CSAC Legislative Conference

Administration of Justice Policy Committee

Thursday, May 30, 2013 ▪ 8:30 – 10:00 a.m.
Gardenia Room ▪ Sheraton Grand Sacramento
1230 J Street ▪ Sacramento, CA ▪ 95814

Supervisor Federal Glover, Contra Costa County, Chair
Supervisor John Viegas, Glenn County, Vice-Chair

8:30 **I. Welcome and Introductions**
Supervisor Federal Glover, Contra Costa County

8:35 **II. How Does Childhood Experience Affect a Young Person's Criminal Justice System Involvement?**
Angela Irvine, Director of Research, National Council on Crime and Delinquency

8:55 **III. Changes to Parole Revocation Process – An Update from the California Department of Corrections and Rehabilitation (CDCR) and the Administrative Office of the Courts (AOC)**
Shelley Curran, Senior Manager, Criminal Justice Court Services Office, AOC; Guillermo Viera Rosa, Associate Director, Division of Adult Parole, CDCR

9:15 **IV. How to Increase Employment Success for Former Offenders and Other Hard-to-Place Populations**
Carla Javits, President, The Roberts Enterprise Development Fund (REDF); Bill Heiser, Director of California Operations, Center for Employment Opportunities

9:35 **V. 2011 Criminal Justice Realignment/Corrections Update**
Elizabeth Howard Espinosa and Rosemary L. McCool, CSAC Administration of Justice Staff

- State's Response to Federal Three-Judge Panel
- Realignment Training Efforts

9:50 **VI. 2013-14 Budget and 2013 Legislative Update**
Elizabeth Howard Espinosa and Rosemary L. McCool, CSAC Administration of Justice Staff

- Governor's 2013-14 May Revision

10:00 **VII. Closing Remarks and Adjournment**
Supervisor Federal Glover, Contra Costa County

ATTACHMENTS

Agenda Item II ..... **How Does Childhood Experience Affect a Young Person's Criminal Justice System Involvement?**

Agenda Item III ..... **Changes to Parole Revocation Process – An Update from the California Department of Corrections and Rehabilitation and the Administrative Office of the Courts**

Parole Revocation Flowchart

Parole Revocation Proceedings: FAQs

Agenda Item IV ..... **How to Increase Employment Success for Former Offenders and Other Hard-to-Place Populations**

A Private-Public Partnership: Replication of a Proven Model for Reducing Parolee Recidivism

Detailed Description of a CEO Model

Agenda Item V ..... **2011 Criminal Justice Realignment/Corrections Update**

CDCR Fact Sheet: Timeline in the Plata (medical care), Coleman (mental health care) and Three-Judge Panel (prison overcrowding) cases

Agenda Item VI ..... **2013-14 Budget and 2013 Legislative Update**

2011 Public Safety Realignment-related Bills

ITEM II

How Does Childhood Experience Affect a Young Person's Criminal Justice System Involvement?

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May 17, 2013

TO: CSAC Administration of Justice Policy Committee

FROM: Elizabeth Howard Espinosa and Rosemary L. McCool
CSAC Administration of Justice Staff

RE: How Does Childhood Experience Affect a Young Person's Criminal Justice System Involvement?

When Del Norte County Supervisor David Finigan took over as CSAC President in late 2012, he declared his year of leadership as the "year of the child." In so doing, he announced his desire to emphasize the importance of ensuring that we as counties — and, by extension — the vital programs we administer focus on the needs of our youth. In keeping with his initiative, and following the interest and direction of our policy chair and vice-chair, we have invited the National Council on Crime and Delinquency (NCCD) to address our policy committee on where childhood experiences and our criminal justice system intersect. The presentation will explore how childhood experiences may determine whether a young person ends up with criminal justice system involvement. For local policy makers, research in this area is significant in that there may be interventions that can help reduce the cycle of intergenerational criminality and produce better outcomes for our children, our communities, and future generations.

The NCCD defines its mission as the following:

> To promote just and equitable social systems for individuals, families, and communities through research, public policy, and practice. For over 100 years, NCCD research has informed better system responses at all points of contact. The NCCD works to help protect children from abuse and neglect, to create safe and rehabilitative justice systems for youth and adults, and to address the needs of older adults and adults with disabilities. Within these systems the NCCD also studies the unique concerns of girls, LGBT individuals, and overrepresented racial and ethnic groups.

The NCCD has several divisions and centers that enable it to carry out its vision, including a Children's Research Center that uses research to improve service delivery to children and families and a Center for Girls and Young Women that addresses the needs of justice-involved girls by providing research-based, gender-specific training, technical assistance, and curricula to providers in the juvenile justice system. Further, the NCCD conducts its own research on a myriad of issues, including child welfare, juvenile justice and criminal justice. The organization also provides training and technical assistance around these issues to many stakeholders including social service agencies, court personnel, law enforcement and criminal justice agencies.

ITEM III

Changes to Parole Revocation Process – An Update from the California Department of Corrections and Rehabilitation (CDCR) and the Administrative Office of the Courts (AOC)

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RE: Changes to the Parole Revocation Process – An Update from the Department of Corrections and Rehabilitation (CDCR) and the Administrative Office of the Courts (AOC)

As counties will recall, under the provisions of AB 109, the courts will assume responsibility beginning July 1, 2013 for parole revocation hearings from the Board of Parole Hearings (BPH). Currently, parole revocation proceedings are conducted at county facilities – usually at a designated area within the walls of the county jail – by the BPH. However, on July 1 these proceedings will take place at the courthouse with a judicial officer overseeing the hearing.

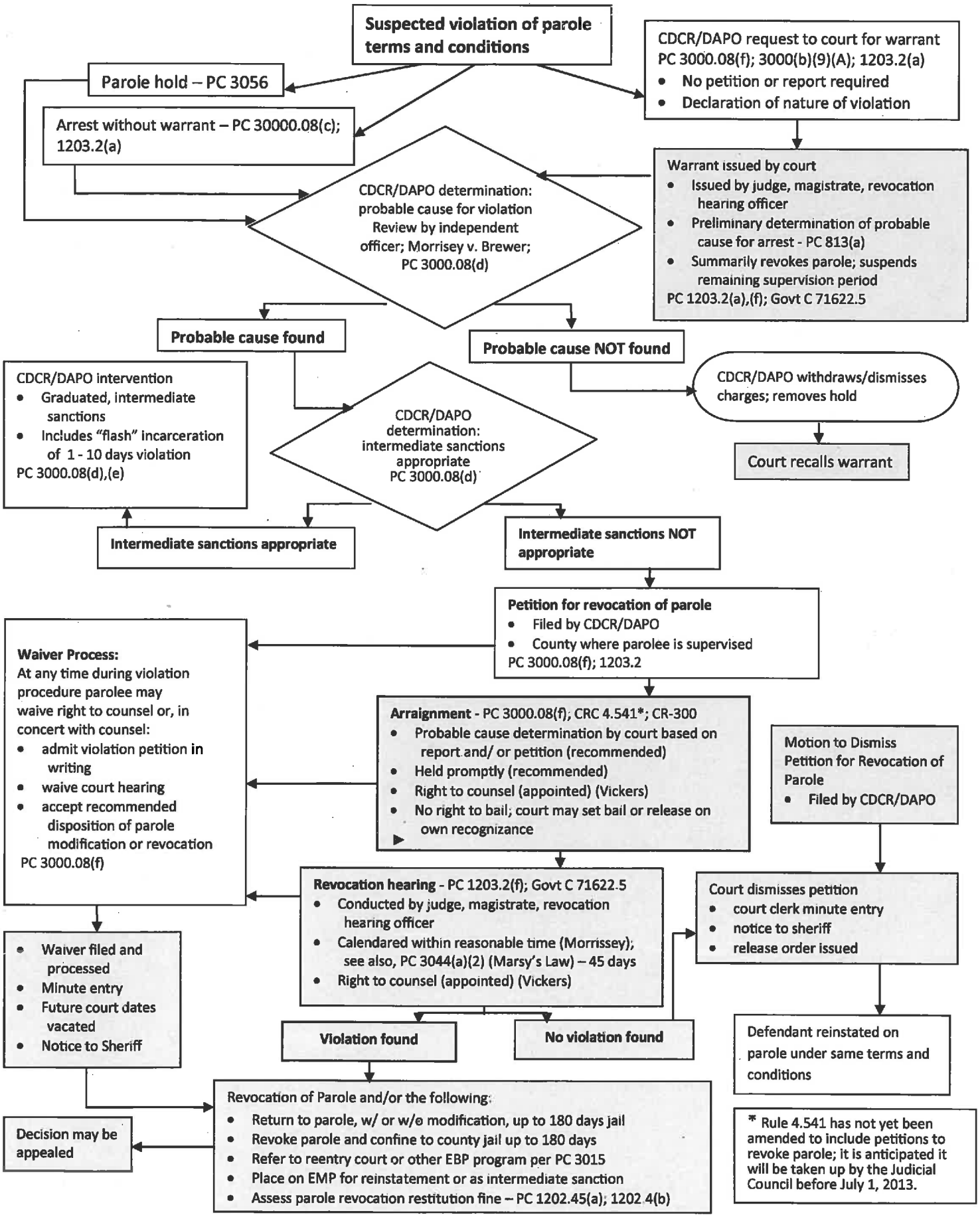
In early discussions on 2011 public safety realignment, it was contemplated that the courts would take over responsibility of the entire revocation process. However, as the state and courts began to examine the work required to achieve this shift of responsibility, it was determined that more time was needed to ensure that the transfer was done appropriately and prudently. With the October 2011 implementation of realignment, the courts assumed only the responsibility for revocation hearings associated with the post-release community supervision (PRCS) population. In July, the parole revocation hearing process transfers to the courts as well.

For more than a year, the AOC and CDCR have undergone a collaborative process to develop the appropriate protocols and legislative changes that are necessary for this transfer of responsibility to occur. CSAC is pleased to welcome Ms. Shelley Curran, Senior Manager of the Criminal Justice Court Services Office at the AOC and Mr. Guillermo Viera Rosa, Associate Director of the Division of Adult Parole with CDCR to our policy committee. Ms. Curran and Mr. Viera Rosa will discuss with counties the process that their respective agencies have undertaken in order for the courts to assume responsibility for parole revocation hearings and the impacts this transfer may have on counties. There will be an opportunity for committee members to ask questions of Ms. Curran and Mr. Viera Rosa during their presentation.

We have attached relevant materials – including a process flowchart and an FAQ document – prepared by the AOC associated with the transition of responsibilities.

ADMINISTRATIVE OFFICE
OF THE COURTS
JUDICIAL AND COURT OPERATIONS
SERVICES DIVISION
CRIMINAL JUSTICE COURT SERVICES OFFICE

PAROLE REVOCATION FLOWCHART



PAROLE REVOCATION PROCEEDINGS: FAQ's[1]

1. What is the effective date of the new parole revocation procedures?

July 1, 2013. Courts will assume the responsibility for the adjudication of all parole violations, regardless of when the parolees committed the alleged violation, the date of the underlying crime, the nature of the underlying crime, or when they were sentenced to state prison. (Pen. Code, § 3000.08(a).[2])

2. What is the role of the courts and the Department of Corrections and Rehabilitation (CDCR), Division of Adult Parole Operations (DAPO), with respect to persons on parole after July 1, 2013?

The parolees will "be subject to parole supervision by [CDCR] and the jurisdiction of the court in the county where the parolee is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody. . . ." (§ 3000.08(a).) DAPO will continue to be responsible for supervision of persons placed on parole after July 1, 2013. Revocation proceedings, however, will no longer be administrative proceedings under the jurisdiction of the Board of Parole Hearings (BPH). Instead, parole revocation proceedings will be adversarial judicial proceedings conducted in the superior courts under section 1203.2.

3. Who is covered by the new procedures?

Parolees released from state prison after serving a term or whose prison sentence was deemed served under section 2900.5 for the following crimes will be under the jurisdiction of the court for purposes of adjudicating parole violations: (§ 3000.08(a).)

- Serious or violent felonies described in sections 1192.7(c) and 667.5(c).
- Crimes sentenced under sections 667(e)(2) or 1170.12(c)(2) - defendants sentenced as third strike offenders under the Three Strikes law.

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[1] The answers to the FAQ's have been jointly prepared by J. Richard Couzens, Judge of the Placer County Superior Court (Ret.); Morris D. Jacobson, Judge of the Alameda County Superior Court; Phillip H. Pennypacker, Judge of the Santa Clara County Superior Court; Dylan M. Sullivan, Commissioner of the El Dorado County Superior Court; Arturo Castro, senior attorney, Criminal Justice Court Services Office, Administrative Office of the Courts; and Rodger W. Meier, Chief, In-Prison Programs, Office of Offender Services, California Department of Corrections and Rehabilitation. These materials are for informational purposes only and the responses are not to be construed as legal opinion or advice.

[2] Unless otherwise indicated, all references are to the Penal Code.

- Any crime where the inmate is classified as a "High Risk Sex Offender." Although not specifically referenced in section 3000.08(a)(4), section 13885.4 defines "high risk sex offenders" as "those persons who are required to register as sex offenders pursuant to the Sex Offender Registration Act and who have been assessed with a score indicating a 'high risk' on the SARATSO identified for that person's specific population as set forth in Section 290.04, or who are identified as being at a high risk of reoffending by the Department of Justice, based on the person's SARATSO score when considered in combination with other, empirically based risk factors."

- Any crime where the parolee is required as a condition of parole to undergo treatment with the Department of Mental Health.

All other inmates are to be released to Postrelease Community Supervision (PRCS). (§ 3000.08(b).)

4. What is the length of parole supervision?

For most parolees, the parole period will be three years. (§ 3000(b).) Some parolees with life terms will be subject to a parole period of five or ten years. (§§ 3000(b)(1) and (b)(3).) The following parolees, however, will remain on parole for three years, or the prescribed term, whichever is greater: (§ 3000.08(i).)

- A person required to register as a sex offender who was subject to a period of parole longer than three years at the time the underlying offense was committed. (§ 3000(b)(4)(A).)

- A person subject to parole for life under section 3000.1 at the time the underlying offense was committed.

The court will be required to adjudicate parole violations for the entire period of parole, regardless of its length.

5. Who adjudicates revocation proceedings that are pending on July 1, 2013?

The BPH will adjudicate revocation proceedings for (1) parolees who have a pending adjudication for a parole violation as of July 1, 2013, and (2) parolees who have an earlier parole proceeding that is reopened after July 1, 2013. (§ 3000.08(j).)

6. Who actually supervises parolees?

DAPO provides physical supervision of persons on parole. In contrast, county probation officers will continue to supervise persons on PRCS.

7. If there is a suspected parole violation, who has the authority to arrest the parolee?

A parole agent, or peace officer. If at any time during the parole period a parole agent or peace officer has probable cause to believe the parolee has violated a condition of parole, the parolee is subject to arrest without a warrant or other process. Specifically, "at any time until the final disposition of the case, [the parole agent or peace officer may] arrest the person and bring him or her before the court, or the court may, in its discretion, issue a warrant for that person's arrest pursuant to Section 1203.2." (§ 3000.08(c).) Furthermore, section 1203.2(a) expressly authorizes the court to issue a warrant based on a parole violation. Section 1203.2(f) defines the "court" to include a judge, magistrate, or revocation hearing officer as described in Government Code, section 71622.5.

Normally DAPO will request an arrest warrant only when the parolee has absconded or has committed a new serious crime.

8. Will courts be required to issue warrants for parole violations after normal court hours?

Likely, yes. While parole agents should endeavor to process requests for warrants during normal business hours, in the unusual circumstance where there is an after-hours urgency, courts likely will be obligated to process warrants in accordance with the on-call magistrate procedure provided in section 810. The court, however, has complete flexibility in determining who may issue the warrants. The duty may be assigned to a sitting or assigned judge, magistrate, or revocation hearing officer as described in Government Code, section 71622.5. (§§ 1203.2(a) and (f).)

9. Will parole holds be used after July 1, 2013?

Yes. Parole holds may be placed by the supervising parole agent pending resolution of an alleged parole violation pursuant to section 3056. Although there is no language in section 3056 expressly allowing parole holds, the section provides that "[a] parolee awaiting a parole revocation hearing may be housed in a county jail awaiting revocation proceedings." CDCR and local jails have interpreted the provision as authorizing parole holds. Holds placed under these circumstances will not involve the courts. The authority to place a hold is in addition to the power of DAPO to arrest, discussed in Question 7, *supra*.

The parole hold will be lifted when the court imposes intermediate sanctions or upon the release of a person after completion of any custody time ordered after revocation of parole. The court will have the ability to override the parole hold by setting bail or releasing the parolee on his or her own recognizance, once the matter is before the court on a petition to revoke parole.

10. Who determines the custody status of parolees pending resolution of a parole violation?

If the matter is being handled informally by DAPO under section 3000.08(d), DAPO will determine the parolee's custody status through the use of the parole hold under section 3056. If the matter comes to court on a petition to revoke parole, the court will have the paramount authority to determine the custody status at and after arraignment on the petition.

11. Are parolees entitled to bail?

No. Parolees have no right to bail on a pending violation. (*In re Law* (1973) 10 Cal.3d 21, 26.) However, once the court has jurisdiction over a petition to revoke parole, the court may set bail or release the parolee on his or her own recognizance, if deemed appropriate.

12. Who has the authority to issue arrest warrants on parole violations after July 1, 2013?

The courts. After July 1, 2013, the sole authority to issue warrants for the return to actual custody of any parolee released on parole rests with the court pursuant to section 1203.2. The only exception is for an escaped parolee or a parolee released prior to his or her scheduled release date who should be returned to custody. (§ 3000(b)(9)(A).) However, any warrant issued by the BPH prior to July 1, 2013, must remain in full force and effect until the warrant is served or it is recalled by the BPH. All parolees arrested on a warrant issued by the BPH will be subject to a review by the BPH prior to the filing of a petition with the court to revoke parole. (§ 3000(b)(9)(B).)

The actual arrest warrants may be issued by a sitting or assigned judge, magistrate, or revocation hearing officer as described in Government Code, section 71622.5. (§§ 1203.2(a) and (f).)

13. Should the court summarily revoke parole when it issues a warrant?

Probably. Because parole revocation proceedings are governed by section 1203.2, most likely the court should summarily revoke parole in the same manner as summarily revoking probation or other forms of supervision. Summary revocation will have the effect of suspending the remaining supervision period. (§1203.2(a).)

14. When a parole agent seeks an arrest warrant for a parole violation, must a petition and/or report be filed in support of the request?

No, but the application should include sufficient facts to support a finding of probable cause for issuance of the warrant. Section 3000.08(d), governing intermediate sanctions for parole violations, does not require the parole agent to file a petition or report in

connection with a request for an arrest warrant. Indeed, section 3000.08(c) expressly allows the arrest of a parolee with or without a warrant. While no petition is required for the issuance of a warrant, the warrant process itself presumes a judicial officer will make at least a preliminary determination that there is probable cause for arrest. (See § 813(a).) Accordingly, the request for an arrest warrant should be accompanied by at least a minimal declaration of the nature of the violation. The Judicial Council's Criminal Law Advisory Committee has directed AOC staff to develop a warrant request form for these purposes. If eventually approved by the Judicial Council, any such form will be made available for use by DAPO and the courts.

If DAPO seeks an arrest warrant in connection with a violation that will be handled informally, the court may be asked later to recall the warrant. The request should be handled administratively, without the need for any court hearing.

15. Must there be a probable cause hearing held at or near the time the parolee is taken into custody on a parole violation? If so, who makes the determination?

No. The right to a probable cause hearing is discussed in the seminal case of *Morrissey v. Brewer* (1972) 408 U.S. 471. There, the U.S. Supreme Court ruled the parolee is entitled to a preliminary review by an independent officer, at or near the time and place of the parolee's arrest, to determine if "reasonable ground exists for revocation of parole. . . ." (*Id.* at p. 485.) The court did not require the determination be made by a judicial officer. (*Id.* at p. 486.) At the probable cause hearing the parolee must be given notice of the charges, an opportunity to speak or present evidence on his or her own behalf, and cross-examine any accusers. (*Id.* at pp. 486-487.) How these due process requirements are implemented, however, was left to the discretion of each state. (*Id.* at pp. 488-489.)

The California Supreme Court applied *Morrissey's* due process requirements, including probable cause determinations, to our state's probation revocation process. (*People v. Vickers* (1972) 8 Cal.3d 451.) Shortly thereafter, the Supreme Court ruled that because of the due process usually afforded by California's judicial procedure, courts need not conduct formal probable cause hearings for probation violations. (*People v. Coleman* (1975) 13 Cal.3d 867, 894-895.) "Since 'the precise nature of the proceedings for [probation] revocation need not be identical' to the bifurcated *Morrissey* parole revocation procedures, so long as 'equivalent due process safeguards' assure that a probationer is not arbitrarily deprived of his conditional liberty for any significant period of time (*People v. Vickers*, *supra*, 8 Cal.3d at p. 458), a unitary hearing will usually suffice in probation revocation cases to serve the purposes of the separate preliminary and formal revocation hearings outlined in *Morrissey*." (*Coleman*, at pp. 894-895; footnote omitted.)

The Legislature amended sections 1203.2 and 3000.08 to apply probation revocation procedures to parole revocations. The legislation was intended to promote uniform parole

revocation procedures and "simultaneously incorporate the procedural due process protections held to apply to probation revocation procedures under *Morrissey v. Brewer* (1972) 408 U.S. 471, and *People v. Vickers* (1972) 8 Cal.3d 451, and their progeny." (2011 Realignment Legislation, SB 1023, Sec. 2(b), effective June 27, 2012.) Because courts need not conduct formal probable cause hearings for probation revocations, courts need not conduct them for parole revocations.

It is important to observe the distinction between a probable cause "determination," and a probable cause "hearing." Probable cause "determinations" are made at a number of stages in the revocation process. Prior to taking action against a parolee, DAPO's internal procedures require a probable cause determination be made by a parole agent's supervisor. Intermediate sanctions may be imposed by DAPO "[u]pon review of the alleged violation and a finding of good cause that the parolee has committed a violation of law or violated his or her conditions of parole. . . ." (§ 3000.08(d).) To the extent courts are called upon to issue arrest warrants, a probable cause determination is made similar to the requirements of section 813(a). Finally, although a probable cause determination is not expressly required by section 1203.2, a prudent court may wish to make such a finding at the time of the parolee's arraignment on the violation, particularly when the arrest was not by warrant. The finding may be based on a petition to revoke parole or its supporting report.

A number of the procedural rights enunciated in *Morrissey* formed the basis of a federal class action lawsuit brought against the state on behalf of parolees, including the right to a probable cause determination and hearing. (*Valdivia, et al. v. Schwarzenegger*. No CIV S-94-0671 (*Valdivia*).) For reasons discussed below, *Valdivia* does not apply to the courts. (See discussion of *Valdivia*, *infra*.)

16. Must DAPO attempt to informally resolve parole violations prior to filing a formal petition in court?

Generally, yes. After finding good cause that the parolee has violated a condition of parole, DAPO may add additional conditions of parole, including treatment and rehabilitation services, incentives, and "immediate, structured, and intermediate sanctions. . . ." (§ 3000.08(d).) Furthermore, section 3000.08(f) requires DAPO to determine that intermediate sanctions are not appropriate before filing a formal petition to revoke parole. Sometimes, as in a situation where a new felony offense has been charged or where the parolee has absconded, DAPO may make such a determination without actually having exhausted intermediate sanctions.

17. What is "flash incarceration?"

"Flash incarceration" is expressly authorized by section 3000.08(d) as an intermediate sanction. It is defined in section 3000.08(e) as "a period of detention in county jail due to

a violation of a parolee's conditions of parole. The length of the detention period can range between one and 10 consecutive days. Shorter, but if necessary more frequent, periods of detention for violations of a parolee's conditions of parole shall appropriately punish a parolee while preventing the disruption in a work or home establishment that typically arises from longer periods of detention." The inmate is not given "conduct" credits under section 4019. The sanction is imposed at the discretion of DAPO without court involvement.

The plain language of sections 3000.08(d) and (e) suggest the sanction may be imposed for each violation. However, DAPO must use the power to incarcerate cautiously. As reflected in section 3000.08(e), the custody period is designed to be quick and short. Due process and other concerns may arise if DAPO imposes multiple consecutive custody periods such that incarceration becomes lengthy and disruptive.

18. When does the court become involved with a parole violation?

With the filing of a petition to revoke parole. If DAPO determines that intermediate sanctions are "not appropriate," the agency may file a petition with the court pursuant to section 1203.2 for revocation of parole. It is filed in the superior court where the parolee is being supervised. (§ 3000.08(f).)

19. Must the petition contain specified information? Is there a Judicial Council form?

Yes. "The petition shall include a written report that contains additional information regarding the petition, including the relevant terms and conditions of parole, the circumstances of the alleged underlying violation, the history and background of the parolee, and any recommendations. The Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision, including the minimum contents of supervision agency reports." (§ 3000.08(f).) In response to this legislative mandate, the Judicial Council has modified form CR-300 to include parole revocation proceedings.

California Rules of Court, Rule 4.541, which governs the contents of the report submitted in connection with a petition to revoke probation, mandatory supervision, and PRCS has not yet been amended to include petitions to revoke parole; it is anticipated the matter will be taken up by the Judicial Council before July 1, 2013.

20. What procedure will the courts use to adjudicate alleged parole violations?

The procedure specified in section 1203.2. In July 2012 the Governor signed into law budget trailer bills that included various statutory amendments designed to promote uniform revocation procedures for probation, mandatory supervision, postrelease community supervision, and parole. The legislation also was designed to "simultaneously incorporate the procedural due process protections held to apply to probation revocation

procedures under *Morrissey v. Brewer* (1972) 408 U.S. 471, and *People v. Vickers* (1972) 8 Cal.3d 451, and their progeny." (2011 Realignment Legislation, SB 1023, Sec. 2(b), effective June 27, 2012.) As a result, courts must apply longstanding probation revocation procedures under section 1203.2 to parole revocations.

21. When must a detained parolee be arraigned?

It is not clear. There is no statute specifically setting the time for arraignment on petitions filed under section 1203.2. Section 825(c) is applicable only to arraignments on new crimes. Nevertheless, it may be prudent for courts to adopt an expeditious procedure for arraignment of these individuals.

22. Is the inmate entitled to appointed counsel for a violation court hearing?

Yes. Because the violation proceedings are being conducted in accordance with section 1203.2, the parolee will be entitled to counsel, including, if necessary, appointed counsel. (See *People v. Vickers* (1972) 8 Cal.3d 451, 461.) See also section 3000.08(f), which references the parolee's option of waiving the right to counsel.

23. If a court determines a petition is facially deficient, such as failing to show that DAPO sufficiently used intermediate sanctions before filing, may the court summarily reject the petition?

No. Other than the process of demurrer, there is no procedure in the criminal code that permits a court to summarily "reject" a pleading, including a petition to revoke parole, based on a factual determination that there has been non-compliance with the code. The proper procedure would be to hear the petition on its merits, including any evidence or explanation offered by the supervising parole officer. If the court then concludes the agency did not appropriately use intermediate sanctions, the proper course is to find the petition "not true," and reinstate parole.

24. Who may conduct the revocation hearings?

The court, through a judge, magistrate, or qualified revocation hearing officer. Section 3000.08 states that the "court" must conduct revocation proceedings pursuant to section 1203.2. Section 1203.2(f) clarifies that "court" means a "judge, magistrate, or revocation hearing officer described in Section 71622.5 of the Government Code." To be eligible to serve as a hearing officer under Government Code section 71622.5, the person must meet one of the following criteria: (a) he or she has been an active member of the State Bar of California for at least 10 years continuously prior to appointment, (b) he or she is or was a judge of a court of record of California within the last five years, or is currently eligible for the assigned judge program, or (c) he or she is or was a commissioner, magistrate, referee, or hearing officer authorized to perform the duties of a subordinate judicial officer of a court of record of California within the last five years. Each court may

prescribe additional minimum qualifications and mandatory training for revocation hearing officers. The superior courts of two or more counties may appoint the same person as a revocation hearing officer.

"[T]he superior court of any county may appoint as many hearing officers as deemed necessary to conduct parole revocation hearings pursuant to Sections 3000.08 and 3000.09 of the Penal Code and to determine violations of conditions of postrelease supervision pursuant to Section 3455 of the Penal Code, and to perform related duties as authorized by the court. A hearing officer appointed pursuant to this section has the authority to conduct these hearings and to make determinations at those hearings pursuant to applicable law." (Govt. Code, § 71622.5(b).) The stipulation of the parties specified by Code of Civil Procedure, section 259(d) is not required before a subordinate hearing officer may conduct a revocation-related hearing.

25. Is there any specific time limit within which the hearing on the parole violation must be held?

There is no definitive answer to this question. If the violation cannot be resolved informally, the matter should be set for a contested evidentiary hearing. It is not clear when the hearing must be held if time is not waived. According to the law applicable to the adjudication of probation violations under section 1203.2, the hearing must be held within a "reasonable time." (See *In re Mehdizadeh* (2003) 105 Cal.App.4th 995, 999-1000.) The boundaries of a "reasonable time" are not well defined. (*Morrissey v. Brewer* (1972) 408 U.S. 471, 488 [a delay of two months is not unreasonable]; *People v. Buford* (1974) 42 Cal.App.3d 975 [21-day delay is not unreasonable]; *In re Williams* (1974) 36 Cal.App.3d 649 [a delay of two months and 25 days is not unreasonable]; *People v. Young* (1991) 228 Cal.App.3d 171, 180-181 [a 79-day delay is unreasonable].) In setting the hearing, the court is to balance all relevant factors, including whether there is a new crime and the custody status of the defendant. (*In re La Croix* (1974) 12 Cal.3d 146, 156.)

If the setting of the hearing is conducted in accordance with section 3044(a)(2), which was added by a voter-approved proposition known as "Marsy's Law," or in accordance with the consent decree in *Valdivia, et al. v. Schwarzenegger* (*Valdivia*), it must be held within 45 calendar days of the parolee's arrest. Because the courts are not a party to the *Valdivia* action, the 45-day limit established by the consent decree will not apply to court revocation proceedings under section 1203.2. Meanwhile, section 3044 in Marsy's Law has been challenged in federal court. There the court enjoined many of the provisions of the statute except for the requirement that violation hearings to be held within 45 days of the parole hold being placed. The federal case, however, is on appeal. (See discussion of *Valdivia* and Marsy's Law, *infra*.)

The Legislature has clearly brought the parole revocation process under the umbrella of section 1203.2 such that the standard should be a "reasonable time." Because it is not clear whether Marsy's Law will establish the time limit, a prudent court may wish to hold the violation hearings within 45 days of the parolee's arrest unless time is waived.

26. Which court adjudicates violations when a parolee is arrested on a parole violation in a different county than the one where the parolee is supervised? Who is responsible for transporting parolees in these circumstances?

The statutes do not directly address this issue. However, it is clear that jurisdiction over the parolee is established by section 3000.08(a): The parolee will "be subject to parole supervision by [CDCR] and the jurisdiction of the court in the county where the parolee is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody. . . ." (§ 3000.08(a).) Furthermore, section 3000.08(f) provides that if revocation of parole is being sought, DAPO shall "pursuant to section 1202.3, petition the court in the county in which the parolee is being supervised to revoke parole." These provisions strongly suggest the adjudication of any parole violations must be in the county of supervision.

Case law under section 1203.2 also supports the conclusion that violation hearings should be held in the county of supervision. (*People v. Klockman* (1997) 59 Cal.App.4th 621.)

However, requiring the adjudication to be in the county of supervision may violate the U.S. Supreme Court's requirement in *Morrissey* that the hearing be held physically close to the alleged violation so that witnesses will be available. (*Morrissey v. Brewer* (1972) 408 U.S. 471, 484.) CDCR is seeking legislation to specifically allow violation hearings to be conducted in the county of supervision or the county in which a parolee is arrested for a new crime.

The statutes do not address which agency has the responsibility to transport the parolee to the proper county. It is unlikely that the burden will fall to the arresting county. Since physical supervision of the parolee is provided by DAPO, presumably the duty will fall to that agency to transport the offender to the county of supervision if the agency chooses to pursue prosecution of the violation. Certainly transportation issues may be subject to adjustment depending on whether the arresting county also is pursuing an independent criminal prosecution against the parolee.

27. If the parolee is found in violation of parole, what sanctions may be imposed by the court?

If the parolee is found in violation of his parole, the court has the authority to do any of the following:

- Return the parolee to parole supervision with a modification of conditions, if appropriate, including a period of incarceration in county jail of up to 180 days for each revocation. (§ 3000.08(f)(1).) For every two days of actual custody served, the parolee will receive a total of four days of credit under section 4019(a)(5).

- Revoke parole and order the person to confinement in the county jail for up to 180 days. (§ 3000.08(f)(2).) For every two days of actual custody served, the parolee will receive a total of four days of credit under section 4019(a)(5).

- Refer the parolee to a reentry court pursuant to section 3015 or other evidence-based program in the court's discretion. (§ 3000.08(f)(3).)

- Place the parolee on electronic monitoring as a condition of reinstatement on parole or as an intermediate sanction in lieu of returning the parolee to custody. (§ 3004(a).)

28. May the court return the parolee to state prison?

Generally, no; the court may not return a parolee to state prison. The only exception is section 3000.08(h), which allows only designated parolees returned to prison on a parole violation. If the parolee is subject to life parole under sections 3000(b)(4) and 3000.1 for murder or designated sex offenses, and the court finds the parolee has violated the law or a condition of parole, the parolee "shall be remanded to the custody of [CDCR] and the jurisdiction of the [BPH] for the purpose of future parole consideration." (§ 3000.08(h).) Thereafter the BPH will schedule a hearing within 12 months to determine parole eligibility. (§ 3000.1(d).)

29. May parole supervision be transferred to a different county?

Yes. Although there is no formal statutory procedure for the transfer of an inmate's parole to a different county, DAPO regularly transfers parole supervision on an informal basis when deemed appropriate. The transfer process is not done under section 1203.9, which is limited to the transfer of persons on probation or mandatory supervision.

30. May the court terminate parole?

No. Unlike section 3455(a)(2) for PRCS, section 3000.08(f)(2) does not contain language suggesting the court has the power to "terminate" parole. Furthermore, section 1203.2(a) specifies that the court shall have no authority under that section to terminate parole. Section 1202.3, which generally governs the modification and early termination of other forms of supervision, does not apply to persons on parole. Finally, section

1203.2(b)(1) provides that a "person supervised on parole . . . may not petition the court pursuant to this section for early release from supervision. . . ."

31. What happens to an inmate's parole status if a new crime is committed and the court imposes either a state prison or section 1170(h) sentence?

The response by DAPO will depend on the nature of the new crime. If the parolee is on parole and commits a new crime punished under section 1170(h), whether a straight or split sentence, DAPO will terminate its supervision so as not to duplicate supervision by county probation officers. If the parolee commits a crime punished in state prison, the parolee's supervision will continue on parole, adjusted to meet any new terms. Except for arrest on a suspected parole violation, "any person who is convicted of a felony that requires community supervision and who still has a period of state parole to serve shall discharge from state parole at the time of release to community supervision."

32. What parole services will be available to the court and parolee on July 1, 2013?

Because DAPO will be responsible for the physical supervision of the inmate, all supervision and treatment services will come through state parole. These services will vary from region to region. A summary of available parole resources may be found at http://www.cdcr.ca.gov/community_partnerships/resource_directory.aspx.

Any treatment or supervision plans ordered by the court should be based on a validated risk assessment tool and the Parole Violation Decision Making Index (PVDMI).

33. May the parolee request modification of the conditions of parole?

Only on a limited basis. A "petition under [section 1203.2] shall not be filed solely for the purpose of modifying parole. Nothing in this section shall prohibit the court from modifying parole when acting on its own motion or a petition to revoke parole." (§ 1203.2(b)(1).)

34. May the parolee accept the proposed sanction for a violation without the need to go through the court process?

Yes. At any time during the procedure on a violation, the parolee may choose to waive the right to counsel, admit the petition, waive the court hearing, and accept the recommended disposition. (§ 3000.08(f).)

35. Is the court required to impose and order into execution a parole revocation fine?

Yes. Courts are required to assess a "parole revocation restitution fine" under section 1202.45(a) at the time of sentencing on the underlying conviction that resulted in the prison term. The fine is to be imposed in the same amount as assessed under section 1202.4(b), and is to apply to all persons convicted of a crime sentenced to prison where

the term will include a period of parole. The fine is stayed pending satisfactory completion of parole.

If there is a substantial interruption of parole status because of the parolee's incarceration, the records division of DAPO will send a notice to the sentencing court indicating the parole revocation fine may be collected. Consistent with prior practice of DAPO with respect to the fine, it will be collected if the court revokes parole and orders any significant custody time, even if parole is reinstated. It will not be ordered for collection with flash incarceration or with a referral to a re-entry court.

The parole revocation restitution fine may be collected by the agency designated by the board of supervisors under section 2085.5(b) where the defendant is incarcerated. Once the defendant is no longer on parole, any remaining unpaid restitution fines may be collected by the California Victim Compensation and Government Claims Board under section 1214(a).

36. Does Marsy's Law apply to parole revocation proceedings?

The answer is not clear. Section 3044(a), enacted by Marsy's Law in 2008, designates the rights available to parolees subject to parole revocation proceedings. These rights include the following:

- The right to a probable cause hearing no later than 15 days following arrest for the parole violation.
- The right to an evidentiary revocation hearing within 45 days following arrest for the parole violation.
- The right to counsel on a limited basis.
- The violation must be proved by a preponderance of the evidence by testimony, documentary evidence, or "hearsay evidence offered by parole agents, peace officers, or a victim." (§ 3044(a)(5).)

A potential conflict arises between Marsy's Law and the realignment legislation because a number of the rights and procedures outlined in section 3044 are not included in section 1203.2, the statute that now governs proceedings for revocation of parole.

It is not clear whether the statutory provisions apply to the courts. By its terms, the statute applies to "the [BPH] or its successor in interest. . . ." It is unclear whether in this context the courts, in the judicial branch of government, can be "a successor in interest" to the BPH, in the executive branch.

A federal district judge has invalidated as unconstitutional sections 3044(a), 3044(a)(1) – (3), 3044(a)(5), and 3044(b), except the court has ordered that violation hearings be held

within 45 days of the hold being placed. (See *Valdivia v. Brown*, CIV S-94-671.) The matter is now on appeal.

The Legislature has clearly brought the parole revocation process under the umbrella of section 1203.2 such that the hearing should be held within a "reasonable time." Because it is not clear whether Marsy's Law will establish the time limit, a prudent court may wish to hold the violation hearings within 45 days of the parolee's arrest unless time is waived.

37. Does the *Valdivia* consent decree apply to court proceedings adjudicating parole violations?

No. In 1994 a federal class action lawsuit was filed in the U.S. District Court in the Eastern District of California, alleging that the then existing parole revocation procedures violated the due process rights of California parolees. The name of the case is *Valdivia, et al. v. Schwarzenegger*, No CIV S-94-0671 (*Valdivia*). In 2004, the parties to the action entered into an agreement whereby they agreed to the court's entry of a consent decree granting plaintiffs a permanent injunction, including various procedural protections for parolees. Among them are: 1) the right to appointed counsel beginning when the parolee is offered a stipulated disposition; 2) not later than 48 hours after a parole hold, the parole agent must confer with his or her supervisor regarding probable cause to continue the hold; 3) a probable cause hearing held within 10 business days after the parolee is served with the notice of charges (by the third day after the placement of the hold); and 4) a final revocation hearing within 35 calendar days of placement of the parole hold (in recognition of Marsy's Law, the time limit for the hearing subsequently was changed to 45 days).

There are several reasons why the decree does not apply to the judicial branch:

a. The courts and probation officers were not a party to the *Valdivia* action. (See *Local No. 93, Ass'n of Firefighters v. City of Cleveland* (1986) 478 U.S. 501, 529 ["And, of course, a court may not enter a consent decree that imposes obligations on a party that did not consent to the decree."].) The primary defendants in the action are the Governor, the California Youth and Adult Correctional Agency, CDCR, including the Parole and Community Services Division, and the Board of Prison Terms.

b. The consent decree merely reflects the settlement of the parties and does not establish a constitutional mandate. The court in *Valdivia v. Schwarzenegger* (2010) 599 F.3d 984, 995, observed: "[W]hile the Injunction was put in place to remedy claimed constitutional violations, it is not clear that these procedures were *required* to remedy the violation of basic constitutional rights. The district court made this clear in the hearing prior to issuing the March 2009 order: '[I]n this case

I never found any of the things that now everybody is concerned about, whether they were consistent with the Constitution of the United States or not. What I found was that the parties had agreed to get rid of this lawsuit. *There clearly were some procedures which were violative of the Federal Constitution,* and they said, "Look, we're going to solve this whole problem, and we, the plaintiffs, will give away some of our constitutional rights in order to gain these other rights."... *It isn't really true* that this Court made a determination that these specific procedures *were required* by the Federal Constitution. The Court said, 'You guys are happy, I'm happy.' While these procedures were put in place in an attempt to remedy a claimed constitutional violation, they were not *necessary or required* by the Constitution. There is no indication anywhere in the record that these particular procedures are necessary for the assurance of the due process rights of parolees." (Emphasis original.)

c. The California courts are under a duty to construe the new statutory scheme in a manner that is constitutional. The *Valdivia* court has not seen nor ruled on the constitutionality of the statutory procedures applicable to parole. *Valdivia* simply is not authority for the resolution of the new issues that likely will arise as courts begin to implement the new parole procedures. The new procedures are entitled to a presumption of constitutionality and should be interpreted in a manner that is consistent with the requirements of the constitution. (See *Skilling v. United States* (2010) ___U.S. ___, 130 S.Ct. 2896, 2928; *Braxton v. Municipal Court* (1973) 10 Cal.3d 138, 145.)

38. Does the *Armstrong* injunction apply to court parole revocation proceedings?

A federal class action was brought on behalf of disabled parolees regarding the application of the Americans with Disabilities Act (ADA) to parole proceedings. (*Armstrong v. Davis*, C-94-2307-CW.) The action was brought against the Governor, the Secretary of the California Youth and Adult Corrections Agency, and the Chairman of the California Board of Prison Terms. A permanent injunction was issued in June 2002 that defines the relationship between the ADA requirements and parole revocation procedures for disabled parolees, including conditions of facilities where revocation hearings are held. For the reasons discussed above in connection with the *Valdivia* case, the *Armstrong* injunction does not apply to the courts.

39. Is there a central contact or liaison between the courts and DAPO?

DAPO is requesting authorization to hire "court revocation agents" for each parole region to assist in the court process. A contact list is being prepared for use by the offices of the district attorney; the list also will be shared with the courts.

40. What is the process for reviewing a court's decision on a petition to revoke parole.

An order denying probation is reviewable on appeal. (*People v. Coleman* (1975) 13 Cal.3d 867, 871, fn. 1; *People v. Vickers* (1972) 8 Cal.3d 451, 453, fn. 2.) "An order granting probation and imposing sentence, the execution of which is suspended, is an appealable order. (§ 1237, subd. (a); cf. *People v. Preyer* (1985) 164 Cal.App.3d 568, 576; *People v. Chagolla* (1984) 151 Cal.App.3d 1045, 1049.) An order modifying the terms of probation is likewise appealable because it is an order following judgment that affects the substantial rights of the defendant. (§ 1237, subd. (b); see *People v. Douglas* (1999) 20 Cal.4th 85, 91; *In re Bine* (1957) 47 Cal.2d 814, 817.)" (*People v. Ramirez* (2008) 159 Cal.App.4th 1412, 1421.) An order entered by the court concerning an inmate's parole status likely is appealable under section 1237(a) in the same manner, since it is an order entered after judgment and it affects the substantial rights of the parties.

ITEM IV

How to Increase Employment Success for Former Offenders and Other Hard-to-Place Populations

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May 17, 2013

TO: CSAC Administration of Justice Policy Committee

FROM: Elizabeth Howard Espinosa and Rosemary L. McCool
CSAC Administration of Justice Staff

RE: How to Increase Employment Success for Former Offenders and Other Hard to Place Populations

At our May 30 policy committee meeting, counties will receive a presentation from Carla Javits, President of the Roberts Enterprise Development Fund (REDF), and Bill Heiser of the Center for Employment Opportunities (CEO). As outlined in the attachment, REDF and CEO are working to replicate a proven model to create jobs and employment opportunities for people facing the greatest barriers to work. In the criminal justice context, the issue of employment is critical to successful community reintegration and sustained outcomes for the formerly incarcerated population. We are pleased to learn more about the model and how it might be applied in other jurisdictions.

A Private-Public Partnership:
Replication of a Proven Model for Reducing Parolee Recidivism

In 2008, REDF (the Roberts Enterprise Development Fund) initiated an effort to garner support from the State of California and local governments to replicate a proven solution to parolee recidivism that was pioneered in New York City by the respected nonprofit Center for Employment Opportunities (CEO).

REDF is a California-based 'venture philanthropy' organization, founded in 1997 by George R. Roberts of the private equity firm Kohlberg, Kravis and Roberts (KKR), that provides the funding, know-how and networks to help nonprofits in California start and operate income-earning businesses that intentionally create jobs for young people and other adults who have been in prison, homeless, or face other barriers that have prevented them from entering and remaining the workforce. REDF has for fifteen years provided grants and business assistance to help more than 50 California "social enterprises", with 7,500 people employed as a result.

CEO is the only reentry employment program to have significantly reduced both jail and prison recidivism among program participants as determined by a rigorous random assignment evaluation of its New York City program conducted by MDRC.

CEO has placed more than 16,000 parolees in private sector jobs over the past 10 years by establishing a social enterprise that employs parolees in the maintenance of State-owned buildings in New York City, creating transitional jobs that offer a first step into the workforce, and a rigorous and effective job placement service along with a technology platform to support it. CEO partners with New York State – which purchases the grounds keeping and maintenance services through an 'internal services fund' (ISF). CEO is designated in annual budget bill language as the manager of the ISF. (Please see Attachment A for a description of the CEO model).

CEO has replicated its social enterprise/transitional jobs initiative in upstate New York; and is a technical assistance provider to the Council of State Governments which is assisting other states to start up programs to reduce parolee recidivism.

California expansion. CEO has brought this successful approach to California in partnership with REDF. CEO is now working in Oakland and San Diego, and plans to continue to expand in California. The early support of CSAC Executive Director Matthew Cate when he was Secretary of the California Department of Corrections and Rehabilitation was instrumental in spurring this growth.

In California, CEO has sought to establish a statewide presence by identifying high need jurisdictions in northern and southern California with plans for continued growth (including the Central Valley and Inland Empire). REDF provides significant grant support to CEO along with business assistance to facilitate CEO's continued growth.

1

In Oakland CEO is implementing its model in partnership with Volunteers of America Bay Area (VOABA). The Oakland site is the product of a partnership between CALTRANS, CDCR and the City of Oakland with each agency providing resources to support both the transitional work and the vocational services that comprise the CEO model.

CEO is now working in Chula Vista and Escondido in San Diego with significant local support. Both District Attorney Bonnie Dumanis and Probation Chief Mack Jenkins spoke at the opening of CEO's office San Diego office at the end of 2011.

Since opening its two offices and deploying locally-hired staff, CEO has employed 185 parolees and probationers, placing over half into full time jobs.

Next steps

CEO plans to continue its California expansion. It is currently pursuing an opportunity to replicate in San Bernardino County. It is exploring additional work crew customers with local universities, public agencies, and private sector businesses.

Attachment A
Detailed description of CEO Model

Transitional Work Program – *Immediate Work for Immediate Pay*

Through its transitional work program, CEO provides immediate, time-limited, paid employment for people with recent criminal convictions. CEO places almost no restrictions on enrollment in its program, which begins with a four-day, customized Life Skills Education course that prepares individuals with convictions for re-entry into the workforce. Because most participants either have never held a full-time job or have been disconnected from the job market for an extended period of time, CEO staff uses these interactive classroom sessions to reinforce basic workplace skills such as punctuality, good personal presentation, and cooperation with supervisors and co-workers. Participants practice filling out job applications and learn how best to address "the conviction question" in interviews. CEO staff also helps them procure all necessary identification documents, removing a frequent barrier that prevents re-entrants from legally stepping onto a job site and receiving a paycheck.

After graduating from Life Skills, participants move immediately into jobs on CEO work crews, where they perform maintenance, repair, grounds keeping, and comparable services for institutional clients. Clients' payment for this work supports CEO's operations and enables the agency to make over 250 work slots available to participants every day. On the worksite, participants, closely guided by CEO site supervisors, learn the behaviors employers say they value most: showing up on time, taking direction from a supervisor, working hard, being good co-workers, and using good communication skills. Participants are paid state minimum wage each work day and stay on transitional jobs for an average of two months before being placed in full time jobs.

In FY 2010, CEO provided transitional employment for approximately 3,000 formerly incarcerated individuals in New York City and four Upstate New York jurisdictions: Albany, Rochester, Westchester, and Buffalo.

Job Placement and Retention – *Getting and Keeping a Place in the Permanent Workforce*

CEO places participants in full-time employment by working with hundreds of employers to fill their hiring needs. Since becoming an independent nonprofit organization in 1996, CEO has created thousands of transitional job opportunities that have led to over 14,000 full-time job placements for formerly incarcerated individuals. In FY 2010 CEO made close to 1,200 full-time job placements in industries as diverse as food service, retail/wholesale, manufacturing, human services, construction, maintenance, and warehousing.

To aid participants' work preparedness, CEO offers short-term, pre-placement trainings, including a five-day customer service training that teaches effective communication with

customers; a five-day warehouse training that leads to forklift certification; and a 10-hour OSHA training that leads to OSHA certification, a credential increasingly required on materials-handling sites. To ensure participants remain in the workforce once they are employed, CEO job retention specialists provide workplace counseling, crisis management, job re-development in the event of job loss, and long-term career planning for one full year after placement. Additionally, an incentive-based job retention program, Rapid Rewards, provides monthly payments to all participants who sign up for the program and attain specified employment milestones. In FY 2010, 55 percent of participants placed in full-time jobs were still working after 180 days, and 42 percent were working after 365 days. CEO uses the most rigorous verification methods to determine job retention – paystubs, criminal justice official sign off, or independent verification with employers. CEO does not accept self reported information for job placement or job retention.

CEO also provides career ladder training through the ***CEO Academy***, established in 2008 as a partnership between CEO and community colleges to offer training that leads to certification in the skilled trades. Two cohorts of students enroll each year, one in the fall and one in the spring. In FY 2010 approximately 100 people enrolled at the Academy.

CEO Expands Outside New York City – *New Offices Open in Upstate New York and Oakland and San Diego California*

In 2010 CEO received federal stimulus funds to replicate its program model in upstate New York, where the agency served 401 people at newly opened offices in Buffalo, Albany, Rochester, and Westchester. The addition of these jurisdictions marked CEO's first expansion outside of New York City, and represents part of a multi-year plan to extend the agency's services to more people in more places. CEO also began laying the groundwork in 2008 that led to its expansion to California in 2011.

ITEM V
2011 Criminal Justice Realignment/ Corrections Update

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DATE: May 15, 2013

TO: CSAC Board of Directors

FROM: Elizabeth Howard Espinosa
CSAC Administration of Justice Staff

RE: 2011 Criminal Justice Realignment/Corrections Update

This informational memo is intended to provide an update on CSAC's ongoing work to support counties' implementation of new criminal justice system responsibilities. Further, it offers an update regarding the state's ongoing litigation before the federal courts regarding prison overcrowding.

2011 Criminal Justice Realignment

The implementation realignment (AB 109), which transferred responsibility for various adult offender populations from the state to the counties, began 19 months ago. A brief summary of key implementation activities is provided below. Committee members are encouraged to share local experiences, successes, and challenges during the discussion on this matter.

Advocacy

Dozens of bills before the Legislature seek to amend public safety realignment in ways big and small. Most that would have reversed provisions of AB 109 have stalled. Notably, two bills that CSAC and a broad range of county and public safety stakeholders opposed in 2012 (and the Governor subsequently vetoed) were reintroduced this year:

- AB 1040 by Assembly Member Bob Wieckowski, which would require that probation officers who supervise a high-risk population be armed. AB 1968, his 2012 vehicle on this same topic, was vetoed.
- SB 199 by Senator Kevin DeLeon, which would amend the composition of the Community Corrections Partnership and its executive committee by adding two rank-and-file members. The Governor vetoed a similar measure – AB 2031 by Assembly Member Fuentes – last year.

Both AB 1040 and SB 199 have become "two-year" measures, meaning they are not expected to move in 2013.

Another key element to our advocacy relates to our regular and dynamic communication with Governor Brown's Administration – primarily Department of Finance and the Department of Corrections and Rehabilitation – as well as the sheriffs and probation chiefs. This forum is significant and productive in terms of ongoing realignment policy development. It provides an opportunity to present county concerns, identify implementation challenges, highlight county successes, and vet potential solutions. Chief among the issues on our active discussion list are: long-term offenders in county jails; health and mental health care of county jail inmates; crossover state/county mental health populations (state hospitals, mentally disorder offenders, incompetents to stand trial); upcoming changes to parole revocation process; intersection of health care and correctional policies (i.e., opportunities under implementation of federal health care reform); and three-judge panel implications.

The state's limitations under the three-judge panel population reduction order – discussed in further detail below – and ongoing litigation of these issues complicates these discussions and means that quick or painless solutions are unlikely. Nevertheless, the regular communication and joint efforts to mutually resolve problems demonstrates the Administration's ongoing commitment to partnership and to counties' long-term success in carrying out these very significant correctional reforms. As detailed in CSAC's *Budget Action Bulletin* summarizing of the Governor's May Revision (included in the materials associated with Agenda Item VI), the Administration has put forward a proposal to address the issue of long-term offenders in county jails and has presented trailer bill language to take care of other technical AB 109 implementation issues.

In many ways, CSAC's legislative and budget advocacy efforts mirror what likely has been counties' arc of experience. In this first year of 2011 Realignment implementation, the majority of our work focused on managing the immediate impacts of the policy shift and ensuring that counties were supported during the transitional period. CSAC worked extensively on activities necessary to put the fiscal structure and authority in place for counties to carry out public safety realignment over the long-term. Major milestones achieved in 2012 include: codification of a two-year funding AB 109 formula, enactment of a permanent fiscal structure for the entire array of programs realigned in 2011, and continued training efforts to support counties' success in managing new offender populations locally. Counties are lifting their focus from the immediate influx of new populations to set a longer-term course for retooling and enhancing their local criminal justice system response in a realigned world, and our advocacy efforts follow that shift. Work underway includes further refinement of data collection and reporting efforts, furthering ways CSAC can help tell the realignment story and promote promising strategies, continued analysis to support development of a long-term allocation method, and development and deployment of a thoughtful and robust training curriculum.

DATA COLLECTION

In broad policy discussions about the success of realignment and even in the context of AB 109 allocation deliberations, it has become clear that additional reliable and meaningful data is likely needed to inform a longer-term formula. The CAOs have expressed an interest in exploring a mechanism for supporting more robust data collection statewide to supplement current efforts – not only to inform long-term distribution of funds but to help identify best and promising practices that can be shared across jurisdictions. CSAC will remain active in these efforts and recognizes the value and benefits of using quality data to drive decisions. We also are participating in and monitoring discussions in the Legislature, with other state agencies, and among external research groups to ensure appropriate subject matter experts are informing decisions and harmonizing efforts across disciplines.

TRAINING

CSAC, the California State Sheriffs' Association (CSSA), and the Chief Probation Officers of California (CPOC) received two rounds of $1 million grants in 2011-12 and 2012-13 to support statewide training and technical assistance efforts to support successful implementation of AB 109 realignment. The three associations pooled the majority of the first year funding and are continuing efforts to jointly manage and administer those resources under the direction of a governing board. In 2012, the governing board approved a contract with two organizations for both logistical and content support to help carry out training efforts over long-term. Some recent and ongoing examples of successful joint training partnership efforts include:

- A two-day statewide public safety realignment conference in November 2012 focusing on population management practices; more than 600 local and state officials attended.
- A series of workshops designed to explore the intersection of health and correctional policies. The first course, which will examine criminal justice system opportunities in the context the implementation of the Affordable Care Act, will be offered twice in April, given significant demand. Follow-up courses on the economics of behavioral health intervention and ACA implementation plans and strategies will follow.
- An intensive day-long workshop on pre-trial services planned for June.
- A third annual statewide realignment conference will be held in late October 2013.

In addition, CSAC is working outside the joint training partnership to develop programs and supports to build local capacity for successful realignment implementation over the long-term. We are exploring ideas such as a leadership academy, peer-to-peer learning, regional convenings, program demonstration sites, and other strategies that can encourage counties to share best practices and to learn from one another.

CSAC recognizes that counties embarked on the implementation of realignment from different points on a continuum. Individual jurisdictions may have had more or less experiences testing community corrections approaches or evidence-based practices prior to realignment. Economic challenges, internal and community capacity to manage the new offender populations, and the profile of the offenders themselves differ greatly among the 58 counties. We recognize that success may be defined differently and arrived on differing time intervals depending on the community. Our training interests are in supporting counties' efforts over the long-term, preserving local jurisdictions' ability to innovate, and building the capacity among and between counties to ensure proven practices and strategies can be replicated across the state.

FEDERAL THREE-JUDGE PANEL ON PRISON OVERCROWDING

As detailed in the attached timeline, the state has been engaged in ongoing litigation regarding the constitutionality of its provision of health and mental health care in the state prisons for more than 20 years. On April 11, the federal three-judge court denied the state's January motion to vacate the court's earlier order to reduce the state prison population to 137.5% of design capacity. In so doing, the court also directed the state to provide specific options within 21 days that could be implemented to arrive at the required population level. The state timely filed its response to the court order on May 2.

The state's response to the three-judge panel opens with extensive discussion of its efforts to improve quality of care in the state prison system and, importantly, the responsibilities shifted to counties under 2011 realignment that have markedly reduced prison population. The state recognizes its shared commitment with the court to provide a constitutional level of care for prisoners, but continues to assert that it has already elevated the care to such a degree that further population reductions are unnecessary. Further, the response underscores the state's view that additional burdens on counties are ill-advised, would threaten public safety, and risk undermining gains achieved under realignment. To this point, the response states:

"Counties are working admirably to handle the big challenges realignment presents, but those challenges are real and substantial. Realigning the few remaining lower-level but nevertheless serious offenses, and further increasing the parole population by expediting

the release of prisoners, would require the counties to incarcerate and supervise even more offenders. Now is absolutely not the time to impose further obligations on already strained counties."

Under protest, the state offers several options as required under the court's order to bring down the prison population. The proposed measures fall in three general categories:

(1) **Expanded capacity** by carrying out the following:
- Completing construction of state health care facility beds (scheduled to come online in 2013 and 2014).
- Increasing usage of fire camps by changing eligibility criteria for participating inmates.
- Slowing the rate of returning out-of-state inmates to California.
- Expanding in-state capacity by leasing beds from county jails and other facilities where there is sufficient capacity.

(2) **Increased good-conduct credit earning** for a variety of populations.

(3) **Expanded criteria for medical parole** and **establishment of elderly parole.**

Almost all of these options would require legislative approval (and/or an appropriation) and, even if carried out, minimize local impacts. For each population reduction element, the plan outlines both statutory and constitutional changes that would be required, estimates the resulting population reduction, and details an expected timeline for implementation. The plan indicates that the state will draft and present statutory language to the Legislature, but indicates it does not plan to advocate for passage given that these steps "would jeopardize public safety or the population reductions achieved under realignment." Notably, the Senate President pro Tempore has made clear that the Legislature would not have an appetite for approving either the authority or funding for the options laid out in the state's plan and that he fully support the state's assertion that the significant reforms already implemented have improved the overcrowding conditions.

The state's response to the court[1] is consistent with the Governor's commitment to ensure counties' long-term ability to successfully implement 2011 realignment. We deeply appreciate the state-county partnership that is reflected in not only in the narrative of the state's filing but also in the selection of prison population reduction measures the state outlines.

The state has filed an appeal to the U.S. Supreme Court. CSAC will keep counties apprised on continued developments on this matter.

[1] Available at http://www.cdcr.ca.gov/News/3_judge_panel_decision.html.

FOR INFORMATIONAL PURPOSES
MAY 2013

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Timeline in the *Plata* (medical care), *Coleman* (mental health care) and Three-Judge Panel (prison crowding) cases

1991
The *Coleman* class-action lawsuit was filed in U.S. District Court, Eastern District, alleging that mental health care in state prisons violated the Eighth Amendment's ban of cruel and unusual punishment.

1995
The *Coleman* court found that the State was deliberately indifferent to the mental health needs of inmates in violation of the Eighth Amendment. A special master was appointed in November.

1997
The *Coleman* court approved a plan to address the constitutional inadequacies in mental health care.

2001
The *Plata* class-action lawsuit was filed in U.S. District Court, Northern District, alleging that medical care in state prisons violated the Eighth Amendment's ban of cruel and unusual punishment.

2002
The State settled the *Plata* suit and agreed to implement reforms to the medical system.

2005
The *Plata* court found that the State was behind schedule in improving medical care and was unable to remedy the problems on its own.

2006
The *Plata* court appointed a federal receiver to bring medical care into compliance with the U.S. Constitution.

Plaintiffs in the *Plata* and *Coleman* cases requested the convening of a Three-Judge Panel to review whether overcrowding was the primary cause of the failure to provide adequate medical and mental health care.

2008
The Three-Judge Panel trial took place.

2010
The Three-Judge Panel ordered the State to reduce its adult institution population to 137.5 percent of design capacity within two years and according to a schedule of four benchmarks at six-month intervals. The State appealed that order to the U.S. Supreme Court.

2011
In April, Governor Edmund G. Brown Jr. signed AB 109 Public Safety Realignment, designed to bring about a significant reduction in the prison population.

In May, the U.S. Supreme Court affirmed the Three-Judge Panel's order.

In October, Public Safety Realignment took effect and eventually reduced the adult institution population by 25,000.

2012
In September, the *Plata* court approved a plan to end the federal receivership to return management and day-to-day control over medical services to the State.

2013
In January, Governor Brown filed a motion to terminate the *Coleman* lawsuit and to end the requirement to reduce the prison population to 137.5 percent of design capacity.

In April, the Coleman court denied the State's motion to terminate the case and the Three-Judge Panel denied the State's motion to end the requirement to reduce the population to 137.5 percent.

# # #

For informational Purposes (916) 445-4950
April 16, 2012

Timeline
The Three-Judge Court and California Inmate Population Reduction

Date	Event and Description	Population Housed In-State
11/13/06:	Plaintiffs files motion to convene a three-judge panel in *Plata vs. Schwarzenegger* under the Prison Litigation Reform Act (PLRA) claiming that overcrowding in CDCR prisons results in unconstitutional medical care.	**162,466**
07/23/07:	U.S. District Judge Thelton Henderson grants plaintiffs' motion to convene a Three Judge Panel, finding they have satisfied requirements under the PLRA to convene a three-judge panel.	**161,599**
08/30/08:	The Court prohibits the parties from discovery of evidence concerning prison conditions after August 30, 2008.	**156, 352**
11/18/08:	Three-Judge Panel Trial 11/18/08 to 12/18/08 (population date taken from 12/1/08).	**155, 922**
02/03/09:	Three-Judge Panel closing arguments 2/3/09 - 2/4/09.	**153, 649**
08/04/09:	Three-Judge Panel issues a 184-page opinion ordering the state to reduce its adult institution population to 137.5 percent of design capacity within two years.	**150, 118**
09/03/09:	The State appeals the August 4, 2009, order to the U.S. Supreme Court.	**149, 375**
9/18/09:	CDCR submits a Population Reduction Plan, which proposed mechanisms to safely reach a population level of 137.5 percent over time.	**149, 750**
10/21/09:	The Court rejects defendants' population-reduction plan finding that it failed to meet the two-year requirement of its 8/4/09 order.	**150, 983**
11/12/09:	CDCR submits a revised Population-Reduction Plan to reduce the prison population to 137.5 percent within two years.	**150, 919**
01/12/10:	The Three-Judge Panel orders the state to reduce its prison population by six-month benchmarks to 137.5 percent within two years.	**151, 036**
01/19/10:	The State files an appeal to the U.S. Supreme Court of the Three-Judge Panel's January 12 order to reduce the prison population.	**150, 958**
06/14/10:	The U.S. Supreme Court announces that it will take the case.	**148,412**
05/23/11:	The U.S. Supreme Court rules 5-4 upholding the Three-Judge Panel's finding that overcrowding is the "primary" source of unconstitutional medical care. The court orders CDCR to release prisoners until the inmate population is reduced to	**143,435**

	137.5 percent of the design capacity (or 109,805 prisoners) within two years.	
06/07/11	The State submitted a report to the Three-Judge Court updating the Court about the prison population reduction measures the State has undertaken since its prison population management plan was submitted on November 12, 2009.	**143,565**
01/06/12	The State filed its monthly status report to the Three-Judge Court. The report said that on December 28, 2011, the population of California's 33 prisons was 132,887, or 166.8 percent of design capacity. CDCR met the Court's first benchmark of 167 percent of design capacity by December 27, 2011, (133,016 inmates).	**132,887**

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ITEM VI
2013-14 Budget and Legislative Update

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Telephone
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DATE: May 17, 2013

TO: CSAC Board of Directors

FROM: Elizabeth Howard Espinosa and Rosemary L. McCool
CSAC Administration of Justice Staff

RE: 2013-14 Budget and 2013 Legislative Update

This informational memo provides an update on both key justice budget items as updated through the Governor's 2013-14 May Revision as well as priority legislation in the administration of justice area.

2013-14 Budget

The Governor released a mid-year update on his January budget proposal on May 14. The key public safety and other justice elements are summarized below.

2011 Realignment

Revenue Estimates. The Governor's May Revision updates revenue estimates associated with the range of law enforcement and health and human services programs for which counties assumed responsibility in 2011. As outlined in the chart found on page 3 of this memo, the forecast reflects a downward projection in sales tax, resulting in an approximately 40 percent decrease in the amount of growth attributable to the various program elements. For example, 2012-13 growth for AB 109 – projected in January to be $77.3 million – has been revised downward to $45.3 million in the May Revision. Adjustments of a similar magnitude apply across the various program areas. For those programs where the base has been established – specifically court security and previously realigned juvenile justice activities on the law enforcement side – there is a resulting adjustment in the 2013-14 base, given the revised growth estimate. These updates are applied consistent with the 2011 Realignment fiscal structure codified in SB 1020 (2012).

Other technical adjustments. Although not yet available online, trailer bill language to carry out a number of technical changes – in addition to others already posted on the Department of Finance's website[1] – will soon be posted outlining the following proposals:

- Process to manage circumstances in which persons are misclassified and released to post-release community supervision (PRCS) or parole;
- Notification process to counties, sheriffs, and probation chiefs regarding the state's planned changes to prison reception center and parole office operations;
- Clarification that mentally disordered offenders, even if their MDO status is decertified by a court, are released onto a parole rather than a PRCS caseload.

Long-term offender proposal. The May Revision also recognizes the implications of long-term offenders detained in county jails as a result of AB 109 implementation. As outlined in the narrative, the proposal would permit a swap of long-term county jail offenders for shorter-term prison inmates to ensure population and cost neutrality given the state's budget constraints and those connected to the federal-court population reduction order. The

[1] http://www.dof.ca.gov/budgeting/trailer_bill_language/corrections_and_general_government/documents/

proposal would grant new authority to existing county parole boards for purposes of determining whether long-term offenders should be sent to state prison, but only after the inmate has served three years in a county jail. Finally, the proposal would create a presumption for split sentences, although it offers discretion for instances in which a judge deems that a split sentence would be inappropriate. The Administration has made clear that the long-term proposal is a starting point and they remain open to input and feedback. The inclusion of the proposal in the May Revision acknowledges the significance of the long-term jail offender issue and signals a willingness to explore a resolution within the constraints that all parties face. Discussions will ensue in short order to discuss the concept, mechanics, and potential revisions.

CCP planning grants. The Governor's May Revision continues to assume a $7.9 million General Fund appropriation to provide planning grants to local Community Corrections Partnerships (CCPs). The fixed amount grants will be allocated as in previous years, with a specified amount of $100,000, $150,000, or $200,000 designated based on a county's population. As indicated in the January budget proposal, we expect budget bill language will condition receipt of CCP planning grants on the submission of a report on CCP plan implementation to the Board of State and Community Corrections.

SB 678 — Community Corrections Performance Incentive Act

An augmentation of $72.1 million to support counties' ongoing SB 678 programs would bring total probation incentive funding to just over $107 million in 2013-14. The upward adjustment from the January budget proposal resulted from a revised methodology for calculating counties' awards, including use of a higher marginal rate associated with CDCR's per-inmate housing costs.

Corrections

The budget for the Department of Corrections and Rehabilitation (CDCR) remains largely unchanged from the January budget proposal. The May Revision does not assume any costs associated with the state's efforts to comply with the court-ordered population reduction. If there is subsequent legislative or court action to require the state to pursue population reduction options, additional expenditures would be required.

Other elements of interest to counties include:

- A $15.4 million increase in CDCR funding to reflect greater reliance on state prison inmates participating in fire camps. Counties will recall that following AB 109 implementation, there was a concern that the state would have insufficient lower-level prison inmates to sustain fire camp services, and CDCR's budget was reduced accordingly. However, CDCR has implemented changes in classification systems and identified a sufficient number of inmates to maintain current fire camp levels.
- Establishment of an administrative structure – including a new corrections undersecretary and related staffing – to support the future transition of inmate health care back to the state from the federal receiver.
- An increase to reflect adjustments in adult prison inmate and parolee populations.
- A slight decrease in funding for Department of Juvenile justice associated with juvenile population adjustments and costs changes. The revised average daily population projection for DJJ wards is 821 in 2012-13 and 679 in 2013-14.
- An initiative to reduce drugs and other contraband in the prisons.

Judicial Branch

The May Revision assumes no change to the January budget proposal for the courts.

Department of State Hospitals

The May Revision includes several budget changes for DSH, as detailed below:

- *Additional Intermediate Care and Acute Units* – Funding and staffing would be provided to establish four new units and convert one existing unit at three state hospitals. With a total of 155 new beds, DSH would be better equipped to accommodate population for a number of commitments including Lanterman-Petris Short patients, the incompetent to stand trial, mentally disordered offenders, and sexually violent predators.
- *Patient Management and Bed Utilization Unit* – Funding and staff would be dedicated to managing patient bed needs to maximize utilization across state hospitals.
- *Psychiatric Inpatient Hospital Programs co-located with CDCR* – Staffing and funding adjustments to transition 450 inpatient beds from two DSH sites to the CDCR health care facility in Stockton. This proposal would provide necessary inpatient treatment staff for psychiatric programs co-located with CDCR facilities.

2011 Realignment Revenue Estimates – Updated May 2013

2011 Realignment Estimate[1] - Based on 2013-14 May Revision

	2012-13	2012-13 Growth	2013-14	2013-14 Growth	2014-15	2014-15 Growth
Law Enforcement Services	**$1,942.6**		**$2,113.3**		**$2,089.2**	
Trial Court Security Subaccount	496.4	6.1	502.5	11.0	513.5	21.7
Enhancing Law Enforcement Activities Subaccount[2]	489.9	-	489.9	-	489.9	-
Community Corrections Subaccount[3]	842.9	45.3	998.9	82.4	934.1	162.5
District Attorney and Public Defender Subaccount[3]	14.6	3.0	17.1	5.5	15.8	10.8
Juvenile Justice Subaccount	98.8	6.1	104.9	11.0	115.9	21.7
Youthful Offender Block Grant Special Account	*(93.4)*	*(5.8)*	*(99.1)*	*(10.4)*	*(109.5)*	*(20.5)*
Juvenile Reentry Grant Special Account	*(5.5)*	*(0.3)*	*(5.8)*	*(0.6)*	*(6.4)*	*(1.2)*
Growth, Law Enforcement Services	**60.5**	**60.5**	**110.0**	**109.9**	**216.8**	**216.7**
Mental Health[4]	**1,120.6**	5.6	**1,120.6**	10.2	**1,120.6**	20.1
Support Services	**2,604.9**		**2,732.1**		**2,941.6**	
Protective Services Subaccount[5]	1,640.4	92.2	1,753.0	126.3	1,894.6	201.1
Behavioral Health Subaccount[6]	964.5	14.6	979.1	67.8	1,046.9	181.4
Women and Children's Residential Treatment Services	*(5.1)*	-	*(5.1)*	-	*(5.1)*	-
Growth, Support Services	**112.4**	**112.4**	**204.3**	**204.3**	**402.6**	**402.6**
Account Total and Growth	**$5,841.0**		**$6,280.3**		**$6,750.7**	
Revenue						
1.0625% Sales Tax	5,386.3		5,812.8		6,276.4	
Motor Vehicle License Fee	454.6		467.3		474.1	
Revenue Total	**$5,840.9**		**$6,280.1**		**$6,750.5**	

This chart reflects estimates of the 2011 Realignment subaccount and growth allocations based on current revenue forecasts and in accordance with the formulas outlined in Chapter 40, Statutes of 2012 (SB 1020).

[1] Dollars in millions.

[2] Allocation is capped at $489.9 million.

[3] 2012-13 and 2013-14 growth is not added to subsequent fiscal year's subaccount base allocations.

[4] Growth does not add to base.

[5] Rolling base includes a $200 million Child Welfare Services Restoration and incremental funding for Chapter 559, Statutes of 2010 (AB 12). AB 12 funding increments consist of: $18.2m in 2012-13, $20.4m in 2013-14, and $15.3m in 2014-15.

[6] The Early and Periodic Screening, Diagnosis, and Treatment and Drug Medi-Cal programs within the Behavioral Health Subaccount do not yet have a permanent base.

LEGISLATIVE UPDATE

Below we have provided brief summaries on the key justice legislation for all active positions in the administration of justice area. Note that the designation "two-year bill" signifies that the bill has stalled and will not move this year.

Bill (Author)	Description/CSAC position	Status
AB 36 (Dahle)	Would give county boards of supervisors authority to appoint and remove chief probation officers. **CSAC position: Support**	Two-year bill
AB 68 (Maienschein)	Would require additional notification to counties regarding candidates for medical parole release from state prisons. **CSAC position: Support**	In Senate Appropriations Committee
AB 265 (Gatto)	Would limit local government liability associated with dog parks, if signage – as specified – is posted. **CSAC position: Support**	Awaiting action by full Assembly
AB 655 (Quirk-Silva)	Would authorize the creation of a local court reporters' salary fund and specify that cities and counties could, under local agreements, direct fine and forfeiture revenue to fund, if established. **CSAC position: Oppose unless amended**	Awaiting action by full Assembly
AB 748 (Eggman)	Would modernize calculation for interest local governments are required to pay on certain claims. **CSAC position: Support**	Awaiting action of full Assembly
AB 767 (Levine)	Would authorize all counties, upon the approval of the board of supervisors, to increase its motor vehicle fee from $1 to $2 and its commercial vehicle service fee from $2 to $4 for vehicle theft prevention purposes. Would also eliminate existing sunset date, making surcharge authorization operative indefinitely. **CSAC position: Support**	In Senate awaiting policy committee assignment
AB 1040 (Wieckowski)	Would require probation officers with a "high-risk" caseload to be armed. **CSAC position: Oppose**	Two-year bill
AB 1065 (Holden)	Would clarify that persons designated as a mentally disordered offender (MDO) would be released to a parole caseload, even if MDO status is decertified. **CSAC position: Support**	Two-year bill (Proposed trailer bill language would enact this change.)
AB 1149 (Campos)	Would subject local governments to breach notification requirements, if certain personal identifying information is erroneously released or accessed. **CSAC position: Oppose**	On Assembly Appropriations Committee suspense file.
SB 16 (Gaines)	Would create a reimbursement program, subject to an appropriation, for specified non-homicide cases when the Attorney General is handling the prosecution and the defense costs exceed a certain threshold. **CSAC position: Support**	Awaiting hearing in Senate Public Safety Committee.
SB 199 (De León)	Would have expanded the membership of the local Community Corrections Partnership to include rank-and-file members, as specified. **CSAC position: Oppose**	Two-year bill
SB 225 (Emmerson)	Would have authorized a swap of long-term county jail inmates for shorter-term state prison inmates. **CSAC position: Support in concept**	Two-year bill
SB 366 (Wright)	Would restructure the imposition and payment of civil assessment fees, give courts direction and authority to consider a person's ability	In Senate Appropriations

Bill (Author)	Description/CSAC position	Status
	to pay, and offer additional options for a person to resolve civil assessment by completing community service, if so ordered by the court. **CSAC position: Concerns**	Committee

In addition to the active bills detailed above, we are including as an attachment a list of 2011 Realignment related bills. Generally speaking, measures that sought to roll back elements of public safety realignment (AB 109) have not progressed. Separately, technical amendments to AB 109 – where consensus exists among all parties – are being pursued as part of budget trailer bill language.

2011 Public Safety Realignment-related Bills (updated 5/13/2013) Introduced in 2013 Legislative Session

Bill number/author	Description	Status
AB 2 (Morrell-R)	Would mandate a state prison term for any parolee or person on post-release community supervision (PRCS) whose supervision term is revoked if that person is subject to sex offender registration requirements	Failed in Assembly Public Safety Committee; two-year bill
AB 15 (Bradford-D)	Would require CA Department of Corrections and Rehabilitation (CDCR) to give notification – via the Law Enforcement Automated Data System (LEADS) – to the local law enforcement agency of the jurisdiction to which a parolee or person on post-release community supervision (PRCS) inmate is to be released regarding the scheduled release. Said release must take place no less than 45 days prior to the release or as soon as practicable.	Two-year bill
AB 63 (Patterson-R)	Would mandate a state prison term for any parolee or person on post-release community supervision (PRCS) whose supervision term is revoked if the violation is based on the removal of a GPS or other monitoring device	Failed in Assembly Public Safety Committee; reconsideration granted
AB 222 (Cooley-R)	Exempts specified defendants from AB 109 county jail term (requiring instead a state prison term) when specified drug enhancement is imposed (possession for sale/transport of large quantities of drugs)	Two-year bill
AB 560 (Ammiano-D)	Would require the use of split sentence for all AB 109 county jail terms, with a minimum of a 6-month mandatory supervision terms	On Assembly Appropriations Committee Suspense File
AB 601 (Eggman-D)	Requires, on or before January 1, 2015, the Legislative Analyst's Office to produce a report evaluating 2011 criminal justice realignment, with specific focus on offenders under state supervision, including rates of recidivism, figures on violation of parole, the type and severity of re-offense leading to return to state prison; the history of parole violation in those cases leading to a return to state prison, and the adequacy of county facilities to confine parole violators	Two-year bill
AB 605 (Linder-R)	Would require detention associated with revocation be served in state prison for any parolee or person on PRCS if that person has prior or current sex offense	Two-year bill
AB 723 (Quirk-D)	Would permit a person on PRCS who is the subject of a revocation petition to file an application for bail with the court and would give sole discretion for bail decision to the court	On Assembly Appropriations Committee Suspense File
AB 752 (Jones-Sawyer-D)	Would authorize work furlough for those serving AB 109 county jail sentence	Referred to Senate Public Safety Committee for Hearing 5/14
AB 986 (Bradford-D)	Would permit flash incarceration of up to 10 days for those on PRCS to be served in city jails	Passed Assembly Public Safety Committee 5/7 on consent
AB 1040 (Wieckowski-D)	Would require chief probation officers to train and arm line staff assigned to supervise probationers or those on PRCS who are deemed "high risk." Would further require promulgation of regulations by CPO consistent with this provision.	Two-year bill

Bill number/author	Description	Status
AB 1050 (Dickinson-D)	Would require Board of State and Community Corrections (BSCC) to work with CSAC, sheriffs' association, probation chiefs' association, and Administrative Office of the courts to develop definitions of key terms associated with 2011 Realignment implementation and local data collection, including "recidivism," "average daily population," and others.	In Senate awaiting policy committee assignment
AB 1065 (Holden-D)	Would require state parole (rather than county probation) supervision for all mentally disorder offenders	Two-year bill
AB 1106 (Waldron-R)	Would state that public entities owning or operating a county jail or correctional facility prior to 10/1/2011 or employees of such facilities shall not be liable to any inmate for an injury arising out of a failure to comply with standard or conditions that do not result in cruel and unusual punishment. The limitation of liability would apply to a lack of amenities, activities, dental care, educational curriculum, housing, medical care, mental health care, population, preventative healthcare, religious programs, therapeutic programs and work programs but would not protect against an act of gross negligence.	Failed passage in Assembly Judiciary Committee; reconsideration granted
AB 1119 (Hagman-R)	Would create 3-year post-release reentry project for three specified counties (San Joaquin, San Mateo and San Bernardino)	Two-year bill
AB 1334 (Conway-R)	Would require all persons released from prison who are subject to sex offender registration requirements (including those resulting from juvenile adjudications) to be supervised by state parole rather than county probation (increases state parole population; decreases county PRCS population)	Two-year bill
SB 57 (Lieu-D)	Would impose a penalty of three years in prison for parolees and those on PRCS who remove electronic monitoring equipment	Hearing in Senate Appropriations Committee 5/20
SB 144 (Emmerson-R)	Would establish a Realignment Reinvestment Fund in each county and define a methodology for calculating annual state-level cost avoidances associated with the implementation of AB 109. Would direct these state savings to counties based on realignment caseload for purposes of funding a local supplemental community corrections plan developed by the CCP.	Failed passage in Senate Budget and Fiscal Review Committee 4/29
SB 199 (DeLeon-D)	Would amend composition of the Community Corrections Partnership by adding two rank and file members (deputy sheriff or local police and probation officer) appointed by local labor organizations	Two-year bill
SB 225 (Emmerson-R)	Would require prison term for any defendant convicted of felony otherwise punishable with county jail if the sentence is longer than three years.	Two-year bill
SB 226 (Emmerson-R)	Would create a statewide process whereby those sentenced to AB 109 term in county jail may be referred to CDCR for mentally disordered offender (MDO) evaluation	Two-year bill
SB 287 (Walters-R)	Would require any person released from prison who is required to register as a sex offender be subject to parole supervision	Two-year bill
SB 419 (Block-D)	Would extend until January 1, 2018 authority for flash incarceration of up to 10 consecutive days for violating a condition of release	On Senate floor

Bill number/author	Description	Status
SB 706 (Correa-D)	Would mandate 12-month supervision "tail" (Community Reintegration and Transition Status or "CRATS") for all offenders released from AB 109 county jail term and would subject such offenders to search and seizure requirements	Two-year bill
SB 708 (Nielsen-R)	Would require state prison term for any person who is convicted of a felony and has 3 or more prior felony convictions (narrows AB 109 county jail population)	Two-year bill
SB 710 (Nielsen-R)	Would require all offenders released from prison after January 1, 2014, to be subject to parole supervision for a minimum period of 3 years (i.e., prospectively eliminates PRCS). Would create longer parole supervision period for certain more serious offenders. Would require creation of three parole violator adjustment and rehabilitation facilities, with specified terms and programming plans depending on the type of violator.	Two-year bill