



# Orange County Public Safety Realignment and Postrelease Community Supervision

2012 Update

## Community Corrections Partnership Executive Committee

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As approved by the Executive Committee of the Community Corrections Partnership

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## **I. EXECUTIVE SUMMARY**

### **Overview of 2011 Public Safety Realignment Act**

The 2011 Public Safety Realignment Act (AB 109) transferred responsibilities for supervision of felons released from prison with a committing offense for non-violent, non-serious, or non-high risk sex crime to counties starting October 1, 2011. In addition, new offenders with no current or prior statutorily defined serious, violent, or sex-offending convictions are to be imprisoned locally, with the possibility of community supervision in lieu of custody time. The new legislation presented an unprecedented opportunity for counties to determine an appropriate level of supervision and services to address both the needs and the risks of individuals released from prison and local jails.

### **2011 Public Safety Realignment Implementation Plan**

The Orange County Community Corrections Partnership (OCCCP) is a collaboration among all of the components of the adult criminal justice system, education, social services, substance abuse, mental health, and community-based services in Orange County. The common mission of this alliance is to protect community safety. The executive committee, as part of the OCCCP, was charged with creating an implementation plan and presenting it to the County Board of Supervisors.

On October 18, 2011, the Orange County Board of Supervisors approved the Public Safety Realignment Implementation Plan presented by the OCCCP. The Board of Supervisors also adopted Resolution No. 11-163, authorizing the Chief Probation Officer as the administrator to provide home detention with electronic monitoring and electronic monitoring without home detention, for persons under Postrelease Community Supervision (PCS), pursuant to Penal Code (PC) Sections 3450 and 3454.

### **Orange County Board of Supervisors Study Session**

On May 22, 2012, the OCCCP executive committee provided the Board of Supervisors a report on the progress of implementing the plan.

### **2012 Public Safety Realignment Implementation Update**

The OCCCP presents this 2012 update on the initial realignment efforts, and overview of practices and programs to improve services and outcomes for the offenders and the community.

## **II. BRIEF HISTORY OF THE PUBLIC SAFETY REALIGNMENT ACT**

In an effort to address crowding in California's prisons and assist in alleviating the state's financial crisis, the Public Safety Realignment Act (AB 109) was signed into law on April 4, 2011. Amended by AB 117, which was signed into law

on June 28, 2011, AB 109 transfers responsibility for supervising specified lower level inmates and parolees from the California Department of Corrections and Rehabilitation (CDCR) to counties. Implementation of the Public Safety Realignment Act began on October 1, 2011.

### **Community Corrections Partnership**

In the last three years, there have been statewide efforts to expand the use of evidence-based practices in sentencing and probation practices, and to reduce the state prison population. SB 678 (2009) established a Community Corrections Partnership (CCP) in each county, chaired by the Chief of Probation, charged with advising on the implementation of SB 678 funded initiatives. Public safety realignment established the CCP to develop and recommend a realignment plan for consideration and adoption by the Board of Supervisors.

The OCCCP will advise on the progress of the Implementation Plan. Chaired by the Chief Probation Officer, the OCCCP oversees the realignment process and advises the Orange County Board of Supervisors in determining funding and programming for the various components of the plan. The OCCCP includes an executive committee that consists of the following voting members: a Judge (appointed by the Presiding Judge); the Chief Probation Officer; the County Sheriff; the District Attorney (DA); a Chief of Police; the Public Defender (PD); and the Director of County Social Services or Mental Health or Alcohol and Drug Services (as determined by the Orange County Board of Supervisors).

The original Public Safety Realignment Plan, along with the update, was developed by OCCCP members, their designees, and other key partners.

### **Postrelease Community Supervision**

People released from state prison on or after October 1, 2011 who were incarcerated for a non-serious offense, pursuant to PC 1192.7(c) or a non-violent offense, pursuant to PC 667.5(c), and non high-risk sex offenders, as defined by CDCR, were released to local jurisdictions for supervision under PCS. These offenders may have prior violent or serious offenses, or be registered sex offenders.

### **Flash Incarceration**

Defined under PC 3454(c), as a period of detention in county jail for 1-10 consecutive days. "Shorter but, if necessary, more frequent periods of detention for violations of an offender's PCS conditions, shall appropriately punish an offender while preventing the disruption in a work or home establishment that typically arises from longer term revocations." Orange County Probation, the supervising agency of PCS, may use a short-term of incarceration in county jail as a sanction for violations of the terms and conditions of PCS.

### **Revocations Heard and Served Locally**

PCS and parole revocations will be served in local jails. The Court hears revocations of PCS, while the Board of Parole hearings will conduct parole violation hearings in jail until July 1, 2013, when that responsibility will be moved to the local courts.

### **Redefining Felonies**

Individuals convicted of certain felonies on or after October 1, 2011 may be sentenced to Orange County Jail for more than 12 months. Individuals sentenced under PC 1170(h) may be sentenced to the low, mid, or upper term of a triad. The individual may be sentenced to serve that entire time in county jail, or may be sentenced to serve that time split between county jail and mandatory supervision. Mandatory supervision is the responsibility of the Orange County Probation Department (OCPD).

### **Realignment Cleanup – SB 1023**

On June 27, 2012, the Legislature passed several bills to complete the 2012-13 budget package. SB 1023 addresses corrections and public safety issues. Two major changes enacted by SB 1023 are as follows:

#### **A. Revocation Process**

This bill amends various statutes to apply current probation revocation procedures to all four categories of supervision. It requires that court proceedings to revoke, modify, or terminate probation, mandatory supervision, PCS, and beginning July 1, 2013, parole be conducted under current procedural requirements for probation revocations.

#### **B. County Transfers**

This bill specifies the use of PC 1203.9 for county transfers of mandatory supervision cases.

## **III. FY 2012-13 FUNDING PLAN**

### **FY 2011-12 Funding**

In Fiscal Year (FY) 2011-12, the level of local funding available through public safety realignment was based on a weighted formula containing three elements:

- 60% based on estimated average daily population of offenders meeting public safety realignment eligibility criteria
- 30% based on U.S. Census Data pertaining to the total population of adults (18-64) in the county as a percentage of the statewide population; and
- 10% based on the SB 678 distribution formula

Based on this formula, Orange County was allocated \$25,734,096 for FY 2011-12, to serve approximately 3,434 additional offenders at any point in time. This funding included:

PCS/Local Incarceration	\$ 23,078,393
AB 109 Planning Grant (one-time funds)	\$ 200,000
AB 109 Training and Implementation Activities (one-time funds)	\$ 1,628,450
DA/PD (PCS representation)	\$ 827,253
<b>Total</b>	<b>\$25,734,096</b>

The funding allocations recommended by the CCP and approved by the Board of Supervisors in FY 2011-12 were:

**FY 2011-12 PCS/Local Incarceration Allocation**

Orange County Sheriff's Department (includes HCA in-custody treatment amount)	\$ 13,616,251
Probation Department	\$ 6,692,733
Health Care Agency (post-custody treatment)	\$ 2,077,055
Local Law Enforcement	\$ 692,354
<b>Total PCS/Local Incarceration Allocation</b>	<b>\$ 23,078,393</b>

**FY 2011-12 One-time Funds**

Orange County Sheriff's Department	\$ 1,000,000
Probation Department	\$ 553,596
District Attorney	\$ 110,000
Public Defender	\$ 110,000
Local Law Enforcement	\$ 54,854
<b>Total One-time Funds</b>	<b>\$ 1,828,450</b>

District Attorney/Public Defender (PCS representation)	\$ 827,253
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<b>Total</b>	<b>\$ 25,734,096</b>
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Actual FY 2011-12 revenue receipts and expenditure reimbursements are reflected below. DA and PD monies are restricted to those departments, and unspent balances carry forward for those departments from year-to-year. Unspent FY 2011-12 local law enforcement monies carried forward to FY 2012-13 and are part of the FY 2012-13 total allocation to local law enforcement.

Department	FY 11-12 Allocation	FY 11-12 Revenue	FY 11-12 Actual Expenditure Reimbursements [1]	Variance/ Balance to Allocation	Variance/ Balance to Revenue
<b>Postrelease Community Supervision (PCS)/Local Incarceration</b>					
Sheriff	11,083,628	11,083,628	14,591,757	(3,508,129)	(3,508,129)
Probation	6,692,733	6,692,733	3,184,605	3,508,128	3,508,128
HCA (In-Custody)	2,532,623	2,532,623	4,300,190	(1,767,567)	(1,767,567)
HCA (Post-Custody)	2,077,055	2,077,055	309,488	1,767,567	1,767,567
Local Law Enforcement	692,354	692,354	86,916	605,438	605,438
<b>Total PCS/Local Incarceration</b>	<b>23,078,393</b>	<b>23,078,393</b>	<b>22,472,955</b>	<b>605,438</b>	<b>605,438</b>
<b>One-time Funds</b>					
Sheriff	1,000,000	1,000,000	1,000,000	-	-
Probation	553,596	553,596	553,596	-	-
District Attorney	110,000	110,000	27,980	82,020	82,020
Public Defender	110,000	110,000	110,000	-	-
Local Law Enforcement	54,854	54,854	-	54,854	54,854
<b>Total One-time Funds</b>	<b>1,828,450</b>	<b>1,828,450</b>	<b>1,691,576</b>	<b>136,874</b>	<b>136,874</b>
<b>District Attorney/Public Defender PCS Representation</b>					
District Attorney	413,626.50	413,626.50	39,440	374,187	374,187
Public Defender	413,626.50	413,626.50	118,030	295,597	295,597
<b>Total DA/PD PCS</b>	<b>827,253</b>	<b>827,253</b>	<b>157,470</b>	<b>669,783</b>	<b>669,783</b>
<b>Total Allocations/Expenditures</b>	<b>25,734,096</b>	<b>25,734,096</b>	<b>24,322,001</b>	<b>1,412,095</b>	<b>1,412,095</b>

### FY 2012-13 Proposed Funding

The FY 2011-12 funding formula was based on an October 1, 2011 implementation through June 30, 2012 and was for the first year only. The California State Association of Counties (CSAC), the County Administrative Officers (CAO) and the Department of Finance revisited the formula for future years, and the Governor adopted the counties recommended allocations for FYs 2012-13 and 2013-14, which are based on the “best results” for each county among several options including the current allocation formula, an allocation adjusted based on a county’s share of California adults ages 18 to 64, or an allocation adjusted based on a weighted average daily AB 109 population. The methodology provides for a minimum allocation of twice the FY 2011-12 amount should any of the options described above result in an amount less than the FY 2011-12 allocation. This two-year approach reflects counties’ assessment that it is premature to set a permanent funding allocation formula, based on only nine months of relevant data and experience. While this approach provides counties with some stability over the two-year period, CSAC/CAO and the Department of Finance will continue to work toward a permanent funding allocation methodology for FY 2014-15 and beyond.

Orange County’s “best results” allocation is that adjusted for its share of California adults, ages 18-64, and totals \$56,302,998.

The \$56.3M in funding allocations approved by the CCP and Board of Supervisors are provided below and are consistent with the internal methodology for allocation of the funds used in FY 2011-12, with two exceptions. The \$14M allocation to the Probation Department is 25% of the \$56.3M, while the amount allocated in FY 2011-12 was 29% of the total revenue allocation from the state. The \$14M is anticipated to provide sufficient funding to the Probation Department in FY 2012-13, to enable the Department to phase-in increased staffing and new evidence-based programming. The total amount

allocated to local law enforcement is 3% of the \$56.3M or \$1,689,090, which is consistent with the percentage allocated in FY 2011-12; however, the \$1.7M includes unspent carryover monies from FY 2011-12; thus, the required FY 2012-13 allocation is \$1,028,798, to reach the 3% amount. Both of these exceptions resulted in an unallocated balance of \$2.6M, which is allocated on a one-time basis, as described below.

**FY 2012-13 PCS/Local Incarceration Allocation**

Orange County Sheriff’s Department	\$ 27,040,078
Probation Department	\$ 14,346,340
Health Care Agency (in-custody)	\$ 6,178,691
Health Care Agency (post-custody)	\$ 5,067,270
Local Law Enforcement	<u>\$ 1,028,798</u>
<b>Total PCS/Local Incarceration Allocation</b>	<b>\$ 53,661,177</b>

**FY 2012-13 One-time Allocation**

Health Care Agency (Risk Pool/Stop Gap Insurance)	\$ 1,300,000
Sheriff’s Department (Deputy Recruitments/Academies)	\$ 841,821
District Attorney (Realignment Services)	\$ 250,000
Public Defender (Realignment Services)	<u>\$ 250,000</u>
<b>Total One-time Allocation</b>	<b>\$ 2,641,821</b>

**Total FY 2012-13 Allocation** **\$ 56,302,998**

The FY 2012-13 funding allocations may be adjusted as needed, to ensure adequate funding for each county department. Any changes to the allocations will be presented to the CCP and Board of Supervisors for approval.

In addition to the \$56.3M, the state allocated \$200,000 in one-time monies to the CCP. In response to the Grand Jury Report, *AB 109: Public Safety Realignment: A Paradigm Change*, the CCP and Board of Supervisors approved use of up to \$200,000 for a study to compare crime rates in Orange County for the periods October 2010 through September 2011 and October 2011 through September 2012. Allocation of any unspent funds will be presented to the CCP and Board of Supervisors for approval.

**IV. AGENCY UPDATES**

The proposed strategies that follow take into consideration the multifaceted needs of the public safety realignment population, and the resources necessary to achieve desired public safety outcomes.

PC 3450(b)(7), as added by public safety realignment, states that “fiscal policy and correctional practices should align to promote a justice reinvestment strategy that fits each county.” Public safety realignment defines justice reinvestment as “a data-driven approach to reduce corrections and related criminal justice spending and reinvest savings in strategies designed to increase public safety.”

Orange County plans to utilize evidence-based practices and make use of alternative custody options.

## **A. SHERIFF'S DEPARTMENT – County Jail Inmates**

### **Population Projections vs. Actual Outcomes**

Based on projections provided by the CDCR the Orange County Sheriff's Department (OCSD) anticipated an average monthly intake of *143 new AB 109 bookings per month* (over a two-year period). This population included (1) those convicted of non-violent, non-serious, non-sexual felonies; (2) violators of PCS; (3) violators of state parole up to 180 days; and (4) PCS cases sanctioned with flash incarceration of up to 10 days for each violation.

Since AB 109 implementation, actual outcomes have been significantly higher than projected by the CDCR. At nine months of intake and tracking, the OCSD saw an average monthly increase of 324 bookings per month, for a total of 2,924 bookings. This is more than 200% of CDCR estimates. Given the constant churn of AB 109 inmates booked and released into the system, this translated into a total daily population increase of 777 additional inmates, as of July 31, 2012.

As the county moves forward, the sentencing protocols for parole violators will change in 2013, and local jurisdictions will have a greater say in the length of time parole violators are sentenced to the county jail. With already higher than anticipated bookings and this change in mind, future inmate population projections are very difficult to predict. Additionally, certain portions of the AB 109 population may level off as newly sentenced inmates come into the system and concurrent numbers are released. This makes extrapolating information from the first six months of AB 109 implementation difficult at best. The only clear indicator is that the OCSD will face significant challenges as the population of AB 109 inmates inevitably increases over the next three years.

### **Strategies for County Inmates**

Over the past nine months, the OCSD has used a combination of methods to adjust to the increase in inmate population. The most notable change has been the augmentation of inmates assigned to the Community Work Program (CWP). The OCSD recently dedicated resources to expanding a CWP Compliance Team comprised of deputies who conduct welfare and compliance checks on inmates serving time in the CWP. This includes work site and home inspection checks. The Department currently supervises 289 CWP inmates, which is a significant increase over the prior allotment of CWP workers. As the program develops, we anticipate additional growth.

In addition to the CWP, the OCSD has partnered with the OCPD to increase the number of inmates placed on Supervised Electronic Confinement (SEC).

The CWP Compliance Team works directly with members of the Probation Department, to conduct SEC compliance checks. This program has evolved from a rather limited number of inmates to its current level of 316. There is significant room for growth in the SEC Program, and the OCSD will continue to partner with the OCPD to maximize its use, while also observing our stated mission priority of maintaining public safety.

### **Existing County Jails**

The OCSD currently operates five jails: the Intake Release Center and four additional housing jails (Theo Lacy Facility, Central Men's Jail, Central Women's Jail, and James A. Musick Facility). The Central Women's Jail, with a 352-bed capacity; a portion of the Men's Jail; and the north compound of the James A. Musick Facility, with a 360-bed capacity, were previously closed due to a low jail census; however, the increase in the AB 109 inmate population required the OCSD to open both housing areas to accommodate the myriad of housing and classification challenges that followed.

### **Jail Expansion**

As part of its effort to mitigate the impact of the AB 109 inmate population increase on California counties, the State, by way of AB 900, created a competitive grant source for expansion and/or construction of new jail facilities. The OCSD entered into the grant application process, and on March 08, 2012, the Corrections Standards Authority (CSA) recommended that Orange County receive a conditional grant award of \$100 million for expansion of the James A. Musick Facility in Irvine. CSA required the county to provide a 10% match; however, they allowed the value of the land to mitigate that requirement. The expansion comes with some challenges, including litigation with the city of Irvine; however, the county is well positioned to move forward with this project, which would add 512 beds.

### **Alternatives to Incarceration**

During the first nine months of realignment, the focus of the OCSD has been on adapting personnel and resources to the new paradigm, creating systems of inter-agency operability, developing record-keeping systems, and managing an increasingly complicated and diverse inmate population. This first phase of adaptation has left little time for the OCSD, the OCPD, and our community partners to adjust our existing resources toward new alternative programs.

As a member of the OCCCCP and the Orange County Re-entry Partnership (OCREP), the OCSD is committed to finding alternative solutions to the incarceration and recidivism of inmates. In the coming months, we look to partner with the OCPD to develop new programs modeled after our Transition from Jail to Community (TJC).

The OCSD supports OCPD's pursuit of grant opportunities, such as the 2nd Chance Grant, which is currently underway.

### **Unforeseen/Unintended Consequences**

With the realignment of state prisoners to the county jail systems, the cottage industry of prisoner litigation is likely to rise. On January 13, 2012, a Federal Appeals Court, in the matter of *Armstrong v. Brown*, required the state to monitor county jails, to ensure that state prisoners and parolees housed in county jails are provided all of their rights under the Americans with Disabilities Act (ADA). Within short order, the plaintiff's attorneys began the process of contacting county jail facilities throughout the state, to ensure compliance. The OCSD is in the midst of its own ADA litigation and is well positioned to meet the mandates of *Armstrong v. Brown*; however, the grievance process for compliance with *Armstrong* is markedly different than ADA grievance processes for county inmates. The potential for conflict due to these competing processes are omnipresent. Sheriff Hutchens continues to work with the other California counties and CDCR to find workable solutions and meet all court ordered mandates, thereby lowering the county's liability; however, resolution has not yet been attained.

In addition to ADA issues, the inmate medical care litigation that initially led California to implement the AB 109 realignment of prisoners has now filtered down to the county level. Riverside County is currently facing medical care litigation, and other counties are likely to face similar action. Given the increase in inmate population and longer sentences served at the local level, the OCSD expects medical care needs of inmates will continue to grow, and likely spawn new litigation and increased medical costs.

### **Financial Resources**

With the opening of the Central Women's Jail, all areas of the Central Men's Jail, and the north compound at the James A. Musick Facility, as well as the human resources dedicated to serving the needs of the AB 109 population, the OCSD has dedicated a significant portion of its resources to maintaining public safety. The continued effort of the OCSD to work toward full implementation of AB 109 will require a dedicated funding source from the state, in order to maintain and adapt to the inevitable growth of our inmate population. Governor Brown has taken steps to ensure a dedicated funding source is developed; however, the outcome of his effort is left to the voters, and its future is uncertain. The OCSD will continue to monitor this endeavor, but any long-term planning can only come about with a guaranteed funding source.

## ***B. LOCAL LAW ENFORCEMENT***

Public safety realignment is having an impact on local law enforcement. The number of offenders released back into communities for county supervision is higher than initially projected by the state. As these offenders return to communities, a percentage of them are reoffending. As all service providers attempt to implement programs and supervision services to this population,

which is larger than projected, local law enforcement is having increased contacts with the population that reoffends. Additionally, new sentencing guidelines are now causing convicted offenders to be released into communities for county supervision and services rather than these convicted offenders being sent to state prison. Funds approved by the OCCCP will be distributed to each local law enforcement agency, based on their PCS population. Each local agency will use these funds to develop and implement law enforcement responses best suited for their respective communities to achieve the goals of public safety realignment.

### ***C. DISTRICT ATTORNEY***

Beginning with the implementation of AB 109 on October 1, 2011, the DA has prosecuted PCS violators, as well as supervised release violators. In addition to staff time to prepare for and support the overall program implementation, the DA initially designated a Deputy DA with specific responsibilities to prosecute these defendants.

The number of individuals released under AB 109 continues to grow. This growth is coupled with changes to the law resulting in additional workload challenges to the DA.

On July 1, 2012, SB 1023 became law and amended AB 109. This new law was intended to promote uniform revocation procedures relating to mandatory supervision and PCS. The new law revised PC Sections 1170, 1202.2, 3455, and 3000.08 by extending the probation revocation procedures found in PC 1203.2 to mandatory supervision, under Section 1170(h)(5)(B) and PCS, under Section 3455. This legislation was also intended to provide procedural due process protections held to apply in probation revocations to mandatory supervision and PCS violators.

This new law requires PCS violators to be arraigned in court within a "reasonable time," which has been interpreted by the Orange County courts as seven days. Prior to July 1, 2012, these violators had their initial court hearing set approximately 35 days after they were arrested. With shorter arraignment dates, defendants will now be able to set their hearings before their 35<sup>th</sup> day of custody. Consequently, a defendant will have less custody credits, which may create a disincentive to an early plea.

Therefore, it is likely that more PCS violators will demand a revocation hearing. In preparing for this event, the DA plans to designate a second full-time Deputy DA to prosecute these cases. This Deputy DA and their support team will investigate, prepare, and try any unresolved revocation hearings. This projected increase in demands for hearings is coupled with an expanding violator population. The combination of these factors will inevitably result in a

significant growth in workload demands on Deputy DAs, investigators, paralegals, and clerical staff.

Also, pursuant to AB 109, beginning July 1, 2013, the DA will be responsible for representing the people at all parole revocation hearings. These offenders will include parolees who have previously been convicted of violent felonies; serious felonies; high-risk sex offenses; discharged mentally disordered sex offenders, and third strikers. Based on statistics from the Orange County Jail, the number of monthly bookings of these parolees averaged 196 from October 1, 2011 through March 31, 2012. Projected over one year, this amounts to 2,352 potential parolee violations.

To meet the mandate of representing the people, the DA will be required to create two teams, each team comprised of three Deputy DA IVs, two investigators, one paralegal, and clerical support. The annual estimated cost of these personnel will be about \$2.4 million. This cost may change if there is a change in the volume of parole offenders.

The DA will continue to monitor the prosecution workload required to implement AB 109 and participate in the OCCCP, to ensure the people are adequately represented in these matters.

#### ***D. PUBLIC DEFENDER***

The PD's Office has responded to realignment's potential and its new challenges with a multi-dimensional approach, addressing legal issues created by the new statutes, meeting client support needs with linkage to evidence-based and community supported services, and with strong inter-agency communication and collaboration. Staff have received training on the new law, its legal impacts, evidence-based practices, theories of appropriate incentives and sanctions, and the wide range of service needs of the clients.

The current representational services and responses will continue, with anticipated needs for additional staff as caseloads expand. Attorneys advocate for realignment clients, for evidence-based treatments and responses, and are working to define the parameters of the law. As noted in the 2011 implementation plan, a full-time re-entry specialist PD staff member has been providing service resources for the clients charged with violations of PCS, in conjunction with representation provided by attorneys addressing alleged violations and legal issues pertaining to this new legal paradigm. This staff paralegal has worked closely with Sheriff and Probation staff, and has recently engaged with the newly opened Day Reporting Center (DRC), so as to ensure seamless access to services and support. Additionally, support staff, such as clerical and investigators, completes the client provision of comprehensive representation.

Similarly, the Department has assigned attorney staff and a services resource specialist staff to assist the clients charged with violations of mandatory

supervision, and for those clients who are described per realignment PC 17.5. This staff resource specialist is also providing services for realignment clients at Probation facilities, such as CORE and the DRC.

This year brings new challenges, as July 2013 approaches. Agency and staff relationships need to be forged with parole representatives, in order to ensure dynamic service and representation. The additional legal issues presented by this new area of practice require facility with new areas of legal analysis and advocacy. Staff resources are implicated and will expand as the date draws nearer; this work has already begun. Training in this area and continued training in all areas of realignment also remain a priority, and ongoing process to ensure full capitalization of the law's intent and potential.

The Department's New Leaf Program provides relief for those who have worked past their convictions and seek to "clean up" their records, to avoid the barriers that such convictions present to employment, housing, public benefits, and various other life sustaining services and citizenry goals. Outreach is done to shelters, community-based programs, and the jail, and realignment will increase the number of clients who are seeking these services and relief. Often coordinated with the motion work involved in this assistance is linkage to needed services, such as employment support, tattoo removal, job training, and benefit referrals and advocacy. The PD's experience in case managing these clients, along with its work in its other client services programs, will contribute to the overall realignment success.

## ***E. SUPERIOR COURT***

### **Revocation of Community Supervision**

The Court will continue to process PCS warrants and revocations, which began October 1, 2011. Pursuant to California Rules of Court 4.540 and 4.541 and upon receipt of a petition for warrant or revocation of community supervision from the supervising agency, the Court will accept and file the matter for action.

The court will prescribe the date and time of the revocation hearing within a reasonable time from the filing of the revocation petition, unless time is waived or the court finds good cause to continue the matter. The court will provide a hearing officer, courtroom facility, interpreter services, and the means to produce a record. The court will comply with reporting requirements to local and state agencies, as defined.

### **Redefined Felony Sentencing**

Sentencing under PC 1170(h) and 1170(h)(5) is occurring for eligible defendants.

### Revocation of Parole Supervision

Planning is underway to accommodate the parole population, beginning July 1, 2013.

## F. PROBATION

### Projected Additional Number of Offenders on Local Supervision

In spring 2011, CDCR estimated that there would be 1,316 offenders released from prison to PCS by June 2012. These estimates were revised upward in December 2011 to include inmates released from state prison who would have otherwise been placed on state parole and offenders in jail on violations. Table 1 shows the original CDCR spring projections, the December 2011 revised projections, and the actual number of inmates released from prison through June 2012. Despite the upward revision of the estimates, as of June 30, 2012, Orange County received 14.4% more inmates than expected.

Furthermore, CDCR estimated that Orange County will receive 2,964 offenders released from prison to PCS by September 2013. Even if the actual releases match the revised estimates from this point on, Orange County would receive 3,199 offenders released from prison by September 2013.

Table 1:

CDCR Projected Releases of PCS, Orange County				
Month	CDCR Original Projections (Spring 2011)	CDCR Revised Projections (December 2011)	Actual Releases	% Over Revised Projections
October 2011	179	208	207	-0.5%
November 2011	186	280	322	15.0%
December 2011	177	264	308	16.7%
January 2012	155	202	273	35.1%
February 2012	127	155	201	29.7%
March 2012	115	145	181	24.8%
April 2012	123	139	160	15.1%
May 2012	131	136	126	-7.4%
June 2012	123	132	123	-6.8%
<b>Total</b>	<b>1316</b>	<b>1661</b>	<b>1901</b>	<b>14.4%</b>

In addition, the county will be responsible for 1,464 offenders sentenced to county incarceration and potentially placed on mandatory supervision by the court. Between October 2011 and June 30, 2012, there were 527 individuals sentenced to mandatory supervision under 1170(h)(5).

### **Risk and Needs Assessments**

Assessing offenders in a reliable and valid manner is a prerequisite for the effective management of offenders. Timely, relevant measures of offender risk and needs at the individual and aggregate levels are essential for the implementation of numerous principles of best practice in corrections (e.g., Risk, Needs, and Responsivity, Andrews and Bonta, 1998).

The OCPD has utilized a validated risk/needs assessment instrument since the mid-1980s. This instrument has been the foundation to implementing evidence-based practices known to reduce recidivism. The tool allows the Department to differentiate an offender population into groups with different probabilities of reoffending, so resources can be effectively and efficiently allocated according to risk. Between October 1, 2011 and June 30, 2012, 24 PCS Probation Officers (DPOs) completed 1,127 initial risk and needs assessments, and 114 reassessments of PCS offenders.

In the fall of 2011, the Council of State Governments (CSG), based in Austin, Texas, completed a revalidation of the Orange County, California Probation Department's Adult Risk Needs Initial Risk Assessment Instrument. CSG recommended modifications to the risk items (deletions, additions, and re-weighting), to improve the predictive ability (of recidivism) of the instrument. Planning is underway to implement the recommended changes to the Risk Needs Instrument by the end of the year.

### **Information Technology (IT)**

The OCPD utilizes the Integrated Case Management System (ICMS) as the primary conduit to case information and management. ICMS is a web-based application that allows designated personnel access to case information, in order to effectively meet the needs of the offender, the courts, and the community. The OCPD's IT Division has created, updated, or enhanced 50 forms in response to realignment. They have created exchange projects with other agencies, to enhance our collaborative efforts (i.e., HCA, Child Support Services, DA, and Social Services). In addition, modifications have been made with outside agencies to capture related information for both the PCS and Mandatory Supervision populations, e.g.; Department of Justice-Supervised Release File; Warrant Repository; and COPLINK.

### **Postrelease Community Supervision Division**

In order to manage this historic change in the Criminal Justice System, the OCPD created a specialized supervision division with responsibility for intensive supervision of the PCS population. Once a release packet is received from CDCR, the pre-release team is responsible for re-entry planning with all inmates released from state prison on PCS. If the offender has a mental health diagnosis, the Health Care Agency (HCA) is contacted to participate in the release plan. In order to provide continuity of care and assist CDCR's substance abuse programs with their release and residence plans,

we send both Probation and HCA staff to the local prisons to speak at their “provider fairs.” We also provide the offenders with a brochure on *Guidelines to Successful Completion of Postrelease Community Supervision*.

The assigned DPO will administer the risk/needs assessment tool to every PCS offender and develop a case plan identifying criminogenic needs. Collaborative case planning is the focal point of this active engagement approach involving the offender, his/her family, DPO, law enforcement, and multiple service providers. Individual factors, such as strengths, risk factors, needs, learning style, culture, and language are integral to the determination of appropriate interventions and services. In addition to these important considerations, the risk/needs assessment will determine the level of supervision the probationer requires, and identify the type of evidence-based treatment and services the probationer needs to be successful on supervision, promoting the goals of reducing the risk of re-offense, and increasing pro-social functioning and self-sufficiency. Between October 1, 2011 and June 30, 2012, the PCS Division DPOs made 1,084 referrals to HCA for drug/alcohol or mental health assessments. In addition, officers provided 338 resource referrals for basic assistance, including housing, along with education and employment.

A key component of successfully implementing public safety realignment relies on an effective revocation process combined with consistent imposition of graduated sanctions, in response to violations of supervision conditions. A continuum of interventions allows the DPO to consider offender risk, the severity of the violation, and the behavior of the offender to link the consequence to the case plan objectives. In holding the PCS offenders accountable, the DPOs have used the new intervention strategy of flash incarceration more than 675 times since the implementation of realignment (October 2011 – June 2012). When flash incarceration is deemed an appropriate sanction, the DPO notifies the Supervising Probation Officer (SPO) with an arrest detainer requesting approval of flash incarceration through our ICMS. Flash incarceration allows a DPO to arrest a PCS offender for a violation of supervision terms and place him/her in jail for up to 10 days, without jeopardizing the offender’s success in the community related to employment or family dynamics. In addition, without going through formal court proceedings, this process saves both court time and costs.

Since October, the submission of a revocation petition to the court has been deemed an appropriate sanction on 324 occasions. Of these revocations, 269 have involved new law violations. The OCPD collaborated with the PD’s Office and the DA’s Office, to create a *Postrelease Community Supervision Advisement of Rights, Waiver of Rights and Admission Form*. This form allows either the DPO or the attorney of record to discuss the allegations with the supervised person, who may then choose to waive his/her rights for a formal revocation hearing. Additionally, DPOs have made 19,324 face-to-

face office contacts with PCS offenders, administered 4,586 drug tests, and conducted 3,984 search and seizures on the PCS population.

Incentives are offered to compliant offenders, such as the reduction in duration or type of supervision. Additionally, when an offender achieves a certain milestone in supervision, (e.g., completes substance abuse treatment), the DPO will identify an appropriate reward. This establishes a decision-making structure for OCPD staff, to ensure consistency in responses to violations. PCS offenders that have not served custody time for violations of their terms and conditions of supervision for six consecutive months are evaluated for a Field Monitored (FM) caseload. The PCS Division currently has over 125 offenders that have met the criteria for this reduced level of supervision.

### **Mandatory Supervision**

Since the implementation of the Public Safety Realignment Act, 527 individuals have been sentenced to mandatory supervision. Approximately 330 cases have been released from custody and are currently being supervised by the Adult Field Supervision Division. Prior to realignment, this population would have normally been sentenced to state prison commitments. Now, this population completes a period of local incarceration and a period of community supervision. These offenders receive supervision services that closely resemble those offenders placed on formal probation receive. Both populations are assessed to determine their risk of recidivism. Using the risk scores, the appropriate level of supervision is determined, appropriate referrals are dispensed, and supervision starts for a defined period of time, based on their mandatory supervision sentence. Violations of mandatory supervision are handled like probation violations, in that they are returned to court for a formal hearing and disposition.

### **Re-entry Unit**

The OCPD's Re-entry Unit targets offenders recently placed on probation or mandatory supervision, along with persons in custody for violations. The DPOs prepare the offender for successful community re-entry, which includes offender accountability, public safety, and offender rehabilitation. The cornerstone of the Re-entry Program is the working relationship and collaboration between the OCPD and the OCSD. On May 1, 2012, the Orange County Board of Supervisors approved a probation grant application that will maximize the opportunity to engage the offender in re-entry planning prior to the completion of their jail sentence and release from custody into the community. The grant award is still pending.

### **Center for Opportunity Re-entry and Education (CORE)**

The OCPD, in collaboration with the Orange County Department of Education, established DRC, to reduce the costs of incarceration and provide offenders with the necessary education and life skills. The program provides

adult probationers the opportunity to earn high school diplomas or General Education Development (GED) certificates, as well as develop the life skills, employment skills, and behavioral modification that has been lacking in their lives.

### **Day Reporting Center**

On May 22, 2012, the Orange County Board of Supervisors authorized the execution of a two-year agreement with BI Incorporated, for a pilot DRC, as part of the Orange County Public Safety Realignment and PCS 2011 Implementation Plan.

On July 30, 2012, BI started a full-service DRC, located at 901 Civic Center Drive West, Suite 100 Santa Ana, CA. The DRC is a statutorily and research supported alternative to custody and will relieve pressure in the Orange County Jail, while also sending offenders through a multi-phased program designed and proven to change criminal behavior. The DRC will serve up to 60 offenders at any given time, with the flexibility to increase capacity, based on demand for services.

Offenders sent to the DRC will go through a program that includes regular reporting to the center, intensive treatment and training, employment training, and ongoing drug and alcohol education and testing. Offenders also participate in cognitive behavioral classes proven to change criminal behavior.

Offenders will go to the DRC for 90-180 days, based on their overall progress and compliance. Failure to comply with DRC rules and guidelines may result in increased sanctions, such as additional classes, more frequent reporting, house arrest, or incarceration. When offenders complete the program, they will return periodically for aftercare.

### **Law Enforcement Contact**

It has been the OCPD's goal from the onset of realignment to work together with local law enforcement, in a partnership with regard to the supervision of the PCS offenders. Because of this, ten PCS DPOs have been out-stationed at three local police stations, specifically, five in Anaheim, three in Santa Ana, and two at the OCSD Aliso Viejo Sub-Station. In addition, two DPOs will be out-stationed at Garden Grove Police Department in the near future. As a "regional" approach to the supervision of the PCS offenders, each city in Orange County has at least one liaison officer assigned to supervise the PCS cases in that specific city. It is expected that that DPO or DPOs will remain in contact with officers or staff from their assigned city, in order to ensure a smooth and effective line of communication.

As part of the local collaboration that has grown out of realignment, DPOs have also conducted numerous presentations at most, if not all, of the police

departments located throughout Orange County, during patrol briefings, as well as specifically requested presentations for specialized units within the local departments. These presentations included a DVD, which summarizes AB 109 and the two new types of supervision created in the legislation, as well as pointers directed to the front line police officers. Additionally, an AB 109 FAQ sheet was included, and the DPOs were available to answer questions about PCS and Mandatory Supervision issues. In addition, the OCPD provides the law enforcement agency where the offender resides with a *Notice of Supervision* when the PCS offender reports from prison. This information is also provided to COPLINK to assist local law enforcement.

A MOU was created for local law enforcement agencies to recoup the monies spent on officers' pay during PCS compliance activities, in that collaboration between the OCPD and all of the local law enforcement agencies is paramount to success, with regard to the supervision of the PCS offenders. In FY 2011-12, there have been approximately 10-12 sweeps that law enforcement agencies requested reimbursement for. This does not include the numerous compliance sweeps that have taken place in which reimbursement has not or will not be requested. These include compliance activities with police officers on regularly scheduled shifts or in conjunction with other probation/parole sweeps.

On June 1, 2012, the OCPD entered into a collaborative partnership with the OCSD to address the PCS offenders that have had a warrant issued for their arrest. A DPO was embedded into the already existing OCSD warrant detail, in order to facilitate the partnership and increase the expedience in serving the bench warrants that were issued for the PCS offenders. Between June 1 and July 31, 2012, the OCSD/Probation warrant detail has arrested 15 PCS offenders that had warrants issued and/or new law violations and 10 probationers (non-PCS cases) who had warrants issued. Additionally, the warrant detail DPO has assisted in the cases of 23 PCS warrant offenders who were arrested by other Orange County law enforcement agencies.

## ***G. HEALTH CARE AGENCY – Treatment and Health Services for Offenders under PCS***

### **Mandatory Supervision**

The HCA has identified several programs that can be made available to offenders who have untreated substance abuse and mental health issues.

### **MEDICAL AND PUBLIC HEALTH SERVICES**

#### **Medical Services Initiative (MSI) – Insurance for Low-Income Individuals**

MSI is a federal, state, and county funded healthcare program that provides medical care for Orange County's low-income citizens. It provides a full range of medical services for county residents 19-64 years of age. All program

participants are assigned to a "medical home" that coordinates all aspects of their care and assures the appropriate referral to other providers as needed. The MSI Program contracts with all of the county's key clinics and hospitals, and provides integrated care through contractual relationships with surgery centers, skilled nursing facilities, urgent care facilities, "minute clinics," and a variety of diagnostic centers and programs. Financial eligibility is determined on a case-by-case basis; however, only persons with annual incomes below 200% of the federal poverty level are eligible. In applying for the program, proof of Orange County residency and U.S. citizenship or legal residency is required. An MSI worker is stationed once a week at the OCPD, to help facilitate offenders' enrollment into services. Referrals come from the behavioral health team and OCPD offices.

### **Public Health Services**

Public Health Services, a Division of the Orange County HCA, provides prevention and treatment, and monitors the incidents of disease and injury in the community, and develops preventive strategies to maintain and improve the health of the public. Several public health divisions provide services directly to clients.

*Disease Control and Epidemiology* provides diagnosis and medical care for infectious diseases posing a significant risk to the public, including tuberculosis and sexually transmitted diseases. This division also coordinates countywide HIV care and prevention services.

*Family Health* programs include clinical and community-based services for Maternal, Child and Adolescent Health (MCAH), Nutrition Services, and Dental Health Services for children, people living with HIV, and emergency dental services. MCAH Services offers, to specific target populations, services such as: physicals and immunizations (including influenza), family planning, and management of the Child Health and Disability Prevention (CHDP) Program. In addition, Family Health manages the Childhood Lead Poisoning Prevention Program, the Adolescent and Family Life Program, Cal LEARN, the Immunization Assistance Program, and the Perinatal Hepatitis B Project. Nutrition Services is responsible for a variety of services and programs – including the Women, Infants and Children (WIC) – that improve the nutritional status of the general community and several priority subgroups.

*Public Health Nursing* provides public health nursing assessments, health education, case management, advocacy, referral and follow up services to individuals at high-risk for health problems, including medically high-risk newborns, individuals with chronic or communicable disease, and those with challenges accessing health care. High-risk populations served include individuals with barriers to self-sufficiency, children in out-of-home placement, victims of child abuse and neglect, adults with unmet medical needs, and pregnant teens or women with a history of substance abuse.

*Health Promotion* protects the health and safety of Orange County residents by educating individuals, organizations and communities on preventing disease, disability and premature death. Services include community health education, professional training, coalition building, and media outreach. Programs focus on injury prevention, chronic diseases (such as diabetes and cancer), alcohol, tobacco and drug awareness, maternal and child health, multi-ethnic health education, health access, and communicable disease. Direct services include programs such as tobacco cessation services and provision of child car safety seats.

### **Risk-Reduction, Education, and Community Health (REACH)**

The REACH Program provides a variety of services to help people improve their physical and emotional health, regardless of their circumstances or lifestyle. Services include case management, education and prevention, and outreach and engagement. Case management services are available to current and/or former substance users who are HIV positive. Case managers work with individuals to identify their needs and develop plans to meet these needs, as well as provide on-going support. Transportation assistance to medical appointments is also provided to qualified clients. Education and prevention services include HIV, Hep B and C, and Syphilis community educations. In addition, HIV education classes are provided to court-ordered individuals and testing and counseling are provided at the county Alcohol and Drug Abuse Services (ADAS) out-patient clinics and county-contracted substance abuse treatment programs. Outreach and engagement services include mental health wellness services to homeless and/or adults in transitional living settings throughout Orange County. These services include group interventions that teach participants how to develop and practice healthy coping skills. Individuals are linked to community resources, including mental health services, as needed.

### **Community-Based Treatment Services**

Through the Request for Proposal (RFP) process, HCA will continue to seek the participation of community-based treatment providers for needed services. This includes mental health and substance abuse treatment, and referrals for vocational, educational, and job preparation services. This will require collaboration and evaluation with the OCPD, the HCA, and the OCSD.

This past year, HCA was able to place one staff initially at Probation for assessment of mental health and substance abuse issues. PCS individuals not in need of specialty mental health services or substance abuse treatment were referred to community services, such as temporary shelter and food banks. Assessment staff started in November 2011, and another staff was added in January 2012. HCA worked with community treatment providers, to secure residential and out-patient treatment. HCA was able to purchase additional services from existing contractors for both out-patient and treatment services for PCS clients. Through June 2012, staff referred 1,104

PCS individuals for assessment. One-hundred fifty-five of these enrolled in substance abuse treatment, and 69 were referred to Adult Mental Health Services (AMHS). In July 2012, a part-time psychiatrist was added to the behavioral health assessment team. The psychiatrist is able to conduct a more clinical/medical evaluation of individuals, and provide them with a bridge or short-term intervention, as the appropriate referral for medications and further care are made in the community.

Contract treatment providers are required to employ evidence-based treatment models and practices throughout the continuum of services offered to offenders, as these have been proved to increase the likelihood of reducing recidivism. The evidence-based programs must contain certain characteristics that can demonstrate measurable outcomes. County Mental Health provides mental health assessments for services. Services may include development of treatment, plan, medication, case management, and mental health services. Offenders may be referred to community behavioral health agencies for treatment and services, as appropriate.

Substance Abuse Services require the use of an addiction severity assessment tool, such as American Society of Addiction Medicine Patient Placement Criteria (ASAM PPC) that will identify the offender's severity of their substance abuse and level of service interventions. This assessment is done through the behavioral health assessment team or provider. The team or provider facilitates the referral and enrollment of the offender into contracted treatment providers. In addition to contracting for mental health and substance use disorder services, HCA may also be a direct provider.

HCA will administer these contracts, including program monitoring and assessment of treatment implementation, review of client files, and risk/needs-oriented records that monitor treatment progress and correspond. This requires routine documented observation of providers with regard to delivery of treatment services and programming, with written feedback to staff. Periodic documented surveys of clients, while participating in the programs, are conducted regarding satisfaction with services being provided will be used to aid in program modifications/improvements when needed. HCA will continue established services, while identifying additional needs.

## **PROPOSED SERVICES**

### **Sober Living with Out-Patient Care**

As the behavioral health program was implemented over the past year, a need for supportive housing, such as sober living, was identified. Research has shown that a sober living environment provides for a safe and supportive interim housing option for offenders during their transition back into the community. All homes have house rules and mandatory curfews. Many require participation in 12-step meetings. All residents will have random drug testing. In addition to sober living, participants will be required to participate

in outside care, either through OCPD's DRC or County approved out-patient treatment services. This combination provides more structure and treatment, which will have a positive impact on recidivism rates. Sober Living Homes must meet the Orange County Adult Alcohol and Drug Sober Living facilities certification guidelines, which is overseen by the OCSD, to provide services.

### **Social Model Detox**

Many offenders relapse on drugs or alcohol after their release and desire treatment. In order to start effective treatment, individuals need to detox from their drug or alcohol they are using. HCA currently contracts with three social model detox providers. Social model detox requires intense supervision and monitoring of individuals as they detox. Social model detox does not administer medication. Individuals requiring medication or medical detox are referred to a medical detox provider. HCA plans to purchase, through existing providers, additional detox beds to be dedicated to the AB 109 population.

### **Case Management**

As systems are developed and implemented to address the many needs of the offenders, navigation through these systems may be problematic for the offender. A case manager who facilitates transition between offenders in custody and community resources is pivotal in the successful transition of the offender. The behavioral health assessment team will make the referrals, while coordinating linkage with the case manager.

## **V. PROPOSED OUTCOMES**

This policy initiative and the intervention strategies articulated in this update are intended to improve success rates of offenders under supervision resulting in less victimization, reduced recidivism, and increased community safety. Accomplishing this in the most cost-efficient manner, while employing proven correctional and justice system practices is emerging as the primary strategic goal of the initiative. The OCCCP recognizes the importance of reporting outcome measures to guide future long-term planning decisions.

The OCCCP continues to strive to achieve the following three system goals:

- A. A streamlined and efficient system in Orange County to manage local responsibilities under realignment.
- B. A system that protects public safety and utilizes best practices in recidivism reduction.
- C. A system that effectively utilizes alternatives to pretrial and post-conviction incarceration, where appropriate.

To demonstrate the success in achieving these goals, OCCCCP partners will collaborate and strategize, to develop and track relevant outcome measures. Examples of potential outcome measures include, but are not limited to the following:

- A. Recidivism rates for PCS population.
- B. Recidivism rates for non-violent, non-serious, non-sex offenders sentenced to mandatory supervision now under local jurisdiction.
- C. Number of AB 109 offenders sentenced to county jail and state prison (by type).

## **GLOSSARY OF TERMS**

<b>AB 109</b>	Public Safety Realignment Act of 2011
<b>CAO</b>	County Administrative Officers
<b>CDCR</b>	California Department of Corrections and Rehabilitation
<b>CJI</b>	Crime and Justice Institute
<b>CORE</b>	Center for Opportunity, Rehabilitation, and Education
<b>CSAC</b>	California State Association of Counties
<b>CSG</b>	Council of State Governments
<b>DA</b>	District Attorney
<b>DPO</b>	Deputy Probation Officer
<b>DRC</b>	Day Reporting Center
<b>EBP</b>	Evidence-Based Practices
<b>EM</b>	Electronic Monitoring
<b>GED</b>	General Education Development
<b>GPS</b>	Global Positioning System
<b>HCA</b>	Health Care Agency
<b>HD</b>	Home Detention
<b>ICMS</b>	Integrated Case Management System
<b>IEPP</b>	Implementing Effective Probation Practices
<b>Medi-Cal</b>	Health coverage for low-income children, pregnant women, seniors and persons with disabilities.
<b>OCCCP</b>	Orange County Community Corrections Partnership
<b>OCPD</b>	Orange County Probation Department
<b>PC</b>	Penal Code
<b>PCS</b>	Postrelease Community Supervision
<b>PD</b>	Public Defender
<b>PV</b>	Probation or Postrelease Community Supervision Violation