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AB 109 Implementation

The First Year

**How Four California
Counties Met the
Challenge of the 2011
Public Safety
Realignment in Their
Communities**

IMPLEMENTING AB 109

How Four California Counties Met the Challenge of the 2011 Public Safety Realignment in Their Communities

INTRODUCTION

In the Spring of 2011, the California Legislature passed Assembly Bill 109 (AB 109) which provided for the realignment of funding and supervision for certain low level offenders, adult parolees, and juvenile offenders from state prisons and institutional facilities to the local jurisdiction i.e., County Probation and Sheriff departments. Aside from cost savings to the State budget, this realignment is also intended to make available services and supports to facilitate rehabilitation and assimilation into the community thus, reducing recidivism and the restart of the incarceration costs on the State. If successful, this change produces a win-win for the citizens and tax payers of California.

As California counties began implementing their AB 109 Public Safety Realignment (PSR) (Statutes of 2011) plans, the California Mental Health Planning Council (Council) wanted to hear from the county Sheriffs, Probation, and Mental Health Departments on the implementation process to date, particularly in regard to the rehabilitative and supportive services aspects. In April 2012, the Council invited Los Angeles County to attend and present on their experience, and in June 2012, San Mateo, Santa Clara, and Stanislaus counties were invited to share their perspectives. Each county branch representative was asked to respond to a set of prepared questions from the perspective of their function within the public safety component. They were asked:

- a. What did your department anticipate?
- b. What has happened that was NOT anticipated?
- c. Has AB 109 enhanced partnerships with other agencies?
- d. Do you feel that handoffs between agencies are "seamless"?
- e. If not, how could they be improved? (What are the gaps?)
- f. Are you measuring outcomes, and if so, how?
- g. What message can the Planning Council communicate to the Legislators?

The prepared questions were followed up by extemporaneous questions from the Council members and guests (see appendix 1).

Based on the responses, the Council felt that counties were eager and willing to shoulder the responsibilities AB 109 created. They acknowledged the challenge of coordinating their efforts but all of them emphasized the importance and effectiveness of joint planning. It was clear they were planning and working together for success.

Along with shared successes, there were also challenges common to all disciplines. Those challenges included:

- Financial burden to counties because state parole violators are incarcerated in county jails. The state invokes the incarceration and counties bear the cost.
- Employment and housing resources are the biggest challenges and could hamper the success of other efforts and services.
- Other drug and alcohol programs are not included in Public Safety Realignment (PSR), making it harder to pool resources – prop 36 programs etc. – Substance abuse problems are common in the probation population and the newly realigned population.
- Family issues are important and have not been fully considered in the planning. Many of these individuals have young children and wives or significant others

After hearing the issues and processing the information, the Council distilled the responses into a letter (see appendix 2) addressed to the Governor and the Senate and Assembly Public Safety Committees in October 2012. This report provides a more in-depth review of the PSR implementation forum responses to date.

BACKGROUND: CALIFORNIA MENTAL HEALTH PLANNING COUNCIL & REALIGNMENT

California has had a statewide advisory board operating independently from the former State Department of Mental Health since the 1960s, providing public input into mental health policy development and planning. As the California Council on Mental Health, it helped develop and publish the 1st California Mental Health Master Plan in 1991. Key elements of system reform identified in the California Mental Health Master Plan were incorporated into the 1991 Realignment Legislation, including the need for county accountability and performance indicator language. Its present form - the California Mental Health Planning Council - was established in state statute in 1993, reflecting its increased responsibilities in monitoring the Realigned mental health system, performance outcomes, and funding. The Council was designed to be an objective structure for public input, planning, and evaluation under realigned mental health programs. The Council published its initial findings - *Effects of Realignment on the Delivery of Mental Health Services* - in 1995. The Council also published the 2nd California Mental Health Master Plan in 2000 which informed many of the components of the Mental Health Services Act in 2004. The Council provides oversight and evaluation of the public mental health system and advises the Administration and Legislature on priority issues. Part of its mission is to educate the public and the mental health constituency about the current needs for public mental health services and ways to meet those needs.

AB 109: REALIGNMENT OF 2011

Unlike the 1991 Realignment, which focused on community mental health systems, the focus of the 2011 Realignment is on Criminal Justice and Rehabilitative services. Both were facilitated by a weak economy. California has struggled for years with prison overcrowding, massive staffing and oversight issues, and lawsuits that have created even higher demands on an already precarious system. As the state limped through one of the worst recessions in the nation's history, the Budget Act of 2011 added the existing 1991 Realignment funding formula and allocation to the AB 109 Realignment design. It called for optimized rehabilitative services through leveraged resources, but created separate, protected funding streams for each component. The past two state budgets have allocated funding that was formally utilized for state level planning and implementation through Community Corrections Partnerships so counties can determine the level and types of services that work best for their populations. This has created an opportunity for counties to exercise more discretion in providing services and treatment for its criminal justice population, albeit through a predominantly public safety seated commission.

AB 109 PLANNING

Conservatively, the CDCR estimates that, of the prison population that has been evaluated, nearly 24% have been diagnosed with some form of mental illness. Nationally, six out of 10 inmates have substance use disorders, and it is likely that California's inmates easily meet, if not exceed, that threshold.

Council members felt that the funding formula of 11% for the intensive rehabilitative services would be insufficient to avoid recidivism in the counties - one of the key stated goals of the legislation. (A complete breakdown on how counties allocated the 2011 funds can be found in Appendix 3.) The Council sent a letter to the Chief Probation Officer of each county encouraging the county to support, as fully as possible, or expand the rehabilitative services in their county that promote reintegration into their communities in order to meet the mandate (see Appendix 4).

The Legislative Analyst's Office has reported that the counties appeared to be allocating funds in the following pattern:

- 38% to the sheriff's department, primarily for jail operations
- 32% to the probation department, primarily for supervision and programs
- 11% for programs and services provided by other agencies, such as substance abuse and mental health treatment, housing assistance, and employment services
- 9% for other services, including district attorney and public defender costs

The implementing language of AB 109 detailed the intent and types of services that the realigned dollars were to fund. However, while the mandating language stated that the funds “shall” be used for providing rehabilitative services, the language describing the *types* of services converted to the more discretionary “may include” the following:

*(3) Funds allocated to probation pursuant to this act **shall** be used to provide supervision **and rehabilitative services** for adult felony offenders subject to probation, and shall be spent on evidence-based community corrections practices and programs , as defined in subdivision (d) of Section 1229, which **may** include, but are not limited to, the following:*

(D) Expanding the availability of evidence-based rehabilitation programs including, but not limited to, drug and alcohol treatment, mental health treatment, anger management, cognitive behavior programs, and job training and employment services.

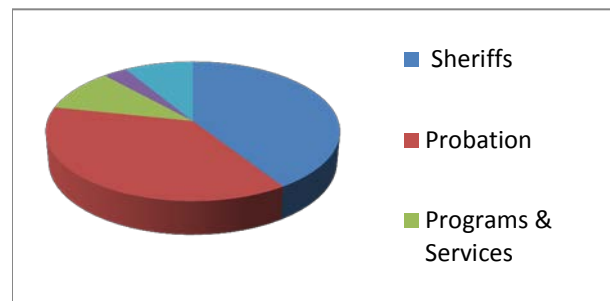
California Penal Code: Section 1230 (3) (D)

Given the permissive phrasing of the California Penal Code Section 1230 (3)(D), the Council was very interested in knowing how the mental health and substance use disorders needs in these populations would be met.

The AB 109 Forums

The Council held two forums at their General Session meetings of April and June of 2012. The first forum focused on Los Angeles County and a comprehensive overview of each department’s role and implementation process was obtained. In order to get a broader cross section of county experiences, the Council invited three counties to present at its June meeting - Santa Clara, San Mateo, and Stanislaus counties. All participants were asked to respond to the following structured questions, followed by extemporaneous questions from Council members and the audience.

***How CCPs allocated first-year AB 109 Funding:**



*Based on the 20 counties whose plans are on <http://www.CalREalignment.org> as of October 15, 2012

What did your department anticipate?

"We anticipated that this would be a complex, unknown, paradigm-shifting roll-out of a major change for the county." L.A. County Probation Department

The Sheriffs reported that, in terms of population expansion, the counties were updated monthly by the California Department of Corrections and Rehabilitation (CDCR) on the anticipated numbers of post-release and county housed individuals. The LA Sheriff's Department expected close to 8,000 inmates the first fiscal year and ramped up the deputy sheriff's staffing by 50. Santa Clara County's projections were accurate, so there were no surprises, but San Mateo reported that the projections were underestimated, receiving 633 when a maximum of 400 were expected.

Anticipating a complex transfer of responsibilities, Santa Clara County probation opted to visit the prisoners prior to release in order to establish a

connection and anticipate the level of need upon their release. LA County Mental Health prepared for the transition by partnering with LA Probation ahead of time for mental health screening, joint records review and referrals of recently released parolees. It had also developed processes for utilizing urgent care centers and the county hospital system when necessary. Stanislaus County Behavioral Health found that they had an established history with many of the returning parolees already and San Mateo mental health anticipated that the population would arrive with co-occurring mental health and substance use disorders and co-morbid health conditions.

*9 Counties spent 50% or more on Sheriffs' Budgets in 2011			
	2011 Funding	Sheriff	Probation
Kings	2,992,180	68%	19%
Sacramento	15,207,496	62%	28%
San Luis Obispo	2,355,275	61%	13%
Orange	23,078,393	59%	29%
Butte	3,145,402	58%	20%
Contra Costa	4,895,625	56%	23%
Nevada	515,152	54%	23%
Stanislaus	6,166,085	52%	40%
Placer	4,757,373	50%	23%
<small>*Based on the 20 counties whose plans were approved and posted on http://www.CalREalignment.org as of October 15, 2012</small>			

What was NOT anticipated by your department?

“We didn’t expect the number of parole violators, which has caused problems in terms of jail bed space.” - Stanislaus County Sheriff’s Department

Parole Revocation

The one aspect of AB 109 implementation that was most often described as “unanticipated” was the high cost of Parole Revocation.¹ Many local departments cited the operational disconnect between the state, having the authority to revoke parole, and the counties, who have to bear the costs of incarceration. Those costs were not included in the state’s allocation to counties and counties feel that the state’s lack of fiscal obligation creates a preference for incarceration over rehabilitative services.

“We didn’t anticipate the number of parole revocations in the average daily population. It seems counterproductive that we are doing everything we can to get people reintegrated into the community, but on the other hand, there is another side taking them out of the community and giving them back to us.”

- Santa Clara County Sheriff’s Dep’t.

“In the structure of Realignment, there is no disincentive for Parole to roll someone up and put them in county jail, because the state doesn’t pay for it. The risk has been given to the counties, and it’s a growing burden. There should be a cost to the state for housing a parole violator in county jail.”

- San Mateo County Mental Health

When asked at the end of the forum what message the Council could take to the Administration, the lack of funding for parole revocation was mentioned several times. After July 1, 2013, the trial courts will assume responsibility for conducting revocation hearings for state parolees rather than the State Board of Parole Hearings. Hopefully, this will provide a little more option for accommodating community preference and capacity to counties. The Council will continue to monitor this issue.

*Counties spending 25% or less on Probation			
County	2011 Funds	Sheriff	Probation
Riverside	21,823,911	47%	25%
Plumas	270,128	15%	24%
Ventura	6,502,968	25%	24%
Contra Costa	4,895,625	56%	23%
Nevada	515,152	54%	23%
Placer	4,757,373	50%	23%
San Benito	485,640	47%	23%
Inyo	229,995	15%	21%
Butte	3,145,402	58%	20%
Kings	2,992,180	68%	19%
Madera	2,388,243	7%	18%
Mariposa	165,626	9%	18%
Merced	2,824,824	21%	18%
Tehama	1,441,424	27%	18%
Humboldt	1,788,576	10%	16%
San Joaquin	6,785,908	36%	16%
Lassen	525,712	26%	14%
Sutter	1,391,641	18%	14%
Calaveras	81,206	8%	13%
San Luis	2,355,275	61%	13%
Obispo			
Siskiyou	592,352	16%	10%

*Based on the 20 counties whose plans were approved and posted on <http://www.CalREalignment.org> as of October 15, 2012

¹ “Under realignment, many individuals who would have been on parole are now on Post Release Community Supervision. Even those still on parole, however, are affected by realignment, as custody time for parole violations in most cases is now limited to 180 days, and incarceration is limited to county jail (paid for by the county), not state prison.” *“Thinking Critically About Realignment in California”* R. S. Silbert, Senior Legal Policy Associate, UCB School of Law

Alternative Sentencing

One of the goals of AB 109 was to reduce incarcerations rates and costs, and one of the approved means of doing that was to impose flash incarcerations – brief jail time imposed swiftly to de-escalate a negative trend displayed by a parolee, and split sentencing² a new sentencing option that allows a judge to sentence a felon to both jail and community supervision.

“We have much more split sentencing. Of about 330 cases sentenced locally, 276 are receiving split sentencing.” - Stanislaus County Probation Department

“We saw more women than we had expected. We also need to do more work with implementing split-sentencing.” - Santa Clara County Probation

The popularity of “split sentences” was unanticipated, but, it was generally praised, in spite of the additional burden it placed on Probation officers that was not offset by increased funding. It brought the branches of Sheriffs, Probation, Mental Health and Judiciary together to discuss what the most successful rehabilitative path for the parolee might entail.

Complex Health Needs

“Over half the people on probation have problems with either alcohol or drugs. Realignment should put drug treatment funding in the hands of the county.” - San Mateo County Probation Department

Each county representative that mentioned mental illness and substance use disorders acknowledged that their county anticipated an increased need for services commensurate with their new population. However, they were surprised by the level of need, and the disproportionate presentation of that need among them. Those needs were frequently compounded by co-morbid physical conditions and infirmities.

“We had not anticipated the increase in the level of acuity these past three months. We have developed processes for utilizing our urgent care centers and the county hospital system when necessary.” - Los Angeles County Mental Health

“We didn’t anticipate the disparity of treatment between the regular probation population and the Realigned population, which had over 90% substance abuse problems”. - San Mateo County Probation

²In a split sentence, the judge orders that a sentence that is, for example, 5 years, but then orders that the defendant serve some portion of the time in county jail and the remainder in the community under mandatory supervision. The nature of the split is unrestricted – the judge can order anything from one day in custody and the remainder on mandatory supervision, to all custody except for one day on mandatory supervision. *“Thinking Critically About Realignment in California”* R. S. Silbert, Senior Legal Policy Associate, UCB School of Law

“The mental health needs of many of the individuals we received turned out to be complex and monumental (for example, many needed skilled nursing care). Unanticipated transportation needs also surfaced.” - Los Angeles County Probation

The new Realignment did not appear to prepare the counties to adequately address the high physical health care needs. Related issues such as transportation to and from appointments, or wheelchair accessible vehicles, also presented logistical challenges. Another challenge was the loss of public medical insurance coverage resulting from the time of incarceration, which often takes a significant amount of time and effort to reinstate upon release. One presenter noted that Substance Use Disorder funding sources were complicated and difficult to understand and navigate and felt putting drug treatment funding in the hands of the county along with mental health funding would have made more sense.

Has AB 109 enhanced partnerships with other agencies?

“Case Management and relapse mean very different things to different branches” - San Mateo Sheriff Department

In an effort such as PSR, the Council felt that a shared workload requires a common goal, but a consensus on how that goal is reached might not be easy reached due to finite resources accommodating competing interests. The participants were asked to share their thoughts on how the partnership was faring, and whether the new responsibilities aided or hindered collaboration. Aside from the learning about organizational cultural differences i.e., *“Case Management and relapse mean very different things to different branches”*, participants felt that partnering on this effort had been very beneficial.

“We have been brought together in a singularly synergistic way. There are new legal workgroups and treatment workgroups. All of the partners meet regularly to talk about outcomes.” - Los Angeles County Probation Office

“The whole process has forced us to spend more time with the partners regarding policy, operational issues, Memorandums of Agreement, and so on. From a behavioral health standpoint, it has forced more direct communication with the courts.” - San Mateo Mental Health

“We had been in the process of enhancing relationships with partners for the past several years. AB 109 brought an infusion of resources for the work we wanted to do supporting entry and re-entry.” - Santa Clara Behavioral Health

“Fitting the pieces together has been a challenge for the county government, law enforcement, service entities, and faith-based and community-based organizations.”
- LA County Sheriff's Dep't.

Are handoffs between agencies seamless? (What are the gaps and how can they be improved?)

As with all learning curves when learning to work together, some aspects were more positive than others, and not all parties were in universal agreement. Communication from the California Department of Corrections and Rehabilitation was praised as being forthcoming, but in some instances the reliability of the information was criticized. Overall, counties felt that the handoffs between counties and amongst county departments were more seamless than the handoffs between CDCR and the counties.

“The verification of addresses is the biggest obstacle. In some cases it is evident that the inmate is making up something for the counselor so the forms can be completed. However, transfers between counties have been seamless. In Stanislaus County, the inmate appearance rate is 95% after their release.” - Stanislaus County Probation Department

“For our department, the sharing of information with CDCR Mental Health has been very good.” - Behavioral Health and Recovery Services, Stanislaus County:

“CDCR has done a spectacular job with communication. There are weekly phone calls to talk about the issues; the Chief Probation Officers have the phone calls also. In addition, the Sheriff’s Department and the Probation Department share the same Needs Assessment instrument, which helps in seamless transitions.” - Santa Clara County Probation Dept.

One participant suggested that the gaps that have occurred can be lessened or eliminated altogether by increasing “Initiative and understanding among organizations” in order to encourage more thoughtful and open communications.

Are you measuring outcomes, and if so, how?

“Early on, Stanford Law School did several research projects with us; they actually had a class on AB 109.” - Santa Clara County Probation Department

In a 2001 report on 1991 Realignment the Legislative Analyst’s Office observed that “While the state had long collected fiscal and program activity data about community-based mental health programs, state policymakers had voiced concern that the state had little information about the effectiveness of the county programs it had been funding”³ The Department of Mental Health’s failure to implement performance indicators that had been identified or standardize and formalize reporting methods was an omission that made it difficult to defend the value and effectiveness of local programs during budget battles. AB 109 spelled out very clearly that counties are expected to provide copious data.

³ *Realignment Revisited: An Evaluation of the 1991 Experiment In State-County Relations* Legislative Analyst’s Office February 6, 2001

California Penal Code Section 1232

Commencing no later than 18 months following the initial receipt of funding pursuant to this act and annually thereafter, the Administrative Office of the Courts, in consultation with the Department of Corrections and Rehabilitation, the Department of Finance, and the Chief Probation Officers of California, shall submit to the Governor and the Legislature a comprehensive report on the implementation of this act. The report shall include, but not be limited to, all of the following information:

- (a) The effectiveness of the community corrections program based on the reports of performance-based outcome measures required in Section 1231*
- (b) The percentage of felony probationers whose probation was revoked for the year on which the report is being made*
- (c) The percentage of felony probationers who were convicted of crimes during their term of probation for the year on which the report is being made*
- (d) The impact of the moneys appropriated pursuant to this act to enhance public safety by reducing the percentage and number of felony probationers whose probation was revoked for the year being reported on for probation violations or new convictions, and to reduce the number of felony probationers who are sent to prison for the year on which the report is being made*
- (e) Any recommendations regarding resource allocations or additional collaboration with other state, regional, federal, or local entities for improvements to this act*

The Council asked the counties to describe how they were tracking outcomes. Although the requirements for data are specified in AB 109, consequences for not supplying the required data and reports are not. However, most of the counties were in the process of establishing a reporting system, and some already had a system in place for collecting, evaluating, and reporting data. Santa Clara, in particular, had a robust process in place through a partnership with Stanford Law School.

“Early on, Stanford Law School did several research projects with us; they actually had a class on AB 109. Our county now has a statistical group that meets almost weekly to look at data elements.” - Santa Clara County Probation Department

“The Countywide Criminal Justice Coordinating Committee – a body that brings all of the impacted agencies together – has been approached by UCLA and the Rand Corporation to conduct an outcomes study on AB 109. We are in conversations now to do that.” - Los Angeles County Probation

“We are doing some trend analysis and looking at statistics.” - Los Angeles County Sheriff

“Our local implementation plan has dozens of outcome measures that we will report to both the state and our Board of Supervisors.” - San Mateo County Probation Department

“It is only the first eight months into Realignment – we are in the beginning stages of looking at our crime data and analysis. We are bringing someone on to do research.” - Stanislaus County Probation Department

What message can the Planning Council take to the Administration?

“Rehabilitation works. We need to follow the outcomes. Streaming people into institutions causes severe damage to the individual, society, and families”. Santa Clara County Mental Health

The Council felt that the best information it could provide to Legislators would originate from the people charged with implementing the program. The participants’ responses to this question were fairly consistent with responses to the earlier questions, and with each other. They frequently agreed with the comments that had already been made before adding their thoughts to the mix. The structured questions provided a general sense of the challenges and accomplishments but the clearer messages came without the framework of a guided discussion.

L.A. County Sheriff’s Department: *“For the current fiscal year, \$112 million was allocated; for the next fiscal year, \$301 million. These amounts are not nearly enough given the needs of the population”.*

San Mateo County Sheriff’s Office: *“Training. We should formalize training to talk about the full spectrum of this change”.*

San Mateo County Probation: *“Realignment with drug funding. Over half the people on probation have problems with either alcohol or drugs. Realignment should put drug treatment funding in the hands of the county.”*

Stanislaus County Sheriff’s Department: *“In Stanislaus County our biggest hurdle has been parole violators that we did not have to deal with before. There is going to be a percentage of people who will not rehabilitate, and county jails were not meant to hold people for 20 years. This population needs to be addressed.”*

Santa Clara County Probation Department: *“Retain funding for SB 678 which addresses probationers in the county”.*

Stanislaus County Probation Department: *“A secure, long-term funding stream for the counties is important. We believe that the shift in rehabilitation efforts is key to what we’re doing, and they made the right move, but we definitely need the resources to do the job.”*

Stanislaus County Behavioral Health and Recovery Services: *“Secure adequate alcohol and drug funding with a variety of different points to access that service.”*

Findings and Recommendations

The majority of the responses to the Council questions trended toward themes of ongoing, secure funding so that counties could develop an uninterrupted service plan and more local discretion in regard to parole revocations. Physical health care, Mental Health and Substance User Disorder services, and related supports were also mentioned frequently. The major issues and recommendations made by the Council, and recommendations based on the issues are:

- **Health Conditions – Physical , Mental, and Substance Use Disorder**

The Administration needs to clarify permissible funding sources to counties so they can provide the services for this often aging and “high needs” population. The Council also cautions against an over-reliance on Medi-Cal and county Low Income Health Programs, whose needs assessments and service plans were based on numbers that preceded the Post-Release Supervision population.

- **Training Needs for Community Partners**

POST-Training should include educating street level police officers and first responders on available services for parolees. Additionally, school personnel should be trained on recognizing and referring for trauma services for children of incarcerated and post-release individuals.

- **Related Supportive Services**

Community Corrections Partnership panel should include a parolee who has successfully rehabilitated and a family member so that proposed services can be considered from informed perspectives.

Most importantly, the Council wants to ensure that the Administration and counties do not lose sight of the primary goal of Realignment, which is to reduce recidivism, preferably by investing in rehabilitative services instead. The Council is concerned that the emphasis on county autonomy may overshadow the overall intent of the Act. Rehabilitation must include mental health, vocational training, family counseling, primary care, transportation, and basic living skills in order to be effective. AB 109 was based in a “justice reinvestment” strategy that calls for dollars to be used for best or successful practices, not simply re-incarceration, yet there does not seem to be any disincentive for emphasizing jail time over services. The Los Angeles Times commented on this in its February 5, 2013 editorial page noting that *“If drug and mental health problems play a large role in landing people behind bars, it stands to reason that focusing more on diagnosis and treatment could save taxpayers money, reduce the criminal burden on neighborhoods and, by the way, address some of the misery and hopelessness of those caught in the revolving jailhouse door.”*⁴ This comment was based partially on a study released by the Vera Institute of Justice in February 2013 which found that, of the 80 prisoners interviewed in jail, only six had received any type of re-entry service.⁵ The same study found that 60% of the interviewees would likely need substance abuse services, and 45% would likely need mental health services.

Conclusion

“Law enforcement has a mindset of looking for criminals, not for people who are mentally ill.” - Audience member, April 2012

An audience member’s comment summarizes the uncertainty that some in the mental health community has felt toward the AB 109 legislation and implementation process. The decision to

⁴ <http://www.latimes.com/news/opinion/editorials/la-ed-recidivism-20130205,0,7651742.story>

⁵ www.vera.org/pub/making-the-transition-summary-report.

include mental health services in a “Public Safety” Act was viewed as a giant step backward for stigma reduction by mental health advocates because it automatically links public perception of mental illness to criminals. Likewise, the decision to allow counties to determine what level of rehabilitative services they would provide effectively disengaged the constituents who most needed them. By allowing counties to determine what methods work best for them, the state has decreased its influence in encouraging social justice measures. Counties that have minimal mental health services have no incentives to implement them, and, as the Legislative Analysts’ Office reported – the formula for funding to the counties essentially reward those that have the highest incarceration rates, not those that rely on preventative or rehabilitative measures.⁶ Counties are only required to report on outcomes, not methods, and that requirement is not attached to any consequence for noncompliance.

In Los Angeles County, NAMI successfully mobilized and advocated for an increase in mental health funding, persuading the Los Angeles CCP to raise its initial allocation of 4% for mental health services to 11%. But not all counties have such an organized presence that will advocate for those who have difficulties speaking for themselves.

In Sacramento County, where the Mental Health services budget has already been reduced to its barest bones, the CCP elected to spend 62% of its budget on additional Sheriffs and jail space in the first year’s budget. The Sacramento Bee reported on August 23, 2012 that, *“The second budget approved by the county’s Community Corrections Partnership allocates almost all of the \$30 million budget to the Sheriff Department and the Probation Department”*.⁷ Of the \$2.5 million requested for mental health services for the realigned population, Sacramento’s CCP elected to fund just \$750,000, of which \$641, 088 is earmarked for medication and monitoring in the Sheriffs and Probation Office’s budgets. An additional \$261,000 is budgeted for transitional housing to provide 40 beds. The combined total equals just 1.2% of the overall budget for rehabilitative services.

These funding decisions stand to exacerbate a growing trend with law enforcement and the mentally ill, which comprise, conservatively, 24% of the prison population that was evaluated. More and more, we are reading about officer involved shootings of the mentally ill, and nationally, the Portland Press Herald/Maine Sunday Telegram estimated that at least 50% of people fatally shot by officers are mentally ill, and closer to 75% in some states.⁸ Without accounting for mental illness as a factor, one count indicated that in 2011, California led the nation in officer involved shootings and fatalities of civilians, accounting for 183 shootings (103 fatalities) out of a national total of 1,146, (607 fatalities).⁹

In Sacramento and neighboring counties, 10 people who were known to be mentally ill, several from communities of color or with a language barrier, have been shot and killed by law

⁶ *The 2012-13 Budget: The 2011 Realignment of Adult Offenders—An Update* – Legislative Analyst’s Office February 2012

⁷ <http://www.sacbee.com/2012/08/23/4752015/county-advocates-say-mental-health.html#storylink=cpy>

⁸ <http://www.pressherald.com/news/Shoot-Across-nation-a-grim-acceptance-when-mentally-ill-shot-down.html>

⁹ <http://jimfishertruecrime.blogspot.com/2012/01/police-involved-shootings-2011-annual.html>

enforcement officers since 2007.¹⁰ It begs the question that, if those deaths occurred before the 2011 Realignment, how will law enforcement deal with the added population? In spite of the proven success of Crisis Intervention Teams in de-escalating potentially dangerous situations, Sacramento County has not invested in this practice to date, but El Dorado County did in 2009, and the fatality rate from officer involved shootings dropped drastically, from four fatalities between 2007 and 2009, and one in 2011.

The Planning Council hopes that the Administration and Legislature will consider the information that has been provided and work with counties to ensure fidelity to the original intent of AB 109 –reducing recidivism through rehabilitation. In 2011, Roger K. Warren, president emeritus of the National Center for State Courts and a 20 year veteran of Sacramento County Courts (now retired) observed in a Sacramento Bee Op-Ed that “Realignment can work – and will work – if community corrections funding is wisely invested in evidence-based strategies and program performance is carefully monitored.”¹¹ He concluded that “oftentimes those of us who work in the criminal justice system must first change our own ways of doing business if we hope to change offender behavior, reduce recidivism and better serve our communities.”

As Santa Clara stated “Rehabilitation Works”.

¹⁰ Joseph Han, 23, Folsom; Mark Moody, 41, Camino; Matthew James Zaiser, 26, El Dorado Hills; Rajan Vaid, 23, El Dorado; Giat Van Truong, 35, Sacramento; Linda Clark, 39, Placerville; Sean Ogle, 32, Sacramento; Jonathon Rose, 23, Sacramento, Paul Tereshchenko, 35, Sacramento.

¹¹ Sacramento Bee: *Viewpoints: Realignment can boost public safety* ; November 13, 2011

Open Questions and Answers From Council and Audience Members

Some of the best revelations and insight on the process and progress of the AB 109 implementation came from the extemporaneous questions posed by the Council members and the audience during the Q and A portion of the forum. They are included here in the order of the presentations, starting with Los Angeles.

Question: When people leave prison, come directly to the hub, and receive their evaluation, how long is it before a treatment provider makes a connection with them?

- **L.A. County Department of Mental Health:** When LACDMH amended its contracts for AB 109, it made access to all of these programs through Countywide Resource Management. The clinicians at the hub also work under that agency and can refer directly. Individuals who are particularly vulnerable, but don't require urgent care or hospitalization, can be picked up by a step-down provider and taken directly to housing to get them engaged in services. The time between the initial evaluation and the first appointment is probably no longer than three days. If they need their medication to be continued from prison, we have them seen at the Urgent Care Center.

Question: Do you prepare the community to receive these individuals? And, has the community been welcoming?

- **Los Angeles County Probation Department:** We try to prepare the community through forums where we dispel myths related to Realignment, and let the community know how they can be involved in working with these individuals. We know the effective rehabilitation is going to be truly implemented with those who interact with the individuals during the course of their day. There are a number of faith-based advocates with a voice in the community, and we work with them. We have challenged business owners with the employment piece, and worked with the Los Angeles Re-Entry Roundtable and other such groups.

Question: Did you seek input from ex-offenders in creating your services and support?

- **Los Angeles County Probation Department:** Not deliberately. When we do our community forums, invariably there will be ex-offenders present. We do work with the Youth Justice Coalition, many of whose members are ex-offenders. Many of the community-based organizations hire ex-offenders. We continue to get input in these ways.

Question: People in correctional institutions have more health problems than the general population. What's happening with being able to meet that need?

- **Los Angeles County Probation Department:** We are seeing this need with increased regularity. We are beginning to work closely with the County Health Department. Physical needs as well as mental health needs are not always acknowledged or admitted.

Question: You give people conditions of probation regarding mental health or substance abuse that they must cooperate with. Has that worked?

- **Los Angeles County Probation Department:** Yes, it has worked much better than what we were doing before - not giving them any conditions. Once we added the conditions up front when they come out of the prison, we got a greater degree of compliance.

Question: Do the 50 deputies receive any special training in dealing with people who have mental health problems?

- **L.A. County Sheriff's Department:** Yes, they do. There is an enforcement piece and a monitoring piece. The deputies need a special skill set and they are given additional training: cognitive interviewing and a general orientation of probation services. They must be a resource for services.

Question: Did anyone have experiences with community-based organizations stepping up and joining in the challenge?

- **Santa Clara County Probation Department:** The county of Santa Clara opened a Re-Entry Resource Center. The Resource Center is a centralized location for custodial and non-custodial individuals to receive referral and wrap around services. The vision of the Re-Entry is to build safer communities and strengthen families through successful reintegration and reentry of formerly incarcerated individuals back into Santa Clara County.
- **San Mateo County Mental Health:** We had set aside \$1 million in grants for ideas to support the implementation of our plan. Also, for about three years we have had federal Second Chance Act funding for adult inmates transitioning to the community; one of its key elements is mentoring from the community. East Palo Alto is funding its own re-entry center; we are linking with the EPA recovery program. Finally, we have a peer-run organization called Voices of Recovery that helps us in engaging people in ongoing support.

Question: Are there any partnerships outside of departmental relationships?

- **Behavioral Health and Recovery Services, Stanislaus County:** We partner with many community-based organizations.
- **Stanislaus County Sheriff's Department:** The Salvation Army homeless shelter is one.
- **Stanislaus County Probation Department:** We have a functional day reporting center for released PRCS offenders.
- **San Mateo County Probation Department:** San Mateo County has always had a robust network with community-based organizations. Currently the embrace of evidence-based practices is new – cognitive skills training is an example.

Appendix 1

- **Santa Clara County Probation Department:** We have always been committed to community-based organizations; 16% of our FY 2013 funds went specifically to them. In terms of Realignment, the budget is pretty balanced between Custody Health, Probation, Sheriff, and so on.
- **Santa Clara County Mental Health:** We are fortunate that the President of our Board of Supervisors has a particular interest in the criminal justice population; he has convened a Re-Entry Network Meeting where the community brings a voice to the AB 109 plan. We also have an innovation plan that engages the faith-based community in the re-entry process to be a part of the system of care.

Question: What ensures that services being provided to inmates coming out of the prison system, are culturally sensitive and address the needs of a culturally diverse population?

- **San Mateo County Mental Health:** For behavioral health and recovery services, providing culturally competent services is part of our business, regardless of whom we're serving. It is folded into the process.
- **San Mateo County Probation Department:** By design, validating an evidence-based practice requires it. The instruments are validated against population samples, including local samples.
- **Santa Clara County Sheriff Department:** AB 109 didn't change our practices. Yes, we recognize it and we have recognized it for a long time.
- **Santa Clara County Mental Health Department:** In Santa Clara we are very much aware of the disproportionate number of ethnic populations in the foster care system as well as the criminal justice system. We have been looking carefully at the data for the re-entering population having specific cultural needs, specifically the African-Americans, Latinos, and Native Americans. In Mental Health we have ethnic community advisory committees.
- **Santa Clara County Probation Department:** When we were developing the Community Corrections Partnership (CCP) Implementation Plan, we identified specific goals. One was to address and reduce the disproportionality of those returning to prisons and jails who are of specific ethnicity.
- **Stanislaus County Behavioral Health and Recovery Services :** We all want to be successful in what we do. In our hiring and training we include evidence-based practice and cultural competency.

Question: What improvements could be made to the processes?

- **Santa Clara County Probation Department:** One of the biggest challenges is employment. Housing is big also.
- **Santa Clara County Mental Health Department:** We are trying to get away from people going into shelters, and to provide them with opportunities. This is generally a younger population, and the chances that they have families are high; they are needing housing for young children.
- **San Mateo County Mental Health Department:** There's a great opportunity here regarding what we do with the children of those who have been incarcerated. Understanding the trauma and the impact can help to prevent the generational cycle.
- **San Mateo County Probation Department:** The state has provided funding to deal with the population of released prisoners; but we have 5,000 people on probation who need those services just as much as anyone coming from the state. We are trying to expand our capacity as we are collaborating and creating new tools.



CHAIRPERSON
John Black

EXECUTIVE OFFICER
Jane Adcock

October 23, 2012

The Honorable Edmund G. Brown, Jr.
Office of the Governor
State Capitol, Suite 1173
Sacramento, CA 95814

Dear Governor Brown:

The California Mental Health Planning Council (Council) is mandated in federal and state statute to provide oversight of the public mental health system and advocacy for improved mental health services across the life span for people living with mental illness and their families. We also advise the Administration and Legislature on mental health policy issues, successful practices, and constituency concerns.

The Council has been very interested in learning how the successful implementation of Public Safety Realignment (PSR) of 2011 can be ensured. It held two forums in 2012 to hear from County Sheriffs, Probation Officers, and Mental Health departments on how they felt about the implementation process so far. Los Angeles, Stanislaus, San Mateo, and Santa Clara counties participated.

Throughout the presentations and participations of the forums it was very clear that county departments were joining together for success. Probation, Sheriff, and Behavioral health representatives spoke of the importance and effectiveness of joint planning and praised the efforts of CDCR to keep the local jurisdictions informed of incoming parolees. Some counties felt that AB 109 has strengthened collaboration on policy and operational agreements. It has resulted in more direct communication within the courts, thoughtful deliberation in their sentencing, and provided a forum for exchanging ideas.

The Council's request for input on how to improve the process and ensure greater success elicited a variety of responses. A broad summary of their common concerns and the Council's advisory comments to the Administration are being shared with you now. We hope that it may help shape or inform any clarifying legislation on Public Safety Realignment being considered in the upcoming year. The following issues were commonly identified:

Funding for Parole Revocation Services:

- Parole Revocation costs are not covered under AB 109 so counties bear the cost of incarceration when parole is violated. The funding projections and allotments provided to counties under AB 109 addressed only individuals who were scheduled for release, but did not account for revocation, creating an unanticipated expense for counties.

The Council recommends that the Administration work with the counties to ensure a more robust rehabilitation program that will help parolees avoid parole violations by strengthening their community supports.

Mental Health and Physical Conditions:

- Substance abuse problems are overrepresented in the probation population but drug and alcohol program funding streams are disparate and disjointed. Nationally, it is estimated that six out of ten inmates have severe substance abuse issues and it

- Counties don't feel fully informed on what types of funding are permitted and available for leveraging resources. Counties feel the State should put funds and decision making at the discretion of the counties.
- The complexity of the medical needs of this population was not anticipated by the counties. Medical issues affect this population at a disproportionately high rate, particularly as they age. When prisoners are incarcerated they lose their Medi-Cal/Medicaid benefits and when they are released, the County has to bear the cost of their care until their benefits are restored.

The Council recommends that the Administration clarify and assure the Substance Abuse Disorder funding streams for counties so they can confidently incorporate these services into their partnership plans. The Council also strongly cautions the Administration on over-reliance of existing county resources to meet the significant demands for behavioral health and primary care services that this population presents. Counties based their Low Income Health Plan and Dual-Eligible plan proposals on need assessments in their counties that pre-dated the PSR.

Training Needs for Community Partners:

- Street cops and others at the front lines of interaction are not fully informed on the types of services or options that are available for returning parolees.
- Family issues for parolees do not appear to have been fully considered in the planning. Trauma services for the children of the incarcerated and training for school personnel is needed to deal with this particular set of stressors.

The Council recommends that POST-training include educating street cops of available resources for parolees and counties find a way of informing other first responders where to refer for services. School personnel should be trained on recognizing and providing trauma services for children of the incarcerated and post-release.

Related Supportive Services:

- Employment, housing, and transportation services are the biggest challenges for parolees that hamper the success of the rehabilitative services. These issues also impede family reunification.

The Council recommends that the Community Corrections Partnership include a parolee that has successfully rehabilitated and a family member of a current parolee in order to provide an informed perspective on the types of rehabilitative services proposed by counties.

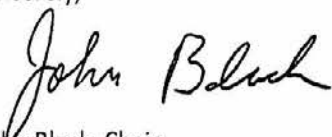
All of the counties expressed the hope that the funding would be guaranteed and consistent from year to year in order to maintain and expand services. The Council urges the Administration to ensure that counties receive the support they need to carry out the requirements of AB 109. It also respectfully requests that the Administration and Legislature not lose sight of the intention of Public Safety Realignment to provide rehabilitation and reduce recidivism by ensuring that the Behavioral Health component is funded sufficiently and that those funds are applied toward their intended purpose.

Given the predominant behavioral and physical health issues present in this population, the Council feels that counties would benefit from additional staffing and program resources to address them adequately. We feel that the current allotment of 10% for behavioral health services may be insufficient to the task of effective rehabilitation. If data supports it, we strongly recommend revising the percentages so that behavioral services are funded more adequately. This is one area where thoughtful application of resources as a preventative measure saves ten times that amount in reactive services later on so we urge the Administration to take the long range view of cost-effectiveness.

Thank you for allowing the California Mental Health Planning Council to share its findings and concerns with your office. We hope it provokes some discussion and refinement to the system. History has shown that when funding is consistent, Realignment can work and counties appreciate having the discretion to plan their own services.

If you have any questions or need clarification on anything, please contact our Executive Officer, Jane Adcock at (916) 651-3803 or at Jane.Adcock@cmhpc.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "John Black". The signature is written in a cursive, flowing style.

John Black, Chair
California Mental Health Planning Council

cc: Diane Cummins, Special Advisor to the Governor
Vanessa Baird, Deputy Director, DHCS – MHSUD Branch
Senate Committee on Public Safety
Assembly Committee on Public Safety

Snapshot of County Expenditures in 2011 by Percentage for AB 109 Implementation

	Total Allocation	Sheriffs	Probation	Prog. & Services	Public Defend.	District Atty	Mental Health	Subst. Use Dis.	Deter/ Rise Serv./ Altern	Admin	Res. & Conting.	Operat. , Supply, Planng.	Training/ Workforce Develop.	Human Resources	Health Services	Municipal Law Enforce	Data Analysis and Eval.
Alameda	9,200,000	43%	27%	24%	3%	3%											
Alpine																	
Amador	543,592																
Butte	3,145,402	58%	20%	3%	2%	2%				0.50%					16%		
Calaveras	81,206	8%	13%	77%				2%									
Colusa	278,472	12%	62%					3%	3%		13%				7%		
Contra Costa	4,895,625	56%	23%		2%	1%									18%		
Del Norte	237,062	15%	39%	4%					42%								
El Dorado																	
Fresno																	
Glen																	
Humboldt	1,788,576	10%	16%	1%	1.50%	1.50%		6%			17%	22%	1%		25%		
Imperial																	
Inyo	229,995	15%	21%	4%	2%	2%			4%		44%	2%	6%				
Kern	11,798,764	44%	41%				13%				1%		1%				
Kings	2,992,180	68%	19%		4%	3%				4%				2%			
Lake																	
Lassen	525,712	26%	14%		1%	1%						58%					
Los Angeles																	
Madera	2,388,243	7%	18%	25%		4%			1%		24%	1%			14%	4%	2%
Marin	1,592,952																
Maripos	165,626	9%	18%	24%				6%	6%		37%						
Mendocino																	
Merced	2,824,824	21%	18%	22%			3%		23%			13%					
Modoc																	
Mono	220,093	25%	70%		1%	1%							3%				
Monterrey	4,406,336	27%	32%	22%	1%	2%					7%				8%		1%
Napa																	
Nevada	515,152	54%	23%	5%							18%						

*Based on the 20 counties whose plans were approved and posted to <http://www.CalREalignment.org> as of October 15, 2012

***Snapshot of County Expenditures in 2011 by Percentage for AB 109 Implementation**

	Total Allocation	Sheriffs	Probation	Prog. & Services	Public Defend.	District Atty	Mental Health	Subst. Use Dis.	Deten/ Rlse Serv./ Altern	Admin	Res. & Conting.	Operat., Supply, Planng.	Training/ Workforce Develop.	Human Resources	Health Services	Municipal Law Enforce	Data Analysis & Eval.
Orange	23,078,393	59%	29%												9%	3%	
Placer	4,757,373	50%	23%	17%	2%	4%										4%	
Plumas	270,128	15%	24%	4%	2%	6%	9%	9%			6%		7%		18%		
Riverside	21,823,911	47%	25%		2%	3%	19%									4%	
Sacramento	15,207,496	62%	28%	1%	2%	2%			4%		0.50%				1%		
San Benito	485,640	47%	23%				16%		4%	4%		3%	3%				
San Bernardino	27,605,075	14%	42%		1%	3%				3%		37%					
San Diego	11,000,000	27%	46%	27%													
San Francisco	10,587,176	49%	40%	1%	2%	2%							0.50%		6%		
San Joaquin	6,785,908	36%	16%	20%		0.5%±	4%	1%	15%	5%	3%				0.50%		
San Luis Obispo	2,355,275	61%	13%	15%			2%	2%	6%		1%						
San Mateo	4,822,248																
Santa Barbara	3,878,876	31%	33%	4%			10%		18%	1%						2%	1%
Santa Clara	14,103,456																
Santa Cruz	1,989,656																
Shasta	2,988,875	29%	43%		0.50%				17%		11%						
Sierra																	
Siskiyou	592,352	16%	10%		3%	4%					67%						
Solano	4,362,824																
Sonoma	3,619,212	37%	50%				6%				7%						
Stanislaus	6,166,085	52%	40%				4%					2%				2%	
Sutter	1,391,641	18%	14%		1.50%	1.50%		7%			46%	12%					
Tehama	1,441,424	27%	18%	1%	2%	2%	6%	1%			43%						
Trinity	261,936	4%	90%	4%	1%	1%											
Tulare																	
Tuolumne	4,362,824																
Ventura	6,502,968	25%	24%		2%	3%	15%				26%					5%	
Yolo	334,603	46%	40%		1%	1%					3%					9%	
Yuba	1,212,888																

*Based on the 20 counties whose plans were approved and posted to <http://www.CalREalignment.org> as of October 15, 2012



CHAIRPERSON
Luis Garcia, PsyD

EXECUTIVE OFFICER
Ann Amell-Py, PhD

November 21, 2011

Dear Chief Probation Officer:

The 2011 Realignment provides each county with the flexibility and authority to improve the outcomes of the California criminal justice systems. The California Mental Health Planning Council (Council) is mandated by state and federal law to help inform policy decisions at the state and local levels that affect mental health and substance abuse issues. The Council is writing each county Probation Chief to encourage a local policy and preference for programs that assist with successful transition from jail to community. This is particularly urgent for those that are living with mental illness, which is conservatively estimated to be 23.3% of the identified CDCR population. It does not include those that have not been diagnosed. Nationally, it is estimated that six out of 10 inmates also have severe substance abuse issues as well, and it is reasonable to assume that California's inmate population meets, if not exceeds, that benchmark.

In his excellent "Viewpoint" contribution to the Sacramento Bee on November 9, 2011, Roger K. Warren, a retired 20-year veteran of Sacramento County trial court, observed that the legislation that enacted realignment as a public safety measure explicitly adopted the "justice reinvestment" strategy that "fund community-based punishments – including jail – to hold offenders accountable...and proven public safety strategies to reduce the likelihood of new crimes." He also noted that "In its first year of operation, SB 678 resulted in a 23 percent reduction in prison commitments, saving the state almost \$180 million in state corrections costs." There is no reason to believe that those savings could not be realized at the local level.

After prevention and diversion, the most effective remedy against recidivism and excessive expenditures is an effective reentry and supervision plan. This would ideally begin before inmates leave the jail as part of their probation process. The California Mental Health Planning Council urges local probation departments to model their supervision after several successful programs that were established in the last 10 years, such as SB 678, AB 2034, and the Mentally Ill Offenders Crime Reduction (MIOCR) grants. Counties could forestall the impact of added oversight by employing preventative programs such as Mental Health and Substance Abuse courts, Psychiatric Emergency Response Teams and other programs that divert offenders from jails to rehabilitation.

We appreciate this opportunity to share our perspective with you and would be happy to provide further information if you are interested. Please contact Jane Adcock-Lasciste, Executive Officer of the CMHPC at Jane.Adcock@dmh.ca.gov or (916) 651-3803 if you would like additional information.

This is a perfect opportunity to create a really effective system that will ultimately benefit your community. We hope that your county will be among those that honor the intent of AB109's focus on public safety. The justice reinvestment strategy particularly and rightfully values rehabilitation services as a priority public safety measure.

Sincerely,

Luis Garcia, PsyD
Chair, California Mental Health Planning Council