is the intent of the Legislature that counties make educational and rehabilitative programs available to inmates to prepare them for successful reentry into the community. State regulations also require counties to provide inmates with sufficient exercise space, and courts have held that inmates need regular exercise to maintain reasonably good physical and psychological health. Additionally, county jails currently house some inmates who serve multiyear sentences. Although Alameda and Fresno do not centrally track the number of inmates serving sentences longer than three years, which is the maximum statutorily prescribed length of time county jails should house an inmate, Los Angeles does. It indicated that, as of July 2020, it housed nearly 550 realigned inmates who are serving



sentences greater than three years, including 25 inmates serving sentences of 10 years or longer. With limited outdoor exercise areas and resources to provide certain educational or vocational training, inmates in county jails may suffer negative physical and mental health consequences or may not be adequately equipped to reenter the community successfully upon their release from jail.

Alameda and Fresno asserted that they lack sufficient classroom facilities to operate desired educational programs. State regulations require jails to provide voluntary academic and vocational education programs for inmates. However, Alameda explained that it does not have the space or resources to provide certain vocational programs, including baking and barbering, to all inmates. It provides these vocational programs to some inmates, depending upon their risk level classification and housing location, but the programs are not available to all inmates. Alameda also stated that it does not have the space or resources to provide more sought-after vocational programs, such as woodworking, metal fabrication, or culinary arts. Fresno stated that it would provide additional vocational programs, job training, and trade school options to its inmates if it had additional classroom space. In addition, although these programs may be essential to prepare inmates for successful reentry into the community, Alameda noted that it is not cost-effective for it to establish the needed facilities or to staff these programs when the majority of its inmates are not incarcerated long enough to complete them. In contrast, Los Angeles believes that it has sufficient space to administer academic and vocational education programs for inmates.

Each of the three counties we reviewed also expressed concerns that their limited outdoor space makes it difficult for them to provide inmates with sufficient outdoor exercise options. Specifically, state regulations require jails to provide exercise areas and allow inmates a minimum of three hours of exercise each week, and the American Correctional Association suggests that jails provide inmates with one hour of exercise outside the cell or outdoors each day. Los Angeles explained that it has mostly enclosed facilities, with only small rooftop outdoor areas, which limit how often and the amount of time inmates are able to spend outside doing physical activities. Similarly, Fresno has limited outdoor space for inmates, including some rooftop outdoor yards and enclosed indoor exercise areas with vented louvers to provide fresh air and daylight. According to Fresno, its tower-style jail facilities prevent it from providing more outdoor space. Alameda has recognized the importance of having inmates engage in outdoor activities and is currently working toward building additional outdoor areas that it can secure appropriately for inmates in its jail facilities. Jails must

***Limited outdoor space makes it difficult for each of the three counties to provide inmates with sufficient outdoor exercise options.***

***We found that the restitution programs at the county jails are not comparable to the state prison's restitution program.***

ensure that the conditions of inmates' confinement do not cause adverse health effects, and inadequate exercise opportunities may put the counties at risk of litigation.

Furthermore, we found that some counties lack the programmatic structure to offer effective restorative justice programs that provide financial compensation to victims of crimes that inmates have committed. According to state law, victims of crimes may be entitled to restitution from the defendant, and state law encourages counties to provide restorative justice programs. For example, state law has a process for the California prison system to provide victims of crimes with up to 50 percent of the responsible inmates' wages and any other funds deposited in these inmates' trust accounts. Although we expected the county jails to ensure that they have a similar restitution process in place, we found that the restitution programs at the county jails are not comparable to the state prison's restitution program. Inmates in Alameda and Los Angeles county jails do not get paid wages for participating in work programs, so restitution is limited to a portion of the funds deposited in inmates' trust accounts, if any. Fresno has not established a restitution program that applies to inmates serving sentences in the county jail, though it says it is seeking ways to address this shortcoming. Therefore, these counties acknowledged that they do not currently collect and provide victims with the same amount of restitution they would receive if the inmates served their time in state prison. We expected that the Corrections Board would have provided guidance and best practices for establishing effective restitution programs to counties; however, as we describe in Chapter 3, it does not do so.

### ***Realignment and Other Changes in State Law Created Both Additional Challenges and Positive Effects for Counties***

Each of the three counties indicated that they are seeking solutions to unintended challenges that occurred because of realignment and other changes in state law. Sheriffs and jail staff of the three counties generally stated that decreased sentences for inmates who committed certain drug and property crimes, resulting from Proposition 47, have made it more difficult to engage these inmates in rehabilitative services and programs. Under Proposition 47, many inmates who previously spent time in jail for their offenses either spend less time in jail or are cited and released by law enforcement. Counties explained that when inmates spent more time in jail, they could more easily encourage them to participate in rehabilitative services and programs, such as mental health care, counseling, substance abuse treatment, and cognitive behavioral therapy, because participating in these programs allowed them additional free time outside their cells. However, because many of these

offenders do not welcome or recognize their need for rehabilitative services when they serve reduced sentences, it is now more difficult to enroll short-term offenders in services and programs that will assist them in being successful in the community upon their release, according to the counties. Each of the three counties expressed concern that without these services, many individuals do not change their behavior and are likely to return to jail. For example, Alameda stated that it has observed a pattern of former inmates returning to jail for petty crimes, such as drug possession, being under the influence of drugs or alcohol, and probation and parole violations.

Although several county law enforcement staff we interviewed said realignment and early inmate releases had increased crime, our review of California's reported crime rates in comparison to crime rates for the nation and other similar states found that this was not the case. In fact, from 2011 to 2014, property and violent crimes in California generally declined. After 2015 the State's violent crimes have generally increased each year, while property crimes continue to decrease. However, we found that these trends were similar to comparable states, such as New York and Texas. Further, a 2015 research report from the Public Policy Institute of California that analyzed the statewide impact of realignment and crime rates found no evidence that realignment increased violent crime.<sup>4</sup>

Alameda and Fresno probation departments both described challenges in communication between their departments and CDCR. For example, state law requires county probation departments to provide postrelease supervision for certain eligible state prison inmates. However, according to both Alameda and Fresno, there have been instances when CDCR transfers the supervision of a released inmate to the county probation department but fails to notify the county or ensure that the county received its communication. Additionally, Alameda explained that state parolees are not always aware of whether they are required to report to CDCR or the county probation department. In these instances, if the parolee does not report to county probation, it could be some time before either entity identifies the communication failure and the parolee's failure to report as required. Fresno stated that although its communication with CDCR has improved since realignment, CDCR does not always notify the county when it has referred parolees to the probation department for supervision. Although the scope of these communication challenges may vary from county to county depending upon their size, sophistication, and distance from

*Our review of California's reported crime rates in comparison to crime rates for the nation and other similar states found that realignment and early inmate releases did not increase crime.*

<sup>4</sup> The Public Policy Institute of California is a nonprofit, nonpartisan organization that provides independent research for informing and improving public policy in California.

local CDCR offices, these challenges present an opportunity for the Corrections Board, which state law requires to identify and promote best practices, to collaborate with CDCR to identify and promote solutions to counties throughout the State.

The Alameda probation chief also believes that splitting postrelease community supervision responsibilities between CDCR and county probation departments has resulted in inefficiencies and duplication of effort, but she has identified a potential solution to increase collaboration between the two. She believes that consolidating the state and local postrelease supervision and reentry systems could resolve these challenges and increase efficiency by allowing the State and the county to pool their resources for services that both entities provide to their clients. As a result, Alameda is currently working with its local CDCR office to obtain joint office space to establish a one-stop location where parolees and probationers will report and obtain referrals to the reentry services they need. Fresno told us that it would welcome suggestions or assistance from the Corrections Board regarding ways to collaborate with the State to share service providers in order to enhance services and avoid duplication of effort.

Despite the additional responsibilities realignment placed on the counties, many staff we interviewed from the three counties also expressed appreciation for various positive changes that have resulted from realignment. One positive system change that each county valued was the increased collaboration among county departments, such as the mental health, behavioral health, probation, and social services departments, in efforts to coordinate and deliver rehabilitative services and programs. Specifically, they noted the work of Partnership Committees, which provide a structure for county departments to collaborate on criminal justice policies and improvements and to determine service needs and priorities collectively for inmates reentering the community. Each county generally reported that the departments worked more collaboratively after realignment to provide inmates and probationers the services, such as housing, mental health care, and employment assistance, they need to reenter the community successfully.

*Partnership Committees provide a structure for county departments to collaborate on criminal justice policies and improvements, and to determine service needs and priorities.*

### **Alameda and Fresno Have Not Ensured That Their County Jails Have Sufficient Information Regarding Inmate Mental Health**

Despite lawsuits alleging inadequate mental health care at each of the three counties' jail facilities, the jails in Alameda and Fresno lack sufficient data regarding whether inmates have mental illnesses. This information is critical because it allows county jails to make informed decisions regarding inmate housing and supervision that

can minimize the risk of violence, injury, or death. According to a 2018 study from the Police Executive Research Forum, mental illness increases the risk of violence within jails, which exposes jail staff to a greater risk of inmate assaults and exposes inmates to greater risk of injuries from violence, self-harm, or suicide.<sup>5</sup> Thus, when jail staff are aware of inmates' mental illnesses, they are better equipped to identify when inmates exhibit behaviors related to their mental illness and to address these behaviors. Despite the benefits of this information, only Los Angeles has taken the steps necessary to ensure that its jail staff have sufficient information to inform decisions on how best to house and supervise inmates suffering from mental illnesses.

Our audit found that the mental health providers in Fresno and Alameda do not sufficiently share inmates' mental health information with the county jails. Each of the three counties we reviewed asserted that the number of inmates with mental illnesses has increased significantly since realignment. Although variances in the counties' jail data systems rendered the data regarding inmates with mental illnesses incomparable across the counties, the jail data from Alameda and Fresno did not demonstrate substantial increases, as jail staff had asserted. Specifically, the percentage of inmates in Fresno's jail with mental illnesses increased each year from 2010 through 2015, rising from 3 percent to 10 percent, but generally decreased each year thereafter, falling back to 3 percent in 2019. Alameda's data system only maintained mental health data starting in 2015 when the county changed data systems. The percentage of inmates in Alameda's jails with mental illnesses increased from nearly 9 percent in 2015 to roughly 15 percent in 2019. Los Angeles's data demonstrated that the percentage of inmates with mental illnesses increased from 15 percent in 2010 to more than 30 percent in 2019.

When we asked Alameda and Fresno why their jail data did not reflect a substantial increase in the percentage of inmates with mental illnesses as jail staff had asserted, we learned that their mental health providers did not share with the jails information for all inmates with mental illnesses. Specifically, Fresno's mental health provider stated that it does not share information with jail staff on inmates with mild or moderate mental illnesses. Likewise, Alameda stated that it only shares information upon the request of jail staff, such as when jail staff suggest an inmate needs a mental health assessment, mental health housing, or mental health treatment, or if an inmate is identified as a suicide risk or is at risk of being the victim or perpetrator of sexual assault. However, Alameda also

***Mental health providers in Fresno and Alameda do not sufficiently share inmates' mental health information with the county jails.***

<sup>5</sup> The Police Executive Research Forum is an independent national nonprofit organization focused on police and criminal justice issues.

acknowledged that jail staff are not mental health providers and may not always identify inmates with mental health needs. The mental health providers in Alameda and Fresno agreed that had they shared more complete information on inmates' mental health with the counties' jails, it is likely that we would have seen trends in the jail data corroborating claims by jail staff of an increase in mental illnesses among inmates after realignment.

The mental health providers in Alameda and Fresno counties cited concerns about sharing certain information regarding inmates' mental health with county jails because of confidentiality restrictions under the privacy rules of the Health Insurance Portability and Accountability Act (HIPAA). Fresno's mental health provider contended that HIPAA prevents it from sharing certain details of an inmate's mental illness with jails and said that inmates do not want jail staff to have access to their mental health information. Alameda explained that it was also concerned about jail staff having unnecessary access to inmates' mental health information. However, we disagree with these concerns because HIPAA privacy regulations specifically allow entities such as mental health providers to disclose protected information about an inmate to correctional institutions or law enforcement officials to ensure, among other things, the health and safety of the inmate or other inmates. Until these counties require their mental health providers to be more forthcoming in sharing critical information regarding inmates' mental health, county jails will lack key information to make effective decisions about how to house and supervise inmates to ensure their safety and the safety of others.

Another factor contributing to shortcomings in jail data regarding mental health status maintained by Alameda is that Alameda's health care provider does not conduct a mental health screening of every inmate, as state regulations require. Specifically, state regulations require county jails to have a screening process, administered by trained personnel, for identifying and evaluating all mentally disordered inmates at the time of intake. However, Alameda only assesses those inmates who exhibit erratic behaviors or disclose a history of mental illness to jail staff. The county's jail staff agreed that without a mental health screening of each inmate by a health care professional, the county lacks critical information to make housing and supervision decisions and risks not identifying inmates who are in need of mental health care. In contrast, Fresno has a registered nurse conduct a mental health screening of every inmate. If this screening reveals any issues or concerns that require further intervention, the jail automatically schedules the inmate for a mental health assessment through its mental health provider. However, its provider stated that it does not share information regarding mild or moderate mental illnesses with the jail because inmate advocacy organizations have expressed privacy concerns

***Alameda lacks critical information to make housing and supervision decisions and risks not identifying inmates who are in need of mental health care.***

about sharing this information. Fresno’s mental health provider believes that there would be benefits to sharing mental health information with the jail when it is in the inmate’s best interest. Both Alameda and Fresno understood our concerns and agreed that it would be beneficial if jail staff had additional mental health information to inform their decisions. However, both advised that it would take careful consideration and planning to ensure that they could share relevant information with jail staff without disclosing specific details that would hinder inmates’ willingness to participate in mental health treatment.

In contrast, Los Angeles’s nursing staff conducts a mental health screening of each inmate upon his or her entry to jail and tracks inmates’ mental health status in its jail database to ensure that jail staff are aware of whether an inmate has a mild, moderate, or serious mental illness. Los Angeles shares mental health information with jail staff by using a code system in the jail database that informs staff of the severity of inmates’ mental illnesses, but the database does not provide jail staff access to inmates’ medical records or specific details of their mental illness. This screening and tracking process may have contributed to the higher percentage of inmates Los Angeles identified as having mental illnesses. Knowing the severity of an inmate’s mental illness is important because, according to Los Angeles, the majority of suicide attempts occur within its population of inmates with only mild to moderate mental illnesses.

*The majority of suicide attempts occur within the population of inmates with only mild to moderate mental illnesses, according to Los Angeles.*

### **Alameda and Fresno Do Not Sufficiently Assess Inmate Risk Levels and Have Faced Lawsuits Regarding Improper Inmate Care**

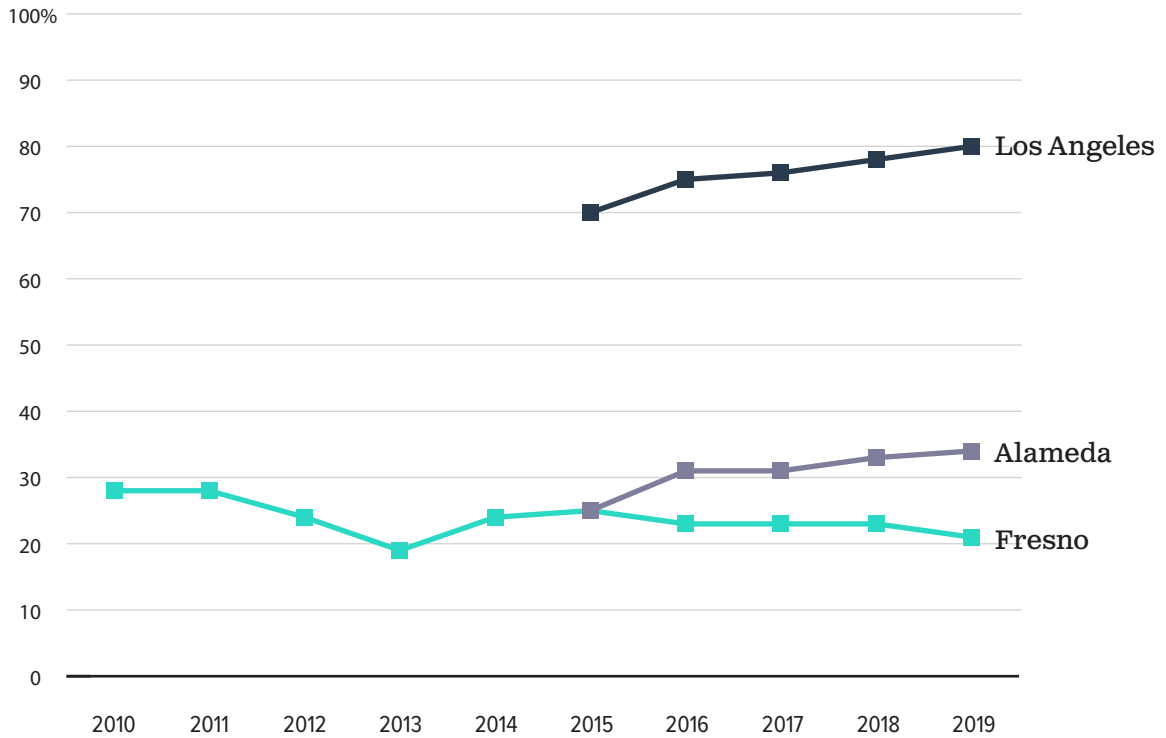
Shortcomings in the approaches Alameda and Fresno use to inform county jails about inmates’ mental illnesses have likely limited the accuracy of their assessment of the risks associated with each inmate. Each of the three counties we reviewed uses its own system for assigning risk classifications—such as minimum, medium, or maximum security—to inmates. Counties design these classifications to assist them in properly assigning inmates to housing and activities while providing for the safety of the inmates and staff. During the intake screening process, counties must conduct a risk assessment of each inmate, which should include an assessment of the person’s criminal sophistication, the seriousness of the criminal charges, assaultive behavior, and physical or mental health needs, among other considerations. The counties use these risk classifications to inform their decisions regarding inmate housing and supervision needs. For example, according to Los Angeles, it uses the risk assessment to prevent negative interactions among the inmate population by separating inmates with rival gang affiliations or a high likelihood of violence.

Additionally, this information helps counties identify inmates who are suicidal or at risk of self-harm. To make these housing and supervision decisions, it is imperative that jail staff and mental health staff collaborate in their assessments of inmates. Alameda also explained that, until recently, it did not always have mental health staff available to participate in risk assessments of inmates upon their entry to jail. It explained that if an inmate does not disclose having a mental illness during the risk assessment process and the inmate was not exhibiting erratic behaviors indicating a mental illness at the time, jail custody staff—who are not trained mental health providers—might not identify inmates with mental health needs or request a mental health assessment.

Although each of the three counties we reviewed claimed that realignment increased the number of dangerous and violent inmates in their county jails, the data they maintain on inmates' security risk levels did not reflect increases that were as significant as we expected based on what the counties had told us. For instance, the percentage of inmates classified as medium and maximum security in Fresno decreased from 28 percent in 2010, just before realignment, to only 21 percent in 2019, as Figure 5 shows. Alameda and Los Angeles could only provide information from 2015 to 2019 because of changes in their jail management systems. From 2015 through 2019, the percentage of medium-to maximum-security inmates in these two counties increased by about 10 percentage points. Specifically, in Alameda, these higher-risk inmates increased from 25 percent in 2015 to almost 35 percent in 2019, and in Los Angeles, higher-risk inmates increased from 70 percent in 2015 to nearly 80 percent in 2019. Los Angeles identified a significantly greater proportion of inmates as being higher-risk than Alameda or Fresno did. According to Alameda and Fresno, had these counties fully considered inmates' mental illnesses when assigning security risk classifications to inmates, they may have identified more higher-risk inmates in their county jails. We provide more detail regarding each county's inmate risk classifications in Figure A.5 in Appendix A.



**Figure 5**  
 The Percentages of Medium- and Maximum-Risk Inmates Have Not Significantly Increased



Source: Data from county jail management systems.

Note: Due to changes in their jail management systems, Alameda's and Los Angeles's inmate risk level information begins in 2015.

Shortcomings in tracking mental illnesses may have contributed to some of the lawsuits against Alameda and Fresno regarding improper inmate care. For example, in December 2018, a group of inmates filed a class-action lawsuit against Alameda alleging several causes of action, including a failure to provide adequate mental health care to inmates. Although the lawsuit was ongoing as of January 2021, the lawsuit initiated several expert evaluations that resulted in recommendations regarding Alameda's practices, including ones involving custody, staffing, mental health care, housing, and inmate risk-level classification. Alameda explained that it is working to address many of these recommendations, such as revising its classification practices and hiring additional jail and mental health staff to improve inmate supervision and care. Similarly, in 2011, inmate advocates filed a class-action lawsuit against Fresno alleging that, among other things, it failed to provide adequate health care, including mental health care, to inmates and failed to protect inmates from injury and violence. The lawsuit further alleges that the county failed to classify and house inmates appropriately by housing inmates with others who were incompatible and putting them at risk of injury from assault.

In 2015, in response to this lawsuit, Fresno agreed to a remedial plan to improve its mental health care and jail safety, such as increasing its jail and mental health staff and adding a question to its intake screening form regarding inmates' mental health histories. Fresno's remedial plan states that it will improve its classification of inmate risk levels and decisions for housing of inmates.

Los Angeles has also faced lawsuits regarding inmate health and safety and has worked to address identified shortcomings. In 2015 the U.S. Department of Justice sued Los Angeles, alleging that it failed to take reasonable measures to protect inmates against serious harm from suicide and failed to provide adequate mental health care to inmates. The lawsuit attributed these failures to multiple factors, including a lack of appropriate screening by mental health and jail staff, a lack of appropriate supervision, and a lack of communication between mental health and jail staff. Los Angeles and the U.S. Department of Justice reached a settlement agreement in 2015 that included 69 provisions to improve Los Angeles's care and supervision of inmates. The court appointed a monitor to report the status of Los Angeles's implementation of the provisions. As of August 2020, the court-appointed monitor reported that Los Angeles had achieved substantial compliance at most of its facilities with 41 of the 69 provisions of the settlement agreement, of which the majority are related to mental health care, including screening and communication between mental health and custody staff. Los Angeles's compliance with many of the provisions of the settlement agreement may be a contributing factor to its jail staff having more complete information regarding inmates' mental health.

### **Realignment May Have Contributed to a Slight Increase in Inmate Deaths in Two Counties, and Alameda's Follow-Up on the Causes of Inmate Deaths Needs Improvement**

*The percentage of inmate deaths increased slightly in Fresno and Alameda after realignment.*

Our review found that the percentage of inmate deaths increased slightly in Fresno and Alameda after realignment. State law requires law enforcement departments to report information to the Office of the Attorney General about each death that occurs while individuals are in custody, including inmates who die in county jails. The California Department of Justice (Justice) posts this information on its website. We compared county jail data and the information from Justice for the three counties and found that they reported all applicable inmate deaths in their records. We did not identify that any of the three counties inappropriately excluded deaths from their reporting to the State. Justice's data from 2005 through 2019 showed variations in the number of deaths each year. The average annual number of inmate deaths after realignment declined in Los Angeles, remained the same in Alameda, and increased in Fresno compared with the average before realignment,

as Table 1 shows. However, we compared the number of inmate deaths each year to the average daily population and, as Table 1 shows, the percentage of inmate deaths in Alameda and Fresno increased slightly after realignment.

**Table 1**  
The Percentage of Deaths in Custody Increased Slightly in Alameda and Fresno After Realignment

	ALAMEDA		FRESNO		LOS ANGELES	
	TOTAL DEATHS	PERCENT OF AVERAGE DAILY POPULATION	TOTAL DEATHS	PERCENT OF AVERAGE DAILY POPULATION	TOTAL DEATHS	PERCENT OF AVERAGE DAILY POPULATION
<b>Before Realignment</b>						
2005	4	0.10%	1	0.03%	42	0.25%
2006	8	0.20	3	0.10	36	0.20
2007	9	0.22	2	0.06	36	0.20
2008	12	0.28	3	0.10	25	0.13
2009	3	0.07	6	0.20	36	0.20
2010	9	0.22	3	0.16	27	0.16
2011	3	0.08	5	0.26	17	0.11
Average	7	0.17%	3	0.13%	31	0.18%
Total inmate deaths	48		23		219	
<b>After Realignment</b>						
2012	5	0.15%	8	0.32%	25	0.14%
2013	7	0.20	7	0.23	33	0.18
2014	10	0.31	8	0.28	28	0.15
2015	8	0.28	3	0.11	22	0.13
2016	7	0.28	5	0.18	20	0.12
2017	6	0.24	5	0.17	25	0.15
2018	4	0.16	13	0.43	26	0.15
2019	6	0.24	4	0.13	32	0.19
Average	7	0.23%	7	0.23%	26	0.15%
Total inmate deaths	53		53		211	

Source: Justice.

■ Indicates a year with a higher number of deaths than surrounding years.

Both before and after realignment, each county experienced some years with higher numbers of inmate deaths, which primarily were attributed to natural causes. Although each county experienced at least one year with a higher than average number of deaths, we did not observe any concerning trends, such as years with abnormally high numbers of homicides or suicides, or consecutive

years at a single county with a high number of inmate deaths. Years with more deaths than average occurred infrequently: Alameda experienced a higher number of inmate deaths than average in 2008 and 2014, while Los Angeles experienced a similar pattern in 2009, 2013, and 2019, and Fresno only in 2018. During these years, counties primarily attributed inmate deaths to natural causes, although Alameda and Los Angeles occasionally experienced higher numbers of accidental deaths or suicides during these years as well. We provide further details of the causes of inmate deaths in the three counties in Figure A.6 in Appendix A.

We also reviewed the three counties' processes for investigating and responding to a selection of inmate deaths to determine whether they sufficiently investigated and then followed up on the cause of death. We found that each county thoroughly investigated each of the inmate deaths we reviewed. However, although Alameda appropriately investigated the cause of death in each of the four cases we reviewed, its efforts to identify whether corrective action was necessary to prevent similar deaths in the future were limited. For example, even though it investigated an inmate's death in 2017, at the time Alameda did not discuss improvements the jail could make to prevent similar circumstances from leading to inmate deaths in the future. Alameda's process did not include any follow-up discussion of issues associated with the inmate death, and it did not conduct a meeting with stakeholders or managers to discuss these issues.

*Alameda's process did not include any follow-up discussion of issues associated with the inmate death, and it did not discuss issues with stakeholders or managers.*

When we brought our concerns about the limitations in Alameda's follow-up process to the county, it agreed that it should do more to address the problem. For example, in March 2020, Alameda updated its policy for reviewing inmate deaths to include a review of the circumstances of each inmate death within 30 days. The policy requires staff who are relevant to the incident, such as the facility commanding officer and the health services administrator, to consider whether the inmate received appropriate clinical care, whether there is a need to change any policies or procedures, and whether there are any issues that require further study to identify necessary corrective actions.

In contrast, both Fresno and Los Angeles investigated the inmate deaths we reviewed and have a process to identify corrective actions to address the causes of the deaths. For example, Los Angeles has a unit that is responsible for reviewing and tracking in-custody inmate deaths. Los Angeles begins its review within two working days of an inmate death to evaluate medical and mental health protocols, policy and procedures, training issues, and the need for immediate corrective or preventive action relating to the inmate's death. The review must include a discussion of the events preceding the death. Los Angeles conducts a second review within seven days

to discuss progress on the corrective actions, and another within 30 days. The unit must forward the results of its review to the applicable unit commander, who must respond within 30 days to the area commander and division chief regarding any corrective or preventive action taken. We examined a selection of the reviews and observed that they identify potential causes of the inmates' deaths and contain corrective action plans to address those causes if necessary. Similarly, Fresno conducts a "Multi-Disciplinary Review" after inmate deaths to identify any areas to improve in an effort to help prevent similar inmate deaths.

## **Recommendations**

### ***Legislature***

To ensure that inmates serving lengthy terms in county jails have adequate educational and exercise opportunities, the Legislature should amend state law to limit the time inmates can spend in county jail to terms of no more than three years. In the event that the total sentence exceeds three years, it should require that the person serve the sentence in state prison.

### ***Counties***

To comply with the State's jail capacity standards, Los Angeles and Fresno should take steps to address overcrowding in their jails, while ensuring public safety.

To ensure that county jails identify inmates with mental illnesses and provide them with adequate mental health care, Alameda should immediately begin conducting mental health screening of all inmates upon admission to the county jail.

To ensure that county jails have sufficient information to determine appropriate housing and supervision of inmates with mental illnesses, by June 2021 Alameda and Fresno should develop a process requiring mental health providers to share with jails the mental health status of all inmates, such as whether they have a mild, moderate, or serious mental illness.

To ensure that it appropriately follows up on inmate deaths and works to prevent similar deaths from occurring in the future, Alameda should implement its updated inmate death follow-up process by June 2021.

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## Chapter 2

### COUNTIES' INTERPRETATION OF REALIGNMENT FUNDING IS OVERLY NARROW, HINDERING THEIR ABILITY TO MAKE EFFECTIVE DECISIONS

#### Chapter Summary

The three counties we reviewed have narrowly interpreted the scope of public safety realignment funding, which has caused their Partnership Committees to miss the opportunity to take a comprehensive approach to realignment planning. As a result of the 2011 realignment initiative, the State provides counties a significant amount of funding through 10 accounts related to public safety realignment. In fiscal year 2019–20, for example, the State gave the three counties we reviewed \$3 billion in public safety realignment funding across these accounts. The State provides a majority of this funding for services, such as mental health and child welfare, that counties' non-law enforcement departments are likely to provide. However, we found that the counties have a limited interpretation of the scope of this funding, and their Partnership Committees, which state law intended to oversee counties' public safety realignment spending, have overseen only one or two of the 10 accounts designated for public safety realignment. Without comprehensive oversight of all realignment funds by the Partnership Committees or another county entity, the counties' non-law enforcement departments, which spend a majority of public safety realignment funding, have a significant amount of discretion in how they choose to spend this money, creating a risk that the departments will spend the money ineffectively or may not spend the money for public safety purposes.

#### Counties Have a Limited Interpretation of the Scope of Public Safety Realignment Funding

Our audit found that the three counties and their Partnership Committees limited their oversight to only a small portion of public safety realignment funds. In fact, Alameda's and Fresno's Partnership Committees oversee just one of the 10 accounts dedicated to public safety realignment, the Community Corrections account; whereas Los Angeles's Partnership Committee oversees two accounts—the Community Corrections account and the District Attorney and Public Defender account. The California Constitution defines the 2011 Realignment Legislation (realignment legislation) as legislation enacted on or before September 30, 2012, related to implementing the state budget plan and assigning responsibilities for public safety services to local agencies. Specifically, the Legislature enacted five bills

***The Partnership Committees have only overseen roughly 17 percent of the total realignment funds that each county received in fiscal year 2019–20.***

before September 30, 2012, to accomplish public safety realignment.<sup>6</sup> Through one of these bills, Assembly Bill 118, the State created eight of the 10 public safety realignment accounts we reviewed. However, as we describe in the Introduction, we included two additional public safety-related accounts in our review that the State created after the realignment legislation because the State also intended for counties to use these funds for public safety purposes. Based on our review of the realignment legislation, the counties should have included in their oversight responsibilities the 10 public safety accounts that state law required the counties to create. In addition, the Partnership Committees generally include representatives who are recipients of funds, such as mental health and social services representatives, from each of the 10 realignment accounts. As such, Partnership Committees should also oversee the mental health funding that the State pays to counties as a result of the 2011 public safety realignment legislation, as we describe later in this chapter.

The Partnership Committees' interpretation of the scope of public safety realignment funding is overly narrow and, as a result, they have only overseen roughly 17 percent of the total realignment funds that each county received in fiscal year 2019–20. Because of this lack of oversight, the Partnership Committees have missed the opportunity to take a comprehensive and effective approach to their role of overseeing realignment planning and spending. Specifically, in fiscal year 2019–20, the three counties received a total of \$3 billion in public safety realignment funds, as Table 2 shows. Of this total, the State allocated only about \$500 million to the Community Corrections account for the counties we reviewed. For example, in fiscal year 2019–20, Alameda received a total of \$333 million for public safety realignment, of which it received only \$49.7 million in the Community Corrections account. Similarly, Los Angeles received nearly \$2.5 billion for public safety realignment, and the State allocated only about \$413 million to its Community Corrections account. In Appendix B, Table B.1, we present the allocations that the State made to each of the three counties during fiscal years 2011–12 through 2019–20.

When we asked the three counties why they limited their oversight of realignment funding to only one or two public safety realignment accounts, they generally explained that they had not interpreted the law as we had, and they believe their responsibilities for oversight and reporting of public safety realignment funding include only the funds for the one or two accounts their Partnership Committees oversee. The counties also expressed concerns with the practicality of their Partnership Committees overseeing all of the accounts that constitute

<sup>6</sup> The five bills that constitute public safety realignment are Assembly Bill 109 (Chapter 15, Statutes of 2011), Assembly Bill 117 (Chapter 39, Statutes of 2011), Assembly Bill 118 (Chapter 40, Statutes of 2011), Senate Bill 89 (Chapter 35, Statutes of 2011), and Senate Bill 1020 (Chapter 40, Statutes of 2012).



public safety realignment. One possible reason for the counties’ narrow interpretation of the scope of public safety realignment funding, which we describe in Chapter 3, is that the Corrections Board—the state entity responsible for overseeing counties’ implementation of realignment—did not provide sufficient guidance to the counties because it had a similarly limited view of the scope of this funding.

**Table 2**  
**The State Provided More Than \$3 Billion in Realignment Funding to the Three Counties, Fiscal Year 2019–20**

ACCOUNT/FUND*	TOTAL REVENUE (DOLLARS IN THOUSANDS)		
	ALAMEDA	FRESNO	LOS ANGELES
Behavioral Health	\$76,500	\$39,100	\$530,600
Community Corrections	49,700	39,200	412,500
Community Corrections Performance Incentive	1,700	1,800	37,000
District Attorney and Public Defender	1,100	1,100	13,500
Enhancing Law Enforcement Activities	25,500	21,300	192,700
Juvenile Justice	5,500	5,400	36,100
Local Innovation	300	100	1,500
Mental Health†	53,000	33,400	330,300
Protective Services	95,600	55,700	748,000
Trial Court Security	24,200	16,600	163,200
<b>Total per county</b>	<b>\$333,100</b>	<b>\$213,700</b>	<b>\$2,465,400</b>
<b>Total</b>		<b>\$3,012,200</b>	

Source: State Controller’s Office’s allocation reports.

\* This graphic does not include the Recidivism Reduction Fund because the State did not allocate revenue for this fund in fiscal year 2019–20.

† Although the State allocates mental health funds to counties related to public safety realignment, as we discuss later in this chapter, the Legislature did not specifically require counties through realignment legislation to establish a Mental Health account, similar to the other accounts it required counties to create.

**Because of Their Limited Oversight, Counties Lack Assurance That They Spend Public Safety Realignment Funds Effectively**

Although state law does not prescribe how often the Partnership Committees should meet, the three counties’ Partnership Committees meet regularly to discuss public safety realignment matters related to the one or two public safety accounts they oversee. The committees also advise their county boards of supervisors on the best use of realignment funds for these accounts. This process allows the counties to budget for public safety realignment spending from these accounts and monitor that spending. However, we found that the Partnership Committees for the counties we reviewed oversee and make budget recommendations annually only for the public safety services they support using certain public safety realignment accounts, which, as we noted previously, represent just 17 percent of the realignment funds the counties received in fiscal year 2019–20. In Alameda and Los Angeles,

the sheriff's office or department and the probation department spend the majority of the funds their Partnership Committees oversee. Fresno could not provide expenditure reports that readily identify how much its sheriff's office and probation department spent from any public safety realignment account, including the Community Corrections account, because its accounting system does not track its expenses in a manner that would allow it to provide this information.

However, the State designates a large portion of public safety realignment funds for services that non-law enforcement departments are likely to provide, and the Partnership Committees do not oversee these funds. For example, in fiscal year 2019–20, the State provided Los Angeles \$748 million in the Protective Services account for services such as foster care and child welfare. In Los Angeles, the Department of Children and Family Services administers these services. Additionally, the State provided Los Angeles \$531 million in the Behavioral Health account, which state law restricts for services, including substance abuse treatment programs, drug court programs, and specialty mental health services. The Los Angeles Department of Public Health administers these programs. Similarly, in Alameda and Fresno, non-law enforcement departments generally administer these types of services. These two public safety accounts—the Protective Services account and the Behavioral Health account—constitute more than 50 percent of the total public safety realignment funding that Los Angeles received in fiscal year 2019–20. We found that non-law enforcement departments in Alameda and Los Angeles spent nearly 70 percent of the total public safety realignment funds the counties received in fiscal year 2019–20, as Figure 6 shows.

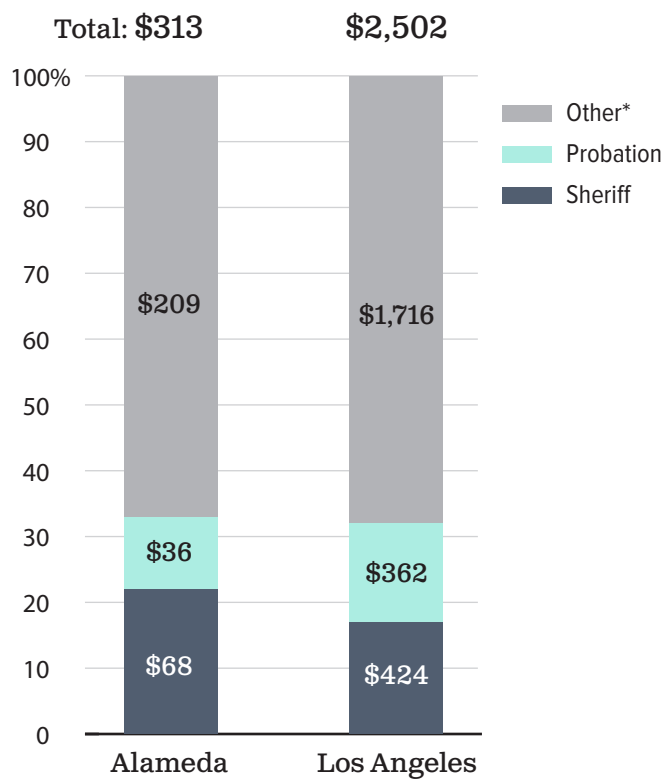
Although realignment funds are included in Alameda's and Fresno's annual budget processes, these budgets do not delineate public safety realignment funding separately. Instead, these counties budget those funds as part of a larger pool of funds that departments may spend at their own discretion. As a result, Alameda's and Fresno's county departments have significant control over how to spend public safety realignment funds. For some of its public safety funds, Los Angeles could not demonstrate that it delineates them separately in its budgeting process; however, its process for reimbursing departments for public safety expenditures ensures that its departments spend these funds for public safety purposes.

***Because they only oversee certain accounts, the three counties' Partnership Committees are not able to ensure their counties spend all realignment funds from the remaining accounts effectively on public safety purposes.***

None of the three counties' Partnership Committees oversee and make budget recommendations for all public safety realignment funds. For example, in fiscal year 2019–20, Alameda's Health Care Services Agency spent nearly \$80 million of public safety realignment funding without guidance or oversight from the Partnership Committee. As the counties' advisory bodies on public safety realignment, the Partnership Committees serve in a collaborative capacity, with representatives from all areas related to public safety,

including law enforcement, mental health, and employment services, to improve public safety. However, because they only oversee and make recommendations for certain public safety accounts, the Partnership Committees are not able to ensure that their respective counties spend funds from the remaining accounts effectively on public safety purposes. Despite this lack of oversight and the risk that counties might not spend these funds for public safety as the Legislature intended, in a limited review of a selection of expenditures at each of the counties, we did not find any instances of inappropriate spending.

**Figure 6**  
**Non-Law Enforcement Departments Spent the Majority of Realignment Funds, Fiscal Year 2019–20 (Dollars in Millions)**



Source: County expenditure reports of realignment funding for fiscal year 2019–20.

Note: Fresno does not account for its realignment expenditures in a manner that would allow it to identify how much a specific department spent from a given public safety realignment account.

\* Includes departments such as the district attorney, the public defender, health care services, and social services.

Although we did not find that realignment funds in public safety accounts that Partnership Committees do not oversee were spent inappropriately, by not reviewing all public safety realignment funds,

the Partnership Committees did not draw on a variety of funding sources in making recommendations to their boards of supervisors regarding the various services they provide or could provide. In fact, counties may have planned and spent public safety realignment funds differently had they taken a more comprehensive view of public safety realignment and all of the funds available for their efforts. For example, in March 2019, Fresno's Partnership Committee approved a motion to add two full-time social workers in the county's public defender's office and recommended paying for these positions with funds from the Community Corrections account. The Partnership Committee planned for these social workers to provide offenders with a variety of services, including assisting them in accessing health benefits, employment, housing, family counseling, and drug and alcohol treatment services. Similarly, in January 2019, Alameda's Partnership Committee recommended to its board of supervisors that the county allocate \$2.9 million of the Community Corrections account for substance abuse and mental health services. However, state law also allows these counties to use other public safety realignment funds, such as those in the Local Innovation account, to provide such services. In addition, as we discuss later in this chapter, the counties have surpluses in some of their realignment accounts, so they may not be spending realignment funds in the most efficient manner.

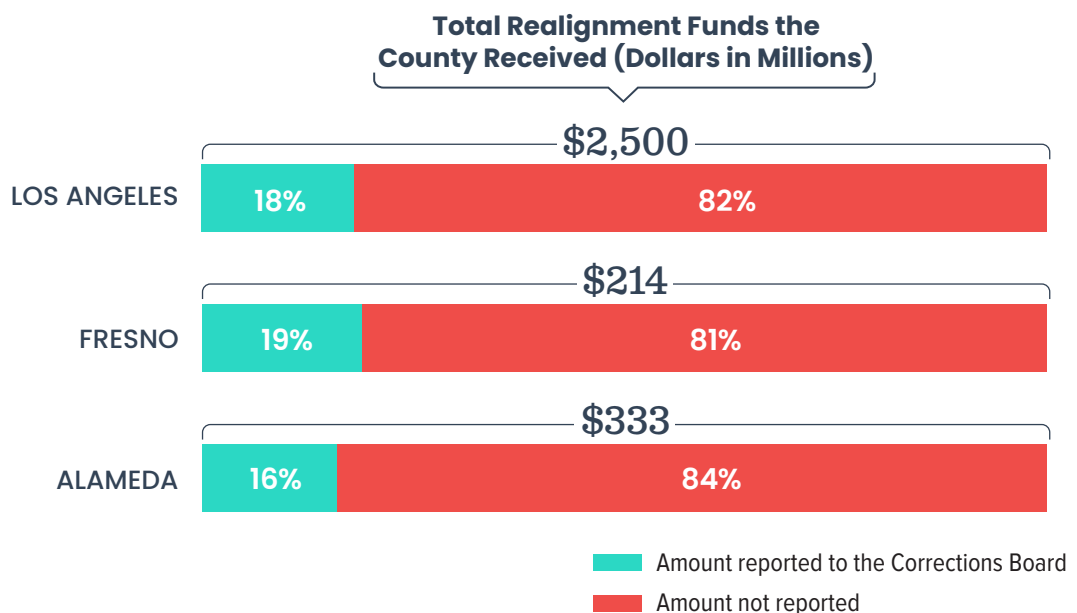
*Each of the three counties uses portions of its Community Corrections account for rehabilitative and social services rather than to house and supervise offenders, which is the primary purpose of the account.*

Although the primary purpose of the Community Corrections account is to house inmates, each of the three counties uses portions of its Community Corrections account for rehabilitative and social services. For example, beginning in fiscal year 2015–16, Alameda's board of supervisors required that county staff allocate 50 percent of the prior year's portion of guaranteed funding from the Community Corrections account to community-based organizations and nonprofit organizations serving individuals reentering the community after completing a sentence. In fiscal year 2019–20, the county allocated about \$24 million from the Community Corrections account to community-based organizations and nonprofits. As we describe in Chapter 1, each of the three counties we reviewed has been the subject of lawsuits regarding improper inmate care, inadequate jail facilities, or insufficient staffing. As a result, it may be more prudent for counties to use their Community Corrections account to improve jail facilities and to provide sufficient staffing to supervise inmates and probationers, which is the account's primary purpose. State law allows counties to use the Community Corrections Performance Incentive Fund to provide rehabilitative services, so Alameda could use that fund instead for rehabilitative and social services.

Additionally, Partnership Committees throughout the State provide information regarding their implementation of public safety realignment to the Corrections Board annually. State law requires the Corrections Board to report to the Legislature information related to counties' implementation of realignment. As we discuss in the Introduction,

the Corrections Board surveys the counties to obtain this information. In response to this request for information, the Partnership Committees report their public safety goals, such as reducing recidivism; their progress toward achieving these goals; and their realignment allocations. However, as with their limited oversight of realignment funding, the Partnership Committees have provided information related to only a small portion of their public safety realignment funds to the Corrections Board, leaving the majority of realignment funds and services unreported. For example, although the State provided \$214 million in public safety realignment funds to Fresno in fiscal year 2019–20, the county’s Partnership Committee only reported a total budget allocation of \$41 million—19 percent of its total realignment funding—to the Corrections Board in that fiscal year. As Figure 7 shows, Alameda and Los Angeles also reported only a fraction of the public safety realignment funds they received in fiscal year 2019–20. As a result, transparency about public safety realignment funding is limited because the counties are not comprehensively reporting how they allocate or spend the majority of their public safety realignment funds. Further, because the Corrections Board narrowly interpreted the scope of realignment funding and did not ensure that the counties reported all realignment expenditures, as we describe in Chapter 3, the information it has provided to the Legislature has been incomplete.

**Figure 7**  
 The Three Counties Reported Only a Fraction of the Realignment Funds They Received to the Corrections Board Fiscal Year 2019–20



Source: Implementation report from the Corrections Board and records of payments from the State Controller.

*Each county has exceeded its reserve levels in many accounts, resulting in millions of dollars of unspent public safety realignment funds at the end of fiscal year 2019–20.*

### **Surpluses in Many Realignment Accounts Indicate That Counties Could Use Funds More Effectively to Improve Public Safety**

The three counties we reviewed each have surpluses beyond a reasonable reserve amount in many of their public safety realignment accounts. Each county has goals or policies for maintaining a reasonable reserve. For example, Alameda has a policy stating that it will strive to maintain a reserve of at least 10 percent of a fund's annual budgeted operating expenditures, whereas Los Angeles indicated that it abides by the reserve amount recommended by the Government Finance Officers Association (GFOA). The GFOA, which represents public finance officials throughout the United States, recommends that government entities retain a reserve of no less than two months' worth, or about 17 percent, of a fund's annual revenues or expenditures. However, each county has exceeded its reserve levels in many accounts, resulting in millions of dollars of unspent public safety realignment funds at the end of fiscal year 2019–20, as Table 3 shows.

For example, Alameda had a surplus of \$102 million in its Community Corrections account as of the end of fiscal year 2019–20, which represents 205 percent of the revenue the account received in that fiscal year. Los Angeles also had a surplus of nearly \$600 million in its Enhancing Law Enforcement Activities account, which represents 310 percent of the revenue the account received in fiscal year 2019–20. Additionally, Fresno has a \$1.5 million surplus in its District Attorney and Public Defender account. The county accumulated this surplus, which is more than 140 percent of the revenue the county received in fiscal year 2019–20 for this account, because it did not fully spend the revenue it received in this account in previous years. Similarly, as of the end of fiscal year 2019–20, Alameda and Los Angeles each had surpluses in their Local Innovation accounts, which can be used to further the goals of all but one of the law enforcement services accounts outlined in Figure 1. Specifically, Alameda had a surplus of \$1.5 million and Los Angeles had a surplus of \$8.4 million. These surpluses are significant because they constituted 550 percent and more than 570 percent, respectively, of the revenue the counties received for these accounts in fiscal year 2019–20. An accumulation of surpluses beyond a reasonable reserve amount demonstrates that the counties could more effectively use their funds to improve public safety.

**Table 3**  
The Counties Carried Significant Surpluses in Many Public Safety Realignment Accounts at the End of Fiscal Year 2019–20 (Dollars in Thousands)

ACCOUNT/FUND	ALAMEDA		FRESNO		LOS ANGELES	
	SURPLUS	PERCENT OF REVENUE FROM FISCAL YEAR 2019–20	SURPLUS	PERCENT OF REVENUE FROM FISCAL YEAR 2019–20	SURPLUS	PERCENT OF REVENUE FROM FISCAL YEAR 2019–20
Behavioral Health	Deficit		\$23,100	59%	\$252,700	48%
Community Corrections	\$101,800	205%	23,300	60	67,600	16
Community Corrections Performance Incentive	15,500	913	900	50	131,400	354
District Attorney and Public Defender	Deficit		1,500	143	17,800	132
Enhancing Law Enforcement Activities	Deficit		18,300	86	597,800	310
Juvenile Justice	15,900	289	5,800	107	14,000	39
Local Innovation	1,500	550	800	566	8,400	577
Mental Health	No data*		No data*		350,000	106
Protective Services	Deficit		4,000	7	212,700	28
Recidivism Reduction	25	No revenue	Balanced		Balanced	
Trial Court Security	Deficit		900	6	Balanced	
<b>Total surplus</b>	<b>\$134,700</b>		<b>\$78,600</b>		<b>\$1,652,400</b>	

Source: County accounting records and Controller's Office's allocation reports.

Note: Alameda generally uses its county general fund and other eligible funding to address areas with deficits.

\* Alameda and Fresno combine their 2011 mental health realignment funding with other mental health funding from the State. As a result, these counties are unable to demonstrate their mental health surpluses or deficits related to public safety realignment.

The counties provided different explanations for carrying surpluses in certain accounts. In response to our inquiry, Fresno stated that the majority of its surpluses in its public safety realignment accounts are a result of receiving more funds than it anticipated in its budget. Additionally, Fresno explained that it takes a conservative approach to budgeting, which would allow the county to continue to operate its services and programs for five years in the event of a state funding reduction, although the county does not actually budget beyond one year into the future. Regardless, we disagree with this practice because a reserve for five years of operations is significantly larger than necessary, particularly compared to GFOA's guidance of maintaining a reserve of two months of revenue or expenses. Rather, Fresno could more effectively benefit the community by spending these funds to improve public safety. Even if the county took a more conservative approach to its reserves, based on our review of the funding variances from year to year, the county's reserve should not exceed 25 percent of the previous year's revenues.

Alameda was aware of its surplus in the Community Corrections account; in fact, the probation chief stated that she has been working for several years to identify the total surplus and use these funds. As discussed earlier in this chapter, Alameda has a policy to designate 50 percent of Community Corrections funding to community-based organizations and nonprofit partners, and the probation chief is responsible for administering the contracts with these partners. The probation chief explained that she did not have sufficient staff to administer contracts for services in a timely manner, causing surpluses to grow, because despite having additional funds in the Community Corrections account, the county did not provide funding to the probation department for the administration of these contracts. In November 2020, Alameda's board of supervisors approved funding for additional probation department staff to administer the contracts, which should allow the county to move forward more quickly in spending these funds.

Los Angeles explained that its practice of maintaining a reserve does not apply to its Local Innovation account and that the board of supervisors has the discretion to spend the funds. However, it has not yet budgeted the full surplus. As we describe in Figure 1 in the Introduction, counties can use the Local Innovation account to fund their public safety needs. Each year the State provides counties with base revenue allocations, with an additional variable amount of funding based on any growth in state sales tax and vehicle license fee revenue. State law requires counties to support the Local Innovation account with 10 percent of the variable portion of public safety realignment funding the State provides for certain accounts, including the Community Corrections and District Attorney and Public Defender accounts. Los Angeles considers these funds nonguaranteed, one-time funds and therefore believes that no reserve amount applies. However, we disagree that the funds are one-time, because the State has paid the counties some variable funding each year since fiscal year 2013–14. Further, Los Angeles can expect to receive more of this funding in the future when the economy is doing well. Therefore, although the funding amount may have changed from year to year, the State has provided this variable funding consistently for the past seven years. This surplus demonstrates the need for Los Angeles to plan further into the future for how it will spend its money, which we discuss below. The county may plan to reserve such funds for a one-time project, such as a capital project to enhance its jail facilities. However, without such a plan or a budget, the county has no justification for holding this funding.

*None of the three counties we reviewed conducts long-term planning for public safety services.*

We were surprised to find that none of the three counties we reviewed conducts long-term planning for public safety services. In fact, they do not budget beyond one year into the future. However, the GFOA states that a good budget process incorporates



a long-term perspective. Such a long-term budgeting process would help counties plan to spend surpluses that accumulated in the previous year. It also would allow counties to build a framework for current and future policy decisions by allowing them to assess the availability of funds for any extensive programs or capital projects. For example, as we describe in Chapter 1, Los Angeles has consistently exceeded its jail capacity. The State provides a portion of the funding in the Enhancing Law Enforcement Activities account for jail construction and operation. Los Angeles could use these funds toward building a new facility to expand its jail capacity, which could help address its ongoing capacity issue. Capital projects often take several years to complete and therefore require long-term planning. Without such planning, it is unlikely that Los Angeles will be able to address its capacity issues or improve its existing facilities.

### **Counties Have Not Sufficiently Evaluated the Effectiveness of Their Programs**

The three counties we reviewed do not regularly evaluate their realignment services and programs to ensure that they are effective. Counties use realignment funds to provide a variety of services to inmates and probationers, such as employment services, substance abuse treatment, mental health services, and housing assistance. State law requires counties to identify and track the percentage of individuals who successfully complete probation and the percentage of state money spent on programs proven to reduce recidivism. Further, the GFOA states that counties, as a best practice, should continually evaluate programs and make adjustments as necessary to encourage progress toward achieving goals. Consequently, we expected the counties to evaluate the effectiveness of the programs and services they offer to inform their decision making about how best to spend realignment funding. However, we found that the three counties we reviewed have conducted only limited evaluations of the effectiveness of their public safety services and programs.

The three counties have only recently completed evaluations of certain realignment services and programs. In October 2020, Los Angeles completed its first in a planned series of evaluations to assess the impact of the county's public safety realignment programs on inmate and probationer outcomes. However, this evaluation focused on an assessment of trends in outcomes for probationers realigned to the county from the State and includes a review only of programs the county funds using the Community Corrections account, which constituted just 17 percent of its total public safety realignment funding in fiscal year 2019–20. Alameda contracted for and received evaluations of some of its services and programs in 2019 and 2020. Similar to Los Angeles, Alameda's

evaluations covered only a selection of realignment services and programs funded by the Community Corrections account, rather than evaluating all services and programs. As a result, the counties have not evaluated the services and programs paid for by a majority of its public safety realignment funding. Unlike Alameda's and Los Angeles's evaluations, Fresno's evaluations reviewed programs the county supports with other public safety realignment accounts. Specifically, Fresno collaborated with the Pew-MacArthur Results First Initiative for two evaluations in 2017 and 2018.<sup>7</sup> These evaluations included a review of a variety of programs, such as alternative custody programs and highly supervised probationary reporting programs, which the county supports using funds from public safety realignment accounts other than those in the Community Corrections account. All three counties indicated that they have plans for future evaluations. A more thorough evaluation of programs supported by all public safety realignment funds could provide counties with crucial information about whether they are accomplishing intended program goals, which would allow them to make better decisions about the use of funds.

### **State Law Did Not Appropriately Establish an Account for Counties to Manage Mental Health Funds They Receive Under the Realignment Legislation**

As part of the realignment legislation, the State created the State Revenue Fund 2011 to receive the sales tax revenue and vehicle license fees that the State allocates to the counties for public safety realignment. That fund includes a Mental Health account. In turn, state law required each county to create a Local Revenue Fund 2011 to receive allocations from the State and to divide its Local Revenue Fund 2011 into eight specified accounts. However, in establishing the county accounts, the Legislature did not require counties to create a Mental Health account to receive the funds the State allocated for this purpose for public safety. In total, the State paid \$1.1 billion to counties for this mental health funding in fiscal year 2019–20, and state law requires counties to use these mental health funds for public safety purposes only.

Because the State does not allocate the mental health funds associated with public safety realignment to a specific county account, Alameda and Fresno confirmed that they have combined public safety funds intended for mental health with other mental health funds they receive from the State each year. The other funds the State provides to the counties for mental health are

<sup>7</sup> The Pew-MacArthur Results First Initiative is a nonprofit organization that works with states to implement an innovative, evidence-based policymaking approach that helps them invest in proven policies and programs.

associated with a previous social services realignment dating back to 1991. State law restricts the 1991 mental health funding for mental health services that serve specific targeted populations, such as seriously emotionally disturbed children and adults who have serious mental disorders. In contrast, counties must use the 2011 realignment funding for public safety purposes, including providing mental health services to reduce student failure in schools, harm to self and others, homelessness, and preventable incarceration or institutionalization. Los Angeles does not combine its mental health funds in the same way, as it has created a designated account for mental health funds related to the 2011 public safety realignment. However, because state law does not require counties to create a designated account for this funding, the State has little assurance that other counties we did not review account for these mental health funds separately. Without a designated account to receive only the mental health funds created by the realignment legislation, it is more difficult to ensure that counties appropriately spend these funds for public safety purposes.

## **Recommendations**

### ***Legislature***

To ensure consistency between state allocations and county accounting records, the Legislature should amend state law to require counties to separate mental health funding for public safety realignment from previously enacted mental health funding.

### ***Counties***

Unless the Legislature clarifies its intent otherwise, to ensure that the counties prudently and appropriately spend realignment funds, the Partnership Committees at Alameda, Fresno, and Los Angeles should, starting with their next annual budgets, review and make budget recommendations to their boards of supervisors for all realignment accounts, including the accounts that fund non-law enforcement departments and community-based organizations. Further, the counties should ensure that they budget all realignment funds to eliminate excessive surpluses in realignment accounts and prevent future surpluses beyond a reasonable reserve.

To ensure that the programs and services funded by public safety realignment funds are effective, beginning immediately, Alameda, Fresno, and Los Angeles should conduct evaluations of the effectiveness of their programs and services at least every three years.

To ensure that the counties report accurate and consistent information to the Corrections Board, beginning with their next annual reports, Alameda, Fresno, and Los Angeles should consistently report all law enforcement and non-law enforcement expenditures funded through the accounts that constitute public safety realignment.

## Chapter 3

### THE CORRECTIONS BOARD DOES NOT PROVIDE SUFFICIENT OVERSIGHT OF COUNTIES' USE OF PUBLIC SAFETY REALIGNMENT FUNDS

#### Chapter Summary

In the previous two chapters, we identify shortcomings in the three counties' administration of and reporting on public safety realignment funds. These shortcomings—which include counties reporting only a small portion of their public safety realignment activities and spending to the State, as well as limited oversight of the effectiveness of public safety realignment services—indicate the importance of effective state oversight. The Corrections Board has a key role in providing that oversight of counties and thereby ensuring transparency related to realignment.

Specifically, state law requires the Corrections Board to—among other things—provide an annual report to the Legislature regarding the implementation of realignment, inspect and report on county jail facilities' compliance with state standards, collect best practices and make them available to counties, and define key realignment terms. However, we found that the Corrections Board has, at best, minimally met these requirements and needs to improve its oversight of counties, as Table 4 shows. For instance, it reports to the Governor and the Legislature on realignment, but it provides information on only a small portion of the public safety realignment funds that counties receive because the Corrections Board has narrowly interpreted the scope of realignment funding, similar to the counties. Also, although state law requires it to analyze information that counties submit for these reports, it has failed to do so; thus, it cannot identify when counties submitted inconsistent information. In addition, the Corrections Board does not provide estimates of the cost to correct deficiencies it identifies in its inspections of jail facilities to the Legislature, as state law requires. Although the Corrections Board has included links to evidence-based practices compiled by criminal justice experts on its website, it has provided limited value because it has not evaluated or analyzed the quality of these practices, or categorized those it may identify as best practices for the counties to use. Furthermore, despite having the authority to do so, the Corrections Board has not defined more than the statutorily required criminal justice or correctional terms. Having definitions of terms such as *inmate risk classifications* and *assaults on staff* would facilitate statewide comparisons of county data and better enable the Corrections Board to analyze the impacts and effectiveness of realignment. As a result, the information the Corrections Board reports to the Legislature regarding counties' implementation of public safety realignment is inconsistent and incomplete.

**Table 4**  
The Corrections Board Did Not Always Meet Its Oversight Responsibilities Under State Law

OVERSIGHT RESPONSIBILITY	MEETS MINIMAL STATUTORY REQUIREMENT	IMPROVEMENT NEEDED: THE CORRECTIONS BOARD ...
Provide an annual report to the Governor and the Legislature regarding counties' implementation of realignment.	✓	Provides an annual report, but only reports on a small portion of the public safety realignment funds that counties receive.
Collect data from counties.	X	Does not collect complete and consistent data from counties.
Analyze data collected from counties.	X	Does not analyze information provided by counties.
Inspect and report on county detention facilities' compliance with state standards.	✓	Provides a biennial report, but does not include findings from inspections conducted by other state entities.
Report the costs to bring jail facilities up to standards.	X	Does not provide estimates of the costs to correct jail deficiencies.
Collect best practices and make them publicly available.	✓	Provides links to best practices on its website, but has not evaluated, analyzed, or categorized these links.
Define key realignment terms.	✓	Has defined statutorily required terms, but has not defined additional key terms.

Source: State law and analysis of Corrections Board documentation.

### The Corrections Board Provides Incomplete Financial Information That Offers Little Value to the Legislature

The Corrections Board is critical to ensuring the transparency of statewide public safety realignment efforts because state law requires it to collect, analyze, and report information from each county to the Governor and the Legislature. To collect this information, the Corrections Board surveys counties about their public safety realignment activities and funding allocations, including future program, service, and funding priorities. The Corrections Board provides counties with grant funds each year for responding to this survey. It compiles the county information into a report, which it must distribute by July each year, to the Governor and the Legislature.

However, when the Corrections Board provides its reports to the Governor and the Legislature, the board provides information on only a portion of public safety realignment funding. As we describe in Chapter 2, the Partnership Committees at the three counties

we reviewed narrowly interpreted the scope of public safety realignment funding. As a result, the counties submitted information about their activities and allocations related to only a limited number of accounts to the Corrections Board. Similar to the counties, the Corrections Board also interpreted the scope of public safety realignment funding as limited to the Community Corrections account. When we asked the Corrections Board why it had limited its oversight and reporting to only the Community Corrections account, it disagreed with our interpretation of state law and stated that it does not believe the Legislature intended for county Partnership Committees or the Corrections Board to oversee activities related to all 10 public safety realignment accounts. However, the realignment legislation is unambiguous. Specifically, state law required counties to create 10 public safety realignment accounts to receive funds from the State for a variety of public safety purposes. Additionally, it required counties to establish Partnership Committees, which, in addition to law enforcement representatives, include representatives from a broad spectrum of other government services, including mental health, social services, employment, and victims' advocacy. The required composition of the Partnership Committees reflects an intent that they, and subsequently the Corrections Board, are responsible for overseeing the activities related to all 10 public safety realignment accounts.

As a result of limiting its oversight to only activities associated with the Community Corrections account, the Corrections Board has significantly underreported funds that counties have spent on public safety realignment to the Governor and the Legislature. For example, based on information that the three counties we reviewed submitted to the Corrections Board for fiscal year 2018–19, the Corrections Board reported to the Governor and the Legislature that those counties received a total of only \$533 million, or about one-fifth, of the \$3 billion they actually received for public safety realignment. As a result, the Corrections Board's reports do not provide a complete representation of counties' public safety realignment funding.

In addition, although state law requires the Corrections Board to analyze the information that counties provide about their realignment activities and expenditures, we found it has failed to do so. When the Corrections Board surveys the counties each year to inform its annual report to the Governor and the Legislature, it asks them to provide details regarding their progress toward meeting realignment goals as well as their prior and current years' public safety funding. Consequently, we expected the Corrections Board to use counties' survey responses to analyze county realignment spending and services and to identify statewide trends. However, it does not perform such an analysis. Had it done so, it may have

***The Corrections Board has significantly underreported funds that counties have spent on public safety realignment to the Governor and the Legislature.***

identified some of the concerns we detected in the counties' accounting of their public safety realignment funds. For example, as we describe in Chapter 2, we found that each of the counties we reviewed had significant surpluses in many of their public safety realignment accounts. Although the Corrections Board has access to data on state allocations as well as the counties' self-reported allocations, it did not compare them, even though such a comparison is straightforward to perform and would have revealed, at a minimum, surpluses in each of the three counties' Community Corrections accounts. As a result of its limited interpretation of public safety realignment funding and its failure to analyze the data counties submitted, the Corrections Board was unaware of the counties' significant accumulation of public safety realignment surpluses.

The Corrections Board has viewed its role as a data warehouse rather than as an agency responsible for analyzing counties' data. According to the Corrections Board, it has not received any inquiries from the Legislature or other stakeholders in the last three years regarding public safety realignment trends. However, in our view, the Corrections Board would likely receive inquiries if it analyzed the data counties submit and published its findings. For example, comparing all counties' public safety funding from the State to the allocations the counties report could generate legislative or stakeholder questions regarding, for example, unspent funding. By not analyzing information submitted by counties, the Corrections Board is providing scant oversight of county realignment funds.

*By not analyzing information submitted by counties, the Corrections Board is providing scant oversight of county realignment funds.*

Further, the Corrections Board failed to notice that the financial information counties report is inconsistent. Specifically, we reviewed a selection of county survey submissions from 2017 through 2020 and found errors that the Corrections Board likely would have identified had it reviewed the information. For example, in two separate reports, Alameda reported significantly different state allocations for the same year—fiscal year 2016–17. We found that in response to the 2017 survey, Alameda reported that it allocated \$22 million in public safety realignment funds. However, in response to the 2018 survey, it reported that it allocated \$56 million in fiscal year 2016–17—a difference of \$34 million. Alameda also reported allocations related to the public defender, district attorney, probation department, and sheriff's office for some fiscal years but omitted them in other fiscal years without explanation. In addition, in response to the 2019 survey, Alameda reported its sheriff's office and public defender amounts as expenditures rather than budget allocations. Expenditures are not equivalent to budget allocations; therefore, we were surprised to see the two measures used interchangeably. According to Alameda's probation chief, both the sheriff and public defender



have been reporting expenditures because their expenditures have exceeded the state allocations. We believe that if the Corrections Board reviewed counties' submissions, identified these types of inconsistencies, and requested that counties correct them, it would help ensure that counties meaningfully report information regarding their implementation of public safety realignment. Additionally, consistent reporting among counties would allow the Corrections Board and stakeholders to perform cross-county comparisons of realignment spending and performance, allowing for a statewide view of realignment efforts.

### **The Corrections Board Has Failed to Inform the Legislature of the Costs Necessary to Address Deficiencies in Jail Facilities**

The oversight that the Corrections Board provides for local jails, where inmates transferred due to realignment serve their sentences, needs improvement. As we describe in the Introduction, state law requires the Corrections Board to establish facility standards, including health and safety standards, for county jails. It is also responsible for inspecting county jails every two years to ensure that they meet those standards. Additionally, state law requires the Corrections Board to report the results of its inspections every two years to the Legislature and include estimates of the costs for counties to correct any deficiencies that the Corrections Board identifies. However, none of the Corrections Board's three most recent biennial reports, which spanned its 2012 through 2018 inspections, contained estimates of the costs to correct identified deficiencies. For example, in its 2014–2016 biennial report, the Corrections Board found that seven buildings at the Santa Rita jail in Alameda County had fewer than the required one shower for every 20 inmates. Although the Corrections Board reported this problem to the Legislature, it failed to report either the cost to add the appropriate number of showers to the seven buildings or the cost to reduce the number of inmates housed in the buildings in order to meet the shower requirement.

The Corrections Board asserted that it does not include these costs in its reports to the Legislature because it is concerned that its estimates would be speculative. However, in our view, the Corrections Board is in the best position to request or make those estimates on behalf of the State because it is required to inspect facilities in every county and provide recommendations to counties to assist them in constructing, remodeling, and repairing jail facilities that comply with state standards. Counties must also submit budget estimates to the Corrections Board whenever they plan construction or repairs costing more than \$15,000, so they could submit estimates of the cost of rectifying jail deficiencies, which the Corrections Board could publish in

*The Corrections Board asserted that it does not include the costs for counties to address deficiencies in jail facilities that it identifies in its reports to the Legislature because it is concerned that its estimates would be speculative.*

*When the Corrections Board does not include cost estimates for facility improvements in its jail facility reports to the Legislature, it limits the Legislature's ability to address overcrowding issues or other constraints.*

its jail inspection reports. By definition, estimates are rough assessments of costs based on imperfect data, so the Corrections Board is certainly able to obtain or make an appraisal of the cost of bringing a facility into compliance with its standards and to provide that estimate to the Legislature.

When the Corrections Board does not include cost estimates for facility improvements in its jail facility reports to the Legislature, it limits the Legislature's ability to address overcrowding issues or other constraints, such as limited classroom or outdoor space, within county jails. As we discuss in Chapter 1, overcrowding can lead to increases in inmate violence, illness, and mental health issues. Further, the three counties we reviewed have each been the subject of lawsuits alleging insufficient mental health care due in part to lack of treatment space and appropriate supervision, and also alleging violence from other prisoners due in part to low staff-to-prisoner ratios and jail construction design flaws—all of which are issues related to overcrowding. Although the Corrections Board's three most recent biennial jail inspection reports for Alameda, Fresno, and Los Angeles identified many instances of overcrowding, they did not describe the estimated costs of alleviating the situation. For example, in three separate inspections between 2012 and 2018, the Corrections Board reported that Fresno's North Annex Jail was overcrowded and lacked a sufficient number of showers and toilets for the number of inmates the facility held. Had the Corrections Board included estimates for the cost to renovate or build new facilities to address this overcrowding in its reports, it would have better informed the Legislature, which could consider allocating resources to address the problem. Thus, it is important for the Corrections Board to provide estimates of the costs necessary for jail facilities to comply with standards and to inform the Legislature's decisions regarding the allocation of public safety realignment funding.

The Corrections Board has made some improvements to its inspection process for jail facilities to ensure that the counties correct identified deficiencies in a timely manner. State law has required the Corrections Board only to provide its inspection reports on its website and to certain county officers and entities, including the presiding judge of the county's superior court, the county board of supervisors, and the local grand jury. However, the Governor noted in his proposed fiscal year 2020–21 budget that the Corrections Board needs to more actively engage counties regarding the deficiencies identified through its inspections and to conduct more frequent follow-up inspections. In response, in September 2020 the Corrections Board approved a plan to revise its process for ensuring that counties correct their deficiencies in a timely manner. The revised process requires counties to either correct outstanding items of noncompliance or submit a corrective

action plan within 30 days after the Corrections Board issues its report and identify how they plan to correct those deficiencies within 60 days. The revised process also requires county jail administrators to appear at a public Corrections Board meeting if they fail to correct their deficiencies or submit a corrective action plan.

Although the Corrections Board has recently made these improvements in its oversight of jail facilities, we believe it also needs to ensure that counties address deficiencies identified by other entities that inspect jails. The Corrections Board is responsible for establishing certain health, fire, and life safety standards for county detention facilities, but it relies on outside agencies to conduct facility inspections in those areas. Specifically, the state fire marshal inspects facilities for fire and life safety requirements, whereas county departments of public health evaluate facilities for compliance with nutritional, environmental, and physical and mental health standards. Although the Corrections Board receives the reports of these inspections, it does not follow up on the results. According to the deputy director of its Facilities Standards and Operations Division, the Corrections Board's governing statutes do not prohibit follow-up with health officers and fire marshals, but the board has not conducted this sort of follow-up, and state law does not specify the Corrections Board's responsibility regarding oversight in this area. The deputy director indicated that the outside agencies that conduct those inspections are responsible for working with counties to develop corrective action plans to address those deficiencies. However, given its leadership and oversight role in the criminal justice system and the potentially critical nature of health and fire safety deficiencies, the Corrections Board should follow up on the results of these inspections to ensure that counties rectify their deficiencies in a timely manner. The Corrections Board should also include a description of the results of these inspections, including whether they are repeat findings, in its reports to the Governor and the Legislature to ensure that they are aware of all problems identified during inspections of county jail facilities.

**Although It Is Responsible for Identifying and Promoting Best Practices, the Corrections Board Has Not Adequately Done So**

State law requires the Corrections Board to provide guidance to counties by making data and information publicly available on state and community correctional policies, practices, capacities, and needs—and on the impact of those policies and practices on inmates and the community. The Corrections Board is also responsible for identifying, promoting, and providing technical assistance to counties relating to evidence-based programs,

*We believe the Corrections Board needs to ensure that counties address deficiencies identified by other entities that inspect jails.*

*The Corrections Board has done little to identify and promote best practices regarding restitution or to help counties in other ways.*

practices, and innovative projects consistent with the board's mission to improve public safety. However, the Corrections Board has taken few steps to fulfill this responsibility. These activities are critical because identifying and promoting practices that are effective allows counties to determine whether a similar solution may be suitable for a problem they face. For example, as we describe in Chapter 1, the three counties we reviewed either lack a process for victims to receive restitution payments from inmates or have practices that limit the amount of this restitution. However, the Corrections Board has done little to identify and promote best practices regarding restitution or to help counties in other ways, such as by identifying the most effective programs for jails to rehabilitate and reintegrate inmates into society upon their release. Instead, it has left it to counties to come up with solutions and best practices on their own.

Although the Corrections Board has included on its website links to evidence-based practices compiled by criminal justice experts, this information serves only as a general list because the Corrections Board has not evaluated, analyzed, or categorized those practices. For example, the board's website has a link to U.S. Department of Justice's website that lists hundreds of criminal justice practices and programs that researchers have rated as effective, as promising, or for which there is no evidence of efficacy. However, the Corrections Board includes on its website only a brief description of the listing and has done nothing to guide counties to specific programs, information, or topics that may address common problems in counties throughout the State. Instead, the Corrections Board could review programs within U.S. Department of Justice's list to identify those that are successful and that may address the unique challenges California's counties face. The other links on the board's website are similar, containing references to evidence-based practices collected by government entities, academic institutions, and third-party organizations but without any analysis or insight provided by the Corrections Board on the practices that may be best suited for California jails.

The Corrections Board also has not sufficiently promoted best practices that counties have already implemented to address their opportunities and challenges presented by realignment. In its annual survey, the Corrections Board asks counties about challenges presented by realignment and programmatic changes they have made in implementing realignment that they believe other counties would find helpful. For instance, in the Corrections Board's annual report for fiscal year 2019–20, a total of 19 counties identified housing issues, such as finding appropriate long-term housing for parolees, as a challenge. Considering the number of counties that reported challenges with housing issues, we expected the Corrections Board to include all relevant housing-related

programs and projects that counties reported as opportunities in its 2020 report. However, although the Corrections Board highlighted two housing programs from around the State in its 2020 report, it did not include all of the housing programs and projects that could assist other counties. One county specifically identified a program related to transitional housing in its survey response that combines drug recovery services with 60 days of housing for some probationers. Had the Corrections Board highlighted this program, other counties might have expressed interest in whether it could address some of the housing issues they are facing. Identifying evidence-based practices already implemented by one county and promoting them to other counties in California is an important activity for the Corrections Board to undertake. If the Corrections Board were to evaluate programs and more fully report on county opportunities to address common challenges, it could aid statewide and county realignment efforts.

The Corrections Board believes that it fulfills its legal obligations to identify and promote best practices and provide technical assistance by posting information compiled by criminal justice experts on its website and answering counties' questions upon request. Although it is statutorily required to conduct evaluation studies of federally funded programs and activities—and it requires its grantees to do so as a condition of their grants—the Corrections Board itself does not evaluate programs. In addition to directing us to its website, the Corrections Board noted that it provides consultations on grants that it administers and requires grantees to use evidence-based programs as a condition of their grant. The Corrections Board asserted that it would like to provide more assistance to counties but that doing so is very resource-intensive. According to the Corrections Board, it conducted a staffing analysis in 2012, after which it added research positions in 2013, 2015, and 2018 to assist with a research initiative. However, according to the Corrections Board, these positions did not directly provide additional assistance to counties.

Until it improves the quality of best-practices content on its website and its selection of programs to highlight in its annual reports, the Corrections Board is not sufficiently helping counties to overcome challenges or seize opportunities to improve their public safety realignment practices. By not recommending any particular best practices, the Corrections Board does not add value to the information it publishes and instead serves merely as a repository, or pass-through, of information rather than an oversight body. Further, the Corrections Board is missing the opportunity to share its conclusions regarding best practices to address the impacts of public safety realignment, which could aid the Legislature in decision making and in planning potential policy changes.

## The Corrections Board Has Not Ensured That Counties Report Data in a Comparable Way

State law requires the Corrections Board to define certain terms to facilitate comparisons of information across counties; however, although it has the authority to do so, the Corrections Board has not defined some other terms for which counties have requested definitions. As the text box shows, the Corrections Board has defined several terms related to public safety, including *recidivism*, to facilitate consistency in data collected from the counties to prepare its annual report to the Governor and the Legislature about counties' implementation of their realignment plans. Even though some counties have requested additional definitions in their survey responses, the Corrections Board has not defined any other

terms, such as *assault on staff* or *inmate risk level*.

However, the three counties we reviewed are using different definitions for these terms and are reporting information to the Corrections Board based on their interpretation of those terms. Because of this inconsistency, the information that the Corrections Board reports to the Governor and the Legislature is not necessarily comparable from county to county. The Corrections Board told us it has not defined additional terms because the former Governor's administration wanted to ensure that counties had autonomy. Nevertheless, we expected the Corrections Board to provide counties with definitions to enable consistent reporting and comparisons between counties.

### Key Terms Defined by the Corrections Board

- Average daily population\*
- Conviction
- Length of stay
- Recidivism\*
- Treatment program completion rate\*

Source: Corrections Board annual realignment reports to the Governor and the Legislature and state law.

\* Indicates term required by state law

In addition, for the terms that the Corrections Board has defined, it is not ensuring that counties actually use those definitions when reporting information about realignment. When the Corrections Board conducts its annual survey of counties for its report to the Governor and the Legislature, one of the questions it asks counties is whether they used its definitions in their responses. In 2020 one-third of the State's counties reported that they did not use some or all of the Corrections Board's definitions. Notably, Los Angeles does not use any of the Corrections Board's definitions. For instance, although the Corrections Board defines *recidivism* as "conviction of a new felony or misdemeanor committed within three years of release from custody or committed within three years of placement on supervision for a previous criminal conviction," Los Angeles uses a different definition. The county explained that it is interested in tracking additional events that are not associated

with new felony or misdemeanor convictions, such as arrests for misdemeanor offenses or violations of supervision terms that result in a return to custody. In addition, Los Angeles indicated that it attempts to track recidivism for three-year periods but that often it reports only one or two years of information because those are the only data available. As a result of these differences, if readers of the Corrections Board's annual report were to compare Los Angeles's recidivism rate to that of another county, they would not receive a useful comparison.

Similarly, Fresno tracks assaults on staff, but the way it reports assaults results in duplicate entries. For example, if one incident involves multiple types of assault, including physical, verbal, and gassing—an attack that involves an inmate throwing bodily fluids at jail staff—Fresno's data system would count this one incident in three different categories of assault. As a result, Fresno's reports of assaults on staff are neither consistent with nor comparable to other counties, which may be reporting assaults differently. Because counties do not consistently use the Corrections Board's definitions—and because the board has not defined additional key terms such as *assaults on staff*—the information the board presents in its report to the Legislature is not comparable across the State.

In response to our concerns about counties not consistently using its definitions, the Corrections Board noted that it believes requiring counties to follow its definitions could create a higher level of service that may require the State to reimburse counties for the costs associated with reporting information according to its definitions. Specifically, it suggested that the State would have to reimburse counties for the costs associated with tracking data based on the definitions it provides. However, this response does not reflect the fact that the Corrections Board does not require counties to report to it. The counties generally comply voluntarily with the Corrections Board. Although some key terms are included in other requests that it asks of counties, pursuant to language in the annual Budget Act, the Corrections Board provides between \$100,000 and \$200,000 in grant funding, based on population, to each county that responds to its realignment survey. Subsequently, the Corrections Board reports the realignment data and information counties provide in its annual report to the Legislature. In our view, the Corrections Board is well within its authority to strengthen its requirements, such as by requiring counties to use consistent definitions without creating a state mandate.

## Recommendations

### *Legislature*

To ensure that the counties and the Corrections Board are aware of their oversight responsibilities and resolve inconsistencies we identified from county to county, the Legislature should amend state law to clearly identify the specific accounts in the Local Revenue Fund 2011 it requires county Partnership Committees to plan for and oversee and the Corrections Board to include in its annual reports to the Legislature.

### *Corrections Board*

To ensure that county Partnership Committees report consistent and complete, and comparable information regarding their public safety realignment funding and activities, by September 2021 the Corrections Board should do the following:

- Develop and distribute guidance to counties of its expectations for reporting financial information related to all public safety realignment accounts.
- Develop and implement a process to review and analyze the information that counties provide about their realignment activities and expenditures each year.
- Develop definitions for terms it asks counties to report on, including *assault on staff* and *inmate risk level*.

To comply with state law, the Corrections Board should include the cost of bringing jail facilities up to state standards in its biennial jail facility reports to the Governor and the Legislature, beginning with its 2018–2020 biennial report.

To ensure that counties' detention facilities address health, fire, and life safety deficiencies in a timely manner and that the Governor and the Legislature are aware of these deficiencies, beginning with its next biennial report, the Corrections Board should incorporate inspection information that the state fire marshal and county departments of public health provide to counties into its corrective action process and its reports to the Governor and the Legislature.



To ensure that it provides state leadership and promotes best practices for counties to use, by March 2022 the Corrections Board should do the following:

- Conduct an independent analysis of best practices, such as effective practices for restitution or rehabilitative programs, related to public safety realignment and publish the results.
- Categorize the best practices it lists on its website for ease of reference to the counties.
- Determine common county needs stemming from realignment and promote specific best practices that meet the common needs of counties, including best practices developed and adopted by California counties.

We conducted this performance audit in accordance with generally accepted government auditing standards and under the authority vested in the California State Auditor by Government Code sections 8543 et seq. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,



ELAINE M. HOWLE, CPA  
California State Auditor

March 25, 2021

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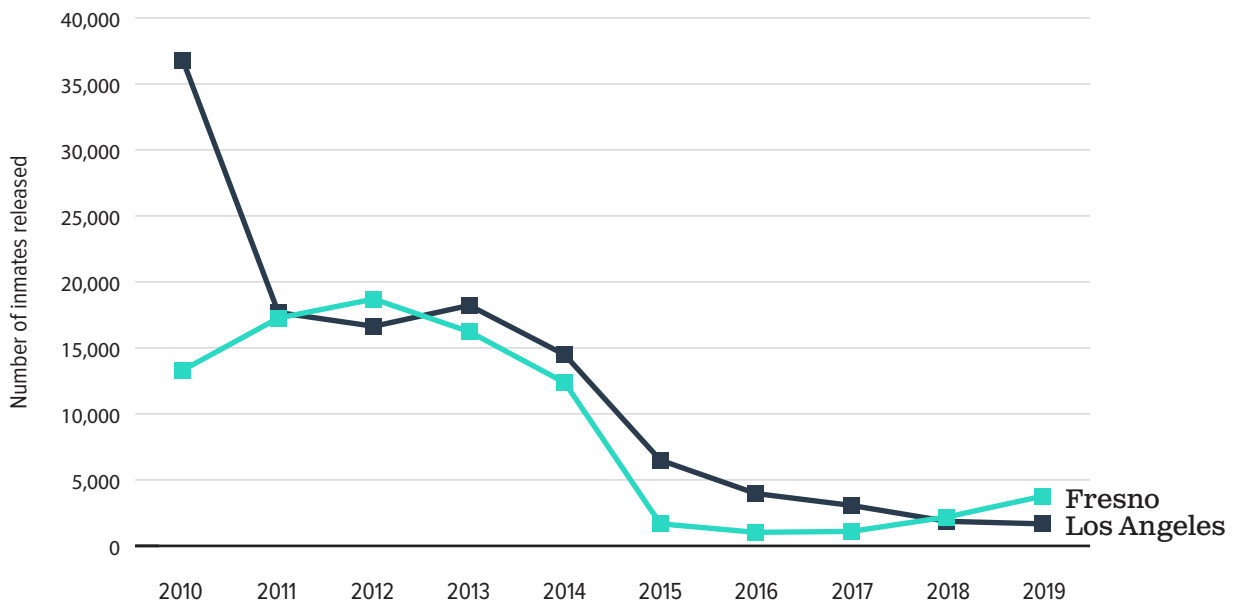
## Appendix A

### DEMOGRAPHIC AND STATISTICAL INFORMATION RELATED TO PUBLIC SAFETY REALIGNMENT

The Joint Legislative Audit Committee (Audit Committee) directed the California State Auditor’s Office (State Auditor) to review Alameda, Fresno, and Los Angeles counties’ jail population data and determine each county’s total jail population prior to realignment through the present. The Audit Committee also directed the State Auditor to identify any trends in jail population at each of the counties. Our review included inmate racial and ethnic makeup, the ratio of inmates to staff, inmate releases, inmate risk levels, and inmate deaths by category. The following figures present these data and any trends they reveal.

Counties in California report to the Corrections Board the number of inmates they release each year due to a lack of jail capacity. Figure A.1 provides those numbers for Los Angeles and Fresno. Alameda has reported no releases of inmates due to a lack of jail capacity because it has not neared its capacity. Therefore, Alameda is not included in Figure A.1.

**Figure A.1**  
**Inmate Releases Due to Lack of Jail Capacity for Fresno and Los Angeles**

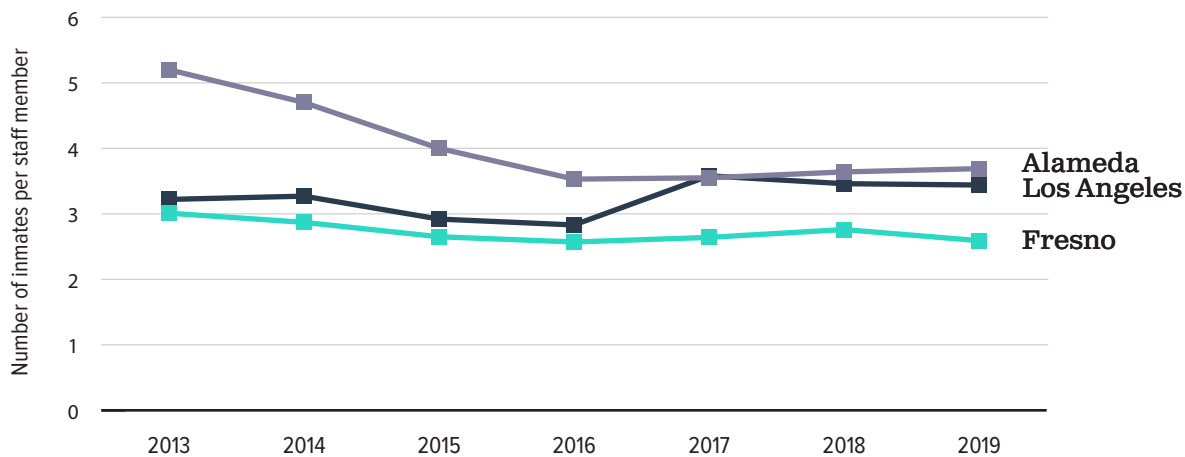


Source: The Corrections Board.

We reviewed the number of jail inmates per staff member to identify any trends, as shown in Figure A.2, in part because inmate advocate lawsuits alleged inadequate staffing in county jail facilities. Alameda has reduced its jail population, leading to a lower ratio of inmates per staff member. We did not identify any other significant trends.

**Figure A.2**

The Average Number of Jail Inmates Per Staff Member for Alameda, Fresno, and Los Angeles From 2013 Through 2019

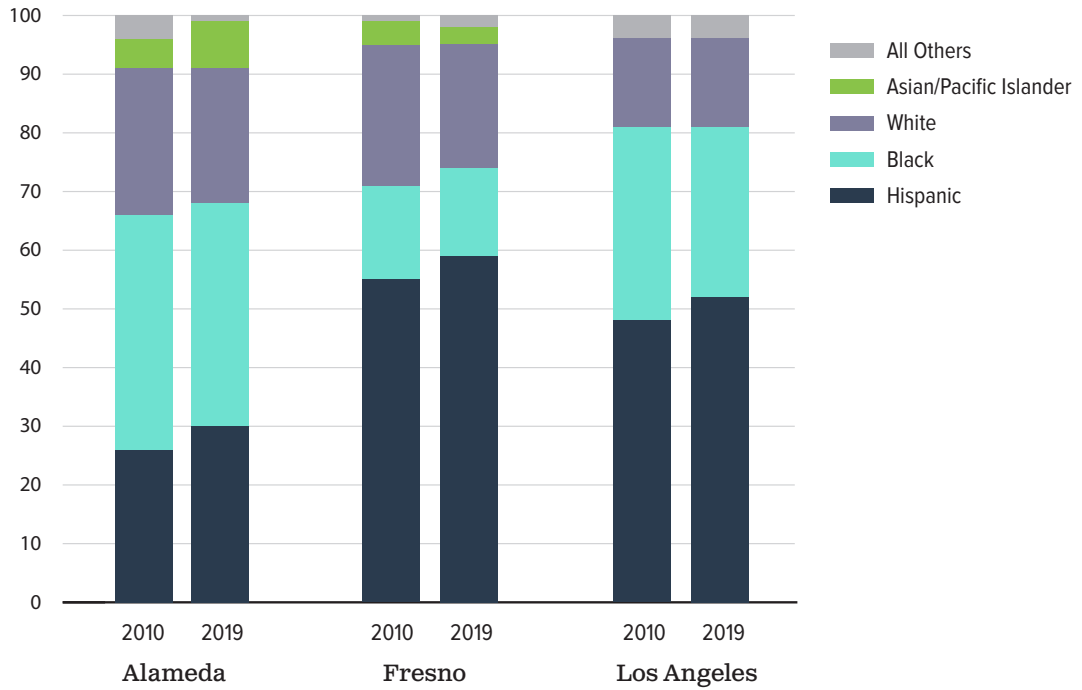


Source: Data provided by Alameda and Fresno sheriff's offices, and Los Angeles's sheriff's department.

Note: 2013 is the first year for which all three counties have available personnel data.

The Audit Committee requested information on the racial demographics of inmates in the counties we reviewed and any trends from fiscal years 2010–11 through 2019–20. We did not identify any new trends in racial demographics of inmates, as the proportions of each race tracked by the jails remained generally consistent from 2010 through 2019. We present the data by calendar year for Fresno and Los Angeles, and by fiscal year for Alameda because it provided its data by fiscal year. Therefore, Alameda's 2019 data reflects fiscal year 2019–20. In Figure A.3, we present the racial demographics of jail inmates in 2010 and 2019.

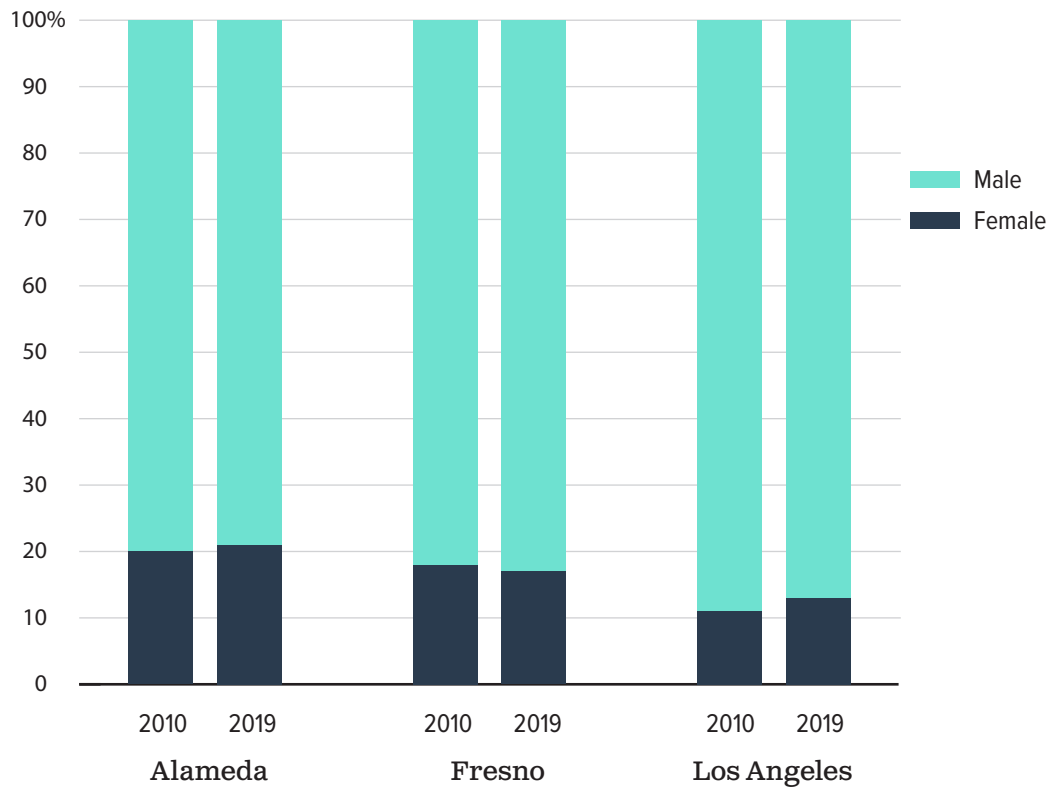
**Figure A.3**  
**Jail Racial Demographics for Alameda, Fresno, and Los Angeles**



Source: Data provided by Alameda and Fresno sheriff's offices, and Los Angeles's sheriff's department.

Similar to our analysis of racial demographic trends in jail populations, our review found that the percentage of women in jails did not significantly change from 2010 through 2019. Similar to Figure A.3, we report Alameda's data by fiscal year.

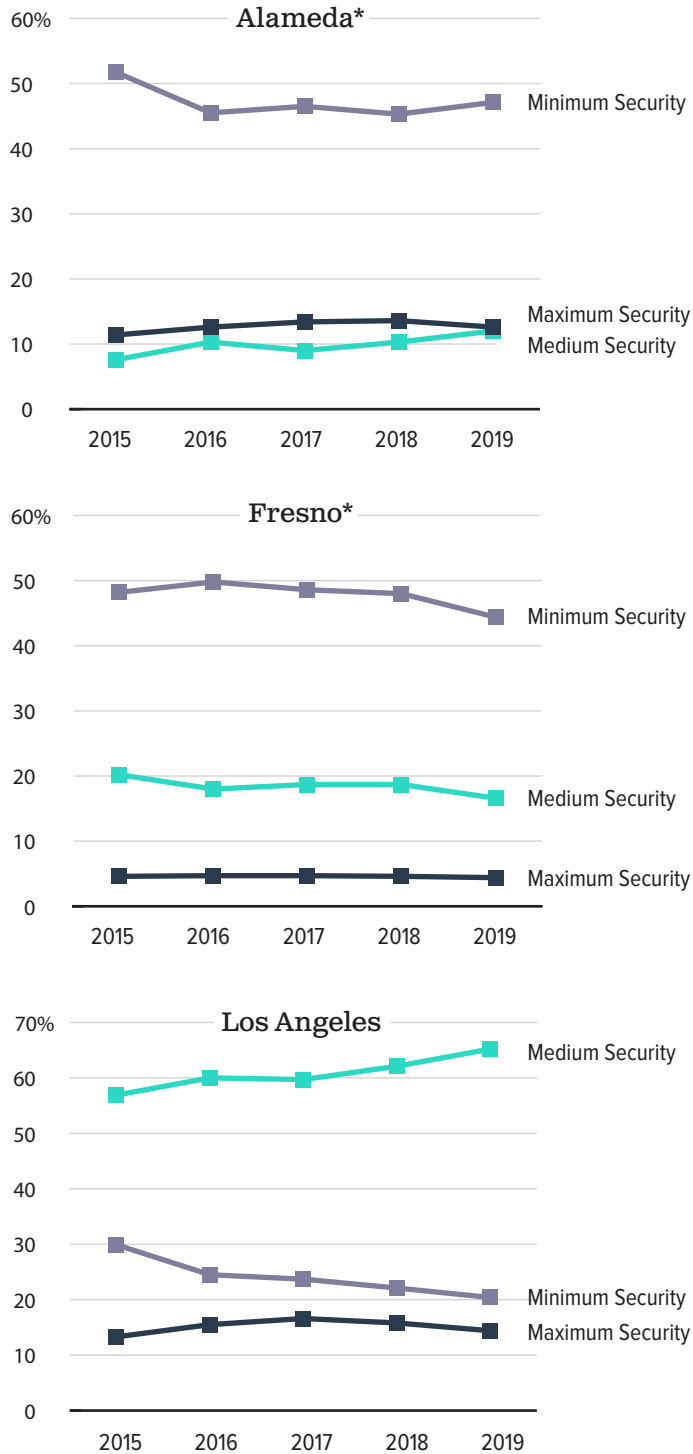
**Figure A.4**  
Inmate Gender Proportions for Alameda, Fresno and Los Angeles



Source: Data provided by Alameda and Fresno sheriff's offices, and Los Angeles's sheriff's department.

Our review of trends in jail populations included the risk level that each county assigned to inmates from 2015 through 2019, which we display in Figure A.5. Counties use different terms and methods for evaluating inmate risk levels because the Corrections Board does not provide a definition that it requires counties to use. Therefore, we have consolidated the county risk level terms into maximum, medium, and minimum risk levels. We found that two counties have evaluated a decreasing proportion of inmates as minimum risk since 2015, the year counties implemented a new data system and the first year for which they have available data.

**Figure A.5**  
 Percentage of Inmates at Each Risk Level for Alameda, Fresno, and Los Angeles

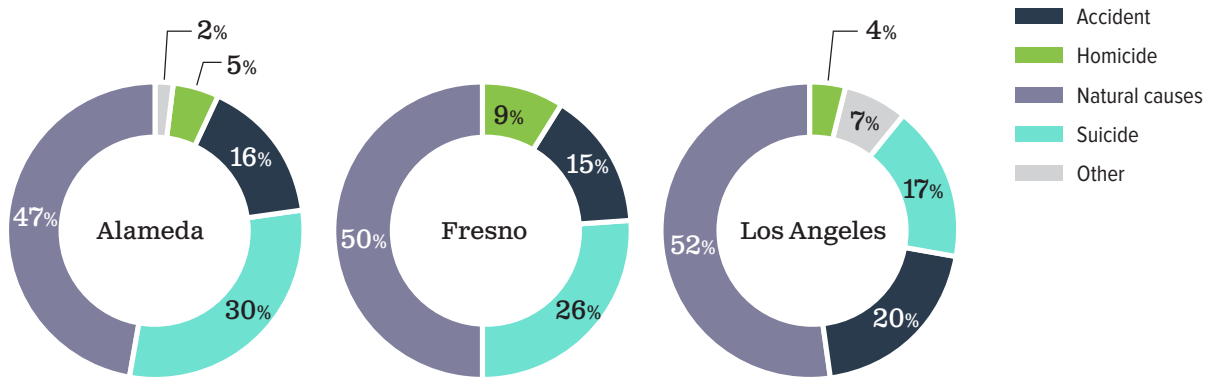


Source: Data provided by Alameda and Fresno sheriff's offices, and Los Angeles's sheriff's department.

\* Jail data for Alameda and Fresno included categories other than "Maximum," "Medium," and "Minimum," such as categories to indicate that the risk interview is pending or that the inmate is segregated from the general population. Because we have excluded these inmates from our analysis, the percentages we display for these two counties will not add up to 100 percent.

Finally, we also reviewed the causes of inmate deaths for the three counties. In addition to reporting the instances of inmate deaths to Justice, counties also report how the inmate died, such as due to an accident or natural causes. Figure A.6 displays the causes of inmate deaths from 2011 through 2019. For Fresno and Los Angeles, the figure displays county data rather than data from Justice because the counties' data were more complete. Causes of death labeled as "other" include the categories "pending investigation" and "undetermined." Among the three counties, natural causes was the most frequent cause of death followed by suicide and accidents.

**Figure A.6**  
Causes of Inmate Deaths From 2011 Through 2019



Source: Justice's website, the Fresno sheriff's office, and the Los Angeles sheriff's department.



## Appendix B

### REVENUE AND EXPENDITURES RELATED TO PUBLIC SAFETY REALIGNMENT

The Audit Committee directed the State Auditor to review Alameda, Fresno, and Los Angeles counties’ financial data for public safety realignment funds from fiscal years 2011–12 through 2019–20. Specifically, the Audit Committee asked us to determine the annual amount of realignment funding each of these three counties received, as well as their sheriff’s offices’ annual expenditures, including the amount of realignment funds they spent and the major categories of their realignment expenditures.

Table B.1 reflects the total amount Alameda, Fresno, and Los Angeles counties received each fiscal year from 2011–12 through 2019–20 for the 10 public safety realignment accounts plus the Mental Health account. As shown in the table, the State only allocated counties revenue for the Recidivism Reduction Fund in fiscal years 2014–15 and 2015–16.

**Table B.1**  
 The State’s Allocations of Realignment Funding to the Three Counties, Fiscal Years 2011–12 Through 2019–20

ALAMEDA’S REALIGNMENT FUNDING BY FISCAL YEAR (DOLLARS IN THOUSANDS)										
REALIGNMENT FUNDING SOURCE	2011–12	2012–13	2013–14	2014–15	2015–16	2016–17	2017–18	2018–19	2019–20	TOTAL
Behavioral Health	\$0	\$46,700	\$58,900	\$61,500	\$60,800	\$68,300	\$75,400	\$77,100	\$76,500	\$525,200
Community Corrections	7,700	27,300	35,800	36,200	38,900	47,000	47,100	53,000	49,700	342,700
Community Corrections Performance Incentive	700	2,600	2,100	1,800	2,100	2,000	2,400	2,200	1,700	17,600
District Attorney and Public Defender	300	400	600	600	700	1,000	1,000	1,100	1,100	6,800
Enhancing Law Enforcement Activities	17,500	18,500	17,900	19,200	20,900	21,800	23,000	24,400	25,500	188,700

**ALAMEDA'S REALIGNMENT FUNDING BY FISCAL YEAR (DOLLARS IN THOUSANDS)**

REALIGNMENT FUNDING SOURCE	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	TOTAL
Juvenile Justice	2,900	3,500	4,300	4,600	5,400	5,100	5,300	5,600	5,500	42,200
Local Innovation	0	0	0	0	0	200	300	600	300	1,400
Mental Health	42,500	52,400	53,200	53,100	53,300	53,000	53,100	53,100	53,000	466,700
Protective Services	0	57,300	77,200	86,000	91,100	89,100	94,100	97,900	95,600	688,300
Recidivism Reduction	0	0	0	300	100	0	0	0	0	400
Trial Court Security	17,700	19,900	22,300	23,800	24,800	22,800	24,400	25,000	24,200	204,900
<b>Totals</b>	<b>\$89,300</b>	<b>\$228,600</b>	<b>\$272,300</b>	<b>\$287,100</b>	<b>\$298,100</b>	<b>\$310,300</b>	<b>\$326,100</b>	<b>\$340,000</b>	<b>\$333,100</b>	<b>\$2,484,900</b>

**FRESNO'S REALIGNMENT FUNDING BY FISCAL YEAR (DOLLARS IN THOUSANDS)**

REALIGNMENT FUNDING SOURCE	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	TOTAL
Behavioral Health	\$0	\$25,300	\$30,000	\$31,000	\$31,400	\$36,100	\$39,100	\$39,400	\$39,100	\$271,300
Community Corrections	7,400	19,800	27,500	27,400	30,300	37,200	38,600	40,100	39,200	267,500
Community Corrections Performance Incentive	3,400	4,700	3,300	4,200	3,700	3,600	2,700	2,000	1,800	29,400
District Attorney and Public Defender	300	400	600	500	600	900	900	1,000	1,100	6,300
Enhancing Law Enforcement Activities	13,500	14,800	14,800	15,900	17,300	17,500	18,500	20,000	21,300	153,600
Juvenile Justice	3,100	3,500	4,500	5,100	6,500	5,700	5,900	5,700	5,400	45,400
Local Innovation	0	0	0	0	0	200	400	300	100	1,000
Mental Health	26,800	33,000	33,600	33,500	33,600	33,400	33,500	33,500	33,400	294,300
Protective Services	0	34,600	45,700	50,300	53,000	52,000	54,900	57,000	55,700	403,200
Recidivism Reduction	0	0	0	300	100	0	0	0	0	400
Trial Court Security	12,000	13,500	15,100	16,100	16,800	15,500	16,500	16,900	16,600	139,000
<b>Totals</b>	<b>\$66,500</b>	<b>\$149,600</b>	<b>\$175,100</b>	<b>\$184,300</b>	<b>\$193,300</b>	<b>\$202,100</b>	<b>\$211,000</b>	<b>\$215,900</b>	<b>\$213,700</b>	<b>\$1,611,500</b>

**LOS ANGELES'S REALIGNMENT FUNDING BY FISCAL YEAR (DOLLARS IN THOUSANDS)**

<b>REALIGNMENT FUNDING SOURCE</b>	<b>2011-12</b>	<b>2012-13</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>TOTAL</b>
Behavioral Health	\$0	\$326,800	\$421,300	\$439,300	\$437,100	\$489,400	\$530,400	\$536,600	\$530,600	\$3,711,500
Community Corrections	94,300	254,300	330,600	327,400	319,200	398,600	398,500	415,400	412,500	2,950,800
Community Corrections Performance Incentive	21,400	46,300	39,400	41,700	43,400	44,700	38,700	36,600	37,000	349,200
District Attorney and Public Defender	3,400	4,700	7,200	6,800	7,800	11,700	11,700	13,200	13,500	80,000
Enhancing Law Enforcement Activities	130,300	141,300	133,600	144,300	158,700	166,400	175,800	185,700	192,700	1,428,800
Juvenile Justice	18,400	23,100	30,100	32,500	37,500	34,700	35,200	37,700	36,100	285,300
Local Innovation	0	0	0	0	0	2,300	3,000	1,900	1,500	8,700
Mental Health	264,600	326,500	331,400	330,900	332,200	330,300	331,200	330,800	330,300	2,908,000
Protective Services	0	457,300	607,100	674,200	712,300	697,400	733,400	765,700	748,000	5,395,400
Recidivism Reduction	0	0	0	1,600	800	0	0	0	0	2,400
Trial Court Security	119,300	134,400	150,800	160,800	167,200	154,200	164,700	168,800	163,200	1,383,400
<b>Totals</b>	<b>\$651,700</b>	<b>\$1,714,700</b>	<b>\$2,051,500</b>	<b>\$2,159,500</b>	<b>\$2,216,200</b>	<b>\$2,329,700</b>	<b>\$2,422,600</b>	<b>\$2,492,400</b>	<b>\$2,465,400</b>	<b>\$18,503,700</b>

Source: Controller's Offices allocation reports.

Note: Because of rounding, the values may not add up exactly to the aggregated totals.

Table B.2 compares each county's sheriff's office public safety realignment expenditures to their total expenditures for each fiscal year from 2011-12 through 2019-20. Although there is no requirement to do so, Alameda and Los Angeles track their expenditures in a way that allowed us to identify how much of the public safety realignment funding the sheriff's office spent in those counties. However, due to the methods Fresno uses to track its expenditures, it was unable to provide reports that identify how much of its public safety realignment funds its sheriff's office spent. As a result, we present only the county's total public safety realignment expenditures.

**Table B.2**  
Sheriff's Office Expenditures for Each Fiscal Year Since Realignment (Dollars in Millions)

	FISCAL YEAR									TOTAL
	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	
<i>Alameda Sheriff</i>										
Realignment Expenditures	\$44	\$51	\$53	\$54	\$39	\$61	\$59	\$62	\$68	\$491
Total Expenditures	\$356	\$357	\$386	\$401	\$428	\$441	\$464	\$499	NA	\$3,332
<i>Fresno Sheriff</i>										
Total Expenditures	\$155	\$163	\$165	\$178	\$190	\$197	\$211	\$243	\$259	\$1,761
<i>Los Angeles Sheriff</i>										
Realignment Expenditures	\$224	\$263	\$337	\$339	\$394	\$364	\$357	\$337	\$424	\$3,039
Total Expenditures	\$2,590	\$2,635	\$2,804	\$2,988	\$3,170	\$3,248	\$3,163	\$3,402	\$3,511	\$27,511

Source: County expenditure reports and budgets.

Finally, the Audit Committee requested that we review how the Alameda, Fresno, and Los Angeles sheriff's offices spent public safety realignment funds by category, such as enforcement, treatment, and jail operations. However, nothing in state law requires counties to track expenses by such categories. Instead, Table B.3 includes a breakdown of how Alameda's sheriff's office, probation department, and other departments spent their realignment funds, using categories the county does track, such as personnel costs. Neither Fresno nor Los Angeles account for their realignment expenditures by these categories. Instead, both counties wait until many public safety expenses have accumulated over time and then provide a lump-sum reimbursement to their departments.

**Table B.3**  
Alameda’s Realignment Expenditures by Category (Dollars in Thousands)

<b>SHERIFF’S OFFICE REALIGNMENT EXPENDITURES</b>					
	<b>PERSONNEL COSTS</b>	<b>SERVICES</b>	<b>SUPPLIES</b>	<b>OTHER*</b>	<b>TOTAL</b>
2011–12	\$38,230	\$4,310	\$770	\$–	\$43,310
2012–13	42,280	7,050	1,260	–	50,590
2013–14	46,610	5,220	1,140	–	52,970
2014–15	48,170	4,900	810	–	53,880
2015–16	37,400	610	310	–	38,320
2016–17	53,490	5,700	940	–	60,130
2017–18	50,630	6,440	1,030	–	58,100
2018–19	53,750	6,670	1,180	–	61,600
2019–20	59,590	7,170	910	–	67,670

<b>PROBATION DEPARTMENT REALIGNMENT EXPENDITURES</b>					
	<b>PERSONNEL COSTS</b>	<b>SERVICES</b>	<b>SUPPLIES</b>	<b>OTHER</b>	<b>TOTAL</b>
2011–12	\$1,860	\$6,790	\$30	\$–	\$8,680
2012–13	3,110	6,370	20	–	9,500
2013–14	5,080	6,000	10	–	11,090
2014–15	3,340	8,840	30	350	12,560
2015–16	5,990	15,880	60	–	21,930
2016–17	7,720	9,900	10	60	17,690
2017–18	7,630	19,200	70	–	26,900
2018–19	8,370	15,520	30	–	23,920
2019–20	8,500	22,600	160	–	31,260

<b>OTHER DEPARTMENTS’ REALIGNMENT EXPENDITURES†</b>					
	<b>PERSONNEL COSTS</b>	<b>SERVICES</b>	<b>SUPPLIES</b>	<b>OTHER</b>	<b>TOTAL</b>
2011–12	\$52,970	\$13,300	\$40	\$65,890	\$132,200
2012–13	50,100	58,260	–	70,610	178,970
2013–14	54,260	61,050	–	75,010	190,320
2014–15	56,310	59,400	–	60,660	176,370
2015–16	58,450	76,620	–	60,360	195,430
2016–17	60,160	79,300	–	57,000	196,460
2017–18	59,740	82,980	–	60,190	202,910
2018–19	65,370	81,750	–	58,550	205,670
2019–20	61,170	86,540	–	56,480	204,190

Source: Alameda’s accounting records.

\* The “Other” category includes expenditures for benefits payments, such as for foster care or adoption services, and transfers to other departments.

† Includes departments such as the district attorney, public defender, health care services, and social services.

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# Appendix C

## SCOPE AND METHODOLOGY

The Audit Committee directed the State Auditor to conduct an audit of realignment spending by the Alameda County Sheriff’s Office, the Fresno County Sheriff’s Office, and the Los Angeles County Sheriff’s Department in order to increase transparency and provide state oversight of prison realignment spending. The Audit Committee was concerned about a lack of transparency in the way counties were implementing realignment and using their realignment funds. Specifically, the Audit Committee was concerned about overcrowding, poor physical and mental health treatment, and mismanagement of funds by sheriff’s offices in jails across the State. Table C lists the objectives that the Audit Committee approved and the methods we used to address them.

**Table C**  
**Audit Objectives and the Methods Used to Address Them**

AUDIT OBJECTIVE	METHOD
<p>1 Review and evaluate the laws, rules, and regulations significant to the audit objectives.</p>	<p>Reviewed laws, rules, and regulations related to public safety realignment.</p>
<p>2 For fiscal years 2010–11 through 2019–20, review the three counties’ jail population data and determine the following:</p> <ul style="list-style-type: none"> <li>a. Each county’s total jail population prior to realignment through the present.</li> <li>b. Any trends in jail population at each of the counties, including inmate racial and ethnic makeup, and inmate deaths by category.</li> </ul>	<p>For each of the three counties, reviewed average daily jail populations. Analyzed, by year, trends in each county’s jail statistics and demographics regarding race or ethnicity, gender, inmates released early to the community, the number of inmates counties received due to realignment, inmate risk classification, number and cause of inmate deaths, and assaults on staff. Reviewed each county’s total average daily jail population, including the number of inmates affected by realignment, as well as the total rated jail capacity per the Corrections Board.</p>

AUDIT OBJECTIVE	METHOD
<p><b>3</b> For fiscal years 2011–12 through 2019–20, review county realignment fund revenue and expenditure data and determine the following:</p> <ol style="list-style-type: none"> <li>The annual amount of realignment funding each county received, including funding directed to the county sheriff's office and other relevant departments.</li> <li>Whether the counties have made any projections of future realignment funding.</li> <li>Each county sheriff's office's annual expenditures, including total realignment expenditures, and the extent of any surplus or deficit for each fiscal year.</li> <li>The major categories of realignment expenditures at each county and the county sheriff's office—including categories such as enforcement, treatment, and jail operations.</li> <li>Whether these expenditures are consistent with realignment requirements. If not, determine the reasons.</li> </ol>	<p>For the public safety realignment funds we reviewed, for fiscal years 2011–12 through 2019–20, we performed the following:</p> <ul style="list-style-type: none"> <li>Analyzed revenue data for the realignment accounts to verify that the counties deposited funding from the State appropriately.</li> <li>Interviewed county staff and reviewed available policies and procedures to assess counties' processes for budgeting realignment funding and for projections of future funding.</li> <li>Fresno does not track expenditures in a way that allowed for the county to report how much its sheriff's and probation department spent from realignment funds. Therefore, we analyzed only Alameda's and Los Angeles's expenditure data to identify how much funding their sheriff's and probation departments spent, as well as total realignment expenditures. In addition, due to the way the three counties we reviewed track their expenses, they were unable to report how much they spent on items such as enforcement, treatment, and jail operations. Instead, we identified how much realignment funding Alameda spent on personnel, services, and supplies, whereas Fresno and Los Angeles do not track their expenditures in a manner that allows such categorization. Appendix B further describes the limitations we faced with Fresno's and Los Angeles's expenditure data.</li> <li>Analyzed whether the counties had any surpluses or deficits in each realignment account.</li> <li>Documented the sheriff's offices' total expenditures for each county.</li> <li>For a limited selection of expenditures, evaluated whether the counties spent the money appropriately. Alameda and Los Angeles have policies that do not require these counties to retain documentation from before fiscal year 2014–15. Therefore, for these counties, we tested expenditures from fiscal years 2014–15 through 2019–20.</li> </ul>
<p><b>4</b> Review and evaluate each county's policies, procedures, and practices for implementing prison realignment financial requirements, and determine best practices and other opportunities to improve financial accountability, transparency, and oversight.</p>	<p>Identified financial requirements and best practices for implementing prison realignment. Reviewed best practices for accountability, transparency, and oversight of county funds. Assessed the Corrections Board's oversight of counties' realignment implementation and determined whether counties have implemented the requirements or best practices we identified.</p>
<p><b>5</b> To the extent possible, determine the impact of realignment on each county's jail population, jail staff, enforcement personnel, and surrounding communities.</p>	<ul style="list-style-type: none"> <li>Interviewed county jail staff regarding the impact of realignment on their duties, inmate management, and jail operations. Interviewed representatives from social services, employment services, community-based organizations, and victims' advocate groups to identify the impacts of realignment on the community.</li> <li>Compared California's crime statistics to the nation's and to those of other, similar states to identify any potential effects realignment may have had on crime within the surrounding communities.</li> </ul>
<p><b>6</b> Review and assess any other issues that are significant to the audit.</p>	<ul style="list-style-type: none"> <li>Reviewed the Corrections Board's biennial inspection reports to the Legislature to identify facility deficiencies for the three counties and determine the impact such deficiencies may have on inmates or staff.</li> <li>Identified the Corrections Board's roles and responsibilities in law, reviewed relevant policies and procedures of the Corrections Board, and tested the Corrections Board's compliance with its key statutory responsibilities by reviewing its annual reports to the Legislature and by interviewing Corrections Board personnel.</li> </ul>

Source: Analysis of Audit Committee's audit request number 2020-102, state law, and information and documentation identified in the column titled Method.



### **Assessment of Data Reliability**

In performing this audit, we relied on data from various accounting and jail information management systems in Alameda, Fresno, and Los Angeles counties to review financial and demographic information for fiscal years 2010–11 through 2019–20. The U.S. Government Accountability Office, whose standards we are statutorily obligated to follow, requires us to assess the sufficiency and appropriateness of computer-processed information we use to support our findings, conclusions, or recommendations. To obtain assurance on the accuracy of the financial data, we selected expenditures and traced the amounts reported to supporting documentation. We found that in some cases, counties did not have physical documentation of the date for payments. In addition, we verified that revenue the counties received for public safety realignment agreed with the amounts the State reported that it had allocated to those counties. For jail data, we verified the accuracy and completeness of electronic data by comparing key fields, such as booking numbers and position titles, to source documentation, such as booking, medical, and personnel records, where available. However, much of the jail data did not have available physical records to provide source documentation. Overall, we found Alameda, Fresno, and Los Angeles counties' accounting and jail information systems to be of undetermined reliability. Although this determination may affect the precision of the numbers we present, there is sufficient evidence in total to support our findings and conclusions.

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SUSAN S. MURANISHI  
COUNTY ADMINISTRATOR

## C O U N T Y   A D M I N I S T R A T O R

March 1, 2021

Elaine M. Howle, California State Auditor\*  
621 Capitol Mall, Suite 1200  
Sacramento, CA 95814

Subject:     *State Audit Report 2020-102: Public Safety Realignment*

Dear Ms. Howle:

The County of Alameda appreciates the opportunity to provide responses to the formal recommendations included in the California State Auditor's Report 2020-102 regarding Public Safety Realignment.

The following restates the formal recommendations in each chapter of your audit report applicable to the County of Alameda (County) and provides responses that incorporate input from affected County officials.

### CHAPTER 1

**Recommendation 1:** To ensure that county jails identify inmates with mental illnesses and provide them with adequate mental health care, Alameda should immediately begin conducting mental health screening of all inmates upon admission to the county jail.

**Recommendation 2:** To ensure that county jails have sufficient information to determine appropriate housing and supervision of inmates with mental illnesses, by June 2021 [Alameda] should develop a process requiring [its] mental health providers to share with jails the mental health status of all inmates, such as whether they have a mild, moderate or serious mental illness.

**Recommendation 3:** To ensure that it appropriately follows up on inmate deaths and works to prevent similar deaths from occurring in the future, Alameda should implement its new inmate death follow-up process by June 2021.

**County of Alameda Response to Recommendations 1, 2 and 3:** As noted in the report, Alameda County is engaged in class action litigation focused upon mental health outcomes and mental health care of the inmates in its jail. Alameda County embraced the

County of Alameda Response to California State Auditor Report 2020-102

1

\* California State Auditor's comments begin on page 81.

goal of improving mental health outcomes and quality of care from the outset of the litigation by identifying opportunities for improvement and developing implementation plans to achieve the goals. A cadre of retained experts have provided guidance on topics such as: the delivery of mental health services in a jail setting; inmate classification systems; conditions of confinement and access to care at the jail; and access to services for prisoners with non-mobility disabilities (serious mental illness, developmental disabilities and learning disabilities).

- ① The work to implement improvements is ongoing. Both the Sheriff's team and the Behavioral Health Services team are working diligently to complete their redesigned programs, hire the necessary additional staffing, and implement the necessary training, to achieve both increased collaboration across custodial and mental health care staff and desired outcomes. In the interim, real-time service delivery improvements are happening. Mental health assessments at intake are an example. And hiring drives are active and ongoing. Once the staffing necessary to accomplish the goals is in place, Alameda County expects to achieve the type of improvements recommended, as guided by the experts and permitted by law.

## CHAPTER 2

**Recommendation 1:** Unless the Legislature clarifies its intent otherwise, to ensure that [Alameda] prudently and appropriately spends realignment funds, the Partnership Committee at [Alameda] should, starting with [its] next annual budget, review and make budget recommendations to [its] board of supervisors for all realignment accounts, including the accounts that fund non-law enforcement departments and community-based organizations. Further, [Alameda] should ensure that [it] budgets all realignment funds to eliminate current surpluses in realignment accounts and prevent future surpluses.

- ② **County of Alameda Response to Recommendation 1:** Alameda County respectfully disagrees with the assertion that, "Alameda's Partnership Committee's interpretation of the scope of public safety realignment is overly narrow..." Absent Legislative clarification, the County does not believe the Partnership Committee is required to review and make recommendations for all realignment accounts including those that fund non-law enforcement departments such as child welfare and behavioral health care services.

**Recommendation 2:** To ensure that the programs and services funded by public safety realignment funds are effective, beginning immediately, [Alameda] should conduct evaluations of the effectiveness of its programs and services at least every three years.

- ③ **County of Alameda Response to Recommendation 2:** Alameda County's mission is to enrich the lives of Alameda County residents through visionary policies and accessible, responsive, and effective services. This is achieved by continuously evaluating the effectiveness of our programs. Alameda County has incorporated performance

measures and benchmarks into its programs and contracts to ensure that program effectiveness is appropriately measured. A recent example is the Pew-MacArthur Results First Initiative, a partnership between the California State Association of Counties and the Pew-MacArthur Foundation, to assist California counties in understanding evidence-based practices to reduce recidivism and achieve more positive outcomes in the criminal justice system. Alameda County began participating in this process in the fall of 2018. This in-depth study, conducted across all public safety partner agencies of all programs serving the justice-involved, included a cost-benefit model that relied on high quality research studies and meta-analysis to estimate the level of effectiveness and return on investment of the inventory of programs aimed at impacting recidivism and other costs. Alameda County completed the analysis recently and is preparing recommendations for the Board of Supervisors at this time for next steps.

Specific to the AB 109-funded programs, Alameda County contracted with Resource Development Associates (RDA) in 2016 to provide evaluations of all realignment services. This contract entailed a process and outcome evaluation that included a comprehensive review of the County's Public Safety Realignment Plans and existing County systems that support realigned clients, creation of realignment service delivery and supervision system logic models, and a written Evaluation Plan for addressing the effectiveness of programs and services funded by the Community Corrections Partnership Executive Committee (CCP-EC). RDA's evaluation plan included a comparison of activities implemented versus planned; the volume of activities accomplished versus planned; implementation fidelity; the extent to which each activity served the target realignment population; expenditures versus approved budget; the cost of a unit of service for each activity and where possible, how the unit cost compared to that of similar services in other jurisdictions; how well each activity achieved its outcomes; how many partnerships/collaborations were established as a result of the passage of AB 109 where information was shared across systems; and what public safety outcomes were achieved (e.g., prevent/reduce crime and recidivism) by the partnerships/collaborations. RDA completed its evaluation and presented its findings to the CCP-EC in July 2020. RDA's complete evaluation has been shared with the Bureau of State Audits (BSA).

In addition to these two major initiatives, Alameda County public service partners regularly conduct evaluations of the effectiveness of their programs and services. The Alameda County Probation Department's Research and Evaluation Agenda and Unit are strategically intended to develop and build the evidence base on community supervision policy and practice, and advance policies, programs, and services that promote client success. The mission of the Unit is to ensure that the practices and programmatic investments of the Alameda County Probation Department are informed by quality data and the latest research in the fields of community corrections and criminal justice with the ultimate aim of improving organizational efficiency and client outcomes with research and data. The BSA has received a copy of the Alameda County Probation Department Research Agenda.

**Recommendation 3:** To ensure that [it] reports accurate and consistent information to the Corrections Board, beginning with [its] next annual report, [Alameda] should

consistently report all law enforcement and non-law enforcement expenditures funded through the accounts that constitute public safety realignment.

- ② **County of Alameda Response to Recommendation 3:** Alameda County respectfully disagrees with the assertion that, "Alameda's Partnership Committee's interpretation of the scope of public safety realignment is overly narrow..." Absent Legislative clarification, the County does not believe the Partnership Committee is required to review and make recommendations nor annually report to the State Corrections Board on all realignment accounts including those that fund non-law enforcement departments such as child welfare and behavioral health care services.

\* \* \*

Thank you for your interest in the County of Alameda and the opportunity to respond to the California State Auditor Report 2020-102 regarding Public Safety Realignment. Please contact us at (510) 272-3862 if you have questions.

Very truly yours,



Susan S. Muranishi  
County Administrator

cc: Each Member, Board of Supervisors  
Gregory Ahern, Sheriff  
Nancy O'Malley, District Attorney  
Melissa Wilk, Auditor-Controller  
Donna Ziegler, County Counsel  
Wendy Still, Chief Probation Officer  
Brendon Woods, Public Defender  
Colleen Chawla, Health Care Services Agency Director  
Lori Cox, Social Services Agency Directory

## Comments

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE COUNTY OF ALAMEDA

To provide clarity and perspective, we are commenting on Alameda's response to our audit. The numbers below correspond to the numbers we have placed in the margin of its response.

We look forward, as part of our regular follow-up process, to reviewing Alameda's reported progress in implementing our recommendations that it conduct mental health screenings of all inmates, develop a process requiring mental health providers to share with jails the mental health status of all inmates, and implement its new inmate death follow-up process by June 2021.

①

We disagree with Alameda's contention that its Partnership Committee is not required to review and make recommendations for all public safety realignment accounts. As we state in the report on page 33, the California Constitution defines realignment legislation as legislation enacted on or before September 30, 2012, related to implementing the state budget plan and assigning responsibilities for public safety services to local agencies. That same constitutional provision, in addition to contemporaneous realignment legislation, defined "public safety services" to include various social services, such as preventing child abuse, servicing at-risk children, providing adoption services, providing mental health services, and providing recovery services for substance abuse. As we state on pages 8 and 9, several bills enacted as part of the realignment legislation required the State to appropriate realignment funds to counties in 10 different accounts for a variety of these public safety purposes.

②

Further, state law relied upon a framework in each county that established a Partnership Committee, which is an advisory body that focuses on implementing realignment and oversees county efforts to assist felony inmates and probationers to rehabilitate and reenter the community. State law specified that the county Partnership Committees recommend plans to implement public safety realignment and may include recommendations to maximize the effectiveness of resources in programs related to drug courts, mental health treatment, counseling, education, and work training. Nothing we reviewed in state law or legislative history suggests that the public safety realignment plans prepared by Partnership Committees were limited to activities funded through the Community Corrections account. As such, as we describe on page 34, Alameda's Partnership Committee should have included activities from all 10 public safety realignment accounts in its oversight responsibilities. Moreover, state law requires the Partnership Committees to comprise representatives from each of

the services funded by all 10 of the public safety accounts, including representatives from law enforcement, social services, mental health, employment, treatment programs, and community-based organizations, as we describe on page 10. Thus, we stand by our conclusion that Alameda's interpretation of the scope of public safety realignment is overly narrow and that its Partnership Committee should oversee all public safety realignment accounts.

- ③ We disagree with Alameda's assertion that it continuously evaluates the effectiveness of its programs. As we state on page 43, Alameda's evaluations only addressed a selection of services and programs funded by the Community Corrections account, disregarding the majority of its services and programs paid for by its public safety realignment funding. Moreover, Alameda only recently completed these evaluations in 2019 and 2020, even though the Legislature enacted realignment legislation nearly 10 years ago. Accordingly, we stand by our recommendation that Alameda conduct evaluations of the effectiveness of its programs and services funded by public safety realignment funds at least every three years.





LINDA M. PENNER  
Chair

KATHLEEN T. HOWARD  
Executive Director

STATE OF CALIFORNIA  
**BOARD OF STATE AND COMMUNITY CORRECTIONS**

2590 VENTURE OAKS WAY, SUITE 200 ♦ SACRAMENTO CA 95833 ♦ 916.445.5073 ♦ BSCC.CA.GOV



GAVIN NEWSOM  
Governor

March 1, 2021

The Honorable Elaine Howle\*  
California State Auditor  
621 Capitol Mall, Suite 1200  
Sacramento, California 95814  
Attention: Karen Wells, Senior Auditor Evaluator II

SENT VIA ELECTRONIC MAIL

Dear Ms. Howle,

The audit report on Public Safety Realignment includes several recommendations to the BSCC; some that can be easily implemented, and others that would require the Legislature to clarify reporting requirements related to Public Safety Realignment.

The audit report suggests:

1. *That the Board develop and distribute guidance to counties of its expectations for reporting financial information related to all Public Safety Realignment accounts.* ① ②  
BSCC response: As detailed below, the Board believes that the Legislature would need to specify additional reporting requirements for the Board to collect information regarding all 2011 Realignment accounts.
2. *Develop and implement a process to review and analyze information that counties provide about their realignment activities and expenditures each year.* ① ②  
BSCC response: With further legislative direction on the scope of information the counties should provide, the Board could develop a related process for review and analysis of that information.
3. *Develop definitions for terms [the Board] asks counties to report on, including assault on staff and inmate risk level.* ③  
BSCC response: The Board can clarify the data definition on “assaults on staff” in the jail profile survey. But the Board does not collect or report data on inmate risk level.
4. *The Board should include the cost of bringing jail facilities up to state standards in its biennial jail facility reports.* ④  
BSCC response: The Board acknowledges that this data has not been collected or reported in recent years, as the information would be high speculative, and because the responsibility to address items of noncompliance lies with the counties. However, the Board will implement a process to survey counties about their estimates of the cost to address items of noncompliance in future reports on the biennial inspection cycle required under Penal Code section 6031.2.

\* California State Auditor’s comments begin on page 89.

5. *To ensure that counties' detention facilities address health, fire, and life safety deficiencies in a timely manner and that the Governor and Legislature are aware of these deficiencies . . . the Board should incorporate inspection information that the state fire marshal and county departments of public health provide to counties into its corrective action process and its reports to the Governor and Legislature.*

⑤ BSCC response: The Board will consider adding these additional inspection details in the Enhanced Inspection Process and the biennial report to the Governor and Legislature.

6. *Conduct an independent analysis of best practices, such as effective practices for restitution or rehabilitative programs, related to public safety realignment and publish the results.*

⑤ BSCC response: The BSCC will consider directing resources to analyze effective programs and determine best practices.

7. *Categorize the best practices it lists on its website for ease of reference to the counties.*

BSCC response: The Board anticipates additional best practices information being added to the website.

8. *Determine common county needs stemming from realignment and promote specific best practices that meet the common needs of counties, including best practices developed and adopted by California counties.*

BSCC response: The Board anticipates additional best practices information being added to the website.

As noted in Item #1, above, below is additional information to address the audit report's concerns over the Board "overseeing the activities related to all 10 public safety realignment accounts." Specifically, the Auditor believes that the BSCC should be collecting information from the counties regarding allocations and expenditures of all funds that were part of 2011 Realignment legislation. While the Auditor has clearly expressed a policy preference for transparency and accountability of these funds, the Auditor misunderstands the charge the BSCC was given by the Legislature.

① The specific task that was given to the BSCC at the outset of Realignment was "to collect from each county the plan submitted pursuant to [Penal Code section] 1230.1 within two months of adoption by the county boards of supervisors." (Pen. Code, § 6027, subd. (b)(11).) Penal Code section 1230.1, which was added by Assembly Bill 109 (Chapter 15, Statutes of 2011), required each county's local Community Corrections Partnership to recommend a plan for the implementation of the "2011 public safety realignment." The Auditor believes the reference to "2011 public safety realignment" in section 1230.1 refers to all of 2011 Realignment. The Auditor is incorrect. The local plans, which were required to be developed by AB 109, were exactly that: plans to implement AB 109. At the time, AB 109 amounted to a monumental shift in California's criminal justice system, which envisioned a necessary collaboration from county stakeholders involved in the criminal justice system. As noted

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by the findings and declarations included in AB 109, “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 229, adding Section 17.5.) The Auditor points to the diversity of the Community Corrections Partnerships as evidence that the Legislature intended the plans to include planning for 10 Realignment accounts, which includes which includes things like funding for trial court security, foster care grants, and adult protective services.

The Auditor overstates the CCP’s involvement. The entire membership of the Community Corrections Partnership did not approve the initial plans developed pursuant to section 1230.1.<sup>1</sup> Instead, a smaller executive committee, chaired by the county chief probation officer, and including only one representative from either county social services, county mental health, or the county alcohol and substance abuse program, were required to vote on a plan and submit it to the county boards of supervisors. (Pen. Code, § 1230.1, subd. (b).) This smaller executive membership, mostly comprised of law enforcement officials, only makes sense in the context of the implementation of AB 109, not the broader array of county services impacted by of 2011 Realignment. ②

In addition, it makes little sense that all realigned funds would be subject to the planning process under section 1230.1. Some of the funds that were “realigned” to the counties and protected by Proposition 30 have their own separate planning and reporting requirements. For example, funds related to the Juvenile Justice Crime Prevention Act (JJCPA) were part of 2011 Realignment. However, the JJCPA requires counties to implement comprehensive, multiagency juvenile justice plans, developed by local juvenile justice coordinating councils. (Gov. Code, § 30061, subd. (b)(4).) Expenditure and outcome data related to JJCPA are then reported annually to the BSCC. (Gov. Code, § 30061, subd. (b)(4)(C).) How exactly should the CCP executive committee have planned for the use of JJCPA funds in the context of the 1230.1 plan? Should the executive committee have adopted the plan created by the juvenile justice coordinating councils or created its own plan? Should the BSCC have assumed the Legislature intended duplicative reporting? Or is it more reasonable to have assumed that the section 1230.1 planning process did not intend to encompass funds unrelated to AB 109 like the JJCPA?

Ultimately, the auditor argues that the plain meaning of “2011 public safety realignment” must mean all of 2011 Realignment legislation. To be sure, the misunderstanding regarding the term “2011 public safety realignment” may be in part due to the inconsistent naming conventions used by the Legislative Counsel as part of 2011

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<sup>1</sup> Assembly Bill 117 (Chapter 39, Statutes of 2011), adopted subsequently to AB 109, amended Section 1230.1 to narrow plan approval to an executive committee comprised of “the chief probation officer of the county as chair, a chief of police, the sheriff, the District Attorney, the Public Defender, the presiding judge of the superior court, or his or her designee, and one department representative listed in either subparagraph (G), (H), or (J) of paragraph (2) of subdivision (b) of Section 1230, as designated by the county board of supervisors.”

Realignment. AB 109 itself is titled “2011 Realignment Legislation addressing public safety.” The legislative counsel’s digest, however, refers to the bill as “Criminal justice alignment [sic].” The Legislative Counsel’s digest describing Senate Bill 1020 (Chapter 40, Statutes of 2012), which amended provisions dealing with the Local Revenue Fund describes the bill as “Public Safety Realignment.” However, notwithstanding the reference to “Public Safety Realignment” in the legislative counsel’s digest, which it should be noted, is not binding statutory authority,<sup>2</sup> the bill itself was titled “2011 Realignment Legislation.” References to “2011 Public Safety Realignment” within SB 1020 itself, however, can only be reasonably construed as referring to AB 109 and are distinct from references to 2011 Realignment Legislation. (*Compare* Section 18, amending Government Code section 30029.07 [setting forth the calculation of the Community Corrections Growth Special Account<sup>3</sup> expressly tied to the implementation of “2011 Public Safety Realignment”] with Section 4 [describing all legislation related to 2011 Realignment].) This reference is the only other statutory reference to “2011 public safety realignment” in all of California’s statutes aside from Penal Code section 1230.1. As such, it is far more reasonable to conclude that the references in Penal Code section 1230.1 and Government Code section 30029.07 refer to the same thing: AB 109, which was a component of the larger 2011 Realignment.

②

### Ongoing Reporting

The Auditor has recommended that the BSCC develop and distribute guidance to counties of its expectation for reporting financial information related to all public safety realignment accounts. Presumably, this would be done under the voluntary CCP plan reporting process that has been annually part of the Budget Act. This grant program provides \$100,000, \$150,000, or \$200,000 allocations to counties for providing “information about the actual implementation of the... Community Corrections Partnership plan accepted by the county board of supervisors” pursuant to Section 1230.1 of the Penal Code. The report shall include, but not be limited to, progress in achieving outcome measures as identified in the plan or otherwise available. Additionally, the report shall include plans for the [following budget year] allocation of funds, including future outcome measures, programs and services, and funding priorities as identified in the plan accepted by the county board of supervisors.

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The annual CCP reporting, however, is directly tied to the Penal Code section 1230.1 process, however. And as explained above, the 1230.1 process does not require an accounting of all funds related to 2011 Realignment.

①

The Board believes that additional legislative direction on county reporting on Public Safety Realignment would be necessary to address the concerns raised in the audit report.

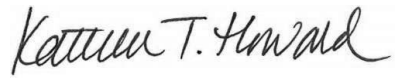
<sup>2</sup> *Mt. Hawley Insurance Co. v. Lopez* (2013) 215 Cal.App.4th 1385.

<sup>3</sup> The Community Corrections Growth Special Account can only be used for funding programs related to AB 109. (Gov. Code, § 30025, subd. (f)(11).)

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The Board will provide additional information at regular intervals as requested by the auditor.

Sincerely,

A handwritten signature in black ink that reads "Kathleen T. Howard". The signature is written in a cursive style with a light blue highlight behind the text.

KATHLEEN T. HOWARD  
Executive Director

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## Comments

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE BOARD OF STATE AND COMMUNITY CORRECTIONS

To provide clarity and perspective, we are commenting on the Corrections Board's response to our audit. The numbers below correspond to the numbers we have placed in the margin of its response.

The Corrections Board's contention that the Legislature needs to specify additional reporting requirements or provide further direction on its review of county-reported information related to public safety realignment is incorrect. As we state on page 48 of our report, state law requires the Corrections Board to collect, analyze, and report information from each county to the Governor and the Legislature. Thus, we stand by our recommendations that the Corrections Board develop and distribute guidance to counties of its expectations for financial reporting, and that it should review and analyze the information that counties provide.

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We disagree with the Correction Board's assertion that the Partnership Committees are not required under current law to review and make recommendations for, nor report to the Corrections Board on, all public safety realignment accounts. As we state in the report on page 33, the California Constitution defines realignment legislation as legislation enacted on or before September 30, 2012, related to implementing the state budget plan and assigning responsibilities for public safety services to local agencies. That same constitutional provision, in addition to contemporaneous realignment legislation, defined "public safety services" to include various social services, such as preventing child abuse, servicing at-risk children, providing adoption services, providing mental health services, and providing recovery services for substance abuse. As we describe on pages 8 and 9, several bills enacted as part of the realignment legislation required the State to appropriate realignment funds to counties in 10 different accounts for a variety of public safety purposes.

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Further, state law relied upon a framework in each county that established a Partnership Committee, which is an advisory body that focuses on implementing realignment and oversees county efforts to assist felony inmates and probationers to rehabilitate and reenter the community. State law specified that the county Partnership Committees recommend plans to implement public safety realignment and may include recommendations to maximize the effectiveness of resources related to programs such as drug courts, mental health treatment, counseling, education,

and work training. Nothing we reviewed in state law or legislative history suggests that the public safety realignment plans prepared by Partnership Committees were limited to activities funded through the Community Corrections account. To further support our conclusion, state law requires the Partnership Committees to consist of representatives from each of the services funded by the public safety accounts, including representatives from law enforcement, social services, mental health, employment, treatment programs, and community-based organizations, as we describe on page 10. As such, the Corrections Board is misleading in its insinuation that because the smaller executive committee, which is the voting body of the Partnership Committee, approves the county plans it minimizes the composition and responsibilities of the Partnership Committee in its entirety.

The Corrections Board also states that subsequent legislation created the Partnership Committee executive committee, consisting primarily of officials generally associated with criminal justice, to submit the initial one-time plan to implement public safety realignment. The use of an executive committee to present a plan to the board of supervisors provided an approach to carry out the law, but did not demonstrate legislative intent to limit jurisdiction. The same state law that required the executive committee to present the plan to the board of supervisors also specified that the plan may include recommendations regarding non-traditional law enforcement services, including drug courts, residential multiservice centers, mental health treatment programs, counseling programs, community services, educational programs, and work training programs. The Corrections Board also attempts to draw an inference that because the Legislature enacted the requirement on the Partnership Committee in Assembly Bill 109—the same bill that enacted the majority of the provisions that transferred custody of certain felons from state prison to county jail—that the committee’s responsibility was limited to corrections-related expenses. This conclusion is contrary to the operation of California legislation, in which a single bill may cover a variety of topics so long as the various sections in the bill are either functionally related to one another, or are reasonably germane to one another or the objects of the enactment. One should not read the addition of a function to the duties of the Partnership Committees in Assembly Bill 109 as limiting those duties to the primary object of the bill. Therefore, we stand by our report’s conclusion that the Corrections Board’s interpretation of the scope of public safety realignment is overly narrow.

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As we state on page 47, having definitions of terms such as, but not limited to, inmate risk classifications would facilitate statewide comparisons of county data and better enable the Corrections Board to analyze the impact and effectiveness of realignment.



Additionally, as we state on page 56, the Corrections Board has not defined terms for which counties have requested definitions. Our recommendation on page 58 provides two examples of terms the Corrections Board should define, but does not limit it to just these two terms. The Corrections Board is correct that it does not collect or report on inmate risk levels, and we have revised our report text for accuracy.

The Corrections Board's explanation for why it does not include estimates of the costs to bring jail facilities up to state standards in its biennial jail facility reports is unreasonable. As we point out on page 51, state law requires the Corrections Board to include estimates of the costs for counties to correct jail deficiencies that it identifies in its reports to the Legislature. Moreover, although the Corrections Board is concerned that its estimates would be speculative, counties already must also submit budget estimates to the Corrections Board whenever they plan construction or repairs costing more than \$15,000. Therefore, counties could submit estimates of the cost of rectifying jail deficiencies, which the Corrections Board could publish in its jail inspection reports. Additionally, even though it is the responsibility of the counties to address deficiencies, state law still requires the Corrections Board to report these cost estimates. Therefore, by reporting these cost estimates, we believe that the Corrections Board would provide vital information to inform the Legislature about the costs of bringing county jail facilities up to state standards.

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We are disappointed to see that the Corrections Board indicates that it will only consider implementing our recommendations. We believe that if the Corrections Board implements our recommendations, it will add significant value to its oversight role. Specifically, by adding inspection information to its corrective action process and reports, the Corrections Board will help prompt counties to address jail deficiencies in a timely manner and ensure that the Governor and the Legislature are informed of these deficiencies. Additionally, by conducting an analysis of best practices, the Corrections Board will be able to identify and publish effective best practices to assist counties with their public safety efforts. We look forward, as part of our regular follow-up process, to reviewing the Corrections Board's progress in implementing our recommendations.

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## County of Fresno

COUNTY ADMINISTRATIVE OFFICE  
**JEAN M. ROUSSEAU, CPA**  
COUNTY ADMINISTRATIVE OFFICER

March 1, 2021

### Fresno County's Response to the State Audit on Realignment

On behalf of the County of Fresno, the following is a response to the draft, redacted State Audit report titled, *"Public Safety Realignment: Weak State and County Oversight Does Not Ensure That Funds Are Spent Effectively"*.

The County of Fresno would like to thank the State audit team for work on the audit of what is commonly referred to as 2011 Public Safety Realignment. The audit team was diligent in their work and we appreciated the cooperative tone that they took with County of Fresno staff and officials throughout this process. The State Auditor's Office was tasked with a challenging audit on complex legislation that grouped many different subjects, was a major policy shift and was proposed and adopted on a very rapid schedule. The background leading to this legislation in California is partially described in the State Auditor's report. The primary motivation for the 2011 Public Safety Realignment legislation was the State of California's need, based on adverse decisions in federal court litigation, to drastically lower the state prison inmate population. At the same time the State attempted to introduce certain reforms that would facilitate the provision of services to criminal offenders out of custody in an attempt to reduce recidivism.

The massive shift of responsibility from the State correctional system to local courts and county and city governments required extensive negotiations over the final legislation and an eventual constitutional amendment to secure both existing and new sources of funding to support the local programs that would be heavily impacted. The Community Corrections Partnership ("CCP") is a multidisciplinary and multiagency board that is responsible for creating and updating the Community Corrections Plan for a county, for making budget recommendations to the Board of Supervisors for those funds falling within the Community Corrections sub-account of 2011 Safety Realignment Funding, and for providing annual reports on such expenditures to the Board of State Community Corrections ("BSCC"). Other funding grouped under the 2011 Public Safety Realignment legislation flows directly to district attorney and public defender offices, to behavioral health and social services departments, recognizing the increased impact on these locally provided services caused by 2011 Safety Realignment. Whether under the oversight of the CCP or distributed directly to the departments responsible for the relevant programs, the County of Fresno ensures that funds received under the 2011 Public Safety Realignment legislation are used only for their restricted purposes. There is no finding in the State Auditor's report to the contrary.

There is, however, a fundamental disconnect between the overall position of the State Auditor on the structure of 2011 Public Safety Realignment funding and the role of the CCPs in handling

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- ① these funds and the consistent interpretation given the statutory and constitutional framework by the BSCC and all the counties in California over the past 10 years. In its report, the State Auditor has taken a very technical reading of the 2011 Public Safety Realignment statutes, and particularly California Penal Code §§ 1230.1 and 30025. Penal Code §1230.1 sets out the responsibility for the CCP to recommend an initial local plan “*for the implementation of the 2011 public safety realignment.*” Penal Code § 30025 lists all the sub-accounts in the Local Revenue Fund 2011. The State Auditor relies on the vague statement in Section 1230.1 to argue for an expansive reading of the CCPs responsibilities under the realignment statutes. The State Auditor draws this conclusion without reference to the common interpretation given to such statutes by the involved state and local entities, and based on a dearth of documentation concerning the political process of negotiations that went on between the stakeholders at the time the original 2011 Public Safety Realignment legislation and related constitutional amendments that were passed. Because of this, the State Auditor’s report ascribes to the CCP a much broader authority and supervision over all 2011 Public Safety Realignment sub-accounts than was ever intended by the Legislature or ever put into practice by the involved state and local agencies. It must be noted that a review of the reports submitted by the various counties to the BSCC over the past decade indicate a uniform understanding of the CCP’s budgeting and reporting obligations as being limited to the Community Corrections sub-account.<sup>1</sup>
- ① The misinterpretation of the relevant statutes by the State Auditor in this regard results in some of the State Auditor’s findings and recommendations being inconsistent with 2011 Public Safety Realignment statutes. Further, if such findings were correct or such recommendations implemented, it would result in practical problems that would greatly increase the burden and cost to local entities and the State of accomplishing the goals of the 2011 Public Safety Realignment. The State Auditor makes the following recommendations:
- ② “To ensure consistency between state allocations and county accounting records, the Legislature should amend state law to require counties to separate mental health funding for public safety realignment from previously enacted mental health funding.” (Draft Audit Report, p. 40 (recommendation to State Legislature).
- ③ And,
- “Unless the Legislature clarifies its intent otherwise, to ensure that the [county] prudently and appropriately spends realignment funds, the Partnership Committee at [Fresno] should, starting with [its] next annual budget, review and make budget recommendations to [its] board supervisors for all realignment accounts, including the accounts that fund non-law enforcement departments and community-based organizations.” (Draft Audit Report, p. 40 (recommendation to Fresno County)
- ③
- ② These recommendations would unnecessarily complicate and add a bureaucratic step to County budgeting processes. On a practical level many of the mental health and social service programs funded partially with 2011 Public Safety Realignment funds are pre-existing programs that provide the same services to those convicted of crimes as are provided to the general

<sup>1</sup> With the possible exception of the funds which are listed for the District Attorneys’ and Public Defenders’ offices which are generally included in the County annual reports, although with the notation that such funds are directly allocated to those offices and not a result of a budget recommendation of the CCP.

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public and can, therefore, be managed more effectively. The relevant mental health or social service department is a far superior place for the decision making for budgeting purposes for these programs overall based on the knowledge that these departments have concerning the total demands of the community on these programs. Placing partial responsibility on the CCP to monitor and make recommendations only a portion of the funds for particular programs needlessly adds another layer of bureaucracy and will lead to confusion rather than efficiencies. The presence of mental health and social service departments on the CCP enable the CCP to make reference to the services available from those departments without having to dictate how those services are delivered as a whole.

Several other of the realignment sub-accounts listed in Penal Code § 30025 stand out as obvious examples of funding not suited for budget recommendations by the CCP.

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1. The trial security account; there is little to no relation to the aims and purposes of reducing prison populations or recidivism involved in this area. These funds are related to providing physical security at the courts. This arrangement is dealt with in separate statutory schemes providing for a memorandum of understanding between the Sheriff and the local superior court.

2. The mental health account; for the reasons stated above, these funds are allocated and budgeted by the department with the expertise as to how best to deliver the services to all members of the community. The Behavioral Health Department in Fresno County is aware of the restrictions on the 2011 Public Safety Realignment funds and utilizes them only for those purposes.

3. The District Attorney and Public Defender Account; As noted earlier these are directly funded to these two departments and included in their budget only to the extent they can be expended for revocation proceedings. (Cal. Penal Code § 30025(f)(12)). There is no recommendation that the CCP could make with respect to the budgeting of these funds.

The above examples point out why the State Auditor's interpretation of the 2011 Public Safety Realignment statutes is overly broad with respect to the authority of the CCP. Several other of the funds are subject to separate reporting procedures from the annual report provided by CCPs to the BSCC. It must be noted that the CCP is nowhere mentioned in Government Code § 30025, while the budgeting authority of the governing boards of counties (or a city and county) and the duties of the county treasurers are referenced throughout the statute.

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On the following pages you will find the Fresno County Sheriff's Office and the Probation Department's responses to the specific recommendations. The County is available should there be any questions related to these responses.

## Sheriff's Office/Jail Response to Auditor's Recommendations

### ③ State Auditor's report page 27, Recommendation #1

*To comply with state jail capacity standards, [Fresno] should take steps to address overcrowding in [its] jails, while ensuring public safety.*

#### Response:

The Fresno Sheriff's Office, Jail Division, has long since taken steps to prevent "overcrowding" in its jails, while ensuring public safety pursuant to the John B. Cruz case in Federal Court, Case No. F-93-5070. By order of the Federal Court after settlement agreements between the Plaintiffs and the County of Fresno, capacity numbers and other requirements including staffing, exercise, showers, noise mitigation etc., were initiated to comply with the court's orders pursuant to a pilot project approved by the California Board of Corrections. The Fresno County Jail system has operated with these capacity levels, or less, since 1994 utilizing release criteria established by the Sheriff so that "overcrowding" **never** occurs and federal set capacity levels are never exceeded. (Cruz case attached.)

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Public safety is ensured in that release criteria to prevent overcrowding excludes from such release if an inmate is incarcerated from criminal charges listed in California Penal Code Section 667.5 (Violent Felonies).

The Fresno Sheriff's Office believes a significant factor it has to deal with in controlling its population, is the large amount of "State" inmates it houses that are either sentenced under AB109 or those who are under court order to be transferred to a "State" facility. To date, the Fresno Sheriff's Jail is housing 736 inmates that fall into this category. This accounts for 30% of the total current inmate population (2,465). Housing these inmates continues to be a significant factor in the prevention of overcrowding in the Fresno County Jail.

Of those 736 inmates mentioned, (374) have been sentenced, ordered, and are **waiting** to be transferred to the California Department of Corrections and Rehabilitation (CDCR), (76) inmates have been court ordered, and are **waiting** to be transferred to the California Department of State Hospitals (DSH), and (286) inmates who are in the Fresno County Jail under the various categories of AB 109 who would have previously been incarcerated in state prison. These include felons sentenced to state time and serving it in the county jail, state parole violators, felony violators of mandatory supervised release, and felony violators of post release community supervision.

③

Page 9 of the Auditor's report also speaks to jail population and references a U.S. Supreme Court decision that states, "*overcrowding creates unsafe and unsanitary conditions that hamper the prisons' ability to deliver medical and mental health care effectively. The same decision notes that overcrowding can promote unrest and violence and cause inmates with latent mental illnesses to develop overt symptoms or have their conditions worsen. Overcrowding creates similar concerns in county jails.*" For [Fresno], we found that realignment contributed to overcrowding.

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In response, while realignment has led to increased jail population, the release criteria established by the Sheriff that resulted from the Cruz case has prevented realignment from leading to overcrowding and it certainly has not led to unsafe, unsanitary conditions or inadequate medical and mental health care.

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On July 1, 2018, the County of Fresno Contracted with Wellpath Inc., to provide "Comprehensive Medical and Behavioral Health Care Services" in compliance with all applicable laws and regulations, including, Title 15 of the California Code of Regulations, California Welfare & Institutions Code Sections 5150, et seq., and 5600.4, California Penal Code Section 4011.6 and the California Education Code. This included minimum staffing of a medical director, physicians, psychiatrists, optometrist, optician, medical and behavioral health clinicians, a dentist, nurses, medical/dental/psych assistants and technicians, and management and administrative staff necessary to provide health care services for Fresno Jail capacity of 3,291 inmates.

Over the past three years of the medical contract with Wellpath, the annual average daily population (ADP) was 2,745 inmates. As we have contracted with Wellpath for comprehensive medical and behavioral health care services for 3,291 inmates, the Sheriff's Office contends that the housing of 2,745 inmates in its jails does not create unsafe or unsanitary conditions that affect our ability to provide effective medical and mental health care services for which we have contracted. On the contrary, BSCC inspection reports over the past three years have found no unsafe or unsanitary conditions within the Fresno County Jails.

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**State Auditor's report page 27, Recommendation #3**

③

*"To ensure that county jails have sufficient information to determine appropriate housing and supervision of inmates with mental illnesses, by June 2021 [Fresno] should develop a process requiring mental health providers to share with jails the mental health status of all inmates, such as whether they have a mild, moderate, or serious mental illness."*

**Response:**

Working with the jail's medical/mental health provider (Wellpath), there currently is a process in which seriously mentally ill (SMI) inmates are identified. Mental health providers share the mental health status of these inmates with their custody partners. This includes documentation of mental health status in the jail's jail management system (OffenderTrak), so that custody can make informed decisions regarding inmate housing and supervision in the hopes of minimizing violence, injury, and death to inmates and staff.

In response to the State Auditor's recommendations, the Fresno County Sheriff's Office will work with its medical/mental health provider (Wellpath), to increase the sharing of all inmates mental health status with their custody partners. Building off its current process of identifying SMI inmates, the Sheriff's Office will add the additional mental health levels of "mild" and "moderate" to its existing jail management system to ensure that custody officers have knowledge of inmates mental health status in order to make informed decisions regarding inmate housing and supervision in the hopes of minimizing violence, injury, and death to inmates and staff. In recent litigation regarding jail medical services, plaintiff's counsel took

issue with Wellpath sharing mental health data with line-level Correctional Officers stating that was an unnecessary breach of confidential information.

In response to the State Auditor's report citing concerns by the mental health provider (Wellpath), about sharing information regarding inmates' mental health with county jails staff because of confidentiality restrictions, under the privacy rules of the Health Insurance Portability and Accountability Act (HIPAA). Fresno's mental health provider contends that HIPAA prevents it from sharing certain details of an inmate's mental illness with jails and said that inmates do not want jail staff to have access to their mental health information.

Wellpath's concerns regarding the sharing of mental health information under HIPAA are addressed under 45 CFR § 164.512(k)(5), which specifically outlines the standards for the disclosure of protected health care information for specialized government functions. This includes disclosure of protected health care information to correctional facilities for the provisions of health care and the administration and maintenance of the safety, security, and good order of the institution. Under 45 CFR § 164.512(k)(5), the sharing of confidential mental health information of inmates with custody is a permitted exception to HIPAA. Wellpath is aware of this section and has agreed to share mental health information for this purpose.



**FRESNO COUNTY PROBATION DEPARTMENT RESPONSES TO RECOMMENDATIONS**

Recommendation

*Unless the Legislature clarifies its intent otherwise, to ensure that the [county] prudently and appropriately spends realignment funds, the Partnership Committee at [Fresno] should, starting with [its] next annual budget, review and make budget recommendations to [its] board supervisors for all realignment accounts, including the accounts that fund non-law enforcement departments and community-based organizations. Further, [Fresno] should ensure that [it] budgets all realignment funds to eliminate current surpluses in realignment accounts and prevent future surpluses.*

Response

As discussed more fully in the cover letter to these responses, Fresno County disagrees with this recommendation. The County recommends the Community Corrections Partnership's (CCP) oversight remain unchanged. Fresno County believes a vast majority of the CCPs in other Counties have the same role as Fresno County's.

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Fresno County believes a prudent reserve is required to sustain programs through a downturn in the economy. In addition, sufficient reserves allow for the addition of new and innovative programs without cutting existing programs or services. Growth in many of the Enhancing Law Enforcement Activities funds have increased 50 plus percent over the last five years. There has been significant growth, however, a downturn in the economy could result in the loss of much of that growth. Fresno County recommends a reserve up to 50 percent of the prior year revenue received for each fund. Fresno County will develop a multi-year plan, starting next fiscal year, to reduce the reserves, as necessary, in each account to meet the above referenced reserve level.

⑥

Recommendation

*To ensure that the programs and services funded by public safety realignment funds are effective, beginning immediately, [Fresno] should conduct evaluations of the effectiveness of [its] programs and services at least every three years.*

Response

The CCP in Fresno County provides ongoing evaluations of programs funded with Community Corrections revenue. The Departments that oversee funding for specific 2011 Public Safety Realignment Funds will continue to have the responsibility to evaluate the effectiveness of their programs.

⑦

Recommendation

*To ensure that [Fresno] reports accurate and consistent information to the Corrections Board, beginning with [its] next annual reports, [Fresno] should consistently report all law enforcement and non-law enforcement expenditures funded through the account that constitute public safety realignment.*

Response

- ① Fresno County disagrees with this recommendation for the reasons stated in the response to the first recommendation.

## Comments

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE COUNTY OF FRESNO

To provide clarity and perspective, we are commenting on Fresno's response to our audit. The numbers below correspond to the numbers we have placed in the margin of its response.

We disagree with Fresno's narrow interpretation of public safety realignment legislation and its assertion that its Partnership Committee is only required to oversee the Community Corrections account. As we discuss on page 33, the California Constitution defines realignment legislation as legislation enacted on or before September 30, 2012, related to implementing the state budget plan and assigning responsibilities for public safety services to local agencies. That same constitutional provision, in addition to contemporaneous realignment legislation, defined "public safety services" to include various social services, such as preventing child abuse, servicing at-risk children, providing adoption services, providing mental health services, and providing recovery services for substance abuse. As we state on pages 8 and 9, several bills enacted as part of the realignment legislation required the State to appropriate realignment funds to counties in 10 different accounts for a variety of these public safety purposes.

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Further, state law relied upon a framework in each county that established a Partnership Committee, which is an advisory body that focuses on implementing realignment and oversees county efforts to assist felony inmates and probationers to rehabilitate and reenter the community. State law specified that the county Partnership Committees recommend plans to implement public safety realignment and may include recommendations to maximize the effectiveness of resources in programs related to drug courts, mental health treatment, counseling, education, and work training. Nothing we reviewed in state law or legislative history suggests that the public safety realignment plans prepared by Partnership Committees were limited to activities funded through the Community Corrections account. Moreover, state law requires the Partnership Committees to comprise representatives from each of the services funded by the public safety accounts, including representatives from law enforcement, social services, mental health, employment, treatment programs, and community-based organizations, as we describe on page 10. Fresno refers to a common interpretation given to relevant statutes following the enactment of the realignment legislation. However, notwithstanding any county's view of the law, an erroneous administrative construction does not govern the interpretation of a statute, and public officials are compelled to obey the law. Given the

plain meaning of the relevant statutes, we stand by our conclusion that Fresno's interpretation of public safety realignment funding is overly narrow and that its Partnership Committee should oversee all public safety realignment accounts.

- ② Although Fresno claims that our report recommendations would result in practical problems or unnecessarily complicate and add a bureaucratic step to its budgeting processes, its concern does not absolve Fresno from following state law as written. We acknowledge on page 34 that Fresno expressed concern with the practicality of its Partnership Committee overseeing all of the accounts that constitute public safety realignment. However, as we explain in the previous comment, nothing in public safety realignment legislation suggests that county Partnership Committees' oversight is limited to activities funded only through the Community Corrections account. In addition, as we state on page 34 of our report, the Partnership Committees generally include representatives who are recipients of funds from each of the 10 realignment accounts, such as mental health and social services representatives. As such, based on the unambiguous, plain language of the realignment legislation, Partnership Committees should also oversee funding in all 10 public safety realignment accounts and the mental health funding that the State pays to counties under the 2011 public safety realignment legislation. Therefore, we stand by our recommendation that, unless the Legislature clarifies its intent otherwise, Fresno's Partnership Committee should review and make budget recommendations for all public safety realignment accounts.
- ③ As the report underwent an editorial review, the page numbers shifted. Accordingly, the page numbers included in Fresno's response do not correspond to the page numbers in the final report.
- ④ Fresno's narrow view of just one portion of state law fails to grasp the entirety of realignment legislation. As we state on page 33, the State enacted five bills to accomplish public safety realignment and, based on our review of this legislation, Fresno should have included in its Partnership Committee's oversight responsibilities all 10 public safety accounts that state law required the counties to create.
- ⑤ Contrary to Fresno's claim that overcrowding never occurs, as we state on page 15 of our report, its jails have generally exceeded the State's jail capacity standards since 2013. As we describe on page 17, the Corrections Board adopted its jail capacity standards as regulatory law to ensure the health and safety of inmates and staff. Although Fresno explains that it has complied with the federal court order, which includes more lenient requirements than the State's jail capacity standards, this adherence does not alleviate it from its obligation to comply with state regulations. Moreover, the fact that Fresno may temporarily house inmates who are awaiting

transfer to state facilities also does not relieve it from adhering to the State's jail capacity standards. Therefore, we stand by our recommendation that it should take steps to address overcrowding in its jails, while ensuring public safety, by following the State's jail capacity standards.

We disagree with Fresno's contention that it maintains prudent reserve levels in its public safety realignment accounts. As we state on page 40, Fresno has retained surpluses beyond a reasonable reserve amount in some of its public safety realignment accounts, including reserves that would fund five years of operations in one of its accounts. We also disagree that a 50 percent reserve level is reasonable because, as we discuss on page 41, even if the county took a more conservative approach to its reserves, based on our review of the funding variances from year to year, the county's reserve should not exceed 25 percent of the previous year's revenues. Because Fresno lacks a formal plan to spend these funds, it cannot justify retaining such excessive reserves. On March 22, 2021, Fresno asserted that its surpluses were slightly lower than those shown in Table 3; however, the county failed to provide adequate documentation to support its assertion. We look forward to reviewing Fresno's progress in developing its multiyear plan to reduce its excess reserves as part of our regular follow up process.

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Fresno's assertion that it provides ongoing evaluations of its programs funded with its Community Corrections account is inaccurate. As we state in our report on page 44, Fresno has conducted evaluations of a variety of the programs and services it supports using public safety realignment funds other than the Community Corrections account. These evaluations did not occur until 2017 and 2018, even though realignment commenced almost 10 years ago. As we recognize on page 44, Fresno indicated it has plans for future evaluations, which we look forward to reviewing during our regular follow-up process.

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FESIA A. DAVENPORT  
Chief Executive Officer

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March 3, 2021

Ms. Elaine M. Howle\*  
California State Auditor  
621 Capitol Mall, Suite 1200  
Sacramento, California 95814

Board of Supervisors  
HILDA L. SOLIS  
First District  
HOLLY J. MITCHELL  
Second District  
SHEILA KUEHL  
Third District  
JANICE HAHN  
Fourth District  
KATHRYN BARGER  
Fifth District

Dear Ms. Howle:

The County of Los Angeles (LA County) appreciates the opportunity to respond to that portion of the forthcoming audit on Public Safety Realignment related to LA County ("Audit"). Although LA County disagrees with certain assertions contained in the Audit, we appreciate the conclusions that LA County:

1. Delivers enhanced coordinated rehabilitative services and programs to our inmate population;
2. Has taken the necessary steps to ensure its jail staff has sufficient information to make informed decisions regarding how to house and supervise inmates with mental health concerns without providing access to medical records or details of the mental illness; and
3. Thoroughly investigates inmate deaths.

### Introduction

The LA County Board of Supervisors ("Board") is committed to broadly reforming LA County's criminal justice system, with a goal of reducing recidivism and enhancing the safety of our neighborhoods. The Board's evidence-based approaches are designed to, among other things, provide alternatives to incarceration, better address the needs of justice-involved youth, and give communities a stronger voice in the affairs of LA County's law enforcement agencies. LA County has prioritized a "*care first, jails last*" model that moves away from a focus on punishment and instead focuses on rehabilitation, robust re-entry services, and meaningful reengagement with the community.

In this vein, LA County has already undertaken considerable programmatic, research, and capital-project efforts to address the issues of mass incarceration and the striking equity imbalance within the justice system exemplified by disproportionate representation of economically disadvantaged communities and people of color. On February 12, 2019, the Board created a workgroup called the "Alternatives to Incarceration" workgroup (ATI), which was a true collaboration between LA County entities and community stakeholders to create a comprehensive blueprint for guidance on how to improve the health of our County residents and communities, improve public safety, and improve the effectiveness of our justice system by reducing the

*"To Enrich Lives Through Effective And Caring Service"*

\* California State Auditor's comments begin on page 117.

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reliance on LA County's jails. In response, the ATI has created a bold, unique, and ground-breaking vision for transforming LA County's approach to public safety and community wellness that is inspiring action locally and serves as a national model for regional collaboration.

The COVID-19 pandemic has increased the need for ATI's vision, highlighting longstanding inequities that are especially evident when it comes to our incarcerated population—most of whom are economically disadvantaged people of color. The justice system responded, in part, by using risk assessment tools to release a significant number of individuals from our County jails. In addition, the Board reaffirmed its commitment to a *care first* model by directing the relevant County partners (i.e., health, mental health, and housing) to develop a long-term plan for maintaining a decreased jail population.

The Audit affirms the positive benefits resulting from the proactive steps LA County has taken to shift away from punishment and focus on rehabilitation, robust re-entry services, and meaningful reengagement with the community. However, notably, the Audit makes inferences and draws conclusions that are not supported by the law or the intent expressed by the State Legislature, indicates a misconception of LA County's budget process and the work performed by the LA County Public Safety Realignment Team, and infers a mindset towards the criminal justice system that does not represent the will of the residents of LA County or State lawmakers.

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- ③

Finally, this response provides an opportunity to highlight the potential new paths LA County is charting to address a paramount issue facing the State. We emphasize a need to move away from the tired notion that more jails are the solution to addressing the criminal justice crisis in our communities, and move toward the legislative intent of realignment, which emphasizes community-focused support structures that capitalize on the strengths and needs of the individual rather than the ineffective settings of mass incarceration.

### **LA County's Jail Overpopulation Is Due to State Demands on LA County Jails and LA County Has Made Significant Efforts to Reduce the Inmate Population**

LA County acknowledges its jails were not built to house inmates serving multiple-year sentences. The jails were built to house individuals awaiting trial, and those individuals convicted of misdemeanors with a sentence of no more than a year.



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The following table provides a current snapshot of the Los Angeles County Sheriff's Department (LASD) jail population:

<b>County of Los Angeles Jail Population As of March 1, 2021</b>		
Awaiting Trial / Serving Jail Sentence	10,372	68%
Awaiting Transfer to CDCR	3,854	25%
Transferred from CDCR - awaiting hearing	700	5%
Competency - Awaiting State hospital bed	<u>406</u>	3%
Total:	<u><u>15,332</u></u>	

There are presently 15,332 inmates in the LA County jail system. Notably twenty-five percent (3,854) of those inmates are awaiting transfer to the State's prison facilities operated by the California Department of Corrections and Rehabilitation (CDCR). An additional 700 are CDCR inmates transferred to LA County for hearings who have been unable to return to the CDCR. And finally, 406 inmates have been deemed incompetent to stand trial and are waiting for a bed in a Department of State Hospitals facility. As such, over thirty percent of LA County jail inmates are individuals who should be in State custody rather than in the County's facilities.

The County's justice partners, i.e., the LASD, the Probation Department, and the offices of the District Attorney, Public Defender, and Alternate Public Defender, are absolutely committed to reducing the jail population as part of LA County's "care first, jails last" vision. To provide context of the sheer magnitude of LA County's operation, LASD processed 119,432 people through the Los Angeles County jail system, accepting 56,651 and releasing 62,781 of them in 2020. These numbers do not include those who spent time at local police or station jails, just those who arrived at the Inmate Reception Center (IRC) or Century Regional Detention Facility (CRDF).

Throughout the COVID-19 pandemic, by engaging in ongoing efforts and using every tool at their disposal, LA County justice partners were able to safely reduce the jail population at a higher percentage than any other jail system nationwide. At the end of February 2020, the LA County jail system had 17,076 inmates. By May 10, 2020, the jail population had dropped to 11,708 -- a nearly 32% reduction in only 2½ months. There are presently very few pre-trial inmates incarcerated in LA County jails on non-serious, non-violent, non-sexual charges.

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④ The efforts to reduce the jail population include:

- LASD continues to work with its LA County justice partners and the Los Angeles County Superior Court to release those sentenced to CDCR facilities who are awaiting transfer. LASD has released 713 of these inmates, though more are sentenced each week and the number of inmates waiting for transfer continues to increase.
- LASD expanded “Rutherford”<sup>1</sup> releases to those sentenced for AB 109 crimes who were within a year of release and had completed at least 70% of their sentences. In addition to using the compassionate release process where appropriate, LASD also released medically vulnerable AB 109 inmates who had completed at least 10% of their sentences.
- Under “Rutherford,” and solely because of COVID-19, LASD also increased the “shorts” (inmates sentenced to small amounts of time) from 180 days to 240 days. Before the pandemic, LASD would automatically release an inmate sentenced on a misdemeanor crime to 180 days or less in LA County jail. Because of COVID-19, LASD has and will continue to automatically release those sentenced on misdemeanor crimes to 240 days or less.
- LASD has been using the procedure under Penal Code § 4024.1, which allows the release of sentenced prisoners to relieve overcrowding with permission of the Los Angeles County Superior Court. The Superior Court renews authority to the Sheriff pursuant to this statute every 30 days. Using its combined authority under “Rutherford” and Penal Code § 4024.1, LASD is also releasing qualifying inmates who have served 10% of their sentence with up to 30 days remaining to serve.
- LASD has historically released on citations to appear most pre-trial inmates arrested on misdemeanors (other than those prohibited by statute - misdemeanor sex and domestic violence crimes, etc.). Under Penal Code § 853.85, a judge must issue an order to release those arrested for felonies because cite releases are not authorized for felony offenses. Before the California Judicial Council’s Emergency Rule 4 and the Los Angeles County Superior Court emergency bail orders, the Superior Court worked with LASD and its LA County justice partners to create a system for bail deviation hearings so that pre-trial felons being held on non-serious, non-violent, non-sexual charges could be released on a citation. LASD delivered lists of qualified inmates to the District Attorney’s Office and Public Defender’s Office for vetting and bail deviation hearings took place. The first list

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<sup>1</sup> “Rutherford” refers to the federal court case Rutherford v. Block, which involved overcrowding conditions in the County jails and resulted in a number of court orders through which the LASD has been able to release sentenced inmates early to reduce overcrowding. Before the COVID-19 pandemic, LASD would only early release inmates who had been sentenced directly to the County jail on misdemeanors (those doing “County time”). Historically, depending on the overall population and facility capacities, individuals sentenced to County time for misdemeanor crimes would serve anywhere from 10 to 100 percent of their sentences, while those sentenced for felonies under AB 109 would complete 100 percent of their sentences.

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delivered in March 2020 by LASD included those qualified inmates who were age 60 and over. The total on the lists exceeded 2,400 people before the implementation of Emergency Rule 4 on April 13, 2020. The Superior Court held hearings with the Public Defender's Office/Alternate Public Defender's Office and District Attorney's Office, stipulating to a release when possible, and then sending a release order to LASD with a date on which the person was to return to court. LASD then processed the release, providing the person with a notice to appear. Emergency Rule 4 and the Los Angeles County Superior Court emergency bail orders have largely made this process moot as most people charged with non-serious, non-violent, non-sexual charges are being released on citations in the field or at station jails.

- LASD continues to send lists of medically vulnerable inmates and inmates eligible for release consideration under Penal Code § 4024.1 to its justice partners for consideration. Throughout the pandemic, LASD has received orders from the court to release 2,059 inmates from these lists, though far more have actually been released because LA County Deputy District Attorneys and Deputy Public Defenders and Alternate Public Defenders often stipulate to release in open court with inmates being released directly from the courthouse, so LASD does not receive a court order to release in those situations.
- Early in the pandemic, LASD also increased the maximum aggregate bail amount on misdemeanor offenses and warrants for initial admission to the jail (excluding misdemeanor sex crimes, domestic violence, and select others) from \$25,000 to \$50,000.
- LASD and the Probation Department also worked to restrict incarceration for technical probation violations during COVID-19. Early in the pandemic, the Presiding Judge of the Superior Court, Criminal Division, signed an order releasing all inmates sentenced only on technical probation violations.
- LASD stopped accepting out-of-county arrests on LA County warrants unless the charge was for a serious or violent felony. LASD requested that the out-of-county agency that made the arrest release the person on a new citation instead of transferring them to the LA County jail.
- LASD also instituted a moratorium on accepting the transfer into its custody of additional CDCR inmates who will not be able to return to their CDCR facility after their court hearing. These cases, however, are evaluated individually so that those inmates whose appearance is essential may be accommodated.

LA County continues to engage in a robust alternatives to incarceration process, moving quickly toward profound changes in the local criminal justice system. Once the pandemic subsides, however, there are legal obstacles to the reduction of the jail population that can be fixed only by the California Legislature. For example, LA County does not have the discretion to release a

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pre-trial inmate because a judge has set bail conditions that the defendant has not yet met. Modifying statutes to permanently reduce or eliminate the amount of bail would result over time in a smaller jail population. Senator Robert Hertzberg and Assembly member Rob Bonta have already begun this process in the 2021-2022 Legislative Session by introducing Senate Bill 262 and Assembly Bill 329 (seeking to set bail at \$0 for all but excepted offenses).

### LA County Responses to Auditor Recommendations in Chapter One

**State Auditor Recommendation 1:** The Legislature should amend State law to limit the time inmates can spend in County jail to terms of no more than three years. In the event that a sentence is exceeds those three years, the person should serve the sentence in State prison.

**LA County Response:** LA County agrees with this recommendation.

**State Auditor Recommendation 2:** To comply with state jail capacity standards, LA County should take steps to address overcrowding in its jails, while ensuring public safety.

- ④ **LA County's Response:** LA County is a "*care first, jails last*" County. LA County has reduced its jail population by more than ten percent over the course of the past year, and is engaged in an ongoing, robust collaboration with its justice partners, including the Superior Court, the LASD, the Probation Department, the Public Defender, the Alternate Public Defender, and the District Attorney, in a coordinated effort to further reduce its jail population to the greatest extent possible.
- ⑥ Despite these efforts, ultimately, the courts have most of the authority to release inmates early. While LA County recognizes the State did not recommend the building of more jails, it was listed as an option that is not a viable solution in LA County.

### Chapter 2

- ① **LA County's Interpretation of and Use of Realignment Funding is Consistent with Best Practices**

The characterization by the State Auditor that LA County has adopted a "narrow" interpretation of what constitutes realignment funding ignores the ten-year history of realignment, throughout which nearly every county in the State has interpreted the realignment laws consistent with the approach used in LA County. Such uniformity strongly suggests the State Auditor's view is too broad, rather than the counties' as too narrow. The State also appeared to have the same interpretation as the counties given that no county was asked to amend its reports to the BSCC for failing to include the subaccounts identified by the State Auditor. Further, it appears the Audit seems to incorrectly refer to prison realignment and the overall 2011 public safety realignment as the same legal and financial concepts when they are different.

The Audit does not cite to any provision in the realignment statutes or express legislative intent that the eight funds were improperly excluded from LA County's Partnership Committee's oversight. Instead, the Audit makes assertions that, at best, are not grounded in the actual text

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of the realignment laws.<sup>2</sup> The Audit did not cite any law, regulation, legislative intent, or State guidance that clearly and convincingly supports the position that local community correction partnership committees should have oversight over the eight funds at issue. By contrast, California law, principally the County Budget Act, is abundantly clear that county boards of supervisors have control over county budgets and spending decisions. To the County's knowledge, nearly every county throughout the State has adopted a similar approach. Such consistency on the part of the counties implementing realignment, and lack of prior guidance to the contrary from the State, *strongly* indicates LA County's interpretation of the law and its exclusion of the eight funds was appropriate. The State Auditor points to subsequent legislation creating two additional accounts, which was an opportunity for the Legislature to clearly direct Partnership Committees to oversee these accounts, or at least express legislative intent to that effect, but the Legislature did no such thing.

LA County has complied with the realignment statutes by creating and funding accounts to provide the necessary and required services intended by the Legislature. The State Auditor implicitly acknowledges this fact, as it recommends the Legislature "clarify" its intent by explicitly directing counties to have their Partnership Committees review and submit recommendations to their boards of supervisors for all ten accounts. (7)

#### **LA County Manages Public Safety Realignment Funds Effectively**

LA County fully supports the goals of providing transparency and accountability over how public funds are spent. To that end, LA County will strongly consider any legislative proposal to promote those goals. However, LA County objects to the Audit's suggestion that the public should have anything less than full faith that LA County has spent public safety realignment funds effectively. LA County is transparent and fully complies with the realignment statutes the State Budget Act, and best budgeting practices. (8)

The State Auditor appears to either misunderstand or underestimate the transparent and holistic nature of LA County's budget process. For example, the Audit states that "... [Los Angeles's] general budgeting process does not focus on how to spend funds for each public safety realignment account and instead budgets those funds as part of a larger pool of funds that departments may spend at their own discretion. As a result, county departments have significant control over how to spend public safety realignment funds." (2)

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<sup>2</sup> Neither the Government Code nor the Penal Code requires or envisions the kind of regular reporting and Partnership Committee meetings the Audit contends LA County should be performing. Further, Penal Code § 1230.1 does not require a Partnership Committee to perform either a budgetary review of the realignment funds or a spending plan. Instead, the Partnership Committee is only required to recommend, on a one-time basis, "a local plan to the county board of supervisors for the implementation of the 2011 public safety realignment," which "may include recommendations to maximize the effective investment of criminal justice resources in evidence-based correctional sanctions and programs, including, but not limited to, day reporting centers, drug courts, residential multiservice centers, mental health treatment programs, electronic and GPS monitoring programs, victim restitution programs, counseling programs, community service programs, educational programs, and work training programs."

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Every dollar of County funds is appropriated to departments through the budget process, which is a multi-stage process that includes opportunities for community engagement and public input, public hearings, and ultimately, control by the Board. In addition, periodic reports are provided to the Board on the status of realignment spending, and those reports are a matter of public record and posted on LA County's public-facing website. Community advocates frequently comment on the content of those reports, demonstrating they are an effective tool of information exchange.

County departments have limited discretion over how funds are spent, and only exercise that discretion after the Board decides what department programs receive funding, at what amount, and even then, those departments are subject to the Board's spending policies and goals—and department heads are ultimately accountable to the Board and/or the public. The budget process is truly holistic—the CEO consults with every department, not just those that participate in the Partnership Committee, before compiling all departments' budget requests together into a recommended budget that balances all the competing priorities and needs with what funding sources are available. The Board considers this recommended budget at a public hearing with opportunity for public review and comment. Individual departments and programs are not considered in a vacuum. By evaluating all departments and programs together, synergies and efficiencies are maximized and inefficiencies eliminated.

- ② ⑨ This process is transparent and consistent with the County Budget Act and Government Finance Officers Association (GFOA) best practices. The budget process moves through on a one-year cycle, with a multi-year forecast used to assist with long-term planning. Budgeting beyond a single year may prove difficult because funding for realignment is sales-tax based, and may fluctuate significantly.

Notably, the State Auditor found no evidence that funds have been spent inappropriately.

### **LA County Regularly Evaluates the Effectiveness of Its Realignment Programs**

- ⑧ LA County has conducted at least one audit of its Realignment Programs. By way of example, beginning in Fiscal Year (FY) 2013-14, LA County's Chief Executive Office (CEO), working with LA County's Auditor Controller (A-C), developed an AB 109 fiscal audit schedule. Additionally, in FY 2013-14, CEO, working with the Countywide Criminal Justice Coordination Committee (CCJCC), set aside funding and initiated a Request for Statement of Qualification (RFSQ) to ensure an independent and objective evaluation of AB 109 programs. This effort later transitioned to LA County's Chief Information Officer (CIO) and resulted in the Phase I Evaluation Study for AB 109 probationers.

### **LA County Responses to Auditor Recommendations in Chapter Two**

**State Auditor Recommendation 1:** Unless the Legislature clarifies intent otherwise, the partnership committee should review and make budget recommendations for all realignment accounts, including accounts that fund non-law enforcement departments and community-based organizations

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**LA County Response:** LA County does not agree with the State Auditor's legal interpretation of realignment laws or its representations that LA County does not provide transparent spending recommendations for realignment funding. LA County has multiple methods to ensure it transparently reports the budgeting and use of realignment funds. In fact, LA County has gone beyond the requirements of the realignment laws to bolster the advisory capacity of the partnership committee. LA County is supportive of the Audit recommendation that the Legislature clarify this issue if the counties should be performing the work recommended by the Audit.

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The primary purpose specified in Penal Code section 1230.1 for the Community Corrections Partnership (CCP) committee was to recommend a local plan to the Board for implementation of 2011 public safety realignment. Following the plan's acceptance by the Board, LA County recognized that continued coordination is critical to the successful implementation of the AB 109 realignment plan even when the law did not require it. As such, in 2011, the Board directed that the implementation of the plan be coordinated through the LA County Public Safety Realignment Team (PSRT) of the County's Countywide Criminal Justice Coordination Committee. The PSRT was created by the Board in February 2011 to report and advise the Board on public safety realignment matters. To ensure continuity with implementation planning, the PSRT membership, voting membership, chair, and work group structure was modified to mirror that of the CCP. The PSRT does not oversee the use of any funds. The PSRT is an operational planning/advisory body that addresses operational coordination of realignment – not funding allocation or oversight. The funding allocation and oversight is provided through the CEO's budget process described above.

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The Board continues to use the PSRT to provide operational guidance on the realignment plan and continues to make the necessary changes so that the PSRT reflects the overall goals of LA County. For instance, in December 2020, the Board approved a motion to update and expand the membership structure of the PSRT to include the newly created agencies the Board deemed as critical to its mission of "care first, jails last." The membership of the PSRT was to be expanded from 7 members to 25 and they were directed to update the AB 109 implementation plan to reflect the new priorities of the Board. The newly added members include representatives from the County's Office of Diversion and Reentry, the ATI, and the Anti-Racism, Diversity, and Inclusion Initiative. Additionally, in February 2021, the Board approved another motion granting all 25 members, which includes at least five community representatives, voting rights. The Board continues to learn and evolve its approach to criminal justice reform, with a focus on how best to reduce the jail population and provide critical services to our most vulnerable criminally-involved populations. The PSRT and its members continue to be consistently engaged with the community and community organizations that provide much needed services to not only the AB 109 participants, but also the justice-involved population as a whole.

To date, the PSRT has submitted nine reports to the Board of State and Community Corrections (BSCC). The most recent report was in December 2020, and the BSCC was informed that LA County was in the process of updating its plan in accordance with the new Board policies around criminal-justice reform. LA County has not received any negative feedback on the formation of the PSRT and that the BSCC has not communicated that the CCP should be reconstituted.

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**State Auditor Recommendation 2:** Eliminate current surpluses in realignment accounts and prevent future surpluses.

**LA County Response:** LA County is mindful of the available balance and will continue to work with the Board in future budget phases to budget these funds for AB 109 eligible programs.

- ⑪ However, to the extent there are any surpluses, any such surpluses can only be spent on the programs/uses allowed by state law. Beginning in FY 2015-16, Government Code section 30029.07 required each county treasurer to deposit 10% of one-time growth funds received that fiscal year into the Local Innovation Subaccount. These funds may be spent at the discretion of the Board as long as they are spent in a manner consistent with the other Law Enforcement Services subaccounts.

- ⑫ For accounts that receive an ongoing State allocation (for example, the Community Corrections Subaccount), LA County strives to maintain a reserve of two months of operating expenses in accordance with GFOA best practices. However, the Local Innovation Subaccount is funded with a set-aside of one-time growth dollars, which fluctuates based on the health of the economy. In FY 2019-20, counties were not allocated one-time growth funds or Local Innovation Subaccount funds. As LA County's Local Innovation Fund allocation is funded with non-guaranteed one-time funds that are spent on one-time programs, there is no reserve policy that governs the Local Innovation Subaccount.

**State Auditor Recommendation 3:** Conduct evaluations of the effectiveness of its programs and services at least every three years.

- ⑧ **LA County Response:** LA County agrees with this recommendation with the understanding that it already reviews the effectiveness of its programs and services periodically through the PSRT and Budget Act process. LA County has also invested in data infrastructure needs to support ongoing outcome-measurement efforts.

**State Auditor Recommendation 4:** Report all law enforcement and non-law enforcement expenditures funded through the accounts that constitute public safety realignment to the Corrections Board.

- ⑬ **LA County Response:** LA County will take this recommendation under advisement assuming there is a need for more detailed reporting as required by the Legislature. However, LA County notes the distinction between "prison realignment" versus public safety realignment and it is worth noting that the non-law enforcement, non-prison realignment expenditures are different from funds referenced by the State Auditor in its Audit.
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**Conclusion**

In sum, while there are areas where LA County supports the State Auditor's recommendation, LA County does not agree with the Audit's suggestion that LA County has not done enough to reduce overpopulation in its jails, that LA County has misused or misallocated realignment funds, or that LA County has not been transparent in its use of those funds.

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Sincerely,



FESIA A. DAVENPORT  
Chief Executive Officer

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## Comments

### CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM THE COUNTY OF LOS ANGELES

To provide clarity and perspective, we are commenting on Los Angeles's response to our audit. The numbers below correspond to the numbers we have placed in the margin of its response.

We disagree with Los Angeles's contention that its Partnership Committee is not required to review and make recommendations for all public safety realignment accounts. Further, Los Angeles inaccurately diminishes the scope of our review of realignment legislation, stating that we did not cite to any provision in the realignment statutes or express legislative intent, and that our assertions are not grounded in the text of realignment legislation. Contrary to Los Angeles's assertions, as we state in the report on page 33, the California Constitution defines realignment legislation as legislation enacted on or before September 30, 2012, related to implementing the state budget plan and assigning responsibilities for public safety services to local agencies. That same constitutional provision, in addition to contemporaneous realignment legislation, which we reference in the footnote on page 34, defined "public safety services" to include various social services, such as preventing child abuse, servicing at-risk children, providing adoption services, providing mental health services, and providing recovery services for substance abuse. As we describe on pages 8 and 9, several bills enacted as part of the realignment legislation required the State to appropriate realignment funds to counties in 10 different accounts for a variety of public safety purposes.

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State law relied upon a framework in each county that established a Partnership Committee, which is an advisory body that focuses on implementing realignment and oversees county efforts to assist felony inmates and probationers to rehabilitate and reenter the community. State law specified that the county Partnership Committees recommend plans to implement public safety realignment and may include recommendations to maximize the effectiveness of resources in programs such as those related to drug courts, mental health treatment, counseling, education, and work training. Nothing we reviewed in state law or legislative history suggests that the public safety realignment plans prepared by Partnership Committees were limited to certain public safety activities. To further support our conclusion, state law requires the Partnership Committees to include representatives from each of the services funded by the public safety accounts, including representatives from law enforcement, social services, mental health, employment, treatment programs, and community-based

organizations, as we describe on page 10. Los Angeles refers to a common interpretation given to relevant statutes following the enactment of the realignment legislation. However, notwithstanding any county's view of the law, an erroneous administrative construction does not govern the interpretation of a statute, and public officials are compelled to obey the law. Given the plain meaning of the relevant statutes, we stand by our conclusion that Los Angeles's interpretation of public safety realignment funding is overly narrow and that its Partnership Committee should oversee all public safety realignment accounts.

Further, contrary to Los Angeles's assertion that prison realignment can be distinguished from the 2011 public safety realignment, as indicated in the above-mentioned constitutional provision, the implementation of the realignment legislation required the enactment of a series of bills. As a result, the successful transfer of certain inmates from state prison to county jail was inextricably tied to the funding mechanism and public safety programs implemented by this legislation. For that reason, we believe that the realignment legislation should be regarded as a single interrelated program. Thus, we stand by the conclusion contained in our report that Los Angeles's interpretation of the scope of public safety realignment is overly narrow.

- ② During the period in which Los Angeles reviewed our draft report, we brought to the county's attention that we made a revision in our report text to clarify the issue regarding its budget process that it describes in the response. Specifically, we clarified on page 36 of our report that although the county could not demonstrate that it delineates all of its public safety realignment funds separately in its budget process, its process for reimbursing departments for public safety realignment expenditures ensures that they spend these funds for public safety purposes. However, we disagree with the county's assertion that its budget process for public safety realignment funds is holistic and maximizes efficiencies. As we state on page 10 of our report, at the outset of realignment, state law required each county to oversee all 10 public safety realignment accounts and mental health funding. The law presently authorizes the Partnership Committee to make recommendations to the county regarding its implementation of public safety realignment. As we describe on page 36, the county's Partnership Committee does not oversee or make budget recommendations for all public safety realignment funds, creating a gap in oversight of public safety realignment, which inhibits the Partnership Committee's ability to comprehensively view its realignment efforts to maximize efficiencies. Nor do we agree with the county's assertion that it is transparent regarding the use of public safety realignment funds. Specifically, as we discuss on page 39, Los Angeles's Partnership Committee also does not report the majority of its public safety

realignment funds to the Corrections Board, which limits its transparency to the Corrections Board, the Legislature, and other interested stakeholders about how it uses these funds. Therefore, we stand by our conclusion that the Partnership Committee is unable to ensure that the county spends all public safety realignment funding effectively and that its transparency is limited.

Los Angeles has misconstrued our report's conclusions and makes inferences about it that are not accurate. Nowhere in our report do we infer a specific "mindset towards the criminal justice system" in Los Angeles County nor do we state that the county has misused or misallocated realignment funds. On the contrary, on page 37, we state that in a limited review of a selection of expenditures, we did not find any instances of inappropriate spending.

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We commend Los Angeles in its recent efforts to reduce overcrowding in its jails. However, to clarify, the efforts the county describes in its response occurred in its response to the COVID-19 pandemic, which was subsequent to our review of overcrowding. We look forward to reviewing the county's ongoing efforts to address overcrowding in its jails after the COVID-19 pandemic has subsided as part of our regular follow-up process.

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Although Los Angeles claims that there are legal obstacles to the reduction of its jail population that can only be fixed by the Legislature, it also describes the significant efforts it made to release inmates without Legislative intervention as a response to the COVID-19 pandemic. Further, as we state on page 17, along with appealing to the courts for authorization to release inmates early to relieve overcrowding, there are other actions that counties can consider to reduce their jail populations further to comply with state standards. These actions include enhancing their efforts to reduce recidivism; expanding their use of alternative custody programs, such as house arrest or work release programs; or building additional jail facilities to address their housing needs.

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The State provides a portion of the realignment funding for jail construction and operation as we note on page 43. As such, Los Angeles could use these funds to expand its jail facilities to address its ongoing capacity issues. Notwithstanding this option, we recommended only that the county take steps to address overcrowding in its jails. We defer to Los Angeles to determine the best method to do so for its county.

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Los Angeles has misconstrued our recommendation to the Legislature. We do not recommend that the Legislature clarify its intent. Rather, as stated on page 58, we recommended that the Legislature amend state law to clearly identify the specific accounts in the Local Revenue Fund 2011 it requires county Partnership

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Committees to oversee to ensure that the counties are aware of their oversight responsibilities. We make this recommendation because all three of the counties that we audited have taken actions that we find inconsistent with the plain and unambiguous language of the statutes in question.

- ⑧ Without conducting an evaluation of the effectiveness of all programs and services the county supports with all public safety realignment funding, we question how the county has assurance that these programs and services are an effective use of these funds. As we state on page 43, the county has only recently completed its first evaluation of certain services and programs it funds using the Community Corrections account. The county's evaluation did not include an assessment of services and programs it supports with all public safety realignment funds. Therefore, we recommended that the county conduct evaluations of all programs and services it supports using public safety realignment funds.
- ⑨ Our audit report identifies several areas where Los Angeles does not follow best practices set forth by the GFOA. As we discuss on page 42 of our report, the GFOA indicates a good budget process incorporates a long-term perspective. However, as we state on page 42, Los Angeles does not conduct long-term planning for public safety services. Additionally, although Los Angeles asserts that it strives to maintain a reserve of two months of operating expenses in accordance with GFOA best practices, the county has significant surpluses in most of its public safety realignment accounts as we identify in Table 3 on page 41 of our report. Without a long-term planning perspective, the county has no justification in holding the significant surpluses. Further, based on our review of funding variances from year to year, the county's reserve should not exceed 25 percent from the previous year's revenue.
- ⑩ As we describe in the Introduction, the Los Angeles County Public Safety Realignment Team (PSRT) carries the same responsibilities as other counties' Partnership Committees and we refer to it as the county's Partnership Committee in our report. A plain definition of oversight is to review and monitor policies, plans, programs, and projects to ensure that they are achieving expected results; they are cost-effective; and they comply with applicable laws, rules, and regulations. Because the PSRT acts as an advisory and oversight body to the county, by definition, we expected that it would oversee and make recommendations for all public safety realignment funds and activities.
- ⑪ Nowhere in our report do we indicate that Los Angeles should use its surpluses for purposes that are contrary to the restrictions set in place in state law. However, as shown in Table 3 on page 41, the county has significant surpluses in most of its public safety

realignment accounts and, as we discuss on page 42, Los Angeles needs to plan further into the future for how it will spend these surpluses on allowable public safety realignment activities, such as anti-recidivism programs or expanding its jail capacity.

We disagree with the county's assertions that the funding it allocated into the Local Innovation Fund is one-time funding. In fact, as we state on page 42 of our report, the State has provided this funding consistently for the past seven years. Without a plan for how it will use this surplus, Los Angeles has no justification for holding this funding.

Los Angeles's contention that the Legislature needs to specify additional reporting requirements is incorrect. As we state on pages 38 and 48 of our report, state law already requires the Corrections Board to report information from each county to the Governor and the Legislature related to the county's implementation of realignment, and for counties to provide the information to the Corrections Board.

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