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# One Way to Reduce Jail Populations

By LAWRENCE M. WEIN and MERICCAN USTA OCT. 23, 2015

PRISON reform is getting a big bipartisan pitch. Republicans and Democrats have professed their desire to do something, and earlier this week, more than 130 police chiefs, prosecutors and sheriffs said they would push for alternatives to arrests.

California has already had experience with mandated prison reform. Because of overcrowded facilities, the Supreme Court ordered it to reduce the prison population by more than 30,000 inmates. That has not led to an increase in violent crime, but it has led to overcrowding in the California county jails, which are now responsible for housing low-level felons previously handled by the state.

Judicial and correctional systems can reduce their jail populations to manageable levels either by offering pretrial release to defendants, hoping they appear in court and don't flee, or by offering split sentencing, in which sentences for low-level felonies, like shoplifting something worth more than \$950 and check forgery, are split between jail time and mandatory supervision.

Our analysis of data from the Los Angeles County jail system, which is the

world's largest, suggests that split sentencing is much more effective than pretrial release at making the best of the trade-off between the size of the jail population and public safety.

Split sentencing exposes the public to the recidivism risk of one day for every saved jail day; e.g., if a low-level felon receives one year of mandatory supervision, then we risk 365 days of having a felon on the street in exchange for a reduction of 365 jail days (which represents a \$40,000 cost savings).

In contrast, a person charged with a low-level felony waits 53 days on average from arraignment to case disposition if he or she is held in custody, but waits 191 days if awarded pretrial release. Why the difference? For understandable reasons, the courts give higher priority in their trial dockets to defendants under pretrial custody than the defendants on pretrial release.

Consequently, the trade-off between jail overcrowding and public safety is less desirable here: We expose the public to 3.6 days of recidivism risk for every jail day saved. Moreover, the trade-off is even worse for the pretrial release of those committing misdemeanors, who wait on average 128 days for case disposition if awarded pretrial release but only eight days if held in pretrial custody, which yields a trade-off of 16 days of recidivism risk per jail day saved.

And these crude trade-offs do not even take into account the substantial possibility that a defendant on pretrial release will abscond, which would deny the victims a sense of retribution.

Using risk models similar to those employed in many correctional systems throughout the United States, we found that offering split sentences to all low-level felons was the key factor in optimizing the trade-off between public safety and jail congestion. This conclusion stems partly from the fact that approximately 45 percent of Los Angeles County's jail population in early 2014 was made up of convicted felons.

We are not arguing that split sentencing should be used in lieu of pretrial release. Rather, it is clear that pretrial release cannot alone reduce the jail population and control the public-safety risk. Indeed, California passed a law requiring that as of January 2015 low-level felony sentences be split between jail and supervision. Nevertheless, it appears from the most recent data available that many judges are still reluctant to offer split sentences.

One-third of all people incarcerated in the United States are in county jails. While the momentum for prison reform takes hold, we hope that jail reform — particularly the increased use of split sentencing for low-level felons — is not far behind.

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