The Economist

Imprisonment in California

From prison to jail

California has embarked on a reform that might keep more people out of prison

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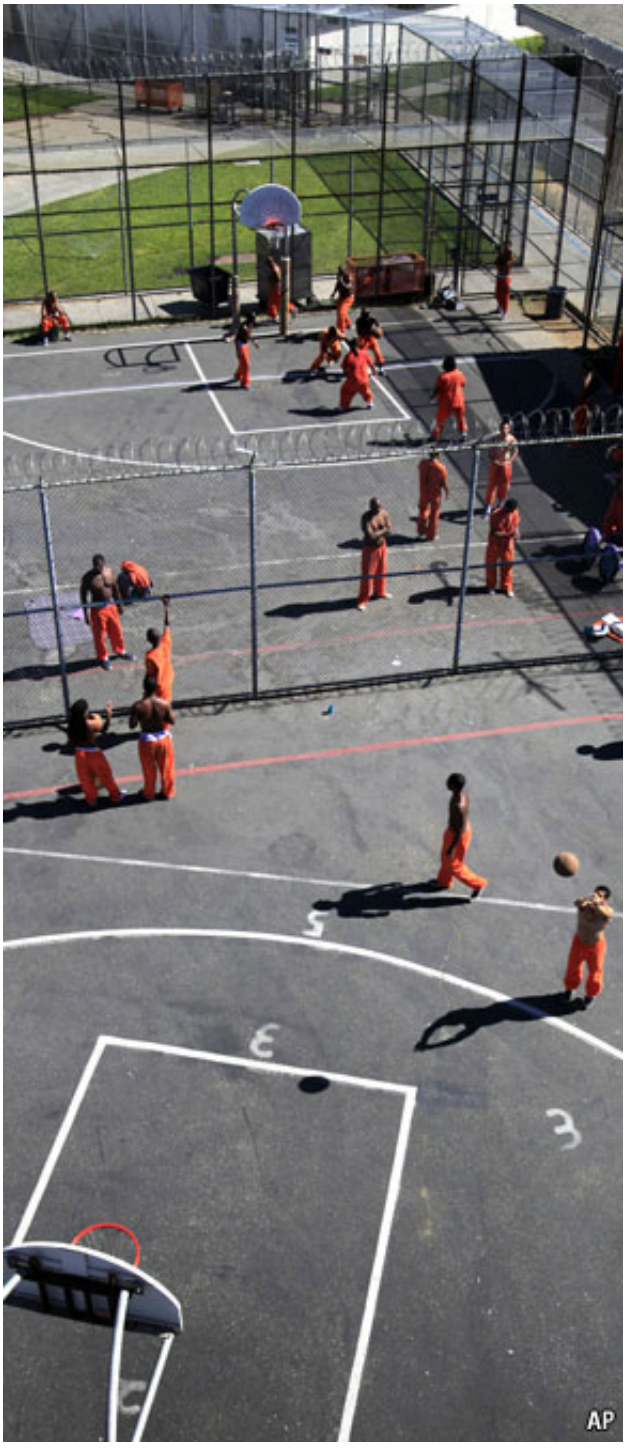

A rather sunny view of a Californian jail

MIRED in fiscal crisis and usually deemed dysfunctional, California under Governor Jerry Brown has nonetheless surprised itself this year with one big reform. Starting this month, it has begun to send people newly convicted of crimes that are non-violent, non-sexual and non-serious, or "non3" in the jargon, to jails, which are run by county sheriffs (and are normally used as pre-sentencing holding pens), instead of prisons, run by the state. This is part of what Mr Brown calls "realignment", a devolution from centralised to local power. But it goes further: these reforms amount to a rethinking of California's, and America's, disastrous three-decade run of "tough-on-crime" fallacies.

That legacy of locking up ever more people for more reasons and more time led to a prison-building boom in the 1980s (California now has 33, not counting "camps"), an explosion of

inmate numbers in the 1990s and a corresponding increase in cost to taxpayers. Prison spending went from about 4% of the state budget in the mid-1980s to about 10% now; it exceeds university funding. Inside the prisons, this means inhumane overcrowding. A federal ruling, upheld by the Supreme Court in May, has found the conditions "cruel and unusual", and requires California to release roughly 30,000 inmates in the next two years.

The realignment reforms could, at least in part, address all of these problems. That is because they do not merely shift the same number of inmates with the same problems and costs from one level of government to another. Rather, the new system assumes that counties will do differently and better what the state does badly.

This starts with recidivism. About two in three of the people California releases from prison end up right back in it. Usually, this is because they miss an appointment with their parole officer, fail a drug test or do something else that is stupid but trivial. Then they get readmitted to prison—in remote locations and at ruinous cost, with dental, medical and psychological exams each time—for another stay. And so the revolving door keeps spinning.

In future, most inmates who get out of prison will no longer be on "parole" but on "probation", which means they report to their county, not the state. After all, the counties also run drug-rehabilitation, housing and job-placement programmes that the probationers need to build new and cleaner lives. And this is the objective of a system that claims to be for "corrections and rehabilitation".

If a probationer still gets into trouble, the county can now punish him in ways short of returning him to prison. This might mean more drug treatment or parenting classes, or home detention with a GPS monitor strapped around the ankle, or "flash incarceration" in jail for a few days. The idea, based on research and recent experience in states such as Texas and Hawaii, is that people change behaviour in response to swift and certain consequences, not necessarily severe ones.

Proponents believe crime, already relatively low, could decrease, as offenders who are not dangerous are kept out of prison, where they would be brutalised, and remain integrated in their communities. But opponents, mainly prosecutors and police chiefs, worry that the opposite is more likely. If offenders serve less time inside, whether in prison or jail, it must mean they spend more time on the streets. Crime could increase.

Besides, they fret, why assume that county jails will be any better than state prisons? They are hardly islands of harmony. The jail in Los Angeles County, America's largest, is under federal investigation for brutality and venality by deputies and guards. Now jails will get more crowded to boot. And it is unclear whether the state will give counties enough money to do their new job properly.

As Dean Misczynski at the Public Policy Institute of California puts it, California is "on the

verge of a vast experiment". Will crime go up or down? What changes human behaviour? The other 49 states will be paying close attention.

From the print edition: United States