

## **Road Map for Realignment: County Planning for AB 109 and AB 117**

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“Realignment” represents the most significant change to California’s criminal justice system in more than three decades, one that can make a critical and positive difference if done properly. Seizing on this opportunity for reform will require that counties have the tools they need to make informed and effective decisions.

Each county should consider the following steps as it prepares for Realignment:

1. Establish an Executive Committee within the local Community Corrections Partnership that will be responsible for developing and recommending to the county board of supervisors an implementation plan for 2011 public safety realignment. Give all interested parties a seat at the table – particularly law enforcement and treatment providers but also faith-based community, Chamber of Commerce, educators. Required parties include: chief probation officer (chair); chief of police; sheriff; district attorney; public defender; presiding judge of the superior court; a representative from either the county department of social services, mental health, or alcohol and substance abuse programs.
  - CA AB 109 Planning grants being distributed (\$100K small, \$150 medium, \$200K for large) for October 1, 2011 roll out. What agency?
  - AB 116 will establish the Board of State and Community Corrections (January 2012) to provide statewide leadership, coordination and technical assistance for state and local partnerships involved in 2011 realignment. See: [http://www.aroundthecapitol.com/Bills/AB\\_116/20112012/](http://www.aroundthecapitol.com/Bills/AB_116/20112012/)

Organizational Readiness for Change: Research consistently demonstrates that certain organizations are better able to achieve outcomes due to their “readiness” for change. The National Institute for Corrections has been developing the Evidence-Based Practice (EBP) Skills Assessment, a self-report measurement tool designed to gauge the extent to which correctional staff demonstrate the skills necessary to successfully implement evidence based practices. Factors such as staff’s analytical skills, sense of teamwork, communication skills, motivation for change, adequacy of perceived resources, and past experiences of teamwork are related to eventual success of implementing EBP.

- Texas Christian University has several assessment instruments to use: <http://www.ibr.tcu.edu/evidence/evidence.html#organizationalfunctioning>

- National Institute of Corrections' Evidence-Based Practice Skills Assessment for Criminal Justice Organizations: <http://nicic.gov/Library/024397>
2. Profile offenders in your system. Not just who goes to prison, but also who is in jail, who is on probation. AB 109 allows counties to redirect new funds across the offender population, not just on "diverted" prisoners. Array them by seriousness and needs. Hire an analyst or give someone the task of understanding the risk and needs of those prisoners now remaining in county jurisdiction. All good programming begins with a good assessment instrument. Examples include: the LEADS system, the COMPAS, the PVDMI, the CA Static Risk Assessment, the LSR-I.
  3. Assess the public safety/recidivism risks of current offender populations. We can analyze this with data from CA prison release dataset (by county, CDCR release cohort). The Bureau of Justice Statistics has just released the first in a series of data analysis tools enabling the public to explore recidivism of persons involved with the criminal justice system. The Prisoners Recidivism Analysis Tool is available at: <http://bjs.ojp.usdoj.gov/index.cfm?ty=datool&surl=/recidivism/index.cfm>
  4. Consider and prepare for the unintended consequences of changes arising from AB 109. The complex provisions in AB 109 amount to an amendment to California's Penal Code for a wide range of non-serious, non-violent, non-registerable felonies, putting a lowered cap on the sentences for certain crimes and mandating that sentences for many felonies now be served in county jail, not state prison. These changes do not simply alter the population of prisons and jails. The institutions of criminal justice constitute a hydraulic, interactive system in which any change in one part can catalyze changes in the practices of the prosecution, the defense, and the judiciary. For example, these sentencing changes will greatly impact prosecutorial discretion and guilty plea rates. It is an axiom of criminal law that prosecutors can induce guilty pleas from defendants by trading off the prosecutor's power to threaten higher charges and very serious sentences. The prosecutors' ability in this regard and the likelihood of guilty plea is enhanced especially when charges carry mandatory or fixed minimum sentences. If AB 109 removes some of the arrows from the prosecutor's quiver, cases that previously ended in guilty pleas may result in different outcomes because defense counsel might advise defendants that it may be worth their while to risk a trial, including a jury trial, on the lower maximum charges they face. The guilty plea rate, which approaches 95 percent of the convictions across jurisdictions, is the biggest cost- and efficiency savings the prosecutor and the courts have (and even the public defenders) enjoy. So counties will have to hazard guesses as to how many more full trials, including jury trials, will occur as result of AB 109. Any increase will put pressure on staffing in district attorneys' offices, on the available space and staff resources of and caseloads of the Superior Courts, and on the budgets for indigent defense representation. And this possible change in trial rates is just one example of the unintended consequences arising from AB 109 that counties should be prepared to address.

5. Map and assess the quality of your county assets and resources. Once offender profiling is complete, create a matrix that maps those needs with available programs. Engage in a policy discussion about what type of offender will be targeted for which type of program – this is an incredibly important task. For instance, will those with mental illness, HIV, developmental disabilities be allowed to participate in a day reporting center? What type of accommodations will be required? What type of community outreach is needed to prepare for the program? Drug courts/veterans courts? If GPS is advisable, how will the monitoring take place, what about businesses, how will families be brought in? Do you have a well-regarded program that can be expanded?

- Here are some questions to consider: How many spaces are available for offenders in the program? Which offenders are eligible to participate in the program? What does the program contain? How is it delivered? What is the duration of the program? What is required to successfully complete the program? Does the program collaborate with other programs? Is there an evaluation strategy or methodology for the program?
- CDCR has an initial listing of transition and community-based programs at: [http://www.cdcr.ca.gov/Community\\_Partnerships/SearchBy.aspx](http://www.cdcr.ca.gov/Community_Partnerships/SearchBy.aspx)

6. Examine in detail the quality of existing programs. The *Correctional Program Assessment Process* –the degree to which a program’s design incorporates elements consistent with the principles of effective correctional intervention, (free and used by the California Expert Panel (2007), available at: <http://ucicorrections.seweb.uci.edu/pubs>

Resources:

- [CPAP Training Manual \(Revised March 2007\)](http://ucicorrections.seweb.uci.edu/pdf/CPAPTrainingManual.pdf) by Grattet, Jannetta, and Lin (2007): <http://ucicorrections.seweb.uci.edu/pdf/CPAPTrainingManual.pdf>
- [CPAP Assessment of CDCR Recidivism-Reduction Programs](http://ucicorrections.seweb.uci.edu/files/CPAP%20Assessment%20of%20CD) (Revised March 2008): <http://ucicorrections.seweb.uci.edu/files/CPAP%20Assessment%20of%20CD> CR.pdf

7. Identify “evidence-based” programs. The Office of Justice Programs’ CrimeSolutions.gov uses rigorous research to determine what works in criminal justice, juvenile justice, and crime victim services. You can see which programs, rated on program effectiveness, have been reviewed and rated as “effective” by expert reviewers. This is one of many websites and resources that identify the “What Works” literature. However, just because a particular program isn’t included as effective doesn’t necessarily mean the program couldn’t be effective, only that

there is no rigorous research to date demonstrating that it has been proven to be effective. See: <http://www.crimesolutions.gov>

Resources:

- Multi-Site Adult Drug Court Evaluation: <http://courtinnovation.org/multi-site-adult-drug-court-evaluation>

8. Identify gaps in needs/risks and existing programs. Think through program development. Will law enforcement provide support? The community? If you want to launch a new program – such as Project HOPE (requiring short jail terms at every positive drug use) – will the sheriff have beds to reserve for this purpose? How will those program gaps be filled? Which agency, which provider? Use existing resources to identify evidence- based programs.
9. Decide as a team how failures in each type of program will be handled? What tolerance for failed drug tests? What intermediate sanctions imposed? If you don't have this discussion before the program rolls out, you will ultimately end up just having a lot of revocations to prison... this needs to happen before the failures. If you simply ignore the failures, you will end up leaving perhaps a potential recidivism on the street, and a new crime could derail the program.

Resources:

- California's parole violation matrix: <http://www.cdcr.ca.gov/PVDMI/index.html>

10. Determine what outcomes you want to measure? How will we know if it works? What incentives are built in to achieve those outcomes? This too is tricky. If we are simply going to reward staff and agencies for non-revocations, we can easily do that – just increase the threshold for returns to custody. For example, can we be creative about rewarding probation officers who secure employment or housing for their clients rather than simply not revoking them to prison. Shift to offender behavior outcomes rather than simply recidivism, which can be driven by policy changes rather than real offender behavior changes. Consider involving the offender in achieving those outcomes (e.g., Earned Discharge).

Resources:

- *What Makes a Court Problem-Solving: Universal Performance Indicators for Problem-Solving Justice* (Adam Mansky, Rachel Porter and Michael Rempel) available at: [http://www.courtinnovation.org/sites/default/files/What\\_Makes\\_A\\_Court\\_P\\_S.pdf](http://www.courtinnovation.org/sites/default/files/What_Makes_A_Court_P_S.pdf)

11. Plan for the hand-off between government and non-government funded programs FROM THE START (formal supervision ends within about two years for most), informal social control takes over. REENTRY IS RELATIONAL. Only programs with a

plan for transitioning between formal and informal social control will ultimately reduce recidivism. This means it is critical that we engage business, volunteers, faith-based, families, and community and neighborhood organizers. Formerly incarcerated mentors can often be helpful to gain credibility (not just gimmicks). Add these persons to the realignment team from the outset.

12. Determine what other key issues community you want to address with your realignment plan and customize your efforts to match your community needs.

- Immigration, marijuana enforcement, policing/parolee housing ordinances/gang injunctions/human trafficking? Mental health issues? Homelessness? Runaway children/prostitution/truancy/ drug trafficking/sales/public order offenses in business area? The American Probation and Parole Association has just released CD-ROM Guidelines for Gang Reentry.
- Conduct special analyses (e.g., legal barriers to parolee housing, jobs)
- Access to new Medical/Medicare provisions in Obama Healthcare reform package making released prisoners immediately eligible for insurance and benefits. Do/can they enroll while incarcerated?

13. **And finally – try, test, repeat.** Be prepared for failure. Commit to staying the course for a minimum of three to five years. It takes an average of seven years for programs to become institutionalized. All of us in the criminal justice system know that we are in a fickle business – what is in fashion today, is shown to be a failure tomorrow and abandoned. It is how we get the wide pendulum swings.

Resources:

- Trial and Error in Criminal Justice Reform: Learning from Failure by Greg Berman and Aubrey Fox (2010). The central argument of the book is that criminal justice officials should adopt a lesson from the field of science, embracing the trial-and-error process and talking more honestly about how difficult it is to change the behavior of offenders and reduce chronic offending in crime-plagued urban neighborhoods.
- Kotter, J.P. (1995) “Leading Change: Why Transformation Efforts Fail” *Harvard Business Review* March, 1-10.