



Legislation Text

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To: Sonoma County Board of Supervisors
Department or Agency Name(s): Probation Department
Staff Name and Phone Number: David Koch, Probation: 565-2732
Vote Requirement: Majority
Supervisory District(s): Countywide

Title:

Public Safety Realignment Implementation Plan for Fiscal Year 20-21

Recommended Action:

Accept the Community Corrections Partnership's recommended Public Safety Realignment Implementation Plan for Fiscal Year 20-21. The Plan prioritizes public safety and supports rehabilitative services designed to reduce offenders' future involvement in the criminal justice system.

Executive Summary:

This report presents the Community Corrections Partnership's recommended Public Safety Realignment Implementation Plan for FY 20-21, describes how the Community Corrections Partnership will address projected revenue shortfalls, and discusses pretrial release (the release of defendants from jail whose criminal cases are pending), a topic that is rapidly evolving at both the state and county levels.

Many programs in the recommended FY 20-21 budget largely or exclusively serve realigned offenders. An exception--pretrial services--primarily serves non-realigned populations but remains in the recommended FY 20-21 budget as a vital program that reduces unnecessary incarceration time while protecting public safety. Cognizant of the Community Corrections Partnership's budget deficit, the Board allocated one-time FY 19-20 funding to cover a portion of pretrial services program costs (5.0 FTE of Probation Department staff). The Probation Department requests continued Board support for this public safety program but only for the first half of FY 20-21, reflecting possible changes to pretrial funding in the second half of the year following a state bail reform referendum that voters will consider in November.

Discussion:

2011 Public Safety Realignment

In response to a federal court order to reduce prison overcrowding, California's Public Safety Realignment Act (Assembly Bill 109) took effect in 2011 and mandated sweeping changes to the criminal justice system by shifting the responsibility for managing select adult offenders from the state to each of the 58 counties. As of December 31, 2019, the Sonoma County Sheriff's Office and Probation Department supervise almost 700 realigned offenders, comprising 223 inmates and 459 individuals in the community, who formerly would have been supervised by the California Department of Corrections and Rehabilitation.

State Funding

To assist counties in handling this increased workload, the state provides dedicated funding derived from a 1.0625% state sales tax. In earlier years, when the Community Corrections Partnership* (CCP) was developing initial programming for realigned offenders, state revenues exceeded CCP expenses such that its fund balance grew to \$7.4 million in FY 15-16. Expenses have exceeded revenues each year since then as the CCP endeavored to expand programming commensurate with the influx and needs of realigned offenders. The Coronavirus and resulting economic downturn greatly exacerbated this structural imbalance such that program cuts will be necessary in FY 20-21 to reflect diminished revenue expectations.

* The State created the concept of local Community Corrections Partnerships and designated them as the bodies that develop and recommend Public Safety Realignment implementation plans to their boards of supervisors. The executive committee is composed of the Chief Probation Officer as chair, the Sheriff, the District Attorney, Public Defender, a Court representative, a Chief of Police, and the head of Mental Health Services.

FY 20-21 Community Corrections Partnership Budget Considerations

While the CCP's budget has had a structural deficit since FY 15-16, when the CCP approved the proposed FY 20-21 budget in January 2020, fund balance and projected revenues were projected to sustain current programming until FY 22-23. At that time, the CCP had already committed to taking steps toward balancing its budget. Program cuts began in FY 18-19, when the CCP reduced funding to several programs and eliminated others that did not specifically target realigned offenders. The remaining programs that do not target realigned offenders--penal code 1368 competency assessments, penal code 1370 restoration services, and pretrial services--instead serve to reduce jail bed usage, thereby increasing capacity to detain more serious offenders. At its January 2020 meeting, the CCP agreed to devote a portion of each coming monthly meeting, through November 2020, to establishing a set of budget priorities and examining programs one by one to determine where cuts could occur to balance the budget while minimizing negative impacts to public safety.

However, the recent economic downturn added urgency to program prioritization. According to projections in the Governor's May revised budget, estimated FY 20-21 realignment revenue of \$10.8 million combined with the CCP's FY 19-20 yearend fund balance of \$3.9 million will fall \$1.5 million short of covering the proposed \$16.2 million in FY 20-21 programming. This shortfall assumes that the CCP expends its entire fund balance in FY 20-21, which would mark a departure from the existing policy of maintaining at least \$1 million in reserve.

Unfortunately, the FY 21-22 shortfall is estimated to be far greater--over \$5.5 million--as there will be no FY 20-21 yearend fund balance to supplement projected FY 21-22 state revenues of \$11.0 million, enough to cover only two-thirds of current programming. Cuts of this magnitude would devastate the CCP's ability to protect public safety and comply with state mandates to manage the realigned population.

To address these imbalances, the CCP will begin its budget priorities meetings immediately and submit a revised FY 20-21 budget proposal for the Board's review by late summer 2020. Additionally, the CCP will monitor state and county funding developments as it develops a response to the greater projected challenges of FY 21-22.

FY 20-21 Community Corrections Partnership Budget Recommendations

Despite a persistent structural deficit, the CCP increased allocations for detention services by \$2.1 million in FY 19-20 to cover an additional 8.0 FTE correctional deputies and a larger share of inmate healthcare. The CCP approved this additional funding again for FY 20-21. While destabilizing to its budget, the CCP took this necessary measure to fund a portion of detention costs associated with realigned offenders that General Fund had been covering. The Sheriff's Office calculates that realigned inmates make up 22.5% of Detention's Average Daily Population. At a daily rate of \$188.93, the annual cost to the Sheriff's Office for housing AB 109 inmates is \$16,688,186. These costs include, but are not limited to, medical and mental health care; catastrophic medical; extra nursing; programs and services; crisis intervention; food, clothing, and bedding; and staffing costs. With the increased FY 19-20 allocation, CCP funding now covers approximately 41% of the costs of housing realigned offenders.

Many CCP-funded programs now primarily or exclusively serve realigned offenders, a major exception being pretrial services, discussed below. Unfortunately, the CCP's recommended FY 20-21 budget, including the \$1.7 million pretrial services program, will exceed projected revenue and fund balance by \$1.5 million, meaning that the CCP will need to secure alternative funding sources for this program, which generally does not serve the realigned population for which state realignment funding is intended.

All FY 19-20 programming remains in the recommended FY 20-21 budget, the only changes being the addition of a 0.5 FTE Behavioral Health Clinician (\$109,341) to support the Penal Code 1370 Outpatient Restoration Services program and a part-time psychologist (\$39,000) for in-custody competency restoration services. Penal Code 1370 states that defendants found mentally incompetent will have their trial or judgment suspended unless they become mentally competent. Once found mentally competent, defendants' trials may resume and judgment may be pronounced. This program provides evidence-based interventions designed to restore misdemeanor defendants to competency so that they can participate in the legal process and have their cases adjudicated, thus reducing time spent in custody.

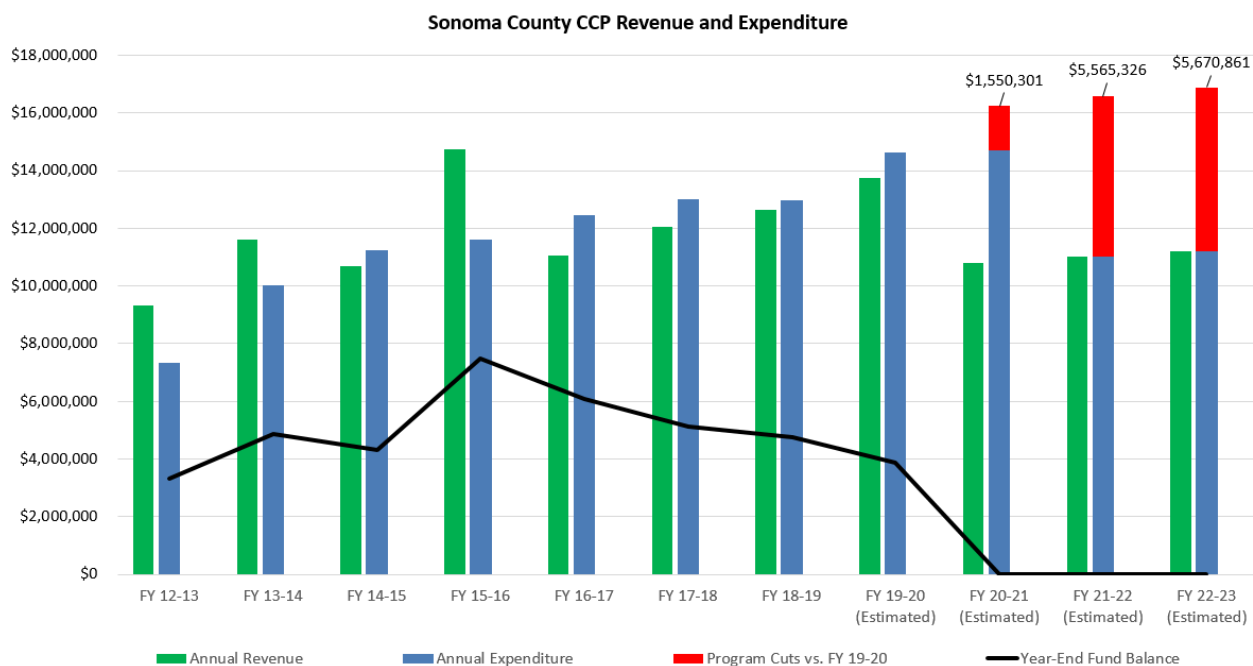
Overall, the CCP's FY 20-21 recommended budget is \$16,237,520, up from \$15,094,014 in FY 19-20, as summarized by department in the table below and detailed in Attachment 1. The budget supports 63.5 full-time equivalent position allocations, up from 58.5 in FY 19-20, reflecting the 5.0 FTE Probation Department pretrial services positions in the recommended FY 20-21 CCP budget that are funded by one-time Graton Mitigation funding in FY 19-20.

Department	FY 19-20 Approved Budget	FY 20-21 Recommended Budget*	% Change FY 19-20 to FY 20-21	Notes
Sheriff	\$7,101,432	\$6,918,530	-3%	Decrease reflects 4.0 FTE pretrial assessment staff projected not to perform this function after Q1, when Probation takes over assessments.
Probation	\$5,712,100	\$6,765,045	18%	Increase reflects 5.0 FTE pretrial staff currently funded by Graton Mitigation. Budget will be reduced if alternate funding secured.
Health Services	\$1,111,892	\$1,368,165	23%	Increase reflects an additional 0.5 FTE Behavioral Health Clinician and increased supply costs.
District Attorney	\$387,116	\$420,565	9%	
Public Defender	\$329,368	\$341,976	4%	
Human Services	\$279,906	\$276,040	-1%	
Superior Court	\$97,200	\$97,200	0%	
County Counsel	\$50,000	\$25,000	-50%	Decrease reflects revised fixed rate.
Information Systems	\$25,000	\$25,000	0%	
TOTAL	\$15,094,014	\$16,237,520	8%	

* Departments included their allocations in their respective recommended County budgets.

Community Corrections Partnership Revenue and Expenditure Projection

As shown in the chart below of the CCP's revenues and expenditures, fund balance peaked at \$7.5 million in FY 15-16, has steadily declined since then, and is projected to be insufficient to sustain the current level of programming in FY 20-21.



The projected necessary cuts of 10% in FY 20-21 and 34% in FY 21-22 would be highly detrimental to Sonoma County's public safety system. While the CCP will recommend which programs to cut, the magnitude of cuts necessary in FY 20-21 is equivalent to all programs provided by Health and Human Services, including community mental health services, community and inmate substance use disorder services, and job placement. FY 21-22 cuts would be equivalent to all Health and Human Services plus all community supervision of realigned offenders and all pretrial services. Pretrial services are especially vulnerable. As discussed below, pretrial services protect public safety while allowing lower-risk offenders to remain in the community, thereby reducing unnecessary incarceration and saving hundreds of jail bed days per year. To sustain this program, the Probation Department submitted a Program Change Request for FY 20-21, discussed below, seeking alternative local funding. Chief Koch will continue working with the County Administrator's Office and the Board to fund this critical public safety program.

Pretrial Services

Description of Pretrial Services. Traditionally, courts have based decisions of release from pre-adjudication incarceration partly on defendants' ability to meet financial burdens of bond or bail, a system that may release dangerous defendants while incarcerating those who pose little risk to the community. By contrast, under pretrial services, release decisions consider defendants' risk of 1) failing to appear in court, and 2) posing a threat to public safety. By using an objective assessment tool to predict these risks, the program protects public safety while reducing unnecessary incarceration of individuals awaiting adjudication.

Informed by these assessments, the Superior Court decides whether to detain or release defendants and determines appropriate levels of pretrial supervision. Individuals granted pretrial release are then monitored by a Probation Officer to enforce law-abiding behavior and appearance for court hearings.

Results of Pretrial Services. The Court began using pretrial services in January 2015, and the program has grown from 689 pretrial grants in calendar year 2015 to over 2,000 pretrial grants in calendar year 2019, as

judges have embraced this risk-based approach. As shown in the table below, the program has proven mostly successful as measured by failures to appear and new criminal referrals.

Pretrial Outcome	Number of Outcomes	Percentage of Total Releases
No Failures to Appear	1,484	83%
No New Criminal Referrals	1,455	81%

Outcomes of pretrial release exits. In 2019, there were 1,786 exits from pretrial.

Of 331 new criminal referrals in 2019, most (73%) were misdemeanor charges, and 27% were for felonies. Considering all 1,786 individuals whose pretrial grant ended in 2019, less than 5% ended due to a new felony referral.

State funding of Pretrial Services. Bail reform legislation, which will be in the hands of California voters in November 2020, may prevail and provide at least partial funding for the associated mandated pretrial services. Senate Bill 10 (SB 10) would effectively eliminate cash bail and replace the system with “Pretrial Assessment Services,” a program that would gather information and provide reports to aid judges in the decision about whether a defendant is a risk to the public or likely to return to court if released before trial. While Pretrial Assessment Services reports would recommend conditions of release, judges would remain the final authorities in making pretrial release or detention decisions. The Probation Department would be responsible for monitoring released individuals in the community at an intensity level determined by the Superior Court. As written, SB 10 identifies funding support to be distributed through the local court.

Additionally, the Sonoma County Superior Court, in partnership with the Probation Department, secured \$5.7 million in state grant funding to expand pretrial operations in FY 20-21. While a boon for Sonoma County, this funding may not be used for existing programming. Grant funding will support additional Probation Department and Superior Court staff, who will provide service 20 hours per day to quickly evaluate booked individuals and release those who can safely remain in the community. The Probation Department will monitor released individuals at a level determined by the Superior Court. This grant also funds a new public safety assessment tool, development of which is underway.

In addition to modernizing and improving current services, the new grant will help the Superior Court and the Probation Department prepare to implement the requirements of SB 10. However, as all grant funds must be expended in FY 20-21, Sonoma County, perhaps supplemented by Senate Bill 10 funding, is expected to bear the full cost of pretrial services in FY 21-22. Should the legislation prevail, a full fiscal and programmatic recommendation will be developed in conjunction with our criminal justice partners, the County Administrator’s Office, and the Superior Court.

Local funding of Pretrial Services. The CCP has funded pretrial services since program inception in 2013. Because the program serves mostly non-realigned offenders (less than 1% of pretrial defendants are AB 109 offenders), in 2018 the Probation Department proposed transitioning funding for five Probation staff from AB 109 Realignment to the General Fund in a phased approach over three fiscal years. In response to this request, for FY 19-20, the Board approved one-time Graton Mitigation funding to cover approximately one-third of program expenses, which amounted to \$777,968 for the 5.0 FTE of Probation Department staff that

support the program. Due to the one-time nature of this funding, the Probation Department requested full funding from the CCP as currently reflected in the recommended FY 20-21 budget. However, with the recent downturn in revenues, this level of funding is subject to reductions. Therefore, the Probation Department requests that the Board continue to provide funding for the same 5.0 FTE Probation staff in FY 20-21, but only for the first six months of the year, amounting to \$412,200 per the Probation Department's Program Change Request to be considered by the Board during upcoming FY 20-21 Budget hearings. This request reflects funding changes that may occur following the SB 10 referendum in November 2020.

Probation Department Program Highlights

Day Reporting Center

Description of the Day Reporting Center. Serving as the central point of evidence-based programming and structure for felony offenders, the Day Reporting Center (DRC) provides a detention alternative for adults who meet the program criteria. The Probation Department collaborates with the Sheriff's Office, the Department of Health Services, and the Human Services Department to provide seamless, offender-engaged reentry services that begin in custody, continue through supervision, and transition offenders to ongoing community-based supports and services when supervision ends. Services include life, parenting, and vocational skills, substance abuse treatment, and Cognitive Behavioral Intervention, a program developed in collaboration with the University of Cincinnati Corrections Institute. The program includes 55 group sessions where participants take accountability for past actions, learn new ways to handle difficult and risky situations, and create a support system and plan for success. The DRC currently serves 169 participants, above the design capacity of 150 participants.

New Program at the Day Reporting Center. The Probation Department continually seeks innovative programming that serves to improve success rates of offenders re-entering the community. With this goal in mind, we recently selected "Five Keys" to provide educational services at the DRC. Five Keys was founded in 2003 by the San Francisco Sheriff's Department as the first accredited charter high school in the nation to provide diploma programs for adults in county jails. Today, the school offers high school education, vocational skills, life skills classes, and access to college and workforce programs to students of any age and regardless of background or circumstance. Five Keys is accredited and offers education at no charge to students or Sonoma County. Five Keys began operating in the Sheriff's Office detention facilities in August 2019 and expanded to the DRC in November 2019, with 25 students currently participating.

Day Reporting Center Participant Comments:

"My probation officer has been approachable, available, and reassuring throughout my time here."

"The staff at DRC makes me WANT to stay clean. Even if mistakes are made, they demonstrate a safe environment to be honest and get the help needed to be successful."

"I am grateful for all the opportunities that have opened up for me because of my participation at the DRC"

"DRC has been the best thing for me."

"The DRC has encouraged me to have a say and really made me feel like they valued my opinion."

"The staff at DRC has really helped me to stay encouraged and motivated to make the necessary changes to better my life."

"They were all very helpful and patient and helped me succeed in this program I am very grateful"

"They are INCREDIBLY welcoming for a parole/probation office that you test at...there has ALWAYS been hot coffee and food and smiles waiting for me."

"I enjoy the group all the facilitators help me well to understand the curriculum. I am using the skills in everyday to slow my thinking process, and make better choices to not have a negative outcome in situations I'm in. Learning tools to keep my sobriety always thinking rationally communicating to lift burdens off my shoulders double checking my thought process. Having healthier relationships with family and friends using the active listening skills it has helped me tremendously."

"[The Aggression Replacement Therapy instructors] have changed the way I view my anger, and since participating and recently graduating, I haven't had a serious outburst of anger in months."

"I've been done with treatment for some time now, and am presently doing very well in recovery"

"The [Child Parent Institute] instructors have been extremely supported. Roberto has continued to help me with questions and concerns with my son over the phone and by text message. I'm super thankful."

Program Evaluation

The CCP endeavors to allocate funding to its most productive uses and improve programming to reduce recidivism and increase public safety. To that end, studies of several programs, including JobLink, substance abuse treatment, and transitional housing services, are underway. While these initial studies will not be able to link individual programs to recidivism rates, criminal justice research shows that properly implemented evidence-based programs such as these lead to improved outcomes. To determine the quality of program implementation, these studies will address questions such as whether the programs are being implemented with fidelity to the underlying evidence-based models and whether clients are making progress within the program goals (e.g., securing employment, staying sober, or moving into stable housing). However, one study underway *will* directly measure recidivism. Researchers at UC Berkeley and UC Irvine are studying efficacy of the Day Reporting Center's Cognitive Behavioral Interventions curriculum in reducing recidivism among mentally ill offenders--a topic of great importance, as approximately half of Day Reporting Center participants have mental illness. Completion of this randomized controlled study is expected in 2022, and the Probation Department looks forward to sharing results with the Board.

Transitional Housing

While finding affordable housing in Sonoma County is difficult for many residents, it can be impossible for individuals recently released from incarceration. Combined with the employment and mental health challenges that this population commonly faces, the stigma of a criminal record virtually assures that

probationers will be unable to compete for rental units in a tight market. The alternative of homelessness endangers not only probationers but also public safety and impairs the Probation Department's ability to provide supervision and rehabilitative support. For these reasons, the CCP has always supported transitional housing, and the Probation Department has secured grant funding to build upon the CCP's contribution. For example, in January 2020, service began at a new 8-bed house under a federal "Justice and Mental Health Collaboration Program" grant. The house serves pre-adjudication individuals with serious mental illness who, absent this program, would likely remain in jail during pretrial proceedings. The following table summarizes current transitional housing funded by CCP or Probation Department grants.

Funding Source	Location	# Beds	Program Focus
CCP	Rohnert Park	10	realigned offenders
CCP	Santa Rosa	9	realigned offenders
CCP	Santa Rosa	7	sex offenders
State Department of Finance grant	Santa Rosa	15	male probationers
State Department of Finance grant	Glen Ellen	15	male probationers
	Glen Ellen	9	female probationers
Federal Justice and Mental Health Collaboration Program grant	Santa Rosa	8	pretrial with serious mental health needs
TOTAL		73	

Conclusion

Assembly Bill 109 is the cornerstone of California's legislative efforts to reduce the prison population and close the revolving door of justice system involvement for individuals convicted of less serious offenses. The CCP developed its Public Safety Realignment Implementation Plan for AB 109 in accordance with the recommendations of Sonoma County's *Criminal Justice Master Plan* that the Board adopted in 2015. The CCP's plan seeks to cost effectively protect public safety by ensuring sufficient detention capacity for those convicted of more serious offenses while focusing on evidence-based rehabilitation and supportive services in the community for those who can be safely supervised out of custody. However, with the recent economic downturn, the CCP may have to compromise and accept reductions in offender supervision and rehabilitative programming.

Prior Board Actions:

08/16/2011 - 06/11/2019: The Board approved the CCP's Annual Realignment Implementation Plan and Budget.

FISCAL SUMMARY

Expenditures	FY 19-20 Adopted	FY20-21 Projected	FY 21-22 Projected
Budgeted Expenses	\$15,094,014	\$16,237,520	\$11,008,297
Additional Appropriation Requested	\$0		
Total Expenditures	\$15,094,014	\$16,237,520	\$11,008,297
Funding Sources			
General Fund/WA GF			
State/Federal	\$15,094,014	\$10,806,635	\$11,008,297
Fees/Other			
Use of Fund Balance	\$0	\$3,880,584	\$0
Contingencies			
Total Sources	\$15,094,014	\$14,687,219	\$11,008,297

Narrative Explanation of Fiscal Impacts:

All County departments with AB 109-funded programs incorporated their portion of the realignment budget into their respective FY 20-21 departmental budgets. Sonoma County's FY 20-21 projected funding sources are as follows:

Funding Source	FY 20-21 Funding
Main AB 109 Subaccount	\$10,315,377
District Attorney/Public Defender Subaccount	\$341,258
CCP Survey Compensation	\$150,000
Main AB 109 FY 19-20 Growth Received in FY 20-21	\$0
District Attorney/Public Defender FY 19-20 Growth Received in FY 20-21	\$0
TOTAL FY 20-21 Funding	\$10,806,635

This funding plus projected fund balance of \$3,880,584 will fund \$14,687,219 of recommended FY 20-21 expenditures, leaving \$1,550,301 in unfunded recommended programs. A subsequent Board submission will recommend program cuts to align expenses with revenue.

Staffing Impacts:			
Position Title (Payroll Classification)	Monthly Salary Range (A-I Step)	Additions (Number)	Deletions (Number)

Narrative Explanation of Staffing Impacts (If Required):

For FY 20-21, the CCP recommends funding for 63.5 full-time equivalent positions, an increase of 5.0 positions from the approved FY 19-20 budget, comprising 4.0 Probation Officer IIIs and 1.0 Probation Department Senior Legal Processor. The increase represents a change in funding source rather than a staffing impact. The

Board approved these positions in the CCP's budget in FY 18-19 and allocated Graton Mitigation funding to them in FY 19-20.

Attachments:

Attachment 1 - CCP FY 20-21 Line Item Budget

Related Items "On File" with the Clerk of the Board:

None.