

THE IMPACT OF RECENT LEGISLATION
ON CALIFORNIA'S BURGLARY RATE AND SENTENCING PRACTICES

JANUARY 1985

85-5

TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION.....	1
EXECUTIVE SUMMARY	3
CHAPTER I: BURGLARY IN CALIFORNIA.....	6
The Crime and Punishment.....	6
Recent Changes in Burglary Laws.....	9
CHAPTER II: THE IMPACT OF CHAPTER 42/80 ON THE COMMISSION OF RESIDENTIAL BURGLARIES.....	11
Uniform Crime Report Data.....	14
National Crime Survey Data.....	20
Conclusions.....	22
CHAPTER III: THE IMPACT OF CHAPTER 42/80 ON SENTENCES FOR RESIDENTIAL BURGLARS.....	23
Increase in the Proportion of Burglars Who Receive Prison Terms....	25
Increase in the Proportion of Burglars Convicted in Lower Court Who Serve Some Time in Jail.....	28
Prosecution and Conviction Patterns Remain Steady.....	31
Conclusions.....	32
CHAPTER IV: SUMMARY OF FINDINGS.....	33

INTRODUCTION

Chapter 42, Statutes of 1980 (SB 1236, Beverly), prohibits probation for persons convicted of residential burglary, except in unusual circumstances. This measure became operative on January 1, 1981, and was scheduled to terminate on January 1, 1983. Subsequent legislation--Chapter 1294, Statutes of 1982, and Chapter 1427, Statutes of 1984--extended the termination date by three years. The more recent of these two measures provides for termination of the prohibition on January 1, 1986, unless sites for proposed prison facilities in Los Angeles and Riverside counties are approved by several legislative policy committees prior to that date.

Chapter 42 directed the Legislative Analyst to report to the Legislature on the measure's effects with respect to (1) the residential burglary rate and (2) sentencing for residential burglars. This report was prepared in response to that requirement.

Chapter I of this report describes the statutory definition of the crime of burglary and the various punishment alternatives for this crime. In addition, it presents recent data on sentencing of convicted burglars. It also explains recent changes in California burglary laws.

Chapter II analyzes the impact of Ch 42/80 (as extended by subsequent legislation) on burglary rates in California. Burglary rates over the past several years are reviewed and compared to national burglary rates.

Chapter III analyzes the impact of Ch 42/80 on sentences imposed on burglars, and reviews changes in the patterns of sentences imposed on convicted burglars over the past several years.

Chapter IV summarizes our findings.

Our analysis relies extensively on data obtained from the California Department of Justice, the United States Department of Justice, and the United States Census Bureau. In addition, we interviewed a number of state and local officials involved in the criminal justice system.

For purposes of simplification, all references to Ch 42/80 include the extensions provided by Ch 1294/82 and Ch 1427/84.

This report was prepared by Lawrence Wilson with the assistance of Marilyn Bybee, Phillip Dyer, and Nancy Villagran, under the supervision of Cheryl Stewart. This report was typed by Victoria Albert.

EXECUTIVE SUMMARY

This study examines the impact of Chapter 42, Statutes of 1980, on (1) the residential burglary rate in California and (2) sentencing for persons convicted of residential burglary. The measure, which took effect on January 1, 1981, prohibits probation for residential burglary.

Chapter I: Burglary in California

1. Burglars are punished on the basis of the place in which they committed the crime. The burglary of a residence is first degree burglary and is punishable as a felony by a sentence of two, four, or six years in state prison. Probation is prohibited except in unusual circumstances. The burglary of nonresidential property is second degree burglary and is punishable as a felony by a prison sentence of 16 months, two or three years, or as a misdemeanor by up to one year in county jail.

2. Most persons convicted of burglary in 1982 received probation with a jail term as a condition of probation. A little more than 25 percent were sentenced to prison, and about 10 percent were given jail terms and straight probation (wherein a jail term is not required as one of the conditions under which probation is granted).

3. In addition to Ch 42/80, two other measures have increased penalties for burglary. Chapter 1297, Statutes of 1982, which became operative on January 1, 1983, classified all residential burglaries as first degree burglary. Prior to the enactment of this measure, the crime of daytime residential burglary was punished as second degree burglary.

Proposition 8 (the "Victims' Bill of Rights," which was approved by the voters in 1982) prohibits a Youth Authority commitment for any person 18 years of age or older who commits burglary and increases prison terms for certain repeat offenders.

Chapter II: The Impact of Ch 42/80 on the Commission of Residential Burglaries

1. The residential burglary rate in California dropped by about 13 percent in the two years following the operative date of Ch 42/80.

2. During the same period, the national residential burglary rate dropped by 7 to 13 percent, depending on which of two available data sources are used.

3. Other than California, very few states have increased penalties for residential burglary since 1980.

4. One set of data--collected by the United States Census Bureau--indicate that the residential burglary rate in California has been dropping since 1977, a trend that predates Ch 42/80 by three years.

5. Of all burglaries committed in California during the past several years, the proportion of residential to nonresidential burglaries has remained roughly constant, despite the fact that Ch 42/80 increased penalties only for residential burglary.

Chapter III: The Impact of Ch 42/80 on Sentences for Residential Burglars

1. Since enactment of Ch 42/80, superior courts have begun to sentence burglars to prison with greater frequency, and to grant probation with a jail term as a condition of probation, with less frequency.

2. To a lesser degree, municipal courts have begun to impose jail terms as a condition of probation with greater frequency, and to impose straight probation with less frequency.

Chapter IV: Summary of Findings

1. We cannot attribute the significant reduction in residential burglaries in California since 1980 solely to Ch 42/80, given the fact that other states have experienced similar reductions in residential burglaries without enacting stiffer burglary penalties. Other factors, such as changes in demographic and economic conditions, undoubtedly also influence burglary rates.

2. Chapter 42/80 has resulted in more convicted burglars receiving prison sentences.

3. Although available data suggest that California's lower burglary rates are part of a national trend rather than a direct result of Ch 42/80, by putting more burglars in prison and thus taking them off the streets, it is almost certain that the measure has had some impact on burglary rates.

CHAPTER I
BURGLARY IN CALIFORNIA

The Crime and Punishment

The punishment for persons convicted of burglary depends on the location of the crime. The burglary of an inhabited dwelling or a trailer coach, or the inhabited portion of any other building is first degree burglary and is punishable as a felony by a sentence of two, four, or six years in state prison. Probation for persons convicted of burglary is prohibited, except in unusual circumstances where the interests of justice would best be served. Burglary committed in all other places is second degree burglary. It is punishable as a felony by a sentence of 16 months, two or three years in state prison, or as a misdemeanor by up to one year in county jail.

Police arrested at least 87,000 persons for burglary in 1982.¹ Of that number, about 38 percent were juveniles (under 18 years of age) who predominately were dealt with by the juvenile justice system.² The remaining 62 percent were adults who were dealt with in lower--municipal or justice--courts or superior courts.

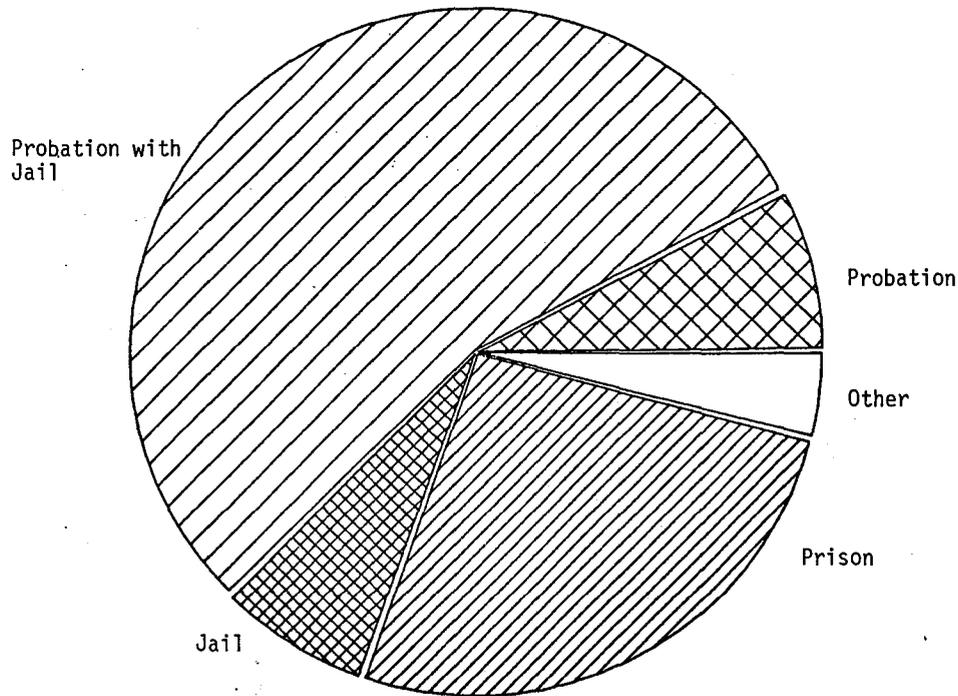
1. The criminal justice data which we reviewed categorize persons arrested for crimes according to the most serious crime for which they were arrested. Thus, a person arrested for burglary and receiving stolen property is classified as a burglar, and a person arrested for rape and burglary is classified as a rapist.
2. Juveniles who are 16 years of age or older can be remanded to adult court if they are not "amenable" to treatment available through the juvenile court.

Adults who were convicted of burglary in a lower court generally were sentenced to jail, placed on straight probation (wherein a jail term is not required as one of the conditions under which probation is granted), or placed on probation with a jail term as one of the conditions of the probation. Lower courts cannot sentence anyone to state prison. Adults who were convicted of burglary in a superior court generally were sentenced to prison or placed on probation with a jail term.

The sentencing of convicted burglars varies considerably, depending on the court in which conviction occurs, as discussed further in Chapter III. In the aggregate, however, most adults convicted of burglary in 1982 received probation with a jail term (see Chart 1). Slightly more than one-quarter of the convicted burglars were sentenced to prison, and the courts imposed jail terms and straight probation in less than 10 percent of the cases.

Chart 1

Sentences Received by Adults Convicted
of Burglary, 1982



Source: California Department of Justice, 1982 Criminal Justice Profile:
A Supplement to Crime and Delinquency in California.

Recent Changes in Burglary Laws

Chapter 42, Statutes of 1980, which became operative on January 1, 1981, prohibits probation for persons convicted of residential burglary, except in unusual cases where the interests of justice would best be served. If a court grants probation, it must state the reasons for doing so in the record. In addition, Chapter 42 mandated a minimum 90-day jail term for persons who, under then-existing law, were sentenced to county jail for daytime residential burglary.

The statute, which was originally scheduled to sunset on January 1, 1983, was extended to January 1, 1985, by Ch 1294/82. Chapter 1427, Statutes of 1984, extended the sunset date to January 1, 1986. This measure, however, also contains a provision which repeals the sunset date (thus making the prohibition on probation permanent) if sites for proposed prison facilities in Los Angeles and Riverside counties are approved by the appropriate legislative policy committees prior to that date.

In addition, Ch 1297/82, which became operative on January 1, 1983, classifies all residential burglaries as first degree burglary, punishable by a state prison term, regardless of whether the crime is committed in the nighttime or daytime. Prior to enactment of this legislation, residential burglaries committed in the daytime were punished as second degree burglary. Thus, until 1983, a person convicted of residential burglary during the daytime could be sentenced to state prison or county jail.

Finally, Proposition 8 (the "Victims' Bill of Rights"), approved by the voters at the June 1982 election, prohibits a Youth Authority commitment for any person 18 years of age or older who commits a serious

felony, including burglary. The measure also provides that persons convicted of serious felonies, including burglary, who have prior convictions for one of the specified serious felonies shall receive a five-year addition to their prison sentences. These provisions should result in prison terms--instead of Youth Authority commitments--for certain burglars, and longer prison terms for others.

CHAPTER II

THE IMPACT OF CHAPTER 42/80 ON THE COMMISSION OF RESIDENTIAL BURGLARIES

There are at least three distinct ways in which Ch 42/80 could accomplish its primary goal: to reduce the number of residential burglaries.³ First, by increasing penalties, the statute could deter persons from committing burglaries. Second, by increasing the likelihood that convicted burglars would receive a prison term, the measure could reduce the number of burglaries by keeping persons convicted of this crime in custody for longer periods of time. (Obviously, while incarcerated convicted burglars cannot commit more burglaries.) Third, it is possible that imprisoning burglars could reduce their criminal activity after they are released to the extent that (a) they develop improved skills and work habits as a result of participating in prison-based education or work programs, or (b) the severity of the prison experience acts as a deterrent to future criminal activity.

Although Ch 42/80 could influence the commission of residential burglaries in different ways, measurement of the bill's impact is difficult for many reasons. For example:

3. See Peter Greenwood, "Controlling the Crime Rate Through Imprisonment," in James Q. Wilson (ed.), Crime and Public Policy (San Francisco: Institute for Contemporary Studies, 1983) and Alfred Blumstein, "Research on Deterrent and Incapacitative Effects of Criminal Sanctions," Journal of Criminal Justice, Vol. 6, No. 1 (1978), pp. 1-10.

- Complete data are available for only three years since Ch 42/80 became operative. Because it is not possible to separate the impact of this measure from that of Chapter 1297, Statutes of 1982, which increased penalties for burglaries committed on or after January 1, 1983, our study of Chapter 42 utilizes data from only two of these years--1981 and 1982.
- Burglary rates can be affected by factors other than policy changes, such as an increase in the level of unemployment or a change in the age structure of the population.^{4,5}
- Law enforcement policies, priorities, and operations (for example the increased use of "sting" operations) influence burglary rates.
- Citizen initiatives in crime control (for example, the "neighborhood watch" program) also may affect the burglary rate.

As a result, we cannot prove conclusively that Ch 42/80 has or has not been responsible for any change in the burglary rate.

To make matters even more complicated, the two sources of data on residential burglaries--the Uniform Crime Report (UCR) compiled by the California Department of Justice, and the National Crime Survey conducted

-
4. For studies that discuss the relationship between crime rates and economic factors, see Richard B. Freeman, "Crime and Unemployment," in James Q. Wilson (ed.), Crime and Public Policy, and James Alan Fox, Forecasting Crime (Lexington, Massachusetts: Lexington Books, 1978).
 5. For studies that discuss the relationship between crime rates and demography, see California Department of Justice, Bureau of Criminal Statistics, "Outlook 6: Youth Population and the Crime Rate" (December 1983), Fox, Forecasting Crime, and Alfred Blumstein, Jacquelin Cohen, and Harold Miller, "Demographically Disaggregated Projections of Prison Populations," Journal of Criminal Justice, Vol. 8, No. 1 (1980), pp. 1-26.

by the United States Census Bureau--are not consistent with one another. While both sources indicate that California's residential burglary rate has declined since Ch 42/80 became operative, they differ with respect to the year in which the decline in burglary rates began, and the amount of the decline since January 1, 1981.⁶

For example, the UCR data indicate that the California burglary rate declined in 1981 and 1982, but fluctuated in the four years prior to 1981. On the other hand, the National Crime Survey reports that burglary rates in California have been falling since 1977, well before the enactment of Ch 42/80. The two sources also differ somewhat on the magnitude of the decline in burglary rates. UCR data indicate that the reduction has been 12.6 percent since January 1, 1981, while the National Crime Survey shows a drop of 13.4 percent.

The UCR data based on crimes reported to the police, are the most widely quoted and have been collected for the longest period of time. Nevertheless, they suffer from generally low reporting rates and sometimes inconsistent recording practices of the police.⁷ The National Crime Survey data, however, are based on interviews of household members and reflect victims' recollections of events that took place several months

6. For a discussion of the differences, strengths, and weaknesses of the two data sources, see Jan M. Chaiken and Marcia R. Chaiken, "Crime Rates and the Active Criminal," in James Q. Wilson (ed.), Crime and Public Policy, and J. Ernst Eck and Lucius J. Riccio, "Relationship Between Reported Crime Rates and Victimization Survey Results: An Empirical and Analytical Study," Journal of Criminal Justice, Vol. 7, No. 4 (1979), pp. 293-308.

7. One study [Richard Block and Carolyn Rebecca Block, Decisions and Data: The Transformation of Robbery Incidents into Official Robbery Statistics (Chicago: Illinois Law Enforcement Commission, July 1980)], as cited in Chaiken and Chaiken, estimated that during 1974-75 the UCR data for the Chicago area included only about 29 percent of the total actual noncommercial robberies.

earlier. No attempts are made to validate the victims' reports. Each data source is discussed separately below.

Uniform Crime Report Data

UCR data, which are collected for the entire country by the United States Department of Justice, Federal Bureau of Investigation, indicate that over the last 13 years there has been a fairly close relationship between changes in the reported residential burglary rate in California and changes in the rate for the nation as a whole (see Table 1 and Chart 2). The pattern in recent years has been strikingly similar. The residential burglary rate in both California and the nation rose sharply in 1980, declined slightly in 1981, and declined sharply in 1982.

Table 1

Residential Burglary Rates^a in California and the Nation,
As Measured by Uniform Crime Reports, 1970-1982

Year	California		United States	
	Residential Burglary Rate	Change in Rate From Previous Years	Residential Burglary Rate	Change in Rate From Previous Years
1970	1,063	--	629	--
1971	1,217	14.5%	698	11.0%
1972	1,279	5.1	719	3.0
1973	1,294	1.2	758	5.4
1974	1,340	3.6	891	17.5
1975	1,452	8.4	977	9.7
1976	1,452	--	907	-7.2
1977	1,418	-2.3	917	1.1
1978	1,455	2.6	925	0.9
1979	1,411	-3.1	959	3.7
1980	1,544	9.5	1,118	16.6
1981	1,525	-1.2	1,094	-2.1
1982	1,349	-11.5	974	-11.0

a. Number of reported residential burglaries per 100,000 persons.

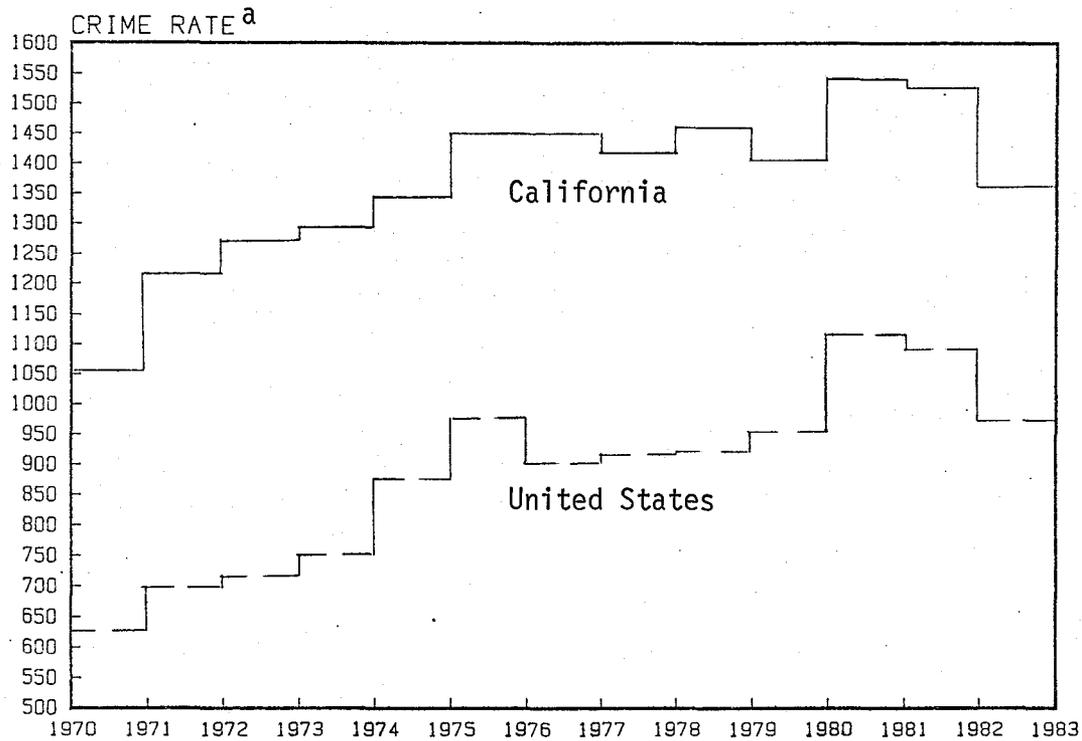
Sources: California Department of Justice, Crime and Delinquency in California, various years, and United States Department of Justice, Federal Bureau of Investigation, Crime in the United States, various years.

The similarity in burglary rate trends for California and the nation suggests that the drop in the state's burglary rate since 1980 cannot be attributed solely--and perhaps not even primarily--to the effects of Ch 42/80. In a telephone survey of the 26 states that, together with California, account for over 90 percent of the nation's burglaries, we found that few states other than California increased penalties for residential burglary during the period 1980-82. Only Illinois, Tennessee,

Maryland, and Connecticut significantly increased penalties for residential burglary during those years. Therefore, if Ch 42/80 had a significant impact on burglary rates, one would expect California's trend since 1980 to diverge from the national trend. Because the state's trend continued to correspond closely to the national trend, it is likely that other factors are primarily responsible for the drop in reported burglary rates in California and the rest of the nation in 1981 and 1982.

Chart 2

Uniform Crime Report Data Indicate Similar Residential Burglary Rate Trends for California and the Nation Since 1970



a. Number of reported residential burglaries per 100,000 persons.

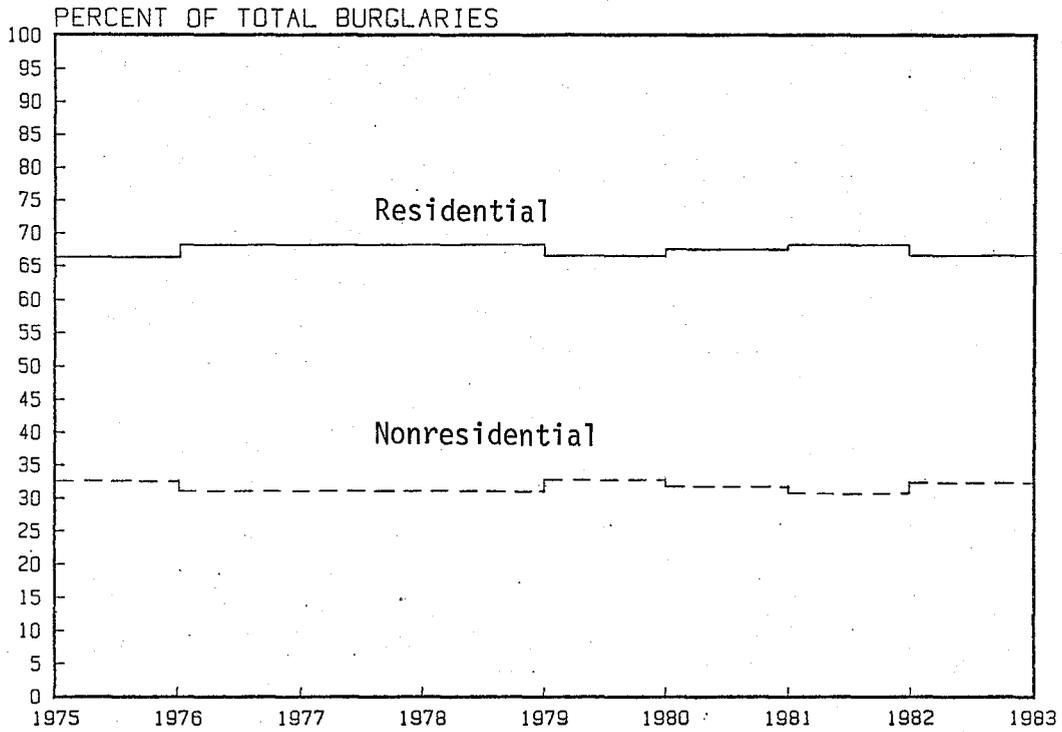
Sources: California Department of Justice, Crime and Delinquency in California, various years, and United States Department of Justice, Federal Bureau of Investigation, Crime in the United States, various years.

Furthermore, although Ch 42/80 increased penalties only for residential burglary, the percentage of total burglaries that are residential, as opposed to nonresidential, has remained fairly constant over the past several years (see Chart 3). If Ch 42/80 was having a deterrent effect, one might expect the proportion of residential burglaries to decline and the proportion of nonresidential burglaries to increase.⁸ The fact, however, that the trends have not changed since 1980 casts further doubt on the importance of Ch 42/80 in explaining the declining rate of reported burglaries in California.

8. On the other hand, if the main impact of Ch 42/80 results from more burglars being incarcerated, and taken off the streets, and if individual burglars tend to strike both residences and nonresidences, one would not necessarily expect to see a change in the mix of residential and nonresidential burglaries.

Chart 3

Residences Remain Primary Burglary Targets
Despite Increased Penalties for Residential Burglary



Source: California Department of Justice, Crime and Delinquency in California, various years.

National Crime Survey Data

Data collected for the National Crime Survey by the Census Bureau indicate a quite different story of residential burglary in California, as shown in Table 2 and Chart 4. These data, which have been collected only since 1974 for the state and since 1973 for the nation, show that the residential burglary rate in California has dropped every year since 1977. The national rate fell every year between 1974 and 1979, essentially leveled off in 1980, increased in 1981, and dropped significantly in 1982.

Table 2

National Crime Survey Data Indicate that Burglary Rates^a
Have Generally Declined in California
Since 1974

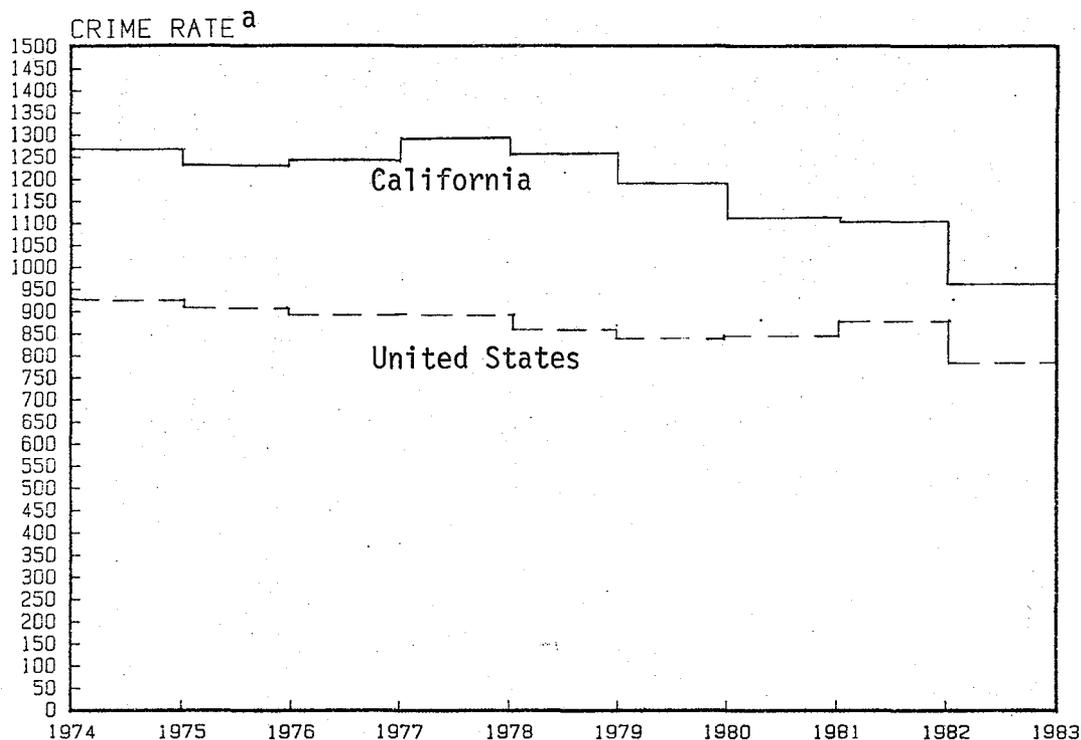
Year	California		United States	
	Residential Burglary Rate	Change in Rate From Previous Year	Residential Burglary Rate	Change in Rate From Previous Year
1974	1,272	--	931	--
1975	1,233	-3.1%	917	-1.5%
1976	1,236	0.2	889	-3.1
1977	1,291	4.4	885	-0.4
1978	1,269	-1.7	860	-2.8
1979	1,189	-6.3	841	-2.2
1980	1,116	-6.1	843	0.2
1981	1,111	-0.4	879	4.3
1982	967	-13.0	782	-11.0

a. Number of residential burglaries per 10,000 households.

Sources: National Crime Survey, United States Department of Justice, Bureau of Justice Statistics (collected by the United States Bureau of the Census).

Chart 4

National Crime Survey Data Indicate That California's Residential Burglary Rate Has Dropped Since 1977



a. Number of residential burglaries per 10,000 households.

Sources: National Crime Survey, United States Department of Justice, Bureau of Justice Statistics (collected by the United States Bureau of the Census).

Based on these data, it is difficult to argue that the decline in California's residential burglary rate since January 1, 1981, is solely the result of Ch 42/80. Obviously, the decline in the rate began three years before Ch 42/80 was enacted. It is true that in 1981, California's burglary rate declined while the nation's burglary rate was increasing, and dropped during the following year at a faster rate than did the nation's. These same patterns, however, also occurred in 1980 and 1979, before the enactment of Ch 42/80.

Conclusions

Both data sources indicate that California's burglary rate has declined since Ch 42/80 became operative on January 1, 1981. The UCR data indicate a reduction of 12.6 percent during this period, and National Crime Survey Data show a drop of 13.4 percent.

We cannot, however, attribute these substantial reductions in the rates at which homes in California were burglarized solely to the enactment of Ch 42/80, for two principal reasons. First, burglary rates also have been falling in states that have not significantly increased penalties for burglary. Second, one data set indicates that burglary rates have been declining in California since 1977, well before the enactment of Ch 42/80. Accordingly, it is not possible to cite the drop in California's residential burglary rate as evidence of Ch 42/80's impact.⁹

9. Due to potential methodological problems, we have not performed a sophisticated statistical analysis of burglary rates that takes into account demographic, economic, social, law enforcement, and other variables that could explain the drop in burglary rates. See Alfred Blumstein, cited earlier, for a summary of the difficulties encountered by other research studies.

CHAPTER III

THE IMPACT OF CH 42/80 ON SENTENCES FOR RESIDENTIAL BURGLARS

Because of the strong relationship between sentencing laws and sentencing practices, it is somewhat easier to determine the effect of Ch 42/80 on the sentences given to persons convicted of residential burglary than to assess the measure's impact on the burglary rate. Even so, a number of factors make it difficult to reach firm conclusions about the measure's impact. For example:

- Data on sentences for burglars do not distinguish between residential and nonresidential burglars. Therefore, it is not possible to separate the sentencing patterns for residential burglars from those for nonresidential burglars.
- Data are available for only three years during which Ch 42/80 has been in effect. Because it is not possible to separate effects of Ch 42/80 from the effects of Ch 1297/82 (which also increased penalties for residential burglaries committed on or after January 1, 1983), in this report we have analyzed data from only two of those years--1981 and 1982. This makes it difficult to determine whether variations from past trends are significant over the long term.
- Because many counties fail to report all sentencing data to the Department of Justice, the department estimates that its records represent a sample of only 65 to 70 percent of actual sentences.

- Sentencing patterns can change, due to changes in the attitudes of prosecutors and judges even without changes in laws. For example, campaigns to "get tough" on crime can reduce the proportion of persons receiving probation in the absence of legislation requiring stiffer sentences. In addition, crowded county jails or reductions in the number of probation officers could lead judges to sentence more persons to state prison.
- Proposition 8, which became effective in mid-1982, not only changed penalties for certain burglars; it also altered various provisions of law relating to the admissibility of evidence and plea bargaining. These changes could affect the sentencing patterns for burglars.

Since Ch 42/80 Took Effect the Proportion of Burglars Receiving Prison Terms Has Increased Sharply

Despite the problems mentioned above, it appears that Ch 42/80 has increased the proportion of burglars that receive prison sentences. In 1981--the first year Ch 42/80 was in effect--the proportion of persons convicted of burglary in Superior Court that were sentenced to prison increased sharply (see Table 3 and Chart 5)¹⁰. From 1976 to 1980, the proportion of persons convicted of burglary who were sentenced to prison climbed steadily by roughly 3 to 4 percent a year. In 1981, however, the rate jumped by 8 percent.

10. Usually, the impact of a change in criminal penalties on sentences given to convicted persons is not apparent until about six months after the law change. This is because the new penalties apply only to persons who commit the crime after the effective date of the new law. Delays of six months are not uncommon between the time a crime is committed and a person is sentenced.

In the case of Ch 42/80, however, the law did not impose new criminal penalties but, instead, limited the sentencing options available to judges by directing them not to grant probation, except in unusual circumstances. It is conceivable that some judges began to conform their sentencing decisions to the provisions of the new law even prior to its enactment. Because of the publicity given to the measure, particularly within the legal community, we assume that any lag between the operative date of the legislation and the time that sentencing practices began to reflect the new law was shorter than average. Indeed, the Department of Corrections observed some changes in sentencing patterns even during the last few months of 1980.

Table 3

Distribution of Sentences Imposed On Adult Burglars
in Superior Court^a, 1976-1982

<u>Sentence</u>	<u>Year Sentence Imposed</u>						
	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>
Prison	15%	19%	22%	25%	28%	36%	41%
Probation with Jail	55	55	57	57	56	48	47
Probation	12	10	9	7	6	5	5
Jail	4	4	3	3	2	2	2
Other ^b	14	11	10	8	7	8	6
Totals	100%	100%	100%	100%	100%	100%	100%

a. This table contains data on people who were found guilty of burglary in superior court. Some of these people may have been initially arrested for other crimes.

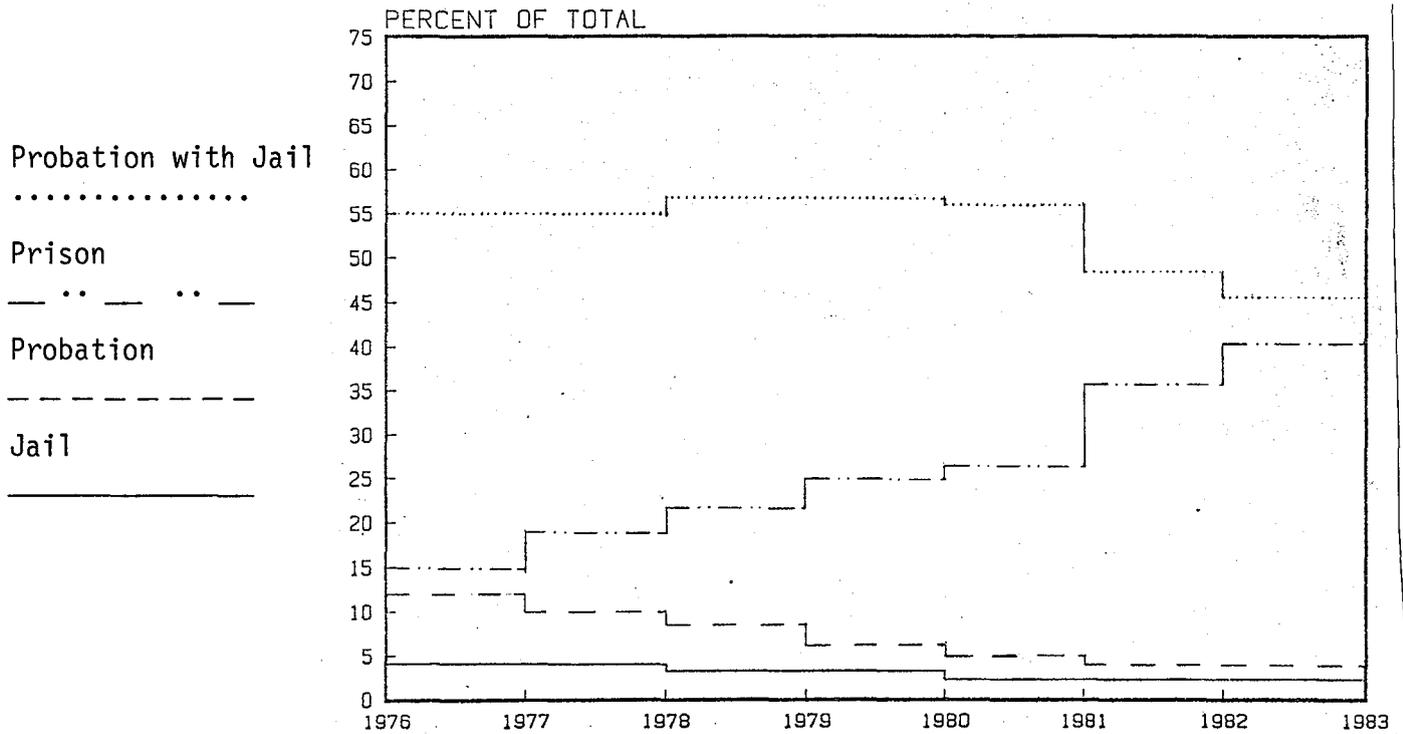
b. Includes commitments to the Department of the Youth Authority and the California Rehabilitation Center, and fines.

Note: Details may not add to totals due to rounding.

Source: California Department of Justice, Criminal Justice Profile, various years.

Chart 5

Since Ch 42/80 Took Effect There Has Been an Increase
in Superior Court Burglary Convictions Resulting in Prison Terms



Source: California Department of Justice, Criminal Justice Profile, various years.

It appears that prison terms are being imposed more frequently on adults who previously were receiving probation, with a jail term as a condition of probation. Between 1976 and 1980, burglars were given probation with a jail term 55 to 57 percent of the time. In 1981, however, the proportion of burglars receiving probation and a jail term dropped to 48 percent and the rate declined further in 1982. Since enactment of Ch 42/80, the proportion of persons receiving straight probation or jail does not appear to have changed from historical trends.

Under Ch 42/80, the Proportion of Burglars Convicted in Lower Court Who Serve Some Time in Jail Has Increased

Sentences of adults convicted of burglary in a lower court also appear to have varied somewhat from historical trends since Ch 42/80 took effect (see Table 4 and Chart 6), although these changes are not of the same magnitude as the changes in superior court sentences. In 1981, the proportion of burglars convicted in a lower court who received straight probation dropped by 3 percentage points, and the proportion receiving probation and a jail term increased by 5 percentage points.

Table 4

Distribution of Sentences Imposed on Adult
Burglars in Lower Court^a, 1976-1982

<u>Sentences</u>	<u>Year Sentence Imposed</u>						
	<u>1976</u>	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>
Probation with Jail	53%	54%	61%	61%	63%	68%	69%
Probation	24	22	18	17	17	14	13
Jail	21	22	20	20	19	18	17
Other ^b	<u>2</u>	<u>2</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>
Totals	100%	100%	100%	100%	100%	100%	100%

a. Includes municipal and justice courts.

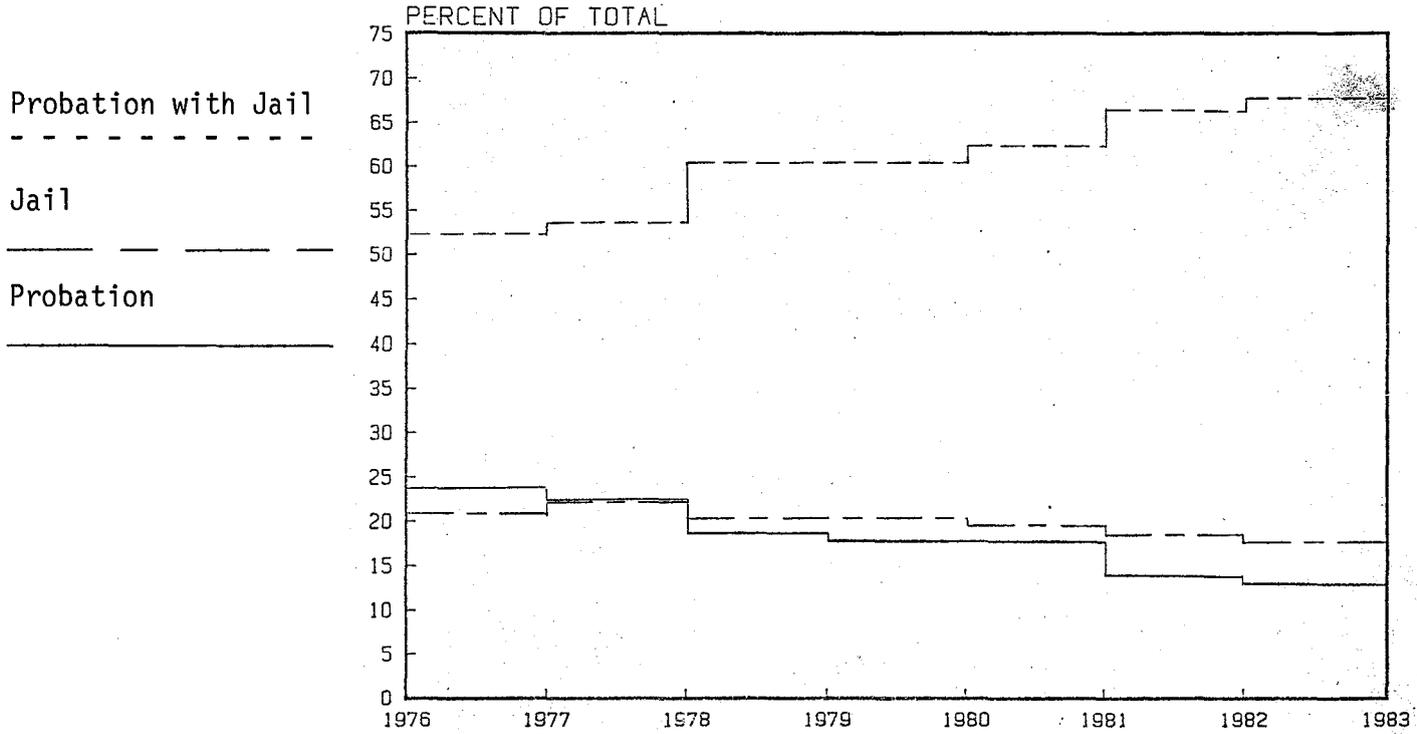
b. Includes commitments to the Department of the Youth Authority and fines.

Note: Details may not add to totals due to rounding.

Source: California Department of Justice, Criminal Justice Profile, various years.

Chart 6

Since Ch 42/80 Took Effect the Proportion of Burglars Convicted in Lower Court Who Serve Some Time in Jail Has Increased



Source: California Department of Justice, Criminal Justice Profile, various years.

Prosecution and Conviction Patterns Remain Steady

When Ch 42/80 was enacted, there was some conjecture that judges and prosecutors might adjust their charging and hearing practices to avoid imposing the higher penalties in some cases. For example, it was thought that more persons arrested for burglary would be (1) charged with misdemeanors, (2) tried in lower court, or (3) convicted for crimes other than burglary.

A review of available data, however, suggests that there have not been significant changes in key prosecution practices. For example, the proportions of burglary complaints in which a person is charged with a misdemeanor (about 42 percent) or felony (about 58 percent) have stayed roughly at pre-Ch 42/80 levels. Also, roughly the same proportions of burglary trials are being held in municipal court (about 62 percent) and superior court (about 38 percent).

Finally, we reviewed data on persons who were arrested for burglary and subsequently convicted of a crime as a result of the incident for which they were arrested. (For a variety of reasons, persons may be convicted of a different crime than the crime for which they were arrested. For example, district attorneys may charge persons with different crimes after they review available evidence. Also, in certain cases, juries may convict persons of less serious crimes than the ones for which they were arrested.) We found that the percentage of persons who were convicted of burglary has remained fairly constant in both lower (about 33 percent) and superior (about 79 percent) courts.

Conclusions

It appears that enactment of Ch 42/80 has increased punishment for persons convicted of burglary. Superior courts are sentencing burglars to prison more frequently and municipal courts are imposing a jail term as a condition of probation with greater frequency.

The bill's impact on sentences seems to have been most significant in superior court cases. This suggests that the measure has had its greatest impact on the more serious offenders, who are the ones more likely to be tried in superior court. The "lighter-weight" offenders, who are more likely to be tried in a lower court, have not been affected as greatly by Ch 42/80.

CHAPTER IV
SUMMARY OF FINDINGS

This chapter summarizes our findings regarding the impact of Ch 42/80 on residential burglaries and sentences imposed on residential burglars.

Impact of Ch 42/80 on Residential Burglaries

Our analysis indicates the following:

1. California's residential burglary rate declined by about 13 percent between January 1, 1981 (when Ch 42/80 became effective), and January 1, 1983.

2. We cannot, however, attribute this significant reduction solely to Ch 42/80, primarily because other states have experienced similar reductions in residential burglaries without enacting stiffer burglary penalties.

3. It is quite likely that Ch 42/80 has had some impact on burglary rates because the measure's tougher penalties appear to have resulted in more burglars being confined in prison and thus kept off the streets and out of circulation. The precise impact of this "incapacitation" depends on (a) how much extra time burglars are confined, (b) how many burglaries they would have committed had they been free from confinement, and (c) whether the measure reduces or just postpones criminal activity.

Impact of Ch 42/80 on Sentences for Convicted Burglars

Chapter 42 appears to have increased the severity of sentences imposed on persons convicted of burglary. We can discuss this issue with

more certainty because (1) the data are less ambiguous and (2) there are direct linkages between changes in sentencing laws and changes in sentences imposed. Specifically, we found:

1. Superior courts are sentencing burglars to prison more frequently. Superior courts correspondingly are sentencing burglars to probation with a jail term as a condition of probation less frequently.

2. Municipal courts are imposing jail terms as a condition of probation on convicted burglars with greater frequency. Straight probation is being imposed less frequently for those convicted of burglary in municipal courts.

3. The bill's impact on sentences seems to have been most significant in superior court cases, which are the only cases in which a prison sentence may be imposed.