



**CALIFORNIA STATE
ASSOCIATION OF
COUNTIES**

August 19, 2009

TO: Members of the Legislature



**URBAN COUNTIES
CAUCUS**

FROM: Elizabeth Howard, CSAC
Jolena Voorhis, UCC
Paul Smith, RCRC
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**REGIONAL COUNCIL
OF RURAL COUNTIES**

RE: **Corrections Cost-Savings Package (Budget Item 5225)
Alternative Custody Option/Release of Elderly/Medically
Infirm – CONCERNS**



**CALIFORNIA MENTAL
HEALTH DIRECTORS
ASSOCIATION**

The California State Association of Counties (CSAC), Urban Counties Caucus (UCC), Regional Council of Rural Counties (RCRC), California Mental Health Directors Association (CMHDA), the County Health Executives Association of California (CHEAC), the County of Los Angeles, and the County of Santa Clara write jointly to express our specific concerns regarding one component advanced by the California Department of Corrections and Rehabilitation (CDCR) to address its \$1.2 billion unallocated reduction. While we recognize the gravity of the fiscal crisis before the state and the need to address corrections costs, counties are extremely concerned that the full impacts of the “alternative custody option for lower-risk offenders” have not been adequately analyzed. Although the range of corrections cost-savings proposals under consideration has public safety implications, the alternative custody proposal has the potential, from the broad county perspective, to further degrade an already overwhelmed local safety net that counties administer on behalf of the state for all Californians.



**COUNTY
HEALTH EXECUTIVES
ASSOCIATION OF
CALIFORNIA**

The alternative custody option for lower-risk offenders includes the release of elderly and infirm inmates – presumably due to this population’s high-cost medical care and mental health needs. Based on CDCR’s very brief summary of the alternative custody concept, it appears this proposal likely would pose severe consequences for counties, the state, and California residents if it is not carried out correctly and in coordination with the local entities that will be affected. Regrettably, in the absence of specific information about the proposal, counties are left to make broad assumptions about how this particular element of the plan could be implemented.



**COUNTY OF LOS
ANGELES**

It is especially unclear as to how CDCR intends to statutorily define the status of the inmates released into “alternative custody.” The department has made clear that this population would remain under CDCR’s jurisdiction while in this “alternate custody” status or under some type of house arrest. However, the state also has expressed its clear intent to divest itself of all financial responsibility for the inmates’ health care. It is unclear what — if any — responsibilities counties have to provide these health services to newly released inmates.



**COUNTY OF SANTA
CLARA**

In addition, CDCR has not shared any current information on the types of inmates, their medical or behavioral profile, and/or acuteness of need, making the process of determining local impact difficult, if not impossible. Counties collectively feel it is our duty to inform the Legislature and the Administration that there should be no assumptions that these individuals can be better served by local health systems that — even before the addition of this population — are already overwhelmed by increased demand for services.

Counties have attempted to analyze what the alternative custody proposal entails, the extent to which counties have a legal responsibility to provide services to the population proposed for release, what services might be available to these individuals, and how the transfer from the state to the local community would optimally occur. While we can offer a general county perspective on this proposal, a more thorough analysis of the proposal's impact — and the challenges in absorbing this population into local health systems — is largely hindered without the following specific information on the population expected to be released under this proposal, including:

- How the status of these inmates will be defined;
- The profile of all those under consideration for early release;
- Demographic distribution across counties of infirm inmates to be released; and
- Medical history of those to be released, including whether those being considered for release were receiving any public benefits prior to their incarceration and whether or not they are eligible for any private insurance. (This proposal likely creates two classes of infirm patients: those that will need their benefits reinstated and those that will be first-time applicants for public assistance programs.)

Despite the absence of the above mentioned details, we outline for you below the most pressing concerns identified by counties regarding this proposal.

1. ***The proposal lacks any provisions for an inmate transition plan, including application for public programs.*** In order for this proposal to be successfully implemented, CDCR must begin implementing a transition plan for these individuals now. This effort would include applying for any public assistance program for which an inmate might be eligible: Medi-Cal, Medicare, and Supplemental Security Income (SSI). The process of applying for public assistance and being granted eligibility for these programs is complicated, particularly in cases with medical disabilities, and can take months. Without upfront work before discharge on eligibility determinations, elderly and medically infirm inmates could go without health care. Additionally, inmates should receive assistance in obtaining identification and social security cards.

CDCR needs to work with counties and local health systems in developing processes for determining and processing eligibility for public programs before inmates are released.

2. ***Community capacity for the provision of medical and mental health care as well as alcohol and drug treatment is at or above capacity; there should be no assumptions about community care options.*** CDCR should be engaged with counties and local health systems before releasing inmates. The current practice of dumping inmates with significant health and mental health issues at local hospitals

cannot continue. It jeopardizes public health, safety, and local health care systems — and is not sustainable if hundreds of inmates are released at the same time.

Most counties have existing waiting lists for alcohol and drug treatment and mental health services. It is unrealistic to assume that continuity of care is viable for this population once they are released back in their communities when it is presently not available to current residents.

Skilled nursing beds are limited and especially so for those without an identified payer source. The CDCR should serve as a guarantor for these inmates until their eligibility for Medicare, Medi-Cal or SSI can be established.

- 3. Several legal and jurisdictional questions emerge from this proposal that operationally will make implementation difficult.** Questions abound regarding the outstanding legal issues surrounding this proposal. It is our belief that this is an area severely lacking in detail that must be carefully thought out before adopting this proposal. Ultimately, who will have legal authority for these inmates? If the state maintains some version of alternate custody, are these individuals considered incarcerated? How will the definition of status impact their access to medical care? Who will make medical decisions for those individuals who are incapacitated and unable to make their own medical decisions? Does this become a responsibility of the public guardian? County public guardians currently manage high caseloads and do not have the capacity to assume additional cases without negatively impacting their ability to perform legally mandated functions.

Waiting until after this proposal is adopted to address some, if not all, of the issues raised above may be too late, and lives could be lost or significantly impacted. We are concerned that this proposal has been assembled in haste with little consultation with stakeholders and that the most fundamental questions about how this particular proposal would be implemented have not been addressed. The consequences of releasing very sick inmates — with very immediate health and mental health needs — will reverberate throughout local health systems and communities. We urge you to assess the impacts to local health systems when you consider this proposal.

Thank you for considering our perspective.

cc: Michael C. Genest, Director of Finance
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