

Criminal Justice Realignment: What Counties Need to Know to Implement

Jointly Presented by:

CSAC, CPOC, CSSA, CDAA, CPDA and AOC

September 2011



What is Criminal Justice Realignment?

- Shifts custody of felons sentenced for non-violent, non-serious, non-sex offenses to county control unless excluded by statute
- Establishes Postrelease Community Supervision (PRCS)
- Changes state parole revocation process
- Tasks Community Corrections Partnerships (CCPs) with planning for the change and implementing local plans
- Funded by diverted state sales tax, specified vehicle license fee proceeds, and some state General Fund dollars

Recent History

- Costs of State Prison System Growing
- Funds for Correctional Activities Diminishing
- Several Class Action Suits Filed Against California
- Recidivism Rates at 70%
- Three-Judge Panel Order to Reduce Prison Population

Prior Criminal Justice Reform Proposals

- Eliminate Parole
- Eliminate Parole and Shift to Probation
- Establish State Contract for Local Jail Beds
- Shift Felons with Sentences of Three Years or Less to County Jail
- Create a Sentencing Commission

When Does Criminal Justice Realignment Take Effect?

- Eligible felonies sentenced to county jail: applies to any person **sentenced** on or after October 1, 2011.
- Changes in custody credits: applies to custody for any **offense committed** on or after October 1, 2011.
- Postrelease community supervision: applies to any eligible person released from state prison on or after October 1, 2011.
- Revocation of postrelease community supervision by superior court: on petition by supervising agency (probation department) on or after October 1, 2011.
- Revocation of parole by superior court: on petition by state parole on or after July 1, 2013.

How is Criminal Justice Realignment Funded?

- Counties
 - Redirection of existing resources
 - Dedication of 1.0625% existing state sales tax
 - Redirection of VLF administrative funds and portion of 0.65 rate
 - Separate allocation for programmatic aspects (\$354.3 million) and for DA/PD revocation responsibilities (\$12.7 million)
 - One-time planning (\$7.9 million) and start-up grants (\$25 million)
- Allocation formula applicable only for 2011-2012

How is Criminal Justice Realignment Funded?

- Courts
 - State-funded entity, not part of realignment funding
 - Separately funded from state General Fund as augmentation of judicial branch budget
 - \$17.7 million for estimated revocation petition caseload
 - \$1.1 million for added court security (to be permanently transferred from judicial branch budget to counties)
 - Judicial Council to allocate to each court based on percentage of estimated caseload
 - Allocation basis is for 2011-2012 only



SENTENCING AND CUSTODY

or Who Goes Where and For How Long?

Who is Sentenced to County Jail?

- Non-non-nons (N^3) without disqualifying offenses (current or *prior*)
 - Non-violent felons
 - Non-serious felons
 - Non-sex offenders
- Revises the definition of felony to include certain crimes that are punishable in jail
- Time served in jail, probation, or alternative custody instead of prison

Who is State Prison Eligible?

The following sentences must be served in state prison:

- Current or prior serious or violent felonies as described in PC 1192.7(c) or 667.5(c)
- Defendant is required to register as a sex offender pursuant to PC 290
- PC 186.11 (white collar crime) sentence enhancement
- Excludes certain other specified crimes, including felony domestic violence, felony stalking, and solicitation of murder



NB: List of excluded (prison-eligible) crimes, aside from serious and/or violent felonies, can be found at:

<http://www.cdcr.ca.gov/realignment/AB-109-final-crime-exclusion-list.html>

We provide this link for your convenience, but have not independently reviewed its accuracy.

MYTH

- **Prison inmates will be released early to counties on October 1, 2011.**



- No. In reality, no inmates in prison on October 1, 2011 will be transferred to local jurisdiction prior to their release date as a result of realignment.

MYTH

- **Only persons sentenced to three years or less for felonies go to county jail.**



- No. All qualifying persons sentenced pursuant to PC 1170(h), regardless of sentence length, go to county jail.

Sentencing Decisions for N^3

- What changes?
 - Jail, not prison
 - Rules of sentencing and sentence length do not change
 - Split sentence – imposed sentence of combined jail time with the remainder on local supervision
 - Prison prior attaches to imposed sentences (everything but felony probation)
 - Split sentences cannot be longer than the original sentence when combining custody and supervision time.

Sentencing Decisions for N³

- What does not change?
 - Felony probation
 - Existing alternatives (pretrial diversion, Deferred Entry of Judgment)
 - Rules of sentencing and sentence length

MYTH

- **When N³ get released from county jail, they go on local parole or probation.**



- No. There is NO automatic term of supervision imposed on N³ when they are released from county jail.
 - Exceptions: traditional felony probation and split sentences

Custody Decisions/Population Management for N³

- Enhanced local custody and supervision tools:
 - Alternative custody tools for county jails
 - Home detention for low-level offenders
- Counties may contract for beds:
 - With CDCR (costs still to be set)
 - With other counties
 - With public Community Correctional Facilities (CCFs)
 - With Fire Camps (costs and process still to be set)
- Counties MAY NOT contract back parole revocations



POSTRELEASE COMMUNITY SUPERVISION

It's Not Parole and It's Not Probation

Postrelease Community Supervision (PRCS)

- Who will be released from state prison to local supervision?
 - Current non-violent, non-serious offenders (can have serious or violent offenses in history)
 - Some sex offenders
 - Persons who, prior to October 1, 2011, would have been non-revocable parolees (NRPs)
- CDCR must notify counties who is being released at least 30 days prior

PRCS Supervision

- Supervision levels and case plans not mandated by statute but determined by supervising agency (probation department)
 - CDCR will send PRCS packets at least 30 days prior to release
 - General statutory conditions to be agreed to by offender prior to release from prison
 - Supervising agency (probation department) may send special conditions to CDCR prior to release – must have a nexus to the offender
 - Supervising agency (probation department) has authority to handle all intermediate sanctions without court involvement, up to and including flash incarceration (up to 10 consecutive days)

PRCS Revocation Process

- Only supervising agency (probation department) can petition for revocation
- Each supervising agency (probation department) must establish an assessment process to review applicability of intermediate sanctions authorized by law prior to filing a petition
- Revocations capped at 180 days
 - Jail only, no return to prison, custody credits apply
- At completion of revocation time, offenders return to PRCs (if they were revoked and reinstated) if there is available time left on the three-year tail

The Judiciary's Role in PRCs

- Judicial Council is to adopt rules of court and forms to handle final revocation process
- Courts' involvement starts with filing of a petition for final revocation of supervision
- Prior to filing petition, supervising agency (probation department) must assess and determine that intermediate sanctions are inappropriate
- Courts will be authorized to appoint hearing officers for these cases
- Hearing officers may modify conditions, revoke to jail (not prison) for up to 180 days, or refer to an evidence-based program such as a reentry court

www.courts.ca.gov

MYTH

- **The sanction for a revocation of traditional adult probation is now capped at 180 days in jail.**



- No. Realignment does not affect felony probation sanctions. Persons on felony probation for an offense that is ineligible for prison cannot be revoked to state prison, but will serve their revocation in county jail.

PRCS Discharge Process

- Discharges by operation of law at the end of 3 years
- Supervising agency (probation department) may discharge after 6 consecutive months of no violations
- Must discharge after a continuous year served with no violations within 30 days
- Courts **WILL NOT** be involved in the discharge process for either PRCS or parolees



STATE PAROLE

Yes, it still exists ...

State Parole

- Who remains on state parole?
 - Third strikers
 - Individuals with a current serious and/or violent commitment felony
 - High-risk sex offenders, as defined by CDCR
 - Mentally Disordered Offenders (MDOs)
 - Anyone on parole prior to October 1, 2011

MYTH

- **State parolees are transferred to local supervision on October 1, 2011.**



- No. Parole supervision changes are prospective; no person on parole prior to October 1, 2011 is transferred to local supervision by virtue of realignment.

Parole Violations

- Board of Parole Hearings (BPH) retains authority over parole revocations until July 1, 2013
- Same sanctions available as PRCs, including flash incarceration in county jail for up to 10 days
- Violations will be served in jail starting October 1, 2011
- Only persons sentenced to a term of life can be revoked back to state prison
- Revocations capped at 180 days in jail (except for lifers)
- After July 1, 2013, the final revocation process will work the same for parolees as it does for PRCs (handled by the courts)

MYTH

- **Will any state parole revocation petitions be filed with the courts between October 1, 2011, and July 1, 2013?**



- No. Until July 1, 2013, all state parole revocation proceedings will be carried out as they are under current law, under the jurisdiction of the Board of Parole Hearings. Petitions for parole revocation will not be eligible to be filed with a court until July 1, 2013.



LOCAL PLANNING PROCESS

Community Corrections

Partnerships (CCP): Membership

- 14-member statutorily created CCP predates criminal justice realignment
- Realignment defines CCP Executive Committee:
 - Chief Probation Officer (chair)
 - Sheriff
 - Police Chief
 - District Attorney
 - Public Defender
 - Presiding Judge (or designee)
 - One appointment by Board of Supervisors from among head of DSS, MH, or ADP
- Brown Act applicability: consult with county counsel

CCP Implementation Plan

- In realignment context, CCP is charged with preparing a plan to present to the Board of Supervisors to implement 2011 Public Safety Realignment consistent with local needs and resources
- Plan development involves the entire CCP
- CCP Executive Committee votes to send plan to BOS
- Plan deemed accepted unless rejected by Board by a 4/5 vote

MYTH

- **The CCP plan must be submitted by October 1, 2011.**



- There is no deadline for the plan to be presented, and statute does not prescribe a particular format. However, once the BOS adopts a plan, the county must furnish a copy to the Corrections Standards Authority within 60 days.



FOLLOW-UP AND RESOURCES

Conference Call Follow-Up

- Staff from the six organizations will be available to answer questions about this presentation during five conference calls scheduled in September
- To the greatest extent possible, please participate in the call designated for your county
- Conference call capacity limited: please coordinate with others in county to dial in to call as a group
- Additional call-in details to follow
- Please **email questions in advance** to Rosemary McCool of CSAC: rmccool@counties.org

Date for Conference Call	Invited Counties
Wed., Sept. 14 @ 9 a.m.	Alpine, Amador, Calaveras, Lake, Nevada, Placer, Sacramento, San Joaquin, Sutter, Yolo, Yuba and El Dorado
Wed., Sept. 14 @ 10:30 a.m.	Fresno, Inyo, Kern, Kings, Madera, Mariposa, Merced, Mono, Stanislaus, Tulare, Tuolumne and San Luis Obispo
Fri., Sept. 16 @ 3 p.m.	Butte, Colusa, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama and Trinity
Mon., Sept. 19 @ 10 a.m.	Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, Santa Barbara and Ventura
Mon., Sept. 19 @ 3 p.m.	Alameda, Contra Costa, Marin, Monterey, Napa, San Benito, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma

Miscellany/Public Safety Realignment Resources

- AOC: www.courts.ca.gov/partners/realignment.htm
- CDAA: www.cdaa.org/
- CPDA: www.claraweb.us/
- CPOC: www.cpoc.org/php/realign/ab109home.php
- CSAC: www.csac.counties.org/default.asp?id=3202
- CSSA: www.calsheriffs.org/
- CDCR: www.cdcr.ca.gov/realignment/index.html

Staff Contacts

Organization	Key staff contact(s)
Administrative Office of the Courts	JUNE CLARK June.clark@jud.ca.gov; 916-323-3121
California District Attorneys Association	SCOTT THORPE sthorpe@cdaa.org; 916-443-2017 CORY SALZILLO csalzillo@cdaa.org; 916-443-2017
California Public Defenders Association	LIBERTY SANCHEZ sanchezadvocacy@gmail.com; 916-213-1440
California State Association of Counties	ELIZABETH HOWARD ESPINOSA eespinosa@counties.org; 916-650-8131 ROSEMARY MCCOOL rmccool@counties.org; 916-650-8116
California State Sheriffs Association	CURTIS HILL curtis@warnerandpank.com; 916-443-7318 CATHY COYNE ccoyne@calsheriffs.org ; 916-375-8000
Chief Probation Officers of California	KAREN PANK karen@warnerandpank.com; 916-443-7318