Consecutive Sentencing in California

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Executive Summary

Consecutive sentencing is a practice where people serve sentences for separate convictions sequentially rather than concurrently. We analyze the application of consecutive sentences among all people admitted to California's prisons since 2015, as well as the population of people incarcerated as of March 2023.

KEY FINDINGS:

- **Frequency.** Most prison admissions (56%) are ineligible for consecutive sentencing because they do not involve convictions for multiple offenses. Among admissions with multiple convictions, half (51%) receive consecutive sentences. In total, consecutive sentences are applied to less than a quarter of prison admissions in California (22%).
- **Contribution to sentence length.** Overall, the time added by consecutive sentences increases the average prison sentence of the entire prison population by 8.5 months (roughly 13%).
    - Among those admitted with consecutive sentences, it increases the average sentence by 35%, or three years (from 8.6 to 11.6 years).
    - Consecutive sentences typically involve either the full sentence for an additional offense tagged on to the primary sentence or an additional sentence equal to one-third the prescribed sentence for the lesser offense. While only 20% of consecutive sentences are for full additional prison terms (80% are for one-third terms), full-term sentences account for roughly 70% of the additional sentence years added through consecutive sentences since 2015.
- **Contributing factors.** Among cases with multiple convictions, consecutive sentences are more likely to be applied when criminal cases involve offenses that occurred in multiple counties, the offenses are serious or violent, the most serious offense is a crime against a person, or the individual has prior prison admissions for serious or violent crimes.
    - Multivariate models show that the likelihood of a consecutive sentence increases with the number of prior prison admissions, number of convictions, and age of the person admitted. People admitted with second- and third-strike enhancements are more likely (by roughly 12 to 18 percentage points) to receive consecutive sentences relative to admissions with multiple convictions without these enhancements.

- Offenses receiving one-third consecutive sentences are more likely to involve property offenses, weapons offenses, as well as offenses like evading a police officer or identity theft. By contrast, the offenses receiving full-term consecutive sentences often involve crimes against a person, child victims, and various sex offenses.

- **County variation.** The use of consecutive sentences varies across the state. Counties in far Northern California, excluding the coast, as well as those in the Central Valley, are more likely to impose consecutive sentences. Bay Area counties and most counties in Southern California are less likely to impose consecutive sentences.

  - Average differences across counties in the types of cases resulting in a prison admission do not explain cross-county differences in the use of consecutive sentencing.
  - American Indian/Alaskan Native and White people are more likely to receive consecutive sentences largely because they tend to be convicted in counties that are more likely to use consecutive sentencing. The opposite is true for Black, Hispanic, and Asian people.

1. Introduction

People entering California prisons are often admitted after being convicted of multiple felonies. Approximately 44% of admissions to a California Department of Corrections and Rehabilitation (CDCR) facility since 2015 and 67% of people currently incarcerated in prison as of March 2023 were convicted of more than one felony. Criminal sentencing in California allows longer sentences for people convicted of more than one offense through the use of consecutive sentencing. Consecutive sentences require that the person sentenced serve a prison term equal to the sum of the sentences imposed for each offense (less any credits earned). The alternative to consecutive sentences is concurrent sentences, where individual sentences are served simultaneously, and the offense with the longest prison term (the controlling offense) determines the sentence. There is no guidance in the Penal Code about when a court should impose a consecutive sentence, though the California Rules of Court outline criteria that must be met for a consecutive sentence to be imposed. If the court does not specify whether sentences are to be served consecutively or concurrently, any additional sentences automatically run concurrently to the controlling offense. Within one prison admission, an individual can receive both consecutive and concurrent sentences. Consecutive sentencing can be applied when individuals receive either determinate sentences (sentences that are fixed in length) or indeterminate sentences (sentences with a fixed minimum length and an open-ended maximum length). When the controlling offense is an indeterminate sentence, any additional years added from a consecutive sentence are added to the minimum length of the indeterminate sentence.

This report analyzes the application of consecutive sentencing in California, examining the sentences of people admitted to prison since 2015, as well as the population incarcerated as of March 2023. The report is part of a series investigating sentencing practices in the state. Sentencing in California is complex, involving legislatively prescribed sentences for each conviction, the possibility of consecutive sentencing, and potential enhancements for specific aspects of the offense, as well as the particulars of the person's criminal history or status. Past reports in this series provide detailed analysis of the impacts of the state's Three Strikes law (Bird et al. 2022a) and the broader set of sentencing enhancements (Bird et al. 2023) on prison sentences in the state. These reports document that sentence enhancements increase the average prison sentence by nearly two years (a 48% increase), are most likely to be applied to men, to Black and American Indian/Alaskan Native people, and contribute to the size of the state's prison population.

In this report we aim to answer the following the questions:

- How frequently are consecutive sentences applied in California?
- Who among those admitted to prison are the most likely to receive consecutive sentences?
- How does consecutive sentencing impact the average prison sentence?
- Are consecutive sentences applied in a consistent manner across prison admissions and jurisdictions throughout the state?

To answer these questions, we analyze administrative records of people admitted to California prisons since 2015 and a cross-section of individuals incarcerated as of March 2023. We identify individuals with multiple felony convictions and compare people who receive consecutive sentences to those who do not. We also calculate counterfactual sentences that would have been imposed if everyone with multiple felony convictions received concurrent sentences and compare the actual sentencing distribution to this counterfactual scenario.

KEY TERMS AND DEFINITIONS

Sentencing Triad	A set of three sentence lengths (for example, 2, 3, or 4 years) that set the base penalties for a determinate sentence
Concurrent sentences	Sentences for separate convictions that are served at the same time
Consecutive sentences	Sentences for separate convictions that are served one after the other
Strike	A person may receive a strike from a serious or violent conviction
Doubled-Sentence Enhancement	Individuals with a prior strike(s) receive a doubled sentence for each subsequent felony conviction (commonly referred to as a "second strike")
Third-Strike Enhancement	Individuals with two prior strikes receive a minimum term of 25-years-to-life for a subsequent serious or violent felony conviction
Case Enhancement	Also called "status enhancements," these are applied based on an individual's prior criminal history or status
Offense Enhancement	Also called "conduct enhancements," these pertain to certain circumstances in how a crime was committed or who the crime was committed against
Controlling Offense	The conviction on an individual's prison term with the longest prescribed sentence, typically the most serious conviction

Unless otherwise specified, results are presented in terms of unique prison admissions. People are often admitted to prison with multiple convictions and with multiple enhancements impacting their sentence length. If the admission includes convictions from multiple counties, the county of longest sentencing will be reported for a given term. More details on sentencing in California can be found in our publication, An Overview of Sentencing in California.

NOTE ON LANGUAGE AND TERMINOLOGY USED IN THIS REPORT

This report avoids using terms such as "inmate," "prisoner," or "offender" and instead uses person-first terminology. Some of the language used comes directly from the reporting agencies and may not accurately reflect the self-identification of the individuals that the data represents. For example, the felony descriptions used in the report are often verbatim as they appear in the data and may not be consistent with person-first language used elsewhere in this report. This report combines the concepts of race and ethnicity based on how the data are reported and to our knowledge none of the race and ethnicity data received is self-reported, and instead relies on the reporting of the arresting officers, courts, or prison officials. All reported sex fields refer to sex assigned at birth and may not reflect someone's gender identity.

2. Institutional Background on the Use of Consecutive Sentencing in California

California has rules that govern when courts can impose consecutive sentences. The Penal Code prohibits multiple punishments for the same "act or omission."[1] While someone can have multiple convictions for the same act, the person can only be punished once.[2] Criminal convictions involving separate acts can receive multiple sentences that can potentially run consecutively.[3] In instances where multiple convictions can only be punished once, the court can pick which conviction to use for punishment.[4] Until 2022, the court had to pick the conviction with the harshest punishment.[5] The court generally must explain its reason for ordering any sentence to run consecutively.[6]

The Penal Code directs courts to consult the California Rules of Court when considering whether to impose consecutive sentences.[7] California Rule of Court 4.425(b) allows judges to consider "[a]ny circumstance in aggravation or mitigation" when deciding whether to order consecutive sentences. The Rules of Court also direct courts to consider the following specific facts:

- Whether the offenses are "predominantly independent of one another."
- The crimes involve separate acts of violence or threats of violence.
- The offenses are committed at different times or in different places, negating the conclusion that the crimes in question were the result of "a single period of aberrant behavior."[8]

The Rules of Court prohibit using a fact that was already used to lengthen a sentence, such as by imposing a sentence enhancement or picking the upper term of a sentence triad, as a basis for imposing consecutive sentences.[9]

1 Penal Code § 654(a).
2 Penal Code § 954.
3 Defining an "act" is a notoriously difficult question — particularly because an "act" is not limited to a single physical action. People v. Corpening, 2 Cal.5th 307, 312 (2016) ("Precisely how to resolve whether multiple convictions are indeed based on a single physical act has often left courts with more questions than answers.") Courts can consider whether there was a single physical act (Neal v. State, 55 Cal.2d 11, 19 (1960)), whether there was a single intent and objective (in the event that there was a "course of conduct") (People v. Corpening, 2 Cal.5th 307, 311 (2016), or whether the offenses occurred at different times and places (People v. Latimer, 5 Cal.4th 1203, 1211–1212 (1993)).
4 Penal Code § 654.
5 AB 518 (2021 Wicks), amended Penal Code § 654 to allow courts discretion to sentence under either provision when there are multiple possible punishments. The previous version of Penal Code § 654, which controls this issue, read: "(a) An act or omission that is punishable in different ways by different provisions of law shall be punished under the provision that provides for the longest potential term of imprisonment, but in no case shall the act or omission be punished under more than one provision. An acquittal or conviction and sentence under any one bars a prosecution for the same act or omission under any other."
6 Penal Code § 1170(c). See also People v. Tillotson, 157 Cal.App.4th 517, 543–45 (Fourth Appellate District).
7 Penal Code § 1170.1(d)(3).
8 California Rules of Court, Rule 4.425(a) (2023).
9 California Rules of Court, Rule 4.425(b) (2023).

Implementation of consecutive sentences

Determinate consecutive sentences commonly involve the imposition of a full term for the controlling offense, along with any conduct enhancements, and one-third of the middle triad value specified in the Penal Code for the consecutively-sentenced offense (the subordinate sentence).[10] The one-third rule also applies to any conduct enhancement attached to the subordinate term.[11] If someone is sentenced under the provisions of the Three Strikes law that require doubling any felony sentence because of prior strike conviction, any subordinate term will be twice the normal one-third of the middle term.[12]

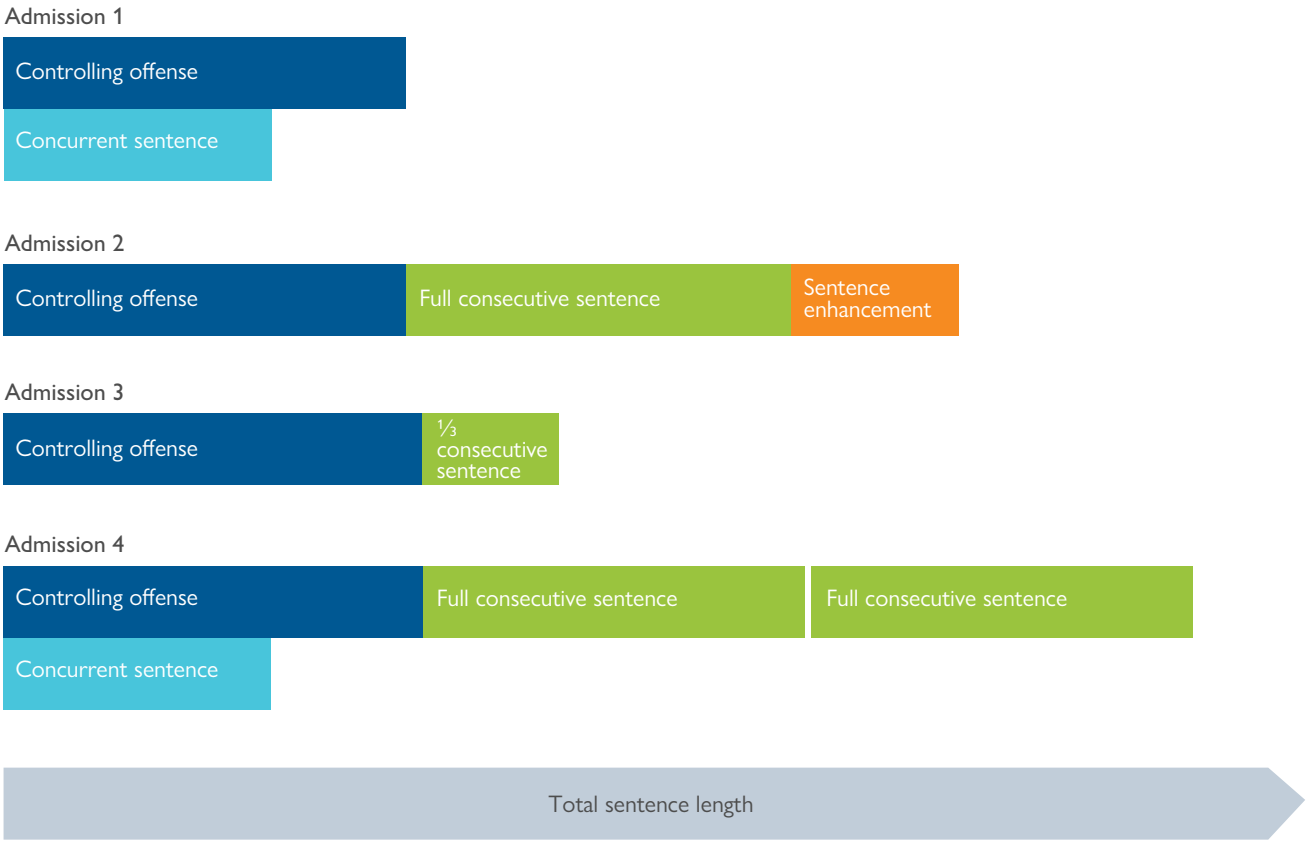
There are instances where consecutive sentences are imposed in full rather than at one-third of the prescribed sentence, including some sex offenses, kidnapping of multiple victims, and specified crimes against witnesses.[13] In addition, indeterminate terms — those with a fixed minimum length and an open-ended maximum length — are not subject to the one-third rule.[14] For example, if someone receives two 15-to-life sentences and the courts order them to run consecutively, the aggregate term will be 30-to-life. For prison admissions since 2015, we observe that 80% of convictions with a consecutive sentence receive a one-third sentence, and 20% receive full-term consecutive sentences.

While courts generally have discretion about whether individuals serve prison sentences concurrently or consecutively, statute requires that sentences *must* run consecutive to each other in some circumstances, including (1) when specified sex offenses committed involve multiple victims or the same victim on separate occasions,[15] (2) many circumstances where the person has a prior strike conviction,[16] (3) a felony offense committed while the person was released from custody for a pending offense,[17] or (4) some in-prison assaults or related offenses.[18]

To illustrate how consecutive sentencing may impact sentences associated with prison admissions, Figure 1 presents four hypothetical admissions involving multiple convictions. For the first admission, we see a controlling offense with a concurrent sentence, which does not add any additional time to the overall sentence. The second admission shows a controlling offense, a full-term consecutive sentence, and a sentence enhancement, both of which add time to the total sentence. The third admission shows a controlling offense with a consecutive sentence that is applied at one-third of the middle term of the prescribed triad. The final admission shows a controlling offense with a concurrent sentence and two full-term consecutive sentences.

10 Penal Code § 1170.1(a).
11 Penal Code § 1170.1(a).
12 *People v. Nguyen*, 21 Cal. 4th 197, 200 (1999).
13 Penal Code §§ 667.6(c); 1170.1(b); 1170.15; 1170.13.
14 Penal Code § 669(a); People v. Felix, 22 Cal.4th 651, 654–55 (2000).
15 Penal Code § 667.6(d). The specified offenses are in Penal Code § 667.6(e).
16 People v. Henderson, 14 Cal.5th 34 (2023) (interpreting Penal Code §§ 667(c)(6)–(7) & 1170.12(a)(6)–(7)).
17 Penal Code § 12022.1(e).
18 Penal Code §§ 12022.1(e); § 4501(b); 4501.5; 4502(a); 4502(b); 4503.

FIGURE 1: Consecutive and concurrent sentences in practice



Factors contributing to consecutive sentencing

Several specific factors in the California Rules of the Court appear to influence the likelihood that a consecutive sentence is imposed. We illustrate this in Tables 1 and 2, which present the percent of admissions since 2015 that receive some form of consecutive sentencing for the various subgroups allowed by the California Rules of the Court. In both tables, we restrict the sample to admissions with multiple convictions (approximately 42% of all admissions).

TABLE 1: Percent of admissions with multiple felonies since 2015 with consecutive sentences by the timing and location of offenses and by the number of serious or violent convictions

		NUMBER OF SERIOUS OR VIOLENT CONVICTIONS		
	ALL ADMISSIONS	NO SERIOUS OR VIOLENT	ONE SERIOUS OR VIOLENT	TWO PLUS SERIOUS OR VIOLENT
All Admissions	50.7	41.4	46.8	68.5
Same day, same county	44.8	30.6	45.7	61.2
Different days, same county	51.1	44.5	43.7	72.4
Same day, different counties	69.2	-[a]	-[a]	-[a]
Different days and different counties	72.1	66.5	68.9	83.5

Note: The figures in the table show the percent of admissions with multiple felonies receiving a consecutive sentence given the timing of the offenses (listed in the table rows) and the number of serious or violent convictions associated with the admission (listed across the top of the columns of the table).

a. Tabulation suppressed due to low sample size in the "same day, different counties" category (less than 0.01% of admissions in the entire sample).

Table 1 shows the percent of admissions with consecutive sentences by the timing of the offenses and by the number of serious or violent convictions.[19] Admissions where the offenses occur on separate days, in different counties, and especially on different days in different counties are more likely to receive consecutive sentences. For example, while 51% of admissions involving multiple convictions receive consecutive sentences, 72% of those where the offenses occurred on both different days and in different counties receive consecutive sentences. Convictions for crimes in different counties substantially elevates the likelihood of a consecutive sentence, even when the offenses are committed on the same day. By contrast, having committed offenses on different days within the same county does not appear to appreciably increase the likelihood of a consecutive sentence.

19 We use offenses deemed serious or violent according to the list of sentences that are eligible for enhancement under the provisions of California's Three Strikes law or non-serious, non-violent felonies elevated to serious or violent due to an enhancement. See Bird et al. 2022a.

Table 1 also shows that consecutive sentences are more likely when the admission involves multiple serious or violent felonies. While 41% of admissions with multiple convictions with no serious or violent convictions receive consecutive sentences, 47% with one serious or violent offense are sentenced consecutively, and 69% with two or more serious or violent convictions receive consecutive sentences. The highest percent of people receiving consecutive sentences are those with offenses that occur on different days, in different counties, and that involve two or more serious or violent convictions (84%).

TABLE 2: Percent of admissions with multiple felonies since 2015 with consecutive sentences by the timing and location of offenses and by admission history

		PRIOR PRISON ADMISSION BY TYPE		
	ALL ADMISSIONS	NO PRIOR PRISON ADMISSION IN CALIFORNIA	PRIOR ADMISSION, NO SERIOUS OR VIOLENT OFFENSE	PRIOR ADMISSION FOR A SERIOUS OR VIOLENT OFFENSE
All Admissions	50.7	49.8	46.7	55.8
Same day, same county	44.8	47.8	38.7	43.6
Different days, same county	51.1	48.6	48.2	60.5
Same day, different counties	69.2	-[b]	-[b]	-[b]
Different days and different counties	72.1	69.7	69.1	77.5

Note: The figures in the table show the percent of admissions with multiple felonies receiving a consecutive sentence given the timing of the offenses (listed in the stub of the table) and by the type of prior prison admissions.

b. Tabulation suppressed due to low sample size in the "same day, different counties" category (less than 0.01% of admissions in the entire sample)

Table 2 presents similar tabulations, where we stratify the sample by the type of prior prison admissions. Individuals with prior convictions for serious or violent offenses are eligible for lengthier sentences under California's Three Strikes law. There is little difference in the percent receiving a consecutive sentence between admissions with multiple convictions where the person has no prior prison admissions (47%) and those where the person has prior admissions for a non-serious and non-violent offense (50%). Prior admission for a serious or violent offense, however, is associated with a higher likelihood of receiving a consecutive sentence: 56% receive a consecutive sentence. The group of admissions with the highest percent of consecutive sentences are those with offenses occurring on different days and in different counties and with prior prison admissions for serious or violent offenses.

3. How frequently are consecutive sentences applied in California?

Consecutive sentences are applied in 51% of convictions involving multiple offenses and for less than a quarter of overall prison admissions since 2015 (22%). Consecutive sentences are more prevalent when looking at a snapshot of the prison population. This results naturally from the combination of two facts: (1) consecutive sentencing lengthens sentences and (2) those serving longer sentences will be overrepresented in prison population snapshots.

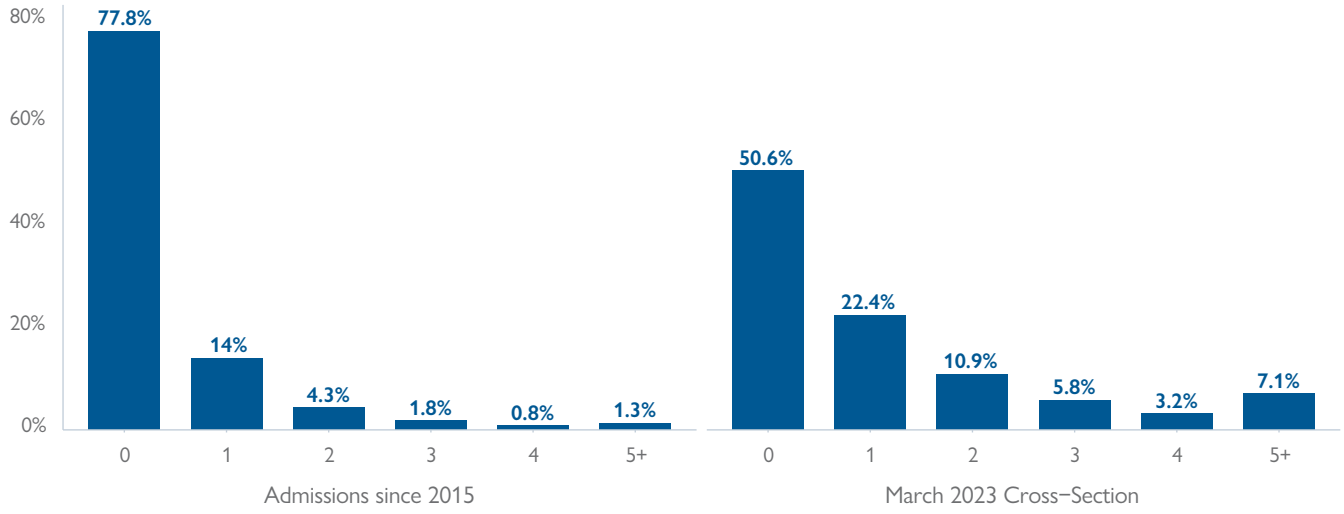
We also observe differences in the prevalence of consecutive sentences by sentence type. Prison sentences are categorized into the four groups listed in Table 3.

TABLE 3. Description of prison sentences with relative frequency for people admitted since 2015 in California

TYPE	DESCRIPTION	FREQUENCY IN CA
Determinate	A sentence of a fixed length, determined by a combination of a sentence using the sentencing triads and any applicable enhancements.	96.6%
Indeterminate	A sentence with minimum and maximum terms (e.g. 25-years-to-life), where release from prison is determined by the Board of Parole Hearings.	2.98%
Life without the possibility of parole (LWOP)	A sentence where someone is never eligible to be released from prison before their natural death.	0.4%
Condemned	A sentence to the death penalty.	0.02%

While LWOP and condemned sentences can receive consecutive sentences, those sentences do not add any additional time to the overall length of an individual's sentence. For this reason, our analyses that look at specific years added to a prison sentence (section 5) will only include indeterminate and determinate sentences. We include all sentence types when looking at overall counts of consecutive sentences.

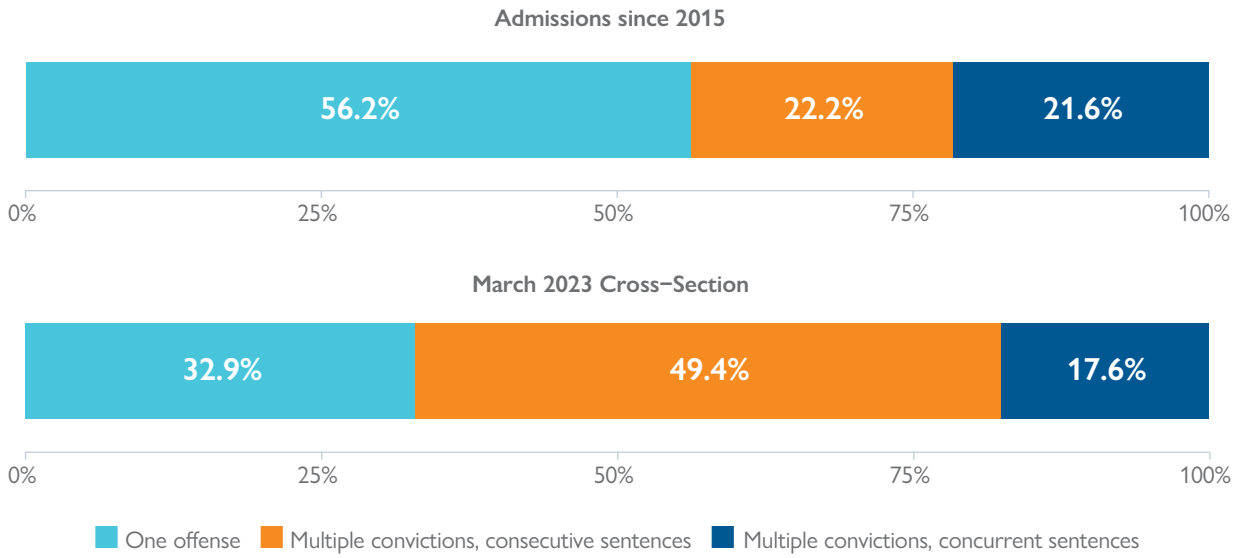
FIGURE 2. Frequency of consecutive sentences for admissions since 2015 and people incarcerated as of March 2023



Note: Sample sizes are as follows: Admissions since 2015, N=251,864; March 2023 cross-section, N=95,727.

Figure 2 shows that of all admissions since 2015, 78% did not receive consecutive sentences. When we look at people incarcerated as of March 2023, 51% do not have a consecutive sentence. Because people can receive more than one consecutive sentence, consecutive sentences have been used 106,568 times in admissions since 2015 and 134,810 times for people incarcerated as of March 2023. In Appendix B, we replicate Figure 2 for people admitted with a strike enhancement and people with a sex offense, respectively. Those admitted with a sex offense have the highest share of consecutive sentences for both the admissions sample (39%) and March 2023 cross-section (74%). Additionally, more than half of those incarcerated as of March 2023 on a sex offense received multiple consecutive sentences (53%).

FIGURE 3: Percent of sentences with single, multiple consecutive, and multiple concurrent convictions for all admissions since 2015 and the incarcerated population as of March 2023



Note: Admissions flagged as having consecutive sentences may have both consecutive as well as concurrent sentences.

Figure 3 displays the percent breakdown of all admissions since 2015 and the population of people incarcerated as of March 2023 that have a single conviction, multiple convictions that are concurrently sentenced, and multiple convictions with consecutive sentencing on at least one conviction. Roughly 22% of all admissions carry a sentence that is lengthened by consecutive sentencing. This percentage is small because more than half of prison admissions are for single-offense convictions (56%). However, among those with multiple convictions, a little more than half (52%) receive consecutive sentences.

Half of the people incarcerated as of March 2023 have sentences with consecutive terms. Nearly three-quarters of those incarcerated as of March 2023 on multiple convictions are sentenced consecutively, a share 23 percentage points greater than the rate for the sample of admissions since 2015 (74% compared to 51%).

FIGURE 4: Percent of sentences with single, multiple consecutive, and multiple concurrent convictions by sentence type for all admissions since 2015 and the incarcerated population as of March 2023

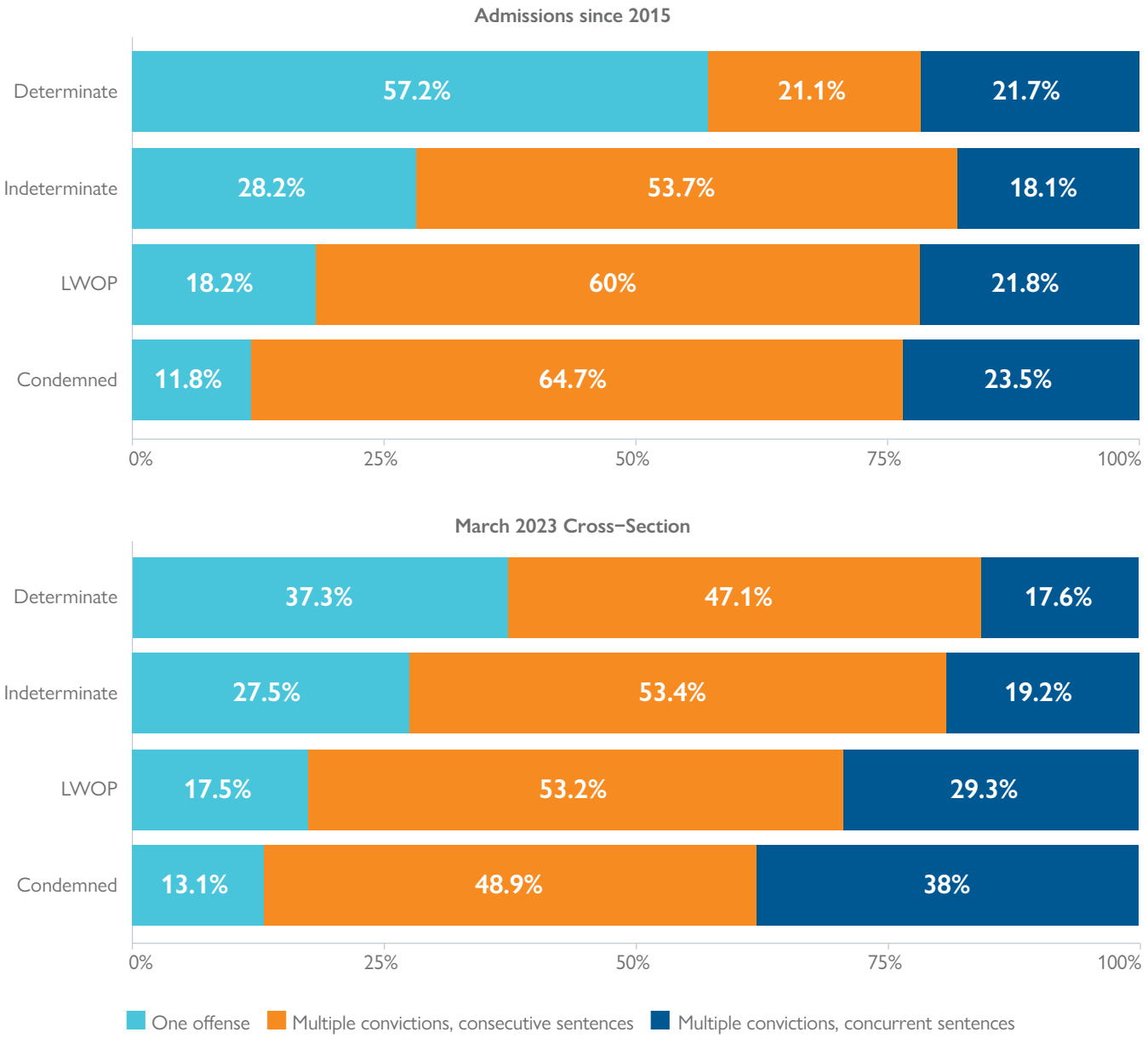


Figure 4 shows similar breakdowns by sentence type for admissions since 2015 as well as for people incarcerated as of March 2023. For admissions with determinate sentences, 21% have sentences lengthened by consecutive sentences. The comparable figures for those with indeterminate sentences, LWOP sentences, and death sentences (condemned) are 54%, 60%, and 65% respectively. Conditioning on being convicted of multiple felonies, judges are much more likely to impose consecutive sentences for indeterminate and LWOP sentences. For example, while 49% of determinate sentences with multiple felonies receive consecutive sentences, nearly three-quarters of those with indeterminate sentences, LWOP sentences, and condemned sentences receive consecutive sentences.

4. Which admissions among those with multiple felony convictions are most likely to be consecutively sentenced?

Tables 1 and 2 show that consecutive sentencing is more likely to be applied when the offenses appear to involve separate events (e.g., occurring on different dates/different counties), if there are multiple serious or violent offenses, and for admissions for individuals with more serious criminal histories. Here, we seek to explore whether other demographic and case characteristics are predictive of a consecutive sentence.

Description of the population receiving consecutive sentences

In Table 4, we compare the demographic characteristics and geography of people admitted to prison. We categorize these groups by whether they have multiple convictions and whether they received a consecutive sentence. We compare the characteristics of people admitted with only one conviction (the first column), to those with multiple convictions that are all concurrently sentenced (the second column), and with multiple convictions involving consecutive sentencing (the third column). Our main focus is comparing statistics in the second and third columns for admissions with multiple convictions with concurrent and consecutive sentences. A higher relative representation of a given group in the consecutive sentence column suggests that the demographic group in question is more likely to receive a consecutive sentence, and vice versa. For example, admissions of Hispanic people account for 49% of admissions with multiple offenses receiving a concurrent sentence, but only 46% of admissions receiving consecutive sentences. This suggests that Hispanic people admitted to prison with multiple offenses are somewhat less likely to receive a consecutive sentence.

TABLE 4: Descriptive statistics for all people admitted to prison since 2015

	ONE CONVICTION	MULTIPLE CONVICTIONS, CONCURRENT SENTENCES	MULTIPLE CONVICTIONS, CONSECUTIVE SENTENCES
Age at admission			
25th Percentile	27.0	25.6	26.2
Median	33.4	31.5	32.5
75th Percentile	42.1	39.3	40.7
Under 26 at time of offense (percent)	25.8	34.0	33.1
Race/Ethnicity (percent)			
American Indian/Alaskan Native	1.1	0.9	1.5
Asian or Pacific Islander	1.5	1.8	1.9
Black	25.0	21.2	20.0
Hispanic	45.7	49.2	45.5
Other	2.6	2.7	2.8
White	24.1	24.2	28.3
Male (percent)	92.8	92.2	94.2
Regional Distribution (percent)			
Superior	10.4	6.2	16.4
North Coast	2.4	2.2	3.7
SF Bay Area	6.8	7.6	8.7
Northern SJ Valley	6.9	5.0	8.3
Central Coast	4.4	4.5	7.8
South SJ Valley	10.8	13.2	11.1
Inland Empire	17.4	18.5	13.8
Los Angeles	30.2	25.2	18.8
Orange	3.6	10.3	3.3
San Diego-Imperial	7.1	7.3	8.0

Note: Due to rounding, the totals may not add up to 100%. The terms used to describe the race and/or ethnicity of individuals in this report were provided by the data owner to reflect the way in which the data were originally collected and then coded, with the exception of 'Cuban' and 'Mexican' being consolidated under 'Hispanic'. Race, ethnicity, and sex were not self-reported by the individuals represented in the tables.

There do not appear to be large age disparities in consecutive sentencing. People admitted with multiple convictions tend to be slightly younger than people admitted with a single conviction. However, the age distribution for admissions with multiple convictions with and without consecutive sentences are similar to one another, with those receiving consecutive sentences having a slightly higher median age.

White people constitute a higher percentage of people admitted with consecutive sentences (28%) relative to their percentage admitted with concurrent sentences (24%). American Indian and Alaskan Native people are also over-represented among people receiving consecutive sentences, while Black and Hispanic people are slightly under-represented. This contrasts with racial disparities seen elsewhere in California's prison system. For example, Black and American Indian individuals are more likely to receive sentence enhancements relative to other racial groups (Bird et al. 2023), and Black people are heavily over-represented among people serving sentences with third-strike enhancements (Bird et al. 2022).

Regions differ in their use of consecutive sentences, with higher use in some northern California counties and the Central Valley and lower use along the coast, the Bay Area, and the Los Angeles metro region. Admissions from the Superior region of the state (non-coastal counties north of Sacramento) account for 6% of admissions with multiple convictions with concurrent sentences but 16% of admissions with multiple convictions with consecutive sentences. By contrast, we observe a greater relative representation of admissions with multiple convictions among those with concurrent sentences for several large Southern California regions. Los Angeles accounts for 25% of admissions with multiple convictions with concurrent sentences, but only 19% of admissions with consecutive sentences. The comparable figures for the Inland Empire are 19% and 14% while the comparable figures for Orange County are 10% and 3%. Finally, while admissions to prison in California are overwhelmingly male (over 90% in all three columns) the data suggest that men are slightly over-represented among admissions with multiple convictions receiving consecutive sentences relative to admissions with multiple convictions receiving concurrent sentences.

Case characteristics associated with consecutive sentencing

TABLE 5: Controlling-offense distributions for all persons admitted to prison since 2015

	ONE CONVICTION	MULTIPLE CONVICTIONS, CONCURRENT SENTENCES	MULTIPLE CONVICTIONS, CONSECUTIVE SENTENCES
Murder 1st	0.7	1.0	2.3
Murder 2nd	0.6	0.5	1.0
Manslaughter	1.3	0.6	1.8
Vehicular Manslaughter	0.5	0.6	0.8
Rape	0.4	0.4	1.7
Robbery	9.1	9.3	11.4
Assault	31.5	29.9	28.0
Kidnapping	0.3	0.6	1.2
Burglary	8.3	9.0	9.2
Grand Theft	1.6	1.5	1.0
Petty Theft with Prior	0.1	0.1	0.0
Receiving Stolen Property	1.3	1.1	0.8
Vehicle Theft	4.0	5.9	4.3
Forgery/Fraud	1.1	1.8	1.5
Drug	6.2	10.2	8.1
Lewd Act with Child	2.0	2.1	8.9
Other Sex Offenses	4.1	2.7	3.2
Weapon	14.0	11.5	6.5
DUI	3.2	3.8	1.8
Escape	0.3	0.1	0.3
Arson	1.3	0.8	0.8
Other Property Offenses	1.5	1.1	0.6
Other Offenses	6.7	5.5	4.6

Note: Due to rounding, the totals may not add up to 100%.

Table 5 presents the distribution of admissions since 2015 by the controlling offense. Again, we focus our attention on the final two columns of statistics to understand controlling offenses that appear to be overrepresented among admissions with consecutive sentences. Admissions where the most serious offense is a crime against a person are more likely to be sentenced consecutively, while admissions where the controlling offense is a property crime or some other type of non-person offense are more likely to be sentenced concurrently. We observe higher relative representation for admissions with consecutive sentences for those with controlling offenses of murder, manslaughter, rape, robbery, kidnapping, and lewd and lascivious acts with a child. By contrast, there is lower relative representation among those with consecutive sentences where the controlling offense is assault, grand theft, receiving stolen property, vehicle theft, weapons offense, and driving under the influence.

Multivariate modeling of factors associated with consecutive sentencing

The patterns in Tables 4 and 5 are likely related to one another. For example, suppose that members of one racial/ethnic group are disproportionately concentrated in counties that tend to use consecutive sentencing frequently. This geographic concentration would partially explain the relatively high application of this sentencing practice for this group. As an alternative example, suppose men are more likely to have multiple convictions for serious or violent offenses relative to women. This average difference between criminal cases involving men and women would be responsible to some degree for the relatively higher application of consecutive sentencing for men.

TABLE 6: Linear probability models of the likelihood of receiving a consecutive sentence

	MODEL (1)	MODEL (2)	MODEL (3)	MODEL (4)
Male	0.084 ***	0.080 ***	0.054 ***	0.047 ***
	(0.006)	(0.006)	(0.006)	(0.006)
American Indian/	0.094 ***	0.035 *	0.088 ***	0.029 *
Alaskan Native	(0.014)	(0.014)	(0.013)	(0.013)
Asian/Pacific Islander	-0.029 *	0.018	-0.051 ***	0.003
	(0.011)	(0.011)	(0.011)	(0.010)
Black	-0.057 ***	0.006	-0.077 ***	-0.014 *
	(0.004)	(0.005)	(0.004)	(0.004)
Hispanic	-0.062 ***	0.012 **	-0.073 ***	0.001
	(0.004)	(0.004)	(0.004)	(0.004)
Other	-0.037 ***	0.006	-0.045 ***	0.003
	(0.010)	(0.009)	(0.009)	(0.009)

TABLE 6: Linear probability models of the likelihood of receiving a consecutive sentence (continued)

	MODEL (1)	MODEL (2)	MODEL (3)	MODEL (4)
Prior commitments	-	-	0.004 ***	0.011 ***
			(0.001)	(0.001)
Number of convictions	-	-	0.012 ***	0.013 ***
			(0.000)	(0.000)
Violent offense	-	-	0.023 ***	0.044 ***
			(0.007)	(0.006)
Serious offense	-	-	-0.008	0.005
			(0.005)	(0.005)
Admission age	-	-	0.006 ***	0.004 ***
			(0.001)	(0.001)
Admission age^2	-	-	-0.00006 ***	-0.00005 **
			(0.00001)	(0.00001)
Second strike	-	-	0.178 ***	0.166 ***
			(0.004)	(0.003)
Third strike	-	-	0.120 ***	0.100 ***
			(0.017)	(0.017)
Multiple offense dates	-	-	0.082 ***	0.060 ***
			(0.003)	(0.003)
Multiple offense counties	-	-	0.196**	0.151 *
			(0.075)	(0.072)
Multiple dates x	-	-	-0.031	-0.002
Multiple counties			(0.075)	(0.072)
Offense fixed effects	No	No	Yes	Yes
County fixed effects	No	Yes	No	Yes
R2	0.005	0.079	0.141	0.210
N	109,609	109,609	109,609	109,609

Note: Standard errors are in parentheses. The sample is restricted to admissions with indeterminate or determinate sentences and multiple felony convictions between January 2015 and March 2023. The models controlling for statute fixed effects include a complete set of fixed effects for the most serious felony offense, while the model controlling for county includes a complete set of fixed effects for the county of longest sentencing (i.e., in admissions with cases from multiple counties, the county we control for is the county which imposed the controlling offense). Second strike and third strike are mutually exclusive indicators. If a person is admitted on multiple felonies that receive both a doubled-sentence and third-strike enhancement, the admission will be characterized as a third-strike enhancement.
*** $p < 0.001$; ** $p < 0.01$; * $p < 0.05$.

To explore these inter-relationships, we estimate multivariate models using the sample of admissions with multiple convictions where the dependent variable is whether the admission received any consecutive sentence and the key explanatory variables include race/ethnicity, age, sex, case and offense characteristics, and controls for the county generating the admission.

Table 6 presents results from several model specifications. We first estimate a simple model where the specification includes an indicator variable for male and a series of indicator variables for the racial/ethnic group of the person being admitted. Since "White" is the omitted category, the coefficients should be interpreted as the difference in the proportion receiving a consecutive sentence relative to White people admitted to prison on multiple convictions, while the coefficient on male gives the average difference for men relative to women.

The results indicate that men are 8.4 percentage points more likely to receive a consecutive sentence than women. American Indian and Alaskan Native individuals are over 9 percentage points more likely to receive a consecutive sentence relative to White people. In contrast, Asian, Black, and Hispanic individuals, as well as people in the "Other" category are less likely to receive consecutive sentences relative to White people.

The second model adds controls for the county of sentencing in addition to the race/ethnicity and sex variables. While controlling for county does not qualitatively impact the estimated gender disparity, we observe large declines in the race/ethnicity disparities. Specifically, controlling for sentencing county reduces the American Indian/Alaskan Native-White disparity from 9.4 to 3.5 percentage points, the Black-White disparity from -5.7 to 0.6 percentage points, the Hispanic-White disparity from -6.2 to 1.2 percentage points, and the Asian-White disparity from -3.7 to 0.6 percentage points. In other words, geography appears to be a key explanation of the cross-group racial/ethnic disparities observed in the first model.

The third model adds controls for case characteristics. Specifically, the model presented in the third column includes the sex and race/ethnicity variables as well as the number of prior prison admissions, the number of convictions, indicator variables for whether the admission is serious or violent, a quadratic age function, indicator variables for someone being admitted with a second-strike or third-strike enhancement, an indicator for multiple offense dates, a indicator variable indicating that offenses occurred in different counties, and an interaction term between the different-date and different-county variables. The specification also includes a complete set of controlling-offense fixed effects (results not displayed in the table) using specific penal codes to define categories.

Adding these additional variables reduces the male-female disparity from 8.4 to 5.4 percentage points, suggesting that roughly a third of the sex disparity is explained by average differences by sex in the case characteristics, sentencing history, and additional demographics added to the base model. However, these characteristics account

for very little of the inter-racial/ethnic differences in the application of consecutive sentencing. Adding these variables to the model reduces the American Indian/Alaskan Native-White disparity from 9.4 percentage points to 8.8 percentage points. In other words, the high rate of application of consecutive sentences to admissions of American Indian/Alaskan Native individuals has little to do with differences in case characteristics. For Asian, Hispanic, Black, and people in the "Other race" category, adding controls actually increases the negative disparity relative to White admissions. This implies that, without accounting for county-level differences, sentences for these groups are less likely to be consecutively sentenced even though the average case characteristics for these groups would push towards more consecutive sentencing.

The likelihood of a consecutive sentence increases with the number of prior prison admissions as well as the number of convictions (both estimates are statistically significant). While we do not observe significant coefficients on the serious offense indicator variables, this is likely due to the inclusion of the offense fixed effects that largely control for serious convictions (at least as it pertains to the controlling offense). The likelihood of receiving a consecutive sentence increases with the age of the person admitted, though at a decreasing rate. People who are admitted with second and third-strike enhancements are much more likely to receive consecutive sentences (18 and 12 percentage points more likely, respectively) relative to admissions with multiple convictions without these enhancements.

The model presented in the final column includes all the variables in the third specification as well as a complete set of county fixed effects. Controlling for the county of sentencing slightly narrows the gender disparity from 5.4 percentage points in the model presented in the second column to 4.7 percentage points. In other words, even after controlling for an extensive set of case characteristics, we still observe that men are more likely to receive consecutive sentences relative to women.

Again, we observe large changes in the racial/ethnic disparities relative to the results in the first column. For example, the American Indian/Alaskan Native-White disparity declines from 8.8 percentage points in the second model to 2.9 percentage points when we add county fixed effects. This suggests that most of the relatively higher rate at which consecutive sentences are applied to American Indian/Alaskan Native individuals is associated with a relative concentration of American Indian/Alaskan Native admissions in counties that tend to use consecutive sentencing more frequently. The opposite is the case for admissions of Black, Hispanic, Asian, and people in the "Other race" grouping. The sizable negative differentials observed in the first two models shrink very close to zero and become statistically insignificant (though the residual Black-White differential of -1.4 percentage points remains significant at the 5% confidence level). This indicates that people sentenced from these racial/ethnic groups tend to be coming from counties that use consecutive sentencing more sparingly.

5. How does consecutive sentencing impact the average prison sentence?

By design, consecutive sentencing lengthens prison sentences and, in turn, time served. Actual time served, however, is often lower than what the sentencing triads prescribe for specific offenses. This is due to several factors. First, most people admitted to prison in California earn credits towards their sentences for good behavior, and on average people tend to serve roughly 60% of their sentences. In a previous analysis of sentence enhancements (Bird et al. 2023), we found that credits earned on enhanced sentences occur at similar rates to credits earned against non-enhanced sentences.

Second, the impact of consecutive sentencing on time served is likely reduced by Proposition 57, which permits individuals convicted of nonviolent offenses to be considered for parole once they serve the prison sentence associated with their controlling offense without time added by sentencing enhancements or consecutive sentences.[20] Because eligibility for relief under Proposition 57 is limited and the rate at which people are granted parole is low, the impact on average time served is likely limited.[21]

Third, we noted above that roughly 80% of convictions that receive a consecutive sentence are set at one-third the middle triad value for the prescribed sanction for the offense, with the remaining 20% receiving consecutive sentences equal to the full prescribed sentence. The use of one-third consecutive sentences likely reduces the effect of consecutive sentencing on overall sentence length.

20 California Constitution, Article 1, § 32(a)(1).
21 See California Board of Parole Hearings, 2022 Report of Significant Events, 3–4 (grant rate for people considered under Proposition 57 was 8%).

Offenses most frequently receiving consecutive sentencing

TABLE 7: Top twenty offenses receiving one-third consecutive sentences for all admissions since 2015

OFFENSE STATUTE	OFFENSE DESCRIPTION	COUNT	AVERAGE ADDITIONAL SENTENCE	TOTAL ADDITIONAL YEARS	PERCENT OF 1/3 CONS. YEARS IMPOSED	CUMULATIVE PERCENT
PC288(A)	L&L Child Under 14 Years	5,853	2.0	11,622	14.3	14.3
PC212.5(C)	Robbery 2nd	5,577	1.0	5,590	6.9	21.2
PC29800(A)(1)	Poss/Own Firearm by Felon or Addict	5,431	0.7	3,612	4.5	25.7
VC2800.2(A)	Evade or Att to Evade Peace Officer while Driving Recklessly	3,673	0.7	2,447	3.0	28.7
VC10851(A)	Vehicle Theft	3,578	0.7	2,355	2.9	31.6
PC459 2ND	Burglary 2nd	3,491	0.7	2,284	2.8	34.4
PC459	Burglary 1st	3,260	1.3	4,142	5.1	39.5
PC245(A)(4)	Assault with Force Likely to Produce GBI	3,009	1.0	3,004	3.7	43.2
PC422	Criminal Threat to Cause GBI/Death	2,316	0.7	1,524	1.9	45.1
PC245(A)(1)	Assault with a Deadly Weapon	1,951	1.0	1,950	2.4	47.5
HS11378	Possession Controlled Substance for Sale	1,906	0.7	1,263	1.6	49.1
PC273.5(A)	Corp Inj on Specific Persons Resulting in Traumatic Condition	1,778	1.0	1,774	2.2	51.3
PC30305(A)	Possess Ammunition by Prohibited Person	1,711	0.7	1,132	1.4	52.7
PC69	Resisting/Deterring Officer w/ Threat/ Violence	1,708	0.7	1,134	1.4	54.1
PC530.5(A)	Use ID of Another to Obtain Personal Identifying Information	1,629	0.7	1,084	1.3	55.4
PC487(A)	Grand Theft Exceeding $950	1,531	0.7	1,000	1.2	56.6
PC666.5(A)	Vehicle Theft w/ Prior Vehicle Related Theft Convictions	1,448	1.0	1,435	1.8	58.4
PC594(B)(1)	Vandalism	1,398	0.7	929	1.1	59.5
PC288(C)(1)	L&L Victim 14/15 Yrs Old and Age Difference of 10+ Years	1,255	0.7	835	1.0	60.5
PC496D(A)	Buy/Receive Stolen Vehicle/Trailer/ Construction Equipment	1,066	0.7	709	0.9	61.4

In Tables 7 and 8, we present information pertaining to the 20 offenses receiving the greatest number of one-third consecutive sentences (Table 7) as well as the 20 offenses that most frequently receive full-term consecutive sentences (Table 8). The tables are ordered from the most to least frequent offenses and provide the offense statute, the offense description, the number of convictions sentenced consecutively since 2015, the average additional years added from the consecutive sentence for the category (for one count), the total years added by consecutive sentences for this offense, the percent of full-term consecutive sentence years accounted for by this specific offense, and a running cumulative percent total. The 20 offenses listed in Table 7 cumulatively account for nearly two-thirds of additional years added through one-third consecutive sentences. The 20 offenses in Table 8 cumulatively account for 75% of the additional years added through full-term consecutive sentences.

TABLE 8: Top twenty offenses receiving full-term consecutive sentences for all admissions since 2015

OFFENSE STATUTE	OFFENSE DESCRIPTION	COUNT	AVERAGE ADDITIONAL SENTENCE YEARS	TOTAL ADDITIONAL YEARS	PERCENT OF FULL-TERM CONS. YEARS IMPOSED	CUMULATIVE PERCENT
PC288(A)	L&L Child Under 14 Years	2,756	14.0	38,743	20.1	20.1
PC288(B)(1)	L&L Child Under 14 W/Force/ Violence/Fear	2,224	10.1	22,516	11.7	31.8
PC288.7(B)	Adult Engage Oral Cop/Pen of a Child 10yrs old or Younger	1,041	14.9	15,553	8.1	39.9
PC261(A)(2)	Rape w/Force/Violence/Fear of Bodily Injury	857	10.4	8,892	4.6	44.5
PC187(664)	Attempted Murder 1st	841	11.0	9,256	4.8	49.3
PC288(B)(1)	L&L Child Under 14 W/Force/ Violence	832	9.2	7,691	4.0	53.3
PC269	Aggravated Sexual Assault of Child Under 14 Years	805	15.2	12,269	6.4	59.7
PC4501	Assault by Prisoner with Deadly Weapon or Force Likely/GBI	657	2.7	1,800	0.9	60.6
PC4502(A)	Possession/Manufacture of Deadly Weapon by Prisoner	584	2.3	1,352	0.7	61.3
PC212.5(C)	Robbery 2nd	511	3.4	1,739	0.9	62.2
PC4573.6	Possession CS in Jail/Prison	460	2.3	1,038	0.5	62.7
PC4501.5	Battery on Non Prisoner	418	2.3	951	0.5	63.2
PC29800(A)(1)	Poss/Own Firearm by Felon or Addict	374	2.1	806	0.4	63.6

TABLE 8: Top twenty offenses receiving full-term consecutive sentences, all admissions since 2015 (continued)

OFFENSE STATUTE	OFFENSE DESCRIPTION	COUNT	AVERAGE ADDITIONAL SENTENCE	TOTAL ADDITIONAL YEARS	PERCENT OF FULL-TERM CONS. YEARS IMPOSED	CUMULATIVE PERCENT
PC288.7(A)	Adult Engages Sex/Sodomy W/Child 10 yrs old or Younger	373	24.4	9,105	4.7	68.3
PC4573.8	Possession Paraphernalia/Drugs/ Alcohol in Jail/Prison	360	1.4	495	0.3	68.6
PC288.5(A)	Continuous Sex Abuse of Child Under 14 Years	342	12.5	4,291	2.2	70.8
PC187 2ND(664)	Attempted Murder 2nd	320	8.3	2,652	1.4	72.2
PC288A(C)(2)(A)	Oral Cop With Force/Violence/Fear of Immediate Bodily Injury	298	11.3	3,380	1.8	74.0
PC459	Burglary 1st	298	3.9	1,196	0.6	74.6
PC136.1(B)	Prevent/Dissuade Victim/Witness	286	2.1	602	0.3	74.9

There are several notable patterns that emerge when comparing Tables 7 and 8. First, while there is some overlap in the offenses, the offenses receiving one-third consecutive sentences are more likely to involve property offenses, weapons offenses, offenses such as evading a police officer, and identity theft. By contrast, the offenses receiving full-term consecutive sentences often involve crimes against a person, child victims, and various sex offenses.

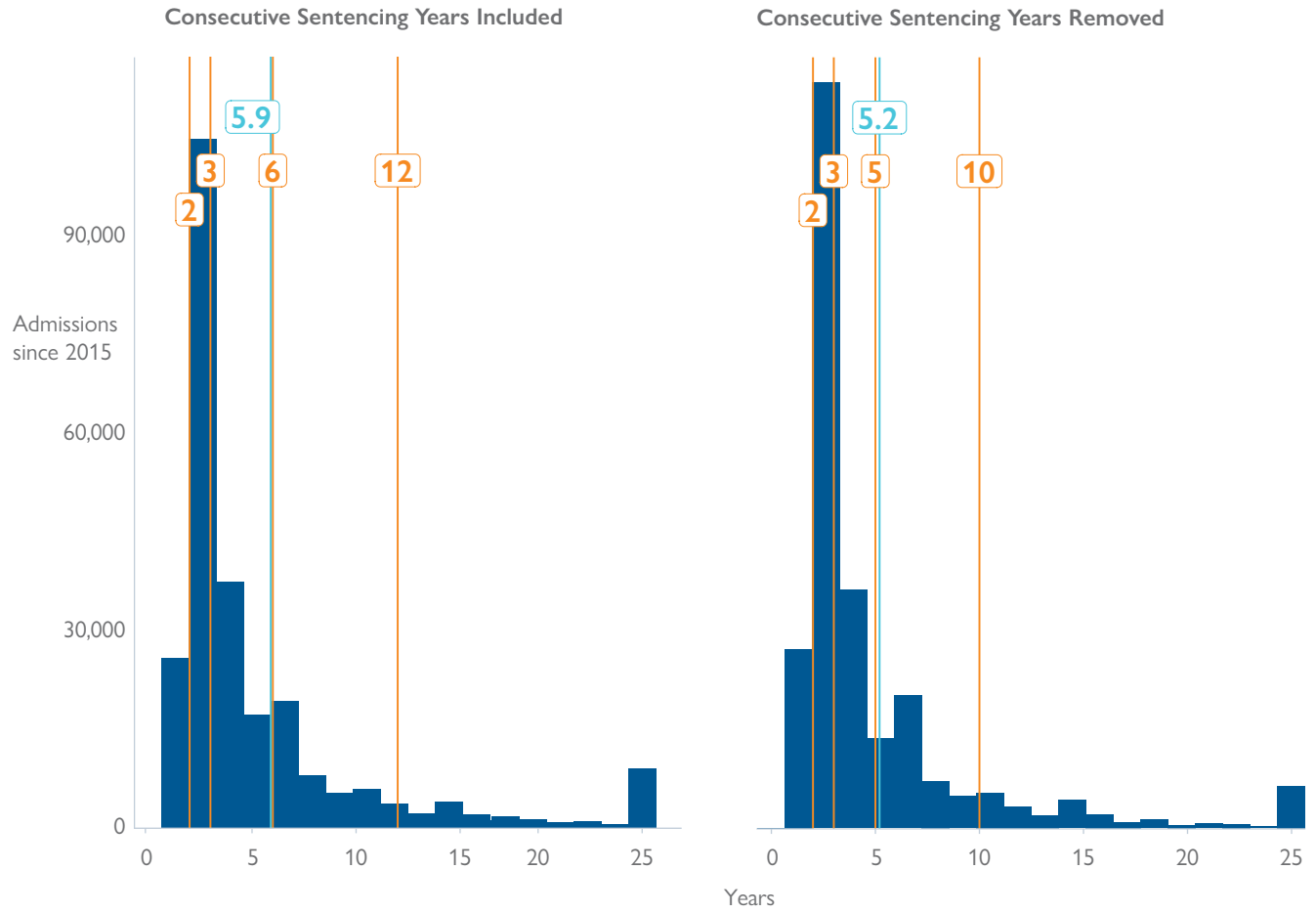
Second, there are large differences in the average consecutive sentence imposed between full-term and one-third consecutive sentences, and consequently, a greater impact on overall years added for full-term consecutive sentences relative to one-third consecutive sentences. Full-term sentences added approximately 192,500 additional years for all admissions since 2015, while one-third consecutive sentences added approximately 81,000 additional years. Although full-term consecutive sentences make up only 20% of the convictions that receive a consecutive sentence, they account for roughly 70% of the sentence years added through consecutive sentences.

Finally, both tables reveal that a small subset of offenses account for most of the additional years added through consecutive sentencing.

Effect of consecutive sentencing on sentence length

Figures 5 and 6 move beyond the contribution of specific offenses to summarize the overall effect of consecutive sentencing on the distribution of prison sentences for people admitted since 2015. The graph on the left in each figure displays the actual empirical distribution of prison sentences. The yellow lines correspond to the 25th, 50th, 75th, and 90th percentile of the distribution while the blue line shows the average prison sentence.[22] In contrast, the graph on the right side presents a hypothetical sentencing distribution where we use specific information on the individual components of each person's sentence to tabulate what sentencing would be if all sentences were concurrent. Again, we mark specific percentiles of the distribution as well as the average using vertical yellow lines and a blue line, respectively.

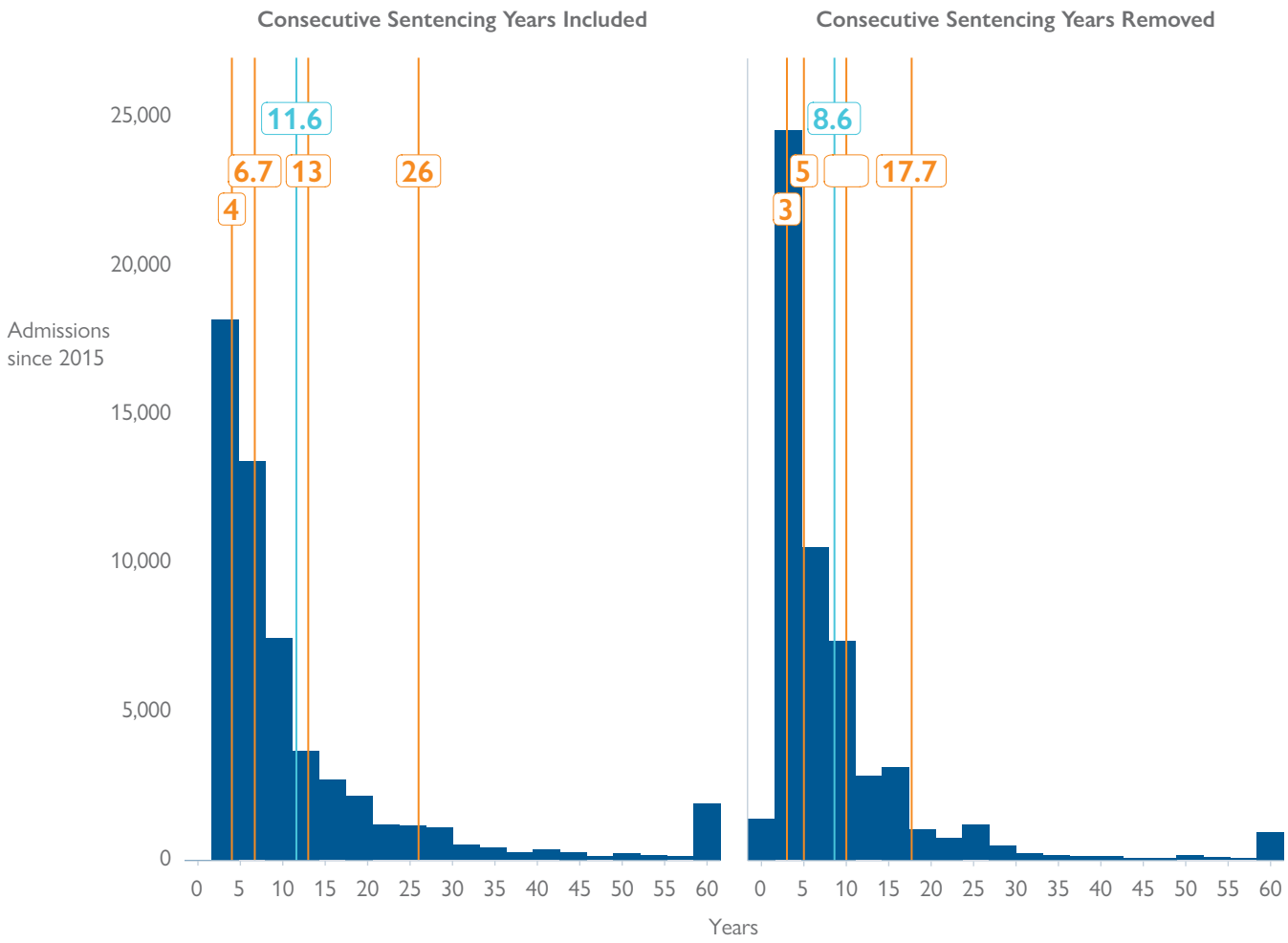
FIGURE 5: Distribution of sentence lengths for all admissions since 2015: the actual sentencing distribution and the counterfactual distribution making all consecutive sentences concurrent



Note: Distributions are top coded at 25 years. The average is tabulated using the actual sentence value for sentences greater than 25 years.

22 To visualize the distributions, we group all individuals with a sentence length of 25 or more years into one bin for Figure 5 and 60 or more years into one bin for Figure 6. The average sentence length however, for both figures assumes a maximum sentence equal to 60 years. Roughly 99.4% of determinately and indeterminately sentenced admissions since 2015 are 60 years or less. Since most people admitted to prison are admitted in their late 20s and 30s, top-coding sentences at 60 years likely encompasses effective maximum sentence length for most people.

FIGURE 6: Distribution of sentence lengths for admissions with consecutive sentences since 2015: the actual sentencing distribution and the counterfactual distribution making all consecutive sentences concurrent



In both figures, we exclude admissions for LWOP and condemned sentences, as they do not have a prescribed sentence length. Figure 5 uses all remaining prison admissions while Figure 6 restricts the contrast to admissions with consecutive sentences. The results in Figure 5 estimate how the elimination of consecutive sentences would impact the entire sentencing distribution, considering the fact that most admissions do not involve consecutive sentences.[23] Figure 6 by contrast shows how the sentences of those who receive consecutive sentences would change if all sentences were made concurrent.

23 To be specific, all people admitted on a single conviction and people with multiple convictions and concurrent sentences will have the same sentence in the underlying data used to construct the graphs in Figure 5.

Figure 5 shows that consecutive sentences increase the average prison sentence by seven-tenths of a year, or 8.5 months. This constitutes an increase relative to the counterfactual average of approximately 13%. The impact appears to be greater in the upper percentiles (for example, an increase at the 90th percentile from 10 to 12 years).

Among the subset of people admitted with consecutive sentences, the impact is larger (Figure 6). Specifically, consecutive sentencing increases the average sentence by three years (from 8.6 to 11.6 years). Moreover, we observe increases throughout the distribution, with a one-year increase at the 25th percentile, and an 8.3-year increase at the 90th percentile.[24]

One might argue that these tabulations may overstate the overall effect of the use of consecutive sentencing on average sentence length to the extent that judges or parties engaged in plea bargaining have in mind a specific sentence length and use various sentencing options in a complex case to achieve this aim. For example, if one were to eliminate consecutive sentencing, judges may more frequently impose the upper triad value, make greater use of enhancements, always impose a second-strike sentence doubling, etc. There is some empirical evidence that judges tend to anchor their sentencing decisions to guidelines even when the guidelines are voluntary,[25] suggesting that a change in, for example, the California Rules of Court may impact overall sentence length if the rules liberalized or restricted the use of consecutive sentencing. Nonetheless, we acknowledge that even if consecutive sentencing were more restricted, a judge or prosecutor determined to achieve a specific sentence length in a complex case with many offenses could still assemble a longer sentence from components of the offense. Future research should explore the net effects of changes in sentencing practice on average sentence length and whether constraints on the use of specific enhancements, changes to triad values, and other such reforms actually impact final sentences.

24 We constructed similar actual and counterfactual distributions for select subsets of admissions. For example, among people admitted with a second-strike enhancement and multiple convictions, consecutive sentences increase average sentence length from 9.1 to 10 years. Among people convicted of a sex offense who are admitted with multiple offenses, consecutive sentencing increases average sentence length from 7.3 to 11.6 years.

25 Bushway, Owens and Piehl (2012) demonstrate that even in a voluntary-guideline state, judges tend to anchor their decisions to sentencing recommendations. In fact, they find that recommendations that run counter to the facts of a case due to human error impact sentencing decisions, although large errors are often caught by judges. This novel example suggests that even in the face of considerable discretion, judges tend to follow the rules and the recommendations that are offered to them.

6. Are consecutive sentences applied in a consistent manner across jurisdictions throughout the state?

The analysis above revealed large inter-regional disparities in the use of consecutive sentencing within California. Non-coastal counties north of Sacramento and in the Central Valley appear to apply consecutive sentencing with greater relative frequency than counties in Southern California. Multivariate analysis reveals that many of the racial/ethnic disparities (the relatively low rate of application to admissions of Black and Hispanic people and the relatively high rate for American Indian/Alaskan Native individuals) is attributable to these cross-regional differences in practice.

In this section of the report, we briefly explore whether differences across counties in the use of consecutive sentencing are driven by cross-county differences in case characteristics. Figure 7 visually depicts heterogeneity across counties in the use of consecutive sentencing for admissions involving multiple convictions with and without statistical adjustment for case characteristics.

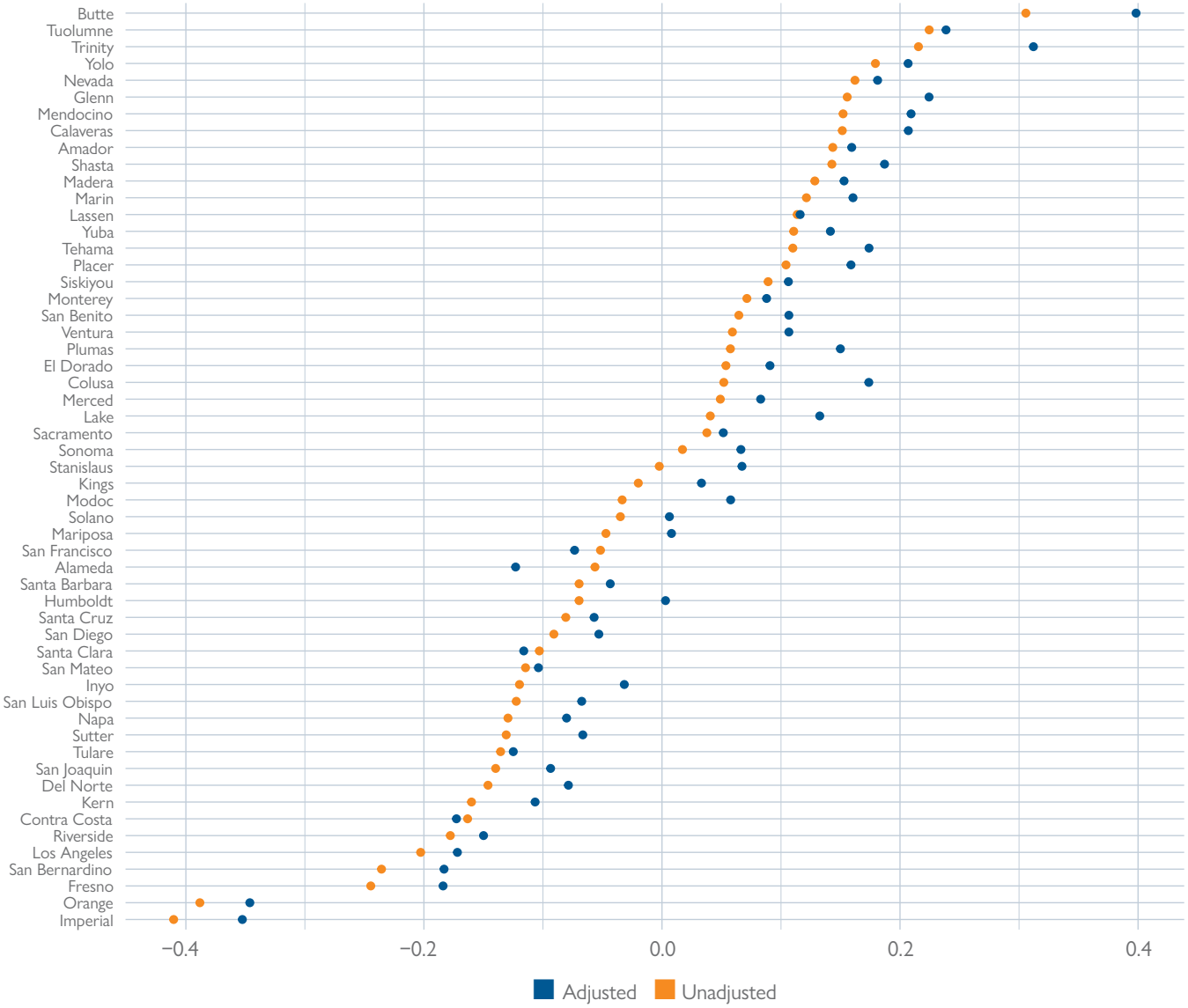
The yellow dots present the difference in the proportion of admissions with multiple offenses receiving consecutive sentences for the county listed along the vertical axis of the figure relative to the median, which is Mono County, where the share of admissions with multiple convictions that receive consecutive sentences is 64%. The blue dots present similar difference estimates after statistically controlling for the case characteristics (minus the demographic variables) in model 3 presented in Table 6.[26] Counties are ordered from those with the highest rates of consecutive sentencing to those with the lowest based on the unadjusted estimates.

The figure reveals large variation across counties in the use of consecutive sentencing, with the largest value roughly 30 percentage points above the median and the smallest value nearly 40 percentage points below the median. Adjusting for case characteristics leads to some changes in these relative differentials, but does not appreciably alter the ranking. In other words, differences in the case characteristics of prison admissions do not explain cross-county differences in the use of consecutive sentencing.[27]

26 To be specific, the blue dots are the coefficients on the county indicator variables from a regression of the indicator variable indicating that an admission receives a consecutive sentence on a complete set of controlling-offense fixed effects, the number of felony convictions on the case, the number of prior prison commitments, indicator variables for serious or violent offenses, age at admission and age at admissions squared, the second and third-strike indicator variables, and the variables indicating offenses that occurred in different times and places, including the interaction term between the two. We omit the variables measuring race/ethnicity and gender that should not legally be considered in deciding whether to impose consecutive sentences. The regression includes all admissions since 2015. We drop Alpine and Sierra counties due to reporting limitations on statistics for cell sizes of 10 or less.

27 We found similar cross-county differences in the use of consecutive sentencing even for subsets of offenses where consecutive sentencing is prescribed (for example, convictions with multiple offenses with strike enhancements and convictions where the controlling offense is a sex offense).

FIGURE 7: Differences relative to Mono County (the median county) in the proportion of admissions with multiple felony convictions where consecutive sentences are imposed: raw mean differences and difference statistically adjusted for case characteristics



7. Conclusion

Consecutive sentencing is one element of California's complex and highly structured system for determining prison-sentence length. Consecutive sentences apply to a relatively small share of sentences, primarily because many prison admissions involve a single felony conviction, and not all admissions with multiple convictions receive consecutive sentences. The data are consistent with the provisions that consecutive sentences are generally applied to admissions where the multiple convictions reflect separate acts (for example, consecutive sentencing is more likely to be applied when the offenses occur in different counties and on different dates). Consecutive sentencing is applied with greater relative frequency for multiple convictions involving serious or violent crime and for people with strike-enhanced sentences. There are also clear cross-county differences in the use of consecutive sentencing that are not attributable to cross-county differences in average case characteristics.

Among people admitted to prison with multiple convictions, American Indian/Alaskan Native and White people are overrepresented among those receiving consecutive sentences, while Black, Hispanic, and Asian people are underrepresented. Men eligible for consecutive sentencing are more likely to receive consecutive sentences relative to comparable women. The inter-racial/ethnic disparities are mostly explained by cross-county differences in the application of consecutive sentences. That is to say, American Indian/Alaskan Native and White people are more likely to receive consecutive sentences, primarily because they tend to be admitted to prison from counties that are more likely to use consecutive sentencing. The opposite is true for Black, Hispanic, and Asian people.

Although consecutive sentences are applied to a relatively small share of sentences, they increase the average prison sentence by 8.5 months overall. Among the subset of people admitted with consecutive sentences, consecutive sentencing increases the average sentence by three years (from 8.6 to 11.6 years).

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Appendix A: Sentence Replication Methodology

The data used in this report come from the California Department of Corrections and Rehabilitation (CDCR). The data include detailed information on all admissions to, and releases from, California prisons between 2015 and March 2023 well as all previous prison admissions for everyone admitted to and/or released from a California prison since 2015.

The CDCR data provides information on the overall sentence, and information on the individual sentence components (i.e., convicted offenses, sentence enhancements, whether the sentence is concurrent or consecutive) associated with a given prison sentence. Reproducing the actual sentences from these individual components is complicated for individuals with multiple convictions due to concurrent and consecutive sentencing, as well as the complexity introduced by enhancements that may either be attached to specific offenses (in the case of conduct enhancement) or admissions (in the event that case enhancement is imposed).

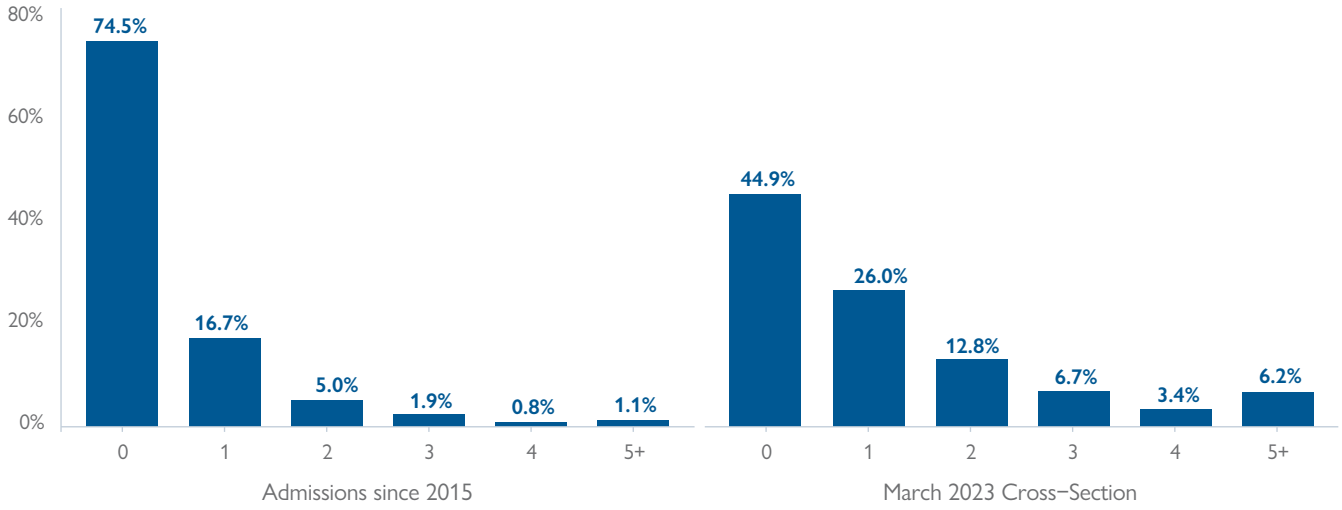
CPL developed business rules to reproduce the observable final sentence from the individual components, the information pertaining to each component regarding whether the sentence is concurrent or consecutive, and information on enhancements applied to the particular admission. We are able to replicate the actual sentence length from the component data for 98.5% of the individuals currently incarcerated as of March 2023, and 99.3% of admissions since 2015.[28] For determinate sentences, our rules are intended to reproduce the final sentence. For indeterminate sentences, our rules are designed to reproduce the minimum term (all indeterminates sentences in California are some defined minimums at the bottom and life as the upper limit).

We observe two dimensions along which a person can be sentenced to either concurrent or consecutive sentences: (1) when someone is convicted of multiple counts of a single felony (for example, three counts of first-degree burglary), and (2) when a person is convicted of multiple felonies in a single incident (for example, one count of robbery, one count of auto theft). To construct counterfactual sentences assuming the elimination of consecutive sentencing, we set all components for given admissions to be concurrent sentences and apply our business rules to the existing components under this alternative hypothetical sentencing regime. Figures 4 and 5 compare actual sentences to these hypothetical sentences for the admission for which we are able to reproduce the observable sentence from the individual components.

28 For an admission to be considered a "match" when replicated, our estimate must be within one month of the sentence length provided in the data; this sensitivity threshold is to account for any discrepancies when rounding. However, we also consider admissions as matches for sentences over 100 years if our estimate also exceeds 100 years (less than 0.01% of admissions in the entire sample). Sentences we are unable to match are removed from all analyses requiring the individual components. Note we consider all LWOP and condemned terms as "matches," as these sentence types by definition do not have prescribed sentence length.

Appendix B: Additional Results

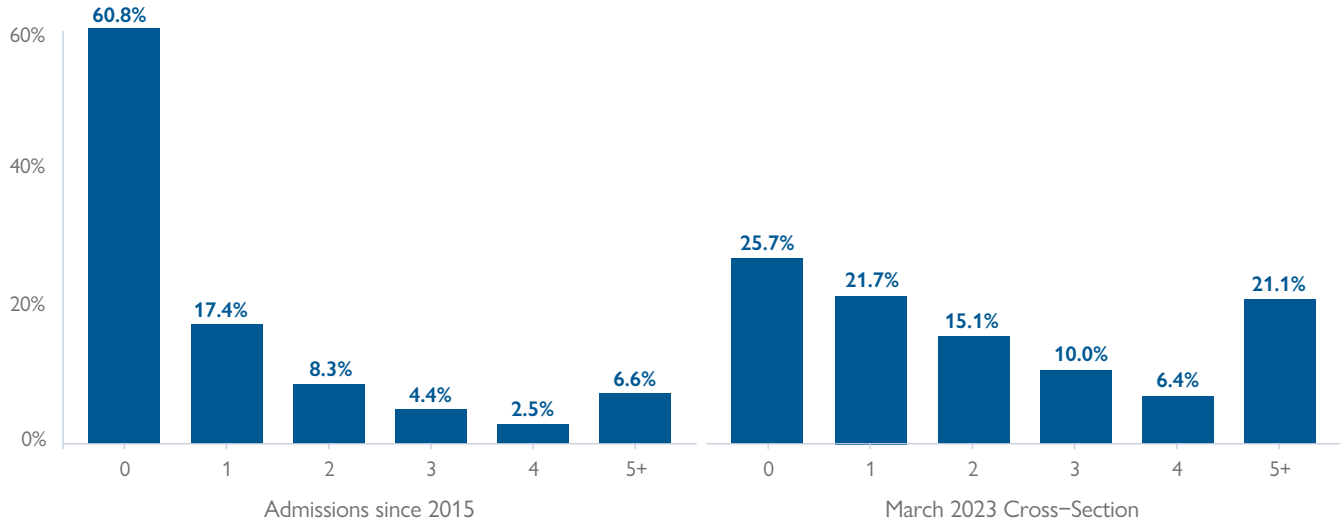
FIGURE B1. Frequency of consecutive sentences for admissions with a strike enhancement since 2015 and people incarcerated as of March 2023



Note: Sample sizes are as follows: Admissions since 2015, N=66,481; March 2023 cross-section, N=33,754.

Figure B1 shows the population of admissions and people currently incarcerated with a second- or third-strike. Since 2015, 75% (149,504) did not receive consecutive sentences. When we look at people incarcerated as of March 2023, we see that 45% (15,146) do not have a consecutive sentence.

FIGURE B2. Frequency of consecutive sentences for admissions with a sex offense since 2015 and people incarcerated as of March 2023



Note: Sample sizes are as follows: Admissions since 2015, N=19,785; March 2023 cross-section, N=15,001.

Figure B2 shows the population of admissions and people currently incarcerated with a sex offense. Since 2015, 61% (12,021) did not receive consecutive sentences. When we look at people incarcerated as of March 2023 we see that 26% (3,862) do not have a consecutive sentence.

There is a greater prevalence of multiple consecutive sentences amongst those incarcerated as of March 2023 on a sex offense (53%) compared to the overall incarcerated population (27%) and those incarcerated on a second- or third-strike (29%).