

## MEMORANDUM



September 7, 2011

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To: Board of Directors  
California State Association of Counties

From: Paul McIntosh  
Executive Director

Re: **2011 Realignment: Constitutional Protections and Fiscal Structure**

The passage of the 2011-12 state budget was one for the history books. Under threat of losing legislative pay (Proposition 25), Assembly and Senate Democrats approved a state spending plan by a majority vote and Governor Jerry Brown signed that budget in advance of the end of the fiscal year. That budget includes considerable impacts on counties, primarily through realignment of significant responsibilities between the state and California counties. The 2011-12 state budget includes a \$6.3 billion realignment of responsibilities and revenues to counties for the operation of a variety of public safety and social services programs. Regrettably, this budget plan did not include the proposed constitutional amendment previously negotiated between the Administration and counties, leaving counties with a commitment from the Governor to pursue the constitutional protections, but no mechanism by which to achieve them. Absent a constitutional amendment, counties remain vulnerable to potential diversion of revenues dedicated to realignment, as well as the fiscal consequences of changes to program requirements and parameters. Without constitutional protections, the success or failure of realignment remains in the hands of the Legislature and the Governor.

At its meeting on August 11, 2011, the CSAC Executive Committee, after hearing an update on the realignment components of the 2011-12 state budget, directed staff to begin to explore all viable options for counties to achieve the constitutional protections promised by the Governor and necessary for counties to make realignment successful.

Staff endeavored to accomplish the Executive Committee's direction and met with a variety of campaign professionals to ascertain the options for a path forward. Considerations for the board are summarized below with additional background information following.

**SUMMARY: CONSIDERATIONS**

**The bottom line: Constitutional protections and dedication of revenues are fundamentally necessary to make realignment work. To achieve this outcome, voters must approve a constitutional amendment at the ballot at the earliest opportunity.**

**State Interest.** The Governor's 2011-12 budget anticipates a November 2012 ballot measure that includes a funding mechanism for education, as well as the realignment protections and dedication of revenues that counties had agreed to in SCAX1.1 earlier this year. The Governor has repeatedly reiterated his commitment to support constitutional protections for realignment, as have the Speaker and Senate President Pro Tem. Further, the state has a significant fiscal interest in ensuring that schools

receive additional funding and that counties do not make billions of dollars in mandate claims for realigned programs.

**Coalitions.** The Governor has not yet convened the "broad coalition" he has referenced in the press to determine what this ballot measure should include, in terms of both concept and actual language. The broad coalition, according to comments made by the Governor, would not just include local governments and public safety, but education, business, labor, agriculture, and others.

**Timing.** Time is running short. Consultants recommend filing language with the Attorney General for title and summary in early October. The longer the delay, the more costly signature-gathering becomes.

**Campaign Finance.** Counties alone do not have the financial wherewithal to raise the \$1-2 million to qualify a measure for the ballot alone, not to mention the additional \$2-3 million required to finance a campaign. Coalition-building is essential to ensure appropriate campaign funding and broad support.

**Mood of the Electorate.** Pollsters' outlook on November 2012 is not positive. With the bleak economic situation and general frustration with the state of affairs in Sacramento and in Washington DC, voters are not inclined to support much of anything. Potential funders of any initiative will be very aware of voters' attitudes and will be reluctant to spend their money on a losing campaign. This is where polling becomes an essential component of a successful ballot measure campaign.

## **SUMMARY: OPTIONS**

While our options to achieve constitutional protections are relatively limited at this point, they are not mutually exclusive.

**OPTION 1: Rely on the Legislature.** CSAC and stakeholders pushed hard for a legislative solution right up until the drop-dead date of scheduling a special election in 2011. However, negotiations with the Governor to secure the necessary Republican votes for SCAX1 1 (Steinberg) did not bear fruit. The subsequent passage of a majority vote budget plan further alienated Republicans. The atmosphere in the Legislature, after several events unfolded over the summer months, is about as partisan as anyone can recall.

Complicating matters is that 2012 is an election year for every member of the Assembly and one-third of the Senate (not to mention those who are seeking congressional or local offices). With so many members running for office, the environment in the Legislature may be no more conducive to an agreement on constitutional protections for counties than was experienced this year. However, there is significant time to work to build a coalition and secure legislative support for a county measure, a realignment-only measure. The Legislature could put something on the November ballot as late as summer 2012, but it is important to emphasize that a 2/3 vote is required to do so.

If successful in achieving legislative approval of a constitutional amendment, counties must also be prepared for the campaign that must follow, including raising the necessary funds to be successful.

**OPTION 2: The ballot initiative route.** There are several means to placing a matter on the ballot (see Option 1 above). If we must qualify a ballot measure with paid signature-gatherers, there are two primary options to consider. First, seeking a realignment-only measure with the support of the county family and stakeholders who share county principles. Second, forming a "broad coalition" with other public sector stakeholders that would maximize the strength of the coalition. It should be noted that both options will require the building of a coalition and that, in doing so, compromises on language of the ballot measure may need to be made to include items of importance to other members of the coalition.

**OPTION 2A:** A realignment-only ballot measure would focus on the reliability of funding and protections sought in SCAX1 1. It would not seek to raise additional revenues, but would provide that it is a constitutional obligation of the state to adequately fund the realigned programs. It is estimated that qualifying such a measure for the November 2012 election would cost about \$1-2 million in consultant (polling, messaging), legal (drafting), and professional signature-gathering costs. The longer into the fall counties wait to receive title and summary from the Attorney General, the higher the cost. To keep costs as low as possible, CSAC would need to submit title and summary to the Attorney General by early October, ensuring that signature-gathering could begin around the holiday season and be certified by April 2012. The cost of running a successful campaign is significantly more expensive, with total campaign costs dependent on voter outreach, funded opposition, and other measures on the ballot. To ensure this is truly a viable option, CSAC must be prepared to raise significant revenues – potentially \$2-3 million in addition to the \$1-2 million for qualifying the measure. CSAC should begin polling immediately to determine ballot measure content and message.

CSAC itself does not have the financial resources to successfully finance a ballot measure campaign. Please recall that CSAC dues are public funds that cannot be used for any aspect of a political campaign. CSAC's non-public funds are currently budgeted for programs and services that support our core mission of advocacy on behalf of California's counties.

There is opportunity to build a coalition around this effort that could ensure some funding from other interests, including the public safety community and labor<sup>1</sup>. The challenge is to balance the needs of those other interests with the promise of financial support.

**OPTION 2B:** Governor Brown continues to push for a "broad coalition" to support new revenues and constitutional protections for counties. As late as August 30, the Governor specifically mentioned business, agriculture, and labor as members of this broad coalition, "that means no significant body to jump up and down and stigmatize it." Recall that AB 114, the education trailer bill to the budget, expressly calls for a November 2012 ballot measure to provide additional dedicated funding to schools.

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<sup>1</sup> At the August 11 Executive Committee meeting, reviving the coalition around Proposition 1A (2004) was discussed. We do not anticipate that this coalition will actively support this measure. Cities are fully engaged in a legal battle with the state over redevelopment and city police have in fact advocated for additional resources from realignment to fund city impacts of AB 109.

The education community has been actively researching ballot measure strategies, as have other interests looking for new state revenue sources. It is not clear, yet, how various approaches fare with voters. Except to say, that is, that pollsters tell us that voters remain skeptical about new revenues without appropriate reforms<sup>2</sup>. They do not view education as a problem that can be fixed solely with more money.

The obvious risk is that by joining a broad coalition that is focused on seeking new revenues for education, in addition to the constitutional protections counties need, in this uncertain and difficult economic climate, the success of a county protection measure would be tied to the success of a new revenue measure.

**OPTION 3: The Nuclear Option.** CSAC has built a strong reputation over the past few years, as the state struggled with annual historic deficits, as a partner with the state willing to work to find solutions to budget problems that were mutually acceptable. That said, if realignment cannot be fortified with the constitutional protections counties need for success, counties could aggressively resist this transfer. This is particularly relevant with the social services side of realignment, where the increased shares of costs for programs would most likely be viewed as a violation of the mandate protections contained in 2004's Proposition 1A. Counties would be required to litigate the transfer after keeping careful data about new program costs. Such a case could take many years to complete, leaving counties with significant costs until a final decision is reached.

Further, there is a question as to whether the new responsibilities associated with managing the new offender population are in fact a cost shift under the same provisions of Proposition 1A. This issue would have to be litigated, as well, and is further complicated by the federal three-judge panel order to reduce the state's prison population. It cannot be overstated that litigation is fraught with risks while at the same time counties would incur the costs associated with the litigation. Taking an adversarial position with the Governor and the majority party is also a significant risk.

### RECOMMENDED NEXT STEPS

At this point, with such significant uncertainty about the Governor's broad coalition, the ability of the Legislature to place a measure on the ballot that protects counties, and voters' generally foul moods, it is strongly recommended that all options be kept open. This would require the following actions:

1. Continue to urge the Governor to build a coalition around a single measure that includes appropriate protections and dedication of revenue for counties.
2. Conduct polling and voter research to get a better understanding of voter priorities, the strength of the county position on a realignment-only measure, willingness to pass a revenue protection measure, and their acceptance of new revenues.

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<sup>2</sup> Two reform issues appear to dominate voters' moods – education and public pensions. Polling will be critical to gauge how to manage a successful campaign in the face of desire for reforms in those two areas.

**September 30, 2011:** Secretary of State's recommended deadline for submitting measures to the Attorney General for November 2012 ballot. Based on our experience, CSAC could submit a measure by mid-October and still have adequate time to safely collect signatures to qualify. NOTE: Once a measure is submitted, it cannot be amended without filing an entirely new measure (thus restarting the "clock" to collect signatures). CSAC must conduct all voter and political research and draft and finalize the measure in the next 6 weeks to meet the deadline.

**End of November/Early December:** Proponents allowed to begin signature gathering upon issuance of official "Title and Summary" prepared by Attorney General and LAO. NOTE: Once Title and Summary issued, proponents have 150 days to collect signatures. At this point, CSAC must be prepared to begin spending resources to begin paid signature gathering to keep this a viable option.

**April 20, 2012:** Secretary of State's recommended deadline to submit signatures to counties to qualify for November 2012 ballot.

**June 28, 2012:** Last day for Secretary of State to validate measures for November 2012 ballot.

**November 6, 2012: Election Day.**



# NEWS

From the Office of

## Brad Mitzelfelt

Vice-Chairman and Supervisor, First District  
San Bernardino County

FOR IMMEDIATE RELEASE  
September 27, 2011



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### Supervisors Approve Plan for County Supervision of State Convicts

SAN BERNARDINO – The San Bernardino County Board of Supervisors today approved a plan to implement a new state requirement that, starting Saturday, gives counties responsibility for thousands of state prison parolees as well as those convicted of “low-level” crimes in the future who will serve time in county jail instead of state prison.

“Our public safety leaders have been working for months on an effective plan to handle this population,” said First District Supervisor Brad Mitzelfelt. “This puts an additional strain on our overtaxed local jail system. However, based on the experience and professionalism of our county leaders, we are well prepared to address the situation while doing everything we can to keep the public safe.”

As a result of Assembly Bill 109, signed by Gov. Jerry Brown on April 4, 2011, the County Probation Department will be responsible for supervising certain state prisoners released on parole after October 1. In addition, newly convicted low-level offenders who would normally go to state prison will now be the responsibility of the county jail system.

The Probation Department expects to have up to 6,500 “Post Release Community Supervision” offenders added to its caseload over the next three years. The County is in the process of hiring more than 200 public safety personnel, including about 100 additional probation officers. In addition, 3,600 low-level offenders per year from San Bernardino County who would have gone to state prison must now remain in the local jail system.

Offenders in the program must be classified as non-violent, non-serious and non-sex offenders. However, that applies only to the current offense. A significant portion of the “low-level” offenders have significant, sometimes violent, criminal histories. The County jail system is at or near its capacity of 6,100 inmates and only serious offenders are incarcerated there.

The county Probation Department and Department of Behavioral Health have an array of programs to improve the prospects of rehabilitation. Those programs include three Day Reporting Centers where released inmates will be supervised and provided with a variety of classes and treatment for substance abuse, mental health and medical issues. The County Probation Department has a 10 percent recidivism rate, compared to nearly 70 percent for state offenders.

Supervisor Mitzelfelt on Monday hosted a public forum in Victorville where top county officials explained to the public how the plan would be implemented.



**San Bernardino County**  
**2011 Public Safety Realignment Plan**  
**Assembly Bill 109**

Produced by the San Bernardino County  
Community Corrections Partnership  
Executive Committee

**September 27, 2011**

**Michelle Scray**  
**Chief Probation Officer**  
**Chairperson**



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- Budget
- Day Reporting Center Flow Chart – Treatment Services
- Memo – Working Group’s signatures of approval for recommendation

## **SUMMARY OF AB 109**

On April 4, 2011, Governor Edmund G. Brown signed Assembly Bill 109 (AB 109), The Public Safety Realignment Act, which created a significant change to the California correctional system. The focus of AB 109 is on the California Department of Corrections and Rehabilitation (CDCR) parolees, who have been classified as “low-level” offenders. The bill also created a provision for the adjudication of parole violations at the local level, rather than returning these offenders to the prison system. Essentially, the realignment displaces responsibility for the supervision of these offenders from the state to the local level. This is accomplished by the release of those deemed to be low risk offenders by CDCR. Parolees categorized as low risk offenders are titled “Post Release Community Supervision” or PRCS offenders, after their current offense is determined to be non-serious, non-violent, and non-sex related. Realignment dictates that they be released for supervision to the local county where they were originally sentenced. Additionally, the Penal Code has been modified to prevent PRCS offenders from being sent to state prison for violation of their terms and conditions of parole/probation. The legislation also requires that best practices be utilized for treatment and rehabilitation.

Assembly Bill 109 also changes the law to realign certain other responsibilities for the less serious adult offender from state jurisdiction to local jurisdiction. Funding for the realignment has been appropriated through the state budget process for Fiscal Year 2011-2012. However, the ultimate goal is to have a guaranteed dedicated funding stream for realignment costs beyond the current year.

### **Key Provisions of the 2011 Public Safety Realignment**

AB 109 mandates that the state’s thirty three (33) prisons reduce the number of inmates to 137.5% percent of intended capacity by May 24, 2013, as ordered by the United States Supreme Court. Provisions of the 2011 Realignment are funded by a dedicated portion of sales tax revenue and Vehicle License Fees (VLF) as outlined in the trailer Assembly Bill 118 and Senate Bill 89. All provisions in Assembly Bill 109 are to take effect on October 1, 2011.

## **Local Planning Process**

AB 109 expands the role and purpose of the Community Corrections Partnership (CCP), which was previously established in Penal Code 1230. It requires the CCP to develop and recommend to their County Board of Supervisors an implementation plan for the 2011 Public Safety Realignment and create an Executive Committee from the CCP members comprised of the following:

- Chief Probation Officer (Chairperson)
- Chief of Police
- Sheriff
- District Attorney
- Public Defender
- Presiding Judge of the Superior Court
- A representative from either the County Department of Social Services, Mental Health, or Alcohol and Substance Abuse Programs, as appointed by the County Board of Supervisors. (In San Bernardino County, the Assistant Executive Officer of Human Services is on the Executive Committee.)

## **Post Release Community Supervision (PRCS) Population**

During the first year following implementation of the realignment provisions, from October 1, 2011 through June 30, 2012, the San Bernardino County Probation Department anticipates receiving 2,500 PRCS offenders for supervision. During the second and third years following implementation, it is expected that this number will increase to between 5500 and 6500 PRCS offenders. Statistics provided by CDCR indicate that these offenders were committed to state prison for offenses categorized as follows:

- 44% Drug Offenses
- 41% Property Offenses
- 14% Other
- .72% Sex Offenses (Failure to Register)

The San Bernardino County Probation Department currently supervises 19,000 adult felony offenders. Their convictions by type of offense are:

- 38% Drug Offenses
- 29% Serious and/or Violent Offenses
- 16% Sex Crimes
- 14% Property Crimes
- 3% Other

It is critical to recognize that although these PRCS offenders are deemed “low risk” due to their committing offense, CDCR classification gives no consideration to gang involvement, prior criminal history, prior violence, etc. It is expected that some of these PRCS offenders will present a high risk for violence and reoffending, and will represent a risk to public safety that cannot be immediately observed by only their status of classification as a PRCS offender.

### **Local Custody**

In addition to the release of prisoners to local communities for supervision, AB 109 allows non-violent, non-serious and non-sex offenders to serve their sentence in a county jail facility instead of the state prison system. According to state officials, no inmates currently in prison will be transferred to county jails. However, newly sentenced offenders who will serve time in jail are:

- Non-violent offenders
- Non-serious offenders
- Non sex offenders

To house this new classification of offenders in local jails without disruption to jail operations or release of those normally held in the jail population, local custody and supervision efforts must include:

- Alternative custody options for county jails
- Home detention for low-level offenders
- Local jail credits that mirror prison (day-for-day)

No inmates currently in prison will be released early although discussion on this issue is still ongoing as AB 109 does not appear to reduce the number of prisoners to the United States Supreme Court ordered capacity. All current inmates in prison will continue to serve their sentence in state prison. It is hoped that the court ordered mandate can be achieved through attrition levels and AB 109 provisions.

Felons convicted of serious, violent or sexual crimes against children, will continue to be sentenced to prisons and required to register as a sex offender pursuant to Penal Code 290.

- Prior or current serious or violent felonies as described in Penal Code 1192.7 9(c) or 667.5(c).

Furthermore, other specified crimes [contained in approximately sixty (60) additional exclusions from the “low-level” definition] will still require a state prison commitment and housing in the prison system.

### **Contracting Back**

AB 109 also provides that counties may “contract back” with the state to send local offenders to state prison as an incarceration option. However, the cost is extremely high and would exceed available funding. Contracting back does not extend to parole revocations.

It is estimated that San Bernardino County will receive approximately 300 PRCS offenders effective October 1, 2011. Within three years we will reach a capacity of approximately 5,500 to 6,500 PRCS offenders.

### **Post Release Community Supervision – County Level vs. State Level**

The State of California Department of Corrections and Rehabilitation will continue to have jurisdiction over offenders placed on state parole prior to the October 1, 2011 implementation date. The local jurisdictions will supervise the non-violent, non-serious and non-sex offenders that are released from prison after October 1, 2011. PRCS offenders released from prison and supervised by the local counties will include:

- Current non-violent offenders (irrespective of priors)
- Current non-serious offender (irrespective of priors)

Inmates released after serving a life term (i.e., murderers, violent sex offenders and third strikers) will be returned to state prison on revocations if ordered by the Board of Prisons. State Parole will continue to supervise the following offenders:

- “Third Strikers” - individuals who were committed to state prison and whose third strike was for a non-violent offense. They will remain under the supervision of State Parole
- Offenders convicted of a serious or violent felony as described in Penal Codes 1192.7(c) or 667.5(c)
- High risk sex offenders as defined by CDCR
- Offenders classified as Mentally Disordered Offenders (MDO)
- Offenders on parole prior to October 1, 2011

## **Parole Revocations**

The parole revocation process will continue under the Board of Parole Hearings until July 13, 2013. However, parole revocations will be served in county jails, not to exceed one hundred and eighty (180) days.

Contracting back to the state for revocations is **not** an option. Only persons previously sentenced to a term of life can be revoked and returned to state prison. For the remaining low-level offenders on parole after implementation of realignment, parole has the authority to discharge the parolee if no violations have occurred.

AB 109 also provides the following under Post Release Community Supervision (PRCS):

- Authorizes offenders to be incarcerated in the county jail for parole revocations for up to one hundred and eighty (180) days.
- Authorizes the Probation Officer to incarcerate a PRCS offender in a local county jail for up to 10 days without a court hearing.

## **SAN BERNARDINO COUNTY PROBATION DEPARTMENT**

For the past four years, the San Bernardino County Probation Department has successfully utilized a Day Reporting Center (DRC) concept for juvenile offenders in the San Bernardino, West Valley and Victorville areas. The San Bernardino County Probation Department has incorporated the recognized Evidence-Based National Curriculum Training Institute (NCTI), which includes effective interventions, validated tools and instruments, motivational interviewing techniques and Cognitive Behavior Therapy (CBT) interventions on a targeted population of juvenile offenders and at risk minors. The San Bernardino County Probation Department plans to expand and model these types of Evidence-Based supervision practices for the adult PRCS population.

In addition, the department will continue to utilize Evidence-Based practices implemented via Senate Bill 678, "Recidivism Reduction Program." The goal of the program is to reduce prison incarceration and recidivism by instructing felony adult probationers in Evidence-Based practices (i.e., motivational intervention, cognitive restructuring, etc). Reducing recidivism will allow the State of California to reduce overcrowding at the state prison, reduce the cost of incarcerations, enhance public safety and provide PRCS offenders with a variety of alternatives.

Presently, the San Bernardino County Probation Department supervises approximately nineteen thousand (19,000) adult offenders. Probation Officers are trained to have a broad knowledge of the criminal justice system, their roles, relationships, and responsibilities to the courts, community, and the offenders under their supervision. The department has a close working relationship with the local law enforcement agencies and community organizations that provide a variety of services to adult and juvenile probationers. Currently 70% of Probation Officers are armed and are trained in a continuum of use of force, arrest techniques, searches and seizure, and legal requirements. In addition, these officers are trained in various types of treatment services including motivational interviewing and cognitive restructuring.

### **Systematic Interventions**

Research supports that when Evidence-Based practices are firmly embraced, implemented, and properly monitored by a correctional agency and combined with systematic interventions, the

results are a reduction in recidivism. The San Bernardino County Probation Department will establish AB 109 objectives for systematic interventions with the PRCS offenders. The basis for this model will be to effectively assess the risks and needs of each offender and supervise them accordingly. An offender who is likely to recidivate or commits a violent offense would be classified high risk and placed in an enhanced level of supervision or on a specialized caseload. The Probation Department's specialized caseloads consist of a Mental Health Unit, Domestic Violence Unit, Sex Offender Unit, and Gang Unit. Each of these existing units will be expanded to accommodate these PRCS offenders. In addition, probation officers will be assigned to each law enforcement agency in the county with a high risk caseload from that city. The department will collaborate with municipal law enforcement agencies and the Sheriff's Department to provide enhanced levels of supervision, searches, etc. for this high risk population.

The North Pointe Institute for Public Management's "Correctional Offender Management Profiling for Alternative Sanctions" (COMPAS) assessment is an Evidence-Based tool that identifies the needs and risk level of the offender and will be part of the overall classification and supervision plan. This assessment instrument allows for effective identification of those at the greatest risk to reoffend or commit violent offenses and will facilitate appropriate classifications for supervision.

### **Day Reporting Centers**

In addition to community supervision, the Probation Department plans to establish three Day Reporting Centers (DRC) for adults in each of the geographic areas of Central Valley, West Valley, and High Desert. The DRCs are a best practice in the field of probation for providing treatment and rehabilitation services, and this concept meets the intent and requirements of the AB 109 legislation (flow chart attached).

The DRC services will ensure accountability and provide the offender with a "one stop concept" that offers a variety of comprehensive treatment services to assist them in transitioning successfully into their communities. Offenders will have the opportunity to access resources that will assist them in substance abuse, improve health issues, finding and maintaining employment, and resources for family services. Probation Officers will also be housed at the DRC for additional enforcement of probation/parole terms.

The Probation Officers at the DRCs will be responsible for coordinating all of the services and will ensure that each offender complies with his/her terms and conditions. The Probation Officers will work closely with the Workforce Development Department to provide PRCS parolees/probationers with job readiness, employment referrals, and vocational training to prepare them to interview for jobs. Representatives from the following county agencies will also be located at the DRC:

- Behavioral Health
- Transitional Assistance Department
- Workforce Development Department
- Public Health
- Department of Aging and Adult Services (On a referral basis)
- Mexican Consulate (On a referral basis)

Community based organizations and contract agencies will also be utilized to augment the DRC resources. The DRC will include the following program components with additional services added as the program develops:

- Orientation upon release from prison or County jail
- Classification via COMPAS to assess risk and needs
- The development of a comprehensive treatment plan
- Daily check-in with the Probation Officer and the DRC staff for services
- Individualized and group counseling
- Substance abuse and alcohol testing
- Anger management
- Domestic violence fifty two (52) weeks of anger management
- Cognitive and Life Skills Development
- Parenting and family reintegration
- Health screening
- Educational Services/GED preparation
- Budgeting and money management
- Vocational training

- Probation/PRCS to Work Program (Workforce Development)
- Discharge planning
- Aftercare
- Referrals to other agencies

## **GRADUATED SANCTIONS**

The most commonly used graduated sanctions in the field of corrections are classified into three (3) strategies: incarceration, community corrections and intermediate sanction programs. Incarceration refers to jails and prisons and community corrections are defined as a variety of programs that are outside of the jails or prison. The objective of intermediate sanctions is to prevent the offender from violating their terms and conditions and ultimately reduces recidivism.

Intermediate Sanctions Programs include a variety of punishment options between probation and imprisonment. These programs are also referred to as intermediate penalties and intermediate punishments. The intermediate sanctions include:

- Day Reporting Center programs
- Assignment to intensive supervision programs
- State Fire Camp
- Home confinement with or without electronic monitoring or Global Positioning System (GPS)
- Monetary penalties (fines and restitution)
- Compulsory labor in the form of community service

The San Bernardino County Probation Department in collaboration with the San Bernardino County Sheriff's Department will have available the following intermediate sanctions:

### **Day Reporting Centers (DRC)**

The offender will be required to report on a daily or scheduled basis for supervision and to take advantage of resources and services. The DRC is a "one stop" program, where the Probationer/PRCS will have available structured resources such as mental health, physical health, education and vocational training.

## **Flash Incarceration**

AB 109 allows the Probation Officer to incarcerate a Probationer/PRCS for violations of their terms and conditions, for a maximum of ten (10) days, without a revocation hearing.

## **Home Confinement and House Arrest**

Requires offenders to remain under curfew in their homes for a specified number of hours per day or week. They will usually be permitted to leave their home for approved activities such as employment or activities approved by the Probation Officer.

## **Electronic Monitoring (EM) and Global Positioning System (GPS)**

Based on the offenders' compliance, they may be required to be monitored by EM or GPS. It is usually used in combination with home confinement, to ensure compliance.

## **Work Release**

The offenders who are committed to the county jail for violations of their Probationer/Parole terms and are released earlier to their communities may be required to complete the remainder of their sentence by participating in the "Work Release Program" at the Glen Helen Rehabilitation Center. The Sheriff's Department will be working closely with the Probation Department to ensure that the Probationer/PRCS that are scheduled to participate adhere to the rules and report as directed.

## **Community Service**

Community Service is involuntary labor on the part of the offender, in lieu of incarceration. An offender will perform labor for a certain length of time at charitable agencies or other designated locations. The Probation Department will also be working closely with a number of community agencies, including (i.e., Habitat for Humanity and the Forest Service).

## **Probation Apprehension Team (PAT)**

According to the information provided by the CDCR Parole Department, a substantial number of parolees abscond from supervision and can pose a threat to public safety. To ensure the

accountability of the offender, the PAT unit will track and apprehend those offenders that have disappeared from Probation/PRCS supervision.

## **REVOCATION PROCESS**

The revocation process presently being utilized by the San Bernardino County Probation Department for probationers will remain the same when dealing with parole/PRCS violations. The Judicial Council of California (Administrative Office of the Courts) is in the process of developing a standard “Criminal Realignment Post Release Supervision Revocation” procedure. When the revocation procedure and forms have been approved, they will be utilized by counties throughout the state starting on October 1, 2011.

According to Assembly Bill 109, the maximum amount of time a parolee can be detained in the county jail for technical violations of their parole is one hundred and eighty (180) days.

## **CONTRACTING FOR SERVICE PROVIDERS**

The San Bernardino County Probation Department will be selecting a variety of community based treatment providers for needed services for the PRCS. The treatment components will be housed at the DRC in San Bernardino, West Valley and Victorville areas. They will provide the emphasis in mental health, public health, substance abuse, referral for education, job preparedness, job placement and vocational training.

The Community Based Organizations must demonstrate the use of Evidence-Based treatment practices that have been successful in reducing recidivism. The Evidence-Based programs must have indicators throughout their continuum of services that have measurable outcomes. Mental health providers will need to do the following:

- Provide assessments and develop a treatment plan
- Make referrals for treatment
- Follow-up to chart the progress of the offender

Substance abuse services will include an assessment tool that will identify the offender’s level of abuse and need for services. Educational, vocational and employment readiness services could be

provided by adult education institutions and local community colleges. Offenders will be referred for educational classes and vocational training as a part of the overall case plan.

In an effort to improve the delivery of services and programming, Probation staff will evaluate whether the services are meeting the needs of the offender.

## **SHERIFF'S DEPARTMENT**

### **Issue Statement**

The realignment of state prisoners and the shifting of parole violator housing to the county jails will logically increase San Bernardino County Sheriff's Department (SBSD) costs associated with housing, processing, feeding, and out-of-custody supervision. There will also be increased inmate health costs as the average length of stay for our inmate population increases.

### **State Parole Revocation Hearings**

The Board of Parole Hearings currently conducts parole hearings both at the California Institution for Men in Chino (CIM) and at the Sheriff's West Valley Detention Center (WVDC). Under AB 109, parole hearings will no longer be held CIM. All area parole revocation hearings will be conducted at the WVDC, and incarcerations for parole violations will be served in the county jail. The Board of Parole Hearings estimates that there may be as many as three hundred and thirty (330) revocation hearings a month at WVDC during the first year of realignment.

Currently, the state reimburses the department for every hearing at forty one (41) dollars per hearing. This funding is inadequate for the amount of resources expended to ensure the safety of the hearing officers, the public, and the security of the inmates. Additionally, this revenue source will terminate on October 1, 2011 when AB 109 takes effect.

The Board of Parole Hearings and staff administering the parole hearings at WVDC recommended staffing enhancements.

### **Sentenced Inmate Management Program**

The retention of approximately eight thousand three hundred (8300) additional inmates per year within the jurisdiction of the Bureau of Detention and Corrections by virtue of AB 109 creates an

enhanced need for alternative custody programs such as educational, vocational, and counseling diversion; as well as work release programs, so that qualified violators can serve their sentences in an out-of-custody setting. The establishment and administration of these programs is vital for both inmate population management and the reduction of recidivism rates within the county.

Therefore an expansion of both the mission and the staffing of the current “Work Release” program are warranted. This unit will become responsible for not only revising and administering the work release and electronic monitoring programs already in operation, but will also be responsible for initiating and administering other alternative custody programs such as county parole, as well as voluntary work release programs (such as weed abatement and flood channel clean-up) as authorized by PC 4024.2.

### **DISTRICT ATTORNEY’S OFFICE**

The implementation of AB 109 will also have an impact on the District Attorney’s Office. In 2010, 7107 defendants were sentenced to state prison. If AB 109 had been in effect last year, 4300 defendants would have gone to County jail. Because we have virtually no open jail beds, and assuming similar sentencing practices, inmate management will result in 4300 releases from the jail of charged or convicted felons. While the expectations of this plan are to substantially improve on the state recidivism rate of 70%, even the most effective rehabilitation plan cannot eliminate recidivism. The criminal cases generated by a new population of felons who are now out of custody will have an immediate impact.

The District Attorney’s Office has lost staffing in the last three fiscal years and has no current capacity to handle these additional cases. Additional staff are needed to process cases and handle victim notification under Marsy’s Law in each of the three geographical regions. This will permit the District Attorney to meet the anticipated demands of these additional cases.

### **PUBLIC DEFENDER**

The Public Defender requests funds to fulfill their constitutional mandates to the additional clients. The funds would be used to fund the positions of one attorney, one social worker, and one Office Assistant II. Present staffing levels enable the Public Defender to devote one

attorney to this project without sacrificing current levels of service to our remaining mandated clients. The current plan calls for the construction of two separate hearing rooms at the Sheriff's facility. Not having an attorney to staff each hearing room would result in a substantial slowdown of cases being heard which would result in greater inefficiency of the overall program. It will also result in a caseload total for a single attorney which would be significantly higher than our current office standards.

The social worker will serve as the "point person" for these clients and will be responsible for assisting our clients to receive the necessary services to successfully complete the program. The social worker will meet with clients and their families outside the courtroom to assist with their compliance with the program which is a function an attorney cannot perform. The social worker will also be able to supervise two to four interns from local universities which will greatly enhance the level of service our office can provide to these clients. The use of our office social worker and interns will assist the overall success rate of the AB 109 program by providing services to our clients and their families which may not be readily available at the DRCs or will allow the other AB 109 employees at the DRCs to spend more individual time with higher need clients. Such service will increase the success rate of the clients in the AB 109 program by decreasing recidivism and improving the safety of our community.

## **STAFFING AND COST OF AB 109**

San Bernardino County is scheduled to receive an allocation of \$25,785,600 for the Fiscal Year 2011-2012 that begins on October 1, 2011 (nine months of funding). In addition, there is one time funding for start up costs in the amount of \$1,819,475. The Probation Department's increased personnel cost is approximately \$11,731,755, and the Sheriff's Department increased cost is approximately \$3,903,668. The District Attorney's Office increased cost is approximately \$895,305, and the Public Defender's increased cost is approximately \$202,542. Other county agencies involvement will cost approximately \$681,754. Equipment, treatment services, infrastructure, contract services, and supplies are estimated to cost approximately \$10,110,051.

## CONCLUSION

The Public Safety Realignment Act, AB 109, mandates the most sweeping change to the state's correctional system in a generation. It presents significant challenges to local jurisdictions that can only be resolved through a dynamic expansion of services on the part of the Probation Department, Sheriff's Department, and other county agencies.

We need to be clear that realignment dramatically shifts supervisory and custodial responsibilities for a criminal population that would have been, in the past, committed to state prison.

There is some solace in the concept that the offenders being directed to our local jurisdictions are "nons"- non-violent, non-serious, and non-sex offenders. However, as this plan has pointed out, CDCR classification of these offenders is based solely upon current convictions and offenses. It is common for persons committed to state prison for a less serious offense to have significant, lengthy criminal histories that may encompass more serious or violent crimes; and to have a history of habitual non-compliant conduct and be resistive to community corrections interventions. The San Bernardino County criminal justice system should remain vigilant to potential increases in crime rates or incidents of criminal conduct that are the corollary of the re-introduction of these offenders to our communities.

However, San Bernardino County has a significant advantage toward success with the AB109/PRCS population. The Probation Department has a progressive supervision system already in place to address probationers. Probation Department supervision systems and rehabilitative programming simply need to be expanded and modified for this new, unique population of offender. The Sheriff's Department has always enjoined with the Probation Department in a unique partnership, and now stands poised to deliver suitable custody options for PRCS failures. Probation also maintains a unique collaboration with county social service agencies that can provide effective programming.

Implementation of this new system of programs will not be without its challenges. In the event of on-going significant compliance problems, absent re-offense, there are scant resources for consequences, and prison housing is not an option. Moreover, supervision and custody responsibilities will come at a significant cost. Realignment funds are provided for one year, and

the commitment for continued state funding is speculative. Pursuit of a reliable and ongoing funding stream must be a priority goal.

Lastly, our plan for development of a hybrid supervision system for realignment was based upon statistical data only available from CDCR. Probation and the Sheriff's Department believe in our ability to effectively monitor this criminal population, but that is predicated on the accuracy of those statistics. It may be necessary to make changes or re-tool the PRCS program should offender numbers or criminal propensities differ from those anticipated in this plan.

The Community Corrections Partnership Executive Committee is cautious about speculating the outcome of the parole realignment due to the significant concerns on the types of offenders, the number of offenders, budgetary issues affecting county departments, and the potential for an increased crime rate. Despite these concerns, the Community Corrections Partnership Executive Committee has developed the best possible parole realignment plan for San Bernardino County.



## Attachment "E" (Budget Adjustments)

<u>Description</u>	<u>Accounting Codes</u>	<u>Amount</u>
<b>Probation Department:</b>		
Salaries and Benefits	AAA-PRB-PRB-100-1010	\$11,731,755
Services and Supplies:		
Operating Expenses	AAA-PRB-PRB-200-2000	\$330,496
Safety Equipment	AAA-PRB-PRB-200-2030	\$247,996
Inventorial Equipment	AAA-PRB-PRB-200-2125	\$1,627,145
Security	AAA-PRB-PRB-200-2444	\$199,200
Professional and Specialized Services	AAA-PRB-PRB-200-2400	\$408,226
Other Professional Services	AAA-PRB-PRB-200-2445	\$300,000
ISD – Systems Development	AAA-PRB-PRB-200-2450	\$80,000
Vehicle charges	AAA-PRB-PRB-200-2925	\$488,988
Other Charges:		
Facility Costs	AAA-PRB-PRB-300-3000	\$1,770,000
Public assistance – incentives	AAA-PRB-PRB-300-3205	\$190,000
Prepaid cards	AAA-PRB-PRB-300-3206	\$60,000
Transportation	AAA-PRB-PRB-300-3210	\$50,000
Indigent emergency shelter	AAA-PRB-PRB-300-3235	\$1,800,000
Fixed Assets:		
Equipment	AAA-PRB-PRB-440-4040	\$100,000
Vehicles	AAA-PRB-PRB-450-4050	\$2,538,000
Transfers Out:		
Salaries and Benefits - Transfers out	AAA-PRB-PRB-540-5010	\$681,754
Total Appropriation		<u>\$22,603,560</u>
Revenue:		
State Realignment Funds	AAA-PRB-PRB-8700	<b>(\$22,603,560)</b>
<b>Sheriff/Coroner/Public Administrator:</b>		
Salaries and Benefits		
Regular Salary	AAA-SHR-SHR-100-1010	\$1,440,168
Overtime	AAA-SHR-SHR-100-1035	\$144,024
Services and Supplies		
Special Department Expense	AAA SHR SHR 200 2135	\$1,000,000
Food	AAA SHR SHR 200 2070	\$700,000
Pharmacy	AAA SHR SHR 200 2850	\$269,476
General Maintenance/Structure	AAA SHR SHR 200 2870	\$350,000
Total Appropriation		<u>\$3,903,668</u>
Revenue:		
State Realignment Funds	AAA-SHR-SHR-8700	<b>(\$3,903,668)</b>
<b>District Attorney:</b>		
Salaries and Benefits	AAA-DAT-DAT-100-1010	\$895,305
Revenue - State Realignment Funds	AAA-DAT-DAT-8700	<b>(\$895,305)</b>
<b>Public Defender:</b>		
Salaries and Benefits	AAA-PBD-PBD-100-1010	\$202,542

## Attachment "E" (Budget Adjustments)

<u>Description</u>	<u>Accounting Codes</u>	<u>Amount</u>
Revenue - State Realignment Funds	AAA-PBD-PBD-8700	(\$202,542)
<b>Public Health:</b>		
Salaries and Benefits	AAA-PHL-PHL-100-1010	\$77,288
Salaries and Benefits - Transfers In	AAA-PHL-PHL-541-5011	(\$77,288)
<b>Behavioral Health:</b>		
Salaries and Benefits	AAA-MLH-MLH-100-1010	\$349,824
Salaries and Benefits - Transfers In	AAA-MLH-MLH-541-5011	(\$349,824)
<b>Workforce Development:</b>		
Salaries and Benefits	SAC-JOB-JOB-100-1010	\$157,554
Salaries and Benefits - Transfers In	SAC-JOB-DJJ-541-5011	(\$157,554)
<b>Human Resources:</b>		
Salaries and Benefits	AAA-HRD-6000-100-1010	\$97,088
Salaries and Benefits - Transfers In	AAA-HRD-6000-541-5011	(\$97,088)

# Attachment "F" (New Positions)

Classification	# of positions	Salary Range	Salary Range Amount	Salary and Benefit Range Amount (Estimated)	Representation Unit
<b>Public Defender:</b>					
Deputy Public Defender IV	1	82	\$107,744 - \$137,904	\$141,145 - \$180,654	Attorney
Social Service Practitioner	1	54	\$53,164 - \$67,891	\$73,898 - \$94,368	Professional
Office Assistant II	1	27	\$27,560 - \$35,131	\$42,718 - \$54,453	Clerical
<b>Total Public Defender</b>	<b>3</b>				
<b>District Attorney:</b>					
Deputy District Attorney IV	3	82	\$107,744 - \$137,904	\$141,145 - \$180,654	Attorney
Office Assistant III	6	31	\$30,368 - \$38,708	\$46,159 - \$58,836	Clerical
<b>Total District Attorney</b>	<b>9</b>				
<b>Behavioral Health Department:</b>					
Alcohol and Drug Counselor	3	43	\$40,664 - \$51,958	\$60,996 - \$77,937	Administrative Services
Social Worker II	3	47	\$44,886 - \$57,200	\$65,085 - \$82,940	Administrative Services
<b>Total Behavioral Health</b>	<b>6</b>				
<b>Public Health Department:</b>					
Health Services Assistant I	1	27	\$27,560 - \$35,131	\$42,718 - \$54,453	Technical and Inspection
Nurse Practitioner	1	Group 5	\$64,105 - \$80,433	\$86,542 - \$108,585	Contract
<b>Total Public Health</b>	<b>2</b>				
<b>Workforce Development Department:</b>					
Workforce Development Specialist	3	43	\$40,664 - \$51,958	\$60,996 - \$77,937	Contract
<b>Total Workforce Development</b>	<b>3</b>				
<b>Human Resources Department:</b>					
Human Resources Officer I	1	65	\$67,558 - \$86,320	\$99,986 - \$127,754	Exempt
<b>Total Human Resources</b>	<b>1</b>				
<b>Total Number of New Positions</b>	<b>189</b>				

(\* ) New positions that are pending completion of classification review. (Of the two new Probation Division Director II positions, one has completed classification review and one is still pending)

Note: Contract positions are not subject to classification review.



**Attachment "G" (Fixed Assets)**

<b>Description</b>	<b>Number Requested</b>	<b>Cost per Unit</b>	<b>Total Cost</b>
<b>Probation Department:</b>			
Vehicles	94	\$27,000	\$2,538,000
Metal Detectors	3	\$10,000	\$30,000
Phone Switch	3	\$7,000	\$21,000
SB 48 Port (network switch)	3	\$7,000	\$21,000
RC 48 Port (network switch)	2	\$7,000	\$14,000
VV 48 Port (network switch)	2	\$7,000	\$14,000
<b>Total Fixed Assets for Probation</b>			<b>\$2,638,000</b>

