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Hearing on California Criminal Justice Reform: Potential Lessons for the Nation in California

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Introduction

Thank you for the opportunity to appear before you in these hearings on California Criminal Justice Reform. My name is Charis Kubrin. I am a Professor in the Department of Criminology, Law & Society at the University of California, Irvine. Among other topics, I research the impact of criminal justice reform—prison downsizing in particular—on crime rates.

AB 109 Realignment

I first got interested in criminal justice reform in 2011, when I moved from Washington DC to California to start my job at the University of California, Irvine. It happened that AB109 (Realignment) had just been implemented. AB 109 realigned from state to local (county) jurisdictions certain responsibilities for lower-level nonviolent offenders and parolees. Counties were given discretion regarding how they chose to spend their Realignment dollars, be it on jail space, community supervision, or electronic monitoring. Each county drafted a unique Realignment plan.

I had no idea what Realignment was but everywhere I turned I heard dire predictions of an impending crime wave. I came to learn that despite these grave concerns, there was no state funding set aside to evaluate the impact of Realignment and to my knowledge, no studies had yet been conducted so we did not have evidence on Realignment's impact one way or another. I decided to do something about it.

My colleague Carroll Seron and I received funding from the National Science Foundation and the UC Office of the President to hold a 2-day workshop at UC Irvine where we invited leading scholars who research prison downsizing to analyze Realignment's impact statewide. The workshop was organized around various themes and within these themes, researchers addressed essential questions including: Did Realignment cause crime and recidivism rates to rise?

Those who participated conducted original research. The studies were peer-reviewed and published in a special issue of the *Annals of the American Academy of Political and Social Science* (Kubrin and Seron 2016) titled, "The Great Experiment: Realigning Criminal Justice in California and Beyond," which Carroll Seron and I co-edited. Our volume represents the first systematic, scientific analysis of Realignment and its impact.

While the volume contained many important findings, I want to review those related to crime, given the panel's focus. Drs. Magnus Lofstrom and Steve Raphael conducted a study of statewide crime trends pre- and post-Realignment (Lofstrom and Raphael 2016). They found that Realignment had no impact on violent crime and only a very modest impact on property crime, and only for crime of auto-theft (see accompanying paper). Lofstrom and Raphael (2016) also conducted a cost benefit analysis. They found that 1 year served in prison instead of at-large as a result of Realignment prevents 1.2 auto-thefts a year and saves roughly \$12,000 in crime-related costs, as well as harm to victims and their families. On other hand, keeping an individual behind bars for a year costs California nearly \$52,000 (in 2013 dollars). They

ultimately conclude that, at the statewide level, the prison-crime effects are small and that the criminogenic consequences of Realignment have been modest.

We worked hard to disseminate these findings. We published an op-ed in the *Washington Post*, held a briefing in Sacramento, spoke with numerous reporters, and met with various law enforcement officials.

Prop 47

During the outreach on Realignment, something interesting happened. As we spoke about Realignment people also expressed interest in Prop 47—another criminal justice reform—and its impact on crime statewide. Prop 47, implemented in November 2014, reduced certain drug possession felonies to misdemeanors and required misdemeanor sentencing for various crimes including shoplifting (where the value of the stolen property does not exceed \$950), grand theft (where the value of the stolen property does not exceed \$950), receiving stolen property (where the value of the stolen property does not exceed \$950), forgery (where the value of the forged check, bond, or bill does not exceed \$950), fraud (where the value of the fraudulent check, draft, or order does not exceed \$950), and writing a bad check (where the value of the check does not exceed \$950).

Just like its predecessor Realignment, Prop 47 quickly became politicized. I witnessed the same claims being made (e.g., Prop 47 led to an increase in crime), the same alarming headlines (with phrases such as “crime explosion,” “crime wave,” “spike in crime”), and the same situation with no state funding set aside to evaluate Prop 47’s impact so no proper evaluation had yet been conducted. One claim, in particular, concerned me. Many assumed that if crime rates rose following Prop 47’s enactment, that this was evidence that Prop 47 *caused* those rising crime rates. However, crime rates going up (or down for that matter) tells us nothing about the causes behind those rises (or drops) as crime is caused by a constellation of factors, not just a single policy. A proper evaluation study is necessary to isolate Prop 47’s causal impact.

This time I didn’t wait for someone else to do the evaluation. I did the research myself along with my graduate student Bradley Bartos, who specializes in policy evaluation research and has co-authored a leading text on cutting-edge research methods for causal inference and analysis (McCleary, McDowall and Bartos 2017). Our goal was to examine the impact of Prop 47 on crime in the year following its implementation (2015). In particular, we wanted to identify Prop 47’s causal effect on violent (murder, rape, robbery, assault) and property (burglary, larceny, auto-theft) crime statewide. Toward that end, we created a state-level panel dataset containing UCR Part I offenses from 1970-2015.

In an ideal world, we would use an experimental method to determine Prop 47’s impact on crime. In particular, we would randomly assign some states to have Prop 47 and others not to have Prop 47 and then we would see what happens to crime in the “treated” vs. “control” groups. Clearly, random assignment is impossible and unethical in this case. The next best thing is a quasi-experimental design, which has all the benefits of the experimental method minus random assignment. The particular quasi-experimental method we use in our study is called

Synthetic Control Group Design. This method allows us to construct a comparison unit that approximates California had it not enacted Prop 47; we call this comparison unit “Synthetic California.” We can compare crime in California in 2015 to crime in “Synthetic California” in 2015 to determine Prop 47’s causal impact. Any causal effect of Prop 47 will be reflected in the distance between the two time series that emerges following the intervention.

Confidence in our findings is predicated on the quality of our comparison unit—that is, how we constructed Synthetic California. So, how did we construct Synthetic California? Synthetic California is comprised of a weighted combination of donor pool states (other states in the U.S.) that optimally fits California’s crime trends from 1970-2014, the pre-intervention period (N=44 years). Donor pool states are those states which did not experience a Prop 47 style intervention. Because no other state enacted a Prop 47 style intervention, all remaining states in the U.S. were eligible. We created a “Synthetic California” for each crime type in the analysis. To reiterate, when a gap emerges between California and its synthetic counterpart following the enactment of Prop 47, the difference between the two time series can be interpreted as the causal effect of Prop 47 on crime.

What did our analysis reveal? For homicide, rape, aggravated assault, and robbery we find no evidence that the impact of Prop 47 was any different from zero. That is, Prop 47 had no effect on these offenses. The same is true for burglary. However, for larceny and motor vehicle theft, Prop 47 did appear to have an impact on these offenses (see Figure 1 in Bartos and Kubrin 2018 for a visual illustration of these findings).

Before we can conclude that this was, in fact, the case it is necessary to perform standard “robustness checks” on the findings. These tests are done in order to address questions of spuriousness (e.g., could the findings be due simply to noise in the time trends of crime?) and to determine the extent to which the findings for larceny and motor vehicle theft may be sensitive to model specification (e.g., the findings shouldn’t change simply by changing what Synthetic California looks like).

The first standard test we conducted is called an Insample placebo test. This test determines whether the findings for larceny and motor vehicle theft are sufficiently meaningful by asking: Are these findings for California large relative to other states? Stated alternatively, pretending we do not know which state enacted Prop 47, we construct synthetic control groups for every other state and estimate the effect of Prop 47 on crime in 2015. Since California is the only state that, in fact, enacted Prop 47, it should produce a larger effect (i.e., finding) than any other state if the effect is real and meaningful. To conduct this test, we iteratively reassigned the treatment condition (Prop 47) to each state in our sample and constructed a synthetic control group for that state. We then ranked the states based on how large their Prop 47 effects were, with 1 being the largest. We did this for larceny and motor vehicle theft only since we did not observe any effect for the other crimes.

Figure 2 in Bartos and Kubrin (2018) shows the rankings for all states. Looking first at motor vehicle theft (Panel B), we see that California did not rank sufficiently highly for this

crime (13th/50), suggesting that the estimated effect for motor vehicle theft appears smaller in California than the random variation observed in the donor pool states. Thus, Prop 47's estimated effect on motor vehicle theft in California is likely spurious. This finding drops out. However, larceny is ranked 4th/50 (Panel A) suggesting that the estimated larceny increase following Prop 47 that we identified is not trivially small relative to changes in larceny observed in non-Prop 47 states. Thus, the larceny finding remains, at least for now.

The second standard post estimation test required is called the Leave One Out Test. This test evaluates whether our only remaining finding—larceny—is sensitive to changes in Synthetic California's composition. We conduct this test by iteratively excluding donor pool units contributing the largest weight to Synthetic California until all original states with non-zero weights are excluded (for larceny this includes the states of NY, MI, NV, NJ). In other words, the weights for these states get redistributed to remaining donor states to produce the next best Synthetic California. At the end of the process, Synthetic California is comprised of a different set of donor pool units than it was in the original model. If the original effect for larceny persists in sign and magnitude even after this change, we can be confident that the finding for larceny is meaningful and robust (i.e., not sensitive to changes in Synthetic California's composition).

Figure 3 in Bartos and Kubrin (2018) reveals that, when key donor pool states are excluded, Synthetic California drastically changes and the interpretation of the gap no longer holds. Thus, larceny, our only non-zero, non-trivial effect, appears to be dependent upon which states comprise Synthetic California. We therefore conclude that the finding for larceny must be interpreted with caution.

In sum, the robustness checks reveal the findings for both larceny and motor vehicle theft do not hold. These findings are both sensitive to alternative specifications of our synthetic control group and small enough that placebo testing cannot rule out spuriousness. Overall, then, we find next to no evidence to suggest that Prop 47 caused crime to increase in California.

These findings were recently published in the peer-reviewed journal *Criminology & Public Policy* (Bartos and Kubrin 2018), a leading crime and policy journal in the field (see accompanying paper). To my knowledge, no other study on Prop 47's impact has been published in a peer-reviewed journal.

Conclusion

What is the larger take-away from both of these studies? We can downsize our prisons without risking public safety.

The findings from these studies have implications well beyond Realignment and Prop 47, and California. The steps taken by the state to reform its criminal justice system are being closely watched by other states also confronting similar fiscal and legal challenges related to overcrowding. These states are asking whether the large-scale prison downsizing in California will compromise public safety or whether they can look to reforms such as Realignment and

Prop 47 as possible solutions to replicate in their own states. Although speculation abounds, rigorous, high-quality scientific research is necessary to answer this question. Although additional studies are welcome, the findings thus far suggest that these reforms are not associated with meaningful increases in crime. As the nation debates prison downsizing, clearly the experience of California must be front and center.

References

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