

COMING BACK HOME TO SAN DIEGO

A MODEL BEHAVIOR MODIFICATION PROGRAM IN DEVELOPMENT

Public Safety Realignment in San Diego – 2013/2014

Adult Reentry Back to the Community

SUMMARY

In 2011, the State of California and its counties were tasked with implementing the Public Safety Realignment Act, AB109. Before realignment, the definition of a felony was a crime punishable by death or imprisonment in state prison. The new law added imprisonment in a county jail for more than one year to the definition of a felony. This is the cornerstone for redirecting non-serious, non-violent, non-sex offenders (non-non-non's or N3's) from state prisons to local jurisdictions. The intent of realignment is to encourage counties to develop and implement evidence-based practices¹ and alternatives to incarceration to limit future crimes and victimization, thereby reducing the demand for beds in state prisons. The strategy is also based on the premise that community-based support services will increase released offenders' potential to successfully re-integrate into their communities.

With the creation of the Community Corrections Partnership (CCP) as part of the Public Safety Realignment Implementation Plan adopted by the San Diego County Board of Supervisors, there is ongoing development of a number of programs within the CCP to support the realignment. Dealing with individuals being paroled from state prisons is one such program. The County of San Diego (County) calls these individuals Post Release Community Supervision (PRCS) offenders. This group of parolees is now supervised by the County Probation Department rather than the state parole office. Under this program, inmates serving in state prisons have not been, and will not be, transferred to county jails or released early; only those being routinely paroled from the state prisons will be released under the jurisdiction/supervision of the County.

Also shifted to County responsibility were certain felons sentenced to serve their sentences pursuant to Penal Code (PC) 1170(h). N3's newly sentenced under PC 1170(h) now serve their sentences in county jail instead of state prison. Under this statute, the court also has the option to "split" the sentence, meaning a portion of the offender's time is completed in custody and the balance is served in the community under Mandatory Supervision (MS) of the Probation Department. If an N3 serves the full term in jail there is no post-release probation supervision.

The CCP in its effort to develop successful strategies to deal with the County's ever increasing inmate population faces a variety of issues, including the need to reduce recidivism through

¹"Evidence-based practices" implies that 1) there is a definable outcome; 2) it is measurable; and 3) it is defined according to practical realities (recidivism, victim satisfaction, etc.), according to the Department of Justice National Institute of Corrections, Crime & Justice Institute. www.sdcounty.ca.gov/probation/ccp.html

behavior modification. The efforts are many faceted and applied across-the-board, using different delivery models, but there appear to be common goals shared by the two major delivery platforms within the County of San Diego, the Sheriff's Department and the Probation Department.

The Probation Department was the primary agency responsible for behavior modification programs prior to realignment. Under the Public Safety Realignment Implementation Plan (PSRIP),² the Sheriff's Department also provides behavior modification programs as part of its long term inmate detention and reentry responsibilities

The basis of the realignment act--overcrowding of the state prison system and the resulting medical issue--may one day also be facing the County of San Diego due to the shift of responsibilities from the state to the County in 2011.

INTRODUCTION

Previous Grand Juries began reviewing and reporting on the realignment act's impact on San Diego County in 2011. The Board of Supervisors approved the PSRIP in September 2011 in accordance with AB 109 to address relevant issues through the Community Corrections Partnership (CCP). The CCP includes all major criminal justice agencies in the County.

The overall effort is to produce programs that are geared toward offenders by changing their thinking through the use of evidence-based curricula.

The CCP is chaired by the Chief Probation Officer and is comprised of the following representatives on the Executive Committee:

- Presiding Judge of the San Diego Superior Court (or designee)
- The San Diego County Chief Administrative Officer
- The San Diego County District Attorney
- The San Diego County Sheriff
- The San Diego County Public Defender
- A local Police Chief
- County of San Diego Department of Health and Human Services Representative

This report by the 2013/2014 San Diego County Grand Jury is an overview of the past two years of progress toward implementation of the plan(s) with attention focused on the reentry of inmates released to County Probation supervision by the State of California, as well as County individuals released from local jails into the general population.

The PSRIP as approved by the Board of Supervisors is a model of broad-based cooperation. It is an effort to address the monumental task of providing a functioning working plan for inmates being released into the community.

²County of San Diego Public Safety Realignment & Post Release Community Supervision Preliminary 2011 Implementation Plan, www.sdcountry.ca.gov/probation/ccp.html.

PROCEDURE

The Grand Jury research included the following sources as well as interviews with principal individuals involved in the implementation of the plan within the County:

- Assembly Bills AB 94, AB 109, AB 111, AB 116, AB 118
- Senate Bills SB 87, SB 89, SB 678
- California Department of Corrections and Rehabilitation (CDCR) fact sheets and reports published on realignment
- Public Safety Realignment Implementation Plan through the Community Corrections Partnership (CCP)
- CCP reports and updates posted on line
- Grand Jury published reports (2011-2013)
- San Diego County Sheriff's Department staff
- San Diego County Probation Department staff

The Grand Jury also reviewed reports and documents from numerous sources as well as completed questionnaires from several County departments.

Grand Jurors visited and reviewed the operation of:

- The Women's Detention and Reentry Facility in Santee, currently being re-built to accept additional inmates and reentry programs
- The East Mesa Reentry Facility for men, also currently being modified by adding 400 beds
- The Work Furlough Program and Residential Re-Entry Center
- The Community Transition Center, recently opened and relocated
- The Second Chance facility, which uses local and federal funding.

DISCUSSION

The San Diego County Board of Supervisors approved the Public Safety Realignment Implementation Plan (PSRIP) presented by the Community Corrections Partnership (CCP) as the result of AB 109 in September 2011.

The purpose of AB 109 was to reduce the inmate population in state prisons by closing the revolving door of low-level inmates cycling in and out of state prison and to find alternative methods for these offenders to serve their sentences locally, while reducing the level of recidivism within the state.

Prior to realignment more than 60,000 felon parole violators were returned to state prison annually. In the month of September 2011 alone, the felon parole violator population returned to state prisons was over 13,000 inmates. Implementation of the AB 109 realignment reduced the number of inmates to 25 in November 2013, because most felon parole violators now serve their revocation time in County jails instead of state prisons.³

³ California Department of Corrections and Rehabilitation, Fact Sheet, December 19, 2013.

Funding of realignment within the state is through AB109, AB 118 and SB 89. This legislation provides dedicated revenue to the counties from vehicle license fees and a portion of the state sales tax. This funding was reaffirmed with the passage of Proposition 30 in 2012. SB 678 provides funding for probation departments to reduce the number of adult probation violators who are returned to prison. The County of San Diego has received over \$25 million for two years of implementation, custody, supervision, treatment services and revocation activities in connection with the realignment program.

The CCP developed three goals in its mission to oversee the implementation of the new PSRIP:

- To efficiently use jail capacity
- To incorporate reentry principles into in-custody programming
- To incorporate evidence-based practices into supervision, case management and sentencing of offenders

The CCP also developed a five point plan to achieve the above stated goals:

- Enhance pretrial processes
- Improve and streamline felony case settlement
- Encourage evidence-based practices in sentencing felony offenders
- Employ alternative custody options and in-custody programming
- Provide evidence-based supervision and intervention services for post release offenders

With an active CCP in place for the past two years, the County agencies and all others concerned reported on the following progress in addressing the three goals of the CCP:

- **Efficiently use jail capacity through efforts by Sheriff's Department and Probation Department.** The ongoing and developing efforts were most visible with the Residential Re-Entry Center (RRC) and Work Furlough Program along with private contracts to provide work readiness training and an alternative custody option for post- release offenders.

The Residential Re-entry Center was created in 2012 and, in conjunction with the Work Furlough Program, provides adult alternative custody options allowing inmates to serve their sentences while maintaining their employment, community ties, and satisfies court ordered behavior classes.

The program allows transferring suitable inmates from jail, thereby freeing up jail beds. The Grand Jury visited the RRC in December 2013. It is minimum security facility in a commercial area of the city, operated by the Probation and Sheriff Departments under an agreement with a private contractor. Both male and female inmates are housed in the 483 bed facility, approximately 90% male and 10% female. Each is responsible for keeping their own areas clean as well as doing their own laundry. Inmates are charged a maximum of \$42 a day for room and board; the actual charge is based on their ability to pay.

For the most part, inmates use public transportation to get to their work site, although

some have vehicles. Educational and vocational class opportunities are available on-site. There is a small computer lab for their use in seeking employment, preparing resumes and learning computer skills. Also included in the goal of efficiently using the jails is the Sheriff's County Parole and Alternate Custody (CPAC) unit. Alternative custody is for eligible inmates who could be released from custody and monitored with electronic monitoring and /or GPS supervision. As of September, 2013, the unit is responsible for 121 offenders on electronic monitoring, 122 offenders in RRC /Work Furlough, and 43 offenders on County parole.

- **Incorporate Re-Entry Principles into In-Custody Programming**

The CCP members created a plan for "split" sentence offenders (3N's) which calls for a preliminary case plan to be used in matching the offender to treatment services while in custody and a guide to link the offender to other services during supervised probation. Also included are pre-release hearings and subsequent court status hearings to monitor progress in the community.

The Sheriff's Department is in the process of implementing its Detentions Services Bureau Reentry Roadmap 2013 which outlines in detail the department's developing efforts to address the impact of realignment as it relates to the detentions, in-custody programs addressing reentry, and improvement of life skills.

The main focal point for delivery of these efforts is the creation of a reentry services unit within the Detention Services Bureau, and the delivery of inmate programming following the completion of the women's reentry and rehabilitation facility in Santee and the four-hundred bed addition to the men's facility at East Mesa.

The Sheriff's Department will focus on programs that target recidivism and employ evidence-based reentry services such as cognitive based therapy, literacy, job readiness/training programs as well as substance abuse treatment services. The reentry effort as outlined in the roadmap is a major change for the Sheriff's Department detention services and is, as a result, an adaptable/fluid method to meet the ever-changing needs of an ever-expanding inmate population. Of particular note is the aging of the inmate population and the extended length of incarceration, since these two factors expand the responsibilities of the Sheriff's Department in dealing with the inmates' medical problems, many of whom have a long history of drug and alcohol abuse.

The existing inmate programs offering vocational training and employment preparation are very limited. The County jails currently in use were designed for limited, less-than-one-year incarcerations, and lack the needed capacity to provide such programming along with additional personnel needed to deliver it. This area of training delivery is currently under development and will need input and funding from a variety of sources if it is to impact the life and employability of the individual being released into the community.

- **Incorporate evidence-based practices into supervision, case management and sentencing.** CCP members are currently reviewing practices and programs in place to address the needs of the realigned population in an effort to reduce recidivism. The effort

is an on-going developmental process as the County jail population increases as a result of transfers from state prison, as well as those offenders sentenced under PC 1107(h), “Split Sentencing.”

Individuals re-entering the community from the County of San Diego detention system represent a cross section of the community and as such present a wide-range of socio-economic, ethnic and criminal backgrounds requiring different criminogenic solutions. This requires a comprehensive approach focusing on each individual to determine what, if any, interventions are warranted.

This screening is the first step toward tailoring programs that would be the most useful for each offender. The process starts with “proxy” screening to identify the offender’s recidivism risk level. This process provides a cost-effective method of placing higher-risk offenders into programs targeted to their specific needs, without spending time and resources on low risk offenders who are least likely to return to reoffend.

The program also includes an assessment to help make decisions regarding program placement, supervision and case management for each offender. The implementation of case management services is a direct result of CCP’s expanded effort toward comprehensive reentry.

Case management starts as early as possible, targeting services that are likely to benefit the offender and provide the best opportunity for reducing his potential for recidivism.

The most intense programming and case management will be developed and provided at the men’s East Mesa Reentry Facility and the San Diego Women’s Detention and Rehabilitation Facility in Santee.

The Probation Department has hired more than 100 new staff members and created a Post Release Offender Division to handle the PRCS arrivals in the County in addition to other inmates under their supervision.

Additionally, the Probation Department has stationed officers throughout the County within facilities where offenders/inmates are assessed to ensure offender compliance with court orders, conditions of probation and rehabilitation programs.

The Community Transition Center (CTC) was created in January 2013 for the purpose of providing programs to meet the needs of offenders released to county supervision under realignment. This developing operational center is under the management of the Probation Department through a private treatment services contract and was visited by members of the Grand Jury in February 2014.

The center connects offenders with resources they need to meet the conditions of release into the community, evaluates their health, and offers referrals for services including drug treatment, job training and housing. Over 900 offenders have been assessed through the center since its opening. The center also provides short term transitional housing for

offenders without local housing. Additionally, offenders who violate their community supervision conditions and are in need of health treatment can be housed at the CTC while awaiting availability of a residential treatment program, thereby saving limited jail bed space.

Also included in the delivery of educational, counseling and housing services for released inmates and others is the Second Chance program facility. This program, directed at youthful offenders ages 14 to 21, is very active in the delivery of educational, social development and job preparation through its contracts with the Probation Department and the Federal Department of Justice. They provide a program of job readiness where participants become directly involved in preparation and execution of a job search. As a result of community employer involvement in the Second Chance work readiness program, inmates are afforded opportunities to participate in paid internships in the community. The Grand Jury visited the Second Chance facility in December 2013, and was impressed by the instructional delivery methods and enthusiasm of staff as they addressed the needs of those in the work preparedness programs offered by the facility.

The critical elements of the success of realignment lie in the areas of sentencing reform and behavior modification while offenders are in custody or on supervised parole/probation. Prosecutors and crime victims' advocates have expressed concern that some sentences included in the 3N's category are too lenient, and do not reflect the risk to the public when these offenders remain at the county level. The other side of the commentary is that the sentences and enhancements have added punishment beyond what is appropriate to ensure public safety and that the legacy of tough-on-crime sentencing laws will be chronic overcrowding at jails and prisons.

There are other relevant considerations that affect the number of inmates being held in county jails:

- A survey of Sheriff's Departments in California found that more than 1,100 individuals are already serving 5- to 10-year sentences in county jails.
- Individuals being held for trial are impacting the available bed space as they await a court date.
- PC 1170(h) "split sentence" offenders stay in local jails instead of state prison.
- County jails are designed for housing sentenced individuals for less than one year which does not allow for social behavior education and or vocational training.
- Flash incarceration of probation/parole violators is impacting the available jail or facility bed space.
- An increasing number of individuals are entering the criminal justice system and thereby impacting the available bed space in the county jails or facilities.
- The efforts of in-custody reentry programs conducted by the Sheriff's Department and those post-release efforts by the Probation Department to alter recidivism by behavior modification and other means are essential to reducing the number of incarcerated individuals in county facilities.

The overall efforts by all those involved in the Community Corrections Partnership are not without issues or concerns as to the cost and increased responsibilities being placed on the

County of San Diego. The funding from the State of California to address the overhead costs in development and implementation of the programs is itself subject to the economic health of the state and to a lesser extent that of the country. This realignment will impact the county resources at all levels and therefore be a future liability of unknown cost, size and scope that will, if left without oversight, be of critical mass before we know it.

These increasing responsibilities for the health and welfare of in-custody or supervised individuals within the criminal justice system at the county level concern most citizens.⁴ The public perception of safe streets and neighborhoods will be tested in the coming years as the full impact of realignment begins to become more and more visible to the general public in a variety of ways. That citizen view of the criminal justice system will cause major concerns for their wallets as well as their personal safety.

FACTS AND FINDINGS

Fact: The County of San Diego has been impacted by the federal court order to reduce overcrowding within the state prison system.

Fact: AB 109 Realignment and Sentencing guidelines have caused an increase in inmate populations at all county adult detention facilities.

Fact: The Community Corrections Partnership (CCP) was created to address the issues faced by the County as a result of AB109.

Fact: The CCP is the local partnership created to receive state funding to address the issues created by implementing AB 109.

Fact: The County of San Diego has received over \$25 million for two years of implementation, custody, supervision, treatment services and parole revocation activities.

Finding 01: Realignment has had and will continue to have a significant fiscal impact on the County of San Diego.

Fact: The San Diego County Probation Department has hired more than 100 new staff and created a Post Release Offender Division.

Finding 02: The responsibilities of the Probation Department have increased with realignment in both numbers of individuals under its supervision and its role in judicial sentencing.

Fact: The Sheriff's Department has added bed space to their existing seven facilities to accommodate the increase in inmate population.

Fact: Within the County's seven detention facilities, there are currently over 5,600 inmates; by December 2015 that number is expected to rise to an estimated 6,500 inmates. The majority of the inmates will be realigned offenders.

⁴ State of California Little Hoover Commission, May 30, 2013 letter. <http://www.lhc.ca.gov>

Finding 03: Prison realignment is already stressing the ability of county jails and personnel to manage the jail population, and is expected to get worse.

RECOMMENDATIONS

The 2013-2014 San Diego County Grand Jury recommends that the San Diego County Board of Supervisors:

14-82: Closely monitor the long-term funding liabilities for personnel, physical sites and program development costs being imposed on the County of San Diego as a result of the Public Safety Realignment Act being implemented.

The 2013-2014 San Diego County Grand Jury recommends that the Chief Administrative Officer of the County of San Diego direct the Probation Department to:

14-83: Use similar methodology for reentry programming, either in-custody or supervised probation, so as to create a consistent foundation for the individual to reenter the community.

14-84: Reach out to the business community in an effort to find, create or support the hiring of individuals being released from custody.

The 2013-2014 San Diego County Grand Jury recommends that the San Diego County Sheriff:

14-85: Use similar methodology for reentry programming, either in-custody or supervised probation, so as to create a consistent foundation for the individual to reenter the community.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made no later than 90 days after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made within 60 days to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

(a) As to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding

- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
- (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with Penal Code §933.05 are required from:

Responding Agency	Recommendations	Due Date
San Diego County Board of Supervisors	14-82	08/25/14
Chief Administrative Officer, County of San Diego	14-83, 14-84	08/25/14
Sheriff, County of San Diego	14-85	07/28/14