



June 4, 2010

TO: Members of the Budget Conference Committee

FROM: Elizabeth Howard Espinosa, CSAC Legislative Representative

RE: **Department of Corrections and Rehabilitation (Item 5225)
Section VI, pages 4 and 5
Offenders with Sentences of Three Years or Less Serve Locally (Issue 165)/Juvenile
Justice Population Reform (Issues 166, 167) – CONCERNS**

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On behalf of the California State Association of Counties (CSAC), I write to express county concerns on two corrections proposals now before the Budget Conference Committee. While our members are willing to consider different ways to structure and finance the delivery of services at the local level, it is incumbent upon us to communicate the specific concerns we have with two of the Governor’s May Revision proposals that would shift responsibility and funding to county governments for specified correctional functions. We address each separately below.

SECTION VI – ISSUE 165, PAGE 4: SHIFTING SPECIFIED FELON OFFENDERS TO LOCAL JAILS

The Governor proposes that offenders convicted of non-violent, non-sex and non-serious crimes and who are sentenced to felony terms of 36 months or less serve their time locally in county jails rather than in state prison. As you undoubtedly are aware, county jails are dealing with overcrowding issues and changing demographics of our offender population, just as the state is. At last count, 32 county jail systems are operating under population caps (either court- or self-imposed), including many of our urban counties where it is reasonably safe to assume that this proposal would have a tremendous impact. Counties appreciate the mitigating revenue that, under the Governor’s proposal, would accompany the population shift, but there are significant operational and administrative concerns that could result in the proposal being practically difficult — if not impossible — to implement locally given current conditions in county jails, even if the inmate population were more narrowly defined as recommended by the Senate Budget and Fiscal Review Committee.

Counties understand that the funding proposed by the Governor is not intended to cover detention costs dollar-for-dollar, but, rather, to provide resources for purposes of supervision and service provision to those presumably lower-level inmates displaced from county jails. This construct would be more workable if the county jail population profile consisted of, say, half pre-trial felons and/or inmates being housed on behalf of the state (i.e., parole violators or felons awaiting a new trial for a crime committed in prison) and half post-sentence misdemeanants. The misdemeanor population would give counties the maneuverability to – at least at the outset – manage the local influx of felons sentenced to 36 months or less. Unfortunately, the more likely circumstance is that most counties are already pushing the lower level offenders out of county jail on a regular basis, with space available today to house only the most serious of offenders.

Given the significant constraints under which county jails already are operated, we question how practical it is to ask counties to accommodate incoming felons, even on a prospective basis, if we have no capacity to move our population out into the community. We could easily envision a

circumstance where a county jail simply has no inmate who could safely or reasonably be moved into the community. As it is, counties are currently utilizing alternative custody measures to the greatest extent possible and still face significant overcrowding and population management issues. This proposal threatens to push the local detention system very quickly into a state of heightened crisis. We also are operating under additional constraints, relative to provisions of Marsy's law, which require further analysis.

For these reasons, we also view the funding the Governor's plan offers as a significant mismatch to the duties and responsibilities counties are being asked to take on, especially given that the proposal would not provide counties with offsetting revenue until the second year of implementation.

Further, we would point out that the state has worked diligently in recent years to put the "R" (rehabilitation) back into the state corrections system. Policy makers across the state have advocated for maximizing and incentivizing offenders' participation in in-custody treatment, training, and educational services. The obvious conclusion is that a concerted effort to make the best use of offenders' time in custody and address individual rehabilitative needs results in an inmate population better equipped to make a more successful reintegration into the community. Successful offender reentry, in turn, yields safer communities. This notion, while not fully actualized today with the state prison inmate community given the lack of capacity and recent program reductions, certainly could not be carried out in the county jail system as it exists today. Counties would simply be warehousing these inmates; we have neither the funding nor programming space to offer rehabilitative services. One wonders the extent to which this aspect of the Governor's proposal could further derail efforts to improve offender outcomes and interrupt the cycle of reoffending.

Our local adult detention facilities are designed and constructed pursuant to jail standards crafted through an extensive process overseen by the Corrections Standards Authority (CSA); these standards are designed for a relatively contemporary jail population that remains in the county detention system for, on average, a year's time in optimal cases. Jails historically have not been designed to house offenders for long periods of time; that function was to be filled by the state prison system. Counties are uncomfortable with the notion that the fundamental role and purpose of the local detention system is evolving significantly, with little to no change to either the physical design or capacity of our jails. And, we would point out, without the provision of necessary funds to do the job right.

Counties understand the numerous pressures in the state and local correctional continuum, and we have worked to be good partners in addressing some of these difficult problems. While we are willing to work on developing a more feasible model, we regrettably have concluded that, as currently contemplated, the Governor's proposal would be extremely difficult – if not impossible – to implement in many jurisdictions.

SECTION VI – ISSUE 166 AND 167, PAGE 5: SHIFTING SUPERVISION FOR ALL JUVENILE OFFENDERS EXITING THE DIVISION OF JUVENILE JUSTICE TO COUNTY PROBATION

The Governor's second realignment proposal contemplates shifting parole supervision responsibility for all juveniles exiting the state's Division of Juvenile Justice (DJJ) system to county probation

departments. This proposal arguably is small in terms of the number of juveniles for whom counties would assume supervision responsibility, and it is perhaps a natural extension of duties transferred to counties under the provisions of SB 81 (2007). However, this population typically has very significant needs and presents greater risks than other juvenile offenders. Further, it is important to point out that county probation departments in some jurisdictions look much different than they may have two or three years ago. The current fiscal crisis has resulted in significant staffing and resource reductions to probation departments across the state, meaning that our analysis of counties' capacity to take on this additional function must include a careful assessment of local capacity in the context of counties' current financial condition. We are deeply concerned that, as a practical matter, our probation system is not in a position to accommodate a new responsibility given the very dire circumstances many local departments are facing.

We appreciate being given the opportunity to complete our analysis of both counties' capacity and the extent to which the proposed funding will be sufficient to cover the scope of the services proposed for realignment. As with the previous proposal, counties remain a willing and ready partner to explore new ways of delivering services in a manner that can assure community safety and improved offender outcomes. We look forward to engaging in future discussion on both proposals as the Budget Conference Committee process moves forward.

Thank you for considering our perspective and concerns. Please do not hesitate to contact me at 916/650-8131 for further information on these or other correctional budget issues.

cc: Keely Martin Bosler, Senate Budget and Fiscal Review Committee
Anthony Williams, Office of Senate President pro Tempore Darrell Steinberg
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