

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

646



FROM: Executive Office

SUBMITTAL DATE:
July 24, 2012

SUBJECT: Report to the Board on Options for Realignment Implementation

RECOMMENDED MOTION: That the Board of Supervisors receive the attached report and recommend that the Riverside Community Corrections Partnership develop performance measures for realignment and report back to the Board in January 2013.

BACKGROUND: Realignment of Public Safety has changed criminal justice throughout California. One Riverside County impact has been jail overcrowding and the release of more than 3,000 inmates since January of this year. By FY 14/15 realignment funding is likely to be dependent on the successful implementation of alternatives to incarceration. The Executive Office, with support from the Sheriff and the Probation Department explored available options.

Continued


Elizabeth J. Olson
Principal Management Analyst

FINANCIAL DATA	Current F.Y. Total Cost:	N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	N/A	For Fiscal Year:	FY 12/13

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE
BY: 
Christopher M. Hans

County Executive Office Signature

- Policy
- Policy
- Consent
- Consent

Dep't Recomm.:
Per Exec. Ofc.:

Prev. Agn. Ref.: 3.70 8/16/11 | **District:** all | **Agenda Number:**

3.79

Departmental Concurrence

A Riverside County jail inmate costs \$142.42 per day. Of the 3,906 available beds an estimated 65% are occupied by those awaiting trial. Due to realignment 1,192 persons convicted since October 1, 2011 served their time in county jails; 615 were still in custody on June 27, 2012. Of these 155 are serving terms of more than three years; the longest sentence is 12 years, eight months. On any given day nearly 300 inmates are serving time for a parole violation and about 85 are in jail for violating the terms of their post prison release community supervision. Sheriff Sniff reports that as of June 27, 2012, "The total number of inmates booked directly attributed to AB 109 realignment is 4,210. The number of those currently in custody equals 979, or approximately 25.8 percent of the total jail population."ⁱ

The attached report identifies that:

- In FY 11/12 a significant portion of AB 109 funding was allocated to assist the Sheriff adequately staff Riverside County jails.
- Successful implementation and measurement of alternatives to incarceration is likely to ensure that by FY 14/15 Riverside County is allocated sufficient realignment funding to effectively manage criminal justice realignment.
- Realignment is prompting increased use of alternatives to incarceration including pre-trial services, electronic monitoring, graduated sanctions, flash incarceration, work release, day reporting centers, and placement at fire camps
- Preliminary data suggests that the alternatives are effective and less costly than jail stays.
- Evaluation must occur to ensure that all alternatives to incarceration accurately measure cost effectiveness and the impacts on recidivism and jail overcrowding
- Alternatives to incarceration coupled with the addition of jail beds could lead to fewer early releases due to overcrowding.

The County needs additional jail beds; the Indio expansion has begun and concomitantly so has planning for a mid-county hub jail. The N3 population continues to grow; managing this population remains critical. It is essential to regularly review local implementation of realignment and to evaluate its effectiveness in Riverside County. The Executive Office recommends that the Board of Supervisors ask the Community Corrections Partnership (CCP) to measure the efficacy of each effort funded with realignment dollars and to report to the Board on progress to date in January 2013 and annually thereafter. Evaluating the funded efforts and reporting to the Board assures the public that their safety remains the County's number one priority.

On August 7, 2012 the CCP will meet to determine how the \$43,183,181 in realignment funding allotted to Riverside County for FY 12/13 (excluding direct grants to the District Attorney, Public Defender and Superior Court) will be allocated. After ten months of experience it is essential that a closer look be taken by the CCP at how the funds are spent to maximize resources available, and to reduce recidivism and jail overcrowding that leads to the early release of those Sheriff Sniff calls "the best of the worst." Each awarded county department will return to the Board with a Form 11 outlining specific realignment plans. Review and approval of the attached report, along with recommendations by the Board will assist the CCP in its efforts to increase the public safety for all Riverside County residents.

ⁱ Sheriff's report to the Community Corrections Partnership on July 3, 2012

Alternatives to Incarceration Available in Riverside County Executive Summary

Realignment of public safety began on October 1, 2011. The Board asked the Executive Office to take a closer look at alternatives to incarceration that might be implemented using state funding.

- In FY 11/12 a significant portion of AB 109 funding was allocated to assist the Sheriff adequately staff Riverside County jails.
- Successful implementation and measurement of alternatives to incarceration is likely to ensure that by FY 14/15 Riverside County is allocated sufficient realignment funding to effectively manage criminal justice realignment.
- Realignment is prompting increased use of alternatives to incarceration including pre-trial services, electronic monitoring, graduated sanctions, flash incarceration, work release, day reporting centers, and placement at fire camps
- Preliminary data suggests that the alternatives are effective and less costly than jail stays.
- Evaluation must occur to ensure that all alternatives to incarceration accurately measure cost effectiveness and the impacts on recidivism and jail overcrowding
- Alternatives to incarceration coupled with the addition of jail beds could lead to fewer early releases due to overcrowding.

After ten months of experience it is essential that a closer look be taken by the Community Corrections Partnership (CCP) at how the funds are spent to maximize resources available, and to reduce recidivism and jail overcrowding that leads to the early release of those Sheriff Sniff calls "the best of the worst."

The County needs additional jail beds; the Indio expansion has begun and concomitantly so has planning for a mid-county hub jail. The N3 population continues to grow; managing this population remains critical. It is essential to regularly review local implementation of realignment and to evaluate its effectiveness in Riverside County. The Executive Office recommends that the Board of Supervisors ask the CCP to measure the efficacy of each effort funded with realignment dollars and to report to the Board on progress to date in January 2013 and annually thereafter. Evaluating the funded efforts and reporting to the Board assures the public that their safety remains the County's number one priority.

Alternatives to Incarceration Available in Riverside County Report and Analysis

The early release of inmates due to jail overcrowding is the new reality in Riverside County. Realignment of public safety has added inmates who not only serve their sentences locally, but for periods greater than a year. Realignment also means parole and probation violators serve time in one of the five jails. Since new jail beds will not be available until 2017, the Board asked the Executive Office review the work release program and other alternatives to incarceration.

Realignment of the criminal justice system dramatically changed criminal justice practices in California, which has one of the highest rates of incarceration in the United States. Effective October 1, 2011, Riverside, and all other California counties, took over supervision of state prisoners released at the completion of their terms if the most recent offense was determined non-violent, non-serious non-high risk sex offender (non, non, non or N3). Effective October 1, 2011, judges began sending newly convicted N3 offenders to local jails instead of to state prison. Some have hybrid sentences, known as Supervised Release, that include a combination of jail and a period of supervision following their release from custody. Lower risk parole violators are kept in county jails instead of being sent to state prison. Although realignment assists the state in meeting its federal directive to reduce prison overcrowding, realignment also provides major opportunities for county government to utilize best practices and to more effectively manage the N3 population.

Reduced recidivism is the primary focus of criminal justice realignment. AB109 (Penal Code §17.5) declares that *“California must reinvest its criminal justice resources to support community-based corrections programs and evidence-based practices that will achieve improved public safety returns on [the] state’s substantial investment in its criminal justice system.”* It further directs that *“Fiscal policy and correctional practices should align to promote a justice reinvestment strategy that fits each county.”* The purpose of any justice reinvestment effort is to increase public safety while reducing costs for managing the identified population. Realignment assumes that there are better county level alternatives for low level offenders than options found in state prison or from state parole.

Realignment defines community based punishment as *“correctional sanctions and programming encompassing a range of custodial and noncustodial responses to criminal or noncompliant offender activity.”* Available options include: flash incarceration for up to 10 days, intensive community supervision, home detention with electronic or GPS monitoring, mandatory community service, restorative justice including restitution, work, training or education in a furlough program, work release, part-time programs, day reporting centers, mandatory substance abuse treatment, mandatory random drug testing, community-based residential programs, and evidence based practices. The Probation Department’s use of graduated sanctions and flash incarceration have proven effective in managing the Post-release Community Supervision (PRCS) population and to be a cost effective alternative to the traditional revocation process that results in more lengthy periods of incarceration. The average length of incarceration for a PRCS offender who is subjected to the revocation petition process is 50 days. As of July 17, 2012, the probation department has utilized flash incarceration on 249 occasions with an average length of incarceration of 9 days. Given the Sheriff Department’s well documented cost of incarceration of \$142.42 per day the use of flash incarceration has saved the county approximately \$1.45 million. In early 2012 the probation department completed their graduated sanctions matrix and trained staff in the use of these graduated sanctions. As of July 17, 2012, the Probation Department has utilized graduated sanctions on 72 cases rather than flash incarceration or a revocation petition which translates to savings from \$92,000 to

\$500,000. Use of these practices of short periods of incarceration and graduated sanctions wherein the consequence is designed to fit the level of misconduct and address the core problem leading to the misconduct is evidence based, cost effective and does not jeopardize public safety.

Probation's PRCS population has completed state prison terms. The department uses evidence based supervision modeled after the successful implementation of SB 678, Evidence Based Probation Supervision Program. Beginning with a thorough assessment of an individual's risk factors, the department provides three levels of case management all with the goal of reducing recidivism. Chief Crogan reported in the Preliminary 2011 Implementation Plan that services for the PRCS N3 population would include, in addition to the thorough assessment noted, *"development of a case plan, motivational interviewing, Courage to Change curriculum, referrals to services according to identified needs (substance abuse, mental health, education, job training, housing) and graduated sanctions as needed to promote rehabilitation."*

By July 2012, Probation officers were supervising 1,665 PRCS and 455 Supervised Release offenders across Riverside County totaling 2,120 offenders. The high risk category included 941 PRCS individuals (57%) and 212 Supervised Release individuals (47%), far more than anticipated when realignment was initially envisioned. Since October 1, 2011, 162 (8%) of those now supervised by the department due to realignment have committed a new offense (This number represents only an arrest not a conviction.) During the same time period 3,740 parole violators were booked into one of five county jails and of these 1,355 (36%) were booked for more than a technical violation of the terms of parole. Given the criminal history of the population supervised, the reduced recidivism is an early benchmark for the success of community based supervision options.

Before AB 109 passed, Riverside County jails were operating at near capacity. Bed construction did not keep pace with population growth; in early 2011 the Sheriff anticipated that by 2020 an additional 2,527 beds would be needed. Early AB 109 estimates supported the need for an additional 2,511 beds bringing the recommended jail bed expansion 5,038 by 2020. In his plan for AB 109 the Sheriff indicated that the increase in sentenced inmates as well as inmates held for parole and probation violations would severely impact available space. In his October 7, 2011 plan the Sheriff stated:

"Currently, the RSO jails are not filled to capacity due to the aggressive work of the courts to clear the backlog of cases and due to the additional expansion of the Larry D. Smith Correctional Facility in FY 10/11. This allowed the Sheriff's Department to reduce its staffing levels in accordance with the reduced number of inmates being housed and to meet the Sheriff's agreed to savings to avoid staff layoffs. The new class of inmate coming into the RSO jails has resulted in all jails being at maximum capacity within a very short time. Each jail is currently operating at their critical staffing levels for the current inmate population level. The staffing at each jail will need to be brought back to previously approved staffing levels for a fully occupied jail system as a necessary step to respond to the expanded corrections work load."

Overcrowding occurred in January 2012. Since then the Sheriff has systematically released more than 3,000 pre-trial and post-conviction inmates according to provisions of a 1993 Federal court order.

One opportunity to impact jail overcrowding will be the transition of pre-trial services from the Superior Court to the Probation Department effective July 1, 2012. The Justice Policy Institute estimates that 71% of California jail inmates are awaiting trial. Probation will identify pre and post arraignment pre-trial inmates who could be considered for release on their own recognizance. Probation officers will interview the inmates, screen them for risk and support factors, and make recommendations to the Court. Probation is considering a variety of options for low risk offenders that include supervision and treatment. Probation officers will report the released individual's non-compliance with the conditions of release to the Court along with a recommendation for the Court's consideration. The Probation Department has reviewed the past experience of the Courts relative to the Pre-Trial workload and outcomes. With the addition of supervision and treatment opportunities the department has established goals of increasing both the number of recommendations for release and the number of release recommendations approved by the Courts. In FY 10/11 the Court Pre-Trial staff completed 11,806 pre-trial reports and recommended release in 1,277 (11%) of those reports. Subsequently, the Court approved 712 (56%) of the recommendations for release. While the number of pre-trial reports completed by the Probation Department is expected to remain consistent, the Probation Department estimates it can increase the number of recommendations for release to 2,479 (21%) and increase the number approved for release to 1,859 (75%). If these goals are realized it would translate to a significant reduction in the number of jail bed days used by a population that can be effectively supervised in the community pending resolution of their criminal case and generate a potential savings to the county of approximately \$4.6 million.

In 2005 Santa Cruz County's Sheriff and Probation Departments began working cooperatively to assess risk in the pre-trial population. Probation also provides supervision of low-risk offenders. At the end of the first two years of operation 92 percent of all supervised pre-trial releases did not reoffend and 89 percent made all necessary court appearances. By 2011 Santa Cruz had a 56 percent pretrial detention rate; fully 15 percentage points lower than 71percent California average. This is definitely possible in Riverside County and could help lower the number federal kicks.

Penal Code §1208.018 allows the Board of Supervisors to authorize the Sheriff, to *"offer a program under which inmates being held in lieu of bail in a county jail may participate in an electronic monitoring program if certain prescribed conditions are met."* The Sheriff's Riverside Alternative Sentencing Program (RASP) operates the Secure Electronic Confinement Program and the Work Release Program, virtual jails that provide alternatives to incarceration. Electronic monitoring programs, via ankle bracelets, limit participants to their homes or workplaces during certain hours and report on participant compliance. The Sheriff's established program could be used in lieu of jail; the cost is significantly less (\$90 administrative fee plus a daily charge) than inmate housing. However to date electronic monitoring has been a choice not a requirement. Forced participation raises questions about payment for monitoring, obtaining the inmate's written consent to participate, liability, and the individual's willingness to comply with the program rules when being placed on the program involuntarily.

Supervised work release inmates perform needed community tasks at predetermined sites. The Sheriff's Inmate Training and Education Bureau (SITE-B) provides inmates with services to foster rehabilitation while in custody, including education, training, anger management counseling, and drug treatment, and connects them to community-based services when they get out of custody. In his October 2011 realignment plan, Sheriff Sniff wrote that these two bureaus and his Headcount Management Unit would begin working in a more deliberately coordinated manner. He stated, *"Deeper and more effective assessment, leading to better inmate*

management in the areas of population and rehabilitation, can occur with the expansion of the alternative sentencing program, the SITE-B rehabilitation programs and the Headcount Management Unit. This expansion can only be accomplished through the addition of more staff and resources in order to address the increased demands on the entire Riverside County criminal justice system created by AB109. The Sheriff also pointed out that expansion of these programs provides the *“additional benefit of increased cost recovery through the collection of fees and the utilization of Inmate Welfare funds.”* The coordination also extends to Probation by offering a variety of options for inmate placement and flash incarceration of community supervised prison releases.

Initially the Board requested a report on work release. Section 4024.2 of the Penal Code defines work release as manual labor to improve or maintain public facilities, support nonprofit organizations as approved by the Sheriff, graffiti cleanup, weed and rubbish abatement on public or private property, house repairs or yard services for senior citizens or to senior centers. Those eligible for work release physically incapable of performing manual labor may also work in a public sector job that is designated and approved by the Sheriff. The Board of Supervisors must create such a program as the Riverside Board did on March 15, 1983. Full time work release is an alternative to incarceration that also provides much needed community services. On the Sheriff's website the following criteria are listed as conditions for program participation: sentenced to county jail time; no pending court cases; physically fit to perform manual work; must work five (5) days a week at the assigned job site; must work 8 to 10 hours a day in lieu of one day of jail time; permanent residency; reliable transportation. Participants cannot be in custody for driving under the influence (DUI) with injury, or for excessive DUI history, for violence related charges; for sex-related charges; or for more than two drug manufacturing charges.

Realignment allows counties to contract with the California Department of Corrections and Rehabilitation (CDCR) for bed space at state prisons. When contacted CDCR responded that state beds will not be available until after the state complies with the Federal Court order and after all state facilities are evaluated. The state plans to close cost prohibitive prisons. Counties can also contract for bed space with other counties. The recently passed SB1021 eliminates the provision that such contracts can only be with contiguous counties. On the surface this seems positive, however few counties have beds available; most face jail crowding due to realignment. At the end of the most recent legislative session the January 1, 2015, sunset date for a county's authority to contract with a public community correctional facility for inmate detention was lifted.

Another alternative to incarceration is purchasing beds at fire camps. Originally estimated at a cost of \$64/day Sheriff Sniff was recently told the rate would be \$46.19/day. Additional costs include initial medical and dental screening, and transportation to and from the agreed upon drop-off point. The Sheriff's Department has entered into discussions with CDCR regarding language changes to a proposed Memorandum of Understanding and is exploring a phased plan to transfer up to 280 inmates to fire camps at a total cost of approximately \$3.7 million in FY 12/13. The transfer would free up jail beds that would quickly be filled. To date no counties have sent inmates to fire camps and there are limitations as to who can serve in these camps. Only inmates with no violent history, no mental health issues, and not receiving ongoing medical treatment are eligible. Commitments to the fire camp must be at least twelve months.

As a component of offender management, Day Reporting Centers are designed to offer a variety of services at a single location, a particularly important option for those who have limited transportation and/or a history of not following through on referrals to a variety of social service programs. These resource centers can be part of the group of alternatives to incarceration. A

central location where treatment, education, training and supportive services can be accessed facilitates success. Several California counties are directing realignment dollars to establish day reporting centers, including Sacramento, Orange, Kern, Butte and Merced. Napa County built a Community Corrections Service Center at which risk assessment, supervision and services including substance abuse and mental health treatment are available for inmates released from jail pending trial and those who have been released on probation. Incarceration of the post arraignment, pretrial population has dropped to 65%, less than both the state and national average. Riverside's Probation Department plans a similar effort in FY 12/13. A location for such a center in Riverside has been identified and planning with collaborative partners is underway. The Probation Department's day reporting center will open within the next 120 days.

Each of the alternatives to incarceration is less costly than paying for jail beds. What is not discussed in this report is the reality of the demand for those beds. Over time a reduction in the number of jail beds filled will lead to cost savings; at present given the number of inmates who have been released due to the Federal Court order it is unlikely that significant savings will occur before there are sufficient jail beds for the current population. Alternatives to incarceration and additional jail beds are not polar opposites; they are both ways of effectively managing the criminal population.

Initial realignment funding was for a nine month period: the group of Chief Administrative Officers appointed to review funding for Fiscal Years 12/13 and 13/14 recommended a continuation of the original funding structure to give counties sufficient time to implement plans and gather data on their efforts. The recommendation for funding beginning in FY 14/15 is that the formula includes incentives for counties to expand efforts that reduce recidivism, utilize evidence based practices, focus on alternatives to incarceration and implement new pre-trial release policies. Incentives may be available to strengthen community based programs and options since some decision makers have voiced concern about transferring the prison overcrowding at the state level to the county level. Unfortunately in a tight economy when Boards of Supervisors have been faced with tough budget decisions, it has often not been possible to expand jail capacity to meet population need. When realignment funding became available, many counties, Riverside included, utilized a portion of funds to strengthen a correctional system already reduced through budget cuts.

The Riverside County Community Corrections Partnership (CCP) members have begun implementing a variety of community based efforts in order to meet the needs of the N3 population, either those sentenced locally, released from state prison, pending trial or held for violations of parole. It is essential that the CCP also measure the cost and effectiveness of alternatives to incarceration.

The Executive Office suggests that the Board of Supervisors urge the CCP to aggressively pursue alternatives to incarceration and to suggest that performance measures be implemented to gauge success. When continued funding for realignment is codified Riverside County needs to be in a position to secure sufficient support to sustain realignment efforts that reduce recidivism and save tax payer dollars. The cost of a jail bed day is well documented and updated annually; however the County does not yet have a clear picture of the costs and effectiveness for all available alternatives to incarceration.

Realignment began on October 1, 2011; with ten months of experience it is time to take a closer look at how the funds are spent to maximize resources available and to reduce recidivism as well as minimize jail overcrowding and the early release of those Sheriff Sniff calls "the best of the worst." The County needs additional jail beds; the Indio expansion has begun and

concomitantly, planning for mid-county jail beds is underway. However the N3 population continues to grow; managing this population is critical. It is essential to regularly review local implementation of realignment and evaluate the effectiveness of those efforts in Riverside County. The Executive Office recommends that the Board of Supervisors ask the CCP to measure the efficacy of each effort funded with realignment dollars and to report to the Board on progress to date in January 2013 and annually thereafter. Evaluating the funded efforts and reporting to the Board assures the public that their safety remains the County's number one priority.