COUNTY OF NAPA

PUBLIC SAFETY REALIGNMENT AND POST RELEASE COMMUNITY SUPERVISION 2011 IMPLEMENTATION PLAN

INTRODUCTION

The realignment of responsibility for substantial numbers of felony offenders from the State of California to counties finds Napa County reasonably well prepared to cope with this new challenge. The County's commitment to evidence-based practices, established in its Adult Corrections System Master Plan and embodied in the Community Corrections Service Center, extends beyond programs to bring about changed behavior among particular offenders. It also includes policy measures, where warranted by the evidence, to serve the following ends:

1. Reduce the incarceration of defendants on pretrial status;

2. Establish alternative sanctions for offenders under supervision in the community;

3. Provide penalties other than total confinement, where appropriate, for sentenced offenders.

The County is reviewing options, considering policy implications, and collecting evidence to inform its decisions. These activities are directed to a Population Management Plan for all persons managed by Corrections and Probation, including those for whom the County is already responsible as well as those coming to us through Realignment. Although Realignment has sharpened the focus and increased the pace of Population Management Planning, it does not change its principles and methods. Accordingly, the Executive Committee of the Community Corrections Partnership recommends the general approach described below as the County's Realignment Implementation Plan. Specific decisions about programmatic and policy interventions will be reviewed separately as part of the County's ongoing correctional population planning efforts.

COMMUNITY CORRECTIONS PARTNERSHIP MEMBERS:

EXECUTIVE COMMITTEE:
Mary Butler, Chief Probation Officer (chair)
Mark Boessenecker, Superior Court Judge
Gary Lieberstein, District Attorney
Terry Davis, Public Defender
Doug Koford, Sheriff
Rich Melton, Napa Police Department
Randy Snowden, Director of Health and Human Services

OTHER PARTNERSHIP MEMBERS:
Mark Luce, Board of Supervisors
Connie Moreno-Peraza, Alcohol and Drug Administrator
Barbara Nemko, County Superintendent of Schools
Jaye Vanderhurst, Mental Health Director

OTHER CRIMINAL JUSTICE PARTNERS:

Ron Abernathy, Assistant Public Defender
Susan Altman, Deputy County Counsel
Brian Banducci, Captain Napa Sheriff Office
Rick Feldstein, Court Executive Officer
Britt Ferguson, Assistant County Executive Officer
Jon Gjestvang, Chief Information Officer
Raymond Guadagni, Superior Court Judge
Liz Habkirk, Management Analyst
DJ Johnson, Assistant Director of Corrections
Jamie Johnson, Victim Witness Program Manager
David Lovell, Criminal Justice Analyst
Amanda Owens, BI, Inc
Lee Philipson, Assistant District Attorney
Diane Price, Superior Court Judge
John Robertson, Undersheriff
Rod Stone, Superior Court Judge
Francisca Tisher, Superior Court Judge
Lenard Vare, Director of Corrections
Nancy Watt, County Executive Officer

BACKGROUND

Overview of 2011 Public Safety Realignment Act (AB 109)

In an effort to address overcrowding in California's prisons and assist in alleviating the state's financial crisis, the Public Safety Realignment Act was signed into law on April 4, 2011. AB 109 transfers responsibilities for supervising specified lower level inmates and those returning from the California Department of Corrections and Rehabilitation to counties. Implementation of AB 109 will begin on October 1, 2011.

Key elements of AB 109 include:

Target Population: There are two new groups of offenders who will serve their time locally and be under the supervision of the Napa County Probation and/or Corrections Department. Offenders who are non-violent, non-serious, non-sex offenders, who previously would have been sent to state prison, will remain in the county to serve their sentences. Additionally, the county will also supervise offenders released from prison who are non-violent, non-serious offenders or low-risk sex offenders.

Redefining Felonies: Revises the definition of a felony to include certain crimes that are punishable in jail for longer periods of time. Changes to the penal code allow for longer jail sentences.

Local Post Release Community Supervision: Offenders released from state prison after serving their sentence for an eligible offense shall be subject to post release community supervision for a period of not more than three years. Each county Board of Supervisors will designate will designate the agency to supervise this population. On August 2, 2011, Napa County Board of Supervisors designated Napa County Probation Department as the supervising agency.

Revocations Heard and Served Locally: Post release community supervision and parole revocations will be served in local jails for up to 180 days. Napa County Courts will hear revocation hearings for post release supervision offenders while the Board of Parole Hearings will conduct parole violation hearings.

Changes to Custody Credits: Jail inmates will be able to earn four days of credit for every two days served. Time spent on home detention or electronic monitoring is credited as time spent in jail custody.

Alternative Custody: Penal Code 1203.018 authorizes electronic monitoring for inmates being held in the county jail in lieu of bail. Eligible inmates must first be held in custody for 60 days post arraignment or 30 days for those charged with a misdemeanor offenses.

Community Based Punishment: Counties are authorized to use a range of community based punishment and intermediate sanctions other than jail incarceration alone or with traditional probation supervision.

Projected Populations:

Napa County's estimate of the increased number of offenders who will be sentenced to local custody is based on an analysis of felony offenders sentenced in 2010 whose offenses and offense history would qualify them as "non-non-nons." This analysis yields a first-year increase

of 71 to the local custody caseload—the average daily population (ADP)— with further ADP increases of 4-12 over the coming decade due to those with terms of 4 years or more. This estimate corresponds to CDCR's count of Napa felony offenders in prison. In addition, another 7 beds are in use at CDCR for parole violators, raising to 78 the initial contribution of realignment to ADP.

The Probation Department will also see a substantial increase in caseloads over the first year: During the first year, 68 new post-release community supervision cases will come out of prison, in monthly increments fluctuating between 3 and 17. During the next year, the numbers coming out of prison (53) taper off, because fewer qualifying offenders will be sent to prison; others, however, will be added from those sentenced to local custody. In addition to adding probation officers, the Probation Department is developing a matrix of sanctions for violators, based on their needs and the seriousness of the violation, which includes a variety of options in addition to re-incarceration.

New County Resources under Realignment

Financial. The State of California is providing Realignment funding to help counties manage their new responsibilities. During the first year, these funds are allocated according to the projected increase in caseloads due to realignment, the counties' populations, and their record of success in carrying out SB678 (2009), which provides incentives and resources for probation departments to prevent offenders on probation from being revoked to prison. No decisions have been made about the level or allocation of state realignment funding for subsequent years.

The Probation Department also has been awarded SB678 funds to implement evidence-based practices. Some of these funds will support the establishment of alternatives to incarceration for pretrial defendants as well as alternative sanctions for probation and post-release community supervision violators.

Evidence-Based Practices and Policy

The term *evidence-based practice* is invoked in a variety of fields to refer to interventions for which there is systematic evidence of more successful outcomes when they are used than when they are not. Napa County's Adult Correctional System Master Plan defines evidence-based practices in corrections as *progressive, organizational use of direct, current scientific evidence to guide and inform efficient and effective correctional services. Research has indicated that certain programs and intervention strategies, when applied to a variety of offender populations, reliably produce sustained reductions in recidivism.*

Focusing on recidivism as a primary outcome measure, and analyzing evaluations of a variety of programs, some researchers have declared a consensus on the principles of evidence-based practice in corrections:

- *Risk*. Target interventions at offenders with a higher risk (probability) of re-offending. Lower-risk offenders may be harmed by excessive intervention, e.g., putting a normally responsible wage-earner in jail and causing loss of employment and interventions are more cost effective with those more likely to re-offend. Furthermore, risk of re-offending should be assessed by actuarial measures or instruments that reflect, among groups of offenders, an observed association between risk factors, such as lengthy criminal history or drug abuse and likelihood of recidivism.

- *Need*. Target interventions to "criminogenic" needs, i.e., needs of offenders known to lead to criminal conduct, such as poor education levels, family dysfunction, drug or alcohol abuse, criminal associates, and antisocial attitudes. Such needs are distinguished from other risk factors, such as age and length of criminal history, because they are dynamic, i.e., subject to change as a result of intervention.

- *Appropriate treatment*. Use methods that have been shown to work for the type of person being treated: adapted to their distinctive challenges and learning styles, with enough intensity (e.g., contact hours) to address the severity of their needs, and which teach and model practical skills. Cognitive-behavioral methods have generally been more effective than some other approaches.

- *Evaluation*. Systematically collect, analyze, and document evidence about how a program is being carried out, the obstacles and issues encountered in the process, program integrity or consistency with objectives, levels of participation at various stages, participant progress, and outcomes. Be prepared to modify methods or assumptions if the program isn't meeting objectives. Assess outcomes through the use of a comparable control group to allow assessment of the degree to which desired outcomes can be attributed to the program rather than to some other factor, such as selection of participants with positive attitudes who would have succeeded anyway.

Eight precepts of evidence based practice have been implemented in the criminal justice system in Napa County.

1. Assess risk and needs: Napa County Probation assesses all offenders using the LS/CMI assessment tool. This information is included in presentence reports to the court and used to develop supervision plans for offenders.

2. Enhance Motivation: Napa County Probation and Department of Corrections staff have all been trained in Motivational Interviewing and utilize these skills in their everyday assignments.

3. Target Intervention: Probation officers develop supervision plans based on the top criminogenic needs of the offender. Best practice is to focus on the top three areas of concern.

4. Skill Train: Programs utilized by Napa County offender are skill based and are generally cognitive behavioral skill building groups. These programs are utilized by probation officers and contractors.

5. Positive Reinforcement: Napa County Probation is using a rewards/sanctions grid that provides behavior change for negative behavior and rewards for positive behavior. Staff has rewards available to them to use with offenders.

6. Support in natural communities: Napa County has opened a day reporting center called the Community Corrections Service Center. This allows offenders to receive programs while living in their community. Referrals are made to other local programs including mental health, substance abuse treatment, batterers intervention programs and sex offender treatment.

7. Measure process: Napa County has a criminal justice analyst who will be monitoring the evidence based programs offered in the community.

8. Provide feedback: Napa County continues to monitor programs, give feedback to staff as well as the criminal justice system partners.

Evidence-Based Policy. Evidence-based considerations may be applied to matters of legislative and organizational policy. In this arena, reduction of recidivism is an important policy objective, but not the only one.

- For defendants whose cases haven't been adjudicated, composing the vast majority of Napa's jail population, the objective is not to prevent them from committing new crimes, since they are legally innocent, but to ensure their appearance at court and protect the community from the risks reflected in their current charges and, if applicable, their offense history.

- For convicted offenders, alternative sanctions that produce few reductions in recidivism may still be merited if they generate less financial and human cost and save jail beds. Until recently, when recidivism reductions were documented, intensive community supervision was promoted as a less expensive means of achieving results no worse than imprisonment.

Napa County's Realignment Implementation Plan takes an evidence-based approach to the policies and practices required to safely manage expanded correctional populations and builds on the evidence based principles already adopted by Napa County.

PROPOSED IMPLEMENTATION STRATEGIES:

Principles and Objectives

The Napa County plan is governed by the primary responsibility of criminal justice agencies: to protect the community, provide due process to the accused, and punish those who deserve it. A variety of means may be chosen to fulfill these objectives, in addition to incarceration; and conservation of public resources is a critical consideration for such choices. Furthermore, the County has an ethical and legal responsibility to maintain jail populations at a safe and secure level for staff and inmates. Adoption of alternatives to incarceration, therefore, will be governed by the following criteria:

1. *Safety*. Assure that the proposed program or policy maintains sufficient control over defendants and offenders to minimize risk to the community when they are not confined.

2. *Punishment*. Assure that the proposal is consistent with the deterrent and retributive functions of law enforcement, both for participants and for the public at large.

3. *Recidivism*. Implement programs or policy shown to produce a reduction in recidivism. Recidivism is measured by returns to incarceration for supervision violations and failures to appear as well as by the commission of new offenses. These multiple measures will allow Napa to measure success in terms of jail bed use as well as community safety, and to account for pretrial defendants as well as sentenced offenders.

4. *Cost*. Determine what investment is required by the county to establish a program and then to maintain it. Assure that there is evidence that enough people would qualify for or be referred to the program to justify it.

The County will identify target groups for policy and programmatic intervention by means of the best available evidence on how these criteria may be met.

Evidence

Assessing evidence for population management programs in terms of the above criteria differs from the evaluation of recidivism reduction programs because the policy context rarely allows us to isolate program outcomes from other factors.

When controlled comparisons are lacking, evidence must be gathered from the characteristics of Napa's correctional population and the experience of jurisdictions in which policies have been changed or programs introduced.

Unless alternatives to incarceration are put in place, the transfer of correctional responsibility for new offenders represents a 25% increase in the jail population over the first year of Realignment. Fortunately, the analysis of the jail population indicates that many beds are occupied by lower-level defendants and offenders for whom alternative dispositions may be appropriate.

- Of 10,000 persons booked into jail over the last three years, there were 529 (5%) with 5 or more admissions who accounted for an average of 60 beds (25%) on a daily basis.

- Of 150 beds occupied by people whose most serious charge is one for which they have not been sentenced, 44 (30%) are occupied by people whose most serious charge is a misdemeanor, many of them probation violations, drug possession, or DUI.

- Of the 2010 jail ADP of 257 inmates, about 40 beds (15%) are occupied by offenders whose most serious active charge is a violation of conditions of probation. Of these, 90% are filed by police or prosecutors rather than the Department of Probation.

- Of 110 beds occupied by people whose most serious charge is one for which they have been sentenced, 69 (63%) are people convicted of misdemeanors, and another 25 (23%) of property or drug felonies.

To assist population management, further analyses will be conducted:

- A clinical profile of "frequent flyers" with 5 or more admissions in the past three years will be developed to assess which criminogenic needs should be targeted for alternative interventions; repeated incarceration has evidently not changed their patterns.

- Criminal histories of the 105 felony offenders sentenced in 2010 who would have been subject to realignment will be compared to histories of offenders enrolled in the Community Corrections Service Center and to other sentenced offenders. This comparison will allow us to assess the extent to which the group transferred to the County through Realignment differs in risk and needs from other groups whom we're currently incarcerating, treating, or supervising in the community.

- As discussion about alternative programs proceeds, specific profiles will be provided of groups of interest—probation violators, DUI and unlicensed drivers, drug offenders—to guide diversion and recidivism reduction plans.

While more detailed analysis is required to determine which groups are appropriate for which interventions, it appears there is reason to test alternatives for pretrial defendants, probation or supervision violators, and sentenced offenders.

Strategy

Population Management programs including realigned offenders will focus on three groups:

1. *Pretrial defendants*. Using a combination of SB678 and Realignment Funds, the Probation Department will develop a Pretrial Services Unit at the jail to interview defendants as they are booked, check references, and make recommendations so judges can quickly make informed decisions about recognizance release. Safeguards such as electronic monitoring or day reporting can be included in release conditions where appropriate. Additionally, pre-filing diversion programs will be reviewed and implemented as needed. Community referrals and linkages will be made by the Probation Officers assigned to this program.

   Further interventions will be considered and reviewed on the basis of policy discussions and analysis of jail bookings. These include modifications to the bail schedule, police-based crisis intervention and diversion, and enhanced day reporting for defendants whose social service needs would otherwise prevent them from being released on recognizance.

2. *Sentenced Offenders*. Risk assessments will be conducted prior to sentencing when a presentence report is being completed. Results of the assessment highlighting the risk and needs of the offender will be included in the report to assist in evidence based sentencing.

   It will be crucial to have sufficient resources to assist offenders in being successful. Referrals to programs will be based on assessment data and could include additional assessments, education and treatment programs, community referrals and linkages, housing assistance and a pre-release program. Additionally, a jail vocational program may be warranted.

   Less restrictive settings that may be used include electronic monitoring, home detention, work release, and day reporting—including the program-oriented day reporting program at the Community Corrections Service Center, with appropriate variations for new clients. These variations would address the needs of realigned offenders who may pose higher risk than current program clients, as well as less risky offenders who serve all or part of their sentences on day reporting or electronic monitoring in lieu of total confinement. Addressing the behavioral health needs of offenders may support such alternatives.

   Further options for sentenced offenders include designing a staff-secure residential facility with special rules and monitoring, which may be locked for curfew purposes but is not designed to prevent escapes. Staff keep track of residents' comings and goings, but no specialized security personnel are required. Such a facility, if needed, could also be used for pretrial defendants and offenders on daily work, education, or treatment program release. Moving closer to total confinement, a small minimum-security farm similar to

those now used for some lower risk, short-term offenders sentenced to prison, could be built for sentenced offenders.

3. *Probation Violators*. The Probation Department has designed a matrix of sanctions and rewards, ranging from counseling through "flash incarceration" to revocation of community status, which will provide guidance on responses to violations based on the needs of the offender and the severity of the violation, as well as reward positive behavior. Objectives include preserving jail space for people committing new crimes and reducing the chances of repeated violations and revocation. Instituting such a system will require not only revisions to policies, procedures, and training in the Probation Department, but administrative agreements to allow application of the matrix of sanctions to the vast majority of violators who are referred for booking by police and prosecutors.

4. *Transition Plan for those returning from prison.* All offenders returning from prison will have a range of assessments as soon as possible. Additionally, referrals to community agencies will be made based on the results of the assessment. A multi-disciplinary team will be developed to review the offenders prior to their return to the community to assure all known needs are met.

Experimentation and cost control. The institutional context of correctional population management means there is no advance guarantee, even applying the best evidence, that any particular intervention will succeed in controlling populations or reducing recidivism at an acceptable cost. Even programs based on well established principles will not necessarily work as expected when instituted in a new environment. In light of this consideration and the objective of cost control, two final planning guidelines may be stated:

1. A genuinely evidence-based approach to policy requires willingness to experiment and modify assumptions or methods based on observation.

2. We will begin with interventions that are less costly in human and financial terms: pretrial services, day reporting, alternative sanctions for violators, electronic monitoring, home detention, and enhanced programming, and assess whether these are meeting our community safety and population management objectives. If such modest alternatives can't be adapted to meet our needs, then we will consider more ambitious and costly ones such as a staff secure residential facility or a minimum security farm.