



## Legislation Text

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**File #:** 2021-0540, **Version:** 1

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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 21-22

**Recommended Action:**

Accept the Community Corrections Partnership's Fiscal Year 21-22 Public Safety Realignment Implementation Plan.

**Executive Summary:**

This report presents the Community Corrections Partnership's (CCP's) recommended Public Safety Realignment Implementation Plan for FY 21-22, which discusses projected revenue and service levels, highlights recent developments affecting CCPs, and describes all recommended FY 21-22 programs, with special focus on pretrial release (the release of defendants from jail whose criminal cases are pending).

While most programs in the recommended FY 21-22 budget largely or exclusively serve realigned offenders, the pretrial program primarily serves non-realigned populations but remains in the recommended budget because of its importance in reducing unnecessary incarceration and protecting public safety. Further, because the state and federal grants that currently fund a majority of pretrial services will soon end, the CCP approved funding 100% of pretrial costs on a one-time basis in FY 21-22, compared to funding approximately 40% of services in FY 20-21. The Probation Department has requested Board support for this public safety program since FY 17-18 and will continue to do so for FY 22-23 and beyond, as the CCP intends to increasingly allocate its resources to address needs of the offender population identified in the realignment legislation.

**Discussion:**

**Assembly Bill 109 and the FY 21-22 Realignment Implementation Plan**

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. To assist counties in handling this increased workload, the state provides dedicated funding derived from a 1.0625% state sales tax. Each year, the Community Corrections Partnership (CCP) recommends a plan to deploy this funding toward various programs in Sonoma County's criminal justice system.

Consistent with prior years, the FY 21-22 plan allocates realignment funding to incarceration, as well as evidence-based programming that helps offenders successfully complete supervision and reduce future

involvement in the justice system. Furthermore, the plan supports recommendations of the *Sonoma County Criminal Justice System Master Plan 2015 Update* that the Board adopted in December 2015. Realignment funding supports staffing and community-based contract services at the Day Reporting Center and pretrial services, both key recommendations of the *Master Plan*, with additional funds allocated to the Sheriff's Office, Probation Department, Health Services, Human Services, District Attorney, and Public Defender.

### **Revenue and Service Levels**

Back in June 2020 when the CCP was deliberating the FY 20-21 budget, our country was in the depths of the Coronavirus pandemic. The Governor's May 2020 revised budget had just been released and projected sharply reduced sales tax revenues. Because of these developments, in addition to a structural deficit that had plagued the CCP since FY 16-17, the CCP reduced or eliminated 11 programs for FY 20-21 amounting to total cuts of \$1.8 million. Seven months later, as the CCP deliberated the FY 21-22 budget in January 2021, conditions had improved, with sales taxes proving resilient and the state providing CCPs additional backfill revenue. Between these favorable revenue developments and the CCP's extensive program cuts, its fund balance, which in June 2020 had been projected to decrease by several million dollars, instead was projected to end FY 20-21 at close to the same amount, \$6.6 million, that it held at yearend FY 19-20.

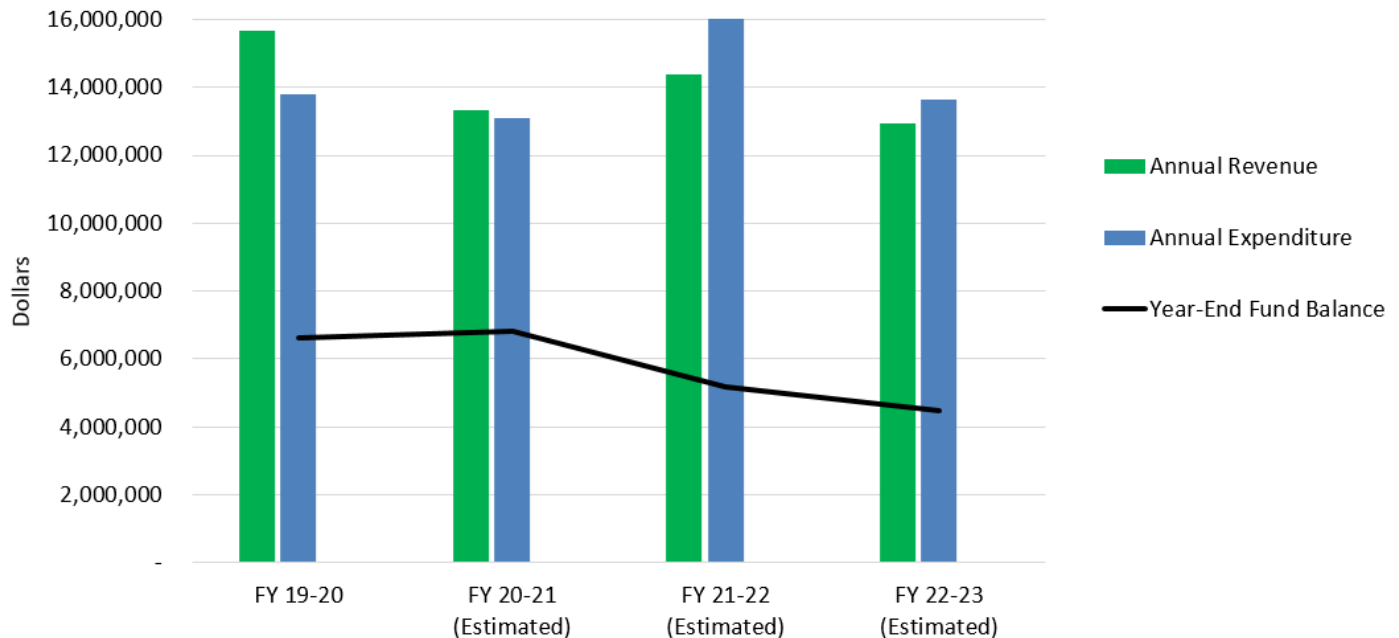
Because of these improved conditions, the CCP voted to continue all FY 20-21 programming in FY 21-22. Additionally, the CCP will fund two more programs, both for pretrial services funded in FY 20-21 by grants that will end in FY 21-22. One program will supplement the pretrial expansion that the Superior Court and Probation Department developed under a grant from the California Judicial Council. The other will support transitional housing and case management for defendants on pretrial release who are homeless and have mental illness or substance use disorders. These programs are further discussed below.

### **FY 21-22 Realignment Budget and Projection**

In FY 21-22, the CCP will receive a projected \$14,383,535 of revenue from the state, as follows:

- CCP base funding of \$12,376,168,
- District Attorney/Public Defender base funding of \$425,404,
- Growth funding of \$1,431,964 (CCP and District Attorney/Public Defender combined), and
- Corrections planning funding of \$150,000.

Additionally, the CCP will carry over a projected \$6,836,536 in unspent prior year realignment funds. The CCP expects to spend all projected FY 21-22 revenues, supplemented by \$1,666,817 in carryover funds for its FY 21-22 recommended budget of \$16,050,352, which would reduce remaining fund balance to \$5,169,718.



The chart below summarizes projected revenues, expenditures, and fund balances through FY 22-23 for the CCP and District Attorney/Public Defender funds combined. Estimated values assume that all FY 20-21 programming continues through FY 22-23 and that the two additional pretrial programs described above are funded in FY 21-22 only. Were additional pretrial funding to continue in FY 22-23, projected yearend fund balance would decrease from \$4.5 million to \$3.1 million.

### Pretrial Services

The CCP has funded a portion of pretrial services since program inception in 2013. By using an objective risk-based assessment to determine whether defendants should be released from custody, these services play a vital role in protecting public safety. Additionally, by allowing lower-risk defendants to remain in the community, pretrial services reduce unnecessary incarceration and overall costs to Sonoma County by providing less expensive and more rehabilitative community supervision alternatives. Individuals granted pretrial release are monitored by Probation Officers who provide programming and enforce law-abiding behavior and appearances for court hearings.

### **Pretrial Services Assessments**

Pretrial Services use objective, evidence-based assessments to evaluate whether defendants should be released to the community while awaiting trial.

Assessments consider:

1. The risks defendants would pose to public safety, and
2. The chances that defendants would not appear at court hearings.

### **Benefits of Pretrial Services**

- Increased public safety
- Reduced incarceration rates
- Equitable treatment of defendants basing their liberty on objectively defined risk to society, versus the bail system, which bases liberty on the ability to post bail funds

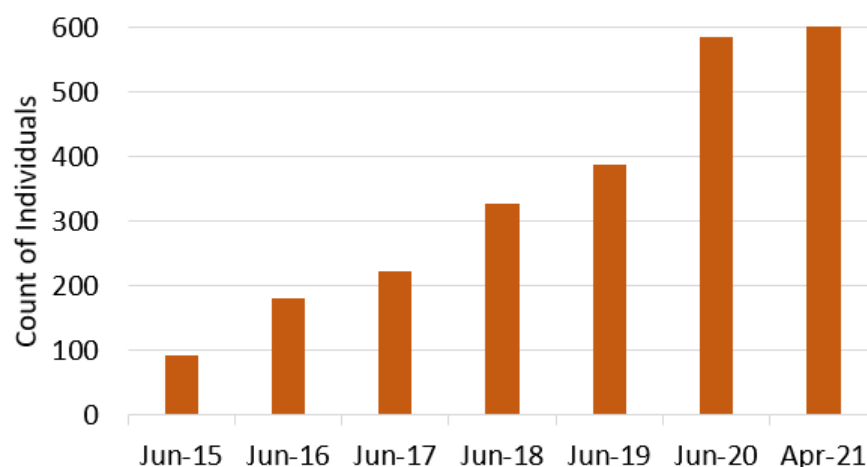
**Funding of Pretrial Services:** Although the CCP has increasingly focused its resources on realigned populations in recent years, its FY 21-22 budget more than doubled funding for pretrial services over FY 20-21 levels. Pretrial services primarily serve non-realigned populations but are vital to the overall justice system and are now the CCP's only major program not focused largely or exclusively on realigned offenders.

In FY 20-21, services are funded partially by the CCP, with most funding coming from a Judicial Council grant to expand pretrial services, establish pre-arraignment pretrial release, modify pretrial policies and practices to ensure alignment with evidence based practice, and implement a validated public safety assessment tool, which provides the courts objective information for their use in making release decisions.

While the Superior Court and Probation Department have greatly expanded and modernized services under this grant, funds will be depleted by July 2021, and no additional state funding has yet been identified. Senate Bill 10, the Bail Reform Act of 2018, would have provided post-pilot funding. However, in November 2020, voters defeated Proposition 25, which repealed SB 10.

Under these constrained conditions, the CCP decided to fund, on a one-time basis, a downsized version of the expanded pretrial services program in addition to the base pretrial services that it has funded in most years since FY 13-14. The CCP's FY 21-22 budgeted funding amounts to \$1,120,068 for the expanded services plus an additional \$1,152,911 for ongoing base services. To accommodate the expanded pretrial program, the Probation Department added 8.0 FTE time-limited positions in FY 19-20, all of which will expire after June 30, 2021, and therefore are excluded from the recommended budget. However, a Program Change Request will be presented for the Board's consideration during the June 2021 budget hearings to restore four of these positions using CCP funding in FY 21-22. (The remaining four positions transitioned to existing vacancies within Probation in April 2021.)

**Results of Pretrial Services:** The Superior Court began using pretrial services in January 2015, and the program grew over the years as judges increasingly embraced this risk-based approach (see figure below).



The table below shows pretrial outcome data since launching the Pretrial Pilot.

Pretrial Outcome	Number of Exits*	Percentage of Total Releases
No Failures to Appear	862	73%
No New Booking into Custody	1,018	86%

\* Between 7/1/20 and 4/15/21, there were 1,178 exits. The two pretrial outcomes are not mutually exclusive; most exiting individuals were counted in both outcomes.

Of the 160 arrests and bookings into custody for new charges since the pilot launch, 62% were misdemeanor charges, and 38% were for felonies. Additionally, 80% of these arrests were for non-violent charges and 20% for violent charges. Considering all 1,178 individuals whose pretrial grant ended since launching the Pretrial Pilot, about 5% ended due to a new felony arrest.

**Additional Pretrial Services:** In September 2018, The U.S. Department of Justice awarded Sonoma County \$750,000 under the Justice and Mental Health Collaboration Program to design and operate transitional housing and case management for homeless defendants on pretrial release who have mental illness or co-occurring mental health and substance use disorders. In partnership with InterFaith Shelter Network, the Probation Department opened an eight-bed housing and support facility in January 2020, which now serves high-risk populations who, absent this program, would likely remain incarcerated at greater cost and with fewer rehabilitative services.

The grant covers program expenses through December 2021, and the Probation Department is seeking alternative funding sources, to continue the program subsequently. If alternative funding is not secured by January 2022, the CCP will fund these housing and case management services from January through June 2022 or until alternative funding is secured, whichever comes first. Budgeted cost for this six-month period is \$242,304.

Considering funding of pretrial services more generally, CCP funding may become decreasingly viable in future years as funding is expected to be increasingly allocated to the realigned offenders for whom AB 109 funding was primarily intended. 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), and the Probation Department will continue seeking Board support in future years.

### **Recent Developments**

**Expedited Releases of Prison Inmates:** As the pandemic took hold in 2020, the California Department of Corrections and Rehabilitation initiated an expedited release program to allow for increased physical distancing in state prisons, with the goal of limiting the spread of Coronavirus among inmates and staff. As of April 2021, this program continues.

Many of the released individuals are supervised by counties. As a result, Sonoma County probation populations began increasing in May 2020, which led to higher probation officer caseloads and increased demand for the Probation Department's contracted transitional housing resources. Populations have since moderated to pre-expedited release levels.

**State Audit of Public Safety Realignment:** In March 2021, the State Auditor released an audit of Alameda, Fresno, and Los Angeles counties and the Board of State and Community Corrections, focusing on public safety realignment program implementation and spending. While the auditor's findings varied among the organizations assessed, it criticized all audited counties' "lack of comprehensive planning and oversight because the counties have narrowly interpreted the scope of realignment funding."

By "realignment funding," the audit refers to all funding that California allocates to counties each year to offset their costs associated with 2011 realignment legislation. Realignment funds, derived from state sales tax and vehicle license fees, totaled over \$6 billion in FY 19-20, of which less than 20% was allocated to the Community Corrections account.

As the audit notes, the Alameda and Fresno CCPs oversee only the Community Corrections account, while Los Angeles oversees only the Community Corrections and District Attorney and Public Defender accounts.

The audit states that

By not reviewing all public safety realignment funds, the Partnership Committees did not draw on a variety of funding sources in making recommendations to their boards of supervisors regarding the various services they provide or could provide. In fact, counties may have planned and spent public safety realignment funds differently had they taken a more comprehensive view of public safety realignment and all of the funds available for their efforts.

All audited counties and the Board of State and Community Corrections disagreed with the auditor's interpretation that state law requires them to oversee and report on all 2011 realignment accounts. By these organizations' interpretation of the legislation, CCPs are responsible for overseeing only the Community Corrections account.

In addition to defining which realignment accounts CCPs should oversee, the audit made several other findings, including the following. A brief description of the Sonoma County CCP's current practices follows each finding.

**Surpluses:** The audit stated that counties should eliminate excessive surpluses in realignment accounts. The audit suggests that reserves not exceed 25% of previous year's revenues.

Sonoma County's CCP will hold a projected \$5.2 million at the end of FY 21-22, representing 39% of FY 20-21 revenue. At the end of FY 22-23, this figure will decrease to 31%. When determining appropriate reserve amounts, the Government Finance Officers Association notes that governments should consider volatility of the revenue source, with greater volatility warranting higher reserve levels. In the CCP's case, the revenue source--sales taxes--is highly volatile. For example, last year, following release of the Governor's May 2020 revised budget, it appeared that the CCP would end FY 21-22 with *zero* reserves.

**Evaluation:** The audit found that CCPs have not sufficiently evaluated the effectiveness of their programs and states that they should conduct evaluations of the effectiveness of their programs at least every three years.

While Sonoma County's CCP has not evaluated each of its programs every three years, it has retained an external firm to evaluate program effectiveness each year since FY 16-17. Since FY 18-19, the Probation Department has provided additional funding to evaluate CCP-funded programs. As of April 2021, over a dozen evaluations have been completed or are in progress.

**Overcrowding:** Realignment worsened overcrowding conditions at some county jails, which the audit states have not made adequate efforts to address.

The Sonoma County jail population has been within capacity in recent years. As of April 2021, the population is at 74% of open unit capacity and 33% of total capacity, including units at the North County Detention Facility, which is currently closed.

**Mental Health:** The audit found that some jails lack sufficient data regarding whether inmates have mental illnesses.

The Sonoma County Sheriff's Office diligently maintains records of inmate mental health status. As of April 2021, 330 inmates have a mental health diagnosis, and 180 have acute mental illness. Additionally, with benefit of a \$40 million award from the state to construct a behavioral health unit, the jail will soon have dedicated space for mental health care.

Given the potential ramifications of the audit's findings, the CCP will closely follow the state's response. Regarding oversight of realignment funding, Sonoma County's CCP, similar to those of Alameda and Fresno, oversees only the Community Corrections account. While it does not oversee the District Attorney and Public Defender account, it does monitor that account per its historical practice of funding the costs of CCP-approved District Attorney and Public Defender programs that exceed funding available in their respective dedicated accounts.

## **Conclusion**

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

for those who can be safely supervised out of custody. Additionally, the CCP recommends fully funding pretrial services in FY 21-22 as the Probation Department continues pursuing alternative funding sources.

**Prior Board Actions:**

08/16/2011 - 12/15/2020: The Board accepted the CCP's Annual Realignment Implementation Plan and Budget.

**FISCAL SUMMARY**

Expenditures	FY 20-21 Adopted	FY21-22 Projected	FY 22-23 Projected
Budgeted Expenses	\$14,337,173	\$16,050,352	\$13,638,712
Additional Appropriation Requested			
<b>Total Expenditures</b>	\$14,337,173	\$16,050,352	\$13,638,712
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal	\$14,337,173	\$14,383,535	\$12,951,572
Fees/Other			
Use of Fund Balance	\$0	\$1,666,817	\$687,141
Contingencies			
<b>Total Sources</b>	\$14,337,173	\$16,050,352	\$13,638,712

**Narrative Explanation of Fiscal Impacts:**

All County departments with AB 109-funded programs incorporated their portion of the realignment budget into their respective FY 21-22 departmental budgets, except that 4.0 FTE time-limited pretrial services grant allocations that will expire after June 30, 2021, are being funded by the CCP in FY 21-22 and extended via the Program Change Request process.

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

**Narrative Explanation of Staffing Impacts (If Required):**

For FY 21-22, the CCP recommends funding 60.00 full-time equivalent positions, an increase of 1.25 positions from the approved FY 20-21 budget, comprising a decrease of 4.00 Correctional Deputies that the Sheriff's Office will fund separately, and an increase of 5.25 positions in the Probation Department for pretrial services (4.75 FTE) and a Business Systems Analyst (0.50 FTE). The Pretrial Pilot funded four of the pretrial services positions in FY 20-21. While the CCP funded the remaining 0.75 FTE pretrial position and 0.50 FTE Business Systems Analyst in FY 20-21, the associated FTEs were included in separate accounting sections.



**Attachments:**

Attachment 1 - FY 21-22 CCP Public Safety Realignment Implementation Plan

**Related Items “On File” with the Clerk of the Board:**

None