

CSAC 118th Annual Meeting

Administration of Justice Policy Committee

Tuesday, November 27, 2012 ■ 2:30 – 4:30 p.m.

Room 104A ■ Long Beach Convention Center

300 E. Ocean Blvd. ■ Long Beach ■ Los Angeles County, California

Supervisor Federal Glover, Contra Costa County, Chair Supervisor Merita Callaway, Calaveras County, Vice-Chair

- 2:30 p.m. I. **Welcome and Introductions**
Supervisor Federal Glover, Contra Costa County
- 2:35 II. **2011 Realignment: A Year of Reflection and Planning for the Future in a Constitutionally Protected World**
Curtis J. Hill, Legislative Representative, California State Sheriffs' Association; Representative, Chief Probation Officers of California
- 3:10 III. **Kern County Resolution on AB 109 Impacts and Allocation**
Supervisor Mike Maggard, Kern County
- 3:20 IV. **Role of the Board of State and Community Corrections in 2011 Criminal Justice Realignment**
Patricia Mazzilli, Executive Director, Board of State and Community Corrections (BSCC)
- 3:35 V. **Supporting Counties' Criminal Justice Realignment Efforts**
Sharon Aungst, Director, California Forward's Partnership for Community Excellence (PCE); Kathy Jett, Policy Consultant, PCE
- 3:55 VI. **Update on State Criminal Alien Assistance Program**
Joe Krahn, Waterman and Associates
- 4:10 VII. **2012-13 Budget and 2012 Legislative Wrap-Up/What is on Horizon in 2013?**
Elizabeth Howard Espinosa, CSAC Senior Legislative Representative
- 4:20 VIII. **Bi-Annual Review of CSAC Administration of Justice Policy Platform – POTENTIAL ACTION ITEM**
Elizabeth Howard Espinosa, CSAC Senior Legislative Representative
- 4:30 IX. **Closing Remarks and Adjournment**
Supervisor Federal Glover, Contra Costa County

ATTACHMENTS

- Agenda Item II **2011 Realignment: A Year of Reflection and Planning for the Future in a Constitutionally Protected World**
Proposition 30 Summary of Key Provisions
- Agenda Item III **Kern County Resolution on AB 109 Impacts and Allocation**
Transmittal Letter to Governor Edmund G. Brown, Jr. (November 13, 2012)

Kern County Board of Supervisors' Resolution 2012-332 Supporting Allocation of State Criminal Justice Realignment Funding Based on AB 109 Offender Caseloads
- Agenda Item IV **Role of the Board of State and Community Corrections (BSCC) in 2011 Criminal Justice Realignment**
An Overview of the BSCC
- Agenda Item V **Supporting Counties' Criminal Justice Realignment Efforts**
- Agenda Item VI **Update on State Criminal Alien Assistance Program**
- Agenda Item VII **2012-13 Budget and 2012 Legislative Wrap-Up/ What is on the Horizon in 2013?**
2011 Realignment Fiscal Structure Trailer Bill: Reader's Guide
- Agenda Item VIII **Bi-Annual Review of CSAC Administration of Justice Policy Platform – POTENTIAL ACTION ITEM**
2011 Realignment – Proposed New Platform Language

AOJ Policy Platform (Spring 2011 Update)

General Realignment Principles (2010 Revision)

ITEM II

**2011 Realignment: A Year of Reflection and Planning
for the Future in a Constitutional Protected World**



November 14, 2012

TO: CSAC Administration of Justice Policy Committee
FROM: Elizabeth Howard Espinosa, CSAC Senior Legislative Representative
RE: **2011 Realignment – A Year in Reflection and Planning for the Future in a Constitutionally Protected World**

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Effective October 1, 2011, local responsibilities in the criminal justice system expanded significantly under the provisions of AB 109, which is funded as part of a more broad transfer of programmatic responsibility under 2011 Realignment. The far-reaching policy shift was the primary focus of our 2012 advocacy efforts, and, across several policy units, CSAC was steeped in a range of implementation activities, described in the attached. The association's primary focus in 2012 was to secure constitutional guarantees for realignment funding as well as to protect against future program expansion. With the passage of Proposition 30 last week, counties now enjoy the certainty and accompanying stability of constitutionally protected funding.

For our November meeting, we have invited our our two primary public safety partners – the California State Sheriffs' Association (CSSA) and the Chief Probation Officers of California (CPOC) – for two purposes: (1) to reflect on the first year of criminal justice realignment (AB 109) implementation and (2) to explore opportunities in the months and years ahead as counties' implementation processes move from more of a triage approach to longer-planning to manage the expanded criminal offender populations at the local level. This discussion will cover our joint association efforts – both in terms of advocacy and training efforts – to support counties' AB 109 implementation efforts.

Success with Proposition 30

In the attached document, we outline the key provisions of the Governor's ballot initiative that gives constitutional protections to the entirety of the programs realigned in 2011. The funding previously dedicated statutorily (a portion of the VLF and 1.0625% of the state sales tax) to support the new responsibilities now enjoys constitutional guarantees, but does not unduly tie the hands of the Legislature or Governor (present or future). Indeed, it permits alternative revenue sources, as long as the replacement source provides as much as the VLF and specified sales tax would otherwise have produced. Proposition 30 also largely curtails the ability of the Legislature to impose new duties within the existing structure without compensating counties for those higher levels of service. In a more practical sense, the real import of the passage of Proposition 30 is that counties can individually and collectively focus on the work at hand, confident in the knowledge that the funding is stable and secure.

Training Efforts

Counties may recall that CSAC, CSSA, and CPOC were joint recipients of statewide training funds (two \$1 million appropriations in 2011-12 and 2012-13) to help support counties' implementation of AB 109. The three associations pooled the first-year training funds to maximize our ability to develop and deliver training and education for counties in support of successful public safety realignment implementation. We recently engaged professional services for both content and logistics development, which were successfully

brought to bear in the 2nd Annual Public Safety Realignment Conference (November 1 and 2 in Sacramento). That conference, which focused on population management strategies, featured dozens of expert speakers – out-of-state practitioners, California county panelists sharing strategies and lessons learned, nationally recognized researchers, and other service providers – and drew an audience of more than 600. It clearly demonstrated a real thirst for information, a desire for knowledge sharing, and an interest in planning for the future. We are now developing a workplan and training topics for 2012 and will be asking counties for input on areas of interest. One emerging training need appears to be in the intersection of health and correctional policy issues, especially given the implications of federal health care reform. We welcome and encourage feedback from counties on training needs.

Attachment

CSAC's 2012 Implementation and Advocacy Activities: 2011 Realignment

Securing Constitutional Protections

- In partnership with the California State Sheriffs' Association and the Chief Probation Officers of California, CSAC drafted and submitted a constitutional measure that provided protections for realigned programs and revenues transferred to counties in 2011 Realignment for the November 2012 ballot.
- Met with stakeholders, the Legislative Analyst's Office, the Attorney General's Office, and others regarding our constitutional measure, and began strategic planning with campaign consultants and attorneys.
- Maintained an ongoing dialogue with the Administration on Governor Brown's proposal to provide constitutional protections for 2011 Realignment that eventually became Proposition 30 on the November 2012 ballot.
- Vetted Proposition 30 through the CSAC policy committee process, resulting in a "support" position by the CSAC Board of Directors in September 2012.

Fiscal Superstructure

- In collaboration with counties and county affiliate organizations, helped design architecture for permanent funding structure to support entirety of programs transferred to counties in 2011 Realignment
- Over period of several months, drafted statutory scheme for implementing the structure and met regularly with finance officials to refine details and make needed adjustments
- Served as liaison to Brown Administration on all 2011 Realignment fiscal issues
- Identified critical issues and helped design solutions to address account, subaccount and special account design; allocation of funds on county-by-county basis; and factors/processes for distributing future growth allocation
- Developed readers' guide to assist counties in understanding technical complexities of statutory structure

AB 109 Allocation

- Provide staffing and technical support to Realignment Allocation Committee (RAC) in designing two-year allocation formula to support counties' AB 109 realignment implementation efforts in 2012-13 and 2013-14
- Solicited input from individual counties and other interested parties
- Kept counties informed of progress on realignment allocation
- Provided briefings to CSAC Executive Committee, CAOs, Department of Finance officials, legislative members, affiliate groups, and budget and policy staff about process, timeline, and ultimate recommendations
- Met with and fielded numerous inquiries from interested parties ranging from the Legislative Analyst's Office, the ACLU, and various media outlets
- Provide staffing for the Data Advisory Committee to the RAC, charged with evaluating possible data variables for inclusion in a future, permanent funding formula (ongoing)

Streamlining Public Safety Funding

- Reviewed underlying statutory structure for dozen or so public safety subvention programs now funded through 2011 Realignment
- With a goal of simplifying administrative processes, reducing reporting requirements, and eliminating superfluous statutory requirements, suggested dozens of statutory changes throughout hundreds of pages of code
- Coordinated with counties and affected public safety affiliates, communicating back to state finance officials about preferred approaches and solutions
- Amended statutory structure greatly simplified county administrative duties, resulting in a regular and formulaic flow of funds to county departments and programs

Restructuring Court Security

- Established small technical working group on court security issues to review and recommend changes to the underlying statutory structure governing court security. (Prior to 2011 Realignment, court security funding was channeled through the state court budget process. The funds now come directly to counties and are expressly earmarked for sheriff-delivered court security services. This change fundamentally altered the power dynamic locally and necessitated a revisiting of the existing statutory structure.)
- Worked collaboratively across affected organizations, namely the Administrative Office of the Courts, the California State Sheriffs' Association, and the state Department of Finance, to identify and achieve common goals
- Through an iterative review and drafting process, helped negotiate a consensus agreement on statutory language that recognizes the different roles and responsibilities of courts and counties in the realigned court security world.
- Resulting language provides counties with protection and recognizes ultimately authority of board of supervisor in entering into a court security memorandum of understanding.

CSAC Realignment Work Group

- Convened and staffed regular Realignment Work Group calls
- Developed agenda and materials for work group calls
- Outside of work group calls, transmitted updates as necessary solicited input on key policy developments

Public Safety Realignment Training

- To manage and administer joint training resources (\$2 million) provided by the state to help counties' statewide efforts in implementing realignment, CSAC established Governing Board that provides guidance and direction to participating foundations – California Counties Foundation, the California State Sheriffs' Foundation, and the Chief Probation Officers of California Foundation
- Staffed Governing Board meetings, developed materials and presented recommendations for workplan and both short- and long-term goals.

- Drafted and helped coordinate with other associations narrative content and financial details required by statute for submission to the Board of State and Community Corrections
- CSAC Finance staff is responsible for providing accounting services for the pooled funding for the three associations.
- In collaboration with sheriff and probation association staff, met to brainstorm and refine training topics, design and deliver training, and develop a longer-term workplan
- In late summer 2012, Governing Board approved a contract with two organizations for both logistical and content support to help carry out training efforts over long-term

Education and Outreach

- Participated in panel presentations, briefings, and other outreach efforts for various groups statewide, including:
 - California Mental Health Directors Association, including Forensic Executive Committee
 - Chief Probation Officers of California
 - California State Sheriffs' Association (CSSA)
 - CSSA Financial Managers
 - Association of Criminal Justice Researchers
 - California Forward: Partnership for Community Excellence
 - Criminal Justice Realignment Conference sponsored by UC Berkeley's Goldman School of Public Policy
 - State Association of County Auditors
 - County Property Tax Managers
 - Seize the Day Conference
 - County Alcohol and Drug Program Administrators Association of California
 - Senate Budget and Fiscal Review Subcommittees
 - Assembly Budget Subcommittees
 - Legislative Analyst's Office
 - Public Policy Institute of California
 - Children's mental health providers
 - Child Welfare Council

General implementation activities

- Participated in regular meetings with Brown Administration – Governor's Office, Department of Finance, Department of Corrections and Rehabilitation – along with sheriff and probation chief representatives to share information, identify issues, and design solutions to public safety realignment implementation issues
- Contributed input into technical and clarifying statutory changes associated with various provisions associated with Realignment implementation; solicited ideas from and conferred with counties on best approach to resolution

- Drafted and circulated informational and clarifying memos to counties on a variety of realignment-related topics, including: account structure, key fiscal matters, and the AB 109 allocation process.

Contracted Services with CDCR

- Served in liaison/coordinating role among counties and sister county associations – Urban Counties Caucus and Regional Council of Rural Counties – and the California Department of Corrections and Rehabilitation on two potential contractual approaches to benefit counties.
- The first relates to the ongoing use of fire camp beds that in the future could be populated by county inmate (rather than state prison, as the programs ran previously) and the second would permit specified small counties to contract back with the state for beds (with a cap on counties' exposure) to house inmates whose medical needs exceed the capacity of the county.

Developing Rural Capacity

- In response to concerns unique to small counties, convened several meetings of rural and other county representatives to identify issues and explore resources and services that could assist in supporting realignment implementation
- Brought in various outside speakers as part of CSAC policy committee discussions and stand-alone meetings to expose counties to possible resources to help advance unique and innovative programmatic approaches and to share ideas on how best to leverage outside resources and expertise to manage new populations.

A Summary of Proposition 30, The Schools and Local Public Safety Protection Act of 2012
 California State Association of Counties

	Proposition 30: The Schools and Local Public Safety Protection Act of 2012
Definition of realigned services	“Public Safety Services” defined with narrative describing realigned services.
Definition of “2011 Realignment Legislation”	Legislation enacted on or before September 30, 2012 ; however, no new programs may be transferred after January 1, 2012 , except for EPSDT and mental health managed care.
Realignment Revenues	1.0625% of existing state sales and use tax revenues and 25.1% of existing VLF revenues. These revenues are explicitly not included in the calculation of the Proposition 98 guarantee.
Local Revenue Fund 2011	Continuously appropriated; state may be reimbursed for its costs during the implementation period; methodology for allocating funds is as specified in 2011 Realignment Legislation. The state may not charge the Local Revenue Fund 2011 for costs of administering the fund.
County Local Revenue Fund 2011	County treasurer directed to create a County Local Revenue Fund 2011 Fund; funds shall be used exclusively to fund Public Safety Services.
Existing Mandate Protections	Removes realigned programs and services from existing Article XIII B, Section 6 mandate protections. Brown Act mandate is no longer a reimbursable mandate under Article XIII B, Section 6.
New State Legislation that Increases Costs for Realigned Programs	State legislation enacted after September 30, 2012 that has an overall effect of increasing costs already borne by a local agency shall apply only to the extent the state provides funding for the cost increase. Any expenditure in excess of provided funding is not subject to mandate claim. This provision does not apply to new crimes.
New State Regulations that Increase Costs for Realigned Programs	Regulations, executive orders, or administrative directives implemented after October 9, 2011 that are not necessary to implement the realigned programs and that have an overall effect of increasing costs already borne by a local agency shall apply only to the extent the state providing funding for the cost increase. Any expenditure in excess of provided funding is not subject to mandate claim.
Federal Plans and Waivers	The State is prohibited from submitting to the federal government any plans or waivers that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the plans or waivers are required by federal law or the State provides annual funding for the increase.
Funding Sources for New State Costs	The State is not required to provide a subvention of funds for a mandate that is imposed by the State at the request of a local agency or to comply with federal law. The State must provide funds for new costs from a source other than 2011 realignment revenues (or their replacement), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund (1991).

A Summary of Proposition 30, The Schools and Local Public Safety Protection Act of 2012
 California State Association of Counties

	Proposition 30: The Schools and Local Public Safety Protection Act of 2012
Federal Law Changes	For specified federal programs, if federal statutes or regulations are changed in a manner that alters the condition under which federal matching funds are obtained and have the overall effect of increasing the costs incurred by a local agency, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State.
Federal Court Actions	For specified federal programs, if the state is a party to a federal judicial or administrative proceeding and there is a settlement of judicial or administrative order that imposes a cost in the form of a penalty or has the overall effect of increasing costs already borne by a local agency, the State shall annually provide at least 50 percent of the nonfederal shares of costs as determined by the State. Payment by the State is not required if the State determines that the settlement or order is due to local agencies' failure to perform a ministerial duty, failing to perform a legal obligation in good faith, or acting in a negligent or reckless manner.
Funding Sources for New Federal Costs	The State is not required to provide a subvention of funds for a mandate that is imposed by the State at the request of a local agency or to comply with federal law. The State must provide funds for new costs from a source other than 2011 realignment revenues (or their replacement), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund (1991).
Standing in Civil Court Matters	If the State or a local agency fails to perform a duty or obligation under the constitutional provisions or 2011 realignment legislation, an appropriate party may seek judicial relief. These proceedings have priority over all other civil matters.
Federal Matching Funds	Funds deposited into a County Local Revenue Fund shall be spent in a manner designed to maintain the State's eligibility for federal matching funds and to ensure compliance with applicable federal standards.
Non-Supplant	Funds deposited into the County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.
Replacement Revenues	The State is obligated to continue to provide funding when the original dedicated funding sources cease to be operative, in an amount equal to or greater than what would have otherwise been provided by those original sources. The method of determining that amount shall be described in 2011 Realignment Legislation and the State shall be obligated to provide that amount for so long as the local agencies are required to perform realigned services. If the State fails to annually appropriate that amount, the Controller shall transfer that amount from the General Fund in pro rata monthly shares to the Local Revenue Fund for disbursement. The Controller shall disburse these amounts to local agencies in the manner directed by 2011 Realignment Legislation.

A Summary of Proposition 30, The Schools and Local Public Safety Protection Act of 2012
 California State Association of Counties

	Proposition 30: The Schools and Local Public Safety Protection Act of 2012
Obligation to Fund (Replacement Revenues)	These obligations have a lower priority claim to General Fund money than the first priority for certain school funding and the second priority for general obligation debt.
Link between Education and Public Safety Funding	To ensure that public education is not harmed in the process of providing critical protection to local Public Safety Services, the Education Protection Account is created to receive and disburse the revenues derived from the taxes imposed by the measure. The measure provides funding for K-12 schools and community colleges in an amount that equals or exceeds that which would have been provided if realignment revenues had been considered "General Fund revenues" for purposes of calculating the Proposition 98 guarantee.
Education Funding Provisions: Taxes	Sales and use tax increase of ¼ cent beginning January 1, 2013 through December 31, 2016. Personal income tax increases as follows (effective January 1, 2012 through December 31, 2018): <ul style="list-style-type: none"> ▪ Additional 1% marginal tax rate for single filers with incomes of \$250,000-\$300,000 and joint filers with incomes of \$500,000-\$600,000; ▪ Additional 2% marginal tax rate for single filers with incomes of \$300,000-\$500,000 and joint filers with incomes of \$600,000-\$1,000,000; ▪ Additional 3% marginal tax rate for single filers with incomes of over \$500,000 and joint filers with incomes of over \$1,000,000
Education Funding Provisions: Proposition 98	Funds are dedicated to the Education Protection Account and are continuously appropriated for the support of school districts, county offices of education, charter schools, and community college districts. These revenues are deemed "General Fund revenues" for purposes of calculating the Proposition 98 guarantee.
Audit Provisions	The Controller may perform audits of the Local Revenue Fund 2011, any County Local Revenue Fund 2011, and the Education Protection Account. Additionally, the Attorney General or county district attorney may investigate and prosecute any misuse of funds from the County Local Revenue Fund 2011 or the Education Protection Account.
Effective Date	Protections for realigned revenues take effect as of July 1, 2011. Revenues dedicated to education take effect as of January 1, 2012.
Conflicting Measures	In the event that another measure that imposes an incremental increase in personal income tax rates, the provisions of the other measure are in conflict. If this measure receives a greater number of votes than a measure deemed in conflict, the provisions of this measure shall prevail.

ITEM III
Kern County Resolution on AB 109 Impacts and
Allocation



November 14, 2012

TO: CSAC Administration of Justice Policy Committee
FROM: Elizabeth Howard Espinosa, CSAC Senior Legislative Representative
RE: **Kern County Resolution on AB 109 Impacts and Allocation**

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The Kern County Board of Supervisors recently adopted a resolution (attached) related to AB 109 impacts and the existing, two-year funding formula that governs allocations to the 58 counties during the 2012-13 and 2013-14 fiscal years.

As outlined in the resolution and the accompanying transmittal to Governor Brown, the county is advocating for an increased reliance on per capita funding formulas and for recognition of counties or regions where higher-than-expected caseloads (as compared to the state's initial projections) have materialized. It is our understanding that other counties in the Central Valley may be taking action on similar resolutions in their jurisdictions.

Copies of the resolution have been transmitted to the Governor, CSAC, the County Administrative Officers Association, and the Kern County legislative delegation. Kern County Supervisor Mike Maggard would like the opportunity to discuss this matter with the Administration of Justice Policy Committee.

Attachments

BOARD OF SUPERVISORS

SUPERVISORS

Jon McQuiston District 1
Zack Scrivner District 2
Mike Maggard District 3
Raymond A. Watson District 4
Karen Goh District 5



KATHLEEN KRAUSE
CLERK OF BOARD OF SUPERVISORS

Kern County Administrative Center
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TTY Relay 800-735-2929

November 13, 2012

The Honorable Edmund G. Brown, Jr.
Governor of California
State Capitol
Sacramento, CA 95814

RE: AB 109 realignment changes to target more funding to counties with greater need

Dear Governor Brown:

The Kern County Board of Supervisors has adopted the attached resolution in support of targeting more public safety realignment dollars to counties with higher per capita populations of AB 109 offenders.

This resolution reiterates policies we have sought since February of this year. We are sending this resolution because the funding formula for the next two years of realignment gives counties such as Kern whose criminal justice and mental health systems are overwhelmed by AB 109 offenders little chance of breaking the cycle that leads offenders to commit new crimes. Many counties in the San Joaquin Valley, including Kern County, have disproportionately high unemployment resulting in higher than average crime rates, yet the current AB 109 funding formula results in broad disparities among counties, with some counties receiving several times the amount of money per offender that others receive.

Our Sheriff is implementing home incarceration via electronic monitoring and other out-of-custody supervision programs such as day reporting centers. We would also like to implement more evidence-based treatment of offenders who are in custody to prepare them to re-enter society and reduce the chance that they will re-offend. However, in the first nine months of implementation, Kern County received nearly double the number of parolees for Post Release Community Supervision that CDCR originally projected. The Kern County Sheriff's Department is supervising 4,859 parole violators who would have been returned to state prison before AB 109 but whom the Sheriff must now incarcerate or otherwise supervise, which is more than 2½ times the number CDCR had projected. At this rate, Kern is on track to receive and book more than 6,000 parole violators annually. In addition, 1,668 inmates have been sentenced to local time who would have served their sentences in State prison before realignment.

The Honorable Edmund G. Brown, Jr.
AB 109 Realignment Changes
November 13, 2012
Page 2

If the current allocation formula continues, counties such as Kern that are being overwhelmed by AB 109 populations will have great difficulty simply maintaining public safety, much less creating the kind of evidence-based supervision and treatment programs that will break the costly cycle of recidivism, a chief aim of criminal justice realignment.

We therefore respectfully request your support for a more equitable distribution of public safety realignment funds that takes caseload needs into account, as the Legislative Analyst recommended in a 2011 analysis of realignment:

“It is critical for the success of these programs that allocation formulas *not* be based solely on historical allocations. County financial needs for each program are going to change over time based on changes in county population, caseloads, demographics, wealth, cost of living, and other factors. In the future, county allocations should be based on formulas that are responsive to the specific factors that affect the funding needs of each program.”

You have stated your intent not to break faith with counties in funding realignment, the single largest shift of funding and program responsibility in California history. For counties in the Central Valley, where poverty is widespread and unemployment has exceeded 15% in the time since AB 109 went into effect, that promise is especially important. Counties collectively need more money to treat and supervise AB 109 offenders, but we also need to target that money more effectively to help counties like Kern change the criminal justice paradigm from incarceration to treatment. We therefore respectfully request that you support and defend the equitable allocation of AB 109 funds to counties with the greatest relative need.

Thank you for considering our request.

Sincerely,



Zack Scrivner, Chairman
Kern County Board of Supervisors

ZS:ADK/LEGGENab1093SFY12-13legC
CF 1000.30

Attachment

cc: Mental Health Department
Probation Department
Sheriff
California State Association of Counties
Peterson Consulting

BEFORE THE BOARD OF SUPERVISORS

COUNTY OF KERN, STATE OF CALIFORNIA

In the matter of:

Resolution No. 2012-332

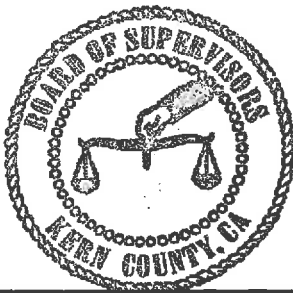
**SUPPORTING ALLOCATION OF STATE
CRIMINAL JUSTICE REALIGNMENT FUNDING
BASED ON AB 109 OFFENDER CASELOADS**

I, KATHLEEN KRAUSE, Clerk of the Board of Supervisors of the County of Kern, State of California, hereby certify that the following resolution, on motion of Supervisor Watson, seconded by Supervisor McQuiston, was duly and regularly adopted by the Board of Supervisors of the County of Kern at an official meeting thereof on the 13th day of November, 2012, by the following vote and that a copy of the resolution has been delivered to the Chairman of the Board of Supervisors.

AYES: McQuiston, Scrivner, Maggard, Watson, Goh

NOES: None

ABSENT: None



KATHLEEN KRAUSE
Clerk of the Board of Supervisors
County of Kern, State of California

Karen L. Winn
Deputy Clerk

RESOLUTION

Section 1. WHEREAS:

- a) AB 109 (Chapter 15, Statutes of 2011) mandated a massive shift in the supervision of many felony criminal offenders and parolees from the California Department of Corrections and Rehabilitation (CDCR) to county law enforcement authorities beginning October 1, 2012; and

Resolution No. 2012-332

- b) Counties' State-mandated responsibility to supervise so-called "non-violent, non-serious, non-sexual" offenders has imposed sizable logistical and financial burdens on counties, which are already struggling to provide local services within the constraints of scarce local revenues; and
- c) AB 118 (Chapter 40, Statutes of 2011) dedicated a share of State sales and use tax revenues to be allocated among counties to help offset the cost of the added public safety responsibilities mandated by AB 109; and these allocations were altered in SB 1020 (Chapter 40, Statutes of 2012); and
- d) For fiscal years 2012-13 and 2013-14, AB 109 revenues are allocated to counties either based on a county's age 18-64 population, on a county's average daily population of AB 109 offenders, or on the fiscal year 2011-12 funding formula; and
- e) While the allocation enables each county to select the best of the three funding options, it results in broad disparities among counties in the amount of funding that is available per offender, with some counties receiving several times more funding per offender than other counties; and
- f) The funding disparity has a negative impact on counties with high unemployment resulting in higher property crime rates, including many counties in the Central Valley such as Kern County, where robberies have increased 15.67%, burglaries have jumped 21.89%, and auto thefts have increased 16.29% in 2011-12 over 2010-11 while unemployment ranged between 15% and 17.5% during the same period; and
- g) Some counties are supervising far greater numbers of parolees returning from State prison or who have violated State parole than CDCR projected, and these counties are also contending with increasingly crowded jails as AB 109 sends more felony offenders to local supervision; and
- h) In the first nine months of AB 109 implementation, the Kern County Probation Department has received 1,444 former prison inmates for Post Release Community Supervision who are now the County's responsibility under AB 109, 86% more than the CDCR originally predicted the County would receive; and
- i) The Kern County Sheriff's Department is supervising 4,859 parole violators who would have been returned to state prison before AB 109 but whom the Sheriff must now incarcerate or otherwise supervise, which is more than 2½ times the number CDCR had projected; and
- j) In addition, 1,668 so-called "non-violent, non-sexual, non-serious" (triple-non) offenders whose felonies would have sent them to state prison before AB 109 have been sentenced to the Sheriff's supervision since the law took effect, 57% above CDCR's projection; and
- k) Since October 1, 2011, 36% of 1,085 "triple-non" offenders released from jail have been re-arrested, 36% of 601 offenders released from state prison to community supervision have been re-arrested, and 39% of parole violators who were released from jail have been re-arrested; and
- l) Kern County's re-arrest figures show that State realignment funding is critically short of the amount needed to provide effective treatment to help reduce recidivism among Kern's rapidly growing AB 109 offender population; and
- m) Unless State realignment funding is targeted more closely to AB 109 populations, many San Joaquin Valley counties will be unable to afford the types of evidence-based treatment and supervision programs that are needed to break the costly cycle of re-offense and re-incarceration which filled State prisons to overflowing and which now threaten to do the same to county jails in the Valley;

Section 2. NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Supervisors of the County of Kern, State of California, as follows:

1. To successfully implement AB 109 without jeopardizing public safety, the State must commit more funds to all counties for supervision, evidence-based treatment, and incarceration where necessary.

2. To ensure that public safety is equally protected in each county, State funding for AB 109 mandates must be allocated to counties in an equal amount for each AB 109 offender who is within a county's supervision.

3. To further ensure equity, AB 109 allocation formulas must include an account from which additional funds can be distributed to those counties that have experienced greater numbers of parolees and parole revocations than the State Department of Corrections and Rehabilitation and the Department of Finance projected at the program's inception.

4. Copies of this resolution shall be forwarded to the Governor, the Members of the Legislature representing Kern County, the California State Association of Counties, and the County Administrative Officers Association of California.

LEGGEN ab109S formula resA

COPIES FURNISHED:
<i>See above</i>
<i>11/14/2012</i> <i>KLW</i>

ITEM IV
Role of the Board of State and Community
Corrections in the 2011 Criminal Justice
Realignment



November 13, 2012

TO: CSAC Administration of Justice Policy Committee

FROM: Elizabeth Howard Espinosa, CSAC Senior Legislative Representative

RE: **Role of Board of State and Community Corrections (BSCC)**

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The Board of State and Community Corrections (BSCC) – the successor agency to the Corrections Standards Authority – officially was established on July 1, 2012. Pursuant to statute, this body assumes all responsibilities and functions of its predecessor agency, incorporates various grant functions from the California Emergency Management Agency, and takes over the duties and role of the California Council on Criminal Justice (CCCJ). Both the Corrections Standards Authority and the CCCJ ceased to exist when the new BSCC came into being. In a significant change from the organizational structure of the CSA, the new BSCC operates as an entity independent of the California Department of Corrections and Rehabilitation (CDCR) and reports directly to the Governor's Office. At our November meeting, Patricia Mazzilli, the first Executive Director of the new BSCC (and former chief probation officer in San Joaquin County) will present to the Administration of Justice committee on the structure, responsibilities, and priorities of the BSCC.

As outlined in the attached overview, the BSCC works in partnership with local corrections systems and assists efforts to achieve continued improvement in reducing recidivism through evidence based decision making. Its key functions are as follows:

- Develops and maintains standards for the construction and operation of local jails and juvenile detention facilities,
- Develops and maintains standards for the selection and training local corrections personnel
- Inspects local adult and juvenile detention facilities
- Administers programs that respond to facility construction needs (including AB 900 of 2007 and SB 1022 of 2012);
- Conducts special studies relative to the public safety of California's communities;
- Administers federal and state funded grant programs; and
- Offers statewide leadership and coordination on correctional policy issues, including 2011 Realignment;
- Provides reports to the Legislature as directed in statute, including a requirement to examine counties' local AB 109 implementation plans and report on the implementation of realignment due in 2013; and
- Develops – in collaboration with county stakeholders and the courts – baseline and ongoing data collection instruments intended to capture the local impact of AB 109 implementation.

As part of the conversion of the BSCC from the CSA, the board composition was narrowed and streamlined. Down from a 19-member board under the CSA, the BSCC board now is composed of 12 members; the composition and board membership is detailed in the attached outline prepared by the BSCC.

SB 1022 Construction Program. One current topic of interest among counties is the Executive Steering Committee (ESC) established by the BSCC to develop the process and criteria for awarding \$500 million in local criminal justice facility construction funds authorized under SB 1022. The ESC met on October 26 and, among other things, established the following funding categories:

County Category	Total Funds Available for Category	Maximum Award
Large counties	\$240 million	\$80 million
Medium counties	\$160 million	\$40 million
Small counties	\$100 million	\$20 million

Consistent with the timeline (attached) that is available on the BSCC website, a draft Request for Proposals (RFP) will be developed by early December, with the BSCC Board expected to take action on the RFP in February 2013. The anticipated deadline for RFP submissions is May 16, 2013, with conditional awards announced in July 2013. Counties with an interest in seeking construction funds are encouraged to monitor ESC activities and attend all meetings. Additional background materials on the process, a draft timeline, and a roster of ESC members are available on the BSCC website at <http://www.bscc.ca.gov/programs-and-services/cfc/services..>

Attachment



AN OVERVIEW OF THE BOARD OF STATE AND COMMUNITY CORRECTIONS

Many policy makers are not familiar with the BSCC but may recognize our agency under the former names of the Corrections Standards Authority or the Board of Corrections.

Effective July 1, 2012, Senate Bill (SB) 92 established the Board of State and Community Corrections (BSCC) as an independent entity to provide statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system, including providing technical assistance and coordination to local governments related to realignment. This reflects the principle of aligning fiscal policy and correctional practices, including prevention, intervention, suppression, supervision, and incapacitation to promote a justice investment strategy that fits each county and is consistent with the integrated statewide goal of improved public safety through cost-effective, promising, and evidence-based strategies for managing criminal justice populations.

Specifically, SB 92 and various FY 2012-13 budget trailer bills made the following changes:

- Abolished Corrections Standards Authority (CSA) within California Department of Corrections and Rehabilitation (CDCR) and established the BSCC as an independent entity reporting to the Governor's Office.
- Created a 12-member Board.
- Transferred the powers and duties of the CSA to the BSCC. This includes developing and maintaining standards for the construction and operation of local jails and juvenile detention facilities; developing and maintaining standards for the selection and training of state and local corrections personnel; administering grant programs that respond to facility construction needs, and juvenile crime and delinquency; and conducting special studies relative to the public safety of California's communities.
- Transferred specified grants and duties from the California Emergency Management Agency (CalEMA) to the BSCC.
- Eliminated the California Council on Criminal Justice, and assigned its powers and duties to the BSCC.
- Abolished the Office of Gang and Youth Violence Policy and transferred all powers and authority formerly exercised by that office to the BSCC.
- Defined additional data collection and analysis responsibilities, including the development and implementation of first phase baseline and ongoing data collection instruments to reflect the local impact of Public Safety Realignment, specifically related to dispositions for felony offenders and post-release community supervision.



- Required the BSCC to collect community corrections plans, and commencing July 1, 2013, annually provide a report to the Governor and the Legislature on the implementation of those plans.
- Commencing September 1, 2013 and annually thereafter, required the Administrative Office of the Courts to make available to the BSCC information regarding the implementation of the 2011 Realignment Legislation, including statistics for each county regarding the dispositions of felonies at sentencing and petitions to revoke probation, post release community supervision, mandatory supervision, and commencing July 1, 2013, parole.
- To the extent that funds are appropriated for this purpose, provided BSCC with the authority to administer the California Voluntary Tattoo Removal Program.
- Established the Gang Violence Suppression Program in the BSCC.

The BSCC is organized under an appointed Board, which is composed of 12 members, as follows:

- (1) The Chair of the BSCC, who shall be the Secretary of the Department of Corrections and Rehabilitation.
- (2) The Director of the Division of Adult Parole Operations for the Department of Corrections and Rehabilitation, Daniel Stone.
- (3) A county sheriff in charge of a local detention facility that has a rated capacity of 200 or less inmates, appointed by the Governor, subject to Senate confirmation, Sheriff Dean Growdon- Lassen
- (4) A county sheriff in charge of a local detention facility that has a rated capacity of over 200 inmates, appointed by the Governor, subject to Senate confirmation. Sheriff Lee Baca- Los Angeles County
- (5) A county supervisor or county administrative officer. This member shall be appointed by the Governor, subject to Senate confirmation.-CAO Susan Mauriello- Santa Cruz County
- (6) A chief probation officer from a county with a population over 200,000, appointed by the Governor, subject to Senate confirmation. Chief Linda Penner- Fresno County
- (7) A chief probation officer from a county with a population under 200,000, appointed by the Governor, subject to Senate confirmation. Chief Adelle Arnold, Tuolumne County
- (8) A judge appointed by the Judicial Council of California. Retire Judge Pounder, Los Angeles County
- (9) A chief of police, appointed by the Governor, subject to Senate confirmation. Chief David Maggard, City of Irvine
- (10) A community provider of rehabilitative treatment or services for adult offenders, appointed by the Speaker of the Assembly. Vacant



- (11) A community provider or advocate with expertise in effective programs, policies, and treatment of at-risk youth and juvenile offenders, appointed by the Senate Committee on Rules. David Steinhart
- (12) A public member, appointed by the Governor, subject to Senate confirmation. Mimi Silbert, CEO and founder of Delancey Street Program

The initial appointments to the Board expire on a staggered term beginning July 1, 2014.

The BSCC administers the following programs:

Facilities Division – Deputy Director Gary Wion

The Facilities Standards and Operations (FSO) Division works in collaboration with local corrections agencies to maintain and enhance the safety, security, and efficiency of local jails and juvenile detention facilities and Administer state financing for detention facility construction projects, for the purpose of enhancing public safety and conditions of confinement.

- Establishing and updating minimum standards regarding the design and operation of local adult and juvenile detention facilities (California Code of Regulations, Titles 15 and 24).
- Inspecting local detention facilities every two years and assisting agencies in their efforts to remain in compliance with minimum standards.
- Working with other state agencies to develop construction administration processes that conform to state requirements, consider the needs of counties, and result in project completion.
- Establishing and updating minimum standards regarding the construction of local adult and juvenile detention facilities (California Code of Regulations, Titles 15).
- Providing technical assistance to enhance facility planning, design, and program administration that meets local needs, philosophies, and priorities, as well as legislative and regulatory requirements.
- Convening committees to assist in the formation of project assessment criteria and processes.
- Providing workshops and informational forums to assist in planning processes.
- Distributing funding for the construction of local detention facilities.
- Reviewing and analyzing all architectural plans for new facility construction and remodeling to determine cost-effectiveness and standard compliance.
- Administering the Jail Profile and Juvenile Detention Profile Surveys. This involves collecting and reporting data, providing a statewide profile of local jails and juvenile detention facilities.
- Administering the Juveniles in Jail Removal/Compliance Monitoring Program, which involves monitoring, training, and technical assistance activities related



to federal compliance issues on the secure detention of status offenders and the separation of minors from adults.

- Providing technical assistance and training to cities and counties regarding standard compliance and opportunities to improve departmental efficiencies.
- Performing special studies as directed by the legislature, the BSCC, or at the request of constituents.

Corrections Planning and Programs Division- Deputy Director Jean Scott

The Corrections Planning and Programs (CPP) Division develops, administers, and evaluates state and federally funded programs and plans designed to improve the effectiveness of state and local correctional systems, reduce costs, maximize resources, and enhance public safety. As part of BSCC's new responsibilities, the CPP will also serve as a resource for evidence-based, effective, and promising programs, practices, and strategies; and will provide technical assistance, consultation, and training to state and local justice system policy makers. The CPP works closely with federal, state, and local government agencies, as well as the private sector and nonprofit service providers, to foster collaborative approaches to address crime and delinquency. The CPP responsibilities include the following:

State Programs

- Juvenile Re-entry Grant: Assembly Bill (AB) 1628 (2010) – Eliminated parole services from Department of Juvenile Justice (DJJ) by July 2014, Now January 2013, and shifted supervision and aftercare for this population to the counties, and provided funding to cover local costs. BSCC's role is to consult with the Chief Probation Officers of California (CPOC) on its annual report and to audit information in the report, as needed.
- \$1,700,000.00
25 counties
- Juvenile Justice Crime Prevention Act (JJCPA) Program: Government Code §30061(b)(4) – Supports probation departments and community-based programs that have proved effective in reducing crime and delinquency among at-risk youth.
- \$107,000,000.00
56 counties
- Proud Parenting Program: California State Budget Act 2012 – Supports community-based parenting services to young parents between the ages of 14 and 25 who are involved in the juvenile or criminal justice system to break the inter-generational cycle of violence and delinquency.
\$835,000.00 to 6 projects
- Public Safety Realignment Act of 2011: AB 109, AB 117, and AB 118 – The BSCC distributes funding allocated in the California State Budget Acts of 2011 and 2012 to assist county Community Corrections Partnerships (CCPs) with



the continued development of implementation plans for realignment. The BSCC (CPP Division) annually receives plans from all counties. A portion of funding is also provided to three foundations for the purpose of providing statewide training to the counties on implementing AB 109. **\$7,900,000.00 to 58 counties; \$1,000,000.00 to 3 foundations (California Counties Foundation, CPOC Foundation, and California State Sheriffs' Association Foundation)**

- **Youth Center/Youth Shelter (YC/YS) Program:** County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988 (Proposition 86), AB 2796 (1998), Proposition 12 (2000) and AB 1740 (2000) – Provided state funds for the acquisition, renovation, and construction of afterschool youth centers and overnight youth shelters throughout California; all funds have been disseminated.
\$34,644,678.00 paid to date and 38 active contracts
- **Youthful Offender Block Grant (YOBG):** Welfare and Institutions Code §1961. (funding calculation based on DJJ youth to county) – Utilizes funding for counties to provide custody and care to youthful offenders who previously would have been committed to the CDCR's DJJ
\$93,000,000.00 to 58 counties
- **California Gang Reduction, Intervention, and Prevention Program (CalGRIP):** California State Budget Act of 2007 – Provides funding to use a local collaborative approach for gang prevention, intervention, education, and/or suppression activities. *Field Representatives: Oscar Villegas and Aaron Long*
\$9,215,000.00 (new unallocated funding)- RFP is currently out to cities.
- **City Police Departments:** California State Budget Act of 2012 – Creates a new grant program for BSCC, in consultation with the Department of Finance, to allocate funding to city police departments to help mitigate budget reductions.
\$20,000,000.00 (new unallocated funding)
- **Gang Violence Suppression Program (GVS):** SB 1023 (2012) – Establishes a program of financial and technical assistance to local agencies to combat gang violence. **\$0.00 (currently)**

Federal Programs

- **Juvenile Accountability Block Grant (JABG):** Omnibus Crime Control and Safe Streets Act, Title I—Part R, Chapter 46—Subchapter XII-(Public Law 107–273) – Provides funds to units of local government to enhance their efforts to combat serious and violent juvenile crime through accountability-based reforms. Funding amounts are based on a federal formula that takes into account local criminal justice expenditures and the level of violent crime.
\$3,234,248.00
36 agencies



- **Evidence-Based Practices (EBP) Program:** Provides a comprehensive and flexible funding source to probation departments to support a systems change approach in implementing evidence-based practices known to be effective in delinquency prevention with the outcome of reducing recidivism rates for youthful offenders. **\$1,800,000.00 to 8 projects**
- **Title II Formula Block Grant:** Juvenile Justice and Delinquency Prevention Act 1974 (Public Law 93-415) – Program supports local efforts to plan, establish, operate, coordinate, and evaluate projects directly or through grants and contracts with public and private agencies for the development of more effective education, training, research, prevention, diversion, treatment, and rehabilitation programs in the area of juvenile delinquency and programs to improve the juvenile justice system, including the Juvenile Detention Alternative Initiative (JDAI) core strategies.
\$4,600,000.00 to 15 projects
 - **Disproportionate Minority Contact (DMC) Grant:** Programs support a statewide systems change initiative utilizing a multi-faceted approach of direct service, education, and support to reduce the overrepresentation of youth of color coming into contact with the juvenile justice system.
\$1,650,000.00 to 13 projects
 - **Tribal Youth Grant (TYG):** Supports programs operated by federally recognized tribal governments that serve at-risk youth using the beliefs and values as defined by the Gathering Of Native Americans (GONA) principle.
\$240,000.00 to 2 projects
- **Title V Community Prevention Grant:** Supports collaborative, community-based delinquency prevention efforts designed to keep at-risk youth and first-time non-serious offenders from entering the juvenile justice system.
Note: Funding for this program was zeroed out for 2012.
\$50,000.00 to 1 project
- **Edward Byrne Memorial Justice Assistance Grant (JAG):** Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. Section 3751(a) (Public Law 109-162) – Provides states and local governments with funding to support law enforcement, prosecution, and court programs, prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, and technology improvement, and crime victim and witness programs.
- **\$19,993,136.00 to 71 projects currently**
- **Residential Substance Abuse Treatment (RSAT):** Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. Section 3796ff-1(e) (Public Law 103-322) – Assists states and local governments in developing and implementing substance abuse treatment programs in state, local, and tribal correctional detention facilities. **\$824,123.00 (new unallocated funding)**



Standards and Training for Corrections Division- Deputy Director Evonne Garner

The Standards and Training for Corrections (STC) Division works in collaboration with local corrections and public/private training providers in developing and administering programs designed to ensure the competency of state and local corrections professionals. Specific activities of STC include:

- Establishing and updating minimum selection and training standards (California Code of Regulations, Title 15) for correctional staff.
- Assisting agencies in their efforts to meet selection and training standards and monitoring state and local corrections agencies for compliance with standards.
- Developing and updating job related Core training curricula for entry-level correctional personnel.
- Administering a statewide training course certification process that includes a coordinated training delivery system.
- Providing training to corrections agencies in the areas of instructor development, curriculum design, training management, and other topical areas of need.

Administrative Services- Deputy Director Bob Takeshta

- Budget
- Legislative Analysis
- Human Resources
- IT
- Special Reports to Legislature and the Governor
- Data Collection and Research

Please feel free to contact any of us.

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DRAFT Timeline of Key Events
SB 1022 Adult Local Criminal Justice Facility Construction Program
Board of State and Community Corrections
Executive Steering Committee Meeting
October 26, 2012

July 26, 2012	BSCC Board appoints Executive Steering Committee (ESC) Chair/Co-Chair.
August 29, 2012	BSCC Board approves member composition of ESC.
October 26, 2012	ESC meeting to develop elements of RFP and proposal evaluation criteria.
December 7 – 14, 2013	ESC has opportunity to review draft RFP.
February 2013	BSCC Board holds special session to take action on RFP.
February 2013	BSCC issues final RFP.
March 1, 2013	Bidders' conference in Sacramento.
May 16, 2013	Proposals due to BSCC office by 5:00 PM.
May 17 – 29, 2013	Staff completes technical requirements review of proposals. Counties are given opportunity to correct technical deficiencies.
May 30, 2013	Raters' training for ESC.
May 31 – June 25, 2013	ESC reviews the proposals and makes preliminary ratings.
June 26 – 27, 2013	Scheduled county presentations on proposals to ESC (Sacramento). ESC makes final rating and ranks proposals for funding recommendations.
June 28 – July 2, 2013	Staff finalizes ESC recommendation package.
July 3, 2013	ESC recommendations mailed to counties and BSCC.
July 2013	ESC recommendations presented to BSCC for funding action/conditional awards at a BSCC scheduled meeting.

ITEM V
Supporting Counties' Criminal Justice Realignment
Efforts



November 12, 2012

TO: CSAC Administration of Justice Policy Committee

FROM: Elizabeth Howard Espinosa, CSAC Senior Legislative Representative

RE: **Supporting Counties' Criminal Justice Realignment Efforts: California Forward's Partnership for Community Excellence**

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As counties may be aware, California Forward — a non-partisan, non-profit organization — has been working for the last several years on a variety of governmental reform efforts. In the Spring 2011, the organization established a new initiative called the Partnership for Community Excellence, which is designed in the broadest of terms to support counties' criminal justice realignment efforts (AB 109). In its own words, the Partnership's mission is "to provide information and assistance to enable county officials and local criminal justice agencies build the capacity, culture, infrastructure and integrated systems necessary to successfully implement Realignment and improve public safety outcomes." This effort is supported by grants from The James Irvine Foundation and S. D. Bechtel, Jr. Foundation; along with in-kind support from California Forward.

At our November meeting, we are happy to have Sharon Aungst, Director of the Partnership for Community Excellence, and Kathy Jett, Policy Consultant for the Partnership, on hand to discuss the Partnership's efforts to date in supporting counties' realignment implementation efforts as well as projects and initiatives on the horizon.

CSAC commends the Partnership for its contributions to both individual county as well as statewide realignment implementation efforts. The Partnership has hosted a webinar series on an array of topics connected to realignment. Recently, they published a paper on pre-trial services, which highlighted efforts in five counties.

Sharon and Kathy both have extensive experience at the highest level of state governments and have demonstrated success in leading executive/legislative initiatives, developing policy and programs, implementing evidence-based practices, strategic planning, and facilitation.

Reports, resources, and links to webinars all can be found on the Partnership website:
<http://www.cafwd.org/pages/pce>.

ITEM VI
Update on Federal Funding and Possible Policy
Changes to the State Criminal Alien Assistance
Program



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November 12, 2012

TO: CSAC Administration of Justice Policy Committee

FROM: Elizabeth Howard Espinosa, Senior Legislative Representative

RE: Update on State Criminal Alien Assistance Program (SCAAP)

As is often the case, federal funding in the form of the State Criminal Alien Assistance Program (SCAAP), which offsets states' and counties' costs of incarcerating undocumented criminals, was under threat this year. In addition to the typical pressure to reduce the federal appropriation for this program, there also was a troubling and, from the county perspective, fiscally detrimental policy change put forward by the U.S. Department of Justice (DOJ). Joe Krahn of CSAC's federal lobbying arm, Waterman and Associates, will provide a SCAAP update to the CSAC Administration of Justice Policy Committee. As counties may be aware, SCAAP is traditionally a top-tier CSAC federal advocacy priority.

BACKGROUND

Enacted as part of the 1994 Crime Act and codified in the Immigration and Nationality Act of 1990, the SCAAP program partially reimburses states and localities for the costs of incarcerating undocumented criminals. The program provides federal assistance to states and local agencies for a wide variety of correctional purposes, including salaries for corrections officers, overtime costs, correctional officer training, and other key purposes and activities.

SCAAP FUNDING

SCAAP was funded at \$240 million in fiscal year 2012, compared to \$273 million in fiscal year 2011. The state of California and our state's counties typically are awarded a fairly significant share of the nationwide allocation. For example, in fiscal year 2011, the State of California received over \$65.8 million in SCAAP funding, with the state's counties receiving over \$30.5 million. This combined \$96 million represented over 35 percent of the funds allocated nationwide that year. Although California receives a significant portion of overall SCAAP dollars, the program remains greatly underfunded by Congress. By way of illustration, the State of California and its counties are estimated to spend over \$1 billion annually to incarcerate undocumented criminals. It is for this reason that SCAAP remains a top federal advocacy priority for CSAC.

PROPOSED CHANGE TO FUNDING CRITERIA

Earlier this year, a change to the SCAAP reimbursement criteria was proposed. This change would have disallowed reimbursement for those undocumented inmates whose immigration status was "unknown." First floated in the President's budget proposal in February 2011 (but not approved by Congress), the U.S. DOJ announced – without Congressional approval – its intent this spring to unilaterally impose this change as an administrative matter connected to the SCAAP claims process.

On behalf of California counties and CSAC, Waterman and Associates lobbied heavily against this proposed criteria change. A number of key members of the California congressional delegation joined in advocating against the ill-advised policy. Fortunately – and in a victory for counties – DOJ announced in September that it would be postponing the proposal to eliminate payment for inmates whose immigration status is "unknown."

Pursuant to DOJ's announcement, the Agency will continue in fiscal year 2012 the practice of providing reimbursement payments to jurisdictions for the cost of detaining individuals whose immigration statuses are unable to be confirmed by the Department of Homeland Security (DHS). It should be noted that so-called "unknown" inmates are classified as such because they have not had prior contact with federal immigration authorities and therefore are not included in the DHS database.

If DOJ's policy had been implemented for the current fiscal year, California's counties likely would have seen their SCAAP payments cut by roughly half. For the 2010 Solicitation Year, California counties' SCAAP allocations would have been reduced by over \$18.8 million – from \$40.8 million to \$21.9 million, a decrease of over 46 percent. Conversely, the state of California and most other states would have seen their SCAAP allocations significantly increase under the policy shift. The reason for the state-county discrepancy is that states house a much lower percentage of "unknown" inmates in their correctional facilities in relation to county jails.

Looking ahead, DOJ has indicated that "the delay of this change will provide a significant opportunity for local governments to work collaboratively with the U.S. Department of Homeland Security (DHS) to improve local processes for detainee identification, in anticipation of discontinuing payments for unknown inmates next year." Specifically, DOJ is encouraging SCAAP grantees to work with DHS through the Secure Communities program, the 287(g) program, and with the Law Enforcement Support Center (LESC) in order to increase their inmate status verifications.

It should be noted that nearly all jurisdictions nationwide already participate in the Secure Communities program, with a number of others, including several counties in California, actively participating in the 287(g) program. Additionally, many jurisdictions actively engage with the LESC, which is administered through U.S. Immigration and Customs Enforcement. Despite participation in these program areas, the identity of a large percentage of foreign-born inmates in county jails cannot be verified by DHS and continue to remain in the "unknown" category. This remains the case because any undocumented immigrant who enters the U.S. without inspection and who has never before been apprehended by federal immigration authorities will not be in either the DHS or the Secure Communities databases and therefore cannot have their immigration statuses verified for purposes of the SCAAP program.

Because of the aforementioned disconnect between DOJ's recommended approach to increasing inmate verification and the actual reason for the high percentage of unknown inmates in county jail facilities, CSAC is poised to oppose DOJ's policy shift, should the agency attempt to implement the change for the fiscal year 2013 SCAAP cycle. CSAC will be closely monitoring the Agency's actions and will continue to work with our congressional advocates on this important matter.

ITEM VII
**2012-13 Budget and 2012 Legislative Wrap-Up/
What is on Horizon in 2013?**

November 12, 2012



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TO: CSAC Administration of Justice Policy Committee

FROM: Elizabeth Howard Espinosa, Senior Legislative Representative

RE: **2012 Budget and Legislative Wrap-Up; Horizons in 2013**

This informational memo provides details into key budget and legislative measures and offers a preview of anticipated issues in the 2013 legislative year.

OVERVIEW OF PUBLIC-SAFETY RELATED TRAILER BILLS IN 2012-13 BUDGET

The table below identifies the key provisions of interest in the justice area organized by measure. Following the table are the details associated with each bill.

SB 1020	2011 Realignment Fiscal Structure
SB 1021	Public Safety Omnibus Trailer Bill - Courts, court security, DJJ, CDCR, alternative custody and medical parole expansion, Board of State and Community Corrections, county-to-county inmate transfer authority
SB 1022	Public Safety Capital Outlay - Revisions to AB 900 state facility authority; shift of AB 900 relinquished Phase I funds to Phase II jail construction; \$500 million in additional jail construction bond capacity; other changes related to CDCR projects
SB 1023	AB 109 and other Public Safety Realignment Clean up - AB 109 sentencing changes; mandatory supervision clarification; revocation process changes; streamlining of local public safety subvention programmatic provisions
AB 1464	Main 2012-13 Budget Bill - Planning grants for Community Corrections Partnerships (CCPs), statewide training funds, and local police grants

2011 REALIGNMENT FISCAL STRUCTURE – SB 1020

As counties are aware, AB 118 (Chapter 40, Statutes of 2011) established a temporary, one-year fiscal structure for the array of programs and services transferred to county responsibility under 2011 Realignment. An act of the Legislature is needed to, among other things, put in place a permanent account structure, provide clarification on establishment of base years by program, and specify how base and growth funding levels are calculated and apportioned among accounts. SB 1020, the 2011 Realignment fiscal structure bill, is both lengthy and technically complex, given the interactions – primarily on the health and human services side -- between and among various accounts.

CSAC staff developed a reader’s guide (see attached) to reflect the provisions contained in the enacted bill. The guide is intended to assist in navigating through the fiscal structure trailer bill. With a focus primarily on the law enforcement components of the measure, we have summarized below the structure and key highlights of the bill:

- **Part I: Establishes the necessary funds for 2011 realignment at both the state and local levels (Government Code Section 30025)**
 - Creates separate accounts for support services (HHS) and law enforcement programs, effectively creating a firewall
 - Creates five separate subaccounts for law enforcement programs
 - Specifies transferability provisions applicable only to the support service (HHS) subaccounts
 - Permits creation at local level of reserve account specific to support services
 - Expands permissible uses of funds in district attorney/public defender account to support planning, implementation, and training activities related to revocation proceedings

- **Part II: Recreates in statutory form generally the same mandate and funding protections negotiated for Governor's constitutional amendment (GC Section 30026.5)**
 - Outlines various aspects of mandate protections in the realignment context
 - Adds certain new provisions, such as creating share of costs for HHS programs
 - Specifies which of these provisions remain in effect if the November 2012 initiative passes

- **Part III: Allocates funds to and among various state-level accounts, subaccounts, and growth accounts (GC Sections 30027-30027.9)**
 - Recognizes that "base year" will differ among programs (e.g., Community Corrections Account (AB 109) base gets established in 2015-16, once program is fully implemented)
 - Specifies that once base year is established, funding levels will be calculated as the previous year's base allocation plus any growth attributable to the program or account (i.e., a "rolling" base)
 - Guarantees funding base of \$489.9 million to local public safety subvention programs, funded first by VLF and, if proceeds are insufficient to meet funding guarantee, then by an infusion of necessary sales tax funds
 - Dedicates VLF growth to only the new "Enhancing Law Enforcement Activities Subaccount" (specified public safety subventions programs)
 - Specifies that sales tax growth will be proportionately shared between HHS and law enforcement programs
 - Details shares of growth attributable to state-level accounts and subaccounts across programs; on law enforcement side, growth to the state-level subaccounts will be assigned as follows:

DA/Public defender revocation activities	5%
Trial court security	10%
Previously realigned juvenile justice functions	10%
Community corrections (AB 109)	75%

- **Part IV: Allocates state funds to local funds (GC Section 30029-30029.12)**
 - Clarifies that cash received from sales tax in the period from August 16 to August 15 is attributable to the July to June fiscal year
 - Makes county-by-county allocation for trial court security
 - Makes two-year (2012-13 and 2013-14) county-by-county allocation for AB 109
 - Makes two-year (2012-13 and 2013-14) county-by-county allocation for district attorney/public defender revocation activities
 - Specifies programs (i.e., Citizens' Option for Public Safety, Juvenile Justice Crime Prevention Act, Booking Fees, Rural and Small County Sheriffs' Local Assistance, Juvenile Probation and Camps Funding, and various other local assistance programs currently administered by Cal EMA) to be funded out of the Enhancing Law Enforcement Activities Subaccount (NOTE: other details related funding formulas and allocations within these programs are contained in the Law Enforcement subvention trailer [bill](#))
 - Enumerates various factors that the Department of Finance can consider when specifying allocation of growth attributable to local AB 109 accounts
 - Directs counties, beginning in 2015-16, to place 10% of law enforcement sales tax growth into local innovation fund for dedication back to any or all of the following programs: trial court security, previously realigned juvenile justice programs/functions, AB 109 programs, and DA/PD revocation activities

PUBLIC SAFETY OMNIBUS BILL – SB 1021

Trial Court Security

Modifications to provisions governing trial court security services (Government Code Sections 69920-69927) reflect a consensus product arrived at through discussions among CSAC, the state sheriffs' association, and the Administrative Office of the Courts. The changes, necessitated by the new realignment funding structure for court security, outlines the roles and responsibilities of the court, county, and sheriff in the context of the new funding construct. The key principle behind the statutory revisions is the notion that court security is founded in a locally negotiated agreement captured in a memorandum of understanding.

Juvenile Justice Reforms

This trailer bill language includes provisions intended to carry out the Governor's May Revision proposal that recasts his January budget proposal to close the Division of Juvenile Justice (DJJ), beginning with ceasing intake of youthful offender commitments on January 1, 2013. The 2012-13 budget enacts the various elements of the May Revision proposal to keep DJJ open as a placement option for youthful offenders, but makes one significant change to the new fee structure (highlighted below). The key juvenile justice reforms include:

- A new fee structure that will charge counties \$2,000 per month (\$24,000 annually) for each ward committed to the DJJ by a juvenile court **on or after July 1, 2012** (*the prospective application of the fee is a new feature of the budget*);
- A change in the DJJ age jurisdiction from 25 to 23 years, applied prospectively;
- Termination of DJJ juvenile parole (i.e., supervision responsibilities that remain with the state for the juvenile offender population) six months early (on January 1, 2013 instead of July 1, 2014); and

- Reduction of administrative staffing levels within the California Department of Corrections and Rehabilitation (CDCR) headquarters and DJJ facilities.

The trailer bill also makes clear that the trigger fee — that was part of the 2011-12 budget and originally scheduled to be levied against counties beginning January 1 of this year — is permanently suspended.

County-to-County Transfer Authority

SB 1021 revises Penal Code Section 4115.5 relative to counties' authority to contract with one another for housing inmates. The revised section eliminates proximity restrictions, meaning that any two consenting counties can enter into an agreement to house inmates in the county jail. The bill imposes reporting requirements on the extent to which the transfer authority is exercised, and it places a three-year sunset on this section.

CDCR: Implementation of Blueprint Provisions

The public safety omnibus trailer bill also incorporates various provisions to facilitate monitoring and tracking of CDCR's progress toward meeting the goals, timelines, and performance goals outlined in the blueprint report, the department's long-term plan for reducing costs and operating more efficiently.

Expansion of Medical Parole Program and Alternative Custody Program

SB 1021 also grants CDCR the ability to expand an existing female offender alternative custody program as well as the medical parole program.

AB 109 Data Collection Efforts

The trailer bill directs the Board of State and Community Corrections (BSCC) to work with the Administrative Office of the Courts, CSAC, and the statewide sheriffs and probation chiefs association to develop baseline and ongoing data collection instruments intended to capture the local impact of AB 109 implementation.

Judicial Branch

The budget makes significant reductions to the courts (\$544 million), which are offset by various other actions outlined in SB 1021 — use of local courts' funding reserves (\$235 million), redirection of \$11 million from the Administrative Office of the Courts, and a reduction of court construction funds achieved by slowing certain activities associated with 38 construction projects (\$240 million). In addition, the budget contains a \$50 million ongoing cut that will be imposed proportionately to trial courts statewide, as well as reductions totaling \$19 million to state-level judicial branch operations.

SB 1021 makes a number of changes to court-related fees, which will increase revenue to the courts by:

- Eliminating the statutory sunsets on court fee increases imposed in the 2010-11 budget including surcharge on first paper filing fees, the summary judgment motion fee, the pro hac vice fee, the court operations assessment (previously the security fee), and the telephone appearance fee.
- Increasing existing fees (complex case fee, motion fee, first paper filing fee, and jury deposits), as well as establishing new fees (will deposit fee, new court reporter fee, and a 20 percent increase in the appellate court filing fees).

The trailer bill also enacts a variety of provisions related to trial court funding and operations such as restricting expenditures on the court case management system except for limited purposes, placing future limitations on local courts' carryover balance, and establishing a statewide trial court reserve.

PUBLIC SAFETY CAPITAL OUTLAY – SB 1022

Additional Resources for Jail Construction. This trailer bill carries out the Governor's May Revision proposal to authorize additional bond capacity in support of up to \$500 million in local criminal justice facility construction and renovation. Key provisions include:

- Funds can be used by county sheriff or county department of corrections to add/renovate local detention facilities as well as add programming and treatment space
- Counties are responsible for 10 percent match with allowance for reduction in match for counties with population levels below 200,000
- Funding criteria is to be determined by the BSCC with preference given to counties most likely to proceed successfully in a timely manner

AB 900 Updates and Revisions. The trailer bill makes a number of changes relative to AB 900, the jail and prison constructions measure from 2007. Recognizing that, with the implementation of realignment and the corrections system's blueprint reference above, the state's prison capital outlay needs have changed, the bill revises the state's AB 900 authority and dedicates expenditures to specified projects.

Of greater interest to counties is that the trailer bill also contains the necessary language to transfer \$171.3 million of AB 900 Phase I funding to Phase II to account for Santa Barbara, San Benito and Kern counties exercising their right to relinquish their conditional Phase I awards in order to apply for funds under the conditions outlined in Phase II.

AB 109 AND OTHER PUBLIC SAFETY REALIGNMENT CLEAN-UP – SB 1023

This trailer bill contains a number of technical and clarifying clean-up changes to public safety realignment as originally implemented in AB 109, AB 117 and subsequent legislation enacted in 2011. It is important to note that there are a number of sentencing changes throughout SB 1023 – some requiring state prison terms for specified offenses and some requiring local jail terms for specified offenses. Below we highlight the main broad policy areas of interest to counties by subject area.

Post-release Community Supervision

- Clarifies that each revocation – while an offender is on PRCS (or parole)– may be subject to a maximum 180-day period in county jail
- Requires that inmates discharging from prison onto PRCS must be notified of their terms and conditions of PRCS, and removes requirement that the offender sign the notification

Revocation Process

- Conforms revocation process for offenders on any of the four types of community supervision under the court's jurisdiction: PRCS, probation, parole and mandatory supervision. Courts remain responsible for revocation process for probationer, PRCS and those under mandatory supervision effective October 1, 2011; courts assumes responsibility for revocation process of parolees effective July 1, 2013.

Mandatory Supervision

- Provides clarification on mandatory supervision terms, specifically:
 - that a term of mandatory supervision qualifies as a prior term for purposes of imposing a sentence enhancement; and
 - that any period of time that an offender on mandatory supervision has absconded shall not be counted towards completion of the mandatory supervision term
- Allows an offender on mandatory supervision to petition for transfer to another county

County Jails

- Allows, upon receipt of court authorization, for a sheriff or any official responsible for a local jail facility, to release jail inmates up to 30 days early if the jail facility exceeds its population cap
- Revises Penal Code Section 3056 to make jurisdictional lines more clear. Specifically, clarifies that if a parole violator is under the county sheriff's supervision and authority while the parolee is detained in county jail for a parole violation or placed in an alternative custody program by the sheriff to serve their revocation term. Once the revocation term is concluded, state parole assumes responsibility for the parolee.

County Authority to Contract

- Removes January 1, 2015 sunset date on county's authority to contract with public community correctional facilities for the detention of local inmates.

Local Law Enforcement Subventions

As noted above, the underlying statutes associated with the various local public safety subvention programs – funded out of the 2011 Realignment Enhancing Law Enforcement Activities Subaccount — are contained in a separate trailer bill. This changes have two primary objectives: (1) to simplify and streamline the statutory structure underlying each of the local public safety subvention programs, with a view toward eliminating outdated or – in view of the realigned funding construct – unnecessary provisions; and, where possible, to give counties greater flexibility and (2) designate specific formulaic allocations for each programs (which are intended to ensure the same distributions as would otherwise have occurred absent realignment).

Again, nothing in the proposed revisions is intended to alter the current funding methodology for the programs and services funded through the local public safety subventions, which include:

- Citizens' Option for Public Safety
- Juvenile Justice Crime Prevention Act
- Juvenile Probation and Camps Funding

- Rural and small county sheriffs local assistance
- Booking fee “replacement” revenue
- Various public safety local assistance programs currently administered by the California Emergency Management Agency (e.g., Cal-MMET, High Tech Theft Apprehension Program, and others); note that administration of these programs will transfer to the Board of State and Community Corrections on July 1, 2012

GENERAL FUND APPROPRIATIONS – AB 1464 (MAIN BUDGET BILL)

CCP Planning Grants and Foundation Training Funds. The 2012-13 enacted budget contains an additional round of training funding – within the Board of State and Community Corrections’ (BSCC) budget – to each county’s community corrections partnership (CCP) to support the ongoing planning work associated with AB 109 implementation. Grant funding totals \$7.9 million, to be distributed to the 58 counties — as it was in 2011-12 — in the following manner:

- \$100,000 grants to counties with populations of 200,000 or less
- \$150,000 grants to counties with populations of 200,001 to 749,999
- \$200,000 grants to counties with populations of 750,000 or more

Counties that accept these funds are required to provide the BSCC a copy of their realignment implementation plan – within 60 days of its adoption or any revisions – as recommended and adopted by their county board of supervisors.

Further, the BSCC budget contains \$1 million to be distributed in three equal amounts to the foundations of the Chief Probation Officers of California (CPOC), the California State Sheriffs Association (CSSA) and CSAC. The three foundations have until 2015 to expend the funds on statewide realignment training efforts.

Local Police Grants. The main budget bill also appropriates \$20 million through the BSCC for distribution to local police departments. The funds will be distributed to city police departments based on a formula to be developed by the BSCC in consultation with the Department of Finance.

OTHER PROVISIONS OF NOTE

Finally, there are two other justice-related budget items of interest:

- The Department of Justice’s budget is decreased by \$10 million, which is intended to be offset by a \$1 increase in the penalty assessment (contained in SB 1006, the general government trailer bill) that is dedicated to support the state’s forensic labs. Specifically, the authority to collect the relevant penalty assessment in Government Code Section 76104.7 is increased from \$3 to \$4 for every \$10.
- The funding that support sheriffs’ water patrols through the Department of Boating and Waterways is subject to a partial trigger cut if the Governor’s November 2012 initiative were to fail. As specified in AB 1497, half of the guaranteed funding (\$5 million) would be reduced as part of the trigger cuts.

2012 LEGISLATIVE WRAP-UP

2011 PUBLIC SAFETY REALIGNMENT

AB 2031 (Fuentes) – Oppose

Vetoed

AB 2031, by Assembly Member Felipe Fuentes, would have expanded by four members the newly established Board of State and Community Corrections (BSCC) as well as the Community Corrections Partnership (CCP). Both bodies have significant roles in implementing 2011 public safety realignment (AB 109). The BSCC has a statewide role in providing policy development and technical assistance to counties, while the CCP is the local planning body charged with developing plans for implementing AB 109 in each of the 58 counties. CSAC's opposition – registered jointly with the Urban Counties Caucus – is based on the fundamental principle that it is simply too soon to begin tinkering with the underlying structures intended to support realignment. AB 2031 garnered significant opposition from other key public safety groups, including the statewide sheriffs' and probation chiefs' association.

The Governor's veto message indicates that the membership of these two bodies was carefully crafted and that, to date, nothing has demonstrated that a composition change is warranted. However, the Governor's message goes on to say that he would be glad to reconsider "[i]f, after a reasonable period of time, it becomes clear that the absence of rank and file members is a problem."

AB 1968 (Wieckowski) – Oppose

Vetoed

AB 1968, by Assembly Member Bob Wieckowski, initially was introduced to require arming of any rank-and-file probation officer with a high-risk caseload. As presented to the Governor, the bill would have required each chief probation officer to develop by July 2013 a policy regarding line-staff arming if such a policy did not otherwise exist. Although AB 1968 was amended several times to narrow and refine its purpose – presumably due to significant county and probation opposition as well as costs, CSAC remained opposed to AB 1968 and requested a Governor's veto. In our view, the bill inappropriately intruded on an important policy and significant local decision making process.

The Governor vetoed the bill, citing a reluctance to intervene in local decision-making process.

SB 1210 (Lieu) – Support

Chapter No. 762, Statutes of 2012

SB 1210, by Senator Ted Lieu, confers the necessary and appropriate authority on counties to collect restitution and other criminal fines and penalties from the new criminal offender population transferred under the 2011 public safety realignment. Sponsored by the Los Angeles County and the California District Attorneys Association, CSAC facilitated extensive technical input into this measure, which is intended to address an oversight in the 2011 public safety realignment. AB 109 and its successor measures in 2011 did not contemplate an administrative structure or authority to collect victim restitution from the adult offender populations that remain in counties' jurisdictions following realignment.

CSAC worked with county collections officials on designing the administrative structure within SB 1210 in such a way as to maximize the local ability to recover restitution and other fines.

CSAC is appreciative of the author and sponsors and their willingness to consider and accept our amendments.

The measure expands authority for collection of restitution to accommodate the new local jurisdictions created by realignment – a term in county jail under Penal Code 1170(h) in lieu of a state prison sentence, mandatory supervision, and post-release community supervision. In addition, the bill contemplates new administrative structures that would be necessary to carry out collection efforts depending on whether the person is in or out of custody at the local level. As it relates to establishment of processes to manage the accounts of persons serving a county jail term under 1170(h), SB 1210 directs the board of supervisors to consult with the sheriff prior to designating the sheriff the collecting agency responsible for those duties. That amendment was taken to address sheriff workload concerns.

**SB 1462 (Leno) – Technical Assistance and Amendments Offered
Chapter No. 837, Statutes of 2012**

SB 1462, by Senator Mark Leno, builds on a similar measure from the same author (SB 1399, 2010) that created a medical parole program for incapacitated state prisoners. SB 1462 would create a local compassionate release program, giving authority to the sheriff – based on a medical professional’s recommendation – to release a prisoner who has less than 6 months to live and who poses no public safety threat. It also would create a medical probation status for jail inmates who are physically incapacitated but who can be safely supervised in the community.

The objective behind SB 1462 is two-fold: 1. To create a new tool for managing jail populations and 2. To eliminate the costs of custody for county jail inmates suffering from significant health problems who can be safely managed in the community. CSAC solicited input and feedback from a number of affected county departments on this bill and successfully negotiated against late amendments offered by the Department of Health Care Services (DHCS) that would have largely been detrimental to county efforts.

CSAC and the County Health Executives Association of California worked collaboratively with the author and sponsors to ensure that the measure is workable at the local level, specifically as it relates to the Medi-Cal share of costs provisions. Amendments adopted late in the legislative session specify county responsibility for the non-federal share of costs for any inmates released onto medical probation or under the compassionate release program. CSAC worked to ensure that this responsibility was limited to the time period that the offender would have otherwise been incarcerated. Depending on the individual’s specific situation, those on compassionate release or medical probation become eligible for federal participation in health care coverage or, if there is family, perhaps private insurance. If in custody, this population’s health care costs are fully borne by the county.

It is important to note that prior to implementing a medical probation or compassionate release program, SB 1462 requires the county board of supervisors to develop a process to address the non-federal share of Medi-Cal costs for any inmate released under either program, ensuring that discussion among appropriate stakeholders at the local level takes place prior to the new authority being exercised. Further, the bill specifies that a county shall notify DHCS to ensure appropriate communication with the relevant state agency is in place.

In signing SB 1462, the Governor included a message expressing his general support for enabling counties to benefit from federal funds to reduce costs associated with health care services to incarcerated individuals who are granted medical probation or compassionate release. He further directs DHCS to work with the author to ensure that the bill does not result in Medi-Cal costs to the state General Fund.

SB 1462 was co-sponsored by the Los Angeles County Sheriff's Department and the California State Sheriffs' Association.

SB 1351 (Rubio) – Support
Chapter No. 68, Statutes of 2012

SB 1351, by Senator Michael Rubio, confers peace officer status on correctional officers employed by a community correctional facility (CCF) operated by a public entity (generally a city). These facilities were designed and built to house lower-level state prison inmates. The California Department of Corrections and Rehabilitation contracted directly with CCFs for services. Following realignment, the offender populations appropriate for CCF placement now are in the jurisdiction of counties.

This technically necessary measure is meant to ensure that peace officer status, as outlined in Penal Code Section 830.55, extends to CCF correctional officers in the context of new contractual arrangements between counties and CCFs. CSAC supported this bill given that it meets an overarching county objective in the context of realignment: to ensure both variety and viability in the options and tools counties can choose from in managing new offender populations, up to and including impacts on local jails.

AB 1496 (Assembly Budget Committee)
Chapter No. 717, Statutes of 2012

In its closing weeks of session, the Legislature considered several measures to enact technical, clarifying, or corrective fixes to various aspects of the 2012-13 budgets. Two such measures are in the public safety arena. The first, AB 1496, contains two technical clean-up provisions to SB 1020, the 2012-13 budget trailer bill that established the permanent 2011 Realignment fiscal structure. The two technical, corrective changes are as follows:

- Government Code Section 30028.1 – corrects the percentage shares dedicated to the Youthful Offender Block Grant Special Account and the Juvenile Reentry Grant Special Account; and
- Welfare and Institutions Code Section 17602.1 – clarifies a provision related to CalWORKS Maintenance of Effort.

These changes were vetted with stakeholders and broadly understood to be necessary to carry out the permanent funding structure as intended.

AB 1481 (Assembly Budget Committee)
Chapter No. 342, Statutes of 2012

AB 1481 contains three primary provisions:

- Makes clarifying changes to provisions related to civil jury fees and jury fee deposits;

- Makes technical and clarifying changes to provisions defining age of jurisdiction for youth in the Division of Juvenile Justice (DJJ) related to juvenile justice reforms enacted in the 2012-13 budget (SB 1021); and
- Clarifies the operative date related to restrictions on the use of administratively imposed time-adds for youthful offenders detained at DJJ.

PUBLIC MEETINGS AND RECORDS

SB 1003 (Yee) – Neutral

Chapter No. 732, Statutes of 2012

SB 1003, by Senator Leland Yee, seeks to address past actions deemed to be in violation of the Brown Act. CSAC, RCRC, and UCC jointly engaged on the bill with other interested public entities (including the cities, school boards, and special districts) in an effort to negotiate a compromise approach. With the assistance and advice of county counsel, the county coalition offered amendments that led to our dropping opposition to the bill.

As signed by the Governor, the bill offers a cease-and-desist process, limits public agencies' exposure in past-action litigation, and offers more certainty and clarity for a public agency that has corrected an action or practice that had been alleged to be in violation of the open meeting act.

SB 1002 (Yee) – Neutral

Vetoed

SB 1002, by Senator Leland Yee, would have — in its original form — imposed significant and costly requirements on state and local agencies to provide public records in an “open format.” CSAC, RCRC, and UCC opposed this measure along with many other public entities. After months of working with the author's office and seeking amendments and clarifications, the measure was reduced to a study bill. As presented to the Governor, SB 1002 would have required the state's Chief Information Officer to assess the feasibility of providing public records in an open format. CSAC and our county partners removed our opposition to SB 1002 in its final form. The Governor vetoed the bill, citing the study and report as unnecessary.

ESTATE ADMINISTRATION

AB 1670 (Lara) – Oppose

Chapter No. 635, Statutes of 2012

AB 1670, a measure by Assembly Member Ricardo Lara, authorizes a court to appoint as administrator a person nominated by a non-resident heir to an estate. CSAC, the Urban Counties Caucus (UCC), and Los Angeles County earlier this year joined the public administrators, public guardians, and public conservators in opposition to AB 1670 for practical and fiscal reasons.

Despite amendments that attempt to narrow the measure, CSAC remained concerned that AB 1670 would pose significant costs to counties. Specifically, this measure likely will result in profitable estates with no resident heirs being singled out (“cherry picked”), leaving the public administrators to manage only the most difficult estates and those with the fewest (if any) assets. Public Administrators and their counsel rarely are able to cover their costs, burdening taxpayers for funding these cases. The rare large estate with assets sufficient to pay for the

services of administering them help to offset the costs of administering the many smaller estates that do not.

WORK RELEASE

AB 2127 (Carter) – Support
Chapter No. 749, Statutes of 2012

AB 2127, by Assembly Member Wilma Amina Carter, authorizes a sheriff or designee to permit a participant in a work release program to receive work release credit for participation in specified programs. CSAC jointly supported this measure with the Urban Counties Caucus, the Regional Council of Rural Counties, and the California Welfare Directors Association.

Under existing law, sheriffs are allowed to establish a work credit program, but may not give work credits to a sentenced inmate. With ongoing implementation of the 2011 Public Safety Realignment, counties are managing more inmates in our jails. A work credit program will, in our view, provide an additional tool to relieve jail crowding and, at the same time, give inmates an opportunity to develop job skills in preparation for community reintegration.

PENALTY FOR TRAFFIC OFFENSES: SPINAL CORD RESEARCH

AB 1657 (Wieckowski) – Neutral
Vetoed

AB 1657, by Assembly Member Bob Wieckowski, would have imposed an addition one dollar penalty on all state and local traffic violations, excluding parking violations. The resulting revenue would have been dedicated to a University of California-based spinal court research center.

In vetoing AB 1657, the Governor raised concerns with the funding mechanism. "Loading more and more costs on traffic tickets has been too easy a source of new revenue. Fines should be based on what is reasonable punishment, not on paying more for general fund activities."

POLITICAL REFORM ACT

AB 2146 (Cook) – Support
Chapter No. 169, Statutes of 2012

AB 2146, by Assembly Member Paul Cook, authorizes, upon mutual agreement between the Fair Political Practices Commission (FPPC) and the County of San Bernardino, the FPPC to have responsibility for the impartial, effective administration, implementation, and enforcement of a local campaign finance reform ordinance for the County of San Bernardino. CSAC and the Urban Counties Caucus jointly supported the measure.

RECORDATION OF DOCUMENTS

AB 1642 (Gordon) – Support
Chapter 94, Statutes of 2012

AB 1642, by Assembly Member Rich Gordon, permits the recording of documents authorized by local ordinance. This measure was sponsored by Santa Clara County and signed into law by the Governor on July 13, 2012.

AB 1642 provides important clarification regarding local governments' ability to record notices of violation (NOVs). NOVs are an important code enforcement tool used locally that serves an important function: they put the public on notices when there are code violations on the property. As a result, the NOV serves to effectively prevent a property from being sold or refinanced until such time as the violations are resolved. Counties report that they record NOVs typically in instances of building, grading, zoning, and environmental health ordinance violations.

The need for AB 1642 stemmed from an unpublished court of appeal decision that created uncertainty about counties' ability to record NOVs, given – as the court held – that local ordinance are not deemed to be a “statute” in the context of Government Code Section 27201. This section was the authority local governments have relied upon to record NOVs for decades. AB 1642 provides clear and focused authority to ensure counties can continue to provide the public, property owners, and lenders with important information related to code violations.

MARRIAGE SOLEMNIZATION

SB 991 (Runner) – Support Chapter No. 63, Statutes of 2012

SB 991, by Senators Sharon Runner and Rod Wright, adds county supervisors to Section 400.1 of the Family Code, thereby authorizing them to solemnize marriages. CSAC and the Urban Counties Caucus (UCC) jointly supported the measure, which was signed into law in early July.

Current law, as specified in Sections 400 and 400.1 of the Family Code, confers authority on a variety of clergy as well as federal, state and local officials to perform marriages. SB 991 merely expands Section 400.1 to give county supervisors this same ability. Further, the measure would require county supervisors to obtain and review from the county clerk instructions on performing marriage solemnization prior to performing a ceremony; conditions that are currently required of mayors.

2013 HORIZONS

At the time of this writing, Capitol observers continue to digest the outcome on the 2013 budget and legislative process of the November 2012 election, with a view toward analyzing the impact of both Proposition 30's passage and results of legislative races, with the latter appearing to have resulted in supermajorities in both the Assembly and Senate. Certainly there will be an ongoing interest in discussing county progress in implementing the full array of programs transferred under 2011 Realignment. As outlined in proposed new CSAC platform language, which would be adopted by this committee – as well as the CSAC Health and Human Services and Government Finance and Operations Committees – and would apply across all programmatic and financing aspects of 2011 Realignment, CSAC will work to preserve counties' individual and collective ability to innovate locally and will oppose efforts to limit county flexibility. Legislative interest in counties' work, especially in the area that represents the most significant and sweeping policy change (AB 109), continues to be high. We will continue to educate about statewide efforts as well as advocate for appropriate time and space to build local capacity to manage new responsibilities associated with the transferred adult criminal offender populations. The consensus-based work of key public safety stakeholders is sure to produce a legislative measure or measures that will seek to

address necessary corrective or technical changes or improvements. It is broadly recognized that further clean-up or adjustments are needed in certain areas to fully realize the objectives of AB 109.

As in other years, we anticipate ongoing interest in matters of public records and meetings; indemnity issues; court-connected issues, including, possibly, efforts to collect court-ordered debt; as well as renewed efforts on various bills that were vetoed this year. As always, we commit to communicating with counties often and encourage those of you who do not already receive our CSAC *Bulletin* to register to do so. It is the centerpiece of our communication strategy to counties on legislative matters. (Please email your contact information to Amanda Yang (ayang@counties.org) of the CSAC staff to begin receiving the *Bulletin*.)

Staff Contacts. For any questions on budget or legislative issues in the Administration of Justice area, please contact Elizabeth Howard Espinosa (eespinosa@counties.org or 916-650-8131) or Rosemary McCool (rmccool@counties.org or 916-650-8133).

2011 Realignment Superstructure Trailer Bill: Reader's Guide
SB 1020 (Chapter 40, Statutes of 2012)

Section	Purpose
<p>Govt Code §30025 pp. 6-20</p>	<p>CREATING THE FUNDS Creates the funds at the state level for 2012-13 and beyond.</p> <p>As of September 30, 2012, abolishes the accounts and subaccounts created in the Local Revenue Fund 2011 at the state level in 2011-12, except the Mental Health Account, the Undistributed Account and the Reserve Account. On January 1, 2013, the Undistributed Account and the Reserve Account are abolished.</p> <p>Local Revenue Fund 2011 with the following permanent structure for account, subaccounts and special accounts:</p> <p>Support Services Account</p> <ul style="list-style-type: none"> ▪ Protective Services Subaccount ▪ Behavioral Health Subaccount <ul style="list-style-type: none"> ➢ Women and Children's Residential Treatment Services Special Account ▪ County Intervention Support Services Subaccount <p>Law Enforcement Services Account</p> <ul style="list-style-type: none"> ▪ Trial Court Security Subaccount ▪ Enhancing Law Enforcement Activities Subaccount (i.e., local public safety subventions) <ul style="list-style-type: none"> ➢ Enhancing Law Enforcement Activities Special Growth Account ▪ Community Corrections Subaccount (i.e., AB 109 programs) ▪ District Attorney/Public Defender Subaccount ▪ Juvenile Justice Subaccount <ul style="list-style-type: none"> ➢ Youthful Offender Block Grant Special Account ➢ Juvenile Reentry Grant Special Account <p>Sales and Use Tax Growth Account</p> <ul style="list-style-type: none"> ▪ Support Services Growth Subaccount <ul style="list-style-type: none"> ➢ Protective Services Growth Special Account ➢ Behavioral Health Growth Special Account ▪ Law Enforcement Services Growth Subaccount

Section	Purpose
	<ul style="list-style-type: none"> ➤ Trial Court Security Growth Special Account ➤ Community Corrections Growth Special Account ➤ DA/PD Growth Special Account ➤ Juvenile Justice Growth Special Account <p>At the state level provides for the transfer of funds from 2011-12 accounts and subaccounts to the permanent accounts, subaccounts, and special accounts on September 15, 2012. Old accounts are deleted on September 30, 2012.</p> <p>Similarly, changes the account structure at the local level. Makes counties' receipt of 2011 realignment funds contingent upon establishment of specified accounts, subaccounts, and special accounts, as specified. The County Local Revenue Fund 2011 includes the following:</p> <p>Support Services Account</p> <ul style="list-style-type: none"> ▪ Protective Services Subaccount ▪ Behavioral Health Subaccount <ul style="list-style-type: none"> ➤ Women and Children's Residential Treatment Services Special Account (required only for six specified counties operating these programs: Alameda, Los Angeles, Marin, San Diego, San Francisco and San Joaquin) ▪ Support Services Reserve Subaccount (local option) <p>Law Enforcement Services Account</p> <ul style="list-style-type: none"> ▪ Trial Court Security Subaccount ▪ Enhancing Law Enforcement Activities Subaccount ▪ Community Corrections Subaccount ▪ DA/PD Subaccount ▪ Juvenile Justice Subaccount <ul style="list-style-type: none"> ➤ Youthful Offender Block Grant Special Account ➤ Juvenile Reentry Grant Special Account ▪ Local Innovation Subaccount (funds deposited beginning in 2015-16) <p>Transferability. Includes transfer (called reallocation) provisions similar to 1991 between the Protective Services and Behavioral Health Subaccounts [paragraphs (f)(4)(A-D)]. The language mirrors Welfare & Institutions Code § 17600.20. Clarifies the reallocation is for one fiscal year and is not a permanent funding source. Grants special reallocation (transfer) authority to counties authorized to operate an integrated and comprehensive human services system.</p>

Section	Purpose
	<p>Local Reserve. Board of Supervisors may optionally create a Support Services Reserve Subaccount. The Reserve Subaccount is capped at 5% of the total funds allocated to the Protective Services and Behavioral Health Subaccounts in a given fiscal year. Funds are to be used only for programs funded by the two subaccounts. Requires documentation to be submitted to the Controller annually [paragraphs (f)(6)(A-B)].</p> <p>Provides for the transfer of funds from 2011-12 county accounts and subaccounts to the permanent accounts, subaccounts, and special accounts on September 15, 2012. Abolishes the old accounts on September 30, 2012.</p> <p>Creates a Local Innovation Subaccount in the local Law Enforcement Services Account. Boards of Supervisors have the authority to spend funds in the Local Innovation Subaccount as they would funds in any of the other law enforcement services subaccounts, with the exception of the Enhancing Law Enforcement Activities Subaccount.</p> <p>Adds Medi-Cal specialty mental health services, including Early and Periodic Screening, Diagnosis and Treatment (EPSDT) and mental health managed care, to the programs within the Behavioral Health Subaccount.</p> <p>Clarifies that the funds in the Women and Children’s Residential Treatment Services Special Account shall be used to fund the Women and Children’s Residential Treatment program, as described in Chapter 2.1 (commencing with Section 11757.65) of the Welfare and Institutions Code.</p> <p>Provides all funds from the state Reserve Account be disbursed by December 1, 2012.</p> <p>Provides all funds from the Undistributed Account be disbursed by December 1, 2012.</p> <p>Specifies that counties shall pay 100 percent of the nonfederal cost for realigned health and human services programs.</p> <p>Permits funds within the District Attorney and Public Defender Account to support – in addition to revocation proceedings – related planning, implementation and training.</p> <p>Clarifies that realignment moneys are not General Fund revenues.</p>
Govt Code § 30026 pp. 20-21	Clarifies that the newly created Community Corrections Subaccount and the Community Corrections Growth Special Account shall be used to fund AB 109.

Section	Purpose
<p>Govt Code § 30026.5 pp. 21-27</p>	<p>MANDATES, PROTECTIONS, ETC.</p> <p>This section generally includes a number of the provisions from the constitutional amendment negotiated with the Brown Administration. There is some additional language, as well.</p> <ul style="list-style-type: none"> (a) Identical to constitutional amendment (b) New language. The Administration is trying to clarify that if anything in 2011 Realignment is declared a mandate that the funds provided for are intended to cover the costs of the mandate. The subparagraphs are intended to direct counties to use funds from the accounts and subaccounts to pay for mandates unless the Subaccount funding is insufficient. (c) Identical to constitutional amendment. Adds cross-reference back to (b). (d) Similar to constitutional amendment. Adds cross-reference back to (b). (e) Similar to constitutional amendment. Adds cross-reference back to (b), (c), and (d). (f) New language. Requires that if a Board of Supervisors opts to eliminate or adopt significant cuts to optional or discretionary programs, then they shall do so as an action item in a noticed public meeting. Defines significant cuts as 10% in one year or 25% over three years. This section applies to behavioral health programs, adult protective services, or child welfare services as defined. (g) Creates the shares of cost for the HHS programs without enactment of the constitutional amendment. Also clarifies that counties are to use 2011 Realignment funds before using county General Fund on realigned programs if they are determined to be state mandates. (h) Creates the shares of costs for the HHS programs if the constitutional amendment is enacted. (i) Provides direction to the Controller about posting revenues and disbursements related to 2011 Realignment. (j) Clarifies that 2011 Realignment does not affect rights provided by federal entitlement programs: 2011 Realignment does not place additional restrictions on eligibility, coverage or access to services and care for any federal or state entitlement. (k) Clarifies that counties shall fund Medi-Cal Specialty Mental Health Services, including EPSDT, from funds in the Behavioral Health Subaccount and Behavioral Health Growth Special Account, the Mental Health Subaccount (1991 realignment), the Mental Health Account (1991 realignment) and the Mental Health Services Fund. The provision of services shall be based on statute, regulation, the managed care waiver or the State Plan or its amendment(s). (l) Provides that if the constitutional amendment passes, all subdivisions (a), (b) and (g) shall become inoperative.

Section	Purpose
<p>ALLOCATING FUNDS TO THE STATE ACCOUNTS</p>	<p>Allocates funds to the appropriate state accounts and subaccounts in 2011-12 and clarifies that the fiscal year includes the cash received in July and up to August 15, 2012. Sunsets this section on January 1, 2013.</p>
<p>Govt Code §30027 pp. 27-29</p> <p>Govt Code §30027.5 pp. 30-32</p>	<p>Provides for the allocation of funds for the 2012-13 fiscal year to state accounts, subaccounts, and special accounts.</p> <ul style="list-style-type: none"> ▪ Allocates \$93,379,252 each month in sales tax to the Mental Health Account of the Local Revenue Fund 2011. ▪ Allocates \$489.9 million in VLF to the Enhancing Law Enforcement Activities Subaccount. ▪ Allocates sales tax to the Support Services (64.1975% or \$2.604 billion) and Law Enforcement Services Accounts (35.8025% or \$1.452 billion). ▪ If revenues come in below projections, the funds are disbursed proportionally between the Support Services and Law Enforcement Services Accounts. ▪ If revenues come in above the base amount for each account, the funds are deposited into the Sales and Use Tax Growth Account. ▪ If there are not sufficient VLF revenues to provide \$489.9 million to the Enhancing Law Enforcement Activities Subaccount, then sales tax revenues from the Local Revenue Fund are used to make up the difference. ▪ Allocates funds to the Law Enforcement Services Account and its corresponding Subaccounts and Special Accounts. <ul style="list-style-type: none"> ➢ 34.1721% up to \$496,429,000 to Trial Court Security Subaccount ➢ 58.0217% up to \$842,900,000 to Community Corrections Subaccount ➢ 1.0050% up to \$14.6 million to the DA/PD Subaccount ➢ 6.8012% up to \$98,804,000 to Juvenile Justice Subaccount ▪ Allocates funds to the Support Services Account and its subaccounts and special accounts. <ul style="list-style-type: none"> ➢ 37.0264% up to \$964,500,000 to the Behavioral Health Subaccount. - From Behavioral Health Subaccount, allocates \$5.104 million to the Women and Children's Residential Treatment Services Special Account, divided into 12 monthly allocations to the 6 counties. ➢ 62.9736% up to \$1,640,400,000 to the Protective Services Subaccount
<p>Govt Code §30027.6 pp. 32-35</p>	<p>Provides for the allocation of funds for the 2013-14 fiscal year to state accounts, subaccounts, and special accounts.</p> <ul style="list-style-type: none"> ▪ Requires DOF to submit a schedule to the Controller that includes prior year base and growth calculations and revised allocations. ▪ Allocates \$93,379,252 each month in sales tax to the Mental Health Account of the Local Revenue Fund 2011. ▪ Allocates \$489.9 million in VLF to the Enhancing Law Enforcement Activities Subaccount. ▪ Allocates sales tax to the Support Services and Law Enforcement Services Accounts.

Section	Purpose
	<ul style="list-style-type: none"> ➤ Support Services = amounts allocated in the 2012-13 + \$20.368 million + total support services growth ➤ Law Enforcement = amount allocated in the 2012-13 + \$158.5 million + Trial Court Security and Juvenile Justice Growth Special Accounts in 2012-13 ▪ If revenues come in below projections, the funds are disbursed proportionally between the Support Services and Law Enforcement Services Accounts. ▪ If revenues come in above the base amount for each account, the funds are deposited into the Sales and Use Tax Growth Account. ▪ If there are not sufficient VLF revenues to provide \$489.9 million to the Enhancing Law Enforcement Activities Subaccount, then sales tax revenues from the Local Revenue Fund are used to make up the difference. ▪ Allocates funds to the Law Enforcement Services Account and its corresponding Subaccounts and Special Accounts. <ul style="list-style-type: none"> ➤ 30.8105% up to totals received in 2012-13 to Trial Court Security Subaccount ➤ 61.9960% up to \$998.9 million to Community Corrections Subaccount ➤ 1.0613% up to \$17.1 million to DA/PPD Subaccount ➤ 6.1322% up to totals received in 2012-13 to Juvenile Justice Subaccount ▪ Allocates funds to the Support Services Account and its subaccounts and special accounts. <ul style="list-style-type: none"> ➤ 36.7391% up to total amount received in 2012-13 for Behavioral Health Subaccount <ul style="list-style-type: none"> - From Behavioral Health Subaccount, allocates \$5.104 million to the Women and Children's Residential Treatment Services Special Account, divided into 12 monthly allocations to the 6 counties. ➤ 63.2609% up to the total amount received in 2012-13 plus \$20.368 million
Govt Code §30027.7 pp. 35-38	<p>Provides for the allocation of funds for the 2014-15 fiscal year to state accounts, subaccounts, and special accounts.</p> <ul style="list-style-type: none"> ▪ Requires DOF to submit a schedule to the Controller that includes prior year base and growth calculations and revised allocations. ▪ Allocates \$93,379,252 each month in sales tax to the Mental Health Account of the Local Revenue Fund 2011. ▪ Allocates \$489.9 million in VLF to the Enhancing Law Enforcement Activities Subaccount. ▪ Allocates sales tax to the Support Services and Law Enforcement Services Accounts. <ul style="list-style-type: none"> ➤ Support Services = amounts allocated in the 2013-14 + \$15.333 million + total support services growth ➤ Law Enforcement = amount allocated in the 2013-14 minus \$66.1 million + Trial Court Security and Juvenile Justice Growth Special Accounts in 2012-13 ▪ If revenues come in below projections, the funds are disbursed proportionally between the Support Services and Law Enforcement Services Accounts. ▪ If revenues come in above the base amount for each account, the funds are deposited into the Sales and Use Tax

Section	Purpose
	<ul style="list-style-type: none"> ▪ Growth Account. ▪ If there are not sufficient VLF revenues to provide \$489.9 million to the Enhancing Law Enforcement Activities Subaccount, then sales tax revenues from the Local Revenue Fund are used to make up the difference. ▪ Allocates funds to the Law Enforcement Services Account and its corresponding Subaccounts and Special Accounts. <ul style="list-style-type: none"> ➢ 32.1286% up to total received in 2013-14 to Trial Court Security Subaccount ➢ 60.4543% up to \$934.1 million to Community Corrections Subaccount ➢ 1.0226% up to \$15.8 million to DA/PPD Subaccount ➢ 6.3945% up to totals received in 2013-14 to Juvenile Justice Subaccount ▪ Allocates funds to the Support Services Account and its subaccounts and special accounts. <ul style="list-style-type: none"> ➢ 36.5258% up to total amount received in 2013-14 for Behavioral Health Subaccount <ul style="list-style-type: none"> - From Behavioral Health Subaccount, allocates \$5.104 million to the Women and Children's Residential Treatment Services Special Account, divided into 12 monthly allocations to the 6 counties. ➢ 63.4742% up to the total amount received in 2013-14 plus \$15.333 million
Govt Code §30027.8 pp. 38-41	<p>Provides for the allocation of funds for the 2015-16 fiscal year and every fiscal year after to state accounts, subaccounts, and special accounts.</p> <ul style="list-style-type: none"> ▪ Requires DOF to submit a schedule to the Controller that includes prior year base and growth calculations and revised allocations. ▪ Allocates \$93,379,252 each month in sales tax to the Mental Health Account of the Local Revenue Fund 2011. ▪ Allocates \$489.9 million in VLF to the Enhancing Law Enforcement Activities Subaccount. ▪ Allocates sales tax to the Support Services and Law Enforcement Services Accounts. <ul style="list-style-type: none"> ➢ Support Services = amounts allocated in the prior FY plus Support Services Growth Subaccount deposits ➢ Law Enforcement Services = amounts allocated in the prior FY plus Law Enforcement Services Growth Subaccount deposits ▪ If revenues come in below projections, the funds are disbursed proportionally between the Support Services and Law Enforcement Services Accounts. ▪ If revenues come in above the base amount for each account, the funds are deposited into the Sales and Use Tax Growth Account. ▪ If there are not sufficient VLF revenues to provide \$489.9 million to the Enhancing Law Enforcement Activities Subaccount, then sales tax revenues from the Local Revenue Fund are used to make up the difference.

Section	Purpose
	<ul style="list-style-type: none"> ▪ Allocates funds to the Law Enforcement Services Account and its corresponding Subaccounts and Special Accounts. <ul style="list-style-type: none"> ➢ Totals received in the prior year to Trial Court Security Subaccount and Growth Special Account ➢ Totals received in the prior year to Community Corrections Subaccount and Growth Special Account ➢ Totals received in the prior year to DA/PD Subaccount and Growth Special Account ➢ Totals received in the prior year to Juvenile Justice Subaccount and Growth Special Account <p>If there are insufficient funds, Controller allocates funding based on the proportional share each subaccount received in the previous fiscal year.</p> <ul style="list-style-type: none"> ▪ Allocates funds to the Support Services Account and its subaccounts. <ul style="list-style-type: none"> ➢ Total received in the Behavioral Health Subaccount and Growth Special Account in the prior fiscal year <ul style="list-style-type: none"> - From Behavioral Health Subaccount, allocates \$5.104 million to the Women and Children's Residential Treatment Services Special Account, divided into 12 monthly allocations to the 6 counties. ➢ Total received in the Protective Services Subaccount and Growth Special Account in the prior fiscal year <p>If there are insufficient funds, Controller allocates funding based on the proportional share each subaccount received in the previous fiscal year.</p>
<p>Govt Code §30027.9 pp. 41-46</p>	<p>GROWTH ALLOCATIONS</p> <p><u>2012-13</u> For 2012-13, allocations from the Sales and Use Tax Growth Account: 65% to the Support Services growth Subaccount and 35% to the Law Enforcement Services Subaccount.</p> <p><u>2013-14</u> For 2013-14, first allocate Sales and Use Tax Growth funds to the Support Services Account and the Law Enforcement Services Account the "amounts necessary to provide full base funding or the appropriate level of funding as described in this act." If there are insufficient funds to fully fund the subaccounts, distribute on the same proportion as the two accounts received from the Local Revenue Fund 2011 in 2013-14. Once a prior year base shortfall is addressed, allocate 65% to the Support Services growth Subaccount and 35% to the Law Enforcement Services Subaccount.</p> <p>Defines the "amount necessary to provide the appropriate level of funding" for the Law Enforcement Services Account as:</p> <ul style="list-style-type: none"> ▪ The greater of the amounts that either the predecessor of the Trial Court Subaccount received in 2011-12 OR the total amount the Trial Court Subaccount and its Growth Special Accounts received in 2012-13, plus ▪ The greater of the amounts that either the predecessor of the Juvenile Justice Subaccount received in 2011-12 OR

Section	Purpose
	<p>the total amount the Juvenile Justice Subaccount and its Growth Special Accounts received in 2012-13, plus</p> <ul style="list-style-type: none"> ▪ The maximum amount permitted to be allocated to the Community Corrections Subaccount, plus ▪ The maximum amount permitted to be allocated to the DA/PD Subaccount. <p>Defines the “amount necessary to provide the appropriate level of funding” for the Support Services Account as:</p> <ul style="list-style-type: none"> ▪ The maximum amount permitted to be allocated to the Behavioral Health Subaccount, plus ▪ The maximum amount permitted to be allocated to the Protective Services Subaccount. <p><u>2014-15</u></p> <p>For 2014-15, first allocate Sales and Use Tax Growth funds to the Support Services Account and the Law Enforcement Services Account the “amounts necessary to provide full base funding or the appropriate level of funding as described in this act.” If there are insufficient funds to fully fund the subaccounts, distribute on the same proportion as the two accounts received from the Local Revenue Fund 2011 in 2014-15. Once a prior year base shortfall is addressed, allocate 65% to the Support Services growth Subaccount and 35% to the Law Enforcement Services Subaccount.</p> <p>Defines the “amount necessary to provide the appropriate level of funding” for the Law Enforcement Services Account as:</p> <ul style="list-style-type: none"> ▪ The greater of the amounts that either the Trial Court Subaccount and its growth special account received in a single fiscal year since 2012-13 OR the amount applicable predecessor account received in 2011-12, plus ▪ The greater of the amounts that either the Juvenile Justice Subaccount and its growth special account received in a single fiscal year since 2012-13 OR the amount applicable predecessor account received in 2011-12, plus ▪ The greatest amount received by the Community Corrections Subaccount in a single year since 2012-13, plus ▪ The greatest amount received by the DA/PD Subaccount in a single year since 2012-13. <p>Defines the “amount necessary to provide the appropriate level of funding” for the Support Services Account as:</p> <ul style="list-style-type: none"> ▪ The greater of either the maximum amount that could be allocated OR the largest combined total amounts actually received by to the Behavioral Health Subaccount and its special growth account in a single year since 2012-13, plus ▪ The greater of either the maximum amount that could be allocated OR the amount that was allocated to the Protective Services Subaccount. <p><u>2015-16</u></p> <p>For 2015-16 and beyond, first allocate Sales and Use Tax Growth funds to the Support Services Account and the Law Enforcement Services Account the “amounts necessary to provide full base funding as described in this act.” If there are</p>

Section	Purpose
	<p>insufficient funds to fully fund the subaccounts, distribute on the same proportion as the two accounts received from the Local Revenue Fund 2011 in that fiscal year. Once a prior year base shortfall is addressed, allocate 65% to the Support Services growth Subaccount and 35% to the Law Enforcement Services Subaccount.</p> <p>Defines the “amount necessary to provide the appropriate level of funding” for the Law Enforcement Services Account as:</p> <ul style="list-style-type: none"> ▪ The greater of the amounts that either the Trial Court Subaccount and its growth special account received in a single fiscal year since 2012-13 OR the amount applicable predecessor account received in 2011-12, plus ▪ The greater of the amounts that either the Juvenile Justice Subaccount and its growth special account received in a single fiscal year since 2012-13 OR the amount applicable predecessor account received in 2011-12, plus ▪ The greatest amount received by the Community Corrections Subaccount and its growth special account received in a single fiscal year since 2014-15 OR the highest amount he Subaccount or its applicable predecessor received since 2012-13, plus ▪ The greatest amount received by the DA/PD Subaccount and its growth special account received in a single fiscal year since 2014-15 OR the highest amount the Subaccount or its applicable predecessor received since 2012-13. <p>Defines the “amount necessary to provide the appropriate level of funding” for the Support Services Account as:</p> <ul style="list-style-type: none"> ▪ The greater of either the maximum amount that was allocated OR the highest combined total amounts received by the Behavioral Health Subaccount and its special growth account in a single year since 2012-13, plus ▪ The greatest of the following 3 options: (1) maximum amount that was allocated, (2) the amount that was allocated to the Protective Services Account, or (3) highest combined total amount received by the Protective Services Account and its growth special account in a single year since 2012-13. <p>Law Enforcement Growth Allocations</p> <p><u>2012-13</u></p> <ul style="list-style-type: none"> ▪ 10% to Trial Court Security Growth Special Account ▪ 5% to District Attorney/Public Defender Growth Special Account ▪ 10% to Juvenile Justice Growth Special Account ▪ 75% to Community Corrections Growth Special Account <p>Beginning in 2013-14, for Trial Court Security and the Juvenile Justice Account base + growth = new base. The District Attorney/Public Defender and Community Corrections Growth subaccounts, base + growth = new base starting in 2015-16.</p>

Section	Purpose
	<p>Support Services Growth Allocations</p> <p><u>2012-13</u></p> <p>From the Support Services Growth Subaccount allocate:</p> <ul style="list-style-type: none"> ▪ 5% to the Mental Health Subaccount (1991) ▪ 40% for child welfare services to the Protective Services Growth Special Account ▪ 42.03% to the Protective Services Growth Special Account ▪ 12.97% to the Behavioral Health Growth Special Account <p><u>2013-14</u></p> <p>Designates starting 40 percent of Supportive Services Growth is dedicated to child welfare services until a full \$200 million is reached.</p> <p>From the Support Services Growth Subaccount allocate:</p> <ul style="list-style-type: none"> ▪ 5% to the Mental Health Subaccount (1991) ▪ 40% for child welfare services to the Protective Services Growth Special Account ▪ 21.81% to the Protective Services Growth Special Account ▪ 33.19% to the Behavioral Health Growth Special Account <p>Defines how growth is counted for determining base.</p> <p>DOF certifies that \$200 million has been allocated for child welfare services and notifies the Controller.</p> <p>Once the \$200 million is paid to child welfare services, allocate from the Support Services Growth Subaccount as follows:</p> <ul style="list-style-type: none"> ▪ 5% to the Mental Health Subaccount (1991) ▪ 45% to the Protective Services Growth Special Account ▪ 50% to the Behavioral Health Growth Special Account
Govt Code §30027.10 p. 47	<p>County Intervention Support Services Subaccount</p> <ul style="list-style-type: none"> ▪ Allows Department of Health Care Services to notify the Controller, DOF and a county that said county is failing to perform a federal Medicaid program (applies to Drug Medi-Cal and specialty mental health services) to the extent federal Medicaid funds are at risk. The Controller then deposits the county's revenues for the program in question into the County Intervention Support Services Subaccount.

Section	Purpose
	<ul style="list-style-type: none"> ▪ This section is intended to cover a case where a county exercises its right of first refusal for specialty mental health services or a county refuses to perform Drug Medi-Cal or is performing inadequately (beneficiaries are not receiving entitled services). ▪ DHCS will have access to those funds in the County Intervention Support Services Subaccount. ▪ DHCS notifies the Controller to stop putting funds into the County Intervention Support Services Account
Govt Code §30027.11 pp. 47-48	<ul style="list-style-type: none"> ▪ The language from this section originated in the constitutional amendment. The constitutional amendment says that 2011 Realignment legislation will define the method for determining the amount that counties would otherwise receive if the revenue source changes. Also includes continuous appropriation language. ▪ NOTE: In the constitutional amendment, this section has the priority order of payments. That language can only be put in the constitution – not in statute. Hence, it is not included in the TBL.
Govt Code §30028 p. 48	Defines how Juvenile Justice Account funds are allocated to the subaccounts in 2011-12.
Govt Code §30028.1 pp. 48-49	Defines how funds are allocated to the Juvenile Justice Subaccount and to its Special Accounts in 2012-13 and beyond.
Govt Code §30028.5 pp. 49-50	Defines how funds are allocated to the Health and Human Services Account in 2011-12 and repeals this section on January 1, 2014.
	ALLOCATING FUNDS FROM THE STATE FUNDS TO LOCAL FUNDS
Govt Code §30029 pp. 50-54	Clarifies that the 2011-12 fiscal year includes the cash received in July and up to August 15, 2012. Repeals this section on January 1, 2014.
Govt Code §30029.05 pp. 54-61	<p>Makes 2011-12 county-by-county allocations for AB 109 and district attorney/public defender revocation activities.</p> <ul style="list-style-type: none"> ▪ Establishes process for allocating funds to counties in 2012-13 and beyond. ▪ Clarifies that the fiscal year includes cash received on August 16 to August 15, inclusive, of the following year. ▪ Allocates Mental Health Account funds to the Mental Health Subaccount of the Sales Tax Account in the Local Revenue Fund (1991) on the 20th of each month. ▪ Allocates Trial Court Security Subaccount funds on a county-by-county basis. ▪ Allocates Local Community Corrections Subaccount funds on a county-by-county basis for 2012-13 and 2013-14. ▪ Beginning in 2014-15, funds shall be allocated pursuant to a schedule developed by DOF in consultation with CSAC. ▪ Allocates the District Attorney/Public Defender Subaccount funds on a county-by-county basis for 2012-13 and 2013-14. Beginning in 2014-15, funds shall be allocated pursuant to a schedule developed by DOF in consultation with CSAC. ▪ Allocates funds to the Enhancing Law Enforcement Activities Subaccount. ▪ Specifies the allocation out of the Enhancing Law Enforcement Activities Special Growth Account to specified local

Section	Purpose
Govt Code §30029.07 pp. 61-66	<p>public safety programs.</p> <ul style="list-style-type: none"> ▪ Specifies that the funds in the Special Growth Accounts at the state level shall be allocated to the corresponding subaccounts at the local level. The funds shall be allocated according to specified percentages or, where not provided, pursuant to a schedule developed by DOF with criteria, in consultation with appropriate state departments and CSAC. ▪ Beginning in 2015-16, requires each county treasurer to deposit 10% of funds received that fiscal year from each of the following into the Local Innovation Subaccount: Trial Court Security Growth Special Account, Community Corrections Growth Special Account, District Attorney/Public Defender Growth Special Account and Juvenile Justice Growth Special Account. ▪ \$200 million for child welfare services will be allocated monthly, per statute (percentages still need to be filled in). ▪ Sets aside a portion of the Protective Services Growth Subaccount to counties who meet spending thresholds that would have allowed the county access to the CWS Augmentation fund. Exempts counties under 50,000 from the expenditure requirement. ▪ Includes a county-by-county allocation for the CWS and the CWS Augmentation. ▪ Specifies that in 2012-13, 90% of the Protective Services Growth Special Account shall be allocated in the same proportion as the 2012-13 base funding. In 2013-14 and beyond, allocate 90% of the Protective Services Growth Special Account in the same proportion as the base funding is allocated for that fiscal year. DSS, after consulting with CSAC shall provide a schedule to the Controller. ▪ For 2012-13 and 2013-14, the Community Corrections Growth Special Account shall be allocated by the Controller pursuant to a schedule provided by DOF. DOF shall consider a number of factors articulated in paragraphs (e)(1-2). <p>Makes the 2011-12 HHS allocations inoperative on June 30, 2013 and repeals the allocations on January 1, 2014.</p>
Govt Code §30029.2 pp. 66-67	
Govt Code §30029.3 pp. 67-68	<ul style="list-style-type: none"> ▪ Repeals Government Code §30029.3, which allows counties to contract with the state for some of the realigned health and human services programs. ▪ NOTE: This code section was in a clean-up to AB 118 that was not titled "2011 Realignment Legislation." The code section is being repealed. Contract provisions are being addressed in Section 30029.7.
Govt Code §30029.4 pp. 68-69	<ul style="list-style-type: none"> ▪ Repeals Government Code § 30029.4, which specifies that savings from the shift of residential placement costs for AB 3632 children and youth shall be spent on child welfare services, foster care or adoptions. ▪ NOTE: This code section was in a clean-up to AB 118 that was not titled "2011 Realignment Legislation." The code section is being repealed and reenacted so that it is clear it is part of 2011. Realignment Legislation.
Govt Code §30029.4 pp. 69-70	<p>Reenacts Government Code § 30029.4, which specifies that savings from the shift of residential placement costs for AB 3632 children and youth shall be spent on child welfare services, foster care or adoptions.</p>
Govt Code §30029.5	<ul style="list-style-type: none"> ▪ Protective Services Subaccount funds – shall be allocated monthly pursuant to a schedule developed by DOF in

Section	Purpose
p. 70-72	<ul style="list-style-type: none"> ▪ consultation with CSAC. ▪ Includes \$32,721,000 to the Contract Special Account of a designated county or city and county. The designate county or city and county shall create a Contract Special Account within that county or city and county's Protective Services Subaccount for designated funds to allow that county or city and county to contract with DSS for specified services on behalf of all counties. ▪ Specifies how to allocate funds if revenues are insufficient.
Govt Code §30029.6 pp. 72-73	<ul style="list-style-type: none"> ▪ Behavioral Health Services Subaccount funds – shall be allocated monthly pursuant to a schedule developed by DOF in consultation with CSAC. ▪ Allocates Women and Children's Residential Treatment Services Special Account funds as follows: <ul style="list-style-type: none"> ➢ Alameda: \$687,665 ➢ Marin: \$728,585 ➢ Los Angeles: \$2,132,488 ➢ San Diego: \$553,940 ➢ San Francisco: \$182,286 ➢ San Joaquin: \$819,136 ➢ One-twelfth of these totals shall be allocated monthly.
Govt Code §30029.7 p. 73	<p>Contracting. A county or counties may contract back with state for Drug Medi-Cal or agency adoptions. Counties may contract with another county, joint powers agreement or county consortium for any program, service or activity. Exempts state contracts from the Public Contract Code.</p>
Govt Code §30029.8 pp. 73-75	<ul style="list-style-type: none"> ▪ A county or city and county may in consultation with CSAC be designated by DSS to contract directly with DSS for the following programs: <ul style="list-style-type: none"> ➢ Private Agency Adoptions Reimbursement Program ➢ Chafee Post Secondary Education and Training Voucher Program ➢ Health Care Oversight for Children in Foster Care ➢ Training, technical assistance, and other contracts of statewide benefits ➢ Other contracts that counties determine are in the best interests of counties and the state. ▪ The county or city and county that receives the funds shall place them in a Contract Special Account in the Protective Services Subaccount of the County Local Revenue Fund 2011. ▪ The contract shall contain a provision that if full funding is not provided per Section 30029.5, DSS may reduce the contracted activities to be performed. ▪ If federal approval is received, provides for Health Care Oversight for Children in Foster Care to be redistributed to all counties. ▪ Unexpended funds from the Contract Special Account can be retained for use in a subsequent fiscal year.

Section	Purpose
Govt Code §30029.11 pp. 75-76	<ul style="list-style-type: none"> ▪ Alternatively, those funds can be redistributed to all counties. ▪ Provides for a process if the designated county wants to cease to perform these duties to designate another county.
Govt Code §30029.12 p. 76	<p>Defines how funds are allocated to the Youthful Offender Block Grant Special Account and the Juvenile Reentry Grant Special Account of the Juvenile Justice Subaccount in 2012-13 and beyond.</p> <p>Any schedule developed by DOF and transmitted to the SCO shall also be transmitted to the appropriate legislative fiscal committees.</p>
Welfare & Institutions Code §1954 p. 76	<p>Repeals the section appropriating Youthful Offender Block Grant funds, given that Govt Code §30028.11 defines allocation methodology for 2012-13 and beyond.</p>
Welfare & Institutions Code §17600.15 pp. 76-78	<p>The CalWORKs MOE Subaccount will receive the actual revenues that would have otherwise been received by the Mental Health Subaccount. The Controller shall not include 2011 Realignment revenues deposited into the 1991 Mental Health accounts for purposes of calculating base or growth. If the actual revenues that would have otherwise been received by the Mental Health Subaccount are higher than \$93,379,252 those additional funds will be retained in the Mental Health Subaccount.</p>
Welfare & Institutions Code §17600.20 p. 78	<p>Technical amendment to Section 17601.20</p>
Welfare & Institutions Code §17600.25 p. 78-79	<ul style="list-style-type: none"> ▪ Clarifies that 2011 Realignment Funds deposited into the 1991 Mental Health accounts will equal \$93,379,252. The CalWORKs MOE Subaccount will receive the actual revenues that would have otherwise been received by the Mental Health Subaccount. The CalWORKs MOE Subaccount shall not exceed \$1,120,551,000 in each fiscal year. ▪ The CalWORKs MOE Subaccount shall be used to pay for an increased county contribution toward the costs of CalWORKs grants. Each county's total contribution shall equal the total funds deposited into that subaccount. This subaccount is not subject to the transferability provisions of 1991 realignment. ▪ The Controller shall not include 2011 Realignment revenues deposited into the 1991 Mental Health accounts for purposes of calculating base or growth. If the actual revenues that would have otherwise been received by the Mental Health Subaccount are higher than \$93,379,252 those additional funds will be retained in the Mental Health Subaccount.
Welfare & Institutions Code § 17601.21 p. 79	<p>The SCO shall allocate funds to the CalWORKs MOE Subaccount on or before the 27th of each month.</p>
Section 34	<p>States that this bill provides for appropriations related to the Budget Bill and shall take effect immediately.</p>

ITEM VIII
Bi-Annual Review of CSAC Administration of Justice
Policy Platform – POTENTIAL ACTION ITEM



November 10, 2012

TO: CSAC Administration of Justice Policy Committee

FROM: Elizabeth Howard Espinosa, CSAC Senior Legislative Representative

RE: **Bi-Annual Review of the CSAC Administration of Justice Policy Committee Platform – POTENTIAL ACTION ITEM**

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Action Requested. If time permits at the November 2012 meeting of the CSAC Administration of Justice (AOJ) policy committee meeting, the committee will be asked to adopt a new platform policy related to 2011 Realignment. This policy, because it intersects the work of three CSAC policy committee jurisdictions, would serve as a stand-alone statement that applies across the board.

Background. CSAC policy platforms reflect the association's historic policy development and serve as the foundation for guiding advocacy efforts on budget and legislative proposals. Every two years, CSAC policy committees review their policy platforms to determine if any changes are warranted. Proposed amendments approved by the committee are forwarded to the full CSAC Board of Directors for its consideration and action. Because the CSAC Board will not take final action on the CSAC platform until the Spring 2013, the committee has the time and opportunity, if necessary, to take action on this issue after the first of the year.

By way of background, this committee made a range of substantive changes during the most recent review of the CSAC AOJ platform. Key among those changes, which were approved by the CSAC Board in Spring 2011, included the following:

- 1) Added a new section gang violence prevention;
- 2) Added new section on collaborative courts;
- 3) Added new section on court and court-ordered debt collection efforts; and
- 4) Revised section on trial court facilities in accordance with the completion of trial court facility transfers in 2009.

Current Review Process. CSAC policy committee staff have reviewed the AOJ platform chapter and have no further technical or substantive changes to suggest at this time. However, CSAC staff in the AOJ, Health and Human Services (HHS), and Government Finance and Operations (GF&O) policy units worked together this Fall to develop a broad policy on 2011 Realignment that is proposed to guide advocacy not only in the context of ongoing implementation efforts but, if necessary, for future proposals to transfer state responsibilities to county governments. As noted in the proposed platform language that follows, the 2011 Realignment statements are intended to be read in conjunction with existing Realignment principles that have been refined over the last several years (attached). CSAC staff are seeking approval of the proposed stand-alone 2011 Realignment platform language in the three relevant policy committees: AOJ, HHS and GF&O.

Staff Contacts. Please contact Elizabeth Howard Espinosa (eespinosa@counties.org or 916-650-8131) with any questions or comments on this proposal.

2011 Realignment – PROPOSED NEW PLATFORM LANGUAGE (November 2012)

Proposed for adoption by the CSAC Administration of Justice; Government Finance and Operations; and Health and Human Service Policy Committees

1 In 2011, an array of law enforcement and health and human services programs – grouped
2 under a broad definition of “public safety services” – was transferred to counties along with a
3 defined revenue source. The 2011 Realignment package was a negotiated agreement with
4 the Brown Administration and came with a promise, realized with the November 2012
5 passage of Proposition 30, of constitutional funding guarantees and protections against costs
6 associated with future programmatic changes, including state and federal law changes as well
7 as court decisions.

8
9 CSAC will oppose efforts that limit county flexibility in implementing programs and services
10 realigned in 2011 or infringe upon our individual and collective ability to innovate locally.
11 Counties resolve to remain accountable to our local constituents in delivering high-quality
12 programs that efficiently and effectively respond to local needs. Further, we support counties’
13 development of appropriate measures of local outcomes and dissemination of best practices.

14
15 These statements are intended to be read in conjunction with previously adopted and refined
16 Realignment Principles, already incorporated in the CSAC Platform. Those principles, along
17 with the protections enacted under Proposition 1A (2004), would guide counties’ response to
18 any future proposal to shift state responsibilities to counties.

Chapter Two

Administration of Justice

[2011 UPDATE]

Section 1: GENERAL PRINCIPLES

This chapter is intended to provide a policy framework to direct needed and inevitable change in our justice system without compromising our commitment to both public protection and the preservation of individual rights. CSAC supports improving the efficiency and effectiveness of the California justice systems without compromising the quality of justice.

A. The Role of Counties

The unit of local government that is responsible for the administration of the justice system must be close enough to the people to allow direct contact, but large enough to achieve economies of scale. While acknowledging that the state has a constitutional responsibility to enact laws and set standards, California counties are uniquely suited to continue to have major responsibilities in the administration of justice. However, the state must recognize differences arising from variations in population, geography, industry, and other demographics and permit responses to statewide problems to be tailored to the needs of individual counties.

We believe that delegation of the responsibility to provide a justice system is meaningless without provision of adequate sources of funding.

Section 2: LEGISLATIVE AND EXECUTIVE MATTERS

A. Board of Supervisors Responsibilities

It is recognized that the state, and not the counties, is responsible for trial court operations costs and any growth in those costs in the future. Nevertheless, counties continue to be responsible for justice-related services, such as, but not limited to, probation, prosecutorial and defense services, as well as the provision of local juvenile and adult detention facilities. Therefore, county board of supervisors should have budget control over all executive and administrative elements of local justice programs for which we continue to have primary responsibility.

B. Law Enforcement Services

While continuing to provide the full range of police services, county sheriffs should move in the direction of providing less costly specialized services, which can most effectively be managed on a countywide basis. Cities should provide for patrol and emergency services within their limits or spheres of influence. However, where deemed mutually beneficial to counties and cities, it may be appropriate to establish contractual arrangements whereby a county would provide law enforcement services within incorporated areas. Counties should maintain maximum flexibility in their ability to contract with municipalities to provide public safety services.

C. District Attorney Services

The independent, locally-elected nature of the district attorney must be protected. This office must have the capability and authority to review suspected violations of law and bring its conclusions to the proper court.

1 **D. Victim Indemnification**

2 Government should be responsive to the needs of victims. Victim indemnification should be a state
3 responsibility, and the state should adopt a program to facilitate receipt of available funds by victims,
4 wherever possible, from the perpetrators of the crime who have a present or future ability to pay, through
5 means that may include, but are not limited to, long-term liens of property and/or long-term payment
6 schedules.

7
8 **E. Witness Assistance**

9 Witnesses should be encouraged to become more involved in the justice system by reporting crime,
10 cooperating with law enforcement, and participating in the judicial process. A cooperative anonymous
11 witness program funded jointly by local government and the state should be encouraged, where
12 appropriate, in local areas.

13 **F. Grand Juries**

14 Every grand jury should continue to have the authority to report on the needs of county offices, but no
15 such office should be investigated more than once in any two-year period, unless unusual circumstances
16 exist. Grand juries should be authorized to investigate all local government agencies, not just counties.
17 Local government agencies should have input into grand jury reports on non-criminal matters prior to
18 public release. County officials should have the ability to call the grand jury foreman and his or her
19 representative before the board of supervisors, for the purpose of gaining clarification on any matter
20 contained in a final grand jury report. Counties and courts should work together to ensure that grand
21 jurors are properly trained and that the jury is provided with an adequate facility within the resources of
22 the county and the court.

23
24 **G. Public Defense Services**

25 Adequate legal representation must be provided for indigent persons as required by constitutional,
26 statutory, and case law. Such representation includes both criminal and mental health conservatorship
27 proceedings. The mechanism for meeting this responsibility should be left to the discretion of individual
28 counties.

29
30 Counsel should be appointed for indigent juveniles involved in serious offenses and child dependency
31 procedures. The court-appointed or -selected attorney in these procedures should be trained specifically
32 to work with juveniles.

33
34 Adult defendants and parents of represented juveniles who have a present and/or future ability to pay part
35 of the costs of defense should continue to be required to do so as determined by the court. The
36 establishment of procedures to place the responsibility for the cost of juvenile defense rightfully upon the
37 parents should be encouraged. The state should increase its participation in sharing the costs of public
38 defense services.

39
40 **H. Coroner Services**

41 The independent and investigative function of the coroner must be assured. State policy should
42 encourage the application of competent pathological techniques in the determination of the cause of
43 death.

44
45 The decision as to whether this responsibility should be fulfilled by an independent coroner, sheriff-
46 coroner combination, or a medical examiner must be left to the individual boards of supervisors. In rural
47 counties, the use of contract medical examiners shall be encouraged on a case-by-case basis where local
48 coroner judgment is likely to be challenged in court. A list of expert and highly qualified medical
49 examiners, where available, should be circulated to local sheriff-coroners.

1
2 **I. Pre-Sentence Detention**

3 **1. Adults**

4 **a. Facility Standards**

5 The state’s responsibility to adopt reasonable, humane, and constitutional standards for
6 local detention facilities must be acknowledged.

7
8 Recognizing that adequate standards are dynamic and subject to constant review, local
9 governments must be assured of an opportunity to participate in the development and
10 modification of standards.

11
12 It must be recognized that the cost of upgrading detention facilities presents a nearly
13 insurmountable financial burden to most counties. Consequently, enforcement of
14 minimum standards must depend upon state financial assistance, and local costs can be
15 further mitigated by shared architectural plans and design.

16
17 **b. Pre-sentence Release**

18 Counties’ discretion to utilize the least restrictive alternatives to pre-sentence
19 incarceration that are acceptable, in light of legal requirements and counties’
20 responsibility to protect the public, should be unfettered.

21
22 **c. Bail**

23
24 We support a bail system that would validate the release of pre-sentence persons. We
25 also believe that public protection should be a criterion considered when setting bail.

26
27 Any continuing county responsibility in the administration or operation of the bail
28 system must include a mechanism to finance the costs of such a system.

29
30 **2. Juveniles**

31 **a. General**

32 We view the juvenile justice system as being caught between changing societal attitudes
33 calling for harsher treatment of serious offenders and its traditional orientation toward
34 assistance and rehabilitation. Therefore, we believe a thorough review of state juvenile
35 laws is necessary. Any changes to the juvenile justice system should fully involve and
36 draw upon the experience of county officials and personnel responsible for the
37 administration of the present system. CSAC must be involved in state-level discussions
38 and decision-making processes regarding changes to the juvenile justice system that will
39 have a local impact. There must also be recognition that changes do not take place
40 overnight and that an incremental approach to change may be most appropriate.

41 Counties must be given the opportunity to analyze the impact, assess the feasibility, and
42 determine the acceptability of any juvenile justice proposal that would realign services
43 from the state to the local level. As with any realignment, responsibility and authority
44 must be connected, and sufficient resources — with a built-in growth factor adjustment
45 — must be provided. Any shift in juvenile detention or incarceration from large state-
46 run facilities to local facilities — if determined to be appropriate — must be pre-planned
47 and funded by the state. However, counties believe that a class of juvenile offenders
48 exists that is best treated by the state. These juvenile offenders are primarily those

1 offenders whose behavioral problems, treatment needs, or criminogenic profile are so
2 severe as to outstrip the local ability to properly treat.

3 We support a juvenile justice system that is adapted to local circumstances and increased
4 state and federal funding support for local programs that are effective.
5

6 **b. Facility Standards**

7 The state's responsibility to adopt reasonable, humane, and constitutional standards for
8 juvenile detention facilities is recognized. The adoption of any standards should include
9 an opportunity for local government to participate. The state must recognize that local
10 government requires financial assistance in order to effectively implement state
11 standards, particularly in light of the need for separating less serious offenders from
12 more serious offenders.

13 **c. Treatment and Rehabilitation**

14 As with adult defendants, counties should have broad discretion in developing programs
15 for juveniles.
16

17 To reduce overcrowding of juvenile institutions and to improve the chances for treatment
18 and rehabilitation of more serious offenders, it is necessary that lesser offenders be
19 diverted from the formal juvenile justice system to their families and appropriate
20 community-based programs. Each juvenile should receive individual consideration and,
21 where feasible, a risk assessment.
22

23 Counties should pursue efficiency measures that enable better use of resources and
24 should pursue additional funding from federal, state, and private sources to establish
25 appropriate programs at the county level.
26

27 Prevention and diversion programs should be developed by each county or regionally to
28 meet the local needs and circumstances, which vary greatly among urban, suburban, and
29 rural areas of the state. Programs should be monitored and evaluated on an ongoing basis
30 to ensure their ability to protect public safety and to ensure compliance with applicable
31 state and federal regulations. Nevertheless, counties believe that the state must continue
32 to offer a commitment option for those juvenile offenders with the most serious
33 criminogenic profile and most severe treatment needs.
34

35 **d. Bail**

36 Unless transferred to adult court, juveniles should not be entitled to bail. Release on their
37 own recognizance should be held pending the outcome of the proceedings.
38

39 **e. Separation of Offenders**

40 We support the separation of juveniles into classes of sophistication. Separation should
41 be based upon case-by-case determinations, taking into account age, maturity, need for
42 secure custody among other factors, since separation by age or offense alone can place
43 very unsophisticated offenders among the more mature, sophisticated offenders.
44

45 In view of the high cost of constructing separate juvenile hall facilities, emphasis should
46 be placed on establishment of facilities and programs that facilitate separation.
47

1 **f. Removal of Serious Offenders to Adult Court**

2 To the greatest extent possible, determinations regarding the fitness of serious offenders
3 should be made by the juvenile court on a case-by-case basis.

4
5 **g. Jury Trial for Serious Offenders**

6 Except when transferred to adult court, juveniles should not be afforded the right to a
7 jury trial — even when charged with a serious offense.

8
9 **J. General Principles For Local Corrections**

10 **1. Purpose**

11 We believe that swift and certain arrest, conviction, and punishment is a major deterrent to
12 crime. Pragmatic experience justifies the continuation of rehabilitative programs for those
13 convicted persons whom a court determines must be incarcerated and/or placed on probation.

14
15 **2. Definition**

16 Local corrections include maximum, medium and minimum security incarceration, work
17 furlough programs, home detention, county parole, probation, and community-based programs
18 for convicted persons.

19
20 **3. Equal Treatment**

21 Conditions, treatment and correctional opportunities that are equal for all detainees, regardless of
22 gender, are strongly supported. State policy must allow recognition of the individual's right to
23 privacy and the differing programmatic needs of individuals.

24
25 **4. Community-Based Corrections**

26 The most cost-effective method of rehabilitating convicted persons is the least restrictive
27 alternative that is close to the individual's community and should be encouraged where possible.

28
29 State policy must recognize that correctional programs must always be balanced against the need
30 for public protection and that community-based corrections programs are only successful to the
31 extent that they are sufficiently funded.

32
33 **5. Relationship to Human Services Systems**

34 State policy toward corrections should reflect a holistic philosophy, which recognizes that most
35 persons entering the correctional system should be provided welfare, medical, mental health,
36 vocational and educational services. Efforts to rehabilitate persons entering the correctional
37 system should involve these other services, based on the needs — and, when possible, a risk
38 assessment — of the individual.

39
40 **6. Relationship to Mental Health System: Mentally Ill Diversion Programs**

41 Adequate mental health services can reduce criminal justice costs and utilization. Appropriate
42 diagnosis and treatment services, as well as increased use of diversion programs, will result in
43 positive outcomes for offenders with a mental illness. Ultimately, appropriate mental health
44 services will benefit the public safety system. Counties continue to work across disciplines to
45 achieve good outcomes for persons with mental illness and/or co-occurring substance abuse
46 issues.

1 **7. Inmate Medical Services**

2
3 CSAC supports efforts at the federal level to permit local governments to access third-party
4 payments for health care provided in detention facilities, including medical services provided for
5 those who are accused, but not yet convicted. CSAC also supports efforts to ensure continuity of
6 benefits for those detained in county detention facilities – adult and juvenile – and for swift
7 reenrollment in the appropriate benefits program upon a detainee’s release.
8

9 **8. Private Programs**

10 Private correctional programs should be encouraged for those categories of offenders that can
11 most effectively be rehabilitated in this manner.
12

13 **K. Adult Correctional Institutions**

14 Counties should continue to administer adult correctional institutions for those whose conviction(s)
15 require and/or results in local incarceration.
16

17 The state and counties should establish a collaborative planning process to review the relationship of
18 local and state corrections programs.
19

20 Counties should continue to have flexibility to build and operate facilities that meet local needs. Specific
21 methods of administering facilities and programs should not be mandated by statute.
22

23 **L. Adult Probation**

24 Counties should continue to provide adult probation services as a cost-effective alternative to post-
25 sentence incarceration and to provide services—as determined appropriate—to persons released from
26 local correctional facilities. Counties should be given flexibility to allocate resources at the local level
27 according to the specific needs of their probation population and consideration should be granted to
28 programs that allow such discretion. State programs that provide fiscal incentives to counties for keeping
29 convicted offenders out of state institutions should be discouraged unless such programs – on balance –
30 result in system improvements. State funding should be based upon a state-county partnership effort that
31 seeks to protect the public and to address the needs of individuals who come into contact with the justice
32 system. Such a partnership would acknowledge that final decisions on commitments to state institutions
33 are made by the courts, a separate branch of government, and are beyond the control of counties. Some
34 integration of county probation and state parole services should be considered. Utilization of electronic
35 monitoring for probationers and parolees should be considered where cost-effective and appropriate for
36 local needs.
37

38 **M. General Principles for Juvenile Corrections**

39 We believe that efforts to curtail the criminal behavior of young people are of the highest priority need
40 within the correctional area. The long-term costs resulting from young offenders who continue their
41 criminal activities justifies extraordinary efforts to rehabilitate them.
42

43 Efforts should be made to force parents to assume greater responsibility for the actions of their children,
44 including fines and sanctions, if necessary. Counties should be given flexibility to allocate resources at
45 the local level according to the specific needs of their probation population and consideration should be
46 granted to programs that allow such discretion. State programs that provide fiscal incentives to counties
47 for keeping convicted offenders out of state institutions should be discouraged unless such programs – on
48 balance – result in system improvements. Any program should recognize that final decisions on
49 commitments to state institutions are made by the courts, a separate branch of government, and are
50 beyond the control of counties.
51

1 **N. Juvenile Correctional Institutions**

2 Counties should continue to administer juvenile correctional institutions and programs for the majority of
3 youths requiring institutionalization. Retention of youths at the local level benefits the state by reducing
4 demands on programs and institutions operated by the California Division of Juvenile Justice.

5
6 While counties believe that a state-operated rehabilitation and detention system is a necessary component
7 of the continuum of services for juvenile offenders, CSAC opposes efforts that would require any
8 additional county subsidy of that system. The state should provide subvention for these activities at a
9 reasonable level, with provisions for escalation so that actual expenses will be met.

10
11 **O. Juvenile Probation**

12 Counties should continue to provide juvenile probation services as a cost-effective alternative to post-
13 adjudication and to provide juvenile probation services to individual youths and their families after the
14 youth's release from a local correctional facility.

15
16 Truants, run-a-ways, and youths who are beyond the control of their parents should continue to be
17 removed from the justice system except in unusual circumstances. These youths should be the
18 responsibility of their parents and the community, not the government. Imposing fines and/or sanctions
19 on parents to prompt their participation in their children's lives and involvement in the process should
20 remain an option.

21
22 **P. Gang Violence Prevention**

23
24 Counties recognize the devastating societal impacts of gang violence – not only on the victims of gang-
25 related crimes, but also on the lives of gang members and their families. Counties are committed to
26 working with allied agencies, municipalities, and community-based organizations to address gang
27 violence and to promote healthy and safe communities. These efforts require the support of federal and
28 state governments and should employ regional strategies and partnerships, where appropriate.

29 **Q. Human Services System Referral of Juveniles**

30 State policy toward juvenile corrections must be built on the realization that a juvenile offender may be
31 more appropriately served in the human services system. Considering the high suicide potential of
32 youths held in detention facilities and, acknowledging the fact that juvenile offenses are more often
33 impulse activities than are adult offenses, juvenile cases and placement decisions should be reviewed
34 more closely under this light.

35
36 **R. Federal Criminal Justice Assistance**

37 The federal government should continue to provide funding for projects that improve the operation and
38 efficiency of the justice system and that improve the quality of justice. Such programs should provide for
39 maximum local discretion in designing programs that are consistent with local needs and objectives.

40
41 **Section 3: JUDICIAL BRANCH MATTERS**

42 **A. Trial Court Management**

43 The recognized need for greater uniformity and efficiency in the trial courts must be balanced against the
44 need for a court system that is responsive and adaptable to unique local circumstances. Any statewide
45 administrative structure must provide a mechanism for consideration of local needs.

1 **B. Trial Court Structure**

2 We support a unified consolidated trial court system of general jurisdiction that maintains the
3 accessibility provided by existing trial courts. The state shall continue to accept financial responsibility
4 for any increased costs resulting from a unified system.
5

6 **C. Trial Court Financing**

7 Sole responsibility for the costs of trial court operations should reside with the state, not the counties.
8 Nevertheless, counties continue to bear the fiscal responsibility for several local judicial services that are
9 driven by state policy decision over which counties have little or no control. We strongly believe that it is
10 appropriate for the state to assume greater fiscal responsibility for other justice services related to trial
11 courts, including collaborative courts. Further, we urge that the definition of court operations financed by
12 the state should include the district attorney, the public defender, court appointed counsel, and probation.
13

14 **D. Trial Court Facilities**

15
16 The court facility transfers process that concluded in 2009 places responsibility for trial court facility
17 maintenance, construction, planning, design, rehabilitation, replacement, leasing, and acquisition
18 squarely with the state judicial branch. Counties remain committed to working in partnership with the
19 courts to fulfill the terms of the transfer agreements and to address transitional issues as they arise.
20

21 **E. Court Services**

22 Although court operation services are the responsibility of the state, certain county services provided by
23 probation and sheriff departments are directly supportive of the trial courts. Bail and own recognizance
24 investigations, as well as pre-sentence reports, should be provided by probation, sheriff, and other county
25 departments to avoid duplication of functions, but their costs should be recognized as part of the cost of
26 operating trial courts.
27

28 **F. Jurors and Juries**

29 Counties should be encouraged to support programs that maximize use of potential jurors and minimize
30 unproductive waiting time. These programs can save money, while encouraging citizens to serve as
31 jurors. These efforts must consider local needs and circumstances. To further promote efficiency,
32 counties support the use of fewer than twelve person juries in civil cases.
33

34 **G. Collaborative Courts**

35
36 Counties support collaborative courts that address the needs and unique circumstances of specified
37 populations such as the mentally ill, those with substance use disorders, and veterans. Given that the
38 provision of county services is vital to the success of collaborative courts, these initiatives must be
39 developed locally and entered into collaboratively with the joint commitment of the court and county.
40 This decision making process must include advance identification of county resources – including, but
41 not limited to, mental health treatment and alcohol and drug treatment programs and services,
42 prosecution and defense, and probations services – available to support the collaborative court in
43 achieving its objectives.
44

45 **H. Court and County Collection Efforts**

46
47 Improving the collection of court-ordered debt is a shared commitment of counties and courts. An
48 appropriately aggressive and successful collection effort yields important benefits for both courts and
49 counties. Counties support local determination of both the governance and operational structure of the

1 court-ordered debt collection program and remain committed to jointly pursuing with the courts
2 strategies and options to maximize recovery of court-ordered debt.

3
4 **Section 4: FAMILY VIOLENCE**

5 CSAC remains committed to raising awareness of the toll of family violence on families and
6 communities by supporting efforts that target family violence prevention, intervention and treatment.
7 Specific strategies for early intervention and success should be developed through cooperation between
8 state and local governments, as well as community, and private organizations addressing family violence
9 issues.

10
11 **Section 5: GOVERNMENT LIABILITY**

12 The current government liability system is out of balance. It functions almost exclusively as a source of
13 compensation for injured parties. Other objectives of this system, such as the deterrence of wrongful
14 conduct and protection of governmental decision-making, have been largely ignored. Moreover, as a
15 compensatory system of ever-increasing proportions, it is unplanned, unpredictable and fiscally unsound
16 – both for the legitimate claimant and for the taxpayers who fund public agencies.

17
18 Among the principal causes of these problems is the philosophy – expressed in statutes and decisions
19 narrowing governmental immunities under the Tort Claims Act – that private loss should be shifted to
20 society where possible on the basis of shared risk, irrespective of fault or responsibility in the traditional
21 tort law sense.

22
23 The expansion of government liability over recent years has had the salutary effect of forcing public
24 agencies to evaluate their activities in terms of risk and to adopt risk management practices. However,
25 liability consciousness is eroding the independent judgment of public decision-makers. In many
26 instances, mandated services are being performed at lower levels and non-mandated services are being
27 reduced or eliminated altogether. Increasingly, funds and efforts are being diverted from programs
28 serving the public to the insurance and legal judicial systems.

29
30 Until recently, there appeared to be no end to expansion of government liability costs. Now, however, the
31 "deep pocket" has been cut off. Insurance is either unavailable or cost prohibitive and tax revenues are
32 severely limited. Moreover, restricted revenue authority not only curtails the ability of public entities to
33 pay, but also increases exposure to liability by reducing funding for maintenance and repair programs. As
34 a result, public entities and ultimately, the Legislature, face difficult fiscal decisions when trying to
35 balance between the provision of governmental service and the continued expansion of government
36 liability.

37
38 There is a need for data on the actual cost impacts of government tort liability. As a result of previous
39 CSAC efforts, insurance costs for counties are fairly well documented. However, more information is
40 needed about the cost of settlements and awards and about the very heavy "transactional costs" of
41 administering and defending claims. We also need more information about the programmatic decisions
42 being forced upon public entities: e.g., what activities are being dropped because of high liability? CSAC
43 and its member counties must attempt to fill this information gap.

44
45 CSAC should advocate for the establishment of reasonable limits upon government liability and the
46 balancing of compensatory function of the present system with the public interests in efficient, fiscally
47 sound government. This does not imply a return to "sovereign immunity" concepts or a general turning
48 away of injured parties. It simply recognizes, as did the original Tort Claims Act, that: (1) government
49 should not be more liable than private parties, and (2) that in some cases there is reason for government
50 to be less liable than private parties. It must be remembered that government exists to provide essential
51 services to people and most of these services could not be provided otherwise. A private party faced with

1 risks that are inherent in many government services would drop the activity and take up another line of
2 work. Government does not have that option.

3
4 In attempting to limit government liability, CSAC's efforts should bring governmental liability into
5 balance with the degree of fault and need for governmental service.

6
7 In advocating an "era of limits" in government liability, CSAC should take the view of the taxpayer
8 rather than that of counties per se. At all governmental levels, it is the taxpayer who carries the real
9 burden of government liability and has most at stake in bringing the present system into better balance. In
10 this regard, it should be remembered that the insurance industry is not a shield, real or imagined, between
11 the claimant and the taxpayer.

12
13 **Attachments**

14
15 CSAC Corrections Reform Policies and Principles (adopted by the CSAC Board of Directors November
16 30, 2006; amended on May 22, 2008)

17
18 Sex Offender Management: County Principles and Policies (adopted by CSAC Board of Directors on
19 May 22, 2008)

2010 CSAC Realignment Principles

Approved by the CSAC Board of Directors



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Facing the most challenging fiscal environment in the California since the 1930s, counties are examining ways in which the state-local relationship can be restructured and improved to ensure safe and healthy communities. This effort, which will emphasize both fiscal adequacy and stability, does not seek to reopen the 1991 state-local Realignment framework. However, that framework will help illustrate and guide counties as we embark on a conversation about the risks and opportunities of any state-local realignment.

With the passage of Proposition 1A the state and counties entered into a new relationship whereby local property taxes, sales and use taxes, and Vehicle License Fees are constitutionally dedicated to local governments. Proposition 1A also provides that the Legislature must fund state-mandated programs; if not, the Legislature must suspend those state-mandated programs. Any effort to realign additional programs must occur in the context of these constitutional provisions.

Counties have agreed that any proposed realignment of programs should be subject to the following principles:

- 1. Revenue Adequacy.** The revenues provided in the base year for each program must recognize existing levels of funding in relation to program need in light of recent reductions and the Human Services Funding Deficit. Revenues must also be at least as great as the expenditures for each program transferred and as great as expenditures would have been absent realignment. Revenues in the base year and future years must cover both direct and indirect costs. A county's share of costs for a realigned program or for services to a population that is a new county responsibility must not exceed the amount of realigned and federal revenue that it receives for the program or service. The state shall bear the financial responsibility for any costs in excess of realigned and federal revenues into the future. There must be a mechanism to protect against entitlement program costs consuming non-entitlement program funding.

The Human Services Funding Deficit is a result of the state funding its share of social services programs based on 2001 costs instead of the actual costs to counties to provide mandated services on behalf of the state. Realignment must recognize existing and potential future shortfalls in state responsibility that have resulted in an effective increase in the county share of program costs. In doing so, realignment must protect counties from de facto cost shifts from the state's failure to appropriately fund its share of programs.
- 2. Revenue Source.** The designated revenue sources provided for program transfers must be levied statewide and allocated on the basis of programs and/or populations transferred; the designated revenue source(s) should not require a local vote. The state must not divert any federal revenue that it currently allocates to realigned programs.
- 3. Transfer of Existing Realigned Programs to the State.** Any proposed swap of programs must be revenue neutral. If the state takes responsibility for a realigned program, the revenues transferred cannot be more than the counties received for that program or service in the last year for which the program was a county responsibility.
- 4. Mandate Reimbursement.** Counties, the Administration, and the Legislature must work together to improve the process by which mandates are reviewed by the Legislature and its fiscal committees, claims made by local governments, and costs reimbursed by the State. Counties believe a more accurate and timely process is necessary for efficient provision of programs and services at the local level.
- 5. Local Control and Flexibility.** For discretionary programs, counties must have the maximum flexibility to manage the realigned programs and to design services for new populations transferred to county responsibility within the revenue base made available, including flexibility to transfer funds between programs. For entitlement programs, counties must have maximum flexibility over the design of service delivery and administration, to the extent allowable under federal law. Again, there

must be a mechanism to protect against entitlement program costs consuming non-entitlement program funding.

6. Federal Maintenance of Effort and Penalties. Federal maintenance of effort requirements (the amount of funds the state puts up to receive federal funds, such as IV-E and TANF), as well as federal penalties and sanctions, must remain the responsibility of the state.