

Stanford Law School
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CALIFORNIA SENTENCING AND CORRECTIONS:
SOME INTERESTING INTER-COUNTY COMPARISONS

Any appraisal of the state of sentencing and corrections in California must take account of variations in sentencing policies at the county level, where the actual implementation of state sentencing laws occurs and where the major inputs into the state correctional system are determined. Of course, measuring important variations among the counties does not tell us what the significance of those numbers is, nor does it determine what the optimal mix of variation and uniformity among the counties would be. But it is a step towards addressing those larger questions and also can give some initial clues as to how different counties may be responding to perceived pressures from state prison policies. To illustrate some of the interesting measurable variations among the counties, we provide here some preliminary data about six California counties – Kern, Los Angeles, Marin, Santa Clara, San Francisco, and Ventura – for the 10-year period from 1996 through 2005. For each county, we measure variables under the following general categories (with sub-variables included as well): number of crimes committed (by general type of crime); crime rates (by general type of crime); adult felony dispositions (by type of disposition); sentences (by type of sentence); felony probation actions (by type); misdemeanor probation actions (by type); criminal justice expenditures (by type of agency).

These data were identified for the SCJC by Scott Stewart, Stanford J.D. 2008, as part of his research project for the Sentencing Law and Policy Seminar. The numbers are necessarily very preliminary¹ and only one part of a larger project that includes assessments of the historical changes of these variables within each county during the 10-year period, as well as speculative interpretations about what means and ends in sentencing policy in each county and in the state as a whole.

A. Kern County

Kern County, located just north of Los Angeles, has a population of over 770,000, stretches across more than square 8000 miles of farmland and mountains on the southern end of the San Joaquin Valley.

¹ The data are drawn from the Criminal Justice Statistics Center website of the California Department of Justice. This summary of the data is presented without footnotes and omits the extensive and detailed citations to specific tables within the state database provided in Scott's work-in-progress.

Violent crimes and violent crime rates are down over the ten-year but have not fallen every year. Instead, the rate and number of violent crimes has oscillated over the years, decreasing in 1996-2000, increasing in 2000-2004 (mostly), and decreasing again in 2005. The rate of violent crimes dropped substantially in 1997-1998 (nearly 10%), 1998-1999 (over 10%), and 2004-2005 (about 15%). There were big increases in violent crimes in 2002-2003 (over 10%) and 2003-2004 (over 15%). The number of property crimes increased overall over the period. The rate of property crimes decreased in 1997-2000 but increased in 2000-2005. Larcenies followed almost the same trend but decreased overall.

As for criminal justice dispositions, convictions and dismissals increased overall, particularly dismissals, which increased by nearly two-thirds over the period. Despite this overall increase, dismissals in fact seesawed across the period. There were, however, particularly rapid increases in 2004 and 2005. Despite this increase, convictions still outnumber dismissals more than fourfold. Convictions increased sizably for each year in the 1999-2003 span, then leveled off.

Among sentences, probation with jail is dominant, followed by prison and then probation without jail (hereafter, "probation" or "straight probation"). The interesting period for sentences is 2003-2005, during which time sentences to straight probation and to jail increased substantially, but probation with jail decreased significantly. To this point straight probation had remained pretty constant, but in 2004 it doubled from the previous year and in 2005 it increased another 25%. Jail sentences increased similarly in 2003-2005 (by around 40% in 2004, and by over 20% in 2005). The numbers seem to suggest a transfer between the different kinds of sentences: in 2003-2004, for example, probation sentences increased by 440 and jail sentences by 150, while probation with jail decreased by 610 – nearly equaling the combined increase in straight probation and jail.

Kern's felony probation placements are way up overall – from 1055 in 1996 to 2702 in 2005. The biggest increases came in 1999-2000 (500+), 2000-2001 (about 670), and 2003-2004 (about 560). Removals from felony probation are also up overall, but not as much as placements. Felony removals seesawed throughout the period, sometimes tracking the increases and decreases of placements, sometimes not. Removals exceeded placements for 1996-1998 but placements have exceeded removals since. Most interesting is the increase in revocation and decrease in terminations over the period. Felony terminations are down overall, with nearly a one-third decrease in 2001-2002 (though terminations oscillated throughout the period). Felony revocations, however, have *doubled* since 1996, with a twofold increase in 2004 (up to 790, from 371 in 2003) alone. Terminations have always exceeded revocations in Kern, but revocations really began to catch up to terminations in 2004 and 2005.

Though the data for Kern are somewhat incomplete, there appear to be markedly fewer probation sentences (and actions) for misdemeanors than for felonies – compare 492 misdemeanor placements and 342 removals in 2005 to 2702 felony placements and 2294 removals in the same year. Some other noticeable misdemeanor probation trends include a sharp increase in terminations in 2003 (over 3005) followed by a sharp decline

in 2004 (over half). At the same time, there was a big decrease in revocations in 2003 (about 25%) and a big increase the next year (over 25%). Misdemeanor terminations generally outpace revocations.

Expenditures have increased over the period to all agencies except for judicial and prosecution expenditures. Prosecution saw a particularly sharp decline in 2000/01-2001/02 (nearly two-thirds). Probation saw its most substantial increase in the same year – more than 15%. Probation and jail expenditures mostly increased throughout. Police department expenditures increased substantially (by about 75% over the period) as did sheriff's department expenditures (nearly 40%).

B. Los Angeles County

Los Angeles, containing 88 cities, is home to more than a quarter of California's residents, with over 10,233,000 people in 2005, but in terms of land area it is about half the size of Kern County.

Crime rates – of all three general crime categories – have dropped over the time period. Violent crimes dropped by nearly half, and property crimes and thefts each dropped by about one-third. The total number of crimes followed similar trends. Population increased throughout.

Convictions were the dominant type of disposition for felonies throughout. Felony convictions mostly decreased in 1996-2003 but suddenly rose substantially in 2004. The number of dismissals stayed roughly constant through the period.

Felony placements on probation remained level until 2002, when they dipped. Placements then suddenly rose substantially both in 2003 and 2004. Both terminations and revocations rose over the period. Revocations always outnumbered terminations by no less than one-third. In almost every year there were more removals from probation than placements on probation.

Misdemeanor probation placements fluctuated. They increased in 1996-1999, decreased substantially in 2000 and 2005, and rose substantially in 2003. Misdemeanor terminations and revocations fluctuated as well, each outpacing the other in some years: revocations were greater than terminations in 1996-1999 and 2002; terminations were dominant in 2000 and 2001, and increasingly dominant over 2003-2005. There has been a declining overall trend in misdemeanor revocations since 1998 (by approximately half), and an almost equivalent (percentage-wise) decline in misdemeanor placements on probation.

Most expenditures increased over the period. Sheriff's department expenditures increased by about two-thirds, probation expenditures and public defense each increased by about 60%, police expenditures by about 40%, and jail expenditures by nearly 30%. Prosecution and judicial expenditures dropped over the period. The prosecution trends

were particularly interesting. Prosecution expenditures rose from 1995/96-2000/01. They then dipped *substantially* (from about \$372,622,000 to about \$227,225,000 the next year), and leveled off thereafter. As prosecution expenditures dipped substantially, probation expenditures jumped – by over \$45 million in 2001/02. The most visible intra-expenditure trend is that probation and prosecution expenditures tracked each other pretty well (both increasing) until 2000/01, and thereafter prosecution expenditures dipped and probation mostly continued to rise. Total expenditures rose each year except for a slight dip in 2001/02.

C. Marin County

Marin is by far the least populous of the counties studied (252,000) and experiences much less crime than the other counties.

The rates of violent crimes and thefts substantially declined over the period. Violent crime rates during 2002-2005 were far lower than 1996 rates, and drops were particularly substantial in 2002 and 2004. The years 2001-2003 displayed notable oscillations: Violent crime rates declined substantially from 2001-2002 (by over 15%), then shot up in 2003 (again by about 15%). Property crimes also shot up in 2003 – also by around 15%. Property crimes and thefts generally declined until 1999, and rose thereafter. Despite this oscillation property crimes stayed at about the same level overall across the period (albeit with some oscillation).

Dismissals were pretty constant throughout, but there was a roughly 25% rise in 2003 (214, over 171 in 2002). Convictions rose substantially in 2003 (by nearly half), but otherwise oscillated (though not wildly).

Probation with jail was the most common sentence. Sentences of probation with jail increased substantially between 2001 and 2002 (more than doubling), and again in 2003 (almost doubling). Straight probation was the only sentence that came anywhere close to probation with jail. Interestingly, straight probation used to be rare. It occurred about as frequently as prison in 1996-1999, but then prison dropped during 1999-2002 (and leveled off thereafter) while straight probation sentences increased throughout 1999-2003. Jail sentences are somewhat rare in Marin; most years saw no more than a dozen jail sentences.

Both felony and misdemeanor probation placements mostly decreased over the period, as did removals (both terminations and revocations). Felony and misdemeanor terminations exceeded revocations throughout. The most interesting probation trend over the period was the strong decline in the use of probation. In 1996 there were 1174 felony probation placements and 1311 misdemeanor placements; those numbers were 471 and 483, respectively, in 2005. Another notable trend: misdemeanor probation actions of all sorts rose substantially in 2003 (all nearly doubling or more than doubling from 2002) while felony probation actions declined slightly during that same period (though felony probation revocations decreased 50%).

Expenditures on each agency mostly increased throughout the period. Judicial expenditures were the only type that declined over the period. Probation expenditures increased by about one-third, sheriff expenditures by over 100%, and police department expenditures by about two-thirds. Jail, prosecution, and public defense expenditures increased moderately over the period.

D. Santa Clara County

Santa Clara has about 1,760,700 people in an area of 1312 square miles. It ranks among the highest counties in the nation for median family; its crime rates decreased overall across the ten-year period, with violent crime decreasing by over forty percent and theft by over a third.

Dismissals have increased most years since 1997. Convictions have seesawed, with a sharp drop in 1999-2002, followed by a sharp resurgence in 2003. Probation with jail has been by far the dominant form of sentencing throughout the period, although it has declined since 1999. Straight probation, meanwhile, has risen almost every year since 1999, nearly tripling over that stretch. Jail sentences largely track the rises and falls of sentences of probation with jail. The year 2002 was illustrative of these trends: in that year sentences of straight probation substantially rose, while sentences to probation with jail and to prison *substantially* declined. Prison sentences seem not to have followed either probation trend. Such sentences rose through 1999, then fell through 2002, and have mostly risen since. Perhaps the most interesting sentencing trend is that prison sentences were more common than probation until 2002, since which time probation sentences have been more common than prison.

Probation actions exhibit some interesting trends, particularly in placements on probation. Felony placements were basically level during 1996-2000, then suddenly dropped the next two years. Then in 2003, placements substantially jumped, and increased even more substantially in 2004 (by over 100%). Throughout this time there has not been a lot of change in the number of revocations, but terminations have fallen by nearly a third since 1996. Revocations trailed terminations until the past two years. Removals from probation have almost always been greater than placements on probation, but not in 2004 or 2005. Misdemeanor probation actions display the same trends as those of felonies, except removals do not *quite* outreach placements (yet).

Criminal justice expenditures have risen every year. The most substantial increases have been on the police department (over \$152 million since 1995/96 – almost two-thirds) and the sheriff's department (about \$54 million – over 180%). Probation increased by around eighty percent from 1995/96 through 2002/03, before plummeting by over 25% in 2003/04. Prosecution increased during 1995/96-2000/01, but is down since. Judicial expenditures have decreased almost every year.

E. San Francisco County

San Francisco, by far the smallest in land area of the counties studied, is the densest in population (over 794,900).

The number of crimes committed and crime rates declined through 2001 for all three major categories. Both figures then *sharply* rose in 2002, but mostly leveled off thereafter (though the rate of thefts did drop after 2002).

Convictions followed a similar trend as crime rates, though the sharp rise in convictions came in 2003 rather than 2002. Dismissals also rose substantially in 2003 (3952, up from 2349 the year before). Quite interestingly, dismissals seem to be catching up to convictions. Whereas in 1996 there were nearly three times more convictions than dismissals, 2004 saw 4784 convictions and 4108 dismissals. As for sentencing, sentences of prison, jail, straight probation, and probation with jail follow the same trend as convictions, dropping until dropping through 2001 or 2002, then rising.

Probation actions are, unfortunately, only available through 2000. In that period, the numbers for both felony and misdemeanor actions seesawed. Felony placements on probation are somewhat directly correlated with felony probation revocations. Misdemeanor placements are somewhat inversely correlated with misdemeanor probation revocations.

Police department expenditures mostly increased, albeit with some fluctuation. Expenditures on jails increased by about 70%; sheriff's department expenditures increased by about two-thirds, and public defense expenditures increased by over 50%. Expenditures on prosecution and probation tracked each other (both moderately increasing) until 2000/01, when prosecution expenditures suddenly dropped while probation moderately rose (and then evened out). Judicial expenditures have fallen about 40% since 1997/98.

F. Ventura County

Ventura County, just northwest of Los Angeles and south of Kern, covers 1873 square miles and has a population of about 815,500. Its crime rates are even lower than Marin's, but it has three times the population.

The number of all three general categories of crimes generally decreased over the period. Crime rates also generally fell, albeit with some oscillation: violent crimes dipped by nearly 40% over the period, property crime rates by about 20%, and thefts by over 25%.

Dismissals oscillated a lot over the period. They increased in 2000-2003 then decreased in 2003-2005. Those recent increases were substantial; while there were only 192 dismissals in 2001, there were 349 in 2002 and 624 in 2003. Like dismissals,

convictions also oscillated. Convictions increased in 2001-2003 (in the same sharp fashion as dismissals) and have basically leveled off since then.

As for sentences, probation with jail is the dominant sentence. But straight probation really increased as a sentence in 2001-2003 (119 sentences in 2001, 503 in 2002, and 650 in 2003). Sentences to jail and prison increased over 2001-2005. The notable recent sentencing trend seems to be that probation sentences (both with and without jail) are leveling off or decreasing over 2003-2005, while prison and jail sentences are increasing.

Probation actions have decreased *substantially* since 2002. There were 2268 felony placements in 2002, but only 1452 by 2005. Misdemeanor actions also decreased substantially over 2002-2004 (2005 data was unavailable), with 7274 placements in 2002 and 4299 in 2004. Removals from probation are the more interesting story. Removals from felony probation jumped in 2002, due to a substantial rise in terminations, then absolutely *plummeted* in 2003 (from 1231 to 368). Felony revocations also plummeted in 2003 – down to 33 from 995 in 2002. Thereafter, revocations substantially rose – to 385 in 2004 and 616 in 2005. Felony terminations also rose after 2003, but not as much in revocations. The year 2005 was the first time since 2000 that revocations outreached terminations.

Misdemeanor probation actions followed felony actions in some ways, but not others. As with felony actions, both misdemeanor placements and terminations declined substantially in 2003. Revocations, however, nearly doubled in 2003. Whereas in 2002, misdemeanor terminations were more than twice the number of revocations, in 2003-2005 revocations dwarfed terminations, being seven to eleven times more frequent than terminations.

Total expenditures increased in almost every year. Probation department expenditures increased most drastically – by about 125% over the ten-year period and by 25% between 2002/03-2003/04. Police department expenditures increased by over 60% over the period. Sheriff's department expenditures were up by over 70%. Judicial and prosecution expenditures dropped (although the latter dropped only slightly). Public defense expenditures rose by over one-third. The custody/supervision focus seemed to shift a bit over the period: whereas in 1995/96, jail expenditures were more than three times those on probation, they were only about double those of probation in 2003/04.