Uninhabitable Prisons: A Reflection on the Political Will and Financial Pathways to Address the Climate Crisis in Prisons

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INTRODUCTION

Climate change is rapidly reshaping the legal and moral boundaries of incarceration in the United States. The intertwined pressures of climate change,

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aging prison infrastructure, constitutional obligations, and state budget deficits have converged into what scholars increasingly describe as a state of emergency in the carceral system.[1] For decades, those who manage and oversee California's prison system have operated with the uneasy knowledge that its vast prison system was built on structures too old, too brittle, and too sprawling. Prisons are often located in regions subject to extreme climate conditions and are woefully ill-equipped to safely house the number of incarcerated individuals in the state.

In October 2025, the Berkeley Criminal Law & Justice Center (CLJC) and *Berkeley Journal of Criminal Law* (BJCL) held their annual Symposium titled Confronting Climate Change in Correctional Facilities.[2] The Keynote Panel, "Making the Case: Political Will and Financial Pathways to Address the Crisis," brought the carceral emergency into clear view. The Panel, introduced by Erwin Chermerinsky, Dean of Berkeley Law, and moderated by Stefano M. Bertozzi, Professor at UC Berkeley School of Public Health, featured: Nancy Skinner, former California State Senator and current Commissioner of the California Energy Commission; Amarik K. Singh, current California Inspector General; and Felix Owusu, Assistant Professor at UC Berkeley Goldman School of Public Policy.

The Panel laid bare the conditions inside California prisons during extreme heat, the logistical impossibility of evacuating entire facilities during natural disasters, and the failures of accountability that allow these dangers to persist. These realities raise urgent constitutional questions under the Eighth Amendment, which prohibits cruel and unusual punishment, and require reconsideration of the state's obligations toward those it confines. While policymakers debate infrastructure investments and pilot programs, deeper tensions persist regarding the purpose of incarceration, the allocation of public resources, and the political will to address systemic inequities. As Professor Owusu bluntly stated, "If you can't confine people properly, then you shouldn't confine people."

This symposium article expands on this Keynote Panel, contextualizing the panelists' insights within constitutional doctrine, environmental justice literature, and California's political realities. Part I examines the constitutional implications of extreme heat and climate vulnerability in prisons. Part II analyzes governance failures, including lack of transparency, budget constraints, and fragmented institutional authority. Part III explores the political economy of incarceration and argues for decarceration as a necessary climate and criminal justice strategy.

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1. *See, e.g.*, Sharon Dolovich, *Cruelty, Prison Conditions, and the Eighth Amendment*, 84 N.Y.U. L. REV. 881 (2009).

2. Symposium, *Confronting Climate Change in Correctional Facilities* (Oct. 22, 2025), https://www.law.berkeley.edu/event/fall-symposium-confronting-climate-change-in-correctional-facilities.

I. CLIMATE CHANGE AND THE CONSTITUTIONAL CRISIS OF CONFINEMENT

A. Extreme Heat as Cruel and Unusual Punishment

The Eighth Amendment prohibits punishments that are incompatible with "the evolving standards of decency that mark the progress of a maturing society."[3] Courts have long interpreted this standard to require that prison officials provide humane conditions of confinement, including adequate shelter, food, and medical care.[4]

Extreme heat increasingly falls within this constitutional framework. In *Helling v. McKinney*, the Supreme Court held that prison officials violated the Eighth Amendment when they exposed incarcerated people to "an unreasonable risk of serious damage" to health.[5] Extreme heat—well-documented as causing organ damage, heatstroke, cognitive impairment, and death[6]—easily falls within that category.

California prisons exemplify this risk. As Commissioner Skinner shared, at least eight California prison facilities are located in regions of extreme heat. Inspector General Singh reported Ironwood State Prison had 136 days registered with over 100 degrees, and there were other prisons with 135 such days, and so on. These conditions are particularly dangerous for elderly individuals, those with chronic illnesses, and those taking psychotropic medication—populations who are all disproportionately over-represented in prisons.[7]

Lower courts have increasingly recognized heat-related claims. In 1989, in *Brock v. Warren County, Tenn.*, a federal district court found that housing a prisoner in a cell with virtually nonexistent ventilation and extremely high temperature and humidity was cruel and inhumane and proximately caused the prisoner's death, and held the sheriff liable for punitive damages in the amount of $10,000.[8] In *Ball v. LeBlanc*, the Fifth Circuit upheld a ruling that housing inmates in extremely hot prison cells without access to heat-relief measures violated the Eighth Amendment.[9] In *Gates v. Cook*, the Fifth Circuit upheld a grant of injunctive relief to death row inmates at a Mississippi prison where the

3. Trop v. Dulles, 356 U.S. 86, 99–101 (1958).

4. Rhodes v. Chapman, 452 U.S. 337, 347 (1981).

5. 509 U.S. 25, 33 (1993).

6. *See, e.g.*, Amruta Nori-Sarma, et al., *Association Between Ambient Heat and Risk of Emergency Department Visits for Mental Health Among US Adults, 2010 to 2019*, 79 JAMA PSYCHIATRY 341 (2022).

7. *See* Ava Kaufman , Kathrina Szymborski Wolfkot & Brianna Seid, *Extreme Heat Exacerbates Dire Prison Conditions, With Few Paths to Relief*, STATE CT. REP. (June 26, 2025); Dan Morain & John Hurst, *Officials Seek Answers in Heat-Wave Deaths of 3 Prison Inmates : Medication: The men were all using mind-altering drugs known to raise body temperatures*, L.A. TIMES (July 6, 1991).

8. 713 F. Supp. 238 (E.D. Tenn. 1989).

9. 792 F.3d 584 (5th Cir. 2015). *See also* Tiede v. Collier, 796 F. Supp. 3d 275, 336 (W.D. Tex. 2025) (describing the extreme heat in Texas prisons as "plainly unconstitutional").

inmates were not "afforded extra showers, ice water, or [personal] fans . . . when the heat index [was] 90 or above."[10] Similarly, in *Graves v. Arpaio*, the Ninth Circuit upheld an order of prospective relief requiring the sheriff to house all detainees taking psychotropic medications in temperatures not exceeding 85 degrees.[11]

Despite these precedents, enforcement remains inadequate. As Singh described, temperature monitoring in California prisons is inconsistent, often not recorded year-round, sometimes taken outside the cell rather than inside, and practices vary widely across facilities.[12] California's failure to implement standardized temperature monitoring undermines the ability of courts to assess constitutional violations.

This lack of data is itself constitutionally significant because it allows prison officials to escape liability. Under *Farmer v. Brennan*, prison officials may only be held liable for "knowingly and unreasonably disregarding an objectively intolerable risk of harm" to a prisoner's health or safety.[13] Without systematic monitoring, officials may claim ignorance, effectively shielding themselves from liability.

This lack of transparency is even more unacceptable since California prisons are subject to another layer of scrutiny. The state's landmark loss in *Brown v. Plata*, where the Supreme Court upheld an order requiring the California Department of Corrections and Rehabilitation (CDCR) to dramatically reduce its prison population due to constitutionally inadequate medical care, remains in force.[14] The Panel implicitly reminded the audience of

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10. 376 F.3d 323, 339 (5th Cir. 2004). *See also* cases allowing cases related to heat risk to proceed, e.g., Hinojosa v. Livingston, 807 F.3d 657 (5th Cir. 2015) (holding allegation of death due to complications from heatstroke while incarcerated was sufficient to establish Eighth Amendment claim and overcome a qualified immunity defense); Blackmon v. Garza, 484 Fed. Appx. 866, 870–72 (5th Cir. 2012) (finding evidence regarding heat indices, ineffective remedial measures, and aggravation of the plaintiff's medical condition, was potentially sufficient to support a verdict in his favor); Valigura v. Mendoza, 265 Fed. Appx. 232, 235–36 (5th Cir. 2008) (finding evidence to support a potential Eighth Amendment violation, where he was confined to a bunk for 24 hours a day for numerous consecutive days, not allowed "to stretch his legs or get a drink of water," not allowed daily showers, and subjected to temperatures "above the eighties and into the hundreds").

11. 623 F.3d 1043 (9th Cir. 2010).

12. OFF. INSPECTOR GEN., AUDIT OF THE DEPARTMENT OF CORRECTION AND REHABILITATION'S MANAGEMENT OF TEMPERATURE CONDITIONS WITHIN CALIFORNIA'S PRISONS (AUDIT REPORT № 24-02, SEPTEMBER 2025) (Sep. 11, 2025) (finding:

> (1) Temperatures in Prison Housing Units Frequently Fell Outside Acceptable Temperature Ranges, and Staff's Failure to Consistently Complete Heat Logs Hindered the OIG's Ability to Effectively Analyze the Full Extent of These Temperature Variations,
>
> (2) Budget Challenges and Inconsistent Completion of Preventive Maintenance Inhibit the Department's Ability to Maintain Outdated Heating and Cooling Equipment, and
>
> (3) The Department Does Not Protect a Significant Number of Vulnerable Incarcerated Individuals from the Heat or Cold)

13. 511 U.S. 825, 837 (1994).

14. 563 U.S. 493 (2011).

that history and that the conditions that produced *Plata*—medical neglect, overcrowding, environmental exposures—have not disappeared. These conditions are only exacerbated under new climate pressures.

B. Aging Infrastructure and the Limits of Retrofitting

California's prison infrastructure was not designed for a climate-changed world. Many facilities were constructed decades ago, with little consideration for extreme heat or modern environmental standards. Retrofitting these facilities presents significant challenges. A 2020 report estimated that comprehensive cooling upgrades would cost more than $11 billion to update California's twelve oldest prisons and another $8 billion for the remaining prisons.[15] This figure has become central to policy debates, raising questions about feasibility and prioritization. Even worse, cooling systems alone cannot address broader structural deficiencies, which include poor ventilation design, outdated electrical systems, overcrowded housing units, and geographic placement in high-risk areas.

Financial constraints complicate reform efforts in ways that extend beyond simple budget scarcity. California has begun to experiment with infrastructure solutions, but these efforts illustrate both the scale of the problem and the limits of incremental reform. Most notably, CDCR recently launched a $38 million pilot program to test cooling strategies.[16] Yet this program applies to only about 8,000 of roughly 91,000 incarcerated people and does not commit the state to any broader rollout, leading critics to characterize it as a study rather than a solution.[17]

Even when California has invested in improvements, the results have been partial and uneven. CDCR reports roughly $245 million in cooling-related upgrades over recent years, but many of these projects do not extend to housing units where people actually live, limiting their protective effect.[18] Meanwhile, these technological limitations are compounded by structural design constraints: many prisons are built from heat-retaining concrete and lack insulation, causing indoor temperatures to remain dangerously high even overnight.[19] At the same time, the state's broader fiscal pressures have already scaled back proposed investments, with lawmakers cutting funding for the cooling pilot program amid a budget deficit.[20] Even where funding exists, implementation challenges—such

15. OFF. INSPECTOR GEN., TEMPERATURE CONDITIONS *supra* note 12, at 2.

16. Jeanne Kuang, *Complaints About California's Hellishly Hot Prison Cells Have Been Mounting for Years*, CALMATTERS (Sep. 7, 2025).

17. *Id.*

18. Mike Lee, *California scales back plan to cool prisons*, POLITICO (Sep. 11, 2025).

19. Matthew Clarke, *California Funds $38 Million Pilot Program to Investigate Methods for Cooling Three Prisons*, PRISON LEGAL NEWS (Jan. 1, 2026).

20. *Id.*

as labor costs and regulatory requirements specific to California—further increase expenses.[21]

Taken together, these realities suggest that the problem is not merely one of insufficient funding. Piecemeal retrofits and pilot programs have thus far failed to deliver systemic protection from extreme heat. Instead, policymakers must consider whether maintaining existing facilities is viable in the long term.

C. Climate Emergencies and Systemic Unpreparedness

Beyond chronic heat exposure, prisons face acute risks from climate-related emergencies, including floods and wildfires. The state's ability to respond to these events is severely limited. Panelists described an imminent flooding event, where approximately 7,000 incarcerated individuals needed to be evacuated.[22] But the prisons had no evacuation plan on hand for the looming disaster. The independent audit by the Office of the Inspector General (OIG) of the failure highlighted several systemic deficiencies[23]:

- Lack of comprehensive evacuation plans in response to natural disasters
- Insufficient transportation capacity (due to overcrowding, vehicle fleet capacity, as well as location and high mileage to other facilities)
- Limited medical continuity during relocation
- Inconsistent risk assessments across facilities
- Flawed plan review and approval process by CDCR's Emergency Planning Unit

These shortcomings raise serious constitutional concerns. If the state cannot ensure the safety of incarcerated individuals during foreseeable emergencies, continued confinement may violate the Eighth Amendment.

Courts have begun to recognize such risks. During the COVID-19 pandemic, several courts ordered population reductions or improved safety measures in response to public health threats.[24] In California, extraordinary

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21. As Commissioner Skinner remarked on the Panel: "The reason why California is more expensive than Texas is because of labor rules and regulations," while she also acknowledged that it's not twenty times more expensive in California.

22. *See* Cayla Mihalovich, *Floods exposed weaknesses in California prisons' emergency plans. They still aren't ready*, CALMATTERS (May 9, 2025) (describing "record-breaking rain and snow" in southern San Joaquin Valley, which put two prisons—California State Prison, Corcoran and the Substance Abuse Treatment Facility—at "serious risk of flooding").

23. OFF. INSPECTOR GEN., AUDIT OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION'S NATURAL DISASTER EMERGENCY PREPAREDNESS AND MITIGATION EFFORTS (AUD № 24–01) (May 2025).

24. *See, e.g.*, Martinez-Brooks v. Easter, 459 F. Supp. 3d 411 (D. Conn. 2020) (holding prison officials' failure to quickly release individuals at risk for COVID-19 was in violation of the Eighth Amendment); Williams v. Wilson, 590 U.S. 957 (2020) (denying government's request to stay a federal judge's order to release or transfer at-risk individuals out of FCI Elkton in Ohio); Torres v. Milusnic, 472 F. Supp. 3d 713 (C.D. Cal. 2020) (ordering transfer of medically vulnerable people from Lompoc, CA's prison complex to home confinement, after a Covid outbreak at the prison killed four incarcerated people and infected more than 1,000 others).

measures resulted in thousands of vulnerable individuals being released from prisons.[25] Climate-related risks may warrant similar interventions.

II. GOVERNANCE, TRANSPARENCY, AND INSTITUTIONAL POWER

A. The Role and Limits of Oversight

Effective reform depends on robust oversight mechanisms. In California, the OIG plays a central role in monitoring prison conditions. However, the OIG's authority has fluctuated over time. In 2011, the office was stripped of key powers, including the ability to conduct independent audits and issue reports without authorization by either the Governor or Legislature.[26] These powers were partially restored in 2019.[27]

Despite these restorations in authority, institutional resistance persists. It remains the case that while OIG is tasked with oversight of CDCR (including accessing and examining records, investigating misconduct, issuing recommendations, and monitoring CDCR's response), there are no provisions that require CDCR to implement OIG recommendations, allows OIG to issue binding directives, or gives OIG any sanctioning or budgetary authority.[28] Panelists noted that OIG reports detailing inefficiencies or inhumane conditions are not always prioritized or publicly disseminated. This dynamic undermines accountability. Without clear responses from CDCR, as well as the Governor and Legislature, implementing recommendations from OIG, policymakers and the public lack the information necessary to evaluate prison conditions and allocate resources effectively.

Significant data gaps further hinder transparency. Panelists shared that the federal Bureau of Statistics does not keep any statistics of deaths by heatstroke

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25. *See, e.g.*, In re Von Staich, 56 Cal. App. 5th 53 (2020) (ordering San Quentin State Prison to reduce prison population to 50 percent to remedy deliberate indifference to risk of substantial harm to inmates); Paige St. John, *California to release 3,500 inmates early as coronavirus spreads inside prisons*, L.A. TIMES (Mar. 31, 2020); Leila Miller, *Court orders Orange County sheriff to cut jail population in half to prevent spread of virus*, L.A. TIMES (Dec. 12, 2020).

26. OFF. INSPECTOR GEN., 2011 ANNUAL REPORT (Mar. 2012):

> As a result of legislation enacted in 2011, the duties of the OIG were revised. Senate Bill (SB) 78, SB 87, and SB 92 significantly reduced the OIG's budget; removed the peace officer status of OIG employees; removed the mandate that the OIG conduct audits and investigations of the California Department of Corrections and Rehabilitation (CDCR) and replaced it with the requirement that the OIG instead conduct policy and performance reviews of the CDCR (at the request of the Governor, the Senate Rules Committee, or the Speaker of the Assembly); removed the requirement that the OIG conduct quadrennial facility operation reviews and one-year warden follow-up audits; and codified the OIG's medical inspection program.

27. *About Us*, OFF. INSPECTOR GEN., https://www.oig.ca.gov/about-us/history/ (last visited: Mar. 23, 2026) ("Senate Bill 112 restored our authority to conduct discretionary audits of the Department of Corrections and Rehabilitation's policies, practices, and procedures. The bill also authorized our agency to monitor the department's process for reviewing and investigating inmate allegations of staff misconduct.)

28. Cal. Penal Code §§ 6125–6133.

or whether heatstroke was a contributing cause to deaths in prisons.[29] Inspector General Singh noted that while the OIG receives all death review reports, it does not independently maintain a centralized dataset of deaths by heatstroke. In addition, as previously mentioned, Singh described that temperature monitoring is inconsistent. The OIG has recommended automating temperature monitoring, but CDCR has not institutionalized this practice.

In the absence of data, constitutional violations become harder to identify, litigate, and remedy. It also makes it difficult to evaluate policy effectiveness and engage in informed public debate. Administrative opacity becomes a shield against accountability. Scholars have long emphasized the importance of data transparency in criminal justice reform.[30] In the context of climate change, such transparency becomes even more critical.

B. Budget Constraints and Policy Tradeoffs

California's fiscal constraints shape the contours of reform. Operating under a budget deficit, the state must balance competing priorities, including education, healthcare, and infrastructure. In this environment, prisons occupy an increasingly contested position. The high fixed costs of incarceration—now exceeding $100,000 per person annually[31]—render the maintenance of the carceral system fiscally burdensome. Such constraints limit the feasibility of large-scale prison investments. At the same time, they could create the necessary incentives to pursue cost-saving alternatives.

Skinner offered a counterintuitive insight: California's budget deficit may increase the state's openness to prison reform. When the state faces fiscal constraints, maintaining expensive prison infrastructure becomes harder to justify. Panelists emphasized that alternatives to incarceration are significantly cheaper than comprehensive prison overhauls. Re-entry programs, decarceration efforts, and community-based alternatives are not only more humane but are dramatically more cost-effective.[32] In a budget crisis, prisons—with their high fixed costs and diminishing returns—become newly vulnerable to scrutiny. Scarcity, in this sense, is not just a constraint—it is leverage.

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29. This tracks with a well-known epidemiological problem even outside prison: heat-related deaths are systematically undercounted. *See* Ariel Wittenberg & Chelsea Harvey, *Coroners ignore heat in many deaths. That's dangerous.*, POLITICO (Sep. 4, 2024); Kate Selig, *Heat kills thousands in the U.S. every year. Why are the deaths so hard to track?*, N.Y. TIMES (Aug. 23, 2024).

30. *See generally* Andrea C. Armstrong, *No Prisoner Left Behind? Enhanced Public Transparency of Penal Institutions*, 25 STAN. L. & POL'Y REV. 435 (2014).

31. Legislative Analyst's Office, *Criminal Justice Frequently Asked Questions: How Much Does It Cost to Incarcerate a Person?* (last updated Sep. 2025), https://www.lao.ca.gov/policyareas/cj/6_cj_inmatecost.

32. PEW CHARITABLE TRUSTS, POLICY REFORMS CAN STRENGTHEN COMMUNITY SUPERVISION AND SAVE MONEY (2018); BRENNAN CTR. FOR JUST., HOW MANY AMERICANS ARE UNNECESSARILY INCARCERATED? (2016).

Critically, however, whether that leverage translates into decarceration depends on who exercises it. The power to convert fiscal pressure into population reduction is dispersed. The Legislature controls the budget and can condition appropriations, incentivize prison closures, and expand sentencing reform. The Governor can propose decarceral budgets, direct CDCR to pursue population reduction strategies, and use clemency and administrative tools to reduce custody levels at the margins. Local prosecutors and judges shape the front end of the system through charging and sentencing decisions, while parole authorities influence the back end. Even courts—particularly in structural reform litigation—can impose population caps or conditions that make continued over-incarceration legally untenable. In short, fiscal crisis creates the conditions for change, but institutional actors must supply the decision to act.

Without political will, budget pressure can as easily produce cuts to rehabilitation, programming, or oversight, instead of dismantling the carceral infrastructure. Budget constraints create a rare alignment between economic efficiency and decarceral policy. Where policymakers seize the moment, they can drive meaningful reductions in prison populations and reorient the system toward less costly, community-based alternatives. Where policymakers do not, they risk entrenching an expensive system that persists in creating unconstitutional conditions.

C. Fragmentation and Institutional Competence

California's prison system operates through a bureaucracy that is both vast and insulated. CDCR oversees dozens of prisons, a medical system under ongoing scrutiny due to *Brown v. Plata*, and billions in annual spending. Responsibility for prison conditions is distributed across multiple actors, including CDCR, the OIG, the legislature, and the courts. This fragmentation leads to inconsistent policies and enforcement.

In addition, California's ballot initiative system plays a notorious role in shaping penal policy. Skinner reminded the audience of the contradictory 2018 ballot measures involving the death penalty: one sought to slow executions, the other to accelerate them.[33] The one accelerating executions passed.[34] Governor Gavin Newsom later imposed a moratorium,[35] but the episode illustrates the volatility of direct democracy in the penal sphere. Ballot propositions can generate conflicting mandates, oversimplify complex penal issues, and amplify punitive sentiment through emotional advertising rather than evidence. California's long history of voter-driven penal expansions—including the

33. *See Propositions 62 and 66: Death penalty*, CALMATTERS (Sep. 28, 2016, updated June 23, 2020).

34. Editorial Board, *Prop. 66 promised to speed up executions. It hasn't. We should abolish the practice*, L.A. TIMES (July 13, 2020).

35. Cal. Exec. Order No. N-09-19 (Mar. 13, 2019), https://www.gov.ca.gov/wp-content/uploads/2019/03/3.13.19-EO-N-09-19.pdf.

"Three Strikes" law[36]—demonstrates the risks of allowing penal policy to be shaped by polarized campaigns rather than neutral deliberation.

An audience member brought up yet another actor—the energy sector. Commissioner Skinner responded that California's grid reliability has significantly improved and that outages inside prisons are more likely attributable to internal maintenance failures, not broader grid instability. This distinction is critical, because if prisons experience heat-related failures due to internal infrastructure deficiencies—aging wiring, failing transformers, inadequate backup generators—then the responsibility lies squarely with CDCR. Prisons cannot attribute conditions to externalities when their systems fail internally.

III. THE FUTURE OF INCARCERATION AND RETHINKING PUBLIC SAFETY

A. Toward Climate-Responsive Corrections: Legislative Innovations

Recent legislative proposals in California—most notably Assembly Bills 1424 and 2499, both introduced in the 2025–2026 term—represent direct attempts to integrate climate adaptation into the governance of prison conditions. Unlike earlier efforts that addressed climate issues affecting prisons only indirectly (for example, through incarcerated labor in wildfire response[37] or general workplace safety regimes[38]), these bills conceptualize environmental exposure itself as a central feature of prison confinement requiring regulatory intervention. In doing so, they mark a significant doctrinal and policy shift: from reactive mitigation toward proactive climate resilience within carceral institutions.

1. A.B. 1424 and the Emergence of Climate Standards in Corrections

Assembly Bill 1424—known as the "Climate Justice in Prisons Emergency Response Act"—is notable for its attempt to translate general occupational and environmental safety principles into the prison context.[39] The bill would require CDCR to adopt a suite of climate-control and safety measures, including installing cooling systems, constructing shade structures, implementing temperature monitoring systems, and developing facility-specific emergency response and evacuation plans for extreme weather events.

In addition, the bill contemplates an institutional infrastructure for ongoing compliance: it mandates annual staff training on heat-related illness and creates a working group to oversee maintenance, implementation, and accessibility of

36. 1994 Cal. Stat. ch. 12 (AB 971); Three Strikes Sentencing Initiative, Prop. 184, Nov. 8, 1994 Gen. Election (codified at Cal. Pen. Code § 667(b)-(i)).

37. 2020 Cal. Stat. ch. 60 (AB 2147).

38. Anastasia Christman, *CalMatters: California Finally Approved Indoor Heat Rules. Why Were Prison Workers Excluded?*, NAT'L EMP. L. PROJECT (July 15, 2024).

39. Assem. Bill 1424, 2025–2026 Reg. Sess. (Cal. 2025).

climate-control measures. These provisions are significant. They are not only substantive, but they also recognize that climate risk is systemic, not episodic, and it requires continuous monitoring, training, and adaptation.

The bill also signals a move toward aligning prison conditions with Occupational Safety and Health (Cal/OSHA) standards, effectively challenging the longstanding assumption that prisons operate outside ordinary regulatory baselines. By incorporating or referencing external safety standards, the bill gestures toward a model in which prisons are treated as regulated working environments subject to minimum health protections, rather than exceptional spaces governed solely by constitutional mandates.

The fate of A.B. 1424 reveals the political and fiscal constraints of climate-responsive reform. The bill ultimately stalled in committee in January 2026[40] and did not become law, reflecting both budgetary pressures and institutional resistance to large-scale infrastructure mandates.[41] The bill's failure underscores a recurring tension: while climate risk in prisons is increasingly recognized, the costs of comprehensive mitigation—particularly retrofitting aging facilities—remain a substantial barrier to legislative enactment.

2. A.B. 2499 and the Turn to Data, Pilots, and Incrementalism

Where A.B. 1424 adopted a relatively comprehensive regulatory approach, Assembly Bill 2499 reflects a more incremental and technical strategy. The bill requires CDCR to implement cooling infrastructure in high-risk areas but places particular emphasis on data collection, transparency, and pilot programs.

This bill was recently amended to be called "Adriennes Act."[42] Adrienne Boulware was an incarcerated woman at Central California Women's Facility who died in July 2024 during extreme heat conditions, just months before her expected release.[43] Her death, along with the suffering and deaths of many others, has activated a broad coalition, including Legal Services for Prisoners with Children, California Coalition for Women Prisons, and Climate Justice Coalition to advocate for an end to extreme heat in prisons.[44]

Central to A.B. 2499 is the creation of a Temperature Monitoring and Data Transparency Pilot Program. This program would install digital sensors in

40. A.B. 1424, 2025–2026 Reg. Sess. (Cal. 2025) (died in Assembly Appropriations Committee Jan. 31, 2026), https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=202520260AB1424.

41. *See* Assembly Comm. on Appropriations, Analysis of A.B. 1424, 2025-2026 Reg. Sess. (May 7, 2025) ("Costs (General Fund) to CDCR, likely in the billions of dollars. CDCR preliminarily estimates costs of $10 billion to $20 billion for facility improvements . . . If Cal/OSHA regulations are approved, CDCR will likely also incur unknown but significant costs . . . ")

42. A.B. 2499, 2025–2026 Reg. Sess. (Cal. 2026) (as amended Apr. 13, 2026).

43. Hien Nguyen, *Climate Safety in the Carceral System: The Legacy of Adrienne Boulware*, LEGAL SERVS. FOR PRISONERS WITH CHILD. (Mar. 10, 2026).

44. Hearing on A.B. 2499 Before the Assem. Comm. on Pub. Safety, 2025–2026 Reg. Sess. (Mar. 24, 2026).

multiple prisons representing different climate zones and require the reporting of weekly and quarterly temperature data to oversight bodies, including the OIG and the Legislature. This approach reframes climate risk as a problem that can be quantified: by generating granular, real-time data, the state can both diagnose environmental harms and create accountability mechanisms for addressing them.

Rather than mandating systemwide retrofits, A.B. 2499 adopts a model of testing interventions in a limited number of facilities before broader implementation. This strategy demands much less fiscally and focuses instead on the state's lack of comprehensive data on temperature variation, infrastructure performance, and the effectiveness of potential interventions across diverse prison environments.

At the same time, the reliance on pilot programs raises concerns about delay and uneven protection. Symposium Panelists addressed this very issue. As previously mentioned, a pilot study was approved by the Legislature in 2025 to test cooling options in several prisons.[45] The estimated cost is $38 million, the pilot will be conducted at just three of the department's thirty-one prisons, and results of the test are not expected until mid-2029. By limiting initial implementation to a subset of facilities, pilots risk perpetuating disparities among incarcerated populations, particularly those housed in the hottest and most vulnerable regions. As one audience member commented, "Why do we need to run a pilot study when we already know the problem and how to fix it?" Pilot-based approaches may defer, rather than resolve, the underlying question of whether climate-safe conditions should be treated as a baseline entitlement rather than a subject of ongoing experimentation.

B. Public Perception and Political Narratives

Public perceptions of crime play a central role in shaping penal policy. However, these perceptions are often influenced by political rhetoric rather than empirical data. Professor Owusu challenged the pervasive assumption that the public demands harsh punishment and brutally austere prison conditions. Many communities—particularly those most affected by policing and incarceration—have vigorously voiced their support for decarceration, humane conditions, and investments in social services.[46] Panelists noted that political incentives frequently distort these diverse views. Politicians invoke crime spikes to justify punitive policies, even when such spikes are not supported by evidence.[47] This

45. Jeanne Kuang, *California prison system beginning $38M pilot project to test ways to keep cells cooler at 3 prisons*, ASSOCIATED PRESS (Sep. 4, 2025).

46. *See generally* BEYOND BARS: A PATH FORWARD FROM 50 YEARS OF MASS INCARCERATION IN THE UNITED STATES (Kristen M. Budd, David C. Lane, Glenn W. Muschert & Jason A. Smith eds., 2023).

47. *See* JONATHAN SIMON, GOVERNING THROUGH CRIME: HOW THE WAR ON CRIME TRANSFORMED AMERICAN DEMOCRACY AND CREATED A CULTURE OF FEAR (2007).

dynamic creates a feedback loop in which fear-driven narratives sustain mass incarceration.

The Panel also highlighted the role of race and class in shaping prison conditions. Owusu emphasized that incarcerated populations are disproportionately composed of individuals from marginalized communities, who often lack political power. As Owusu put it: "People would be more outraged if the people in these conditions were not minorities." Dr. Bertozzi added that the number of those incarcerated while in hospice and the elderly with dementia and in wheelchairs in prison should outrage the public.[48] These observations align with a large body of scholarship on penal politics, which finds that punitive public attitudes correlate strongly with racial bias and dehumanizing political messaging.[49] This structural neglect arises because incarcerated individuals are undervalued and their suffering generates limited public outrage—even under extreme conditions.[50] Climate change exacerbates these disparities, disproportionately exposing marginalized populations to environmental risks.

As Skinner put it plainly, the answer is population reduction in prisons. She suggested we can start with people who are already incapacitated. Owusu added that we have people who are not even convicted of anything incarcerated pre-trial (sometimes for years). Singh emphasized that we must pay special attention to the incarcerated with severe medical needs. Panelists agreed that we should focus on closing the most uninhabitable prisons, such as those most exposed to extreme heat, and on releasing those who pose very little risk of harm to the community.

CONCLUSION

California's prison system stands at a crossroads. Climate change has even more starkly exposed the state of emergency in California's carceral system and the inadequacy of existing reform efforts. The challenges raised by extreme heat and natural disasters are not isolated problems—they are the products of structural neglect, bureaucratic opacity, and a racialized punitive system. While incremental reforms may alleviate some harms, they cannot resolve the fundamental failure of a system that condemns so many.

California's prison-climate crisis is disastrous, but it is also an opportunity to act. As Commissioner Skinner noted, fiscal pressures can force

48. *See, e.g.*, Abdallah Fayyad, *America's prison system is turning into a de facto nursing home*, VOX (May 6, 2024).

49. *See* MICHELLE ALEXANDER, THE NEW JIM CROW: MASS INCARCERATION IN THE AGE OF COLORBLINDNESS (2010).

50. *See* Hannah Trumbull, Note, *Engulfed in Flames: Palliative Strategies for Prison Climate Adaptation*, 113 CALIF. L. REV. 269 (2025) (quoting an incarcerated man at San Quentin, who said "the response by the government officials regarding the well-being of its incarcerated population is to ignore the crisis as long as possible . . . until people start dying . . . I believe that most correctional officers do not think about how climate change affects the incarcerated population.").

reconsideration of long-standing assumptions. As Inspector General Singh made clear, the system's vulnerabilities are not mysteries—they can be documented and turned into predictable and fixable problems. And as Professor Owusu argued, public tolerance of suffering among the incarcerated is not inevitable but rather constructed, and therefore subject to change.

This Symposium Panel warned that California can continue to respond to climate change reactively, patching crises as they arise while maintaining an incarcerated population too large to protect. Or it can embrace a forward-looking model rooted in transparency, oversight, preparedness, as well as decarceration, racial justice, and a moral commitment to human dignity. Climate change is accelerating. California must decide whether its prison system will adapt through deliberate reform or through catastrophic failure. The panelists' insights provide a roadmap. The question remains whether the state will follow it.