



July 12, 2011

RE: Reducing county jail populations through AB 109 realignment implementation

Dear Executive Committee Members of the Community Corrections Partnership,

Today, the United States has 5% of the world's population and 25% of the world's incarcerated population. Despite extremely high state and local incarceration rates, California's recidivism rate of 68% is among the highest in the nation. In California, our prisons face conditions so extreme that the U.S. Supreme Court has stepped in, ordering the state to take immediate steps to significantly reduce our prison population to comply with Constitutional standards.

Your county can now be part of the solution. With the passage of AB 109 on April 5 and the state budget on June 30, your county assumes significant new corrections responsibilities for people convicted of certain non-serious, non-violent felonies and new community supervision and reentry assistance for people after they are released from prison and jail.

I am writing to urge your County to develop your realignment plan with a clear focus on evidence-based solutions for alternatives to incarceration and reentry, instead of adding jail beds. And as you develop and monitor your plan, be sure to comply with the requirements of the Brown Act, California's open meeting law. Meaningful, significant public input into your planning process will result in a better realignment plan. If planned and implemented appropriately, your realignment plan can assist the County to reduce recidivism, improve public safety, and decrease incarceration levels.

The attached document outlines a few of the solutions your County can put in place. Please distribute it to all members of your Executive Committee. You can take immediate steps at *each* stage of the criminal justice system for both the realignment population and your current jail population:

- Pre-Booking: Place appropriate low-level offenders who agree to participate directly into supervised services similar to reentry programs instead of putting them through the courts and into jail.
- Pre-Trial: Expand non-incarceration alternatives for your pre-trial detention population who cannot afford bail but do not present a significant flight or public safety risk.
- Sentencing: Adopt community corrections alternatives to incarceration for low-level offenders.

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- Probation, Parole and Community Supervision: Adopt evidence-based reentry programs that address the housing, education, employment and health status of individuals and that reduce recidivism.

There are four reasons why your county should focus on alternatives to incarceration and solutions for reentry, instead of adding jail beds:

- *Improving Public Safety.* High rates of recidivism mean more new crimes and more new victims. We have to hold individuals accountable for their behavior, and we have to do so in a way that addresses the underlying reasons – whether drug addiction or mental health problems – that currently lead so many low-level offenders right back to prison and jail. Taking a smarter approach with low-level non-violent offenses has another advantage: we can focus police, prosecutor, and court resources so that violent and serious crimes – like rape and murder – are thoroughly investigated, victims and witnesses are protected, and suspects are prosecuted and held accountable when found guilty.
- *Improving Accountability to Taxpayers.* Our federal, state, and county budgets are all under extreme pressure, with cuts to vital services that people and businesses depend upon. Taxpayers are rightfully demanding that every dollar that we spend demonstrate the very best evidence of positive outcomes. The State of California is giving your county a block grant, not a blank check. The amount is finite. If your county pursues a strategy of long jail sentences to pay for non-violent offenses, it will far exceed funding provided this year by the state and will have to be paid for with discretionary county dollars. These dollars are desperately needed by your county's schools, public safety agencies, and the most basic safety net services.
- *Protecting Your County from Costly Legal Liability.* The same conditions of prison overcrowding and abysmal medical conditions that led the U.S. Supreme Court to hold California liable can occur in your county. In fact, because jails were never designed for long-term detention, counties that respond to realignment by packing their jails are likely at even greater risk of costly lawsuits for conditions of confinement. Your county is better off adopting front-end solutions that reduce jail populations, rather than paying for expensive capital and operating costs for a larger jail population during a time of continued budget cuts.
- *Reducing Structural Inequality Based on Race and Poverty.* Unequal treatment in the criminal justice system is one of the primary drivers of inequality in our society today. We are relying on incarceration to deal with mental health, drug abuse and social problems that can be better solved in other ways. A higher proportion of African-Americans are incarcerated in California today than Blacks were in Apartheid South Africa. Latinos are now the largest group incarcerated in California state prisons. One of the core reasons the state has decided to fund realignment is that counties are better positioned to integrate services in a way that the state cannot.

Realignment is a call to do things differently. As Californians, we can do better. We must.

Thank you for your attention to this pressing issue. We would be happy to answer any questions you have about this letter, and you may contact us at the phone number or email address in the signature block below. We would also like an opportunity to meet with you in person at your earliest convenience to discuss in more detail the ideas presented here. A member of our staff will be following up with you to schedule a time for us to talk.

Yours sincerely,

A handwritten signature in black ink that reads "Abdi Soltani". The signature is fluid and cursive, with a long horizontal stroke at the end.

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Enclosure

12 Steps Counties Should Adopt in their Realignment Plans

On October 1st, criminal justice realignment takes effect, shifting supervision of various populations to the counties. Because the changes are prospective, the increase in local corrections population will occur incrementally rather than all at once; counties have time before the full scale of the implementation will occur. Counties should take immediate steps now, and also take the time to engage in a data-driven process to adopt additional rigorous reforms that will take longer than October 1st to develop and implement.

- 1) Set up a process from the outset that is public, inclusive and transparent. The meetings of your local Community Corrections Partnership and the new statutorily-created Executive Committee are subject to the public notice requirements of the Brown Act. Comply with the letter and the spirit of the Brown Act. Make draft plans publicly available and provide a meaningful opportunity for public input. Invite stakeholders from community, faith, business, labor, taxpayer, crime victim, service provider, civil rights, and other sectors to participate in crafting the plan – and in its implementation. Establish from the beginning a clear process to govern how the plan will be evaluated and how adjustments will be made during implementation and in the coming years; build in an explicit process for amending your plan in the months and years ahead as your county learns which programs and approaches work best and which need improvement
- 2) Conduct a thorough assessment of the characteristics of your current jail population and of the new realignment population (e.g., ask what special needs exist and are likely to exist and how can they best be addressed). For instance, a larger proportion than ever before of your new population will be women. Map out the capacity in your county, including government and private-sector community agencies, and identify the gaps that exist, from assessing risk levels to implementing successful drug treatment, mental health and other programs.
- 3) Set a target – a numerical target – for the number of people to be placed in community corrections alternatives to incarceration, for improved and successful reentry, and for reductions in the jail population.
- 4) Establish a system from pre-entry to re-entry for people who come into contact with your law enforcement and criminal justice system to assess their drug and alcohol addiction, mental and physical health, housing, education, and employment status, and direct them to appropriate programs during and after their interaction with the criminal justice system to maximize the chances of successful reentry. Make sure to provide needed services especially to victims of crime, from child abuse to gang violence.
- 5) Establish a system of pre-booking diversion for your low-risk population, such as those arrested for simple drug possession and low-level drug sales or minor property crimes. Innovative programs are being developed which place appropriate individuals directly into supervised treatment and other programs similar to your current probation and reentry programs. This will get people into the evidence-based programs and services

that have been demonstrated to reduce recidivism while eliminating costly court proceedings and reducing the caseload of already over-burdened judges, prosecutors, public defenders and staff.

- 6) Reduce immigration-based detention and booking costs in county jails. For instance, limit enforcement of immigration detainers and minimize arrests for traffic infractions through acceptance of alternative evidence of identity for people without state-issued ID.
- 7) Expand current, and adopt new, non-incarceration alternatives utilizing home detention and work furlough to replace pre-trial jail detention for appropriate defendants who cannot afford bail. With courts having taken a huge cut to their core funding while taking on significant new supervised release adjudicatory responsibilities, the already-significant pre-trial delays will likely be longer once realignment is fully implemented.
- 8) Develop and impose appropriate community corrections alternatives to incarceration for both the realignment population convicted of low-level non-violent felonies, and for individuals convicted of misdemeanors (your current pre-AB 109 jail population). Make good use of the expanded discretion counties have under realignment to use home detention, work furlough and other intermediate sanctions in lieu of jail time.
- 9) Ensure that jail conditions meet Constitutional standards, that mental health, drug treatment and health care are provided, and that jails provide education, job training and similar programming opportunities so that inmates can earn good-time credits as they do currently in state prison, and to best prepare them for successful reentry.
- 10) Establish effective evidence-based community supervision programs that address the employment, education, housing, and health status of people being released from jail to maximize their chance of successful reentry.
- 11) Develop a financing model that prioritizes funding the mental health, drug treatment, employment, housing and education programs necessary for successful reentry, and then fill in funding for jail time when appropriate, based on the profile and status of each individual.
- 12) Do not get into the prisoner exchange business; don't take in inmates from other counties, send inmates to other counties, or contract with CDCR or private or out-of-state prisons. Most successful reentry will happen in offenders' own communities, close to families for visitation, integrated with services your county is uniquely positioned to provide.

The ACLU is preparing a full report with recommendations for AB 109 implementation and evidence-based alternatives. It will be available in August.