

APPROVED
BOARD OF SUPERVISORS

By Resolution No. 2011-0511

JUN 22 2011

By 
Clerk of the BoardCOUNTY OF SACRAMENTO
CALIFORNIAFor the Agenda of:
June 21, 2011
2:00 p.m.

To: Board of Supervisors

From: Legislative Advocate's Office

Subject: Legislative Update: Public Safety Realignment, State Budget Update, And Recommended Action On Pending Online Sales Tax Legislation

Supervisory District: ALL

Contact: Leslie A. McFadden, Legislative Advocate 874-3578
Steve Keil, Assistant to the County Executive 874-7095

Overview

The May 23 U.S. Supreme Court decision requires the state to reduce its prison population over the next two years. At the same time, a new public safety realignment law (AB 109) was enacted in April to shift the responsibility for managing low level offenders from the state to counties. Implementation of this new state law is the foundation of the state's plan to comply with the Court's decision. Funding to make it work in the state budget was still uncertain at the time this report was finalized. The Board will receive an update from members of the County's Criminal Justice Cabinet at the Board hearing.

The Board requested additional information on three pending bills that could increase county revenues through the collection of online sales taxes, which will also be presented in this report.

Recommendation

1. Receive and file the information on state prison overcrowding, public safety realignment and the state budget.
2. Support proposed state legislation to increase state and local sales tax revenue by collecting sales tax for online transactions in AB 153 (Skinner), AB 155 (Calderon), and SB 234 (Hancock), pending outcome of state budget deliberations.

BACKGROUND AND DISCUSSION

State Prison Overcrowding and Public Safety Realignment to Counties: During the May 24 Legislative Update, the Board requested additional background on the May 23 U.S. Supreme Court decision which requires the state to reduce its prison population over the next two years. Specifically, the court directed the state to reduce the adult prison population to 137.5 percent of

the prison system's design capacity, or to a level of approximately 109,800 inmates—a reduction of 34,000 inmates by May 24, 2013. This historic decision for California affirmed the federal three-judge panel ruling and ended the decades-long litigation on prison overcrowding.

Attachment 1 from the California Department of Corrections and Rehabilitation (CDCR) summarizes the state's response to reducing prison overcrowding. Of relevance to counties is the importance the state places on implementation of the recently-enacted public safety realignment law, referred to as AB 109. Public safety realignment has been a central part of the Governor's budget to give counties greater responsibility in reducing recidivism at the community level. Counties will be asked to consider alternatives to incarceration in order to reduce recidivism. Offenders who commit serious, violent, or sexual crimes will continue to be the state's responsibility under realignment and under the Supreme Court decision.

Attachment 2 outlines the key provisions of the AB 109 Public Safety Realignment which are summarized briefly below:

- Shifts non-violent, non-serious, non-sex offenders to counties, also referred to as low level offenders;
- Shifts adult parolees to counties to be implemented by post-release community supervision and a new court-administered parole revocation process; and
- Shifts the remaining responsibility for juvenile offenders to counties.

AB 109 states that the law becomes operative no earlier than July 1, 2011, and only upon creation of a community corrections grant program to assist in implementing the law and upon an appropriation to fund the grant program. No state prison inmates will be immediately transferred to county jails. The law further states that each county must use their Community Corrections Partnership (CCP) to implement this law and then to present it to the Board of Supervisors for consideration. The CCP was authorized in prior legislation, referred to by the bill number—SB 678.

In our County, the Sacramento County Criminal Justice Cabinet approved the formation and membership of the Community Corrections Partnership on May 12, designated our Probation Chief as the Chair, and authorized the hiring of a consultant to assist in the development of the required plan. Representatives from the CCP and the Criminal Justice Cabinet will be at the hearing to give your Board an overview of the CCP's charge and challenges.

Adequate, timely funding for public safety realignment and orderly compliance with the Supreme Court decision are critical issues for Sacramento County. At the time this report was finalized, funding for counties was still uncertain. Whether and when funding will be appropriated in the state budget or submitted to the voters is unknown. In anticipation that funding would be provided in the budget year, the Administration asked counties in early June to develop a statewide allocation formula for distributing funds related to carrying out the public safety realignment in AB 109. Counties, working through the County Administrative Officers Association of California (CAOAC), proposed a one-year weighted formula to address the adult

offender population. Again, at the time this report was finalized, the status of this formula and funding for it was unknown.

State Budget Update: In March the Legislature passed, and the Governor signed into law, legislation to achieve budget reductions for 2011-12 of approximately \$11.0 billion. At the time this report was finalized, the Legislature was poised to vote on a new budget plan the Democrats developed to meet the June 15 constitutional deadline. The proposal was not in print at the time this report was completed. The Board will be updated as events unfold.

Online Sales Tax Legislation: There are three pending bills in the Legislature that propose different ways to collect sales tax from online shoppers. The intent of these bills is to “close a tax loophole” by requiring retailers located out-of-state to collect sales tax for purchases made online in California. Businesses in California (referred to as “brick and mortar”) who sell products online believe they are at a competitive disadvantage because they currently collect sales tax on online purchases, but out-of-state online retailers do not.

The state Board of Equalization (BOE) estimates there would be increased state and local revenues of \$152 million in 2011-12 and \$317 million in 2012-13 if these measures pass. The California State Association of Counties (CSAC) notes that local governments would receive about 30 percent of the total sales tax collected, with the state receiving the balance. These local sales tax revenues would flow to specific social services and public safety programs funded now through realignment and Proposition 172. CSAC supports all three of these measures primarily because of the opportunity for counties to receive increased sales revenues at a time when the state is proposing to shift additional program responsibilities to us.

The authors of the three bills Assembly Member Skinner (AB 153), Assembly Member Calderon (AB 155), and Senator Hancock (SB 234) all believe that they have drafted their bills in a way to prevail in any legal challenges over the authority of states to legislate in this area of federal interstate commerce. The U.S. Supreme Court has ruled that retailers without a “physical presence” in the state do not have a nexus or connection to the state and cannot be required to collect sales tax. A fundamental issue is what constitutes “physical presence” in California. The state of New York and Colorado have led the way on enacting state legislation to define physical presence and to collect the sales tax. Proponents believe that if enough states take action, than Congress will be compelled to act.

AB 153 (Skinner) mirrors the New York law which asserts that online retailers’ relationships with “affiliates” constitutes a physical presence and must pay sales tax. To date the New York law has been upheld. Affiliates in California post links on their websites to retailers like Amazon and then receive a commission from the retailer when the sale is made. This bill passed the Assembly on a partisan vote of 50-21 and is pending a hearing in the Senate. There is a long list of California-based businesses in support of this measure. The California Taxpayers Association and Howard Jarvis Taxpayers Association oppose it.

AB 155 (Calderon) mirrors the Colorado law and asserts that parts of an out-of-state business like Amazon’s warehouses, customer service facilities, and research and development offices that are located in California meets the physical presence test, referred to as “entity isolation.”

AB 155 passed the Assembly Floor on a partisan vote of 52-20 and is pending a hearing in the Senate. Supporters and opponents of this bill are similar to AB 153.

SB 234 (Hancock) takes a different approach from the other two bills. SB 234 allows the state Board of Equalization (BOE) to enforce the collection of sales tax on out-of-state retailers to the extent allowed under federal law, referred to as the “long arm” test. This means the BOE can examine the individual facts and circumstances of a particular business and determine whether collection is appropriate and consistent with case law. This bill passed the Senate on a partisan vote of 22-17 and is pending a hearing in the Assembly. The California Tax Reform Association and Board of Equalization Member Betty Yee are the supporters of SB 234. The Direct Marketing Associations and the California Taxpayers’ Association are the primary opponents to this measure.

At the time this report was finalized, budget trailer bill language was just proposed to require the collection of online sales tax, making action on these bills potentially moot. The Board will be updated at the time of the hearing on the relevance of considering action on these pending bills.

Pending clarification of action on the state budget to achieve the same objective as these three bills, staff recommends that the Board support these three bills because of the opportunity to increase sales tax revenue to counties.

Further information on these three bills can be found at www.leginfo.ca.gov.

Respectfully submitted,

APPROVED:
STEVEN C. SZALAY
Interim County Executive

LESLIE A. McFADDEN
Legislative Advocate

By: _____
NAVDEEP S. GILL
Chief Operating Officer

ATTACHMENTS

- Attachment 1: State Responds to Three-Judge Court’s Order Requiring a Reduction in Prison Crowding (June 7, 2011)
- Attachment 2: Brief Summary of Key Provisions of AB 109: 2011 Public Safety Realignment (May 2011)



cdcr today

California Department of Corrections and Rehabilitation

TUESDAY, JUNE 7, 2011

State Responds to Three-Judge Court's Order Requiring a Reduction in Prison Crowding

Calls on Legislature to Protect Public Safety by Funding Realignment

SACRAMENTO – The California Department of Corrections and Rehabilitation (CDCR) today submitted a report to the federal Three-Judge Court updating it on prison crowding reduction measures that the state has taken, or plans to take, in response to the U.S. Supreme Court's decision on May 23, 2011. This decision requires California to reduce inmate crowding within its 33 adult institutions to 137.5 percent of design capacity within two years, or by May 24, 2013.

"California has already reduced its prison population significantly over the past several years. Today, we have the lowest crowding levels in California's prisons since 1995," said CDCR Secretary Matthew Cate. "Our goal is to meet the Court's order by continuing to reduce prison crowding while still holding offenders accountable.

"Our current reduction plan does not include the early release of inmates. But it is absolutely critical that the Legislature understand the seriousness of the Supreme Court's decision and support a variety of measures that will allow us to lower our inmate population in the safest possible way," Cate added. "AB 109 is the cornerstone of the solution, and the Legislature must act to protect public safety by funding Realignment."

On May 23, 2011, the U.S. Supreme Court upheld the Three-Judge Court's determination that medical and mental health care for inmates falls below a constitutional level of care and that the only way to meet the requirements is by reducing prison crowding. Complying with the Court's decision will require implementing and funding of Realignment, as well as new prison construction, to achieve the 137.5 percent goal set by the Court.

Crowding Reduction Deadlines

Today, the number of inmates in the state's 33 prisons is approximately 143,000 inmates—a reduction of about 19,000 inmates since plaintiffs filed their motions to convene the Three-Judge Court on November 13, 2006. At that time, California's prisons were at 202 percent of design capacity. Today, the state's 33 prisons operate at approximately 179 percent of design capacity. California's 33 prisons were designed to hold 79,858 inmates.

According to the Supreme Court's decision, effective May 24, 2011, the inmate population statewide in California's 33 adult prisons must be no more than:

- 167 percent of design capacity by November 28, 2011,
- 155 percent of design capacity by May 24, 2012,
- 147 percent of design capacity by November 26, 2012,

- 137.5 percent of design capacity by May 24, 2013.

Today's filing outlines the following measures to reduce prison crowding:

Realignment – The Cornerstone of California's Solution

On April 4, 2011, Governor Edmund G. Brown Jr. signed Assembly Bill 109, historic legislation that will enable California to close the revolving door of low-level inmates cycling in and out of prison.

Under Realignment, the state will continue to incarcerate offenders who commit serious, violent, or sexual crimes and counties will supervise, rehabilitate and manage low-level offenders using a variety of tools. It is anticipated that realignment will reduce the prison population by tens of thousands of low-level offenders over the next three years.

As Governor Brown said in his AB 109 signing message, Realignment cannot and will not be implemented without necessary funding. The Governor also signed Assembly Bill 111, which gives counties additional flexibility to access funding to increase local jail capacity for the purpose of implementing Realignment.

Realignment is supported by law enforcement including the California Police Chiefs Association, Peace Officers Research Association of California, California Peace Officers' Association, California State Sheriffs' Association, Chief Probation Officers of California, Association for Los Angeles County Deputy Sheriffs and Los Angeles County Deputy Probation Officers Union and Los Angeles County Sheriff Lee Baca.

Legislative Reforms

Legislative reforms already implemented include the passage of Senate Bill (SB) x3 18, which, in part, established the California Community Corrections Performance Incentives Act, created credit-earning enhancements for inmates who complete certain rehabilitation programs, and reformed parole supervision by creating a Non-Revocable Parole category for low-level, lower-risk offenders.

CDCR also transferred about 10,000 inmates to out-of-state facilities. This program would continue as operationally needed. Since 2009, the department has also discharged more than 27,000 parolees who were deported to foreign countries by the federal government.

Increasing Capacity

CDCR has made efforts to increase prison capacity through Assembly Bill 900, passed in a bipartisan vote of the Legislature and signed into law on May 3, 2007. The department has increased design capacity by adding beds as well as treatment space.

Under AB 900, the state is currently planning, designing or constructing:

- A new 1.2 million-square-foot health-care facility in Stockton.

CDCR Today: State Responds to Three-Judge Court's Order Requiring a Reduction in Prison Crowding

ATTACHMENT 1
June 21, 2011

- New high-security prison facilities to be built on existing prison sites.
- New mental health facilities at the California Medical Facility and the California Institution for Women.
- Conversions of former juvenile facilities to adult facilities.
- New re-entry facilities.

In addition to projects that will add design capacity, under AB 900, the state has completed and is planning upgrades that add health care treatment and clinical space.

The full report filed with the Three-Judge Court, as well as other information regarding population reduction measures, is available on CDCR's web site at <http://www.cdcr.ca.gov/>

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**Brief Summary* of Key Provisions in AB 109:
2011 Public Safety Realignment
May 2011**

Main components

- Defines local custody for non-violent, non-serious, non-sex offenders
- Makes changes to state parole and creates local "post-release community supervision"
- Limits future commitments of juvenile offenders to the Division of Juvenile Justice

Local planning process

- Expands role and purpose of the Community Corrections Partnership (CCP), which was previously established in Penal Code §1230
- Requires CCP to develop and recommend to the board of supervisors an implementation plan for 2011 public safety realignment
- Creates an Executive Committee from the CCP members comprised of:
 - Chief probation officer
 - Chief of police
 - Sheriff
 - County supervisor or chief administrative officer
 - Head of social services department

Timeframe

- All provisions are *prospective* and applied no earlier than July 1, 2011
- Entire measure is not operative until:
 - The creation of a community corrections grant program to assist in implementing AND
 - An appropriation is made to fund the grant program
- *No state prison inmates will be transferred to county jails.*

Local custody

- Revises the definition of felony to include specified lower-level crimes that would be punishable in jail or another local sentencing option for more than one year.
- Maintains length of sentences.
- Time served in jails instead of prisons:
 - Non-violent offenders
 - Non-serious offenders
 - Non-sex offenders
- Enhanced local custody and supervision tools
 - Alternative custody tools for county jails
 - Home detention for low-level offenders
 - Local jail credits mirror current prison credits (day-for-day)
- Convictions/priors for following offenses require state prison term:
 - Prior or current serious or violent felony as described in PC 1192.7 (c) or 667.5 (c)
 - The defendant is required to register as a sex offender pursuant to PC 290
- Other specified crimes (approximately 60 additional exclusions from "low-level" definition) will still require term in state prison

Contracting back

- Counties permitted to contract back with the state to send local offenders to state prison
- Contracting back *does not* extend to parole revocations.

** Adapted from materials prepared by the California Department of Corrections and Rehabilitation.*

Post-release (county-level) community supervision

- Prospectively, county-level supervision for offenders upon release from prison will include:
 - Current non-violent offenders (irrespective of priors)
 - Current non-serious offenders (irrespective of priors)
 - Sex offenders
- County-level supervision *will not include*:
 - 3rd strikers
 - Individuals with a serious commitment offense
 - Individuals with a violent commitment offense
 - High risk sex offenders as defined by CDCR
- Board of Supervisors designates a county agency to be responsible for Post Release Supervision.
- CDCR must notify counties as to who is being released on post-release supervision
- CDCR has no jurisdiction over any person who is under post-release community supervision
- No person shall be returned to prison except for persons previously sentenced to a term of life (and only after a court order).

Ongoing state parole

- CDCR continues to have jurisdiction over all offenders on state parole prior to July 1, 2011 implementation
- State parole will continue for the following:
 - The offender's committing offense is a serious or violent felony as described in PC §§1192.7(c) or 667.5(c);
 - The offender has been convicted of a third strike; or
 - The person is classified as a high risk sex offender.

Parole revocations

- Prospectively, the parole revocation process is strictly a local (court-based) process.
- Parole revocations will be served in county jail – not in state prison.
- Contracting back to the state for revocations is not an option.
- Only persons previously sentenced to a term of life can be revoked to prison.
- Local courts – rather than the Board of Parole Hearings (BPH) – are designated as the authority for determining revocations
- BPH will continue to do lifer hearings, medical parole, and mentally disordered offender (MDO)/Sexually Violent Predator (SVP) cases
- For the remaining low level offenders on parole after implementation of realignment, parole has the authority to discharge after six months if no violations have occurred

Juvenile Justice

- Limits future juvenile court commitments to state juvenile detention (Division of Juvenile Justice or DJJ)
 - Counties must have MOU with State and it is anticipated that MOU will outline contracting back options
- Prospective from July 1, 2011
- Counties retain ability to contract with other counties for juvenile detention needs

2011 Public Safety Realignment

From the Sacramento County
Criminal Justice Cabinet

Criminal Justice Cabinet

Membership

- Steve White, Presiding Judge, Superior Court
- Laurie Earl, Asst. Presiding Judge, Superior Court
- Stacy Boulware-Eurie, Presiding Judge Juvenile Court
- Dennis Jones, Superior Court Executive Officer
- Steve Szalay, Interim County Executive
- Scott Jones, Sheriff
- Jan Scully, District Attorney
- Paulino Duran, Public Defender
- Fern Laethem, Executive Director, Conflict Criminal Defenders
- Don Meyer, Chief of Probation
- Bruce Wagstaff, Administrator, Countywide Services Agency
- Ann Edwards, Director, Department of Health and Human Services
- Sam Somers, Deputy Chief, Sacramento Police Department
- Phil Serna, Board of Supervisors
- Susan Peters, Board of Supervisors Alternate
- Paul Lake, Director, Department of Human Assistance
- Dave Gordon, Superintendent, Sacramento County Office of Education
- Mayors of the incorporated cities: Sacramento, Elk Grove, Folsom, Rancho Cordova, Citrus Heights, Galt and Isleton

Current Status on Realignment

- The Cabinet has been following the realignment since the beginning and regularly has it on it's meeting agenda
- At May 12, 2011 meeting formed the Community Corrections Partnership
 - appointed Chief Meyer as Chair
 - authorized \$20,000 to hire a consultant to help develop a realignment plan
- We are ahead of the curve on addressing the issue of realignment so that we will be ready if/when the governor finds the funding

Public Safety Realignment History

- SB 678, chaptered Oct. 11, 2009, established a program to reduce felony probation recidivism
- Established a Community Corrections Performance Incentives Fund
- Authorized monies to be allocated annually to local probation departments to improve probation supervision practices and capacities

SB 678 - continued

- This bill added Penal Code Section 1230 which established the advisory body – the Community Corrections Partnership (CCP) – a multi-jurisdictional committee chaired by the Chief of Probation
- The money from SB 678 is funding Probation’s Adult Day Reporting Center

AB 109 – Realignment

- AB 109, chaptered on April 4, 2011, added Penal Code Section 1230.1 to require the Local Community Corrections Partnership to:
 - Develop and recommend a plan to the County Board of Supervisors regarding 2011 realignment and
 - Created an executive committee of the local partnership to develop and present the plan to maximize the effective investment of criminal justice resources.
 - Only becomes operative once funding is established and an appropriation made
 - Expected start date of October 1, 2011
 - It is prospective, so counties will become responsible from that point forward

AB 109 - continued

- Fortunately for us, the membership on the CCP mirrored our Criminal Justice Cabinet with the addition of the following members:
 - Head of County Employment
 - A representative from a community based organization with experience in successfully providing rehabilitative services to persons who have been convicted of a criminal offense; and
 - An individual who represents the interests of victims
- A list of members on the CCP has been distributed to you

Voting Membership of CCP

- The executive voting membership of the CCP (may be changing) is:
- Chief Probation Officer – Chair
- Chief of Police
- Sheriff
- Recent Proposed Amendments:
 - Adds the District Attorney
 - Adds the Public Defender
 - Adds the Presiding Judge or his/her designee
 - The Board of Supervisors will designate one department representative from either Head of Social Services, Head of Mental Health or Head of Alcohol and Substance Abuse Program
- Removes the County Supervisor or Chief Administrative Officer
- Requires a 4/5 vote by the Board of Supervisors to reject the plan, which then returns back to the CCP

AB 109 Components

- 1) Low Level Offenders shift from prison to local county jails
- 2) Post Release Community Supervision
- 3) Closure of the Division of Juvenile Justice

Low Level Offenders

- Low level offenders will stay in local custody and not go to prison when they are sentenced; there will not be a release of prisoners to local jails when this takes effect
 - Excludes serious and violent felonies and sex offenders
 - Cost model includes incarceration, medical/mental health/substance abuse treatment and supervision
 - Recent allocation for 1st year for Sacramento is \$17,067,926 based on 60% caseload (ADP); 30% county population; and 10% SB 678 success (Steve Szalay was on allocation committee)
 - With start date being pushed out to October 1, the allocation will be reduced by 25% = \$12,800,943

Post Release Community Supervision

- Makes changes to state parole and creates a local “post release community supervision”
- Revocation hearings will be done at the local level – changes occurring that may limit superior court’s involvement/role
- Excludes prisoners that have a current conviction for a serious/violent felony, third strikers and high-risk sex offenders
- Includes current non-violent and non-serious offenders (irrespective of priors) and sex offenders.

Other

- Closure of Department of Juvenile Justice
 - postponed until FY 2012/13
- Expectation/assumption by state that locals will do things differently and better
- The Criminal Justice Cabinet and the Community Corrections Partnership are committed to doing the best we can – we know what works with this population of offenders

Community Corrections Partnership (CCP)

- Held CCP kick off meeting on June 9, meeting bi-weekly to develop a draft public safety realignment plan
- Plan will include:
 - Custody component;
 - Community supervision;
 - Intervention programming;
 - Judicial components;
 - Alternatives to incarceration;
 - Diversion programming; and
 - Phased implementation schedule and timelines
- Based on evidence based programs and practices for the best use of limited resources to get results that reduce recidivism

Sheriff's Department

- Recent Supreme Court decision on state prison capacity and how it will affect Sacramento County is currently unknown
- Due to AB 109, California Department of Corrections and Rehabilitation will be housing fewer state prisoners in county jails through the transition phase
- At full implementation our county jail will lose 424 state contracted beds which is a loss of revenue to the county general fund
- This will provide some capacity for the shift of low level offenders

Sheriff's Department - continued

- We will be looking at alternatives to incarceration such as home detention, electronic monitoring, work project and other new ideas
- Local jail credits will mirror current prison credits (day-for-day)
- Inmates will be in county jail for longer sentences. AB 109 revised the definition of a felony to include certain crimes that are punishable in jail for more than one year.
- With defendants sentenced to consecutive sentences or with crime enhancements, inmates could be sentenced to longer than 3 years.

Sheriff's Department - continued

- Need to have programs inside the jail to help prisoners to reduce recidivism
- State Department of Finance estimates 895 low level offenders annually will be incarcerated locally at full implementation
 - 505 (56%) are for sentences less than 3 years
 - 390 (44%) are for sentences greater than 3 years
- AB 900 10% match – looking at possible use of these funds to create additional bed space
- A lot of unknowns at this time and concerns

District Attorney's Office

- Revocation Hearings
 - Current system for revocation hearings
 - Will it change under AB 109?
 - What will courts need?
 - Funding just for DA's and Public Defenders?
- New Cases
 - More inmates released sooner
 - More local offenders unsupervised
 - Change in cases referred to VOP Court
 - Change in filing standards

Public Defender's Office

- Will become responsible for defense representation in post community supervision revocation proceedings
- New task we have not done before
- Won't know the impact until we know the process and system
- Will require resources

Superior Court

- Superior Court will become responsible for hearing post community supervision revocation proceedings
- New task they have not done before
- No capacity in court system now to take this on
- Includes state set aside of \$41M statewide for implementation
- In discussions with the Administrative Office of the Courts and the Judicial branch regarding concerns

Probation

- DOF estimates 1,203 in post release supervision who today are in adult parole. Beginning on the effective date, offenders released from state prison will move to a county supervision caseload
- Need to determine the best use of the money depending on resources
- Possibilities include:
 - Expansion of Adult Day Reporting Center
 - Drug Court
 - Other Programs

Conclusion

- AB 109 does not take effect until funding is identified and appropriated
- The county can do a better job at managing this low level offender population if we use evidence based practices so we are spending the money and resources at the right time, on the right offender, with the right processes
- We will need a new definition of what public safety entails

Conclusion - continued

- We know what works
- We will come back to you with updates as needed
- The CCP will bring a realignment plan forward
- Questions?

AGENDA ITEM CONTINUATION
MEMO

MEETING DATE: JUNE 21, 2011

TITLE: LEGISLATIVE UPDATE

BOARD ACTION: CONTINUED TO JULY 22, 2011 AT 2:00 PM

**SACRAMENTO COUNTY COMMUNITY CORRECTIONS PARTNERSHIP
MEMBERSHIP LIST
As of June 2011**

Member	Name	Title
Chief Probation Officer - CHAIR	Don Meyer	Chief Probation Officer
Superior Court	Laurie Earl	Assistant Presiding Judge
Superior Court	Dennis Jones	Court Executive Officer
County Supervisor or Chief	TBD	
Administrative Officer		
District Attorney	Cindy Besemer	Chief Deputy District Attorney
District Attorney	Steve Grippi	Asst Chief Deputy District Attorney
Public Defender	Paulino Duran	Public Defender
Public Defender	Karen Flynn	Chief Assistant Public Defender
Conflict Criminal Defenders	Fern Laethem	Executive Director
Sheriff	Jaime Lewis	Chief of Corrections
Chief of Police	Rick Braziel	Chief of Police, Sacramento Police Department
Chief of Police	Sam Somers	Deputy Chief, Sacramento Police Department
Dept of Social Services	Bruce Wagstaff	Administrator, Countywide Service Agency
Dept of Behavioral Health	Ann Edwards	Director, Dept of Health and Human Services
Division of Alcohol and Drug	Ann Edwards	Director, Dept of Health and Human Services
Employment	Bill Walker	Sacramento Employment and Training Agency
County Office of Education	Tim Taylor	Assistant Superintendent, Sacramento County Office of Education
Community Based Organization –	Cynthia Keeth	Executive Director, Strategies for Change
Rehabilitative Services		
Victim Representative	Kerry Martin	Victim Witness Program Coordinator District Attorney's Office

STAFF:

Criminal Justice Cabinet	Lynn Wynn	Principal Administrative Analyst
Superior Court	Trish Meraz	Director, Criminal Court Operations
Consultant	Fred Campbell	Criminal Justice Research Foundation

2011 Public Safety Realignment

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AB 109 Components

- 1) Low Level Offenders shift from prison to local county jails
- 2) Post Release Community Supervision
- 3) Closure of the Division of Juvenile Justice

Low Level Offenders

- Low level offenders will stay in local custody and not go to prison when they are sentenced; there will not be a release of prisoners to local jails when this takes effect
 - Excludes serious and violent felonies and sex offenders
 - Cost model includes incarceration, medical/mental health/substance abuse treatment and supervision
 - Recent allocation for 1st year for Sacramento is \$17,067,926 based on 60% caseload (ADP); 30% county population; and 10% SB 678 success (Steve Szalay was on allocation committee)
 - With start date being pushed out to October 1, the allocation will be reduced by 25% = \$12,800,943

Post Release Community Supervision

- Makes changes to state parole and creates a local “post release community supervision”
- Revocation hearings will be done at the local level – changes occurring that may limit superior court’s involvement/role
- Excludes prisoners that have a current conviction for a serious/violent felony, third strikers and high-risk sex offenders
- Includes current non-violent and non-serious offenders (irrespective of priors) and sex offenders.

Other

- Closure of Department of Juvenile Justice
 - postponed until FY 2012/13
- Expectation/assumption by state that locals will do things differently and better
- The Criminal Justice Cabinet and the Community Corrections Partnership are committed to doing the best we can – we know what works with this population of offenders

Community Corrections Partnership (CCP)

- Held CCP kick off meeting on June 9, meeting bi-weekly to develop a draft public safety realignment plan
- Plan will include:
 - Custody component;
 - Community supervision;
 - Intervention programming;
 - Judicial components;
 - Alternatives to incarceration;
 - Diversion programming; and
 - Phased implementation schedule and timelines
- Based on evidence based programs and practices for the best use of limited resources to get results that reduce recidivism

Sheriff's Department

- Recent Supreme Court decision on state prison capacity and how it will affect Sacramento County is currently unknown
- Due to AB 109, California Department of Corrections and Rehabilitation will be housing fewer state prisoners in county jails through the transition phase
- At full implementation our county jail will lose 424 state contracted beds which is a loss of revenue to the county general fund
- This will provide some capacity for the shift of low level offenders

Sheriff's Department - continued

- We will be looking at alternatives to incarceration such as home detention, electronic monitoring, work project and other new ideas
- Local jail credits will mirror current prison credits (day-for-day)
- Inmates will be in county jail for longer sentences. AB 109 revised the definition of a felony to include certain crimes that are punishable in jail for more than one year.
- With defendants sentenced to consecutive sentences or with crime enhancements, inmates could be sentenced to longer than 3 years.

Sheriff's Department - continued

- Need to have programs inside the jail to help prisoners to reduce recidivism
- State Department of Finance estimates 895 low level offenders annually will be incarcerated locally at full implementation
 - 505 (56%) are for sentences less than 3 years
 - 390 (44%) are for sentences greater than 3 years
- AB 900 10% match – looking at possible use of these funds to create additional bed space
- A lot of unknowns at this time and concerns

District Attorney's Office

- **Revocation Hearings**
 - Current system for revocation hearings
 - Will it change under AB 109?
 - What will courts need?
 - Funding just for DA's and Public Defenders?
- **New Cases**
 - More inmates released sooner
 - More local offenders unsupervised
 - Change in cases referred to VOP Court
 - Change in filing standards

Public Defender's Office

- Will become responsible for defense representation in post community supervision revocation proceedings
- New task we have not done before
- Won't know the impact until we know the process and system
- Will require resources

Superior Court

- Superior Court will become responsible for hearing post community supervision revocation proceedings
- New task they have not done before
- No capacity in court system now to take this on
- Includes state set aside of \$41M statewide for implementation
- In discussions with the Administrative Office of the Courts and the Judicial branch regarding concerns

Probation

- DOF estimates 1,203 in post release supervision who today are in adult parole. Beginning on the effective date, offenders released from state prison will move to a county supervision caseload
- Need to determine the best use of the money depending on resources
- Possibilities include:
 - Expansion of Adult Day Reporting Center
 - Drug Court
 - Other Programs

Conclusion

- AB 109 does not take effect until funding is identified and appropriated
- The county can do a better job at managing this low level offender population if we use evidence based practices so we are spending the money and resources at the right time, on the right offender, with the right processes
- We will need a new definition of what public safety entails

Conclusion - continued

- We know what works
- We will come back to you with updates as needed
- The CCP will bring a realignment plan forward
- Questions?