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PUTTING CALIFORNIA'S PUBLIC SAFETY RE-ALIGNMENT IN CONTEXT: AN OVERVIEW OF FISCAL DECENTRALIZATION

By Eleanor Taylor-Nicholson and Andrea Russi

Realignment is now almost synonymous in California with AB 109 – the 2011 legislation that shifts some criminal justice functions from state to local control, in particular, responsibility for greater numbers of low-level offenders. AB 109 also gives counties flexibility to decide how they will handle these new responsibilities by offering state funding in the form of a block grant. Those in support of this realignment hope that, when fully implemented, it will reduce the costs of corrections in California, as well as give counties freedom to innovate and to tailor their programs to local needs.

Are these hopes realistic? How can we help them to be realized? Rather than analyzing the particular details of the 2011 realignment, which has been done by many others, this paper steps back and examines the law's historical and philosophical underpinnings.¹ We locate the origins of the idea, usually called 'fiscal decentralization,' in the principles underlying the Constitution and then describe in brief the development of decentralization as a financing strategy at the federal level over the last 50 years. Finally, we consider the literature on decentralization to learn from past experience, and apply some of these lessons to California.

As this brief survey of the research reveals, fiscal decentralization brings both potential benefits and potential disadvantages. Success, however, often depends as much on how the transfer of responsibilities is structured and implemented, as on the content of the program itself. Certain factors such as clear goals

and objectives, effective oversight, and adequate resources are key. A number of these factors are not yet finalized in the current criminal justice realignment, so ongoing monitoring and engagement will be essential. We hope this brief will be a tool for policy-makers, implementers and community members to ask the right questions as realignment is rolled out, to build a fairer, more efficient and more effective corrections system in California.

The Origins of 'Realignment'

Realignment is often used in California as shorthand for the shifting of program responsibilities between levels of government to 'align' them to the level that it is believed could carry them out best.² To our knowledge, the term was first used in this way in 1991 when California mental health programs were 'realigned' from state to local levels (see box, page 5.).

A more technical term for the same process is "fiscal (de)centralization,"³ which is defined as:

The devolution by the central government to local governments (states, regions, municipalities) of specific functions with the administrative authority and fiscal revenue to perform those functions.⁴

Fiscal decentralization is one component of the much larger policy field of 'decentralization.' It is essentially the financial aspects of devolution to regional and local government rather than, for example, transfer of the power to tax or the power

to regulate. As the above definition highlights, it includes not only handing spending responsibilities to lower levels of government, but also discretion as to how money should be spent.⁵

Decentralization in a Federal Context

Decentralized governance has a long political and economic history in the United States. Its historical path can be traced to the founding fathers and their establishment of a federal governance structure. Numerous federal governments have implemented decentralization reforms in an effort to improve efficiency of service provision.

Decentralized governance as a model is embedded in the US Constitution. The Constitution divides responsibilities between different levels of government—federal and state—and the states then establish local governments of various forms as representatives of “the people.”⁶ However, the details of decentralization have always been contested. Spending authority equates to political power, and as one prominent scholar of state-local relations notes: “The most desirable degree to which political power should be decentralized by a state government to local governments has been a source of major controversy since the end of the Revolutionary War.”⁷

A renewed emphasis on local government emerged in the early 1970’s under President Nixon’s doctrine of ‘new federalism.’ This was partly a response to the mixing of government roles and a tendency toward centralization that had occurred under President Roosevelt through the New Deal and during and after World War II. Nixon’s rationale was primarily sound management and public finance policy, based on a belief that different levels of government played different roles best.

One of President Nixon’s strategies was to promote more decentralized funding models such as revenue sharing from the federal to the state and local governments as well as block grants (see box, page 3). Unlike a traditional conservative approach of cutting taxes, revenue sharing and block grants allowed the federal government (and also state governments) to collect taxes and then redistribute them to lower levels of government. Nixon was supported by economists such as Wallace Oates (a leading scholar in fiscal federalism), who found that the benefit of revenue sharing to the individual could be greater in some circumstances than a cut in taxes of the same value.⁸

In the 1980’s President Reagan also supported local government but he favored tax cuts and an overall reduction in the size of government. Block grants coincided with spending cuts, rather than simply shifting the way spending was administered.⁹

In the mid-1990’s, President Clinton working with a Republican Congress implemented welfare reform, which replaced individual entitlement programs, and also strengthened the role of state and local governments in service provision.

Each of these developments has been controversial, and indeed the balance of power between federal, state and local governments remains a fraught policy issue in the United States today. These tensions may even be exacerbated by the recent economic climate, when government resources are shrinking, but the demands on government support, such as healthcare and welfare, have expanded. Deciding where the balance lies depends on an understanding of the benefits and disadvantages of decentralization in particular contexts.

Pros and Cons of Greater Fiscal Decentralization

In decentralizing core government functions such as corrections, what should we hope for, and what should we be concerned about? Much has been written on the advantages and disadvantages of decentralization in the United States, and also abroad. Learning from these debates provides a useful framework for understanding the current realignment.

Arguments in Support

The arguments for fiscal decentralization are many, but all come down to improving the quality of government by making it more efficient and effective.

These arguments have a long history of support in economics and political science. Wallace Oates argued in 1972 that different levels of government carry out certain programs most effectively and efficiently. Therefore, functions should be distributed in a way to maximize social welfare and minimize waste.¹⁵ In Oates’ view, central control should be reserved for functions relevant to the state or country as a whole, such as economic stability or wealth redistribution. Local governments are best at “the provision of goods and services to the particular preferences and circumstances of their constituencies.”¹⁶ By tailoring their programs to the needs of the community and funding only what is necessary, local governments can be more efficient.

Efficiency will also be achieved, it is argued, because decentralization stimulates competition between localities for a tax base or for reelection, which will then lead to innovation. This will again “produce increased responsiveness and efficiency in local service provision.”¹⁷ Citizens will be drawn to local government areas that have the most effective programs, and localities

A Brief History of Block Grants

Block grants are a key mechanism for program or fiscal decentralization in the United States. Understanding ‘block grants’ helps to explain how fiscal decentralization often works in practice, and the structure of the current realignment.

A block grant is a form of intergovernmental funds transfer that gives a recipient government discretion as to its use within broad policy parameters. The amount of funding for each recipient government is allocated according to a formula, and oversight of grant spending tends to be minimal. Block grants differ from ‘categorical grants,’ which are intended for specific purposes and may be more rigorously monitored. They also differ from ‘entitlements,’ namely money granted directly to individuals rather than to an intermediary government.

Congress first introduced block grants in 1966 but it was President Nixon who popularized them in the 1970’s. Nixon proposed consolidating 129 categorical grants into six block grants, and although this was not initially accepted, three block grants were created before the end of the Ford Administration. President Reagan continued the trend in the 1980’s by overseeing the passage of the Omnibus Budget Reconciliation Act of 1981, which consolidated 77 categorical grants into nine block grants. President George Bush Senior and President George W. Bush also both favored block grants, and block grants as a percentage of federal aid spiked sharply in the early 2000’s.¹⁰ Among the most high-profile block grants to date is the 1996 Temporary Assistance for Needy Families (TANF) program during the Clinton Administration.

Block grants have always been controversial.¹¹ On the one hand they give program implementers considerable freedom in deciding how money should be spent, increasing flexibility. But on the other hand, local decision makers are often left unaccountable, the amount of the grants is usually capped, and formulas can lead to an arbitrary distribution of funds.¹³ Whatever the case, block grants are now an established part of the US system of public finance, along with categorical grants, and entitlement programs.¹²

While block grants were a federal invention, they have also been adopted by states including California. In many cases decentralization from federal to state has led to greater state-local decentralization, for example in welfare.¹⁴ California has numerous block grant programs in education, energy, law enforcement, and community development.

can learn from each other when new methods are found to be successful.¹⁸

Finally, decentralization advocates argue that bringing services closer to people will make citizens more engaged and more likely to hold local officials accountable for their actions. The economic support for this argument is that local policy-makers will have better local information, and competition between vertical tiers of government will decrease opportunities for opacity or non-responsive government.

Political scientists have also advocated this view. For example, some argue that local actors have more at stake in the implementation and outcome of programs than bureaucrats in faraway capitals, and that allowing local authority and control is necessary to deal with the complexity of modern governance and service delivery. Decentralization “meets the need for a more engaging form of democracy appropriate to the 21st Century,” and “encourages civic engagement” by building social capital in ordinary citizens.¹⁹

Overall, proponents of fiscal federalism conjure up images of strong and functional communities in which the citizens and

local officials work together for the common good, in the form of effective, targeted, and efficient programs. As mentioned in the introduction, these arguments have been key to the passage of the 2011 Realignment plan in California.

Critiques and Challenges

For every argument for decentralization, there are counterarguments and cautions. On efficiency, it can be argued that fragmenting functions between different levels of government can also prevent government agencies from benefiting from economies of scale, and instead lead to administrative duplication.²¹ In other words, each county as well as the central government will need its own administrative structure, staff, programs, and facilities to deliver a similar service, increasing the burden on tax-payers.

Competition between counties, it is also argued, may not automatically lead to more efficient programs. For example, some government officials may be poorly trained or unmotivated to provide more efficient services.²² They may also cut corners, resulting in greater inter-regional inequality overall.²³ Competition must then be supported with training and

incentives.

Another concern is that competition and capped grant programs can have differential impacts on racial and ethnic groups, or exclude populations with higher needs who cost more to support. Our experience of welfare reform suggests this can be a risk,²⁴ however other studies suggest exclusion is not inevitable if preventive measures are taken. For example, studies of the mental health realignment in California, which specifically urged counties to focus resources on higher needs clients, found that those clients received more treatment not less and that the treatment population became more diverse.²⁵

A ‘tyranny of the majority’ argument is also made with respect to accountability and civic engagement. History has shown that smaller governments tend to be more vulnerable to capture by elites or majority populations, pushing out ethnic, racial, and class minorities. Although a bill of rights and centralized oversight body (such as the courts) can guarantee some freedoms, the experience of some countries has been that for minority populations to have a voice, they must also be actively engaged and included in policy discussions.²⁶

Some argue that bringing government ‘closer to the people’ can also spur corruption and abuse of power. Transactions are made between known parties and not at ‘arm’s length,’ and checks and balances can be lighter. Still, others point out that centralized governments also have a long record of corruption and for greater sums of money.²⁷

The most convincing cautionary arguments are perhaps those related to the challenges of implementation. While it is clear that certain levels of government handle certain policy areas best (such as national defense in the federal context), how are decisions to be made about more nuanced fields such as criminal justice – who decides what is ‘best’ for achieving those goals? In addition, even if counties are best suited to managing certain programs, counties differ vastly in size, economy, and capacity– how are county differences to be taken into account? What accountability mechanisms can be put in place to guard against abuses?

These counterarguments do not negate the potential of fiscal decentralization, but they do point to a need for close analysis of the particular context and a careful plan for implementation to guard against accountability gaps, exclusion, and winners and losers.

Ingredients for Success?

A number of studies have not necessarily argued for or against decentralization in general, but have identified

particular ingredients for the success or failure of particular decentralization programs– both in the United States and abroad.²⁰ Some relevant factors that have been identified include:

- Political commitment at all levels, and particularly the involvement and investment of local policy-makers and implementing institutions from the outset, and an engaged and informed citizenry
- A clear implementation plan
- A legal and administrative framework with clear goals and objectives
- Adequate human and financial resources, and in particular an ongoing funding stream that will be able to meet program needs
- Built-in oversight and supervisory roles and mechanisms
- Finance following function: fiscal decentralization to local governments should include local taxing powers.

The Public Safety Realignment

Given all the considerations above, how does the current realignment fare? It is too early to clearly assess its strengths and weaknesses or whether it will indeed make the system more efficient. Further research will be needed as implementation continues. Nevertheless, the historical and conceptual framework above helps us to identify some factors that may lead to the success of the plan, or to further challenges in future.

The 2011 Realignment Plan

On April 4, 2011, Governor Jerry Brown signed into law AB 109, the Realignment for Public Safety. The realignment was partly instituted to address the \$25.4 billion budget gap, the largest deficit in its history and an amount over 20% of the final approved budget for 2011-12.³¹ Corrections and rehabilitation was a large part of this budget. In 2011-2012 it accounted for \$10.1 billion (of which \$9.8 billion was from the General Fund), the third largest public sector in dollars after health and education.

Beginning on October 1, 2011, counties began to manage a wider pool of offenders than they had in the past, gradually reducing the population managed by the California Department of Corrections and Rehabilitation (CDCR).³² The

2011 realignment was thus effectively a partial fiscal decentralization of the criminal justice system from the state to county governments. In line with the arguments for decentralization outlined above, it was done to achieve, among other things, state goals of efficiency and effectiveness, and included guaranteed state revenue.³³ The Legislative Analyst's Office, for example, stated of the realignment, "We believe that this type of decentralization of program delivery and authority could promote innovation, efficiency, and responsiveness to local conditions."³⁴

The mechanism for the 2011 realignment is also familiar. Funding to counties for their new responsibilities is in the form of block grants, with the amount allocated to each county calculated by a formula.³⁵ In keeping with the process developed for the 1991 realignment, the Brown administration invited the California State Association of Counties (CSAC) to work with the Department of Finance in determining the allocation formula. In 2011-2012, the allocation was made based on a combination of expected caseload (60%), county adult population (30%), and past success in reducing new prison commitments from adult probation caseloads, based on implementation of SB 678 (10%).³⁶

The total budget for the public safety realignment in 2011-12 was \$1.6 billion, of which \$1.2 billion was for local costs of supervising new offenders and parole violators, and \$390 million for establishing the new system of parole.³⁷ In 2012-2013 counties have \$842.9 million allocated. Despite these costs, the state claims that it expects to save money from realignment through local efficiencies. In April 2012 the Brown Administration released a comprehensive plan for "building on the changes brought by public safety realignment", which it estimates will save CDCR \$1 billion in 2012-2013, growing to \$1.5 billion in 2015-2016.³⁸

Positive Indications

Past experience suggests that the transfer of corrections responsibilities is not an entirely foreign idea in California. Some level of political commitment to decentralized governance in criminal justice may be assumed given that California is already a relatively decentralized state in which counties and cities have significant administrative and programmatic responsibilities, and local governments have experience managing complex programs.³⁸ A strong tradition of local government and citizen engagement in government may support local accountability and high quality services.

Further, criminal justice is a traditionally decentralized sector. For example, the United States does not have a unified

Previous 'Realignments' in California

1991 – Realignment of Mental Health and Social Services. In the early 1990s California was in the midst of another serious budget crisis. It also faced criticism for the plight of the mentally ill following the closure of institutions in the 1980s. The 1991 realignment transferred fiscal and administrative responsibilities from state to local government for various mental health, public health, and indigent health care programs. The transfer followed years of lobbying and was funded by a new sales tax, thus it had a guaranteed funding stream. It also established local mental health boards but, unlike the current realignment, it set statewide standards with an oversight body.

2007 – Realignment of Juvenile Justice. Following years of criticism about conditions for juveniles in state care and ballooning costs of reform, Governor Schwarzenegger signed into law SB 81 in 2007.²⁸ The law transferred responsibility for most juvenile offenders to counties, to be funded by the new Youth Offender Block Grant Program. The terms of the realignment were similar to the 2011 Public Safety Realignment: all but the most serious and violent youth and youth convicted of sex offenses were placed under local supervision and local officials now have considerable discretion in the use of funds received under the program. The law also created a Juvenile Justice Commission to oversee the changes, which issued its report in 2009.²⁹

Realignments are controversial and not all proposed realignments have been adopted. In 1995, for example, Governor Pete Wilson suggested expanding the 1991 realignment by transferring complete responsibility for child welfare, child abuse prevention, and adoption programs to counties. This would have cost counties an additional \$700 million but would have been offset by greater state funding for court costs and increased revenue allocations to counties. The legislature, however, rejected the proposal.³⁰

national police force; states, counties and cities have their own law enforcement structures for maintaining public safety. Criminal laws differ between states, as does sentencing policy. As one scholar noted in respect to corrections, "the seeming confusions, complexities, and inconsistencies of policies and practices" in the United States is astonishing to some, as is the "lack of broad agreement about the purposes of the criminal

justice system and the goals of sentencing and corrections.”³⁹

In California specifically, the locus of the corrections system has shifted back and forth between levels of government over the decades. Initially it was a highly decentralized system with only local jails available to hold prisoners. Gradually, however, the state has built more prisons and taken on more and more offenders. This balance between state and county continues today - California does not have a statewide probation program (see box, below), and prior to the Public Safety Realignment, counties already dealt with the bulk of new offenders through the county jail system (which holds people awaiting trial and people who have been sentenced to terms less than one year). Yet the financing of corrections is still highly centralized, with CDCR providing the vast majority of corrections funding.

Another factor that speaks to success is that the current realignment has a clear legal framework in AB 109, which includes stated goals and objectives, as well as the general plan for implementation. AB 109 states that the legislature is committed to reducing recidivism among offenders and to promote justice reinvestment and ‘community-based corrections’ for low-level offenders. These are defined as “evidence-based correctional sanctions and programming other than jail incarceration alone or traditional routine probation supervision.”

Shifting Back and Forth: the Probation Experience

Probation is an example of how state and local responsibilities have shifted back and forth over time as priorities and resources change. At its creation in 1903, probation was entirely administered by counties, without standards or guidelines from state corrections authorities – unlike many states that had state-level probation systems. In 1965, the state moved to standardize probation to some extent with the Probation Subsidy Act, which subsidized counties for every offender not sent to state prison, and also established a basic certificate training course for probation officers. This program is considered a success in that around 45,000 people were diverted from prison to local probation or community corrections programs. However, as crime increased, the subsidy became a burden on the budget, and further, counties failed to establish the community corrections programs, such as halfway houses or day service centers, as hoped.⁴⁰ Accordingly, the programs became largely county-funded and county-run once again.

Some Concerns

The Public Safety Realignment also raises some concerns. First is the lack of funding certainty. Under the current plan, \$25 million was allocated as a one-time appropriation in 2011 to cover costs of implementation and then a portion of sales tax and vehicle licensing revenue is being used to fund the realignment on an ongoing basis.⁴² Counties have expressed worries that this could change, however, if the state’s financial troubles persist. Governor Brown has pledged that he will obtain a constitutional guarantee of funding for the plan before he leaves office.⁴³

Second, the realignment legislation nominates local oversight bodies in the form of existing Community Corrections Partnerships (CCPs) and local boards of supervisors.⁴⁴ Another piece of 2011 legislation created a new Board of State and Community Corrections (BSCC) to provide oversight and coordination. The BSCC commenced on July 1, 2012, absorbing the Corrections Standards Authority and some functions of other agencies. It is intended to provide statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California’s adult and juvenile justice systems.⁴⁵ This includes receiving the county realignment plans from CCPs, and from 2013 reporting on the implementation of the plans to the Governor and the legislature.

However, this mechanism for ensuring county compliance and accountability at the state level is weak. The CCPs are not required to submit plans after 2011, and there is no consequence in 2011 for those who fail to submit a plan. The BSCC is not required to approve plans, or to suggest improvements or changes. The role of the BSCC needs to be strengthened if it is to be an effective oversight body.

Third, the size, location, and demographics of the 58 counties in California vary considerably, as does realignment’s potential impact on them. The probation experience (see box above) demonstrates that gathering data from counties about inmates, costs and programs, and encouraging particular kinds of policies is extremely complicated. This is partly because of the number of counties and the facilities they manage, and the shorter stays of prisoners. It may also be tied to the lack of a strong oversight and monitoring body.

Others suggest that the state funding allocation structure does not specifically incentivize counties to meet the rehabilitative objectives in AB 109.⁴¹ As a result, all 58 counties will likely establish very different programs and this may raise issues of common standards, as well as equity for offenders who pass through different systems. Some experts in the area have

already pointed to the vastly different approaches being taken by counties.⁴⁷

Finally, unlike most states, California's counties have limited ability to raise revenue from property taxes.⁴⁸ This means that counties cannot respond quickly to demands for new services (like services for offenders with distinct and different needs) or increases in demand for existing services. The realignment's success will depend on a continued stream of funding to pay for the additional burden on county officials, and funding levels that remain true to the actual level of demand, which, as noted above, may be problematic.

All of these concerns should be seen in the larger context of criminal justice in California. Although AB 109 was passed ultimately as a budget measure, the legislature also had other reasons for making the shift. California is under a federal court order to reduce its prison population by up to 40,000 inmates due to extreme overcrowding in state prisons.⁴⁹ Realignment will not resolve this problem entirely but it will certainly help.

Further, many people hope that shifting authority for certain offenders to local governments will improve the corrections system overall and ultimately reduce recidivism. AB 109 specifically endorses the goal of reducing recidivism through justice reinvestment and community corrections programs that are 'evidence-based,' rather than harsh prison sentences.

Arguably, these criminal justice benefits may be separate to notions of efficiency, but better program outcomes will likely also result from a better planned and implemented fiscal decentralization.

Conclusion

Central to financing California's criminal justice system is the division of funds and responsibilities between different levels of government, in particular between the state and the counties. The 2011 realignment can be seen in the context of a strong tradition of federalism and a recent national and state trend toward devolution of centralized powers to more local levels of government. Decentralization has the capacity to provide more efficient and more effective services to taxpayers, to stimulate innovation, facilitate public scrutiny and engagement, and to even support economic growth. However, as the above review of the literature demonstrates, this is not a given; decentralization can also lead to inequalities and increased marginalization of vulnerable people if not managed well. The purpose of this paper has been to explore arguments made for realignment and decentralization more broadly and to understand the promises and the pitfalls.

Like previous realignments, the 2011 realignment has come during a budget crisis and a crisis in the system, in this case the state prison system. Earlier realignments have proved to be largely successful in that they have continued to provide the same or improved services to groups of vulnerable people and have saved California costs. However, this realignment has significant differences from past realignments – it does not have a dedicated funding source or a dedicated oversight body. There are many aspects of the current realignment that require more clarity and explanation: How will accountability be enforced and measured? How will counties cooperate with each other and share information? What incentives can be given to counties to encourage innovative programs? How will data be collected and the progress of realignment be tracked? The answers to these questions will determine how decentralization impacts the way money is spent and how fair and equitable the criminal justice system is in California.

End Notes

1. For more information about the details of the 2011 realignment see Barry Krisberg and Eleanor Taylor-Nicholson, "Criminal Justice Realignment: A Bold New Era in California Corrections", Policy Brief, Chief Justice Earl Warren Institute on Law and Social Policy (September 2011), and Rebecca Silbert, *Thinking Critically About Realignment in California, Research Report*, Warren Institute (February 2012), both available on the Warren Institute website, www.law.berkeley.edu/ewi.htm.
2. James Kee, "Fiscal Decentralization: Theory as Reform" in Aman Kahn and W. Bartley Hildreth (eds.), *Financial Management Theory in the Public Sector*, Westport, Praeger Publishers (2004), 166.
3. Although this is the term currently in vogue, other terms used to describe a similar process include: state-local partnerships, restructuring of the state-local relationship, funding transfers, localization, central-local financial relationships, and fiscal federalism.
4. *Id.*
5. Kenneth Davey, "Fiscal Decentralization," (undated) available online at <http://unpan1.un.org/intradoc/groups/public/documents/UNTC/UNPAN017650.pdf>
6. Local government includes: cities, counties, towns, villages, townships and boroughs.
7. Joseph Zimmerman, *State-Local Relations: A Partnership Approach*, Chapter 1 (1995).
8. Wallace Oates, *Fiscal Federalism*, Harcourt Brace Jovanovich (1972).
9. See generally, Timothy Conlan, *From New Federalism to Devolution: Twenty Five Years of Intergovernmental Reform*, Brookings Inst. Press (1998).
10. For a useful overview of the history of block grants see Kenneth Finegold, Laura Wherry and Stephanie Schardin, *Block Grants: Historical Overview and Lessons Learned*, No. A-63 in Series, "New Federalism: Issues and Options for States," Urban Institute (2004), available online at <http://www.urban.org/publications/310991.html#fig1>.
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12. *Id.*
13. Much has been written on the impact of block grants in welfare reform. See e.g. Howard Chernick, "Fiscal Effects of Block Grants for the Needy: An Interpretation of the Evidence," *International Tax and Public Finance*, vol. 5(2) (1998), 205-233. Elizabeth Powers, *Block-Granting Welfare: Fiscal Impact on the States*, Urban Institute (1999) available online at <http://www.urban.org/publications/309040.html>
14. Gainsborough (2003).
15. Oates (1972).
16. Wallace Oates, "An Essay on Fiscal Federalism," *Journal of Economic Literature*, Vol. 37 (1999), 1122.
17. George Boyne, "Local Government Structure and Performance: Lessons from America?," 70 *Public Administration* 333 (1992), 337.
18. Charles Tiebout, "A Pure Theory of Local Expenditures," 64(5) *Journal of Political Economy* 416 (1956).
19. Gerry Stoker, "New Localism, Progressive Politics and Democracy," 75(1) *The Political Quarterly* 117 (2004).
20. See for example, Roy Bahl, "Implementation Rules for Fiscal Decentralization," International Studies Program, Working Paper 99-1, Georgia State University (January 1999); Chanchal Kumar Sharma, "When Does Decentralization Deliver: The Dilemma of Design," *South Asian Journal of Socio-Political Studies*, Vol. 6, No. 3, (2005); World Health Organization, "Context for Successful Decentralization," European Office (2004), available online at www.emro.who.int/mci/decentralization.htm
21. Boyne (1992), 335.
22. Rémy Prud'homme, "The Dangers of Decentralization," 10(2) *The World Bank Observer* (1995).
23. On the impact of decentralization on the quality of government, see an empirical study by Daniel Triesman, *Decentralization and the Quality of Government*, working paper, University of California Los Angeles (2002).
24. See e.g., Steve Savner, "Welfare Reform and Racial/Ethnic Minorities; the Questions to Ask," from 9(4) *Poverty and Race* 3, Poverty and Race Research Action Council (2000) available at <http://www.prrac.org/newslet.htm>.
25. Lonnie Snowden, Richard Scheffler, and Amy Zhang, *The Impact of Realignment on the Client Population in California's Public Mental Health System*, Administration and Policy in Mental Health, Vol. 29, No. 3, (January 2002).
26. Guido Bertucci and Adriana Alberti, "The Role of Decentralized Government in Fostering the Participation of Minorities," Department of Economic and Social Affairs (DESA) Discussion Paper No. 30, United Nations (2003) available online at <http://www.update.un.org/esa/desa/papers/2003/esa03dp30.pdf>.
27. Kee (2004), 10.
28. S.B. 81, 2007–08 Sess. (Cal. 2007), commonly referred to as the 2007 juvenile justice realignment.
29. For a comprehensive overview of the juvenile justice realignment see Juvenile Justice Reform: *Realigning Responsibilities*, Little Hoover Commission (July 2008).
30. Keith Watson and Steven Gold, *The Other Side of Devolution: Shifting Relationships between State and Local Governments*, Occasional Paper 2 in the Assessing the New Federalism Project, Urban Institute, Washington D.C. (1997).
31. The final 2011-12 budget was \$129.5 billion, which included \$85.9 billion from the state's General Fund—a decrease of 6.1% from 2010–11. See Margaret Weston and Jed Kolko, *California's Budget, the Enacted Budget*, Public Policy Institute of California (PPIC), (July 2011), available online at http://www.ppic.org/content/pubs/jtf/JTF_Budget0711JTF.pdf
32. These offenders will eventually be shifted through three channels: new offenders being sentenced for non-violent, non-serious and non-registerable sex offense felonies ("triple-nons"); most offenders who complete their sentences for an offense other than one of the triple-nons; and most people who technically violate the terms of their probation or parole. See Penal Code §1170(h) and §§3450-3458. Beginning July 1, 2013, the parole revocation process will become a county court-based process. Until then, parole revocations will continue under the Board of Parole Hearings.
33. The state is usually required by the California Constitution to fund any program or service that it demands local governments perform – known as a 'mandate.' Local governments can sue the state government if it orders unfunded mandates.
34. LAO, *The 2011-12 Budget: Overview of the Governor's Budget* (Jan. 12, 2011), available at http://www.lao.ca.gov/reports/2011/bud/budget_overview/budget_overview_011211.aspx.
35. *2011 Realignment: Addressing Issues to Promote Long Term Success*, Legislative Analyst's Office, August 19, 2011. For an overview of the numbers and the financial transfers to be received by the state, see the map at www.Calrealignment.org.
36. Chapter 608, Statutes of 2009 (SB 678). See Paul McIntosh, CSAC Director, "Update on Realignment Fiscal Matters", Memo to County Administrative Officers and Auditor Controllers, February 6, 2012. At http://www.counties.org/images/users/1/12.02.06%20Memo%20to%20CAO+A-Cs%20on%20realignment%20fiscal%20matters_020812%20FINAL.pdf
37. The total realignment plan also includes shifting existing funding responsibility for local public safety programs and court security to counties (\$990 million), as well as shifting mental health programs, substance abuse programs, foster care and child welfare programs. Enacted Budget, Full Budget Summary, p. 2. <http://www.ebudget.ca.gov/pdf/Enacted/BudgetSummary/FullBudgetSummary.pdf>.
38. California Department of Finance, *Governor's Enacted Budget Summary 2012-2013: Realignment*, at <http://www.ebudget.ca.gov/pdf/BudgetSummary/Realignment.pdf>. See also the earlier DOF, *Governor's Enacted Budget Summary 2011-2012: Enacted Budget Summary*, at <http://2011-12.archives.ebudget.ca.gov/Enacted/BudgetSummary/BSS/BSS.html>

39. It is difficult to measure decentralization given the complexity of state-local relations and their overlapping roles in many areas of responsibility. However, in one study, authors found that California was among the small group of states that gave complete control for child welfare services to counties, and that states in this group were “the most likely to propose or enact changes to further shift responsibilities from states to counties.” Watson and Gold (1997) at 13.
40. Michael Tonry, “The Fragmentation of Sentencing and Corrections in America”, Papers from the Executive Sessions on Sentencing and Corrections No. 1, US Department of Justice (1999) available online at <https://www.ncjrs.gov/pdffiles1/nij/175721.pdf>.
41. ACLU of Northern California, “Public Safety Realignment: California at a Crossroads” (2012), at www.aclunc.org/realignment, 2.
42. Marcus Nieto, “Community Correction Punishments: An Alternative to Incarceration for Nonviolent Offenders,” California Research Bureau (1996).
43. The revenue for realignment is set out in AB 118 (Chapter 40, statutes of 2011, Committee on Budget) and SB 89 (Chapter 35, Statutes of 2011, Committee on Budget and Fiscal Review).
44. Marisa Lagos, “Gov. Jerry Brown Promises Constitutional Amendment to Fund Realignment,” SFGate Politics Blog, San Francisco Chronicle (21 Sept., 2011), available online at <http://blog.sfgate.com/nov05election/2011/09/21/gov-jerry-brown-promises-constitutional-amendment-to-fund-realignment/>
45. CDCR, “2011 Public Safety Realignment,” factsheet (July 15, 2011), available at www.cdcr.ca.gov/About_CDCR/docs/Realignment-Fact-Sheet.pdf.
46. SB 92 (Chapter 36, Statutes of 2011, Senate Budget and Fiscal Review Committee).
47. For how counties may differ, see Dean Mischynski, “Rethinking the State-Local Relationship: Corrections,” Public Policy Institute of California (August 2011) 26.
48. Proposition 13, which Californians passed in 1978 to limit increases in local property taxes, means that counties rely on state and federal funding for provision of many services.
49. In May 2011, the Federal Court order was upheld by the US Supreme Court: *Brown v. Plata*, 563 U.S. ___ (2011). See also Legislative Analyst, *A Status Report: Reducing Prison Overcrowding in California*, (Sacramento: Legislative Analyst’s Office (LAO), Aug. 2011), available online at http://www.lao.ca.gov/reports/2011/crim/overcrowding_080511.pdf.

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