

Tuolumne County

Public Safety Realignment Act AB 109



Implementation Plan

Tuolumne County Community Corrections Partnership Executive Committee

Honorable Eric L. DuTemple, Presiding Judge, Superior Court

Adele Arnold, Chief Probation Officer

Donald Segerstrom, District Attorney

James Mele, Sheriff

Robert Price, Public Defender

Mark Stinson, Sonora, Chief of Police

Tracie Riggs, Director of Behavioral Health

EXECUTIVE DRAFT

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BACKGROUND:

In an effort to address overcrowding in California's prisons, Assembly Bill 109, entitled "2011 Realignment Legislation Addressing Public Safety" was signed by the Governor on April 4, 2011. As a result of AB 109, on October 1, 2011 criminal justice realignment went into law. The essence of AB 109 is to transfer the responsibility of supervising specified lower level inmates and parolees from the California Department of Corrections and Rehabilitation to Counties. In addition, new sentencing restrictions/guidelines will divert offenders who would have otherwise gone to state prison into local jails.

Assembly Bill 117 passed concurrently to AB 109, required the local Community Corrections Partnership (CCP), comprised of criminal justice partners, collaborative agencies, and community stakeholders to develop and recommend a plan to each County Board of Supervisors to enable their county to meet the goals of the public safety realignment.

Summary of AB 109 and AB 117 realignment legislation:

- The new legislation tasks Community Corrections Partnerships (CCP) with planning for the change and implementing local plans.
- AB 109 revises the definition of felony to include lower-level crimes that will now be punishable in jail and/or another local sentencing option.

- There is a shift in custody to local authorities of felons sentenced for non-violent, non-serious, non-sex offenses (N3) to county control from the state unless excluded by statute.
- AB 109 authorizes “Split Sentencing”, which means a portion of the offender’s term is served in jail and the concluding portion served on mandatory supervision.
- Serious violent felons, most sex offenders (all registered), and serious white collar or criminals remain eligible for state prison and state parole supervision.
- Local Post-Release Community Supervision (PRCS) has been established for any individual who was convicted of an N3 crime and will be released from state prison on or after October 1, 2011. The serious violent felons will remain in state parole’s jurisdiction.
- PRCS and parole revocations for N3 offenders will serve their time in the County jail and/or through a combination of detention alternative sanctions and programming.
- The legislation authorizes counties to utilize a variety of custody and community based sentencing options. Community based options include electronic monitoring/home detention; Day Treatment Centers; Work Release Programs; Day reporting Centers; and other therapeutic and vocational programming as deemed appropriate.

TUOLUMNE COUNTY:

Tuolumne County was incorporated in 1850 and currently has a population of 57,000 residents. Tuolumne County covers a large mostly rural, geographic area with several cities and multiple smaller communities spread throughout. The County has been significantly impacted by the recent economic downturn. The unemployment rate in

Tuolumne County is currently 13.5% and one in every 72 housing units received a foreclosure filing in August 2011.

The County Jail is currently operating at capacity and offers no room for expansion and/or renovation to accommodate new populations. While a new jail is part of an existing plan for the new criminal justice campus, funding and timelines have not been secured. In the meantime, the current jail will be significantly impacted by housing the AB109/Realignment population. Therefore, all planning for local incarceration must use the existing jail infrastructure.

In 2009, the Tuolumne Probation Department began implementing SB 678, California Community Corrections Partnership Act. SB 678 provided funding to establish a system of performance-based, evidence-based practices relating to the supervision of adult felony offenders. SB 678 was designed to reduce the felony probation failure rate which resulted in felons being sentenced and/or returned to state prison.

Tuolumne County Probation Department utilized SB678 funds to implement a comprehensive validated risk/needs assessment tool, the Static Risk and Offender Needs Guide (STRONG) for use in the criminal justice community. Additionally staff received training in Motivational Interviewing and how to administer and maintain the fidelity of the risk assessment tool. Additional training in Evidence Based Practices was also provided to staff. Tuolumne County will use SB678 allocations to provide first year funding for a major component of the AB109 plan-the Day Reporting Center.

THE IMPLEMENTATION PLAN

The County's Community Corrections Partnership (CCP) members have met frequently to structure a phased response to Public Safety Realignment as well as meet the immediate need of providing direction and services intended in the legislation.

The CCP is made up of representatives from the Sheriff's Department, District Attorney's Office, Victims Witness Office, Office of Education, Behavior Health

Department, Public Defender, Human Services Agency, Administrator's Office, Superior Court, Probation Department, Bar Association, Sonora Police Department and Mother Lode Job Training.

The CCP's Executive Committee's seven voting members include:

- Honorable Eric L. DuTemple, Presiding Judge, Superior Court
- Adele Arnold, Chief Probation Officer
- Donald Segerstrom, District Attorney
- James Mele, Sheriff
- Robert Price, Public Defender
- Mark Stinson, Sonora, Chief of Police
- Tracie Riggs, Director of Behavioral Health

The CCP agreed that the plan for AB 109 programming should be phased to implement and plan concurrently. Due to the uncertainty of the overall impacts resulting from realignment, there are numerous issues to be resolved. The state continues to manage the public safety realignment as a work in progress (addressing conflicting codes; clarifying processes).

Consistent with local needs and resources, the plan required by AB 109/117 should include recommendations to maximize the effective investment of criminal justice resources in evidence-based correctional sanctions and programs, including, but not limited to: day reporting centers, mental health treatment programs, electronic and GPS monitoring programs, victim restitution programs, counseling programs, community service programs, educational programs, and work training programs

With the October 1, 2011 start date and an anticipated AB 109 resource allocation that will **not** cover all costs, the CCP is presenting a phased Implementation Plan for adoption by the Board of Supervisors. A fiscal impact statement was developed and approved by the Executive Committee of the (CCP) and is submitted as part of this plan

for approval by the Board of Supervisors. The attachment reflects the overall concern regarding adequate funding for the implementation of the realignment legislation.

Phase One will span the first nine months and will allow the justice system partners to determine the impacts of the realignment offender population on the Courts, District Attorney, Sheriff, Public Defender and Sonora Police Department plus other service providers in Tuolumne County. In addition to impact determination, the plan recommends implementing a variety of evidence based programs to supervise and rehabilitate this new population including but not limited to a Day Reporting Center, Day Treatment Program, expansion of existing Work Release Programs, and other community based programming as necessary. Phase Two will continue with the implementation of Phase One programs while adding or expanding programs and determining the impacts on the entire County.

The Probation Department has identified four population groups that will need services effective October 1, 2011:

- Approximately **51** offenders will be released from prison between October 1, 2011 and September 2013 from the California Department of Corrections and Rehabilitation back to Tuolumne County for supervision. As designated in the legislature, a post release supervision cannot exceed a period of three years, however, offenders may be discharged earlier following a period of successful community supervision; any revocations will be served in county jail for up to 180 days in length. Also, as directed in the realignment legislation, probation is to supervise under appropriate terms and conditions of probation consistent with evidence based practices, treatment services and a series of progressive incentives and sanctions.
- The current misdemeanor population who will be shifted from in-jail custody to community corrections supervision and programming to make space for more serious offenders under new sentencing guidelines.

- Future misdemeanor offenders who will be subject to alternative sentencing including custody, and various community based supervision and alternative sentencing programs and sanctions.
- The felony offender sentenced to local terms of imprisonment-These offenders include “Split Sentencing” population.

Phase One of the Tuolumne Plan will include the following.

- **Day Reporting Center:**

The Day Reporting Center (DRC) is a multi-phased, highly structured and supervised program contracted through Behavioral Interventions INC. (BI). The DRC will be a one stop center for offender accountability and evidence-based supervision and services. Activities include-assessment and individualized behavior change plans; frequent reporting, drug and alcohol testing, 3-5 hours of cognitive behavioral treatment classes per week, individual cognitive skill building, behavioral therapy sessions, periodic progress evaluations, and aftercare services. Services are and treatment will be provided for eligible offenders as identified through assessment. The program takes approximately 180 days to complete. In the first year this program is funded by the Probation Department SB678 allocation. This program will be implemented and operated through a contract.

- **Electronic Monitoring Program:**

BI, Inc. in cooperation with designated County law enforcement agencies will manage an electronic monitoring program. The CCP will assign the equipment based on offender needs, level of security required and geographic challenges. The program will also allow for drug testing and alcohol monitoring. This is an offender paid program with concessions made for indigent populations and subsidy when necessary.

- **Day Treatment Center:**

The Day Treatment Program (DTP) will be managed by Probation and Sheriff Department staff. This will be a treatment and intervention program operated for misdemeanants in lieu of jail. Offenders cannot exit once checked in. The programming is very structured from 8:30 a.m. to 4:30 p.m. The DTP may include behavioral treatment programming, substance abuse programming and vocational services. The DTP is planned to accommodate up to 30 participants per day and will operate up to 5 days per week in the first year.

- **Work Release Program (Expansion):**

The Work Release Program (WRP) will be expanded and will provide an alternative to incarceration while further reducing overcrowding in the County's Jail. The WRP will be offered 7 days per week and will provide tiered supervision based on assessed risk levels of the offenders. Work sites include county facilities, nonprofit agencies, and other governmental agencies (such as: cities, federal, parks, schools, etc.). Offenders will be supervised by Probation staff and/or other approved participating agency personnel. The program is an offender paid program with a sliding fee scale to accommodate all offenders. There are physical and medical limitations to program participation that must be enforced.

The CCP Executive Committee determined that in order to effectively manage and implement elements of the plan, they needed the initial phase of the plan validated by a survey and interview process with key members of the CCP, Tuolumne County Leaders and Community Partners.

As a result of the survey, implementing actions and short term recommendations are outlined for Phase One that will require time and resources. These are submitted to the Board of Supervisors as part of this plan for approval.

- **Acquisition of a facility for programs:**

Several facility options were reviewed by the Probation Department, CCP and CAO's Office. The lease and tenant improvements will be submitted for approval and processing. All furnishings, Information Technology needs, and supplies will be included in the AB109 budget.

- **Development of a Training Protocol for staff**

Funds are designated in the AB 109 Planning and Start-up allocation for training staff to supervise this offender population and provide programming at the DTP. The training will be developed and/or purchased to provide tools to manage the new population in the alternative sentencing programs as well as the new population at the jail.

- **Preparing budgets:**

Funds allocated for year one (first 9 months) from AB 109 are \$598,767. In addition, there is a onetime planning and start-up/training allocation of \$142,250. All funding can be utilized in the first year and/or rolled over to future years.

The 2011-2012 programming will be augmented by onetime SB 678 funds of \$225,000 which will be used to operate the Day Reporting Center. Attachment B summarized the Phase One budget, staffing allocations and associated revenues. The budget is submitted to the Board of Supervisors for approval as part of the adoption of this plan.

A detailed first year budget will be developed and tracked with mid-year recommendations of carry-overs to determine level of programming possible in year two.

- **Definition of first phase goals**

As a result of the interview and survey process, four overall implementation goals are established by the CCP and recommended to the Board of Supervisors for approval and monitoring. The CCP will report to the Board of Supervisors at least quarterly regarding the progress and status of the Realignment Implementation and these goals.

Goal One-Complete the Implementation Plan with summary strategies and actions for approval by the Board of Supervisors

Goal Two-Open the facility with partners, contractors and equipment in place

Goal Three-Begin operational and programming status of the first four components of Phase I Realignment Implementation: Day Reporting Center, Day Treatment Center, Electronic Monitoring, and Expanded Work Release Program

Goal Four-Design a basic monitoring process to track internal and external impacts of the AB 109 Implementation as identified by the CCP, Board of Supervisors, and community partners. The internal impacts would include references to budget, training and implementation milestones-the external impacts would include information regarding community safety and crime statistics)

- **Secure contract for the Electronic Monitoring Program and operation of Day Reporting Center**

- **Identification of sentencing alternatives for current and future misdemeanants:**

The identification of specific sentencing options must be developed to provide the courts with alternatives for low-level misdemeanor and felony offenders that have distinct consequences are structured and enforced. The new facility with

the Phase I programming will be an integral part of the new and different alternatives needed to relieve jail space issues.

- **Development of all procedures and programming options for the Day Treatment Program**

The DTP will be managed by Probation and Sheriff's Department staff. The curriculum and design of the daily activities for a group of 25 to 30 misdemeanants must be structured and planned.

- **Development of community resources for offenders:**

Services at the center will focus on structured and supervised programming to identify and address specific criminogenic needs while providing alternatives to incarceration. An essential element in changing behavior as presented in Evidenced Based Practices is addressing basic personal needs (in addition to identified criminogenic needs) of housing, food, transportation, and clothing. It is recommended that a committee be formed to bring community resources into the discussion in order to determine what services would be available to this population without disrupting their current service delivery system.

- **Development of educational and employment resources:**

A process will be implemented to access local education resources and to access employment services such as those provided by the Mother Lode Job Connection.

- **Development of Mental and Behavioral Health assessments and short term services**

It is anticipated that a portion of the realignment population in addition to the current and future offenders have long standing, unaddressed mental health and/or substance abuse issues. Assessment, treatment and appropriate services (including medications) must be developed and considered in the

context of critical risk reduction strategy. It is recommended that a committee is formed to identify a service process for this population. For example, Tuolumne County participated in a state funded MIOCR (Mentally Ill Offender Crime Reduction Grant) program that provided services to the offender population.

- **Development of a Special Enforcement Team.**

The purpose of the team is to add an additional layer of public safety and offender supervision. This team will include 2 Deputy Probation Officers and 1 Deputy Sheriff. It is expected that in the supervision of all high risk cases assigned for monitoring by this team, the contact frequency will be high to ensure compliance with court orders, including drug testing, program enrollment, and to ensure program violations are handled swiftly to deter further law violations from occurring. The special enforcement team will also make arrests under the provisions for flash incarceration. The majority of the contacts will be made at the offender's residence.

- **Development of a data collection/monitoring component**

The state has yet to identify any specific performance measures for the AB 109 realignment implementation. A basic data collection component will be designed and implemented to track participation and disposition of those released by the state as well as a separate category for the low-level offenders who participate in the alternative programming.

PLANNING FOR PHASE TWO

- **Programming:**

As the Probation Department and CCP initiate and monitor the implementation of the AB 109 Public Safety Realignment Program for Tuolumne County, there will be mid-course corrections throughout the process. Going forward, the committee must evaluate the success of the different programs and consider, depending on funding and outcome measures, continuing existing service, providing additional programs, or even discontinuing programming. Programs that should be considered for the future are evidence-based options that include but are not limited to:

- Expanding Cognitive Behavioral Therapy (CBT)
- Community-based residential programs targeting offender populations
- Mandatory community service and community integration (community service is already ordered in many cases)
- Mandatory substance abuse treatment even with the very limited funding available
- Mother-infant care programs
- Restorative justice programs
- Victim Awareness Program
- In custody transitional planning
- Family reintegration
- Pre-trial assessments
- Faith Based Outreach and Programming
- Securing Transitional Resources-such as clothing, shelter and food
- Expanded educational and vocational programming both in custody and post release
- In custody case planning for future release and programming

- **Reporting:**

Throughout Phase One, general activities can be reported in narrative format. Phase Two reports should be evaluated and modified to ensure information gathered reflects the needs of the CCP, Probation Department and Tuolumne County relative to internal and external goals.

- **Funding:**

Throughout Phase One, costs will be tracked for all expenditures in support of the realignment offender population. A report should be reviewed with the CAO and CCP reflecting the collateral, unfunded costs of the legislation.

SUMMARY

The Tuolumne County Public Safety Realignment Act Implementation Plan is intended to provide a comprehensive approach to addressing public safety, while maximizing strategies to effectively address criminal recidivism. Elements of the plan manage offenders that will be returning to Tuolumne from state prison and those who will not now be going to state prison. In addition, the plan targets alternatives to traditional incarceration for future offenders by focusing on developing a core one stop treatment center and additional evidence based programs to supervise and rehabilitate this new realignment offender population while reserving scarce jail beds for the most serious offenders.

The Community Corrections Partnership Executive Committee thanks the numerous county, city and community partners for their input in the development of this Plan. Their continued support and involvement will be needed to ensure the safety of our community and successful Plan outcomes.

**Tuolumne County
Public Safety Realignment Act AB 109
Implementation Plan
Fiscal Impact Statement**

The following statement was developed and approved by the Executive Committee of the Tuolumne County Community Corrections Partnership (CCP) and is submitted as part of this plan for approval by the Board of Supervisors.

“Although AB 109 delineates a funding formula for implementation of this legislation, after review of the needs of this county it appears that the initial funding is not adequate to accomplish the specified objective of realignment or to establish the framework necessary to implement the Community Correction Partnership plan within the aggressive time line set by the State of California.

The Tuolumne County CCP is very concerned that the State of California significantly underestimated the capacity of the Tuolumne County Probation Departments staffing allocations plus the Sheriff’s Department’s Jail. There is an undeterminable impact of redirected future sentencing of felons requiring local incarceration and the need for alternate sentencing options and community supervision for current and future no violent, non serious, non sex offenders and misdemeanants. There is inadequate funding available within the allocation to provide additional beds or build a new jail.

In order to provide maximum safety within our community, the CCP and justice partners will place emphasis on enforceable consequences for offenders in sentencing and will provide services to ensure the highest probability of success for this population. Every effort will be made to deal with the offenders, but serious concerns exist relative to the impact on the county as a whole and lack of stable and adequate funding.”