

PUBLIC SAFETY REALIGNMENT: THE TRANSITION YEARS

INTRODUCTION

The Public Safety Realignment Act (Assembly Bill 109; AB 109) transfers responsibility for supervising specified lower level risk inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to the counties. In May 2011, the U.S. Supreme Court held that California's prison medical and mental health care had fallen below the constitutional standard and the way to meet constitutional requirements was for a significant reduction in the prison population. AB 109 represents California's response to the U.S. Supreme Court order¹ to reduce the number of inmates in state prisons to 137.5 percent of design capacity. The effects of this legislation on California's criminal justice system are unprecedented both in scope and depth, and have commanded the attention of all counties since its introduction in October of 2011. The 2013-2014 San Luis Obispo County Grand Jury (Grand Jury) initiated a study into the impacts that various aspects of realignment have on some of San Luis Obispo County agencies. These agencies include the Sheriff's Department, Department of Probation, Social Services, Drug and Alcohol Services and the County Health Agency.

AUTHORITY

Section 925 of the California Penal Code authorizes the Grand Jury to investigate and report on the operations, accounts and records of a county officer, department or function.

¹ *Three-Judge Panel and California Inmate Population Reduction*, California Department of Corrections and Rehabilitation, May 23, 2011.

METHOD

The Grand Jury used several methods to obtain information on AB 109 and its effects on the county:

1. Interviewing
 - The Chief Probation Officer for San Luis Obispo County.
 - The Sheriff of San Luis Obispo County.
 - A San Luis Obispo County Probation Officer.
2. Document Reviews
 - *2011 Public Safety Realignment Fact Sheet*, California Department of Corrections and Rehabilitation, July 12, 2012.
 - *San Luis Obispo County, 2011 Public Safety Realignment Act Implementation Plan Update 2012-13*, San Luis Obispo County Community Corrections Partnership Executive Committee, October 2012.
 - *Voices from the Field: How California Stakeholders View Public Safety Realignment*, Stanford Law School, Stanford Criminal Justice Center, November 2013.
 - *Managing Jail Populations to Enhance Public Safety: Assessing and Managing Risk in the Post-Realignment Era*, Stanford Law School, Stanford Criminal Justice Center, June 2013.
3. The Grand Jury toured the San Luis Obispo County Jail.

BACKGROUND

Under AB 109 three major changes became effective October 1, 2011:

1. Felony offenders who have never been convicted of a serious or violent crime and are not required to register as sex offenders will now serve their sentences in local custody.
2. Most offenders released from prison will now be subject to local “post-release supervision” rather than state parole.
3. Parolees who violate a condition of release will no longer be returned to prison but will be required to serve out any custodial supervision in county jail.

Although it is a common misconception, AB 109 did not cause any inmates that were in state prisons to be transferred to county jails or released early.

The San Luis Obispo County Community Corrections Partnership (CCP) was established under Senate Bill 678. Subsequently, AB 109 authorized the creation of the CCP Executive Committee to address housing, supervision and treatment needs for the offender populations (post release offenders or PROs) reassigned as a result of the act. Members of the CCP Executive Committee include the Chief Probation Officer, Sheriff, a police chief, the District Attorney, a public defender, the Superior Court Executive Officer and the Director of the County Health Agency.

San Luis Obispo County has seen an initial impact of realignment creating additional overcrowding of the County Jail, adding about 100 inmates to the population. It is expected that this overcrowding will be greatly reduced or eliminated with the completion of the new Women's Jail, allowing subsequent expansion of the men's facility. Another impact of realignment on the County Jail is an increased number of inmates with histories of previous incarcerations in state prison for serious and/or violent crime. The criminal sophistication of these inmates is a serious concern due to the unwanted influence on the remaining population.

Prior to AB 109, the maximum sentence for inmates sent to County Jail was one year. Post AB 109 sentencing, even for non-serious, non-violent and non-sexual offenses, can be longer. Some sentences can exceed five years; therefore, the county jail must become capable of housing inmates for longer periods of time. This places additional pressure on the jails to deal with the complexities and programming for the new population of long-term inmates. For example, long-term medical care is a new concern that must be addressed by the jail staff. Other impacts include funding, post-release supervision, treatment programs and recidivism. These are discussed in the following sections.

NARRATIVE

FUNDING

Each county in California receives a funding allotment based on a statewide formula established by the State Department of Finance and agreed to by the County Administrative Officer and the California State Association of Counties. The source of the AB 109 funding is a dedicated and permanent revenue stream² to the county through Vehicle License Fees and a portion of the State sales tax. Funding for AB 109 for fiscal year (FY) 2012-2013 was \$5,565,653, which includes \$386,320 prior year unspent funds, and for 2013-2014 is \$6,802,936, which includes \$664,695 prior year unspent funds. The figures in the following table represent the CCP Executive Committee previous and current year budgeted allocations for the state's funding toward county entities responsible for AB 109 implementation.

Community Corrections Partnership Budget Allocations			
Categories	FY 2012-2013	FY 2013-2014	Difference
Offender Housing	\$3,018,913 (54.2%)	\$3,558,217 (52.3%)	\$539,304 increase
Offender Supervision	\$616,990 (11.1%)	930,188 (13.7%)	313,198 increase
Offender Treatment	\$1,281,531 (23.0%)	1,484,709 (21.8%)	203,178 increase
Sub Total	\$4,917,434 (88.4%)	5,973,114 (87.8%)	
Reserve Funds	648,219 (11.6%)	829,822 (12.2%)	
Grand Total	\$5,565,653	\$6,802,936	

² 2011 Public Safety Realignment Fact Sheet, California Department of Corrections and Rehabilitation, July 12, 2012.

PROBATION

Realignment funds have been used in the creation of a dedicated Post Release Community Supervision (PRCS) Probation Unit. This unit includes a supervising Deputy Probation Officer, four Deputy Probation Officers and a legal clerk to supervise the approximate 190³ post release offenders now on probation. Deputy Probation officers must spend more of their time communicating and coordinating with partners in other criminal justice and medical treatment areas to address the needs of this population including housing, employment, medical and re-entry needs and services than they do for the generalized probation population.

The Sheriff stated that a positive impact of realignment has been the creation of a new position in the Sheriff's department of a Jail Program Manager who is responsible for identifying and developing jail treatment programs that are responsive to the growing and longer-term inmate population. There is now a treatment team consisting of a drug and alcohol therapist, the Jail Program Manager, a Probation Officer and a correctional sergeant that create programs for inmates and work closely with Probation upon release of the inmate with an active hand-off to the County Collaborative Reentry program team.

Each Deputy Probation Officer in the PRCS probation unit supervises an average of 40-45 PROs. More than 80% of these PROs score at high or high/medium on the risk assessment scale. The probation officers need to prioritize their daily workload, including paperwork, case visits and monitoring with community safety in mind. As a high percentage of PROs has drug or alcohol abuse backgrounds, a considerable amount of time is spent conducting periodic surprise chemical testing. Face-to-face contact between the probation officer and a high risk PRO occurs multiple times per week. For those staying clean and sober, it is less often. Especially challenging are those that are unwilling to change, refuse services and avoid or refuse supervision. Besides face-to-face contact, electronic monitoring and phone contact are frequently used.

3 The number of this population varies frequently as PROs begin or end their probation terms.

OFFENDER TREATMENT

The Sheriff has noted on many occasions in public forums, that the largest opportunity to relieve pressure on jail overcrowding, court system and supervision is in treatment programs for offenders. The programs that exist have proven effective for probationers who are committed to changing their behaviors, as stated by a county probation officer. Unfortunately, those cases are in the minority. Most difficult to treat are those unwilling to change, which is estimated to represent about 20% of the population according to a probation officer.

A post release treatment team makes an assessment, establishes a treatment program and the probationer is obligated to comply with the conditions. Probationers may be subject to random testing and if not clean and sober, or not following up with their treatment plan, they can be arrested and held accountable in court. At this time, there is neither a residential drug addiction treatment program nor a drug/alcohol detox center in San Luis Obispo County.

Drug and alcohol abusers represent a significant portion of those on probation. One key to successful supervision is the availability of sober living housing. Several do exist in the county but the demand outpaces the availability. More beds are greatly needed.

Delivery of mental health programs is even more complex and difficult. For people willing to access services, be medicated and take an active role in their treatment, there are programs available to them. Part of re-entry programming is to determine mental health needs and provide guidance to the inmates for follow-up treatment. State law allows a probationer to refuse medication and mental health services, and this happens frequently. Probation officers monitor this group closely; however, they are not allowed to cite a probationer for refusing medications. If a probationer is re-incarcerated for other types of minor violations, under current overcrowded jail conditions, they will be back on the street quickly.

PROs may be assessed to determine their need for therapeutic support, on how to change anti-social thinking and reasoning, and how to change their response to situations that in the past have resulted in criminal behavior. Community-based cognitive behavioral treatment (CBT) services

use realignment funds for treatment through a contracted provider. Research⁴ has demonstrated reduced recidivism through CBT treatment.

RECIDIVISM

There are multiple definitions for recidivism including percentage of re-arrest, re-conviction or re-incarceration over a given time period. At the time of this report, the CDCR used the definition that measures the percentage of re-incarceration over a three-year period as its primary measure of recidivism. On the other hand, the San Luis Obispo County Probation Department has adopted a definition of recidivism to be those offenders who are convicted of a new misdemeanor or felony offense while under the supervision of Probation.

The County Chief Probation Officer stated that a potential side benefit to realignment was a reduction in recidivism. He said that the County Probation Department is better equipped to manage PROs than state parole because of the greater availability of community based probation officers and treatment programs. Before AB 109 became effective in October of 2011, the three-year recidivism rate for inmates released in San Luis Obispo County during fiscal year 2006-2007, the latest relevant data available, was 54.8%. This rate compares favorably with the statewide average of 65.5% with only three counties reporting a lower rate than our County⁵. A comparable rate⁶ for the post-AB 109 time frame will be an interesting measure of the success or failure of realignment.

CONCLUSIONS

San Luis Obispo County is clearly in a transitional period since the advent of realignment. To date, a majority of county funding has been directed toward jail costs to cope with the higher number of inmates resulting from AB 109. Both the Probation Office and Sheriff's Department have stated that post-release supervision and availability of treatment programs are key.

4 "The Positive Effects of Cognitive Behavior Programs for Offenders", *Journal of Experimental Criminology*, 2005.

5 *2011 California Department of Corrections and Rehabilitation Adult Institutions Outcome Evaluation Report*, November 2011.

6 The Board of State Community Corrections is currently working on a statewide definition of recidivism that will be reported on by all counties.

Increased funding for drug and alcohol treatment programs is a critical factor in reducing recidivism. It appears San Luis Obispo County prepared well in advance of AB 109 and is managing through the current set of challenges it has brought. The state received an additional two-year grace period from a three-judge federal panel to achieve further prison population reductions and it is expected there will be more challenges managing this population. How well the county is doing on reducing recidivism during the AB 109 era is yet to be determined and how we evolve through an unclear future bears continual monitoring.

REQUIRED RESPONSES

This is an informational report. No responses are required.

Presiding Judge	Grand Jury
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