

**Performance Audit of
San Francisco's Implementation of
Public Safety Realignment**

Prepared for the

**Board of Supervisors
of the City and County of San Francisco**

by the

San Francisco Budget and Legislative Analyst

February 11, 2013

BOARD OF SUPERVISORS

BUDGET AND LEGISLATIVE ANALYST

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February 11, 2013

Honorable Carmen Chu,
Chair of the Government Audit and Oversight Committee
and Members of the Board of Supervisors
City and County of San Francisco
Room 244, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Dear Supervisor Chu and Members of the Board of Supervisors:

The Budget and Legislative Analyst is pleased to submit this *Performance Audit of Public Safety Realignment*. In response to a motion adopted by the Board of Supervisors on March 6, 2012 (Motion No. M12-031), the Budget and Legislative Analyst conducted this performance audit, pursuant to the Board of Supervisors powers of inquiry as defined in Charter Section 16.114 and in accordance with U.S. Government Accountability Office (GAO) standards, as detailed in the Introduction to the report.

The purpose of the performance audit was to examine the Adult Probation Department's, Sheriff's Department's, District Attorney's Office's and Public Defender's Office's management of public safety realignment, including increases in caseload and average daily jail population; implementation of new programs; program costs; and staffing levels.

The performance audit contains eight findings and 19 recommendations directed as appropriate to the Chief Adult Probation Officer, the Chair of the Community Corrections Partnership, the Sheriff, the District Attorney, the Mayor's Budget Director, the Public Defender, the Chief Executive Officer of the Superior Court, and the Board of Supervisors. The Executive Summary, which follows this transmittal letter, summarizes the Budget Analyst's eight findings and 19 recommendations. The proper implementation of our recommendations would result in an estimated General Fund savings of \$1,355,725 annually.

The Chief Adult Probation Officer, the Sheriff, the District Attorney and the Public Defender have provided written responses to our performance audit which are attached to this report, beginning on page 79. In total, these departments agree or partially agree with 11 of our 19 recommendations, or 58 percent. The departments disagree or partially disagree with 7 of our 19 recommendations, or 37 percent, as explained in the Executive Summary of our report.

Board of Supervisors
Budget and Legislative Analyst

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We would like to thank the Chief Adult Probation Officer, the Sheriff, the Public Defender and the District Attorney and their staffs for their cooperation during this performance audit.

Respectfully submitted,



Harvey M. Rose
Budget and Legislative Analyst

cc: President Chiu	Clerk of the Board
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Executive Summary

The Board of Supervisors directed the Budget and Legislative Analyst's Office to conduct a performance audit of the Adult Probation and Sheriff's Departments' implementation of Public Safety Realignment, through a motion (M12-0031) approved on March 6, 2012. The performance audit examined the implementation of Public Safety Realignment, including (a) increases in caseload and average jail population resulting from the transfer of certain offenders from the State to the County of San Francisco; (b) the Adult Probation and Sheriff's Departments' implementation of new programs to support the transfer of these offenders, including implementation schedules and program costs; and (c) Adult Probation and Sheriff's Departments' staffing levels to support the transfer of these offenders. The performance audit also examined the efforts of other agencies formally and informally engaged in Public Safety Realignment activities, including the District Attorney's Office, the Public Defender's Office, and the Superior Court.

The performance audit was conducted in accordance with Government Auditing Standards, 2011 Revision, issued by the Comptroller General of the United States, U.S. Government Accountability Office.

Introduction

As the growth rate of the prison population began to exceed the capacity to accommodate it, the State of California began actively taking steps to introduce reform measures that would reduce the number of inmates in State prisons. In 2009, the California State Senate approved a bill called the California Community Corrections Performance Incentive Act – more commonly referred to as Senate Bill (SB) 678. This legislation, widely considered an opportunity to reduce prison commitments and lower State corrections costs, sought to reduce probation revocations to prison through the implementation of evidence-based probation supervision practices.

Assembly Bill 109 – California's Public Safety Realignment

Following the Supreme Court ruling in 2011 that the State must reduce its prison population, California determined that the best way to meet the goal of reducing the State prison population was to shift responsibility and funding to the local level. Specifically, Assembly Bill 109 (AB109) made four major changes to the State's criminal justice system as of October 2011:

1. **Redefined Felonies:** through Penal Code 1170(h), the State created a new category of low level crimes that would now be sentenced on the local level.
2. **Post-Release Community Supervision:** State prisoners with non-serious, non-violent and non-sex offenses would now be supervised on the local level, as opposed to State parole.
3. **Enhanced Local Custody and Supervision Tools:** the State created new tools for counties to adopt to continue to reduce the jail population and support evidence-based practices.
4. **Parole Violations:** parole violators would now be sentenced to local custody.

AB109 was approved in June 2011 and made effective October 2011.

San Francisco Implementation Efforts

Despite the short timeframe for San Francisco to implement public safety realignment, San Francisco was in a position of relative preparedness for the changes introduced by AB109. In the years preceding public safety realignment, the San Francisco criminal justice community had already begun formally collaborating – evidenced most clearly by creation of the Reentry Council – and the jail population was in decline. Compared to other jurisdictions, San Francisco sent fewer offenders to State prison, and had adopted many of the tools that would be necessary for AB109 implementation – including a validated risk and needs assessment and other evidence-based practices.

When the legislation went into effect in October 2011, the City’s criminal justice departments were able to come together quickly with the Superior Court, and representatives from State and Federal criminal justice agencies and non-profit organizations to work collaboratively to develop and implement an ambitious plan for AB109 implementation through the Community Corrections Partnership, which was established by the State Penal Code to advise on the implementation of realignment programs. The State allocated funds to offset the costs of realignment, which were distributed among San Francisco’s criminal justice departments, as shown in the table below, to support additional staffing and programmatic needs to support the transition of transferring offenders to the County of San Francisco.

Table 1
Public Safety Realignment Budget

	FY 2011-12	FY 2012-13	FY 2013-14	Total
<u>AB109 Revenue</u>				
Sheriff	\$350,938	\$8,539,301	\$8,539,301	\$17,429,540
Adult Probation On-going Revenue	4,498,899	8,539,301	8,539,301	21,577,501
Adult Probation One-time Revenue	556,325	0	0	556,325
District Attorney	190,507	109,755	109,755	410,017
Public Defender	190,507	109,755	109,755	410,017
Total AB109 Revenue	\$5,787,176	\$17,298,112	\$17,298,112	\$40,383,400
<u>Department Expenditures</u>				
Adult Probation	\$5,055,224	\$9,379,126	\$9,559,102	\$23,993,452
Sheriff	7,259,850	9,679,800	9,679,800	26,619,450
Public Defender	190,507	289,450	289,450	769,407
District Attorney	190,507	289,450	289,450	769,407
Total Uses	\$12,696,088	\$19,637,826	\$19,817,802	\$51,151,716
General Fund Expenditures, Exceeding AB109 Revenue	(\$6,908,912)	(\$2,339,714)	(\$2,519,690)	(\$11,768,316)

Source: Mayor’s Office

For the fiscal years 2011-12, 2012-13 and 2013-14, the Board of Supervisors has appropriated \$11,768,316 General Fund monies, in addition to State funds, to support Public Safety Realignment, as shown in the table above.

Recognizing the significant progress that the City has made, this performance audit seeks to identify opportunities to meet the City's public safety realignment goals more efficiently going forward.

Planning for Public Safety Realignment Implementation

In San Francisco, AB109 policies and practices are guided, to varying degrees, by three advisory bodies: the Community Corrections Partnership, the San Francisco Reentry Council, and the San Francisco Sentencing Commission. The Community Corrections Partnership, Reentry Council and Sentencing Commission each has an area of primary responsibility (respectively, implementation of AB109, support for ex-offenders generally, and sentencing reform), but share similar purposes. The overarching purpose of all three bodies is to encourage and implement the use of alternative sentencing and best practices in criminal justice to reduce recidivism, to reduce the costs of incarceration and to increase public safety. There is also overlap in the membership of the Reentry Council, Community Corrections Partnership and Sentencing Commission. As a result, the same departments meet regularly under slightly different auspices to discuss fundamentally the same issues.

Therefore, in order to streamline the planning and coordination of all reentry programs and make the most efficient use of department staff time, the Board of Supervisors should integrate the functions of the City-mandated Reentry Council and Sentencing Commission with the State-mandated Community Corrections Partnership when they sunset in 2014 and 2015 respectively.

The State Penal Code calls for the Presiding Judge of the Superior Court or his or her designee to be a member of the Community Corrections Partnership. A San Francisco Superior Court judge was initially a member of the Community Corrections Partnership Executive Committee when it formed in August 2011, but subsequently, the Administrative Office of the Court advised against judges' participation in the Community Corrections Partnership due to separation of powers. In San Francisco, the Superior Court has not assigned other staff as members of the Community Corrections Partnership although other counties in California have assigned administrative or management staff as members to their respective Community Corrections Partnerships. Because of the value of Superior Court participation in criminal policy discussions, the Superior Court should assign a Superior Court representative to the Community Corrections Partnership.

Further, the Mayor's Budget Office should incorporate Public Safety Realignment implementation and allocation of resources in the City's Five-Year Financial Plan. Placing AB109 funding and activities within the broader citywide context will provide stronger executive direction, resulting in more efficient use of funds.

The Adult Probation Department’s Initial Implementation of Public Safety Realignment

In accordance with AB109, San Francisco’s Adult Probation Department worked under tight time constraints to adopt corrections programming to meet new requirements established by the State and has made intensive efforts to prepare for realignment. However, in the year since AB109 implementation began in October 2011, the Department has not sufficiently managed some components of the initial implementation.

AB109 Policies and Procedures

In March 2011, seven months prior to the implementation of AB109, the Adult Probation Department began an internal policy review to address outdated and incomplete policies and procedures. While this internal Departmental policy review was initiated prior to the passage of AB109, it has become a process through which new policies needed for the implementation of AB109 could be drafted and executed.

The Adult Probation Department’s review and revision of policies and procedures has fallen behind schedule, and as a result, the Adult Probation Department is proposing an extension of the contract with the Warren Institute to revise the Department’s policies and procedures, and an increase in the contract amount, to meet the initial project goals. The original contract for \$99,999 outlined 58 policies to be completed between January and June 2012. As of January 2013, only 21% of the policies had been completed. The Department is now modifying the contract, increasing the amount from \$99,999 to \$149,998 for an additional 38 policies. The Chief Adult Probation Officer should manage the internal policy review process to ensure timely and cost-effective completion of new or revised policies.

Adult Probation Department Trainings

As part of the implementation of AB109, the Adult Probation Department significantly increased training hours for deputy probation officers. The State Corrections Standards Authority mandates that deputy probation officers, after their first year, receive 40 hours of training per year. During the first year of AB109 implementation (from October 1, 2011 through September 30, 2012), the Adult Probation Department conducted 7,662.5 hours of training for approximately 71 deputy probation officers, or an average of 108 hours of training per officer, as shown in the table below. The 108 hours is 170% more than the State-mandated training requirement of 40 hours.

Table 2
Deputy Probation Officers’ Training Hours, October 2011 through September 2012

	Mandatory Training Hours	Non-Mandatory Training Hours	Total Training Hours
October 2011 – June 2012	4,014	2,376.5	6,390.5
July 2012 – September 2012	974	298	1,272
Total Year 1	4,988	2,674.5	7,662.5
Average Hours per Deputy Probation Officer (71 Deputy Probation Officers)	70.3	37.7	108

While some new training and skills development would be expected for AB109 changes, this 170% increase in training hours is both excessive and expensive. At the lowest salary step for deputy probation officers, the City has spent an additional \$184,653 for staff time spent in training between October 2011 and October 2012, beyond the State and Department requirements. The Chief Adult Probation Officer should reduce the annual training hours for deputy probation officers to the 40 hours per year mandated by the State Corrections Standards Authority.

The Community Assessment and Services Center

The Adult Probation Department plans to operate a one-stop service center, called the Community Assessment and Services Center (CASC), to coordinate services, such as behavioral health and job training, for AB109 clients. The Department entered into a contract with Leaders in Community Alternatives, Inc. (LCA) to lease space and provide case management and other services for the Community Assessment and Services Center (CASC).

Delays in Opening the CASC

According to the 2012 Implementation Plan, a partial opening of leased space for the CASC was originally scheduled for June 2012, and the CASC was to be fully operational by November 2012. After a series of delays in securing an appropriate site, the leased space is now expected to be operational in April 2013.

Repeatedly revised timelines for the CASC proved consistently unrealistic, as demonstrated by failure to meet deadlines. Although the Adult Probation Department has reported that the CASC is a key tool in addressing the problem of recidivism in the AB109 population, the benefits of the program will not be realized for some AB109 clients given these delays. An anticipated 92 clients – over 14% of the total AB109 population of 645 expected between October 1, 2011 and April 2013 - will complete their supervision requirements in San Francisco prior to the April 2013 opening of the CASC. An estimated 56 of the 92 clients will complete their supervision periods between the scheduled November 2012 opening of the CASC space and the revised opening deadline of April 2013.

The Budget for the CASC Lease

The CASC budget, which does not cover all the expected costs for space and services, has also proved unrealistic. The annual CASC budget, according to the contract between LCA and the Adult Probation Department, is \$1,758,361 for program staff, lease and related costs, including administration. The expected annual costs for the lease and related costs will exceed the budget by \$400,642. The lease agreement for the CASC space at 564 6th Street provides for rent that exceeds the budget by 82% and tenant improvements that exceed the budget by 53%, as shown in the table below.

Table 3
Increased Actual Rent and Tenant Improvement Costs

	Annual Rent and Related Costs	Tenant Improvements
Original Budget	\$486,000	\$1,070,971
Actual Lease Agreement	886,642	1,638,800
Excess of Lease Cost Over Budget	(400,642)	(\$567,829)
Percent of Lease Cost Over Budget	82%	53%

The Department plans to request additional General Fund monies from the City in the FY 2013-14 budget to cover the estimated increased costs of \$400,642 for the lease and needed tenant improvements.

Adult Probation Department and CASC Services

As currently planned, the CASC provides similar services to those provided by the Adult Probation Department. An AB109 client will be assigned to a case manager at the CASC to connect that client with services, in addition to being assigned to a deputy probation officer, whose job description also requires the officer to connect clients with services as necessary. The Adult Probation Department does not have specific procedures to differentiate deputy probation officer and CASC staff responsibilities, nor ensure that implementation of the CASC does not duplicate deputy probation officer responsibilities. Although the Adult Probation Department states that a forthcoming Policies and Procedures Manual should outline CASC roles and programming, the manual should have been drafted in advance of the hiring of contractors and the overall CASC planning process, in order to clarify key outstanding questions regarding basic functionality of the CASC.

The Adult Probation Department should offset the increased lease costs of the CASC by reducing the number of staff duplicated by the deputy probation officers and Leaders in Community Alternatives staff.

The Sheriff's Department Use of Alternatives to Incarceration

Alternatives to incarceration are intended as a cost-effective means of improving public safety by facilitating the rehabilitation and successful reentry of offenders, and thus reducing recidivism. The 2011 Public Safety Realignment Implementation Plan set forth the expanded use of alternatives to incarceration by the Sheriff's Department under AB109, and established the use of alternatives to incarceration as one of three intended outcomes of San Francisco's AB109 implementation.

Community Programs Eligibility Criteria

For sentenced offenders to be placed in an alternative to incarceration by the Sheriff's Department, such as home detention with electronic monitoring, the sentenced offenders must first meet the "Community Programs Eligibility Criteria". The Community Programs Division within the Sheriff's Department manages all in and out of custody programs. The Sheriff's Department's alternatives to incarcerations include: (1) a home detention program in which participants are released without electronic monitoring, (2) a home detention program with electronic monitoring, and (3) a work release program. With the start of AB109, the Sheriff's Department issued new eligibility criteria, which excluded AB109 offenders from alternatives to incarceration, contrary to the intent of the 2011 Implementation Plan.

Although the 2011 and 2012 Implementation Plans recommended the expanded use of alternatives to incarceration, the Sheriff's Department reduced its use of alternatives to incarceration at the start of AB109 implementation. The average number of offenders placed in alternative to incarceration programs each month decreased from 27.2 in the 6 months prior to AB109 to 6.2 in the first 12 months of AB109, a decrease of 77%.

On November 21, 2012, the Department issued revised eligibility criteria effective starting November 26, 2012. The revised eligibility criteria, currently in effect, are intended to expand the Department's use of alternatives to incarceration.

Limited Planning for the Increased Use of Alternatives to Incarceration

The Sheriff's Department has not put in place a thorough planning process to ensure optimal program capacity as it expands the use of alternatives to incarceration. In order to expand the Sheriff's Department's alternatives to incarceration programs, the Department is planning a phased increase in the operational hours of the Community Programs Division. However, the Sheriff's Department currently lacks clear guidelines on the appropriate level of staffing needed to ensure adequate supervision of offenders in alternatives to incarceration.

If the Sheriff's Department increased the average daily number of sentenced offenders in the Department's alternative to incarceration programs by 50, the Department could potentially close half a housing pod at County Jail 5, which would eliminate 14 shifts per week. This would enable the Sheriff's Department to transfer 4.2 FTE (full time equivalent) Deputy Sheriffs, with salary and fringe benefit costs of \$521,262, to the Community Programs Division and other posts as needed, or realize annual salary savings through attrition.

In order to utilize alternatives to incarceration more effectively in the future, the Sheriff should develop a planning process that includes: (1) developing estimates of the number of offenders that will be placed in alternatives to incarceration as a result of the revised eligibility criteria and future proposed revisions to the eligibility criteria; (2) closely monitoring the number of offenders in alternatives to incarceration and evaluating the results of the eligibility criteria to identify opportunities for further revisions; and (3) conducting a review of staffing needs in the Community Programs Division, resulting in guidelines for appropriate client-to-staff ratios.

In collaboration with the Community Corrections Partnership, the Sheriff's Department should also verify the need for the authority to place pretrial defendants on electronic monitoring without a Court referral, and if verified, pursue authorization from the Board of Supervisors as allowed by AB109.

Finally, the Community Correction Partnership should provide detailed and comprehensive reporting on the City's use of alternatives to incarceration.

Public Defender and District Attorney Positions Supporting Public Safety Realignment

In addition to the larger county grants, the State provided separate grants to District Attorney and Public Defender offices in each county for AB109 implementation. To date, the State grant funding for the District Attorney and Public Defender has been split evenly between the two offices, with \$109,515 in State realignment funding and \$179,936 in City General Fund money allocated to each office in FY 2012-13.

The Public Defender and District Attorney's Office have each used AB109 funding to hire positions to assess offenders and assist their respective attorneys in crafting or reviewing proposed alternative sentences for AB109 defendants. The Public Defender's Office hired a Criminal Justice Specialist and the District Attorney's Office hired an Alternative Sentencing Planner.

Need for Enhanced Use of Management Data to Track Workload, Performance and Outcomes

Data concerning the impact of the Criminal Justice Specialist and the Alternative Sentencing Planner is limited. For example, while the Public Defender has some data demonstrating that 32 of the 55 assessments of Realignment participants resulted in alternative sentences or other services, the Public Defender cannot show the extent to which these alternative sentences or services may have occurred without the Criminal Justice Specialist's intervention. Comparable statistics are not currently available from the District Attorney's Office.

The Public Defender and District Attorney should formalize caseload and performance standards for these two new Realignment positions in order to analyze and communicate the results of their work.

Planning for Parole Revocation Hearings

San Francisco faces new responsibilities under Public Safety Realignment beginning July 1, 2013. In all but a few instances, the San Francisco Superior Court will assume responsibility from the State Board of Parole Hearings for parole revocation hearings. The County will be

responsible for defending parolees in these hearings and providing legal support to the State Division of Adult Parole Operations (Adult Parole).

Potentially Significant Impacts of Parole Revocation Hearings on the Superior Court and Public Defender

Under current Adult Parole practice, in the first year there could be as many as 2,384 parole revocations hearings in Superior Court in FY 2013-14. Both the Public Defender's Office and District Attorney's Office will have new responsibilities in parole revocation hearings. While the actual number of additional parole revocation hearings in FY 2013-14 may be less than the estimated 2,384 because Adult Parole has been given new authority to use flash incarcerations (incarcerating parole violators up to 10 days in County jail without a hearing), the transfer of parole revocation hearings from the State to the San Francisco Superior Court beginning in July 2013 will result in increased Public Defender and District Attorney workload. Over time, the number of parolees is expected to decline, resulting in fewer parole revocation proceedings after initial transfer in FY 2013-14.

Resources Needed for Provision of Parolee Representation

Both the Public Defender's Office and the District Attorney's Office may need additional staff resources in FY 2013-14 to handle parole revocation hearings. The Community Corrections Partnership, in consultation with the Mayor's Office, will need to evaluate the impact of the transfer of parole revocation hearings from the State to the San Francisco Superior Court on the Public Defender's Office and District Attorney's Office, which may include reallocating existing staff resources or AB109 funds in the FY 2013-14 budget.

Procedures for Different Types of Revocation Proceedings

The Community Corrections Partnership also needs to ensure standard procedures for Post Release Community Supervision, probation, and parole revocation hearings and conformance to State law. The Adult Probation Department should require a Division Director to review Post Release Community Supervision revocation petitions to be consistent with State parole procedures.

Housing for AB109 Offenders

The reduction in recidivism that is expected from public safety realignment will require that ex-offenders have access to adequate services, including housing opportunities. Stable housing is widely recognized as critical in enabling probationers to adhere to the terms of their supervision and avoid re-incarceration.

Although the Adult Probation Department estimates that 47% of AB109 offenders face housing instability, the City has set aside relatively little housing specifically targeted to the reentry population, and the City's low income housing policy does not prioritize AB109 offenders.

Housing Data Collection for AB109 Offenders and Unmet Need

Despite the service needs assessments completed for all offenders, the City lacks comprehensive data that details how many offenders have accessed existing City housing services, as well as the type and volume of housing options needed for this population. The Adult Probation Department currently tracks case management data, including housing information, on an Excel spreadsheet. The current method of collection and analysis of data related to unmet housing needs and use by AB109 offenders of City-sponsored housing is inefficient.

Access to Affordable Housing for AB109 Offenders

Responsibility for funding and administering housing programs for low-income City residents is dispersed among several City departments. The Mayor's Office of Housing (MOH) and the successor agency to the San Francisco Redevelopment Agency support the creation of new housing units, while the Human Services Agency and the Department of Public Health focus on funding/oversight of housing operations. The San Francisco Housing Authority serves both functions, as an arm of the Federal government. As a result of this distribution of housing programs across several City departments, there is no single access point for AB109 offenders or the case managers representing them to identify available low cost housing.

Barriers to Affordable Housing for AB109 Offenders

AB109 offenders face additional barriers to housing access based on criminal background policies and supervision residency requirements. Many independent landlords and affordable housing providers require criminal background information on tenant applications. As such, the Mayor's Office of Housing has identified discrimination on the basis of criminal background as a fair housing issue, and has accordingly developed tenant screening policies that seek to narrow the use of criminal background checks and encourage providers to only consider recent criminal offenses during application reviews.

AB109 offenders are statutorily required to reside in San Francisco for the duration of their supervision, with few exceptions. Individuals may temporarily locate outside of San Francisco for the purposes of approved residential treatment, or because they are pending transfer to supervision in that county where they demonstrate that they have a permanent residence.

The Community Corrections Partnership should consult with the Mayor's Office of Housing on the barriers to housing faced by offenders, including discrimination and residency requirements, to assess the need for policy changes to increase housing alternatives for offenders.

In addition, the Community Corrections Partnership should present a report to the Board of Supervisors on the housing needs of AB109 offenders and the current utilization rates of housing programs in order to identify where gaps exist prior to July 31, 2013.

Information Systems Management

As the criminal justice system has faced growing demands for services under increasingly tight budget conditions, the State of California has focused on identifying successful practices that reduce recidivism and improve the State's return on criminal justice investment. These evidence-based practices help guide policy-making by providing direct evidence of successful programs to reduce recidivism, lower jail populations and improve overall public safety.

Justice Information Tracking System (JUSTIS) Not Operational

San Francisco was initially on the cutting-edge of these innovations, and began a citywide effort in 1997 called the Justice Information Tracking Systems (JUSTIS) to share information across the City's criminal justice departments. Despite over \$32 million in General Fund expenditures, JUSTIS is still not fully operational. Because the project cannot be completed until all participating departments connect their case management systems, the project's completion and success relies upon the commitment and cooperation of department leadership. Since the effort began, various factors have impeded the participation of individual departments, including leadership changes, lack of internal expertise, and insufficient funding. Although the City has taken steps to expedite the process, most recently by relocating the JUSTIS project team to the City Administrator's Office, because certain departments (notably, Adult Probation) have not yet connected their case management system to the JUSTIS Hub, JUSTIS is not yet fully operational.

Currently, the Adult Probation Department and the other criminal justice departments track AB109 information within their respective case management systems manually, which would be largely unnecessary had the JUSTIS project been completed. The JUSTIS Project would have automated much of this work.

Inefficient Data Tracking and Collection for AB109

In addition to compiling data from other departments to track AB109 activities citywide, the Adult Probation Department also tracks its own client information manually. Without a fully functional case management system, and given the importance of data tracking and management for AB109, the Adult Probation Department has resorted to tracking all case management information manually in a separate Excel spreadsheet. This method of manual data management, however, is inefficient and unsophisticated. At best, data entry is duplicated, and as a manual process, this presents a threat to the integrity of the data. In addition, it makes the process of data sharing with other departments cumbersome and inefficient.

The City has made significant investments in updating criminal justice information systems. In addition to the \$32 million in General Fund monies spent on the JUSTIS project, the City has spent at least an additional \$477,119 in General Fund monies to support AB109 data collection specifically for the first year of implementation.

To save resources and improve data collection efficiency, the Adult Probation Department should expedite the launch of its new case management system. The department should seek to

launch the system by July 31, 2013. Following the launch of the new system, the Adult Probation Department should ensure that the interface with JUSTIS is immediately implemented.

The Community Corrections Partnership should provide a written report to the Board of Supervisors on the status of the information systems management, which should include related costs and timelines, prior to July 31, 2013.

Responses to Recommendations from Departments

The performance audit contains eight findings and 19 recommendations directed as appropriate to the Chief Adult Probation Officer, the Chair of the Community Corrections Partnership, the Sheriff, the District Attorney, the Mayor’s Budget Director, the Public Defender, the Chief Executive Officer of the Superior Court, and the Board of Supervisors.

The Chief Adult Probation Officer, the Sheriff, the District Attorney and the Public Defender have provided written responses to our performance audit which are attached to this report, beginning on page 79. In total, these departments agree or partially agree with 11 of our 19 recommendations, or 58 percent. The departments disagree or partially disagree with 7 of our 19 recommendations, or 37 percent, as described below.

- In her written response, the Chief Adult Probation Officer disagrees with Recommendation 2.2, which states that the Chief Adult Probation Officer should “reduce the current annual training hours for deputy probation officers to no more than the 40 hours per year mandated by the State Corrections Standards Authority”. The Chief Probation Officer states that new officers must complete 200 hours of mandatory training, and all staff need to learn new skills to implement research-based principles. Our report, however, does not dispute state-mandated training hours for new officers and did not include those hours in the analysis. Based on Department data, deputy probation officers completed an average of 108 training hours in the first year of AB109 implementation. As noted on page 25 of our report, “since implementation of AB109, each [current] deputy probation officer completed approximately 68 additional hours of training...While some new training and skills development would be expected for AB109 changes, this 170% increase in training hours is both excessive and expensive.” In fact, the Department’s own annual training plan for 2013 notes only a 40-hour training requirement for deputy probation officers.
- The Chief Adult Probation Officer also disagrees with Recommendation 3.1, which states that the Chief Adult Probation Officer should offset the increased CASC costs by reducing the number of staff duplicated by the deputy probation officers and LCA staff. Although the Chief Adult Probation Officer responded that “the increased [CASC] lease cost may be funded through [the] AB109 allocation from the state”, as noted on page 29 in our report, “the Department plans to request additional General Fund monies from the City in the FY 2013-14 budget to cover the estimated increase of \$400,642”. We recommend instead that those increased costs be paid for by offsetting staffing costs “because case management and referral services provided by CASC and deputy probation officers, as currently described, appear to overlap, the Adult Probation Department could decrease LCA case management staff costs to offset the duplication.”

- With regard to our audit finding regarding Information Systems Management, the Chief Adult Probation Officer disagrees with Recommendation 8.1 for the Chief Adult Probation Officer to “expedite the launch of the Smart Probation case management system...earlier than fall 2013.” The Chief Adult Probation Officer has responded that “the fall 2013 go-live date is already an aggressive implementation schedule [and] the transition...is very complex”. However, as noted on page 78 in our report, “according to the Project Plan, there is minimal customization needed so the vendor should not need eight months or more to install the program.” Further, “expedited implementation of the new case management system at the Adult Probation Department will not only ensure greater data integrity for AB109 reporting, but will reduce the current annual costs of manual data management”.
- The Chief Adult Probation Officer disagrees with Recommendation 8.2 that the Chief Adult Probation Officer should “ensure that the interface between Smart Probation and the Justice Information Tracking Systems (JUSTIS) happens immediately upon [Smart Probation’s] launch. The [Adult Probation] Department should work closely with the JUSTIS project team to identify any remaining challenges in advance of [Smart Probation’s] launch”. The Chief Adult Probation Officer disagrees, stating “Currently, JUSTIS Go-live is scheduled for the month after the entire case management system goes live.” This response aligns with our recommendation which urges immediate action to “allow the JUSTIS project to become operational, which will further automate the data reporting capacity for the City... [and improve] the ability to track performance and measure outcomes”.
- In her capacity as Chair of the Community Corrections Partnership, the Chief Adult Probation Officer also disagrees with Recommendation 8.3, which states that the Chair should “provide a report to the Board of Supervisors on the status of information systems management, which should include related costs and timelines”. The Chief Adult Probation Officer responds that “APD (Adult Probation Department) believes that it would be more appropriate to have the JUSTIS Governance Council provide such a report”. As noted on page 74 of our report, “complete JUSTIS activation depends upon the participation of each criminal justice department”, and as the coordinating body for those departments, it is appropriate for the Community Corrections Partnership to report on the status, particularly as it pertains to AB109 implementation and costs. As our report notes on page 76, “the City has spent at least an additional \$477,119 in General Fund monies to support AB109 data collection specifically for the first year of implementation,” and efforts to reduce those costs should be expedited and a report should be submitted to the Board of Supervisors.
- The District Attorney disagrees with Recommendation 5.3 which recommends that he “evaluate the assignment of the Alternative Sentencing Planner (ASP) at the Early Resolution program in order to demonstrate that caseload and case seriousness and complexity warrant use of the Alternative Sentencing Planner in this program.” The District Attorney responds that “the maximum benefit for the use of the ASP case consultation...is under constant review by [his] office...A complete summary on ASP process outcomes include [the Early Resolution Program assignment] is expected in February 2013”. Such outcome measures will be useful, particularly given the changes in the Early Resolution Program case filings, which “are declining (reduced by 11.5% from 279 cases in 2011 to 247 cases in 2012)”, as noted on page 51 in our report. Rather than simply summarize outcomes, as noted on page 51 of our report, the District Attorney “should assess the effectiveness of using the

Alternative Sentencing Planner in these cases” to ensure the most effective use of this position.

- The Chief Executive of the Superior Court disagrees with our Recommendation 1.3 which states that he should assign a staff representative to the Community Corrections Partnership. The Chief Executive states that “staff are not attending, and this is deliberate”. Though he notes that “courts throughout the state have wrestled with this issue”, as noted on page 21 of our report “other counties have assigned administrative or management staff as members to their respective Community Corrections Partnerships”. Because we recognize “the value of Superior Court participation in criminal policy discussions” and because the State Penal Code calls for the presiding judge of the Superior Court or his or her designee to be a member of the Community Corrections Partnership, we continue to recommend that “the Superior Court should assign a Superior Court representative to the Community Corrections Partnership”.

Introduction

The Board of Supervisors directed the Budget and Legislative Analyst's Office to conduct a performance audit of the Adult Probation and Sheriff's Departments' implementation of Public Safety Realignment, through a motion (M12-0031) approved on March 6, 2012.

Scope

The performance audit examined the implementation of Public Safety Realignment, including (a) increases in caseload and average jail population resulting from the transfer of certain offenders from the State to the County; (b) the Adult Probation and Sheriff's Departments' implementation of new programs to support the transfer of these offenders, including implementation schedules, program costs, performance measures, and outcomes; and (c) Adult Probation and Sheriff's Departments' staffing levels to support the transfer of these offenders. The performance audit also examined the efforts of other agencies formally and informally engaged in Public Safety Realignment activities, including the District Attorney's Office, the Public Defender's Office, the Department of Public Health, the Human Services Agency, and the Mayor's Office, as well as the Superior Court.

Methodology

The performance audit was conducted in accordance with Government Auditing Standards, 2011 Revision, issued by the Comptroller General of the United States, U.S. Government Accountability Office. In accordance with these requirements and standard performance audit practices, we performed the following performance audit procedures:

- Conducted interviews with executive, management and other staff in the Adult Probation Department, the Sheriff's Department, the District Attorney's Office, the Public Defender's Office, the Department of Public Health, the Human Services Agency, the Mayor's Office, , the City Administrator's Office, and the Superior Court.
- Interviewed representatives from 3 non-profit organizations that have contracts with the Adult Probation and Sheriff's departments.
- Reviewed reports and studies regarding Public Safety Realignment.
- Reviewed California State Penal Codes, San Francisco Charter Sections and Administrative Code provisions, policies, procedures, memoranda, and other guidelines governing the management of public safety realignment and criminal justice programs.
- Conducted reviews of (a) staffing plans; (b) contracts; (c) job descriptions; (d) policies and procedures; and (e) other data pertinent to the audit objectives.
- Submitted a draft report, with findings and recommendations, to the Adult Probation Department, Sheriff's Department, District Attorney's Office, Public Defender's Office, the

Department of Public Health, Human Services Agency, Mayor's Office, Controller's Office, City Administrator's Office, and the Superior Court on December 28, 2012; and conducted exit conferences with department directors and executive between January 4-18, 2013.

- Submitted the final draft report, incorporating comments and information provided in the exit conferences, to the Adult Probation Department, Sheriff's Department, District Attorney's Office, Public Defender's Office, Mayor's Office, and the Superior Court on January 24, 2013.

History of State Criminal Justice Reform

As the growth rate of the prison population began to exceed the capacity to accommodate it, the state of California began actively taking steps to introduce reform measures that would reduce the number of inmates in state prisons.

Senate Bill 678

In 2009, the California State Senate passed a bill called the California Community Corrections Performance Incentive Act – more commonly referred to as Senate Bill (SB) 678. This legislation, widely considered an opportunity to reduce prison commitments and lower state corrections costs, sought to reduce probation revocations to prison through the implementation of evidence-based probation supervision practices. Probation revocation refers to the administrative act of committing a probationer back to prison for failure to comply with the terms of probation. The evidence-based practices are defined in the legislation as practices or programs “demonstrated by scientific research to reduce recidivism”. Although originally funded with seed money through the American Recovery and Reinvestment Act (ARRA) of 2009, the ultimate objective for SB678 was to create a stable source of state funding for the implementation of evidence-based practices that would reduce probation recidivism, and reduce prison overcrowding.

The state calculated each county's “failure rate” by the average number of felony probationers sentenced to prison in FY 2006-08 divided by the county's average annual felony probation population in FY 2006-08 to establish a baseline county revocation rate. Thereafter, annual actual revocation rates are compared to the county's baseline to determine whether revocations have been reduced. The state then allocates a percentage of the savings from the reduced revocations to the county that must be used for implementation of evidence-based felony probation supervision practices, intermediate sanctions, or program evaluation. The bill creates incentives for counties to reduce recidivism by tying funding directly to performance.

SB678 also mandated the creation of Community Corrections Partnerships in counties to coordinate implementation efforts.

San Francisco received SB678 incentive grants of \$831,075 in FY 2011-12 and \$1,356,567 in FY 2012-13.

The Governor's proposed budget for FY 2013-14 reflects a sharp reduction in funding for SB 678 incentive grants – from \$138 million to \$35 million. Presumably, this will mean a reduction in the annual grant amount for San Francisco in FY 2013-14.

California Risk Assessment Pilot Program

Also in 2009, the Administrative Offices of the Courts and the Chief Probation Officers of California launched a joint project to look at the implementation of evidence-based practices. With funding from the National Institute of Corrections, the California Risk Assessment Pilot Program (CalRAPP) seeks to explore how offender risk assessment information can be successfully used in adult sentencing and violation of probation proceedings to reduce offender recidivism and improve accountability. The project will examine the impact of individual characteristics on the success of evidence-based practices, and how local criminal justice systems can transition to evidence-based practices, with a particular focus on the 18-25 year old felony offender population.

San Francisco was one of four counties in the state selected to participate in CalRAPP, including Napa, Santa Cruz and Yolo counties. There was no funding attached to this program.

Legal Challenges to California Criminal Justice Practices

As the state of California took legislative action to encourage county probation departments to support successful practices, while reducing criminal behavior and easing state prison overcrowding, the Courts provided an extra push.

In 2009, a Federal Court ordered the state to reduce its prison population by 137.5% (~33,000 offenders) within 2 years. California appealed that ruling, and the case was sent up to the Supreme Court. In May 2011, the Supreme Court released its decision on the case (*Brown v. Plata*), in which it agreed with the Federal Court's determination, and further categorized the overcrowding in California state prisons as so severe that it constituted cruel and unusual punishment. The state of California was thereby ordered to reduce the state prison population by 33,000 by May 2013.

Assembly Bill 109 – California's Public Safety Realignment

Following the Supreme Court's *Brown v. Plata* decision, the State determined that the best way to meet the goal of reducing the state prison population was to shift responsibility and funding down to the local level. Through this Public Safety "Realignment", the State sought to expand the use of evidence-based practices, where data could be gathered and Realignment practices assessed in order to establish best practices, to achieve the ultimate goal of reducing the state prison population.

The State estimates that AB109 will reduce state General Fund spending by nearly \$30 billion over a 10-year period relative to spending projections in the absence of realignment.

Legal Terms of AB109

Specifically, Assembly Bill 109 made four major changes to the state's criminal justice system as of October 2011:

1. **Redefined Felonies:** through Penal Code 1170(h), the state created a new category of low level crimes that would now be sentenced on the local level.
2. **Post-Release Community Supervision:** state prisoners with non-serious, non-violent and non-sex offenses, and who complete their sentence on or after October 1, 2011, would now be supervised on the local level, as opposed to state parole.
3. **Enhanced Local Custody and Supervision Tools:** the state created new tools for counties to adopt to continue to reduce the jail population and support evidence-based practices.
4. **Parole Violations:** parole violators would now be sentenced to local custody, rather than returned to state prison.

Redefined Felonies

As noted above, AB109 revised the state Penal Code to create a new category of non-serious, non-violent, and non-sex crimes for offenders without serious prior convictions that would be prosecuted on the local level starting October 1, 2011. Because these crimes typically reflect a lower level of harm, the offenders are considered lower risk than the rest of the felony population. Sentencing for these offenders can include either straight jail time, or split sentences which include jail time and mandatory supervision. This supervision is provided by county probation, and these felonies are commonly referred to by the Penal Code that created them: "1170(h)".

In addition, AB109 created a new standard for custody credit, or "credit for time served", whereby offenders earn credit for four days for every two served in county jail. This means that many offenders serve half of their actual sentence under AB109.

Post-Release Community Supervision

Inmates exiting from state prison on or after October 1, 2011, who were serving sentences for lower level felonies as described above, were released to county supervision (as opposed to state parole). In accordance with AB109, each county designated an agency to be responsible for Post-Release Community Supervision; all 58 counties in California designated their respective Adult Probation departments to serve in this capacity. The California Department of Corrections and Rehabilitation notifies the receiving county department 30 days prior to release of an offender, whose probation term can expire at the end of six months, if there are no violations.

Post-Release Community Supervision Sanctions – Flash Incarcerations, Violations and Warrants

AB109 also established graduated sanctions that county probation departments can employ when a Post-Release Community Supervision client violates the terms of probation. In order of

severity, these sanctions include flash incarcerations, formal violation charges, and Post-Release Community Supervision revocation (which returns an individual to custody for up to 180 days). Flash incarcerations allow the probation department to use a short term of incarceration in county jail as a sanction for violations of probation terms, to prevent work and home disruptions. Flash incarcerations can last up to 10 days and be used more than once per offender; state law does not explicitly ensure the client’s right to due process and legal representation during the flash incarceration process.

Parole Violators

AB109 did not change supervision requirements for offenders serving time in state prison for serious, violent or sex offenses; those offenders are still released to State Parole. However, parole violation sentences are now served in county jail, rather than state prison, under AB109. In addition, starting July 2013, parole revocation hearings will shift from the state to the county responsibility. Parole revocation hearings are hearings before a judge to determine whether the defendant has violated a condition of parole.

Alternatives to Incarceration

In order to provide effective supervision, both in and out of custody, local agencies would now have the ability to adopt additional tools through AB109. These include: alternatives to incarceration; home detention and electronic monitoring for non-serious, non-violent and non-sex crimes; local jail credits for time served; and split sentences. Counties were encouraged to expand the use of “community-based punishment,” which also includes community service; restorative justice programs; work, training, or education in a furlough program, or work in lieu of confinement; day reporting; and residential or nonresidential substance abuse treatment programs. The primary responsibility for each category of offenders, including changes from State to local jurisdiction, is summarized in Table 1 below:

Table 1:
Impact of AB109 on Primary Responsibility for Felony Populations

	Newly convicted of low level felonies (1170h)	Non serious, non violent offenders released from state prison to community	Pre-existing and violent parolees	Parole violators
Pre- AB109	State	State	State	State
Phase 1: Oct. 2011-June 2013	County	County	State	County - Incarceration
Phase 2: July 1, 2013	County	County	State	County - Adjudication

Source: Budget and Legislative Analyst

AB109 Implementation Requirements and Executive Committee

Building on the work of SB678, AB109 further empowered the local Community Corrections Partnerships. It mandated the creation of an Executive Committee of Community Corrections Partnership. Under the leadership of the Chief Probation Officer, this body is to include the Chief of Police, Sheriff, District Attorney, Public Defender, Presiding Judge of Superior Court, or their designees, and a public health or social representative, to be appointed by the Board of Supervisors. The Executive Committee has responsibility for recommending a local implementation plan which must be approved by the county Board of Supervisors. This plan was only required by legislation for the first year of implementation (2011).

AB109 was passed in June 2011 and made effective October 2011, giving counties only four months to plan for these changes. Notably, despite the focus on evidence-based practices, AB109 did not establish reporting or evaluation standards for county performance.

State Allocations for AB109

Funding for AB109 comes from a dedicated portion of state sales tax revenue and Vehicle License Fees (VLF), as outlined in trailer bills AB 118 and SB 89. SB 89 provides revenue to counties for local public safety programs, and AB 118 establishes the Local Revenue Fund for counties to receive funding for realignment.

Statewide funding for 2011 totaled nearly \$400,000,000. Funding for 2012 reached over \$840,000,000 and will likely exceed \$1,000,000,000 in 2013.

Funding for realignment has been guaranteed through the passage of Proposition 30 in November 2012, which placed a permanent funding source in the state constitution.

County Realignment Funding Formula, 2011

For the first year of AB109 implementation, the state created a funding formula that was based on previous prison usage by counties. Each county's allocation was based on the following breakdown:

- 60%: based on county's historical rate of sending lower level offenders to state prison (or, the estimated average daily population of offenders meeting AB109 eligibility criteria)
- 30%: based on county's adult population (ages 18-64), as a percentage of the statewide population
- 10%: based on SB678 distribution formula (or, probation outcomes)

County Realignment Funding Formula, 2012-14

In response to concerns that the 2011 funding formula did not fairly distribute resources, the state adapted the formula for 2012 and 2013. In addition to establishing a minimum funding base (equal to double the county's 2011 funding), the revised formula aimed to reflect the various needs around the state. The final 2012/2013 formula allowed counties to receive a Realignment allocation according to the best result of the following:

- County's adult population (ages 18-64), as a percentage of the statewide population
- Status quo (or, the 2011 formula: 60/30/10)
- Adjusted Average Daily Population

As discussed further below, San Francisco selected the first of these options. Because Realignment is still relatively new, and counties are still developing tools to report performance outcomes, the State's adjusted formula remains temporary.

Supplemental Allocations for Public Defender and District Attorney

As noted above, the state has set aside a distinct allocation exclusively for Public Defender and District Attorney revocation activities, in order to meet the increased needs facing those county departments as a result of AB109 changes. Total state funding for Public Defender and District Attorney implementation activities are:

2011-12: \$12,700,000

2012-13: \$14,600,000

2013-14: \$17,100,000

San Francisco Implementation Efforts

As noted above, counties around the state had only four months to plan for the changes that would result from AB109. Despite that challenging timeframe, San Francisco was in a very fortunate position of relative preparedness – having already initiated significant coordination efforts among the criminal justice community with a focus on recidivism reduction. As a result, San Francisco was already experiencing lower jail population counts and improved probation outcomes for offenders.

San Francisco Criminal Justice Coordination, Prior to AB109

Reentry Council

In 2008, the San Francisco Board of Supervisors passed an ordinance to establish the San Francisco Reentry Council to help coordinate local efforts to promote the successful reentry of former inmates from local and state correctional facilities into the community. This effort to create a formal body was the result of bringing together two ad hoc bodies that had been meeting separately since 2005 to discuss issues related to this population. The creation of the Reentry Council marked an innovative achievement for the San Francisco criminal justice community by establishing formal opportunities for collaboration and partnership to address reentry issues Citywide.

The Reentry Council has 23 members including representatives from the: Board of Supervisors, Mayor's Office, Public Defender's Office, District Attorney's Office, Sheriff's Department, Adult Probation Department, Police Department, Juvenile Probation Department, Superior Court, California Department of Corrections and Rehabilitation, US Probation and Pretrial Services, Office of Economic and Workforce Development, Human Services Agency, Department of Public Health, the Department of Children, Youth and Families, and Child Support Services.

In addition, various members of the community, as well as former offenders, serve on council committees.

Community Corrections Partnership

As noted above, the San Francisco Community Corrections Partnership was created in 2009 in accordance with SB678. Chaired by the Adult Probation Department, the Partnership is comprised of criminal justice departments, including the Sheriff's Department, Public Defender's Office, District Attorney's Office, Police Department, Superior Court, Public Health Department and Human Services Agency. The Community Corrections Partnership also includes victim representatives and ex-offender representatives.

The purpose of this body is to coordinate the implementation of evidence-based practices in probation supervision.

San Francisco Jail Population Trends, Prior to AB109

Prior to the passage of AB109, San Francisco had experienced a steady decline in the number of offenders sent to state prison and incarcerated in county jail facilities. While much of the rest of California faced the need to build new facilities to accommodate growing numbers of offenders, San Francisco closed facilities that were no longer needed. In fact, in 2010, as the average daily population in the jails had steadily declined, the City closed County Jail 6 – at a time when many other counties across the state worked to build more jail facilities.

San Francisco's county jails can accommodate nearly 2,000 offenders (not including County Jail 6), with a total capacity of 1,988. In 2011, the greatest number of offenders in San Francisco jails was 1,745, or 88% of the total capacity. The lowest number of offenders per month was 1,445 offenders, or 73% of the total capacity. Table 2 below shows how jail population fluctuated in San Francisco County jails in 2011.

Table 2: Monthly Capacity of San Francisco County Jails, excluding County Jail 6, 2011

2011 Month	Total Inmates	Maximum Capacity	Percent Occupied
January	1,745	1,988	88%
February	1,679	1,988	84%
March	1,750	1,988	88%
April	1,669	1,988	84%
May	1,570	1,988	79%
June	1,538	1,988	77%
July	1,481	1,988	74%
August	1,445	1,988	73%
September	1,447	1,988	73%
October	1,478	1,988	74%
November	1,531	1,988	77%
December	1,522	1,988	77%
Average	1,571	1,988	79%

Source: Sheriff's Department

AB109 Planning and Leadership

As noted above, SB678 and AB109 established two leadership bodies on the county level to coordinate the activities among local criminal justice departments in implementing state policies and managing offender populations. Respectively, they mandated the establishment of the Community Corrections Partnership and the Executive Committee of the Community Corrections Partnership.

The Executive Committee of the Community Corrections Partnership includes Adult Probation, Sheriff, District Attorney, Public Defender, Public Health, Police, and the Superior Court. The Adult Probation Department chairs the Executive Committee.

San Francisco Distribution of State Allocation

As discussed above, the state changed its funding formula for the county Realignment grants for years 2 and 3 of implementation, largely because of inequities in the original formula. Initial funding for the City and County of San Francisco (“City”) for 2011 implementation was significantly lower than other California counties, primarily because San Francisco had been more effective to date in sending fewer offenders to state prison. San Francisco was effectively penalized for its prior good performance through the Year 1 funding formula.

San Francisco and other counties advocated to the state legislature for a revised funding formula for future years. As shown below, San Francisco was able to select the best result from the new formula options, allowing for a significant increase in annual state funding.

Table 3: AB109 Block Grant Funding, Impact of Revised Formula for 2012-2014

2011 Allocation	2012-2014 Minimum Base Amount	2012-14 Funding Formula Options			2012-2014 Allocation
	2X 2011 Allocation	County Share of 18-64 YO Population	Status Quo	Adjusted ADP	
\$ 5,049,838	\$10,099,676	\$17,078,602	\$10,114,008	\$7,867,789	\$17,078,602

San Francisco Distribution of AB109 Funding

The AB109 funding from the State has been distributed between the criminal justice departments directly impacted by the legislation. As such, and as shown below, the Adult Probation and Sheriff’s departments have received the majority of the State resources.

Table 4: Public Safety Realignment Budget

	FY 2011-12	FY 2012-13	FY 2013-14
<u>AB109 Revenue</u>			
Sheriff	\$350,938	\$8,539,301	\$8,539,301
Adult Probation On-going Revenue	4,498,899	8,539,301	8,539,301
Adult Probation One-time Revenue	556,325	0	0
District Attorney	190,507	109,755	109,755
Public Defender	190,507	109,755	109,755
Total AB109 Revenue	\$5,787,176	\$17,298,112	\$17,298,112
<u>Department Expenditures</u>			
Adult Probation	\$5,055,224	\$9,379,126	\$9,559,102
<i>Adult Probation</i>	3,922,550	7,983,466	8,163,442
<i>Public Health</i>	788,957	1,051,943	1,051,943
<i>City Attorney</i>	181,217	181,217	181,217
<i>Human Services</i>	132,500	132,500	132,500
<i>Economic & Workforce Development</i>	30,000	30,000	30,000
Sheriff	7,259,850	9,679,800	9,679,800
Public Defender	190,507	289,450	289,450
District Attorney	190,507	289,450	289,450
Total Uses	\$12,696,088	\$19,637,826	\$19,817,802
General Fund Support	(\$6,908,912)	(\$2,339,714)	(\$2,519,690)

Source: Mayor's Office

As an indication of its commitment to this effort, the City (under the leadership of the Mayor's Budget Office) allocated additional resources above the state grant amount towards the overall realignment budget from the General Fund.

San Francisco AB109 Implementation Plans

In accordance with the legislation, the San Francisco Community Corrections Partnership prepared a plan for the 2011 implementation of public safety realignment. This plan, which was approved by the Board of Supervisors on September 29, 2011, detailed the proposed strategies of the County's criminal justice departments to address the anticipated needs of the AB109 population.

Although the legislation does not explicitly require subsequent annual implementation plans, San Francisco developed a 2012 plan, as well, which was also approved by the Board of Supervisors.

Like the 2011 version, the 2012 Implementation Plan describes departmental efforts to provide new services and programs targeting the AB109 population.

The plans identify the same outcome measures for AB109 implementation:

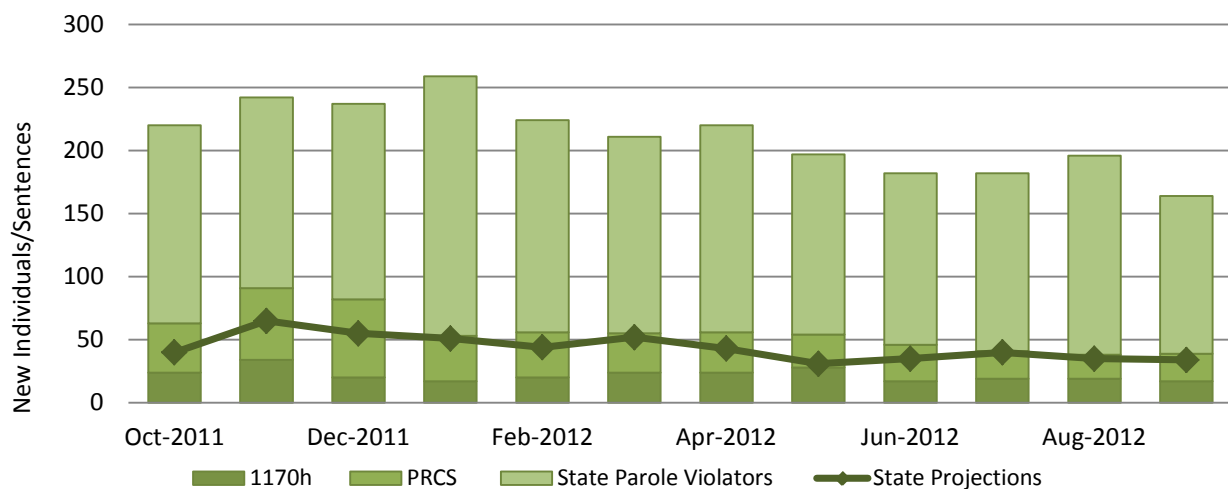
1. A streamlined system to manage new responsibilities under realignment
2. A system that protects public safety and utilizes best practices in recidivism reduction
3. A system that utilizes alternatives to pre-trial and post-conviction incarcerations

Also, while both plans reflect the same leadership structure, the 2011 plan notes that the staffing function for the Reentry Council transferred from the Public Defender to Adult Probation.

San Francisco AB109 Population, Projections and Actuals

State projections regarding the number of offenders that would be under the jurisdiction of San Francisco following the introduction of AB109 in October 2011 were generally lower than the volume of offenders that the San Francisco criminal justice departments actually served. In particular, the State did not provide monthly projections on the number of state parole violators that would serve sentences in County Jail, although this population comprised the majority of AB109 offenders received by the County, as shown in the chart below.

Chart 1: Offenders Processed Under AB109

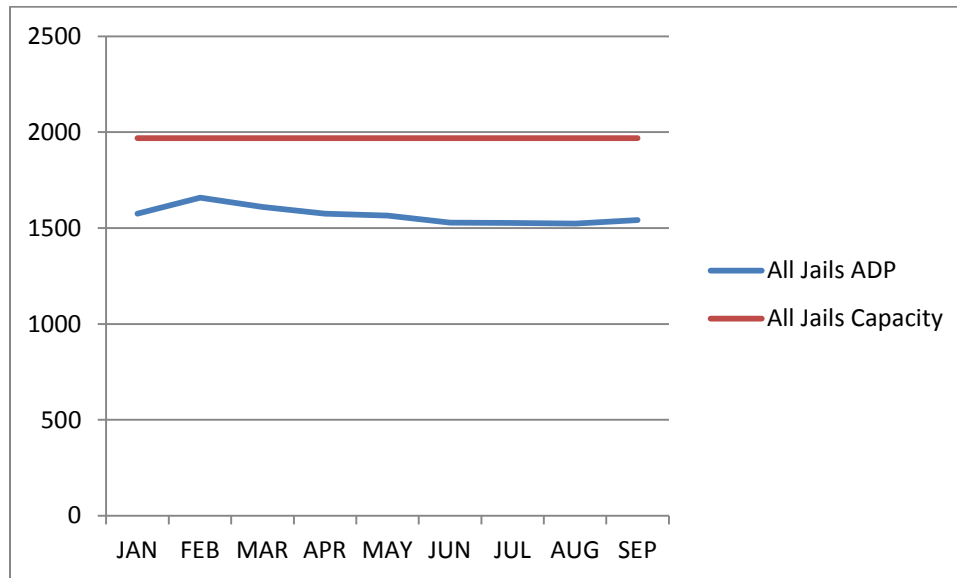


Source: San Francisco Controller's Office

Impact of AB109 on the County Jail Population

Following the implementation of AB109, the average daily population of San Francisco jails has remained near the 2011 average monthly population. In fact, for the first 8 months of 2012 for which we have data, the average daily population was lower than 2011 – at 1,567. As shown in the figure below, the impact of realignment on San Francisco jail capacity has leveled off, and San Francisco jails continue to operate at levels below capacity.

Chart 2: Average Daily Population of San Francisco County Jails, 2012



Source: Sheriff's Department

Acknowledgement and Audit Purpose

As described above, the City was relatively well-positioned for the changes introduced by AB109 in 2011. In the years preceding public safety realignment, the San Francisco criminal justice community had already begun formally collaborating – evidenced most clearly by creation of the Reentry Council – and the jail population was in decline. Compared to other jurisdictions, San Francisco sent fewer offenders to state prison, and had adopted many of the tools that would be necessary for AB109 implementation – including a validated risk and needs assessment and other evidence-based practices. As such, when the legislation went into effect in October 2011, criminal justice partners in the City were able to come together quickly and work in collaboration to develop and implement an ambitious plan for AB109 implementation through the Community Corrections Partnership.

Recognizing the significant progress that the City has made, this audit seeks to identify opportunities to meet the City's Public Safety Realignment goals more efficiently going forward.

1. Planning for Public Safety Realignment Implementation

- **Three City advisory bodies – the Community Corrections Partnership, the Reentry Council, and the Sentencing Commission – make recommendations to the Board of Supervisors and Mayor on use of alternative sentencing and best practices in criminal justice to reduce recidivism and the costs of incarceration and to increase public safety. The Community Corrections Partnership, Reentry Council and Sentencing Commission each has an area of primary responsibility (respectively, implementation of AB109, support for ex-offenders generally, and sentencing reform), but share similar purposes. In order to streamline the planning and coordination of programs to reduce time spent in custody, assist ex-offenders on reentry, and reduce recidivism, the Board of Supervisors should evaluate integration of the functions of the City-mandated Reentry Council and Sentencing Commission, when they sunset, with the State-mandated Community Corrections Partnership.**
- **Implementation of Public Safety Realignment requires cooperation among multiple agencies to implement policies and programs. While the Community Corrections Partnership, under the chairmanship of the Adult Probation Department, has designed and planned for programs to implement Public Safety Realignment, implementation has not consistently met timelines or addressed problems or policy issues.**
- **The Public Safety Realignment Implementation Plans do not go far enough in discussing Citywide implementation of Public Safety Realignment. The 2011 Implementation Plan recommended implementation strategies that are largely a description by each City department of activities that they propose to undertake. While the 2012 Implementation Plan States that it “offers a progress update on the initial realignment efforts”, the Plan does not directly address delays or problems in implementing recommendations, or how the Community Corrections Partnership can improve implementation.**
- **The Implementation Plans also do not sufficiently discuss Citywide policies, such as flash incarceration or the AB109 population’s access to Drug Court. For example, while the Adult Probation Department has implemented protocols for flash incarceration that define in what instances flash incarceration may be imposed, they do not address how many times flash incarceration can be imposed on an individual or the number of days that should be imposed for types of offenses.**

The City’s Reentry Policy, Implementation and Advisory Bodies

There are three advisory bodies involved to varying degrees with AB109 policy and implementation in San Francisco: the Community Corrections Partnership, the San Francisco Reentry Council, and the San Francisco Sentencing Commission. Although their specific roles

within the City's broader efforts at criminal justice reform differ, the overarching purpose of all three bodies is to encourage and implement the use of alternative sentencing and best practices in criminal justice to reduce recidivism and the costs of incarceration and to increase public safety.

Reentry Council

San Francisco addressed its high recidivism rate by creating a Reentry Council in 2008 to encourage the use of evidence-based practices and intensive local supervision. This commendable effort preceded major criminal justice reform in California and the creation in each county of a Community Corrections Partnership in 2010. The legislation that established the Reentry Council emphasizes its role in coordinating local efforts and providing comprehensive information about reentry programs and barriers, *regardless of who the offenders are*. The Council's membership is the broadest of the three advisory bodies, comprising former inmates, representatives for the Mayor, a member of the Board of Supervisors, and representatives of criminal justice and social service departments and agencies. The Council expires June 1, 2014 unless extended by Board of Supervisors' ordinance.

Community Corrections Partnership

Under California Penal Code Section 1230, the Community Corrections Partnership advises the Adult Probation Department on developing and implementing programs for the successful reentry of ex-offenders *who are part of the realignment population*. AB109 further amended the Penal Code to authorize an executive committee of the Community Corrections Partnership to adopt and recommend to the Board of Supervisors a 2011 local plan for implementing Public Safety Realignment. The Plan is to promote the use of evidence-based correctional sanctions and programs for those under Post Release Community Supervision and other offenders.¹

Sentencing Commission

More recently (January 2012) the City amended its Administrative Code (Section 5.250) to create a Sentencing Commission to analyze sentencing patterns and outcomes, and to make recommendations to the Board, Mayor, and City departments on sentencing reforms that advance public safety and reduce recidivism, including alternatives to incarceration and other evidenced-based strategies. The Commission was established expressly in anticipation of the increased responsibility and sentencing discretion afforded to the courts when AB109 took effect. The Sentencing Commission met for the first time in August 2012.

The Commission's duties are to assess local sentencing approaches and the city's capacity and use of alternatives to incarceration; develop and recommend department-specific goals to reduce recidivism; and recommend changes to the penal code and State law to remove barriers to implementation of best practices.

¹ The code is unclear as to whether continuation of the Community Corrections Partnership Executive Committee beyond implementation of the 2011 Plan was contemplated by the original legislation. Nonetheless the Community Corrections Partnership continues to function and has adopted a 2012 Plan.

Working Groups

In addition to these bodies established by State statute or local code, City departments and the Community Corrections Partnership have created ad hoc working groups to address administrative and operational issues that have arisen in the course of AB109 implementation.

Business Process and Data Trouble Shooting

The City Services Auditor convened an ad hoc business and data trouble shooting working group to identify and resolve business process and data management issues involving information systems and case management processes that track AB109 cases through the stages of release, re-arrest or flash incarceration, booking, court appearances, case disposition and case management. The group has resolved almost all of the data issues initially identified at the start of their meetings, and has ceased meeting as of September 2012.

Realignment Working Group

The Community Corrections Partnership has established a bimonthly working group to exchange information and update departments on the implementation of AB109, the status of programs and services planned for the AB109 population, and to discuss AB109 operational issues. Although the realignment working group is largely an opportunity for the City departments to update each other on various aspects of Public Safety Realignment, policy issues are also discussed. For example, at the October 26, 2012 meeting, some of the issues discussed included:

- Lack of access to Drug Court² by AB109 defendants due to the court's qualification criteria;
- Need for more alternative sentencing options;
- What constitutes appropriate use of flash incarceration; and
- Potential for judges to sentence individuals to the planned CASC as an alternative sentence and the "buy in" needed from the District Attorney.

Additionally, the group discussed numerous issues pertaining to future planning including issues with budgetary implications including:

- The possibility that the number of parole revocations would be significantly greater than originally expected with implications for the Superior Court, DA and Public Defender workloads;
- The expected decline of individuals under Post Release Community Supervision over time and expected growth of individuals sentenced under Penal Code 1170(h) and the staffing implications of this shift;
- The backlog of AB109 clients awaiting substance abuse treatment because of limited availability of treatment slots; and

² Drug Court is an alternative sentencing option for drug offenders, where substance abuse treatment is offered in lieu of incarceration and is monitored by the Court.

- An estimate of the ratio of split sentences (part jail time, part mandatory supervision) to jail-only sentences, which have implication for jail costs and staffing because the daily cost of incarceration in a San Francisco jail is \$130/inmate.

Probation Protocols

Prior to implementation of Public Safety Realignment, the District Attorney, Public Defender and Adult Probation formed a working group to discuss individuals' due process rights and conformance to State law, which were incorporated into the Adult Probation Department's procedures. The Adult Probation Department also meets routinely with the Public Defender's Office and District Attorney's Office to discuss the appropriate use of flash incarceration and review its use.

Reentry Council, Community Corrections Partnership, and Sentencing Commission Overlap

Purpose and Areas of Responsibility

The Community Corrections Partnership, Reentry Council and Sentencing Commission each has an area of primary responsibility (respectively implementation of AB109, support for ex-offenders generally, and sentencing reform), as shown in Table 1.1, but share similar purposes in serving adults out of custody, including providing information to City officials on programs to reduce incarceration time and recidivism. The Administrative Code specifies that the Reentry Council should share information and work in collaboration with the Community Corrections Partnership, and the Sentencing Commission should share information and work in collaboration with the Reentry Council and the Community Corrections Partnership.

**Table 1.1
Primary Functions of Reentry Council, Community Corrections Partnership and Sentencing Commission**

	Reentry Council Admin Code 5.1-1	Community Corrections Partnership Penal Code 1230	Sentencing Commission Admin Code 5.250
Advisory to:	Mayor and Board of Supervisors	Chief Adult Probation Officer	Mayor and Board of Supervisors
Purpose	Coordinate local efforts to support juveniles and adults leaving custody	Advises Adult Probation on the development and implementation of the community corrections program	Encourage development of criminal sentencing strategies that reduce recidivism, prioritize public safety and victim protection, emphasize fairness, employ evidence-based best practices, efficiently utilize criminal justice resources
Tasks	<ul style="list-style-type: none"> - Identify funding sources - Identify programs and assess their capacity to serve all individuals in the criminal justice system. - Identify unmet needs, and propose ways to meet them based on existing research and best practices. 	<ul style="list-style-type: none"> - Implement and expand evidence-based risk and needs assessments - Implement and expand intermediate sanctions - Provide more intensive supervision - Expand availability of evidence-based rehabilitation programs for the AB109 population. - Evaluate effectiveness of programs 	<ul style="list-style-type: none"> Review and assess - sentencing approaches and compare to other jurisdictions - capacity and utilization - Justice Reinvestment Initiative recommendations - Develop uniform definitions of recidivism - Develop data collection standards and recidivism reporting standards - Facilitate trainings in best practices in sentencing for criminal justice agencies
Policy, Planning, and Legislative Advocacy	Identify barriers to safe and successful reentry in local, State, and Federal law; propose ways to reduce the impact of these barriers.	-Recommend the community corrections plan to the Board of Supervisors	<ul style="list-style-type: none"> - Recommend department-specific goals to reduce recidivism - Recommend Penal Code and other law changes to remove barriers to effective implementation of best practices
Evaluation and Reporting	Report annually to the Mayor and Board of Supervisors	<ul style="list-style-type: none"> - Identify and track outcome measures - Track statistical data 	Report to the Mayor and Board on findings with recommendations.
Sunset Date	June 2014	None	June 2015

Source: Penal Code 1230, Administrative Codes 5.1 and 5.2

Membership and Participation

There is also overlap in the membership of the Reentry Council, Community Corrections Partnership and Sentencing Commission, as seen in Table 1.2. The Community Corrections Partnership and Reentry Council are both staffed by the Adult Probation Department³, while the District Attorney staffs the Sentencing Commission.

Table 1.2
Membership / Participation in Reentry Council, Community Corrections Partnership and Sentencing Commission

	Reentry Council	Community Corrections Partnership	Sentencing Commission
Citywide Elected Officials			
Mayor's Office	✓		
Board of Supervisors	✓	✓	
Criminal Justice Departments			
Sheriff	✓	✓	✓
District Attorney	✓	✓	✓
Public Defender	✓	✓	✓
Police	✓	✓	✓
Adult Probation	✓	✓	✓
Juvenile Probation	✓		✓
Other City Departments			
Public Health	✓	✓	✓
Economic and Workforce Development	✓		
Children, Youth and Families	✓		
Human Services Agency	✓	✓	
Child Support Services	✓		
Court and State Agencies			
Superior Court	✓	✓	✓
Cal Department of Corrections and Rehabilitation	✓		
U.S. Probation and Pretrial System	✓		
Community and Other			
Reentry Council			✓
Nonprofits serving victims		✓	✓
Nonprofits serving ex-offenders	✓	✓	✓
Formerly incarcerated persons	✓		
Researcher			✓
Sentencing Expert			✓

³ Responsibility for staffing the Reentry Council was transferred from the Public Defender's Office to Adult Probation in 2011.

Currently, discussion of reentry and alternative programs designed to reduce time in incarceration and recidivism is divided among the Reentry Council, Community Corrections Partnership, and Sentencing Commission, which are required by the Administrative Code to share information and collaborate. In order to streamline the planning and coordination of programs to reduce time spent in custody, assist ex-offenders on reentry, and reduce recidivism, the Board of Supervisors should integrate of the functions of the City-mandated Reentry Council and Sentencing Commission with the State-mandated Community Corrections Partnership when they sunset in 2014 and 2015, respectively.

The City’s Implementation of AB109 Programs

Implementation of AB109 requires cooperation among multiple agencies to implement policies and programs. While the Community Corrections Partnership, under the chairmanship of the Adult Probation Department has designed and planned for programs to implement Public Safety Realignment, implementation has not consistently met timelines or addressed issues.

Public Safety Realignment Implementation Plans

Under AB109, the Community Corrections Partnership is charged with developing a plan for Public Safety Realignment that implements specific evidenced-based practices. The 2011 and 2012 Implementation Plans were adopted by the Board of Supervisors and are the basis for appropriating State and City funds.

The Implementation Plans do not go far enough in discussing Citywide implementation of Public Safety Realignment. The 2011 Implementation Plan recommended implementation strategies that are largely a description by each City department of activities that they propose to undertake. While the 2012 Implementation Plan states that it “offers a progress update on the initial realignment efforts”, the Plan does not directly address delays or problems in implementing recommendations, or how the Community Corrections Partnership can improve implementation.

For example:

- The one-stop reentry center (the Community Assessment and Services Center, or CASC), recommended by the Implementation Plans, is behind schedule and over budget, as discussed in Section 3, but the 2012 Implementation Plan does not address these issues. Further, neither the 2011 nor the 2012 Implementation Plans discuss how the CASC will coordinate mental health, substance abuse, medical, parenting, housing, food, and other services with the Department of Public Health and the Human Services Agency.
- While the 2012 Implementation Plan discusses opening of the Reentry Pod in the County jail in January 2013, the Plan does not discuss how the Sheriff’s Department will fund the difference between the Department’s costs to house State prisoners in the Reentry Pod and the State’s reimbursement rate. According to the draft Memorandum of Understanding (MOU) with the California Department of Corrections and Rehabilitation (CDCR), the Reentry Pod will have up to 60 beds per day to house AB109 offenders. The Sheriff’s Department will be reimbursed by the State at the rate of \$77 per day for each inmate housed in the Reentry Pod, which is \$53 less than the Sheriff’s Department’s cost of \$130 per day to

house an inmate in San Francisco According to the Mayor’s Office, the Sheriff’s Department was able to accommodate the additional inmates in FY 2012-13 without an additional General Fund allocation, but the Community Corrections Partnership will need to address the reimbursement shortfall in future years.

- The 2012 Implementation Plan describes the alternatives to incarceration programs that have been offered by the Sheriff’s Department prior to AB109, but does not discuss that the Sheriff’s Department reduced its use of alternatives to incarceration at the start of AB109 implementation or how this program could be improved (see Section 4).

Citywide Policies

Because the 2011 and 2012 Implementation Plans describe individual City departments’ programs, they do not sufficiently address Citywide policy issues.

For example, the 2012 Implementation Plan is silent on two major criminal justice policies: AB109 offenders access to Drug Court, and use of flash incarcerations.

- Under current Drug Court criteria, AB109 offenders have not had access to Drug Court although the State identifies drug courts as an appropriate component of county implementation plans. Although many of the City’s criminal justice partners consider that Drug Court is an appropriate venue for AB109 offenders, the 2012 Implementation Plan does not discuss access to Drug Court. By the end of 2012, during the course of this audit, Drug Court began admitting eligible AB109 offenders.
- San Francisco uses flash incarceration as an intermediate sanction more frequently than some other large counties. For example, Alameda County does not use flash incarcerations at all and Los Angeles County limits its use to instances of failure to appear at the appointment with the probation officer or failure of a drug test. The Community Corrections Partnership protocols for imposing flash incarcerations define the types of offenses but not define the number of times for which these sanctions might be used before a petition to revoke Post Release Community Supervision is filed, or the appropriate duration of a flash incarceration in a given instance.

Participation of Superior Court Judges

Penal Code 1230 calls for the “presiding judge of the superior court, or his or her designee” to be a member of the Community Corrections Partnership. A San Francisco Superior Court judge was initially a member of the Community Corrections Partnership Executive Committee when it formed in August 2011 and participated in preparing the 2011 Implementation Plan. Subsequently, the Administrative Office of the Court advised against judges’ participation in the Community Corrections Partnership because, due to separation of powers, judges cannot participate in the development of legislative recommendations. In San Francisco, the Superior Court has not assigned other staff as members of the Community Corrections Partnership although other counties have assigned administrative or management staff as members to their respective Community Corrections Partnerships. Because of the value of Superior Court

participation in criminal policy discussions, the Superior Court should assign a Superior Court representative to the Community Corrections Partnership.

Conclusion

The Community Corrections Partnership has not consistently addressed implementation delays, or budget and policy issues in the 2011 and 2012 Public Safety Realignment Implementation Plans.

Recommendations

The Board of Supervisors should:

- 1.1 Integrate the functions of the City-mandated Reentry Council and Sentencing Commission with the State-mandated Community Corrections Partnership when they sunset in 2014 and 2015, respectively.

The Mayor's Budget Director should:

- 1.2 Incorporate Public Safety Realignment implementation and allocation of resources in the City's Five-Year Financial Plan.

The Chief Executive of the Superior Court should:

- 1.3 Assign a Superior Court representative to the Community Corrections Partnership.

Costs and Benefits

The Community Corrections Partnership could more effectively oversee implementation of AB109 programs with stronger executive direction, resulting in more efficient use of funds. While the audit recommendations do not result in increased cost, implementation of these recommendations would result in more efficient use of funds.

2. The Adult Probation Department's Initial Implementation of Public Safety Realignment

- The Board of Supervisors appropriated \$5.0 million in the FY 2011-12 and \$8.5 million in the FY 2012-13 Adult Probation Department to implement Public Safety Realignment. These funds were intended for (1) new deputy probation officers and services for the AB109 population, for whom responsibility was transferred from the State to the City; and (2) development of policies and programs to implement AB109.
- In March 2011, seven months prior to the implementation of AB109, the Adult Probation Department began an internal policy review to address outdated and incomplete policies and procedures. While this internal departmental policy review was initiated prior to the passage of AB109, it has become a process through which new policies needed for the implementation of AB109 could be drafted and executed. The Adult Probation Department entered into a contract with the Warren Institute for \$99,999 to develop or update 58 policies, with the policies to be completed between January and June 2012. As of January 2013, only 21% of the policies had been completed. The Department is now modifying the contract, increasing the amount from \$99,999 to \$149,998 for an additional 38 policies.
- As part of the implementation of AB109, the Adult Probation Department significantly increased the required training hours for deputy probation officers. The State Corrections Standards Authority mandates that deputy probation officers, after their first year, receive 40 hours of training per year. During the first year of AB109 implementation (from October 1, 2011 through September 30, 2012), the Adult Probation Department conducted 7,662.5 hours of training for approximately 71 deputy probation officers, an average of 108 hours of training per deputy probation officer or 68 hours (170%) more than the State mandate. While this increased training has cost the Department an estimated \$184,653, the Department is not able to show how the increased training will improve the deputy probation officers' ability to supervise the AB109 population.

The Implementation of AB109

In accordance with AB109, San Francisco's Adult Probation Department worked under tight time constraints to adopt corrections programming to meet new requirements established by the State. As noted in the Introduction, San Francisco had approximately four months to plan for the implementation of AB109 changes. To implement AB109, the Adult Probation Department has (1) undertaken an internal policy review to update policies and procedures; (2) increased training; (3) proceeded with plans to open a one-stop post-release service center (Section 3); and (4) collaborated with the Sheriff's Department on the development of a pre-release Reentry Pod.

AB109 Policies and Procedures

In March 2011, seven months prior to the implementation of AB109, the Adult Probation Department began an internal policy review to address outdated and incomplete policies and procedures. While this internal Departmental policy review was initiated prior to the passage of AB109, it has become a process through which new policies needed for the implementation of AB109 could be drafted and executed.

The Department has entered into two contracts with the Warren Institute at the University of California to perform an internal policy audit. The first contract, which has been completed, covered 9 policies, of which one was rescinded. The second contract for \$99,999 covers 58 policies and a proposed contract modification will cover an additional 38 policies, as shown in Table 2.1. According to this contract, the 58 policies were due between January 2012 and June 2012, but prior to January 2013, only 21% of the policies had been completed. The Adult Probation Department is modifying the second contract to add review of another 38 policies, for an additional amount of \$49,999, or \$149,998 for the contract and modification.

Table 2.1
Status of Adult Probation Department's Policy Review

		Not drafted	In Draft Phase	Re-issued or Issued	Total
First Contract	In Place Prior to Policy Review	0	0	8	8
	New Policies	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal		0	0	8	8
Second Contract	In Place Prior to Policy Review	0	31	6	37
	New Policies	<u>0</u>	<u>15</u>	<u>6</u>	<u>21</u>
Subtotal		0	46	12	58
Percent		0%	79%	21%	100%
Modification	In Place Prior to Policy Review	37	0	0	37
	New Policies	<u>1</u>	<u>0</u>	<u>0</u>	<u>1</u>
Subtotal		38	0	0	38
Total		38	46	20	104

Source: Adult Probation Department

In the Adult Probation Department, the initial protocols for the implementation of AB109 were written by supervising probation officers and approved by the Department's managers. According to staff members, the Department's policy manual will include the AB109 protocols written by the supervising probation officers. However, these new protocols have yet to be codified in the manual.

Adult Probation Department Trainings

Fundamental to the implementation of revised and new policies incorporating evidence-based practices is familiarizing staff with the new policies and procedures. As part of the implementation of AB109, the Adult Probation Department significantly increased the required training hours for deputy probation officers. The State Corrections Standards Authority mandates that deputy probation officers, after their first year, receive 40 hours of training per year. During the first year of AB109 implementation (from October 1, 2011 through September 30, 2012), the Adult Probation Department conducted 7,662.5 hours of training for approximately 71 deputy probation officers, or an average of 108 hours of training per deputy probation officer. This is more than double the State-mandated amount of training. The table below shows the number of mandatory and non-mandatory training hours for deputy probation officers in the first year of AB109 implementation.

Table 2.2
Deputy Probation Officers' Training Hours, October 2011 through September 2012

	Mandatory Training Hours	Non-Mandatory Training Hours	Total Training Hours
October 2011 – June 2012	4,014	2,376.5	6,390.5
July 2012 – September 2012	974	298	1,272
Total Year 1	4,988	2,674.5	7,662.5
Average Hours per Deputy Probation Officer (71 Deputy Probation Officers)	70.3	37.7	108

Source: Adult Probation Department

The Adult Probation Department's annual training plan requires that deputy probation officers complete the 40-hour annual training hours mandated by the State Corrections Standards Authority but does not address training exceeding the mandated 40 hours. Since implementation of AB109, each deputy probation officer completed approximately 68 additional hours of training, although the Department has not clarified the requirements or need for the additional 68 hours of training, including why training exceeding the State mandate is necessary or how many additional hours are needed. The Department has not shown that all of these additional hours are necessary to sufficiently train deputy probation officers in the skills required for supervision of AB109 clients.

While some new training and skills development would be expected for AB109 changes, this 170% increase in training hours is both excessive and expensive. At the lowest salary step for deputy probation officers, the City has spent an additional \$184,653 for staff time spent in

training between October 2011 and October 2012, beyond the State and Department requirements.

Since hired in September 2012, eight deputy probation officers assigned to the AB109 units have not performed the full range of their duties, such as supervising probationers in the field and conducting interviews in jail, as they had not completed the training required for deputy probation officers until November December 2012. The new officers will not be assigned full duties until January or February 2013, or approximately five to six months after their hire date.

Conclusion

Given the challenges of the initial implementation timeline, the Adult Probation Department made incredible efforts to adapt to AB109 changes and prepare for the new probation population. However, in the year since AB109 implementation began, the Department has not sufficiently managed the initial implementation. In particular, the Department has allowed the review and revision of policies and procedures to fall far behind schedule, and is proposing an extension of the contract period and an increase in the contract award amount, to meet the initial project goals. Additionally, the Department has required an excessive amount of training hours for deputy probation officers.

Recommendations

The Chief Adult Probation Officer should:

- 2.1 Manage the internal policy review process to ensure timely and cost-effective completion of new or revised policies.
- 2.2 Reduce the annual training hours for deputy probation officers to the 40 hours per year mandated by the State Corrections Standards Authority.

Cost and Benefit

Reducing training hours from the current average of 108 hours per deputy probation officer to 40 hours per deputy probation officer would save an estimated \$184,653.

3. The Community Assessment and Services Center

- **The Adult Probation Department plans to implement a one-stop service center to coordinate services, such as behavioral health and job training, for AB109 clients. The Department entered into a contract with Leaders in Community Alternatives, Inc. (LCA) to lease space and provide case management and other services for the one-stop service center, the Community Assessment and Services Center (CASC).**
- **The contract between the Adult Probation Department and LCA provides for LCA to lease space for the CASC, with an annual budget for rent and related costs of \$486,000 and one-time tenant improvements of \$1,070,971. The LCA has entered into a lease for space at 564 6th Street, with annual rent and related costs of \$886,642 (an increase of \$400,642 or 82%) and one-time tenant improvements of \$1,638,800 (an increase of \$567,829 or 53%). Paying these increased costs will require either a General Fund subsidy or decrease in services.**
- **As currently planned, the CASC provides some similar services also provided by the Adult Probation Department. The CASC will provide case management for AB109 clients, including referral to services. The Adult Probation Department also trains deputy probation officers in case management techniques and hired eight new deputy probation officers in September 2012 with case management experience. The deputy probation officer job description also requires officers to assess the social and economic background of clients and refer them to services as necessary. The Adult Probation Department does not have specific procedures to differentiate deputy probation officer and CASC staff responsibilities nor ensure that implementation of the CASC does not duplicate deputy probation officer responsibilities. The Department plans to have a Services Policies and Procedures Manual drafted and finalized by April 2013, ideally before the opening of the CASC.**
- **Further, many services currently provided by the Adult Probation Department to AB109 clients will also be provided by the CASC. The Adult Probation Department does not have a plan to transfer services for AB109 clients currently provided by the Adult Probation Department to CASC to prevent duplication.**

The Community Assessment and Services Center (CASC)

The Community Assessment and Services Center (CASC) is a key component of the Adult Probation Department's implementation of AB109. This Center has been described as a one-stop service center for all AB109 clients. The 2012 Implementation Plan notes the CASC is to provide "comprehensive supervision, mental health, substance abuse, personal development, education, employment, parenting and other services that build clients' self-efficacy and self-sufficiency" to aid in the reduction of recidivism in the AB109 population. In addition to improving the accessibility of services, according to interviews, the CASC will serve as a central location to host AB109 clients, as currently AB109 clients do not have a large communal space in which to congregate.

The Adult Probation Department would also like CASC to become a service center for non-AB109 clients, including felony probationers and probationers in jail for a revocation of probation (Motion-to-Revokes). The ultimate goal of the CASC is to serve as an alternative to incarceration for AB109 clients, and eventually, the CASC might serve all Adult Probation Department probationers.

Planning Process for the CASC

In 2010, the Reentry Council recommended a one-stop center reentry center for State parolees and County probationers. The CASC was first proposed formally in the 2011 Implementation Plan.

In January 2012, the Reentry staff in the Adult Probation Department began exploring models for a service center. The Request for Proposal for the CASC and associated services was issued on January 2012, and proposals were due in February 2012. The Department signed a contract with Leaders in Community Alternatives, Inc. (LCA) on June 1, 2012. LCA has worked in criminal justice for the past 35 years, and most notably was the contractor that previously administered San Francisco's Milestones project, a residential and outpatient substance abuse treatment program for male and female offenders.

Delays in Opening the CASC

The term of the CASC contract between the Adult Probation Department and LCA is for approximately five years from June 1, 2012 through June 30, 2017. According to the 2012 Implementation Plan, a soft opening for the CASC was originally scheduled for June 2012, the month the CASC contract was executed, and the CASC was to be fully operational by fall 2012. Interviews indicated that the CASC then was slotted to open in November 2012, approximately five months after the execution of the contract. The space is now expected to be operational in April 2013.

A key barrier to the opening of the CASC has been the availability of a space equipped to house the offices and classrooms necessary for the administration of services. After the acceptance by the Adult Probation Department of LCA's bid for the CASC, the initial lease secured by LCA for a space to house the CASC fell through, as did a lease for a subsequent second space. A lease for a third space, located at 564 6th Street, was signed for by LCA on September 7, 2012, three months after the originally planned soft opening.

Renovations on the leased space will not commence until January 2013, pushing back the current projected opening date of the CASC to April 2013, nine months after the planned soft opening and five months after the November opening.

Repeatedly revised timelines for the CASC proved consistently unrealistic, as demonstrated by failure to meet deadlines. Although the Adult Probation Department has represented the CASC as a key tool to addressing the problem of recidivism in the AB109 population, the benefits of the program will not be realized for some AB109 clients given these delays. An anticipated 92 clients – over 14% of the total AB109 population expected between October 1, 2011 and April 2013 - will complete their supervision requirements in San Francisco prior to the April 2013

opening of the CASC. An estimated 56 of the 92 clients will complete their supervision periods between the scheduled November 2012 opening and the revised opening deadline of April 2013.

The Budget for the CASC

The CASC budget, which does not cover all the expected costs for space and services, has also proved unrealistic. The annual CASC budget, according to the contract between LCA and the Adult Probation Department, is \$1,758,361 for program staff, lease and related costs, administration, and other costs. The expected annual costs for lease and related costs will exceed the budget by \$400,642, as shown in Table 3.1 below.

Table 3.1
CASC Budget and Actual Rent and Tenant Improvement Costs

	Budgeted Costs	Actual Costs	Increased Costs
Utilities	\$60,000	-	-
Maintenance	6,000	-	-
Subtotal, Building Operations	66,000	78,750	12,750
Annual Lease Costs	420,000	807,892	387,892
Total	\$486,000	\$886,642	\$400,642

The Department also expects one-time additional costs for tenant improvements under the CASC lease of \$567,829, as shown in Table 3.2 below.

The lease agreement for the CASC space at 564 6th Street provides for rent that exceeds the budget by 82% and tenant improvements that exceed the budget by 53%, as shown in the table below.

Table 3.2
Increased Actual Rent and Tenant Improvement Costs

	Annual Rent and Related Costs	Tenant Improvements
Original Budget	\$486,000	\$1,070,971
Actual Lease Agreement	886,642	1,638,800
Budget Shortfall	(400,642)	(\$567,829)
Percent Shortfall	82%	53%

Adult Probation Department's Proposed Use of General Fund to Pay Increased Costs

The original budget for the CASC as detailed in the contract between LCA and the Department was paid by the Department's appropriation for Public Safety Realignment. The Department plans to request additional General Fund monies from the City in the FY 2013-14 budget to cover the estimated increase of \$400,642. Going forward, while the Department is planning to use State funding to cover future shortfalls, the Department may not receive the same level of appropriation of funds from the State for AB109, forcing the Department to rely upon City resources to cover any additional future shortfall.

Adult Probation and CASC Services

Since the implementation of AB109, as a part of the improvement of service delivery to clients to address the City's high recidivism rates, the Adult Probation Department has improved their information gathering methods and the quantity of information collected for each client. However, in these initial planning conversations for the CASC, the relationship between the documented needs of the AB109 offenders and the services that will be planned for the CASC is unclear. As currently planned, the CASC provides some similar services also provided by the Adult Probation Department.

Staff Services

LCA will provide case management services to the AB109 clients at the CASC. The contract with the Department provides for five case managers and one senior specialist with a social work background to oversee the case management at the CASC. An AB109 client will be assigned to a case manager at the CASC to connect that client with any services at the CASC and throughout the City, in addition to being assigned to a deputy probation officer. Interviews described the treatment at the CASC as "holistic," or as a treatment focused on the person rather than focused on the completion of the supervision term.

Deputy probation officers, in addition to their supervision responsibilities, refer clients to services. As part of their duties, deputy probation officers assess the social and economic status of the probationer and refer probationers to services. According to the job description, the deputy probation officer:

"Investigates the personal background, family history, education, employment and financial status; (and) and visits homes, schools, employers, churches, neighborhoods, recreation areas and other places to obtain pertinent social and economic background information".

The job description further requires the deputy probation officer to refer probationers to "agencies and organizations dealing with specialized social, emotional or legal problems;" "interviews applicants for programs and determines eligibility;" and "supervises probationers during their enrollment in programs".

Since the passage of SB 678 and AB109, the Adult Probation Department has been working to ensure that deputy probation officers and their supervisors are trained in and use case management techniques to help address the full range of needs of clients as a part of the implementation of evidence-based practices. In addition to case management training for current deputy probation officers, the Department hired eight new deputy probation officers with case management experience in September 2012 to assist with the AB109 clients. The Adult Probation Department considers a deputy probation officer to be the service point person for an AB109 client.

The Adult Probation Department does not have specific procedures to differentiate deputy probation officer and CASC staff responsibilities nor ensure that implementation of the CASC does not duplicate deputy probation officer responsibilities. By April 2013, Adult Probation

and LCA expect to finalize a Services Policies and Procedures Manual that will outline staff roles and responsibilities, though such guidelines would be helpful prior to the hiring of CASC case management staff in order to ensure that new employees meet defined needs.¹

LCA currently has on staff a clinical supervisor and one case manager to provide Thinking for a Change cognitive behavioral services² and case management services to a small subset of Adult Probation clients. Deputy probation officers are also currently trained in providing Thinking for a Change services, and the Department intends to continue training deputy probation officers in providing Thinking for a Change after the CASC opens. Furthermore, currently, the LCA case management services are chiefly referrals to other services available to probationers and to which probationers currently receive referrals via their deputy probation officers.

Program Services

Although the Department and LCA have not yet finalized the services and programming that will be available at the CASC, there are specific programs that have been consistently referenced as CASC program offerings, including the Five Keys Charter School program and employment resources. The Department currently provides many of the services to be housed at the CASC to AB109 clients. Current programming for Adult Probation Department AB109 clients, as well as capacity and participation rates, is noted in the table below.

¹ In response to the audit team's initial draft, the Department submitted a two-page document to further clarify the coordination between the LCA case management staff and the deputy probation officers. However, this document did not resolve the concerns of the audit team regarding the duplication of roles and responsibilities between the Deputy Probation Officers and the case management staff at LCA.

² Thinking for a Change is a skills-building cognitive behavioral class that helps clients learn how to think and act in positive, constructive ways.

Table 3.3
The First Year of AB109:
Adult Probation Department Programs

Program	Services Provided	Program Period	AB109 Capacity	Number of AB109 Clients		
				Referred	Enrolled	Complete
Behavioral Health Access Center / SF Department of Public Health	Assessment, treatment, referrals for individuals with behavioral health disorders	Oct 2011 to present	N/A	390	160	N/A
Asian Neighborhood Design (OEWD contract)	Green construction job training, job readiness skills, job placement and referral services	Jan 2012 through Jun 2012	5	30	5	3
Hamilton Family Center and Tenderloin Housing Clinic (HSA contract)	Rental subsidies and housing case management for job-ready or employed single adults	Jan 2012 to present	23 subsidies	48	15	14 receiving subsidies as of 9/30/12
Emergency Stabilization Housing (administered by DPH/Housing and Urban Health)	Short-term stabilization housing in single-room occupancy residential hotel	Mar 2012 to present	Mar - May: 5; Jun - Aug: 15; Sep-present: 19	39	33	N/A
Reentry SF (Haight-Ashbury Free Clinic/Walden House, Goodwill Industries, Youth Justice Institute, Bayview Hunter's Point Senior Services)	Job readiness training, employment case management, barrier removal, and, when applicable, behavioral health treatment	Mar 2012 to present	97	107	32	26

Source: Public Safety Realignment in San Francisco, The First 12 Months, December 19, 2012,

The Adult Probation Department does not have a plan to transfer services for AB109 clients currently provided by the Adult Probation Department to CASC to prevent duplication. Although the Department states that the forthcoming Policies and Procedures Manual should outline CASC roles and programming, the manual should have been drafted in advance of the hiring and planning process, in order to clarify key outstanding questions regarding basic functionality of the CASC.

Conclusion

Implementation of the CASC has resulted in budget increases and delays in implementation. The proposed CASC also duplicates case management and other services provided by deputy probation officers and programs currently provided by the Adult Probation Department.

Recommendations

The Chief Adult Probation Officer should:

- 3.1 Offset the increased CASC costs by reducing the number of staff duplicated by deputy probation officers and LCA staff.

Costs and Benefits

The Adult Probation Department should pay for increased lease and other CASC costs through streamlining staffing and program costs. For example, because case management and referral services provided by CASC and deputy probation officers, as currently described, appear to overlap, the Adult Probation Department could decrease LCA case management staff costs to offset the duplication. Given that there are five case managers listed in the CASC contract, and given that the roles of these positions in relation to those of the deputy probation officers appear to be, currently, largely duplicative, the Department could reduce the CASC contract costs by reducing the LCA staff costs by the 5.0 FTE case management positions, saving the City \$208,000 in annual salary costs in the CASC contract with LCA, or \$866,667 in total starting with the April 2013 CASC opening through the end of the contract period, in June 2017.

4. The Sheriff's Department's Use of Alternatives to Incarceration

- The 2011 Public Safety Realignment Implementation Plan set forth the expanded use of alternatives to incarceration by the Sheriff's Department under AB109. Both prior to and since the start of AB109 implementation, the Sheriff's Department has operated three alternative to incarceration programs: (1) a home detention program in which participants are released without electronic monitoring, (2) a home detention program with electronic monitoring, and (3) a work release program.
- Although the 2011 and 2012 Implementation Plans set forth the expanded use of alternatives to incarceration, the Sheriff's Department reduced its use of alternatives to incarceration at the start of AB109 implementation and excluded almost all AB109 offenders from alternatives to incarceration. The average number of offenders placed in alternative to incarceration programs each month decreased from 27.2 in the 6 months prior to AB109 to 6.2 in the first 12 months of AB109, a decrease of 77%.
- In November 2012, the Sheriff's Department issued revised Eligibility Criteria for placement in alternatives to incarceration programs that more closely align with the 2011 and 2012 Implementation Plans and are likely to lead to an increase in the number of offenders in alternatives to incarceration. However, the Sheriff's Department has not put in place a thorough and rigorous planning process to ensure optimal program capacity as it expands the use of alternatives to incarceration, thereby risking the success and cost-effectiveness of alternative to incarceration programs.
- The Community Corrections Partnership Executive Committee, which develops the annual implementation plan, thus far has not reported on the City's overall use of alternatives to incarceration under AB109, although this was considered as one possible outcome measure of AB109 implementation.
- AB109 also gives the Sheriff's Department the authority to offer an electronic monitoring program for defendants being held in county jail who cannot afford bail, subject to the county Board of Supervisors' approval. The Sheriff's Department, in collaboration with the Community Corrections Partnership, should clarify the need for this authority, and if confirmed, should pursue legal authority from the Board of Supervisors.

The Use of Alternatives to Incarceration under AB109

Alternatives to incarceration are intended as a cost-effective means of improving public safety by facilitating the rehabilitation and successful reentry of offenders, and thus reducing recidivism. AB109, in addition to transferring responsibility for supervising low-level felony offenders from

the State to counties, expands the authority of counties to implement alternatives to incarceration programs for both AB109 and non-AB109 offenders, and encourages, but does not mandate, the use of such programs. California Penal Code Section 17.5 states:

- “Criminal justice policies that rely on building and operating more prisons to address community safety concerns are not sustainable, and will not result in improved public safety.”
- “Fiscal policy and correctional practices should align to promote a justice reinvestment strategy that fits each county. "Justice reinvestment" is a data-driven approach to reduce corrections and related criminal justice spending and reinvest savings in strategies designed to increase public safety. The purpose of justice reinvestment is to manage and allocate criminal justice populations more cost-effectively, generating savings that can be reinvested in evidence-based strategies that increase public safety while holding offenders accountable.”
- “Realigning low-level felony offenders who do not have prior convictions for serious, violent, or sex offenses to locally run community-based corrections programs, which are strengthened through community-based punishment, evidence-based practices, improved supervision strategies, and enhanced secured capacity, will improve public safety outcomes among adult felons and facilitate their reintegration back into society.”

Subject to the approval of the Board of Supervisors in any county, AB109 provides expanded authority to county sheriff's departments to use home detention—one of several forms of “community-based punishment” listed in Penal Code Section 17.5—to supervise sentenced offenders. AB109 expands the authority of sheriff's departments in two ways: (1) it allows home detention programs to be used for “inmates” generally, as opposed to “minimum security inmates” and “low-risk offenders” only; and (2) it allows for offenders to be placed in home detention programs involuntarily, as opposed to voluntary placement only.¹

Alternatives to Incarceration Operated by the Sheriff's Department

The San Francisco Sheriff's Department has a long history of offering alternatives to incarceration, as well as programming and services for in-custody and post-release offenders. Both prior to and since the start of AB109, the Sheriff's Department has operated three alternative to incarceration programs: (1) a home detention program in which participants are released without electronic monitoring, (2) a home detention program with electronic monitoring, and (3) a work release program. The Community Programs Division of the Sheriff's Department is responsible for operating all three programs.

¹ To date, such changes to the authority of the Sheriff's Department have not been approved by the Board of Supervisors, and San Francisco's Administrative Code reflects previous State law allowing only for “minimum security inmates” and “low-risk offenders” to be placed in home detention programs voluntarily. However, prior to AB109, the Sheriff's Department placed offenders in alternatives to incarceration under authority provided by State County Parole law, which does not restrict the type of offender that can be released from custody. According to program staff in the Community Programs Division, the Department did not move to limit eligibility to “minimum security inmates” and “low-risk offenders” in the transition from County Parole to Penal Code 1203.016.

Of the participants in the three programs, the Sheriff's Department only has primary responsibility for selecting sentenced offenders in the home detention or electronic monitoring programs. According to the Community Programs staff, most participants in the home detention and electronic monitoring programs have traditionally been felony probationers serving time in jail as a condition of probation, and probationers serving time for a probation revocation (otherwise known as "Motion-to-Revokes"). In the 11 months prior to the start of AB109, the average daily number of sentenced offenders in the Department's alternative to incarceration programs was approximately 36.7 (this includes only those offenders selected by the Sheriff's Department).

San Francisco's 2011 Public Safety Realignment Implementation Plan

Consistent with the expanded authority provided to counties to implement alternative to incarceration programs under AB109, San Francisco's 2011 Public Safety Realignment Implementation Plan set forth the expanded use of alternatives to incarceration by the Sheriff's Department in a subsection of the Sheriff's Department section entitled "Community Programs & Alternatives to Incarceration". The 2011 Implementation Plan states:

- "The Community Programs Division of [the Sheriff's Department] provides a number of alternatives to incarceration and supervises people in these alternatives while they remain in the constructive custody of the Sheriff. These alternatives to incarceration are frequently utilized to transition inmates back into the community. [The Sheriff's Department] will increase reliance on alternatives to incarceration in order to manage anticipated population increases under AB109."
- "Additionally, AB109 provides legal mechanisms to use alternatives to incarceration for sentenced populations. In San Francisco, these alternatives will include electronic monitoring, home detention, residential treatment beds, [etc.]... All jail programming and alternatives to incarceration will be made available to AB109 offenders providing they meet eligibility criteria and space is available."

The 2011 Implementation Plan also established the use of alternatives to incarceration as one of three intended outcomes of San Francisco's AB109 implementation, stating:

- "The Realignment Plan seeks to achieve the following three outcomes... (3) Implementation of a system that effectively utilizes alternatives to pre-trial and post-conviction incarceration where appropriate."
- "To achieve these outcomes, the [members of the Community Corrections Partnership] will develop and track several outcome measures. Examples of potential outcome measures include... [the] Number and type of offenders sentenced to probation or alternative programs."

Community Programs Eligibility Criteria

For sentenced offenders to be placed in an alternative to incarceration by the Sheriff's Department, they must first meet the "Community Programs Eligibility Criteria," and then pass

an interview conducted by a Deputy Sheriff in the Community Programs Division. Offenders who meet the eligibility criteria may not pass the interview or may not have sufficient time left in jail to qualify to be placed in an alternative to incarceration program.

Community Programs Eligibility Criteria Prior to AB109

Prior to AB109, the Sheriff's Department placed offenders in alternatives to incarceration under authority provided by California Penal Code 3081, or County Parole. As shown in Table 1 below, the Eligibility Criteria prior to AB109 excluded offenders who had any of the following: (1) a hold² from another law enforcement agency, (2) a conviction for a violent, serious or sex offense within the last 10 years, and (3) a special circumstance such as a previous failure to appear at a program they were assigned to, a stay away order, or poor in-custody behavior.

October 2011 Eligibility Criteria

With the start of AB109, the Sheriff's Department transitioned to placing offenders in alternatives to incarceration under authority provided by Penal Code 1203.016, and on October 26, 2011 the Department issued new Eligibility Criteria to align its policy with Penal Code 1203.016. However, the October 2011 Eligibility Criteria, shown in Table 1 below, excluded all categories of AB109 offenders from alternatives to incarceration, contrary to the intent of the 2011 Implementation Plan, although one category of AB109 offenders, those serving time for newly committed low-level felony offenses (1170 offenders), would become eligible once staffing levels in the Community Programs Division were increased.

Also contrary to the intent of the 2011 Implementation Plan, the new Criteria scaled back the Department's use of alternatives to incarceration by excluding Motion-to-Revoke, a group that had been eligible prior to AB109. Although Motion-to-Revoke are not an AB109 group, their eligibility for alternatives to incarceration was directly affected by the Department's implementation of AB109 through the issuance of the October 2011 Eligibility Criteria. It remains unclear why the Department chose to exclude Motion-to-Revoke in transitioning from County Parole to Penal Code 1203.016.

November 2012 Eligibility Criteria

On November 21, 2012, the Department issued revised Eligibility Criteria effective starting November 26, 2012, shown below in Table 1. The November 2012 Eligibility Criteria, currently in effect, are intended to expand the Department's use of alternatives to incarceration.

As shown in Table 1 below, the November 2012 Eligibility Criteria made eligible Motion-to-Revoke and some AB109 offenders who were previously ineligible under the October 2011 Eligibility Criteria, pending consultation with Adult Probation.

² A "hold" means the offender is not to be released at the request of another law enforcement agency.

Table 4.1
Community Programs Eligibility Criteria

Eligibility	Pre-AB109	10/26/11 to 11/26/12	11/26/12 to Present
Ineligible	<p>Holds from Other Agencies</p> <p>Serious/Violent/Sex Conviction in Last 10 Years</p> <p>Failure to Appear, Jail Behavior, Stay Away Orders from Person/Places</p>	<p>Holds from Other Agencies</p> <p>Serious/Violent/Sex Conviction in Last 10 Years</p> <p>Current Conviction for Community Programs Ineligible Offense or AB109 Exclusionary Offense</p> <p>Failure to Appear, Jail Behavior, Stay Away Orders from Person/Places</p> <p>Motion-to-Revokes</p> <p>AB109: (1) Flash Incarceration, (2) Parole Revocations, (3) Post-Release Community Supervision Revocations, (4) Mandatory Supervision Revocations; (5) Offenders serving time for newly committed AB109 offenses eligible <u>once</u> Community Programs staffing increases</p>	<p>Holds from Other Agencies</p> <p>Serious/Violent/Sex Conviction in Last 5 Years</p> <p>Current Conviction for Other Community Programs Ineligible Offense or AB109 Exclusionary Offense</p> <p>Failure to Appear, Jail Behavior, Stay Away Orders from Persons Only</p> <p>AB109: (1) Flash Incarceration, (2) Parole Revocations</p>
Eligible (after meeting the above criteria)	<p>Felony Probationers</p> <p>Motion-to-Revokes</p>	<p>Felony Probationers</p>	<p>Felony Probationers</p> <p>Motion-to-Revokes</p> <p>Stay Away Orders from Places</p> <p>AB109: (1) Post-Release Community Supervision Revocations, (2) Mandatory Supervision Revocations</p>
Eligible with Heightened Scrutiny (after meeting the above criteria)	<p>Current Conviction for Community Programs Specified Offenses</p>	<p>Current Conviction for Community Programs Specified Offenses</p> <p>Prior Conviction for AB109 Exclusionary Offense in Last 10 Years</p>	<p>Current Conviction for Community Programs Specified Offenses</p> <p>Prior Conviction for AB109 Exclusionary Offense in Last 5 Years</p> <p>AB109: Offenders serving time for newly committed AB109 offenses</p>

Source: Sheriff's Department

The Number of Offenders in Alternatives to Incarceration

Contrary to in the intent of the 2011 Implementation Plan, the number of sentenced offenders placed in alternatives to incarceration decreased significantly after the start of AB109, from a monthly average of 27.2 placements in the 6 months prior to AB109, to a monthly average of 6.2 placements in the 12 months after the start of AB109, as shown in Table 4.2 below.

Table 4.2
Offenders Placed in Alternatives to Incarceration by the Sheriff's Department in the 6 Months Before and 12 Months After the Start of AB109

Pre-AB109		
Month	Monthly Placements	Cumulative Placements
05/01/11 – 05/28/11	24	24
05/29/11 – 07/02/11	27	51
07/03/11 – 07/30/11	39	90
07/31/11 – 08/27/11	29	119
08/28/11 – 10/01/11	33	152
10/02/11 – 10/29/11	11	163
Monthly Average/Year Total	27.2	163
Post-AB109		
Month	Monthly Placements	Cumulative Placements
10/30/11 – 12/03/11	2	2
12/04/11 – 12/31/11	10	12
01/01/12 – 02/04/12	5	17
02/05/12 – 03/03/12	14	31
03/04/12 – 03/31/12	7	38
04/01/12 – 04/28/12	6	44
04/29/12 – 06/02/12	7	51
06/03/12 – 06/30/12	4	55
07/01/12 – 07/28/12	3	58
07/29/12 – 09/01/12	4	62
09/02/12 – 09/29/12	9	71
09/30/12 – 10/27/12	3	74
Monthly Average/Year Total	6.2	74

Source: Sheriff's Department

This reduction in monthly average represents a 77% decrease in the number of offenders placed in alternatives to incarceration by the Sheriff's Department after the start of AB109. Correspondingly, the average number of offenders in alternatives to incarceration on any given day (including only those placed by the Sheriff's Department) decreased from 36.7 to 8.4, a decrease of 77%.

According to program staff, this decrease was due in large part to the exclusion of Motion-to-Revoke, as required under the October 2011 Eligibility Criteria. Table 4.3 below illustrates

how the number of eligible offenders decreased as the number of newly ineligible Motion-to-Revokes increased.

Table 4.3
Non-AB109 Offenders Eligible for Alternatives to Incarceration Pre- and Post-AB109³

Pre-AB109				
Date ⁴	Motion-to-Revokes Excluded from Consideration	Number of Eligible Non-AB109 Offenders	Total Sentenced Non-AB109 Population	Eligible as % of Sentenced Non-AB109 Population
07/01/11	0	45	244	18.4%
07/29/11	0	52	248	21.0%
08/26/11	0	41	242	16.9%
09/30/11	0	32	234	13.7%
10/28/11	0	41	218	18.8%
Average				17.8%
Post-AB109				
11/23/11	29	23	236	9.7%
12/30/11	49	15	176	8.5%
01/31/12	67	22	197	11.2%
02/24/12	77	18	217	8.3%
03/30/12	73	9	195	4.6%
04/27/12	93	8	185	4.3%
05/25/12	85	11	167	6.6%
06/29/12	67	8	166	4.8%
07/27/12	56	5	146	3.4%
08/31/12	52	9	143	6.3%
09/28/12	43	8	144	5.6%
Average				6.7%

Source: Sheriff's Department

As discussed above, the October 2011 Eligibility Criteria also excluded all categories of AB109 offenders. As a result, 322 offenders who would have been considered under the November 2012 Eligibility Criteria were excluded from consideration in the first year of AB109 implementation: 223 offenders sentenced for 1170 offenses, 77 offenders sentenced for revocations of Post-Release Community Supervision, and 22 offenders sentenced for revocations of Mandatory Supervision. The Department did, however, grant exceptions to four 1170 offenders.

The available data does not indicate how many offenders sentenced for revocations of Post-Release Community Supervision and Mandatory Supervision met the Community Program Eligibility Criteria. However, data does exist on the number of 1170 offenders who met the Eligibility Criteria. As shown in Table 4 below, between January and September 2012, there

³ The October 2011 Eligibility Criteria was put into effect starting in November 2011.

⁴ With the exception of 7/1/11, 11/23/11 and 1/31/12, all dates are the last Friday of each month.

were an average of 22 1170 offenders in custody at any given time who met the Eligibility Criteria but were not placed alternatives to incarceration due to their AB109 status. Using the assumption that an average of 39.7% of 1170 offenders met the Eligibility Criteria, as shown in Table 4 below, it can be roughly estimated that approximately 89 out of the 223 1170 offenders sentenced in the first year of AB109 met the Eligibility Criteria.

Table 4.4
1170 Offenders Who Met the Community Programs Eligibility Criteria

Date	1170 Offenders Who Met the Other Eligibility Criteria	Total 1170 Offenders in Custody	% of 1170 Offenders Who Met the Other Eligibility Criteria
10/28/11	-	16	-
11/23/11	13	29 ⁵	44.8%
12/30/11	14	37	37.8%
01/31/12	21	51 ⁶	41.2%
02/24/12	24	42	57.1%
03/30/12	26	53	49.1%
04/27/12	26	74	35.1%
05/25/12	23	68	33.8%
06/29/12	19	57	33.3%
07/27/12	21	60 ⁷	35.5%
08/31/12	19	55 ⁸	34.5%
09/28/12	19	50	38%
Jan. to Sept. Average	22.0	56.7	39.7%

Source: Sheriff's Department

According to the Sheriff's Department, a higher percentage of 1170 offenders met the Eligibility Criteria compared to non-AB109 offenders because, as low-level felony offenders, they were less likely than non-AB109 offenders to have convictions for a serious, violent, or sex offense within the last 10 years.

Limited Planning for the Increased Use of Alternatives to Incarceration

The Sheriff's Department has not put in place a thorough and rigorous planning process to ensure optimal program capacity as it expands the use of alternatives to incarceration.

⁵ 1170 offenders in custody on 11/25/11.

⁶ 1170 offenders in custody on 1/27/12.

⁷ 1170 offenders in custody on 7/20/12.

⁸ 1170 offenders in custody on 8/30/12.

Eligible Population Estimates

Although the Sheriff's Department issued new Community Programs Eligibility Criteria on November 21, 2012 that more closely align with the 2011 and 2012 Implementation Plans, the Sheriff's Department has not estimated the increase in the number of offenders that will be eligible for placement in the Department's alternative to incarceration programs as a result of the new Eligibility Criteria. Estimating the likely number of eligible offenders as revisions to the Eligibility Criteria are being considered is critical to ensuring optimal program capacity.

Staffing Needs

The Sheriff's Department also lacks clear guidelines on the appropriate level of staffing needed to ensure adequate supervision of offenders in alternatives to incarceration. The 2011 Community Programs Draft Capacity Projections, which serve as a guide for determining staffing levels based on caseloads, contain client-to-staff ratios and estimates of maximum program capacity that are outdated and inaccurate, according to Community Programs staff.

In order to expand the Department's alternative to incarceration programs, the Department is planning a phased increase in the operational hours of the Community Programs Division. In the first phase the Department proposes to introduce a swing shift (3 pm to 11 pm) for electronic monitoring to facilitate administration of interviews, home inspections and compliance checks, which are currently performed during the day shift (7am to 3pm), and which could also be performed during the swing shift (3pm to 11pm), when most program participants and their families tend to be home. However, it remains unclear how quickly swing shift coverage will be necessary.

In the second phase, the Department plans to introduce night shift (11 pm to 7 am) coverage for the Electronic Monitoring and Warrant Services Unit,⁹ although the Department has not demonstrated the need for night shift coverage. According to Community Programs staff, few violations occur during the night shift, and potential AB109 participants do not require higher levels of supervision than non-AB109 participants. As such, the Sheriff's Department should conduct a more thorough review of Community Programs staffing functions and caseload capacities in order to determine the appropriate level of staffing.

Establishment of a Pretrial Electronic Monitoring Program

AB109 also gives the Sheriff's Department the authority to offer an electronic monitoring program for defendants being held in county jail who cannot afford bail, subject to the county Board of Supervisors' approval. Currently in San Francisco only the Court refers defendants to pretrial release programs. AB109 would allow the Sheriff's Department to place felony defendants who have been in custody for at least 60 days on electronic monitoring without a referral by the Court.

⁹ The Warrant Services Unit night shift would be allocated entirely to Electronic Monitoring enforcement.

Although the 2011 Implementation Plan recommended that the Board of Supervisors authorize the Sheriff's Department to offer such a program, an ordinance approving such a program, although introduced in November 2011, was never heard by the Board of Supervisors.

There remains a lack of certainty regarding the need for such a program in San Francisco. This AB109 policy was primarily intended to help sheriff's departments deal with jail overcrowding, particularly in counties without strong pretrial release systems. Jail overcrowding has not emerged as a challenge for the San Francisco Sheriff's Department, and San Francisco's existing pretrial release system results in a daily population of approximately 400 to 450 defendants with felony charges living out-of-custody who would otherwise be in jail, which is equal to approximately 33% of the pretrial population in jail. The Sheriff's Department, in collaboration with the Community Corrections Partnership, should therefore clarify the need for this authority, and if confirmed, should pursue legal authority from the Board of Supervisors.

Reporting on the Use of Alternatives to Incarceration

As discussed above, the 2011 Implementation Plan established the "implementation of a system that effectively utilizes alternatives to pre-trial and post-conviction incarceration where appropriate" as one of three intended outcomes of San Francisco's AB109 implementation. The 2011 Implementation Plan also suggested the "number and type of offenders sentenced to probation or alternative programs" as one possible outcome measure.

However, these outcomes have yet to be reported in any documents issued by the Community Corrections Partnership or other local criminal justice agencies. For example, the 2012 Implementation Plan does not report the number of offenders placed in alternatives to incarceration during the first 8 months of AB109 implementation, nor does the Community Corrections Partnership's one-year report on San Francisco's AB109 implementation, issued on December 19, 2012.

Conclusions

Although San Francisco's 2011 and 2012 Implementation Plans set forth the expanded use of alternatives to incarceration where appropriate, the Sheriff's Department reduced its use of alternatives to incarceration after the start of AB109, and excluded almost all AB109 offenders from alternatives to incarceration even though many met the Eligibility Criteria. The revised Eligibility Criteria issued in November 2012, more closely align with the 2011 and 2012 Implementation Plans, and are likely to lead to an increase in the number of offenders in alternatives to incarceration. However, the Department has not put in place a thorough and rigorous planning process to ensure optimal program capacity as it expands the use of alternatives to incarceration.

The 2011 and 2012 Implementation Plans establish the use of alternatives to incarceration as one of three intended outcomes of San Francisco's AB109 implementation. Detailed and comprehensive reporting on the City's use of alternatives to incarceration would (1) help ensure accountability for those agencies responsible for implementing the use of alternatives to incarceration, and (2) help in quantifying the savings that result.

Recommendations

The Sheriff should:

- 4.1 Develop a thorough and rigorous planning process for the future use of alternatives to incarceration. This planning process should include (1) developing estimates of the number of offenders that will be placed in alternatives to incarceration as a result of the November 2012 Eligibility Criteria and future proposed revisions to the Eligibility Criteria, (2) closely monitoring the number of offenders in alternatives to incarceration and evaluating the results of the Eligibility Criteria to identify opportunities for further revisions, and (3) conducting a thorough review of staffing needs in the Community Programs Division, resulting in guidelines for appropriate client-to-staff ratios.
- 4.2 In collaboration with the Community Corrections Partnership, clarify the need for the Sheriff's Department to have the authority to place pretrial defendants on electronic monitoring without a Court referral, and pursue authorization from the Board of Supervisors as appropriate and as allowed by AB109.

The Chair of the Community Correction Partnership should:

- 4.3 Provide detailed and comprehensive reporting on the City's use of alternatives to incarceration. Where possible, the Community Corrections Partnership Executive Committee should attempt to quantify the savings resulting from the reported use of alternatives to incarceration.

Costs and Benefits

All of the above recommendations can be implemented without any increased cost to the Sheriff's Department or members of the Community Corrections Partnership, and should result in savings that can be reinvested in alternatives to incarceration and other evidence-based practices.

If the Sheriff's Department increased the average daily number of participants in the Department's alternative to incarceration programs by 50,¹⁰ the Department could potentially close half a housing pod at County Jail 5, which would eliminate 14 shifts per week. This would result in 4.2 FTE deputy sheriffs being freed up, with salary and fringe benefit costs of \$521,262¹¹. The Department could then transfer the deputy sheriff positions to the Community Programs Division and other posts as needed, or realize annual savings through attrition.

¹⁰ The average number of participants in the Sheriff's alternative to incarceration programs decreased by 28.3 after the start of AB109. Assuming (1) pre-AB109 levels of participation are restored, (2) the Department starts placing eligible AB109 offenders in alternatives to incarceration, and (3) reducing the criminal history check from 10 years to 5 years results in an increase in the number of eligible offenders, the overall increase from current levels of participation would be around 50.

¹¹ Housing pod closures at County Jail 5 could be done without sacrificing the excess jail capacity needed to accommodate population peaking and different security classifications. From January to September 2012, San Francisco had an excess jail capacity of 421 beds, or 27 % of average daily population, which exceeds by 98 beds (or 6 % of average daily population) the peaking factor of 14.9 % and classification factor of 5 % recommended in the Controller's 9/25/2011 Jail Population Study.

5. Public Defender and District Attorney Positions Supporting Public Safety Realignment

- **The Public Defender and District Attorney Offices have each used some of their Realignment funding to hire positions to assess offenders and assist their attorneys in crafting or reviewing proposed alternative sentences. The offices have not established specific criteria to help attorneys prioritize use of these positions, caseload standards or guidelines about the number of hours to be devoted by these positions to each case.**
- **Data concerning the impact of these positions is limited. For example, of the 55 assessments of AB109 offenders conducted by the Public Defender's Office, the Office has demonstrated that 32 have resulted in identification of alternative sentences or other services. Comparable statistics are not currently available from the District Attorney's Office.**
- **The District Attorney's Office reports that, in addition to cases assigned by attorneys or self-selected, the Alternate Sentencing Planner works in the Early Resolution Program where increasingly fewer cases are being heard. Although Early Resolution Program cases are increasingly serious ones that involve jail or prison time, the lack of referral criteria, caseload standards or guidelines makes it difficult to determine whether this is the best use of the Alternate Sentencing Planner's time.**
- **Some of the work carried out by the Public Defender's Criminal Justice Specialist may be duplicative of work that is now, or will soon be, performed at the Community Assessment and Services Center (CASC). The Public Defender's Criminal Justice Specialist currently provides services to clients after the conclusion of a felony case - a function that should be performed by the Adult Probation Department for clients on mandatory supervision at the CASC.**

Realignment Funding Formula for District Attorney and Public Defender Operations

In addition to the larger county grants, the State provided separate grants to District Attorney and Public Defender offices in each county for AB109 implementation. The formula for District Attorney and Public Defender funding differs from that for other Realignment funding. In FY 2011-12, 1.5% of \$14.6 million in statewide District Attorney and Public Defender funding was allocated to San Francisco, compared with the 2.03% of the general larger county grant for Realignment. This formula will remain unchanged in FY 2012-13 and 2013-14, although total funding will increase. To date, the funding for the District Attorney and Public Defender has

been split evenly between the two offices, with \$109,515 in State Realignment funding and \$179,936 in City General Fund money allocated to each office in FY 2012-13. The total allocation for the San Francisco District Attorney and Public Defender for each of the three years is as follows:

**Table 5.1
District Attorney and Public Defender Public Safety Realignment Appropriations**

Fiscal Year	State Funds Appropriation	General Fund Appropriation	Total District Attorney and Public Defender Appropriation
2011-12	\$181,013	\$200,000	\$381,013
2012-13	\$219,029	\$359,871	\$578,900
2013-14	\$219,029	\$359,871	\$578,900

Source: Annual Appropriation Ordinance

Although the FY 2013-14 budget adopted by the Board of Supervisors appropriated \$219,029 in State funds, the actual FY 2013-14 state allocation for District Attorney and Public Defender offices is expected to increase.

The Public Defender’s Office elected to use its funding to support two positions:

Table 5.2 Public Defender’s Use of Realignment Appropriation FY 2012-13	
Use	Total Cost
Attorney	\$154,623
Criminal Justice Specialist	\$101,028
Total	\$255,651

Source: Public Defender’s Office

The District Attorney’s Office has utilized its funds to hire one new position and to fund realignment operations, including partial support of five attorneys that cover the Motion-to-Revoke calendars in five (5) different courtrooms every Friday, where motions to revoke Post Release Community Supervision and Mandatory Supervision violations are heard.

Table 5.3
District Attorney’s Use of Realignment Appropriation

FY 2012-13

Use	Total Cost
Alternative Sentencing Planner	\$105,752
Realignment Operations	\$183,698
Total	\$289,450

Source: District Attorney’s Office

Provision of Assessment Services

The Public Defender and District Attorney’s Office have each used realignment funding to hire positions to assess offenders and assist their respective attorneys in crafting or reviewing proposed alternative sentences for AB109 defendants

Impact of Public Defender Criminal Justice Specialist Assessments

As part of the realignment team, the Public Defender’s Criminal Justice Specialist is focused on providing legal defense support by identifying treatment programs or other alternatives to incarceration, completing bio-social histories, advocating before the court, and supporting attorneys in trial. The Specialist estimates that approximately 75% of the Specialist’s time is spent on activities involving the realignment population and 25% on more general reentry assistance.

The Office indicates that a primary benefit of the Public Defender’s Criminal Justice Specialist is that the position’s proposed placements give the court and the District Attorney more confidence that split sentences will be accompanied by specific program interventions. Clients are sentenced to less jail time as a result. Early intervention from the Specialist also allows clients given split sentences an opportunity for immediate program placement upon release on mandatory supervision, rather than waiting to arrange these placements after leaving jail, enhancing their success. It also provides an incentive for clients to better themselves while in jail because they know that a program has been determined for them upon release. For example, a participant might be inspired to participate in substance abuse counseling while in jail if they know they will be able to participate in substance abuse treatment on release.

The Public Defender has provided some statistics to demonstrate the benefit of the Criminal Justice Specialist assessments by providing data on placement outcomes. Each client referred to the Specialist receives a bio-psychological assessment. Since the beginning of realignment, the Specialist has completed 55 assessments for the AB109 population and 17 for the non-AB109 population. The 55 assessments for AB109 offenders have resulted in identification of 32 alternative sentences or connection with other services as follows:

**Table 5.4
Summary of Services Provided by Public Defender Criminal Justice Specialist
To 1170(h)-Eligible Clients**

Action	Number of Clients
Reentry plan/placement	23
Connection with other services*	6
Services arranged but precluded by out of county warrant	3
Subtotal, alternative assessments or connection to services	32
Sentenced/settled without services**	8
Declined program	2
Pending	10
Other	3
TOTAL	55

Source: Public Defender

* Includes SPR services, Drug Court (when client was not initially eligible for Drug Court), contact visits, parenting classes

** Includes program not an option

It is unknown the extent to which these placements and services may have occurred without the Specialist’s intervention.

In addition to identifying defendant’s service needs generally, the Specialist arranges specific program placements, which the court or District Attorney may require prior to agreeing to an alternative sentence. This generally occurs before the Adult Probation Department becomes involved in the case at the sentencing stage, and is thus handled by the Criminal Justice Specialist. However, to the extent that a defendant is already a Post Release Community Supervision participant, some assessment of his or her needs and possible placements may have been conducted by the Adult Probation Department, but that would not necessarily relate to the offense for which the person is currently being tried.

Impact of District Attorney Alternative Sentencing Planner Assistance

The District Attorney’s Office hired an Alternative Sentencing Planner in February 2012. The District Attorney reports that this position is the first of its kind in California. The Alternative Sentencing Planner’s main responsibility is to develop and recommend alternative sentences for 1170(h)-eligible defendants to the District Attorney’s prosecutors. 1170(h)-eligible offenses are newly-committed lower-level felony offenses. According to the Alternative Sentencing Planner job description, in the course of this work, the Alternative Sentencing Planner is to review COMPAS risk assessment information and the defendant’s social and criminal information, research programs and services, serve as a liaison with community based organizations and

service providers, review and assess best practices in recidivism reduction and serve as liaison with Adult Probation Department, other criminal justice agencies, and city and community agencies in an effort to support the expanded use of effective alternatives.

District Attorney management staff estimate 75% of the Alternative Sentencing Planner's workload relates to AB109 offenders with new charges that are potentially 1170(h)-eligible. District Attorney management staff indicate that, with the assistance of the Alternative Sentencing Planner, the "nuance of deputy district attorney recommendations has become more detailed" and resulted in reduced length of custody and improved sentencing alternatives. However, the District Attorney was only able to provide information that the Alternative Sentencing Planner had completed 50 "in depth work-ups" since the position was filled. The Office has not provided data documenting these services or demonstrating the shorter or alternative sentences that have resulted from the Alternative Sentencing Planner's work. However, the District Attorney's Office reports that it is conducting a process evaluation of the Alternative Sentencing Planner's workload that includes type of case and case disposition and expects to complete the analysis in February 2013.

Need for Enhanced Use of Management Data to Track Workload, Performance and Outcomes

Neither office maintains data in a fashion allowing it to be easily analyzed. The Public Defender keeps an Excel spreadsheet listing the cases in which the Specialist has assisted, divided into AB109 and non-AB109 cases. While the Office was only able to provide a limited portion of this spreadsheet for review due to confidentiality concerns, it is clear that results are not categorized in a systematic way, making analysis difficult. The source of referral or the stage at which a case is referred to the Specialist is also not indicated.

The District Attorney's DAMION case management system currently records that the Alternative Sentencing Planner is working on a case. Within the last month, the District Attorney has begun to use a new form to document the Alternative Sentencing Planner's recommendations, District Attorney and Defense offers, and actual sentencing. The District Attorney plans to use the form to gather and analyze data related to the results of the Alternative Sentencing Planner's recommendations versus the actual sentences. It will also distinguish between full assessments and quick analyses that the Alternative Sentencing Planner is asked to conduct on limited topics.

The District Attorney's Office reports it will hire a Chief Information Officer to explore integration of the data systems necessary to identify all realignment-eligible cases and tracking their outcomes will be a primary focus. District Attorney management has indicated that future data analysis capability will include collecting information about who refers cases to the Alternative Sentencing Planner and at what stage cases are referred.

Although referrals to the Alternative Sentencing Planner are currently not vetted by a manager, the District Attorney's Office should use the information that will be gathered through the data tracking and analysis that the Office is planning to create referral criteria in order to manage the Alternative Sentencing Planner's limited time.

Need for Greater Efficiencies in Use of Community Justice Specialist and Alternative Sentencing Planning Resources

Absence of Written Criteria for Case Assignment and Activities

Neither the Public Defender nor the District Attorney have developed specific written criteria to prioritize Specialist or Alternative Sentencing Planner realignment activities, set guidelines about the hours or types of service the Specialist or Alternative Sentencing Planner may provide on a case, or created appropriate caseload measures. As such, it is difficult to assess the effectiveness of the use of this funding.

The Public Defender's Director of Specialty Courts and Reentry Programs approves requests for use of the Specialist in 1170(h)-eligible cases upon receipt of a Request for Social Services from the requesting attorney. The Criminal Justice Specialist is also expected to assist the deputy public defenders in Post Release Community Supervision revocations, as needed. Some Public Defender attorneys report that by examining the assessment conducted by the Sheriff's Department on booking, they request review by the Criminal Justice Specialist based on general criteria that (a) clients are not eligible for collaborative court services, (b) clients have issues for which placements are available (e.g., those with sex offender allegations are very difficult to place), and (c) the case is one in which the Public Defender will not obviously prevail without the offer of services. These criteria are too vague to provide adequate direction to the Specialist.

In the brief period since the Alternative Sentencing Planner was hired, the process by which attorneys request the Alternative Sentencing Planner's services has not been formalized. The District Attorney's Office indicates that the preferred Alternative Sentencing Planner caseload at any one time is 20 to 25 cases that involve complex investigations and about 30 cases monthly that are short two- to three-hour consultations with attorneys. Given that the District Attorney's Office has not yet collected data on the source and size of the Alternative Sentencing Planner's caseload, auditors were unable to identify a firm basis for these estimates.

Although the job description does not specify criteria for case selection, the Alternative Sentencing Planner reports that cases are selected based on:

- (a) A review of all 1170(h)-eligible cases (based on both charge and defendant criminal history) at charging to determine which cases he thinks would most benefit from further review to determine if an alternative sentence might be appropriate;
- (b) Requests from preliminary hearing and trial unit attorneys; and

(c) Assessment of Early Resolution Program cases, which may or may not be 1170(h)-eligible.

Early Resolution Program case filings are declining (reduced by 11.5% from 279 cases in 2011 to 247 cases in 2012), and settlements are reportedly occurring less frequently in this courtroom,¹ However, the District Attorney's Office reports that the seriousness of cases in this program has increased. The District Attorney's Office should assess the effectiveness of using the Alternative Sentencing Planner in these cases, especially since District Attorney's Office indicates in the 2012 annual report that it plans to use more of the Alternative Sentencing Planner's time in support of this program.

Placement Arrangements Following Case Closure

Responsibility for arranging program placements after a case is concluded is also not clearly defined. The Public Defender's Criminal Justice Specialist (a) works with some defendants after sentencing, even those who are under the supervision of the Adult Probation Department; or (b) arranges future placements if a participant is in danger of being terminated or has been terminated from a program. These clients contact the Specialist directly either on the phone or by coming into the office. The Criminal Justice Specialist has estimated that she has assisted 36 such clients since October, 2011. While this workload is minimal at present, the Specialist indicates that post-sentencing work will likely grow, as people contact the Specialist from the jail or while under mandatory supervision when they otherwise would have been in state prison.

Since the Specialist's ability to assist attorneys is already limited due to time constraints, using the Specialist's time in this manner may not be the most cost-effective approach once Adult Probation's CASC is fully operational. The Adult Probation Department has allocated significant resources to service provision for AB109 population, and will be launching a service center explicitly for this purpose in 2013. The Adult Probation Department's contract with Leaders in Community Alternatives provides that mandatory supervision and post release community supervision clients will report to the center as often as daily, depending on the plan developed by the Adult Probation Department. The Public Defender's Office should coordinate closely with Adult Probation to hand over these post-conviction cases, in order to make the most effective use of the Specialist's time.

¹ Deputy Public Defenders report that they are stipulating to fewer cases being sent to the Early Resolution Program since, without the threat of prison time, the defense does not have as much of an incentive to settle at this early stage. Also, as there are less than ten days from arraignment to the Early Resolution Program, if the Alternative Sentencing Planner needs more time to conduct his work, the defense must agree to waive this time requirement. Public Defender attorneys indicate they are generally unwilling to do so. The Public Defender's Criminal Justice Specialist only appears in this court if a case has been otherwise assigned there on request of a Deputy Public Defender.

Conclusion

The purpose of these positions is to assist the Offices in, respectively, defending and prosecuting cases while promoting the goals of rehabilitation and public safety. The Public Defender's and District Attorney's Offices were required to begin managing 1170(h)-eligible cases only one month after passage of clean-up legislation concerning these cases. These Offices need to better plan for integration of assessment services on an ongoing basis.

Recommendations:

The Public Defender and District Attorney should:

- 5.1 Formalize the caseload and performance standards for the Criminal Justice Specialist and Alternative Sentencing Planner positions, including (a) specific criteria for referral; (b) caseload standards (including hours of service per case); (c) tracking sources of referrals; and (d) tracking and reporting of placement and other outcomes.

The District Attorney should:

- 5.2 Evaluate the assignment of the Alternative Sentencing Planner at the Early Resolution program in order to demonstrate that caseload and case seriousness and complexity warrant use of the Alternative Sentencing Planner in this program.

The Public Defender should:

- 5.3 As part of the formal Criminal Justice Specialist caseload and performance standards (a) discontinue utilizing the Criminal Justice Specialist to assist clients post-sentencing once the CASC is fully operational; and (b) coordinate with Adult Probation to insure the proper transfer of post-sentencing clients seeking services.

Costs and Benefits

Analyzing and communicating the results of their work, the criteria for using their services and caseload standards will insure these positions are used in the most cost-effective manner possible. The cost of enhanced monitoring and reporting is likely to be minimal.

6. Planning for Parole Revocation Hearings

- **San Francisco faces additional new responsibilities under Public Safety Realignment beginning July 1, 2013. In all but a few instances, the Superior Court will assume responsibility from the State Board of Parole Hearings for parole revocation hearings. The County will be responsible for defending parolees in these hearings and providing legal support to the State Division of Adult Parole Operations (Adult Parole).**
- **Under current Adult Parole practice, in the first year there could be as many as 2,384 parole revocations hearings (including probable cause and full revocation hearings) in Superior Court in FY 2013-14, although an estimated 2,150 will not proceed to full revocation hearings. Both the Public Defender's Office and District Attorney's Office will have new responsibilities in parole revocation hearings. While the actual number of additional parole revocation hearings in FY 2013-14 may be less than the estimated 2,384 because Adult Parole has been given new authority to use flash incarcerations (incarcerating parole violators up to 10 days in County jail without a hearing), the transfer of parole revocation hearings from the State to the San Francisco Superior Court beginning in July 2013 will result in increased Public Defender and District Attorney workload. Over time, the number of parolees is expected to decline, resulting in fewer parole revocation proceedings after initial transfer in FY 2013-14.**
- **Both the Public Defender's Office and the District Attorney's Office may need additional staff resources in FY 2013-14 to handle parole revocation hearings. The Community Corrections Partnership will need to evaluate the impact of the transfer of parole revocation hearings from the State to the San Francisco Superior Court on the Public Defender's Office and District Attorney's Office.**
- **The Community Corrections Partnership also needs to ensure standard procedures for Post Release Community Supervision, probation, and parole revocation hearings and conformance to State law. The Adult Probation Department should require a Division Director to review Post Release Community Supervision revocation petitions to be consistent with State parole procedures. The Adult Probation Department's procedures only require that the supervising probation officer review the papers submitted to the Superior Court for Post Release Community Supervision revocation. State parole procedures require that a unit supervisor and district administrator review the revocation papers prior to submission to the Board of Parole Hearings.**

On July 1, 2013, the Superior Court will in all but a very few instances¹ assume responsibility from the State Parole Board for parole revocation proceedings. The Division of Adult Parole Operations (Adult Parole), a division of the California Department of Corrections and Rehabilitation (CDCR), will continue to assess compliance with the terms of parole and make sanction offers, with many parolees accepting an initial sanction offer from Adult Parole prior to formal parole revocation proceedings. Sanction offers may include fines, home detention, electronic surveillance, short periods in jail, or other sanctions. Parolees who do not accept the initial sanction offer will be provided with local hearings in Superior Court.

The County will be responsible for both providing legal defense representation for the parolees and legal support for Adult Parole which brings the revocation actions, if it so requests, or the Superior Court requires the County to do so.

Potentially Significant Impacts of Parole Revocation Hearings on the Superior Court and Public Defender

In 2010, the year before Public Safety Realignment, CDCR data indicates there were 1,122 parole revocation proceedings for San Francisco parolees. Of these, 181 (16%) were returned to custody assessments at which a deputy Parole Board commissioner either revoked parole or dismissed the charges; 819 (73%) were resolved at a probable cause hearing in which the prosecution makes its case²; and only 122 (11%) required a full revocation hearing where witnesses might be called and testimony heard.

CDCR data about the number of hearings since October 2011 shows a sharp increase (over 40%) in the number of hearings held by the Board of Parole Hearing for San Francisco parolees in just the first eight months of Realignment (October 2011 through May 2012). Projecting those figures forward for an entire year results in an expected increase of over 100% from the year just prior to realignment, as shown in Table 6.1 below:

¹ The primary exceptions are revocation hearings for felons paroled from life sentence and mentally disordered or violent sex offenders, which will remain under the jurisdiction of the State Parole Board.

² This includes what are known as optional waiver reviews. These hearings take place when a parolee is charged with a new offense as well as a parole violation and waives his right to the parole violation hearing. If the new offense is not proven, the parolee may request a hearing on the original parole violation (a waiver review) and then proceed to a probable cause hearing.

Table 6.1
Parole Revocation Proceedings for San Francisco Parolees

	Total Revocations Heard by Board of Parole Hearings³	Return to Custody Assessments	Probable Cause Hearings	Parole Revocation Hearings
Pre-Realignment: Calendar Year 2010	1,122	181	819	122
October 1, 2011 - May 31, 2012⁴	1,589	104	1,348	137
Post-Realignment Annual Projection	2,384 ⁵	156	2,022	206

Source: California Department of Corrections

It is unknown why this increase in overall volume of hearings is occurring. This may be because, since realignment, jail terms for parole violations have been reduced to a maximum of 180 days (90 with a credit for time served with good behavior) whereas, before realignment, jail sanctions for parole violations could extend to 12 months and a typical jail sanction was a 180-day jail sentence, twice the standard 90 days jail time under realignment. Thus, parole officers may now be more willing to bring these actions, given the reduction in penalties.

It is clear that fewer parole revocation cases are settling before the probable cause hearing (156 or 6.5%, compared with 181 or 16% in the 2010 calendar year). Thus, more probable cause hearings (2,022 of 2,384, or 93.5%) are projected to be conducted than was true in the past. Of the 2,022 estimated annual probable cause hearings, approximately 10% (206) could be expected to proceed to a full revocation hearing.

Potential Impact on the Superior Court

If Adult Parole does not change any of its current practices in how it brings revocation actions, it is estimated that the Superior Court will need to prepare to preside over approximately 2,200 parole revocation proceedings (2,022 probable cause hearings and 206 final revocation hearings) annually. However, representatives of the State Parole Board indicate that the Board will no longer be conducting the intermediate return to custody assessment. Thus, all 2,384 cases may be

³ Includes only cases where a hearing was held, e.g., where the parolee did not settle before any hearing took place.

⁴ Figures for the October, 2011 to May, 2012 period have been adjusted to reflect only hearings of each type where a final decision was made. This allows comparison with the Parole Board's 2010 figures.

⁵ The number of parolees housed in County jails after being arrested for parole violations with or without new charges for this period differs slightly from this projection. Sheriff statistics for this period show that there were 2,180 parolees housed in County jails

heard in Superior Court since the estimated 156 cases that could have been settled before the probable cause hearing will now come to the Court.

It is expected that most parolees will continue to settle at the probable cause hearing. Of the 2,384 parole revocation hearings, approximately 10%, or 240 could, under current Parole practice, be expected to proceed to a full revocation hearing involving some testimony and witnesses in open court while the remainder (approximately 2,150) could be expected to require limited court time.⁶ Nonetheless, this represents a significant workload increase beyond the impact to date of realignment on the Superior Court since, as of October 2012, the court had only heard nine post release community supervision revocation motions.

The State Judicial Council has appropriated state trial court funds to Superior Courts to manage revocation proceedings.⁷

Resources Needed for Provision of Parolee Representation

Even if settled at the early stages of the process, deputy public defenders will be involved in each case as they investigate the charges, meet with clients, interview witnesses, etc. The Public Defender has estimated that revocation proceedings that settle at the probable cause stage would require between 2.5 and 4 hours of attorney time and that each revocation proceeding that continues to a full hearing will require between 5 and 15 hours of attorney time⁸. These estimates may be overstated; for example, while the Public Defender estimates one hour for each probable cause hearing, the Superior Court's time study found that probable cause hearings for motions to revoke probation were 17 minutes. The estimate provided by the Public Defender also far exceeds the time currently assumed for counsel for parole violators appointed by the California Parolee Advocacy Program (CALPAP) at McGeorge University Law School.⁹ Since

⁶ In 2012, the Superior Court has experienced a decline in felony motion to revoke filings, even including the new Post Release Community Supervision revocation proceedings that Adult Probation Department is now bringing to the Court. In 2011, there were 183 felony motion to revoke filings monthly. In 2012, that number declined to 167 felony motion to revoke filings per month (with misdemeanor motion to revoke filings remaining at approximately 75 per month). An additional 200 Parole revocation filings annually, or 17 per month, would raise the Court's motion to revoke workload to the level heard in 2011.

⁷ For FY 2011-12, the San Francisco Superior Court received an allocation of \$507,746, reflecting the county's share of parole revocation hearings held in 2010. Conducting a time study, the court estimated that the total case related employee cost for implementing realignment was projected to be \$229,595. A significant portion of the cost to the court related to nearly 1,200 hours spent to date in planning and automation for realignment and 195 hours for making process changes. The court was not required to return the balance of funds. Instead, the current year allocation for FY 2012-13 was reduced to \$260,000 to reflect the carry forward of funds from the prior year.

⁸ The range accounts for differences in the severity of the violation and whether or not the parolee was arrested or only cited.

⁹ If the District Attorney decides to proceed on a new charge in the Superior Court, the revocation action is held in abeyance until the new proceedings are concluded. In this case, the Public Defender or conflict counsel have been defending the individual in the new case

inception, these attorneys, organized in ten regional offices, have handled 90,000 hearings at a cost of approximately \$300 per case (\$185 to the attorney, the balance for overhead), with additional fees in a few situations. CALPAP attorneys perform all of their own investigations and clerical work for these cases, for which the maximum penalty is 180 days in jail (reduced to 90 with credit for time served).

Mitigation of Potential Impacts through Use of Flash Incarcerations and Other Remedial Sanctions by Adult Parole

Adult Parole has been given new authority to use flash incarcerations beginning July 2013¹⁰, in which it can return parolees to jail for up to 10 days without a hearing. The use of flash incarcerations may reduce the number of revocation actions pursued by Adult Parole, as Adult Parole will be able to impose flash incarcerations without court review instead of proceeding to revoke parole.

The Adult Probation Department has used flash incarcerations as an intermediate sanction for Post Release Community Supervision clients. The use of flash incarcerations also serves to reduce Court, Public Defender and District Attorney work load¹¹. From October 2011 through September 2012, Adult Probation has imposed 154 flash incarcerations on 94 Post Release Community Supervision clients but only pursued nine probation revocations¹². As such, flash incarcerations represent 94.5%, and revocations only 5.5%, of the remedial actions taken by the Adult Probation Department. Were Adult Parole to use this same rate of flash incarcerations versus revocations, the total number of parole revocation proceedings in Court can be estimated at 130 (5.5% of 2,384), with 115 concluding at the more perfunctory probable cause stage and only 15 proceeding to a full revocation hearings. In addition, Adult Parole could choose to be more assertive in using remedial sanctions such as drug treatment or more frequent contact with the parole officer, further reducing the hearing workload and reducing costs.

To accommodate the estimated increase in workload, the Mayor may need to reallocate existing resources or allocate new resources in the Public Defender's budget, as shown in Table 6.2 below.¹³

¹⁰ Penal Code Sec. 3000.08(d).

¹¹ Whether the use of flash incarcerations will impact the size of the jail population is unknown.

¹² 94 clients is 22% of total Post Release Community Supervision caseload from October 2011 to October 2012 of 421.

¹³ Using an estimate of three hours per case that concludes at the probable cause stage, the estimated 1,013 cases that conclude at probable cause would require 3,038 hours of Public Defender time. For the 96 parole revocation cases that would proceed to full revocation hearing, assuming an average of 10 hours of attorney time, the Public Defender would require an additional 960 hours of staff time, for a total of 3,996 staff hours, or approximately 2.1 FTE attorneys (based on 1,850 productive hours per FTE).

Table 6.2
Estimated Increased Public Defender Work Load and New Positions
Due to Increase in Parole Revocation Proceedings

Parole Revocation Hearing	Number of Projected Annual Final Hearings	Estimated Average Public Defender Hours Per Case	Total Estimated Hours	Estimated FTE Attorney Needs¹⁴
Probable Cause	1,013	3	3,039	1.5
Revocation Hearing	96	10	960	0.5
Total	2,009	3.6	3,999	2.0

Although the extent to which Parole will use flash incarcerations is unknown, it can be expected that Parole will gradually introduce the concept of flash incarcerations and greater use of intermediate sanctions so that the number of revocation hearings before the Superior Court will decline over time as the use of flash incarceration and intermediate sanctions increases. The number of parolees will also decline over time as the majority of individuals being released from prison now will be placed on Post Release Community Supervision, where flash incarcerations are actively used in lieu of revocation proceedings, and because in 2010 State law classified some parolees as being on non-revocable parole.¹⁵

Uncertain Extent of Role of the District Attorney in State Parole Violation Hearings

Adult Parole is not currently represented by a State attorney in proceedings before the State Parole Board. The District Attorney's Office has indicated that it plans to represent Adult Parole in parole revocation proceedings in Superior Court and has received confirmation in a January 3, 2013 letter from the Superior Court presiding judge. Having the District Attorney represent Adult Parole would help ensure legal consistency and efficiency in the hearings and conform all of the revocation proceedings before the Court, as the other proceedings utilize the District Attorney to examine witnesses, etc. However, it remains unclear how many hours of District Attorney time will be required to represent Adult Parole. Adult Parole will continue to have parole agents conducting the initial investigation and the authority to file revocation proceedings. This is parallel to the process in Post Release Community Supervision revocations under which the Adult Probation Department and the District Attorney both have the authority to file

¹⁴ Rounded to nearest 0.25 FTE.

¹⁵ Projections from CDRC indicate that the number of parolees is projected to decline statewide by 55% (from 68,662 to 31,305) over five years from 2013 through 2017.

revocation proceedings, but in practice to date the Adult Probation Department files the charges. The District Attorney becomes involved when the revocation proceeds to a hearing.

In addition, the District Attorney's Office indicates that it may seek additional Alternative Sentence Planners¹⁶ when the Superior Court begins to preside over parole revocation hearings. However, just as the District Attorney does not use the existing Alternative Sentencing Planner in Post Release Community Supervision violation proceedings where the penalties are limited to 180 days in jail (reduced to 90 for time served), that position would be unlikely to have a role in parole violations as the same limited penalties apply in parole violation cases. In addition, many defendants are unlikely to accept alternatives to incarceration that may require more time to complete than the 90 day penalty in jail (e.g., a typical duration for a domestic violence prevention program is one year).

Procedures for Different Types of Revocation Proceedings

According to Senate Bill (SB) 1023, "it is the intent of the Legislature to provide for a uniform supervision revocation process for petitions to revoke probation, mandatory supervision, post release community supervision, and parole". This will promote efficiency and equal treatment of supervision violators and allow the Superior Court to hear all revocation cases in the same manner, regardless of how cases come to it. The Judicial Council is required to adopt court forms and rules guiding revocation proceedings. The AOC is actively developing rules and forms to do so and to date has promulgated a common form for submitting either a Post Release Community Supervision or a parole revocation. Each county will need to consider the specifics of how to implement statewide rules.

According to SB 1023, the uniform supervision revocation process should incorporate the procedural due process protections held to apply to probation revocation procedures under *Morrissey v. Brewer* and *People v. Vickers*. The Adult Probation Department, Public Defender's Office, and District Attorney's Office formed a working group prior to the implementation of Public Safety Realignment to develop procedures to protect an individual's due process rights. The Adult Probation Department's procedures for flash incarceration and revoking Post Release Community Supervision reflect these discussions. Once responsibility for State parole revocation proceedings are transferred to the County in July 2013, the County will need to ensure that existing procedures will meet due process requirements.

For Post Release Community Supervision participants, Adult Probation should add additional internal oversight over revocations to be consistent with State parole procedures. Under Penal Code Section 3454, the Superior Court (or hearing officer appointed by the Superior Court) can revoke Post Release Community Supervision for up to 180 days. The Adult Probation Department's policies and procedures only require that the supervising probation officer review

¹⁶ See Section 5 of this report for a description of the District Attorneys Alternative Sentence Planner position.

and sign the papers submitted to the Superior Court for revocation. State parole procedures require that a unit supervisor and district administrator review the revocation papers prior to submission to the Board of Parole Hearings. The Department should require review by a division manager prior to submitting papers to revoke Post Release Community Supervision. This is particularly critical as Adult Probation does not generally attend the Post Release Community Supervision court hearings and the Court reports that (1) petitions do not consistently demonstrate that intermediate sanctions were sought before the revocation action was taken and (2) petitions are not consistently clear about the sanction Adult Probation is seeking. Additionally, review by a division manager prior to submitting a petition to revoke Post Release Community Supervision could reduce the impact on the Superior Court, which will have increased workload due to parole revocation proceedings beginning in July 2013.

Conclusions

Responsibility for parole revocation proceedings will be transferred from the State to the San Francisco Superior Court on July 1, 2013. Although the potential increase in workload can only be estimated, the City must, nevertheless, prepare to manage a workload increase. The initial workload may decline as Adult Parole adopts flash incarcerations and other alternatives to revocation and the population of parolees is reduced over time.

Post Release Community Supervision and Parole revocation hearings, over which the Court will preside, will be most efficient and most likely to meet due process standards if their processes are merged.

Recommendations

The Chair of the Community Corrections Partnership should:

- 6.1 In consultation with the Mayor's Office, evaluate the impact of the transfer of parole revocation hearings from the State to the San Francisco Superior Court on the need for staff resources in the Public Defender's Office and District Attorney's Office, which may include reallocating existing staff resources or AB109 funds in the FY 2013-14 budget.
- 6.2 Evaluate the impact of the transfer of parole revocation hearings from the State to the San Francisco Superior Court and implement recommendations to: (1) merge procedures for parole; Post Release Community Supervision, and probation revocation hearings and ensure compliance with due process requirements; (2) provide for review of Post Release Community Supervision revocation petitions by the Adult Probation Department's Division Director; and (3) analyze the number of parole revocation proceedings and the stage at which they are settled six months after the County assumes responsibility for these proceedings and on a continuing basis.

Costs and Benefits

Implementation of these recommendations could result in reallocation of existing staff resources or AB109 funds in FY 2013-14. These reallocated resources are estimated to be equivalent to 2.0 FTEs or \$267,000 in salaries and benefits, in the Public Defender's Office, but are not yet known for the District Attorney's Office.

7. Housing for AB109 Offenders

- **The reduction in recidivism that Public Safety Realignment is expected to generate requires that AB109 offenders have access to adequate services, including housing opportunities. Stable housing is widely recognized as critical in enabling probationers to adhere to the terms of their supervision and avoid re-incarceration.**
- **Although the Adult Probation Department estimates that 47% of AB109 offenders face residential instability, the City has set aside relatively little housing specifically targeted to the reentry population, and the City's low income housing policy does not prioritize ex-offenders.**
- **Despite the service needs assessments completed for all offenders, the City lacks comprehensive data that details how many offenders have accessed existing City housing services, as well as the type and volume of housing options needed for this population. The Adult Probation Department currently tracks case management data, including housing information, on an Excel spreadsheet. The current method of collection and analysis of data related to unmet housing needs and use by ex-offenders of City-sponsored housing is inefficient.**
- **Inadequate coordination of service provision combined with an insufficient stock of affordable and supportive housing in San Francisco limits the amount of housing available to AB109 offenders.**
- **The Community Corrections Partnership should consult with the Mayor's Office of Housing on the barriers to housing faced by offenders, including discrimination and residency requirements, to assess the need for policy changes to increase housing alternatives for offenders.**

As of October 1, 2012, there were 5,818 probationers under the supervision of the Adult Probation Department, including 417 offenders whose terms fell under new AB109 definitions: 69 low level felony offenders and 348 Post-Release Community Supervision. As discussed below, it is not possible to estimate the number of AB109 offenders whom the City's housing programs currently serve. Nonetheless, there is a perennial shortage of low income housing in San Francisco (and throughout the Bay Area) and the current rate of residential instability among this population is 47%.

Shortage of Affordable Housing in San Francisco

San Francisco is one of the most expensive housing markets in the nation. The median home price is \$750,000 and the average rent for a one-bedroom apartment is \$2,600. While the City

constructs affordable housing for low-income residents¹, in the five-year period from 2007 through 2011, affordable housing made up only 29% of all housing construction, or 3,304 of 11,419 housing units.

The City's 2010-2014 Five-Year Consolidated Plan for the expenditure of U.S. Department of Housing and Urban Development (HUD) grants identifies homelessness as a primary challenge due to the high cost of housing in San Francisco. The Plan specifically acknowledges the barriers to finding housing for individuals who are recently released from jail or prison or have criminal records. The Plan's objectives include decreasing the incidence of homelessness by increasing housing stability, of which one strategy to meet this objective is to support the transition from incarceration, foster care and hospitals into permanent housing.

The majority of AB109 clients are either unemployed or low income at the time they leave incarceration, when they are forced to compete for the already limited supply of affordable housing, such as single-room occupancy units (SROs), supportive housing², stabilization housing and other City-sponsored housing programs that serve special populations (seniors, Housing for People with AIDS, etc.). Although the City has thus made significant progress in providing housing for very low-income residents, there is still a shortage of affordable housing options for which ex-offenders will be eligible.

Housing Data Collection for AB109 Offenders and Unmet Need

Although the City serves AB109 offenders through a variety of housing programs, it is difficult to determine the exact extent of unmet need because this information is not collected systematically. Some City-funded housing programs do use criminal background checks in screening potential tenants, but do not review or record this information outside the defined scope of the background check, and therefore do not retain records on AB109 offenders in general. The Adult Probation Department assesses housing need and tracks the housing status of clients (particularly those who are homeless), but this information is still insufficient to provide a comprehensive analysis of the types of housing solutions needed for former offenders.

Access to Affordable Housing for AB109 Offenders

Responsibility for funding and administering housing programs for low-income City residents is dispersed among several City departments. The Mayor's Office of Housing (MOH) and the successor agency to the San Francisco Redevelopment Agency support the creation of new housing units, while the Human Services Agency and the Department of Public Health focus on funding/oversight of housing operations. The San Francisco Housing Authority serves both functions, as an arm of the federal government. As a result of this distribution of housing

¹ Affordability of housing is determined by the U.S. Department of Housing and Urban Development (HUD), ranging from housing for extremely low income households (30% of the area median income) to low income households (80% of the area median income).

² Supportive housing is permanent housing that can include on-site social, health, and other services to help the chronically homeless adjust to independent living

programs across several City departments, there is no single access point for offenders or the case managers representing them to identify available low cost housing.

Because the funders and program administrators of affordable housing sometimes specify different target populations and policies, the City's approach to affordable housing is fragmented. Eligibility, screening, and access to housing programs vary depending on which City agency funds or administers a given program. Moreover, some eligibility requirements, target populations, housing types and practices reflect requirements (including restrictions based on criminal history) determined by state or federal government funders.

In addition, prior to AB109, very little City-sponsored housing was targeted specifically for ex-offenders. As seen in Table 7.1 there are currently three MOH-funded projects that specifically serve ex-offenders with a total capacity of 33. As shown in Table 7.1, these housing programs support women or women and their children.

Table 7.1
Publically Financed Housing Serving Ex-Offenders

Purpose³	Project Name	Sponsor	Target Population	Loan Source	Loan Amount	Units
Residential Treatment	FOTEP	Haight Ashbury Free Clinic	Special needs single, homeless female parolees who completed in-custody substance abuse treatment, or women currently re-entering community after treatment in prison	Prop A Bonds ⁴	\$143,088	6
Residential Treatment	Cameo House	Center on Juvenile and Criminal Justice	Ex-offender women & their children	HOME ⁵	\$941,745	11
Residential Treatment	Jelani House	Jelani, Inc.	Women and children	CDBG ⁶	\$400,000	16
Total					\$1,484,833	33

Source: Mayor's Office of Housing

³ These are capital loans used to acquire or improve property & buildings. These projects relied on other support for operating/service costs

⁴ Voters approved Proposition A in 1996, authorizing the City to issue \$100 million in general obligation bonds to pay for the construction of rental housing for households with annual income not greater than 60 percent of the AMI and down payment assistance for first time home buyers with incomes 100 percent or less of the AMI to purchase homes.

⁵ Home Ownership Made Easy

⁶ Community Development Block Grant

This can be compared to the 10,760 affordable rental units developed by MOH, SFRA and non-City sources, of which 2,517 were supportive housing rental units. Thus approximately .31% of the affordable rental units developed between fiscal year 2002 and 2011 were intended specifically for ex-offenders.

AB109 Housing Programs

Two housing programs, as well as treatment programs, were developed specifically under the auspices of AB109 for clients leaving jail and prison that will serve approximately 159 people annually, for a total of \$1,132,957, as described below. AB109 funding for housing includes transitional housing, residential drug treatment, stabilization rooms and rental subsidies. Notably, these resources have not funded permanent housing options, because funding for services is limited to supervision periods only.

Rent Subsidies (New Roads Program)

The New Roads program is a collaboration involving the Tenderloin Housing Clinic, Human Services Agency and Adult Probation Department that provides rent subsidies to AB109 and SB678 clients. The program goal is for participants to obtain and retain permanent housing that they eventually pay for themselves through employment. The agreement with the Tenderloin Housing Clinic specifies that the Tenderloin Housing Clinic will serve between 25 and 35 clients over the course of the contract, depending on amount and length of individual subsidies.

The subsidies are available to qualified AB109 clients under Adult Probation supervision and probationers supervised funded through SB678. A maximum subsidy of \$700 a month is available for no more than 12 months, or when supervision is terminated, whichever comes first. Using guidelines developed by the Tenderloin Housing Clinic, the Adult Probation Department refers candidates to the Tenderloin Housing Clinic who are able and ready to work and are the most likely to be able to transition to self-sufficiency when the subsidies terminate by increasing their income over the life of the subsidy.

In addition to the subsidy, clients receive assistance finding housing, case management services related to job searches and development of an Action Plan. In October 2012, the program had 13 active clients, receiving an average monthly subsidy of \$534. Total housing assistance provided through the New Roads Program in the first quarter of FY 2012-13 was \$23,932, including both AB109 and SB678 participants, as shown in Table 7.2

Table 7.2
AB109 Rent Subsidies First Quarter FY 2012-2013

	Total Allocation	Subsidies	Other Housing Support	Total Spent	Total Remaining
AB109	\$132,500	\$22,294	\$700	\$22,994	\$109,506
SB678	67,500	138	800	938	66,562
Other General Fund	\$101,892	0	0	0	101,892
Total	\$301,892	\$22,432	\$1,500	\$23,932	\$277,068

In addition to the active clients, as of October 2012 there were 12 clients pre-approved for subsidies.

Stabilization Rooms

In FY 2012-13, the Adult Probation Department work ordered approximately \$271,557 in funds to the Department of Public Health for 40 stabilization rooms⁷ at two San Francisco SROs for AB109 and SB678 clients. The Department of Public Health Housing and Urban Health augmented existing contracts with landlords on behalf of the Adult Probation Department and makes sure the units meet standards. The use and monitoring of the rooms are Adult Probation's responsibility.

Initial stays in the Stabilization Program are for 30 days, during which time clients are instructed to secure a form of income (whether earned income or cash assistance). Stays beyond the initial 30 days are approved on a week by week basis at the deputy probation officer's discretion. Clients are provided with resources for identifying transitional or permanent housing options, including affordable housing wait list opportunities. Nineteen of the 40 rooms are dedicated to AB109 clients.

Residential Treatment and Supportive Housing

The Adult Probation Department has also work ordered \$1,190,900 in AB109 funding for supportive housing, residential treatment, and other medical services to the Department of Public Health. Of this amount, \$311,856 funds residential treatment and \$351,642 funds day treatment combined with sober living or supportive housing.

⁷ stabilization units provide shorter-term housing options to homeless persons who need medical stabilization before they are ready for permanent housing continuum

Table 7.3
Annual Client Capacity of AB109 Residential Treatment and Supportive Housing Provided through Department of Public Health

Housing Type	Beds	Average stay	Annual Client Capacity
Supportive Housing	24	6 months	48
Residential Treatment	8	6 months	16
Total	32		64

The number of unduplicated individuals that will be housed at least temporarily through residential treatment, stabilization and transitional housing can only be estimated as an average because actual treatment cycles vary in length depending on the needs of the client.

Other City-Sponsored Housing Available to Ex-Offenders

There are a variety of other housing resources which AB109 offenders can access. However, since there is not a single access point for all the City's housing programs, AB109 offenders and their case managers, like anyone else trying to access the following moderate or low cost housing, have to navigate the City's complex housing system.

SF Strong Program

The San Francisco District Attorney obtained a Department of Justice grant for its SF Strong project, for which Delancey Street is the service provider. The project is based on the belief that successful reintegration depends on the offender first establishing a period of "clean time". All 15 project beds are currently occupied.⁸

Supportive and Other Subsidized Housing

The Department of Public Health's Housing and Urban Health division contracts with nonprofit service providers to provide a variety of housing services including: permanent supportive housing, rent subsidies, emergency housing, housing for homeless or low income seniors, stabilization and transitional housing, and housing for people with HIV/AIDS.

In addition, the Human Services Agency provides "master-leased" housing at 27 Single Room Occupancy hotels through the Housing First SRO Master Lease Program that comprise 2,700 units. Master lease contractors lease, manage and operate SRO hotels to provide housing and support services for Human Services Agency clients. Approximately half are funded under Care Not Cash⁹. To qualify, individuals must be receiving County benefits (CAAP, General Assistance, etc.) and be homeless. The other half of the units are available to eligible clients who

⁸ SF Strong is not funded by AB109 or SB 678 and few participants are realignment clients.

⁹ Homeless persons receiving cash assistance from the City's County Adult Assistance Program (CAAP) were phased-into *Care Not Cash* over a nine-month period (from May 2004 through January 2005). Under *Care Not Cash*, homeless CAAP clients are offered housing/shelter and associated amenities as a portion of their benefit package. Funding that would have otherwise been used for cash aid is being used to expand permanent housing and services for this population.

are referred from shelters and other Human Services Agency intake units. These individuals pay a flat, below-market rate for their rooms. Human Services Agency does not maintain waiting lists for rooms in the SRO Master Lease Program.

Individuals who are not Care Not Cash clients (not CAAP recipients) may also be referred to SROs by shelters. Shelters determine which individuals they refer to housing vacancies. Some shelters run regular housing groups to identify clients who show interest in permanent housing. The Human Services Agency estimates the number of expected SRO vacancies monthly, and informs the shelters approximately how many persons a month they can plan to refer to SROs. The Adult Probation Department recognizes the additional significant barriers to accessing housing that clients face, and has stated that they do not want their clients to be forced to go through the shelter access point in looking for housing. However, due to the limited amount of housing specifically targeting ex-offenders, most AB109 clients will have to go through the same housing access as everyone else.

Shelter Plus Care Housing, Human Services Agency

The Human Services Agency also operates Shelter Plus Care, a federally funded rental assistance program for adults and families who are homeless and disabled due to mental illness, substance use or HIV/AIDS. AB109 offenders can qualify for this housing, but there is limited availability, as Shelter Plus Care only provides 706 units Citywide.

The San Francisco Housing Authority

The San Francisco Housing Authority owns 6,255 public housing units in 48 facilities. The Housing Authority's role in developing affordable housing is limited to public housing funded by the U.S. Department of Housing and Urban Development (HUD).¹⁰ According to Adult Probation Department staff members, the Housing Authority waiting list, which is currently closed to new applicants, is the biggest barrier to ex-offenders seeking housing through the Housing Authority. However, some applicants are also disqualified due to criminal background. Although production of methamphetamines and lifetime registration for sex offense are the only bans on occupancy of HUD assisted housing based on criminal activity that the federal government imposes, the Housing Authority considers other criminal allegations and convictions when determining whether to exclude an applicant based on criminal record.

A study commissioned by the Human Services Agency found only 82 probationers on lease living in the City's public housing sites, with an additional 13 who were not under lease but living in public housing units. This represents 1% of the 6,586 adults living in Housing Authority public housing.

¹⁰The formula used in determining rental payment is the highest of the following: 30% of monthly adjusted income (after allowed deductions) 10% of monthly income, \$25 Minimum Rent, Flat Rent, a below market rate determined by the local housing market.

Barriers to Affordable Housing for Ex-Offenders

Criminal background checks

Many independent landlords and affordable housing providers require criminal background information on tenant applications. As such, the Mayor's Office of Housing has identified discrimination on the basis of criminal background as a fair housing issue, and has accordingly developed tenant screening policies for City-sponsored housing developers. These policies seek to narrow the use of criminal background checks and encourage providers to only consider recent criminal offenses during application reviews.

The Housing Authority also conducts criminal background checks on all applicants for public housing. The Housing Authority uses criminal records to determine "the likely impact on a Housing Authority community and the danger to the health or safety of residents or staff", and therefore has broad authority in screening applicants with a criminal background on a case-by-case basis. As noted earlier, there are currently only 82 probationers under lease in public housing in San Francisco.

San Francisco Residency Requirement

AB109 offenders are statutorily required to reside in San Francisco for the duration of their supervision, with few exceptions. Individuals may temporarily locate outside of San Francisco for the purposes of approved residential treatment, or because they are pending transfer to supervision in that county where they demonstrate that they have a permanent residence.

For felony probationers who are simply trying to find stable housing on their own, the California Penal Code allows them to request that their case be transferred to another county, if they can demonstrate the intention to remain in the county for the duration of supervision. Under AB109, this policy applies to low-level felony offenders but it does not apply to Post Release Community Supervision offenders, whose transfer process is guided by a protocol established by probation departments across the state. Although the audit team did not receive details regarding the Post Release Community Supervision transfer protocol, point-in-time data from March 2012 shows that 21 Post Release Community Supervision offenders and 9 low-level offenders were residing out of county. According to the Adult Probation Department, these AB109 offenders have only been temporarily located outside of San Francisco for the purposes of approved residential treatment, or because they are pending transfer to supervision in that county where they demonstrate that they have a permanent residence.

The New Roads rental subsidy program explicitly requires participants to use their subsidies in San Francisco; as noted above, half of the clients who have been approved for the program have yet to locate housing.

Given the shortage of affordable housing options in San Francisco, and the importance of housing to a stable reentry process for former offenders, the Adult Probation Department should continue to utilize provisions for inter-county supervision transfers, as appropriate. In addition,

the Department should explore all opportunities to expand the use of this provision, when suitable housing alternatives have been identified in other counties.

Conclusions

The City should better address barriers to providing housing for homeless AB109 offenders. Other than the limited number of dedicated housing options, AB109 offenders must compete with other San Francisco residents for access to an insufficient number of affordable housing units.

AB109 offenders face additional barriers to housing access based on criminal background policies and supervision residency requirements. In addition, given the shortage of affordable housing in San Francisco, the City should review the legal mandates that limit the ability of offenders to relocate and consider the benefits of seeking a policy amendment or exception in order to allow offenders the opportunity of housing stability to support reentry.

Recommendations

The Chair of the Community Corrections Partnership should:

- 7.1 In consultation with the Mayor's Office of Housing, present a report to the Board of Supervisors on the housing needs of AB109 offenders and the current utilization rates of housing programs in order to identify where gaps exist prior to July 31, 2013.
- 7.2 In consultation with the Mayor's Office of Housing, evaluate the impact of discrimination and residency requirements on housing stability and recidivism rates to assess whether policy changes are appropriate.

Costs and Benefits

Better data on the extent of unmet need for stable housing among the reentry population in San Francisco will provide the Mayor and Board of Supervisors with the information they need to allocate funding for housing for AB109 offenders optimally and, if necessary, to adjust the City's housing policies. The Community Corrections Partnership and the Mayor's Office of Housing should be able to implement these recommendations without additional resources.

8. Information Systems Management

- The State of California has recently instituted criminal justice reforms that focus attention and resources on the collection of data in an effort to identify evidence-based practices to reduce recidivism of offenders.
- San Francisco was initially on the cutting-edge of these innovations, and began a citywide effort in 1997 called the Justice Information Tracking Systems (JUSTIS) to share information across the City's criminal justice departments. Despite over \$32 million in General Fund expenditures, JUSTIS is still not fully operational. Because the project cannot be completed until all participating departments connect their case management systems, the project's completion and success relies upon the commitment and cooperation of department leadership
- JUSTIS would have provided a critical solution to the data collection and tracking needs of AB109. In the absence of a fully operational JUSTIS, City criminal justice departments use separate information systems and manually compile data in order to capture the progress of AB109 offenders through the system.
- The Adult Probation Department, which has not completed its connection to the JUSTIS hub, has assumed significant responsibility in collecting and compiling data from various City departments in an effort to produce consolidated information. This process is highly labor-intensive and inefficient.
- Recognizing the importance of this information, the Controller's Office has provided ongoing technical assistance since October 2011 to develop reporting tools that can be used by the AB109 departments moving forward. Those reporting tools were completed in December 2012 and cost an additional \$187,500.
- Despite the significant resources spent on information systems, the City still lacks efficient tools for collecting and managing data for criminal justice departments. As such, departments have developed ad hoc methods to gather information for AB109 that are both unsophisticated and inefficient. In addition, the City has spent at least an additional \$468,090 in General Fund monies for AB109 data collection.

Criminal Justice Reform: Tying Funding to Evidence

As the criminal justice system has faced growing demands for services under increasingly tight budget conditions, the state of California has focused on identifying successful practices that reduce recidivism and improve the state's return on criminal justice investment.

Evidence-based practices

A major reform recently adopted by the state is the incorporation of the principles of evidence-based practices, which have been defined by the National Institute of Corrections. Evidence-

based practice is a method of decision-making that utilizes research findings in order to improve outcomes. As criminal justice systems shift to models of community-oriented corrections which encourage alternatives to incarceration, evidence-based practices help guide policy-making by providing direct evidence of successful programs to reduce recidivism, lower jail populations and improve overall public safety.

Below are the key principles¹ of evidence-based community corrections:

1. Assess Actuarial Risk/Needs.
2. Enhance Intrinsic Motivation.
3. Target Interventions.
4. Skill Train with Directed Practice (use Cognitive Behavioral treatment methods).
5. Increase Positive Reinforcement.
6. Engage Ongoing Support in Natural Communities.
7. Measure Relevant Processes/Practices.
8. Provide Measurement Feedback.

By establishing outcome measures and quantifying performance results, evidence-based practices offer an important opportunity to enhance the accountability of community corrections.

California State Senate Bill 678

In 2009, the California institutionalized this practice by enacting the Community Corrections Performance Incentive Act of 2009 (SB678), which incentivizes reductions in the number of felony probationers sent to state prison on revocations. To track county outcomes, SB678 established a reporting schedule that included, but was not limited to, the following performance measures:

1. Number of felony convictions
2. Number of felony convictions in which the defendant was granted probation
3. Adult felon probation population
4. Number of felons who had probation revoked

By tying funding to performance, SB678 marked the first time that the state incentivized the reduction of the number of felony probationers sent to prison on a revocation, as evidenced by the collection and management of data to demonstrate criminal justice outcomes using evidence-based practices.

These practices, which focus on research and data to evaluate the effectiveness of various criminal justice programs, have become the cornerstone of San Francisco's approach to criminal justice.

¹ *Implementing Evidence-Based Policy and Practice in Community Corrections*, US Department of Justice, National Institute of Corrections, October 2009.

AB109 Reporting Requirements and Priorities

As with SB 678, criminal justice departments are required to track clients and report outcomes to the state in accordance with AB109. Although performance does not directly impact funding levels under AB109, the importance of successful alternatives to incarceration is central to the intent of the legislation.

In San Francisco, the Adult Probation Department has played a key leadership role in coordinating the AB109 data collection. As the chair of both the Community Corrections Partnership and the Community Corrections Partnership Executive Committee, Adult Probation maintains significant oversight of the AB109 implementation for San Francisco, overseeing the development of performance measures and outcomes tracking mechanisms and producing the 6- and 12-month Reports. In addition, Adult Probation provides quarterly reports to the Chief Probation Officers of California, which maintains a statewide dashboard to track information from all counties on AB109 performance measures.

Justice Information Tracking System (JUSTIS) Not Operational

The Adult Probation Department and the other criminal justice departments track AB109 information within their respective case management systems and manually, which would be largely unnecessary had the JUSTIS project been completed. The JUSTIS Project, which began in 1997 and has cost over \$32 million in General Fund monies, would have automated much of the data collection, analysis and reporting for AB109 that are currently performed manually.

Prior to 1997, the City's criminal justice departments used an information sharing system called the Court Management System - a data application on the Computer Assisted Bay Area Law Enforcement (CABLE) system, which had been developed in 1975. The JUSTIS project sought to replace the aging mainframe CABLE system and improve the City's ability to gather and share criminal justice data on an updated server-based system.

The purpose of the project is to enable information-sharing for criminal justice departments in San Francisco, in order to:

- Improve criminal justice system reporting and analysis capabilities;
- Integrate the criminal justice departments' case management information;
- Improve access to information and the quality of information;
- Streamline data entry and reuse;
- Improve workflow and communication; and
- Replace the existing Court Management System

At the time that the JUSTIS project began, it was a remarkable innovation in criminal justice information management, showcasing San Francisco's progressive and pioneering leadership.

Challenges to JUSTIS Project Completion

Complete JUSTIS activation depends upon the participation of each criminal justice department – until all of the systems are up and running, the automation of information-sharing cannot occur. Since the effort began, various factors have impeded the participation of individual departments, including leadership changes, lack of internal expertise, and insufficient funding. Although the City has taken steps to expedite the process, most recently by relocating the JUSTIS project team to the City Administrator’s Office, certain departments (notably, Adult Probation) have not yet connected their case management system to the JUSTIS Hub. As such, it is not yet fully operational.

JUSTIS Project Costs

As of FY 2007-08, approximately \$25.5 million had been appropriated to the JUSTIS project, including \$15.6 million in General Fund monies². Since then, the project has received annual appropriations of approximately \$3 million in General Fund monies to support the costs of programmers, case management and hub conduits, and maintenance, upgrades, and support for existing case management systems. As shown in the table below, over \$32 million has been allocated from the General Fund to the JUSTIS project since it began.

Table 8.1
General Fund Allocations for JUSTIS

Year	General Fund Allocations
1997- 2008	\$15,600,000
2008-2009	3,955,838
2009-2010	3,347,907
2010-2011	3,032,737
2011-2012	3,143,302
2012-2013	3,481,495
Total	\$32,561,279

Sources: Budget and Legislative Analyst, City Administrator’s Office, Controller’s Office

² “Management Audit of San Francisco’s Information Technology Practices”, San Francisco Budget Analyst, October 2007.

Inefficient Data Tracking and Collection for AB109

In the absence of an electronic data-sharing system, and under the leadership of the Adult Probation Department, data related to the AB109 population has been compiled manually from departments since October 2011.

Controller's Office Technical Assistance

In anticipation of the information management challenges presented by AB109, the Controller's Office initiated a year-long effort with the San Francisco criminal justice partners to develop an interim data collection and reporting tool that will allow the City to monitor the impact of AB109. The purpose was to provide accurate data in order to perform an initial assessment of the City's response to AB109, including the supervision of the realigned population, associated impact on services and overall costs.

The Controller's Office and Adult Probation signed a Memorandum of Understanding in October 2011 that outlined the scope of this project, as well as its cost and timeline. The project was divided into two phases: Phase 1 to focus on the criminal justice data and systems management, and Phase 2 to focus on treatment and service data systems. Project costs for Phase 1 totaled \$187,500; there are no current plans for Phase 2.

Data and Process "Trouble-Shooting" Working Group

In October 2011, as AB109 implementation got underway, several departments began to meet regularly in an effort to trouble-shoot data and process issues that surfaced. Under the leadership of the Controller's Office this working group tracked and resolved business process and data management issues involving information systems and case management processes that are involved in tracking AB109 cases through the stages of release, re-arrest or flash incarceration, booking, court appearances, case disposition and case management. The group has resolved almost all of the issues initially identified at the start of their meetings.. In addition to the Controller's Office, participants included the JUSTIS project team, the Adult Probation Department, Sheriff's Department, District Attorney's Office, and the Courts.

After resolving most of the identified concerns, this regular weekly meeting was canceled in September 2012.

Phase 1 Reports

Concluded in December 2012, Phase 1 of the project produced a total of 20 reports on AB109 implementation. Because the majority of activities related to AB109 are performed by the Adult Probation and Sheriff's departments, most of the Phase 1 reports detail the impact of AB109 on their respective caseloads. Examples of the reports produced by the Controller's Office include:

- Average Daily Population for AB109 (totals and monthly)
- AB109 Caseload by Department
- State Parole Violators (in custody, pre- and post-AB109, characteristics)
- Post-Release Community Supervision (active clients, frequency of violations)

Status of Adult Probation’s Case Management System

The Adult Probation Department is currently in the process of procuring a new case management system. The existing system, called cTAG, was originally procured in 2002 for a cost of \$532,875. Though this system marked an improvement on prior data tracking efforts, it quickly proved unsuitable for the expanding needs of the department. As reporting and programmatic needs changed with new legislative mandates, cTAG could not adapt to the changes needed, nor could it interface with JUSTIS. In 2008, Adult Probation hired a new Director of IT whose primary task was completing the JUSTIS interface. This would require a significant upgrade of cTAG to develop additional functionality, and the vendor estimated this cost at \$280,000. As the system had already proven unreliable and costly, the Department determined that those funds would be better invested in a new system altogether. Despite the fact that both senior management and probation officers consider the system useless, the Department continues to operate cTAG at a cost of \$57,000 per year in maintenance fees. Since the IT Director confirmed the need for a replacement case management system in 2008, the City has effectively spent \$228,000 (in maintenance fees from 2008-2012) to maintain a dysfunctional database.

The department has recently identified an opportunity to procure a new case management system called Smart Probation through an existing contractor. Although the contract has yet to be signed, the department expects Smart Probation to be operational (including the JUSTIS interface) by fall 2013. The Department has requested the \$280,000 funding from the JUSTIS project.

Current Data Management Tools Inefficient and Unsophisticated

In addition to compiling data from other departments to track AB109 activities citywide, the Adult Probation Department also tracks its own client information manually. Without a fully functional case management system, and given the importance of data tracking and management for AB109, the Adult Probation Department has resorted to tracking all case management information manually in a separate Excel spreadsheet. This method of manual data management, however, is inefficient and unsophisticated. At best, data entry is duplicated, and as a manual process, this presents a threat to the integrity of the data. In addition, it makes the process of data sharing with other departments cumbersome and inefficient. Though it is commendable that the Department swiftly responded to accommodate the anticipated data needs for AB109, the solution remains inadequate. For both internal and citywide data management, the Adult Probation Department relies upon inefficient systems of manual and duplicative data entry, which offer limited and unreliable information on AB109 performance outcomes, despite the resources invested in criminal justice data management.

The City has made significant investments in updating criminal justice information systems. In addition to the \$32 million in General Fund monies spent on the JUSTIS project, the City has spent at least an additional \$477,119 in General Fund monies to support AB109 data collection specifically for the first year of implementation. These costs include the Controller’s Office project, reporting support from the JUSTIS project team, and staff time at Adult Probation and Sheriff’s departments, as shown in the table below.

Table 8.2
Department Costs for AB109 Data Management

Department	Current Annual Costs for AB109 Data Management	Projected Annual AB109 Costs, with JUSTIS
Controller's Office	187,500	-
Adult Probation Staff	91,579	45,790
Sheriff Staff	123,374	61,687
JUSTIS Team – Reports	60,000	-
JUSTIS Team – Staff	14,666	7,333
Total	477,119	114,810

Sources: Controller's Office, Sheriff, City Administrator's Office

Assuming very conservatively that at least half of the current AB109 data activities would be automated by JUSTIS, the City will save approximately \$174,810 (\$477,119 less \$114,810, less \$187,500 for one-time Controller's Office support) in opportunity costs, once the Adult Probation Department launches its new case management system. Because these costs are related to permanent staff positions, there will not be a direct cost savings, but those positions will now be able to perform other tasks to support AB109 implementation.

Conclusion

The recent trends in criminal justice reform in the state of California have focused on the importance of collecting data to evaluate the success of programs in order to demonstrate the reduction in recidivism rates and the sound investment of public resources. San Francisco was on the cutting-edge of those changes when it launched the JUSTIS project in 1997, which was designed to allow the City's criminal justice departments to share and access real-time information regarding the status of offenders, in order to track the success of both clients and services. Because JUSTIS continues to be delayed due to internal challenges faced by departments, this tool has not been available for AB109 implementation. Instead, the Adult Probation Department, which has not yet activated its JUSTIS interface, has assumed responsibility for gathering data from departments for tracking and reporting purposes. Although the Controller's Office has provided technical support and expertise, the current process remains inefficient. Despite the significant resources that the City continues to invest in these criminal justice reporting activities, the information systems management for AB109 remain inefficient and unsophisticated .

Recommendations

The Chief Adult Probation Officer should:

- 8.1 Expedite the launch of the Smart Probation case management system. The department should seek to launch the system by July 31, 2013. According to the Project Plan, there is minimal customization needed so the vendor should not need eight months or more to install the program.
- 8.2 Ensure that the interface between Smart Probation and JUSTIS happens immediately upon the system's launch. The Department should work closely with the JUSTIS project team to identify any remaining challenges in advance of the system's launch.

The Chair of the Community Corrections Partnership should:

- 8.3 Provide a report to the Board of Supervisors on the status of the information systems management, which should include related costs and timelines, prior to July 31, 2013.

Costs and Benefits

The implementation of these recommendations should be accomplished using existing resources. Expedited implementation of the new case management system at the Adult Probation Department will not only ensure greater data integrity for AB109 reporting, but will reduce the current annual costs of manual data management. In addition, it will allow the JUSTIS project to become operational, which will further automate the data reporting capacity for the City, so that AB109 information can be more readily shared between departments, improving the ability to track performance and measure outcomes. If these recommendations are implemented, the City would be able to save approximately \$174,810 in opportunity costs related to annual data management.

Public Safety Realignment Audit

Recommendation Priority Ranking

Based on the management audit findings, the Budget Analyst has made 19 recommendations which are ranked based on priority for implementation. The definitions of priority are as follows:

- Priority 1: Priority 1 recommendations should be implemented immediately.
- Priority 2: Priority 2 recommendations should be completed, have achieved significant progress, or have a schedule for completion prior to July 31, 2013.
- Priority 3: Priority 3 recommendations are longer term and should be completed, have achieved significant progress, or have a schedule for completion prior to January 31, 2014.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Board of Supervisors should:			
1.1	Evaluate integration of the functions of the City-mandated Reentry Council and Sentencing Commission, when they sunset, with the State-mandated Community Corrections Partnership	3		
	The Mayor's Budget Director should:			
1.2	Incorporate Public Safety Realignment implementation and allocation of resources in the City's Five-Year Financial Plan.	2	Agree	
	The Chief Executive of the Superior Court should:			
1.3	Assign a Superior Court representative to the Community Corrections Partnership	2	Disagree	It is correct that staff are not attending, and this is deliberate, since staff are an extension of the Court as a whole. Courts throughout the state have wrestled with this issue, and they fall into three categories. Some courts have judges attend, some courts have staff attend, and some courts decline to send anyone. We fall into the latter.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chief Adult Probation Officer should:			
2.1	Manage the internal policy review process to ensure timely and cost-effective completion of new or revised policies.	3	Partially Agree	<u>APD Status:</u> APD is already managing the internal policy review process to ensure timely and cost-effective completion of new or revised policies, and the Chief Adult Probation Officer will continue to ensure that this happens, and expects the policies to be completed prior to January 31, 2014.
2.2	Reduce the annual training hours for deputy probation officers to the 40 hours per year mandated by the State Corrections Standards Authority.	2	Disagree	<u>APD Status:</u> APD sets Annual Training Plan, informed by State mandates and best practices in field.
3.1	Offset the increased CASC costs by reducing the number of staff duplicated by deputy probation officers and LCA staff.	1	Disagree	<u>APD Status:</u> The increased lease costs may be funded through AB109 allocation. The CASC services complement work of DPOs and other APD reentry services, treatment, and housing. There is no duplication of services.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Sheriff should:			
4.1	Develop a thorough and rigorous planning process for the future use of alternatives to incarceration. This planning process should include (1) developing estimates of the number of offenders that will be placed in alternatives to incarceration as a result of the November 2012 Eligibility Criteria and future proposed revisions to the Eligibility Criteria, (2) closely monitoring the number of offenders in alternatives to incarceration and evaluating the results of the Eligibility Criteria to identify opportunities for further revisions, and (3) conducting a thorough review of staffing needs in the Community Programs Division, resulting in guidelines for appropriate client-to-staff ratios.	2	Agree	We shall develop a planning process.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
4.2	In collaboration with the Community Corrections Partnership, clarify the need for the Sheriff's Department to have the authority to place pretrial defendants on Electronic Monitoring without a Court referral, and if confirmed, pursue legal authority from the Board of Supervisors.	2	Agree	We shall pursue this.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chair of the Community Corrections Partnership should:			
4.3	Provide detailed and comprehensive reporting on the City’s use of alternatives to incarceration. Where possible, the Community Corrections Partnership Executive Committee should attempt to quantify the savings resulting from the reported use of alternatives to incarceration.	2	Agree	<p><u>APD Status:</u> The CCP and its Executive Committee have provided extensive and ongoing reporting on the use of alternatives to incarceration, and has been supported by the Controller’s Office City Services Auditor for over a year in this effort. See <i>Public Safety Realignment in San Francisco: The First Twelve Months</i>, released December 19, 2012 (see pages 45 and 47). The Chair of the CCP will request that the Sheriff produce and include placement by SFSD into SFSD Community Programs as a regular area of reporting regarding AB109. The CCP Executive Committee will quantify the savings that result from the use of all alternatives to incarceration. This effort will be supported by the Reentry Council’s <i>Justice Reinvestment Initiative</i>, a data driven analysis the drivers of the criminal justice population and costs. San Francisco is one of only two localities in California selected for this national initiative.</p>

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Public Defender and the District Attorney should:			
5.1	Formalize the caseload and performance standards for the Alternative Sentencing Planner position, including (a) specific criteria for referral; (b) caseload standards (including hours of service per case); (c) tracking sources of referrals; and (d) tracking and reporting of placement and other outcomes.	2	Agree	District Attorney Response: Starting in February 2012 the SFDA's Office began to structure this first of its kind position in the District Attorneys' Office. (a) the office has established following criteria for use of ASP time; (b) It would be inappropriate to set caseload standards prior to analysis of a full year of ASP data. SFDA will set caseload benchmarks in February 2013 (c)/(d) The SFDA has established two tracking tools for referrals to ASP and outcomes related to ASP recommendations. A complete summary on ASP process outcomes is expected in February 2013.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The District Attorney should:			
5.2	Evaluate the assignment of the Alternative Sentencing Planner at the Early Resolution program in order to demonstrate that caseload and case seriousness and complexity warrant use of the Alternative Sentencing Planner in this program.	2	Disagree	The maximum benefit for the use of the ASP case consultation and in-depth analysis is under constant review by our office. The SFDA will continue to utilize the ASP for Early Resolution program. The quantity of cases heard in this program are declining, since 1170(h) has limited commitment options. ERP now handles cases of a more serious nature. The ASP contribution assists in determining whether a case should be resolved for prison or probation. This forum derives the greatest benefits from ASP expertise. A complete summary on ASP process outcomes including ERP is expected in February 2013.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Public Defender should:			
5.3	As part of the formal Criminal Justice Specialist caseload and performance standards (a) discontinue utilizing the Criminal Justice Specialist to assist clients post-sentencing once the CASC is fully operational; and (b) coordinate with Adult Probation to insure the proper transfer of post-sentencing clients seeking services.	2	Agree	The Criminal Justice Specialist will refer post sentenced clients supervised by the Adult Probation Department to the CASC, once it is fully operational.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chair of the Community Corrections Partnership should:			
6.1	In consultation with the Mayor’s Office, evaluate the impact of the transfer of parole revocation hearings from the State to the San Francisco Superior Court on the need for staff resources in the Public Defender’s Office and District Attorney’s Office, which may include reallocating existing staff resources or AB109 funds in the FY 2013-14 budget.	2	Agree	<u>APD Status/Comments:</u> The Governor’s January budget states that the FY13/14 AB109 allocation grows, and additional dedicated allocations for Public Defender and District Attorney, Court, and Police (new) increase.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
6.2	Evaluate the impact of the transfer of parole revocation hearings from the State to the San Francisco Superior Court and implement recommendations to: (1) merge procedures for parole; Post Release Community Supervision, and probation revocation hearings and ensure compliance with due process requirements; (2) provide for review of Post Release Community Supervision revocation petitions by the Adult Probation Department’s Division Director; and (3) analyze the number of parole revocation proceedings and the stage at which they are settled six months after the County assumes responsibility for these proceedings and on a continuing basis.	3	Partially Agree	<p><u>APD Status:</u></p> <p>(1) The CCP has no statutory authority related to parole oversight¹; (2) APD disagrees with need for additional, redundant level of review;² (3)The CCP Chair will request that the Court, District Attorney, and Public Defender prepare analysis of number of parole revocation proceedings.</p>

¹ a) Persons released from state prison on or after October 1, 2011, after serving a prison term or, whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes shall be subject to the jurisdiction of and parole supervision by the Department of Corrections and Rehabilitation: Cal. Penal Code § 3000.08 (West)

² Senate Bill 1023 stated that revocation procedures should be uniform, that procedures outlined in PC 1203.2 be applied, and that all procedures comply with under Morrissey v. Brewer (1972) 408 U.S. 471, and People v. Vickers (1972) 8 Cal.3d 451, and their progeny. Further, Rule of Court 4.541 defines the minimum contents of the supervising agency’s reports for petition for revocation.

Public Safety Realignment Audit

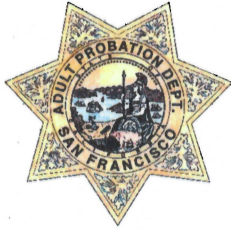
	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
7.1	In consultation with the Mayor’s Office of Housing, present a report to the Board of Supervisors on the housing needs of AB109 offenders and the current utilization rates of housing programs in order to identify where gaps exist prior to July 31, 2013.	2	Agree	<u>APD Status:</u> The CCP will request that MOH provide assistance to develop and present a report on housing needs of AB109 offenders and current utilization rates of housing programs. APD regularly produces reports on utilization rates of its AB109 funded housing programs.
7.2	In consultation with the Mayor’s Office of Housing, evaluate the impact of discrimination and residency requirements on housing stability and recidivism rates to assess whether policy changes are appropriate.	3	Agree	<u>APD Status:</u> The CCP will consult with MOH to evaluate impact of discrimination and residency requirements on housing stability and recidivism rates to assess whether policy changes are appropriate. The CCP will partner with Reentry Council and Human Rights Commission to build upon prior work done in this area.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chief Adult Probation Officer should:			
8.1	Expedite the launch of the Smart Probation case management system. The department should seek to launch the system earlier than fall 2013. According to the Project Plan, there is minimal customization needed so the vendor should not need eight months or more to install the program.	2	Disagree	<p><u>APD Status:</u> The fall 2013 go-live date is already an aggressive implementation schedule which APD expects to meet. The contract amendment was signed on January 29, 2013.</p> <p>The transition from cTAG to the integrated COMPAS and Smart Probation case management and risk and needs assessment system is very complex. It will require customization development, implementation, testing, APD’s data migration from cTAG to a new system, building SRF (DOJ) interface and JUSTIS interface, building integrated Document management system, training for DPOs, Admin and IT staff. Although the department would like to expedite the go-live date, it cannot be accomplished without sacrificing quality and the functionality of the system that will negatively impact Adult Probation Department and all other JUSTIS project members as the Department will be exchanging this data with them.</p>

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
8.2	Ensure that the interface between Smart Probation and JUSTIS happens immediately upon the system's launch. The Department should work closely with the JUSTIS project team to identify any remaining challenges in advance of the system's launch.	2	Disagree	<u>APD Status/Comments:</u> Currently, JUSTIS Go-live is scheduled for the month after the entire case management system goes live assuming system is performing without any 'show-stoppers' issues and the testing of data exchange with JUSTIS is successful.
	The Chair of the Community Corrections Partnership should:			
8.3	Provide a report to the Board of Supervisors on the status of the information systems management, which should include related costs and timelines, prior to July 31, 2013.	2	Disagree	<u>APD Status/Comments:</u> APD believes that it would be more appropriate to have the JUSTIS Governance Council (SF Admin Code 2A.85) provide such a report since such Citywide oversight of criminal justice information systems is their responsibility



WENDY S. STILL
Chief Adult Probation Officer

*Protecting the Community, Serving Justice and
Changing Lives*

January 31, 2013

Harvey M. Rose, CPA
Budget and Legislative Analyst
Board of Supervisors
City & County of San Francisco

Re: Performance Audit of the Adult Probation and Sheriff Departments' Implementation of Public Safety Realignment

The Adult Probation Department (APD) appreciates the efforts of the Budget and Legislative Analyst to respond to the Board of Supervisors Motion 12-31: to assess the performance of the Adult Probation and Sheriff's Departments' implementation of Public Safety Realignment, including a) increases in caseload and average daily jail population resulting from the transfer of certain offenders from the State to the County, (b) the Adult Probation and Sheriff's Departments' implementation of new programs to support the transfer of these offenders, including implementation schedules, program costs, performance measures, and outcomes; and (c) Adult Probation and Sheriff's Departments staffing levels to support the transfer of these offenders. APD welcomes the opportunity provided by the Board of Supervisors to assess performance, and identify areas of success and areas where performance might be improved.

Based upon a review of the Final Draft Budget and Legislative Analyst report, it appears that the scope of the actual audit does not address the express goals of the requested audit, as requested by the Board of Supervisors. Though the Sheriff's Department received 49% (\$9,679,800) of the realignment funding for FY13/14, the audit failed to discuss any the use of this funding, including any assessment of staffing levels required to support the transfer of offenders. The report is largely silent on any discussion of the remarkably small increase in the average daily jail population as a result of realignment, with only 63% (1,522) of San Francisco's county jail capacity of 2,432 in use. While omitting these core areas, the audit includes an assessment of future components of realignment that don't take effect until July 2013, e.g., the shift of parole revocation hearings from the state to the county; as well as areas that are outside of the scope of AB109 or purview of the CCP, e.g., JUSTIS. We believe that there are major areas of the report that do not accurately characterize the components of Public Safety Realignment or the remarkable achievements of APD and other City partners in implementing Public Safety Realignment.

We have reviewed all of the analysis and recommendations of the report. While APD and the Budget and Legislative Analyst's staff made significant efforts to correct key factual inaccuracies in the audit, core factual errors remain. APD has already provided extensive corrections to the prior draft chapters provided to APD for review. While some of the corrections were made, important factual errors remain throughout the report. The report contains statements throughout that critique APD and other partners' efforts; however, these statements are not explained or validated, particularly in light of extensive information and later, factual corrections, provided to the authors. Examples include:

- Page 2-4: “Recommendation 2.2: Reduce the annual training hours for deputy probation officers to the 40 hours per year mandated by the State Corrections Standards Authority.” APD newly hired Deputy Probation Officers (DPOs) must attend 200 hours of CORE training and 40 hours of search and seizure training within one year of appointment, per California Penal Code Section 832. Therefore, APD newly hired DPOs must complete total of 240 hours of State mandated training within their first year.
- Page 3-1: “The Adult Probation Department does not have specific procedures to differentiate deputy probation officer and CASC staff responsibilities nor ensure that implementation of the CASC does not duplicate deputy probation officer responsibilities.” APD has provided job descriptions of officers and CASC staff, analyses of caseloads, and other operational documents that clearly and definitively delineate responsibilities.

In the responses attached, APD has included only the most critical factual corrections that are germane to the corresponding set of recommendations to which the Budget Analyst asked APD to respond.

Last, I appreciate the opportunity to share with you and the Board of Supervisors the following brief overview of Public Safety Realignment, and the accomplishments of APD and City partners over the first year of Public Safety Realignment. Attached is a copy of *Public Safety Realignment in San Francisco: The First 12 Months*, a collaborative report produced by all members of the Community Corrections Partnership Executive Committee, with great support from the Controller’s Office City Services Auditor.

For months before Public Safety Realignment (AB109) took effect on October 1, 2011, the Adult Probation Department, Court, and City/County partners worked together diligently to safely and successfully implement this truly historic reform that shifted responsibility for many lower-level felony offenders from state to county jurisdiction. The challenges Public Safety Realignment posed to all of California’s counties were significant. AB109 created new forms of community supervision for county probation departments to administer as well as new sentencing structures for courts, district attorneys, public defenders, and sheriff’s departments to implement. San Francisco successfully addressed the complexity of implementing these changes across departments and effectively coordinated across agencies through collaboration with the Court, City/County departments, and the support of the Mayor and Board of Supervisors. San Francisco rapidly and effectively implemented a comprehensive local strategy for implementing these far reaching and unprecedented reforms, which included in-depth community and client input.

Now, one year later, I am pleased to report on the successes:

- 60% of active PRCS clients remained compliant in the first year, having had no formal sanctions imposed over the first year. This is compared with a 78% failure (recidivism) rate of state parole for the same population.
- APD made over 600 referrals of AB109 clients on community supervision to services through APD-funded and established service provider partnerships including behavioral health, job training and placement, housing, and case management and over 270 clients enrolled in those services to support AB109 individuals’ safe and successful completion of supervision and reentry into the community.
- Over the first year of Realignment, 2,538 individuals in San Francisco County were affected by AB109. Of these, 411 were released from state prison to Post Release Community Supervision (PRCS); 264 were sentenced under PC § 1170(h), 178 of whom served time after sentencing in county jail on a PC § 1170(h) sentence and 91 of whom began a Mandatory Supervision term

supervised by APD; and 1,863 parole revocations were booked in county jail and stay for an average of 56 days.

- More than a year after the implementation of realignment, the county jail population remains well below its capacity of 2,432. As of today, the county jail population was 1,522, just 63% of its capacity which is a historic low.
- San Francisco established a strong foundation of using the split sentencing authority provided by AB109, in which low-level felony offenders serve part of their sentence in the community under Mandatory Supervision rather than in county jail. San Francisco has used split sentences in almost half of all eligible sentences, a rate that is more than double the statewide average. As alternatives to incarceration and split sentencing are appropriately utilized with the AB109 population, the County saves jail bed days.
- The Council on State Governments Justice Center just released *The Impact of Probation and Parole Populations on Arrests in Four California Cities* study. Covered by *The San Francisco Chronicle* on January 23, 2013, the study covered four California cities, including San Francisco, Sacramento, Los Angeles, and Redlands. The findings include:
 - Arrests of individuals not under parole or probation supervision ranged from 70% of all arrests in Sacramento to 89% in San Francisco;
 - In San Francisco, only 8% of those arrested were on probation; 3% of those arrested were on parole;
 - The study found that San Francisco was the only jurisdiction in which our risk assessment tool (the COMPAS) was highly predictive. By being able to predict risk accurately, San Francisco can most cost effectively focus its resources to protect public safety and promote rehabilitative effectively.
 - The study's next phase will assess if individuals under AB109 supervision are arrested at different rates than those prior to realignment.
- San Francisco was the first jurisdiction in the state to complete its *2011 Public Safety Realignment Implementation Plan* which was used by other counties as a model for realignment planning across the state, as was San Francisco's *2012 Public Safety Realignment Implementation Plan*.
- San Francisco has also completed *Public Safety Realignment in San Francisco: The First Twelve Months* which qualifies San Francisco for \$150,000 in additional state funding, as newly required 2013 realignment legislation.
- While the most recent offenses of those supervised by APD due to AB109 are non-serious and non-violent, many have serious and extensive criminal histories and significant unmet service needs. Eighty-three percent of PRCS clients and 77 percent of those on Mandatory Supervision have been assessed as high risk for recidivating, per the COMPAS tool. Those on PRCS have an average of eight prior felony convictions, and 85 individuals (23 percent of those on PRCS) have over 11 prior felony convictions.
- Created a Post Release Community Supervision (PRCS) and PC1170(h) Mandatory Supervision division to supervise clients under AB109-created forms of community supervision at no more than 50:1 caseloads.
- Hired and trained 15 new Deputy Probation Officers to respond to the new AB109 populations of clients now supervised by APD. Two Deputy Probation Officers are dedicated to conducting in-custody individualized risks/needs assessments and pre-release planning in state prisons and county

jail to AB109 clients.

- All AB109 officers have completed the state mandated PC832 and CORE hours of training (240 hours), as well as training in the Northpointe Correctional Offender Management and Profiling Alternative Sanctions (COMPAS) Assessment tool, motivational interviewing, and evidence-based practices.
- Implemented a risk-based supervision model in which clients are supervised according to their assessed risk levels. Since the implementation of AB109, APD has maintained 50:1 caseload ratios for clients under PRCS and Mandatory Supervision and, as of July 2012, two caseloads with 20:1 ratios dedicated to the highest risk individuals under PRCS or Mandatory Supervision.
- Partnered with the Public Defender, the District Attorney, ACLU, and Rosen Bien and Galvin, LLP (lead counsel for plaintiffs in *Valdivia v. Schwarzenegger*) to establish protocols for ensuring the right to a hearing and an attorney for individuals receiving a flash incarceration, an intermediate sanction created by AB109 in which probation departments can incarcerate PRCS clients for up to 10 days in county jail. San Francisco is the first and only county to establish such due process protections. APD is also using Effective Communications Forms, as required of the state as a result of the *Armstrong v. Brown* case.
- Created the Reentry Division to direct collaborative efforts to promote policy, operational practices, and supportive services to effectively implement Realignment and to coordinate reentry services throughout the City/County.
- Though APD administered 47.6% of the Realignment funding in FY12/13, APD work ordered and contracted out \$3,089,204 to provide array of services, treatment, and housing. APD utilized only 32% of the Realignment funding for APD client supervision and operations.
- Developed a Request for Proposals and contracted with the selected community service provider to coordinate the City/County's first Community Assessment and Services Center (CASC), modeled after one-stop service delivery sites and day-reporting programs for individuals under community supervision, with an emphasis on collaborative case management. Selected a location for this critical hub for realignment services, and expected opening is April 2013.
- Planned the opening of a Reentry Pod in the county jail, in coordination with the Sheriff's Department and the California Department of Corrections and Rehabilitation. The Reentry Pod will house state prison inmates until their release to PRCS and will offer them comprehensive reentry services from the time of their arrival in the Reentry Pod until their release to community supervision when programming will be continued at the CASC.
- Dedicated a staff position to victim/survivor services and the expansion of Five Keys Charter School educational programs for clients.
- Partnered with the National Institute of Corrections to train 25 APD staff, Sheriff's staff, and community partners to facilitate Thinking for a Change, a cognitive behavioral change program that was piloted with PRCS clients and is now available to all APD clients.
- Partnered with George Mason University to pilot SOARING 2, a computer based learning system to train 125 staff members in evidence based supervision practices.
- Through the Reentry Council, completed Phase I of the Bureau of Justice Assistance Justice Reinvestment Initiative, a data-driven approach to identify the drivers of cost and numbers of people in the criminal justice system in order to identify more cost effective interventions to protect public

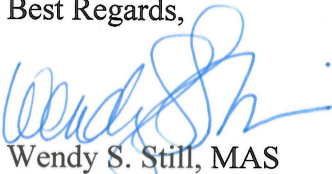
safety. This data will be used to develop additional alternative sentencing strategies.

- Partnered with the City Performance Unit, City Services Auditor Division of the Controller's Office to track, measure, and report on the impact of Realignment across City/County departments. After the data collection and reporting systems were established during the first year of Realignment implementation, APD will assume the role of collecting, maintaining, and reporting on Countywide Realignment data and outcomes.

I am also enclosing a copy of the *San Francisco Adult Probation Department's (APD) Strategic Plan for 2012 to 2017*. This is APD's first strategic plan and describes the innovative partnerships, new initiatives, and goals for the Department. I am so proud of the work of the Department as we continue to implement evidence-based practices in order to protect the community, serve justice, and change lives. We know that our work brings us closer to reaching our goals of reducing victimization and breaking the intergenerational cycle of incarceration.

Thank you for your continued support of the Adult Probation Department. We look forward to continuing to work with partners to effectively implement Public Safety Realignment in the coming year.

Best Regards,



Wendy S. Still, MAS

Chief Adult Probation Officer

Chair, Community Corrections Partnership Executive Committee

Enclosures: APD Responses to Recommendation Matrix, *Public Safety Realignment in San Francisco: The First 12 Months*; *SFAPD Strategic Plan 2012-2017*,

Public Safety Realignment Audit

Recommendation Priority Ranking

Based on the management audit findings, the Budget Analyst has made 20 recommendations which are ranked based on priority for implementation. The definitions of priority are as follows:

Priority 1: Priority 1 recommendations should be implemented immediately.

Priority 2: Priority 2 recommendations should be completed, have achieved significant progress, or have a schedule for completion prior to July 31, 2013.

Priority 3: Priority 3 recommendations are longer term and should be completed, have achieved significant progress, or have a schedule for completion prior to January 31, 2014.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chief Adult Probation Officer should:			
2.1	Manage the internal policy review process to ensure timely and cost-effective completion of new or revised policies.	2 APD: 3	Partially Agree	<u>APD Status:</u> APD is already managing the internal policy review process to ensure timely and cost-effective completion of new or revised policies, and the Chief Adult Probation Officer will continue to ensure that this happens, and expects the policies to be completed prior to January 31, 2014.

APD Comments: In March 2011, seven months prior to the implementation of AB109, the Adult Probation Department began a comprehensive review of its policies, to address outdated and incomplete policies and procedures. The policies of the Adult Probation Department impact the operations of the Court, District Attorney, Public Defender, Sheriff, victims, and supervised clients and their families. Policy development necessarily includes consultation with multiple partners to ensure that these policies are sound, given the Citywide impact. While this Departmental policy review was initiated prior to the passage of AB109, it has become a process through which policies that address supervision of mandatory supervision and PRCS clients are also drafted and executed. A majority of the policies being developed are department-wide, and are not solely related to the passage of AB109.

The Department signed two contracts with the Warren Institute at the University of California to perform an internal policy audit. APD has enforced the terms of both the contracts with WI. Additionally, 38 remaining policies are not covered under either of these two contracts with WI, but will be covered by an addendum to the second contract, currently drafted and under City review. As of January 28, 2013, 24 of 104 policies have been finalized, and issued or re-issued since the start of the policy review in March 2011. The development of APD's policies and procedures is a thorough process, involving review, research, and drafting by the WI followed by an internal and external policy review process. Such extensive review is required in part because APD policies can have significant legal and system-wide impacts.

Public Safety Realignment Audit

APD Comments on 2.1 (continued): Once WI delivers a policy to complete the terms of the contracts, APD undertakes the additional policy review, which typically includes further review by APD staff, extensive legal review by the City Attorney's office, discussions with external partners or agencies (such as the Court, District Attorney, Public Defender, or other key City and County Departments), and discussions with one or more labor unions. Final review and approval requires the Chief Adult Probation Officer's review and signature of approval prior to issuance. WI is not involved in this portion of the review process, which can take months. As a result, once policies are delivered by WI (in line with the contracts), the policies may still be "in draft phase" for months longer due to APD's internal and external review process.

The City Attorney's review of proposed APD policies is extensive and often involves several steps that each requires a substantial amount of time. Proposed policies may relate to areas of the law that have been the subject of significant and complex legislation. For example, an ADA policy may need to incorporate local, state, and federal law, and could involve preemption issues. While some policies are fairly simple and straightforward, the designated Deputy City Attorney's review more often requires consultation with other Deputy City Attorneys, representatives of other City agencies, and occasionally state or federal agencies. Because the City Attorney's office represents all City agencies, it is often important to determine whether any other City agencies have similar policies - and any enforcement experience - to anticipate problems and to strive for consistency in policies across agencies when appropriate. Depending on the subject matter, it is also sometimes helpful to review similar policies outside of San Francisco, including local, state, and/or federal policies and to determine if any policy - or lack of policy - has generated any litigation. This can help to avoid pitfalls but also to inform policy decisions because any court reviewing a policy will likely look to how others similarly situated have addressed a particular issue to determine what is reasonable. Given this extensive drafting and review process, APD advises that policies can be completed before January 31, 2014, consistent with Priority Ranking #3.

Further, APD's policies are not static, and are updated as needed to conform with changes to statute and rules. The Public Safety Realignment Act (AB109) was signed into law on April 4, 2011, and has been amended by AB117 (2011), before becoming effective October 1, 2011. It was amended again by SB1021 (2012), and SB1023 (2012). Changes in statute have required affected agencies to update regulatory guidance and rules to implement the revised statute. The Administrative Office of the Courts (AOC) is the staff agency of the Judicial Council, the policymaking body for the California Courts. The Judicial Council issued revised Rules of Court effective immediately on October 28, 2011 to conform to Public Safety Realignment. The Rules of Court are amended multiple times a year, and the APD policies must be updated to conform to these and other statewide policy changes.

Public Safety Realignment Audit

	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chief Adult Probation Officer should:			
2.2	Reduce the annual training hours for deputy probation officers to the 40 hours per year mandated by the State Corrections Standards Authority.	2	Disagree	<u>APD Status:</u> APD sets Annual Training Plan, informed by State mandates and best practices in field.

APD Comments on 2.2: As part of Public Safety Realignment, the State Corrections Standards Authority (CSA) was abolished, effective July 1, 2012, and to vest the Board of State and Community Corrections with CSA’s existing rights, powers, authorities, and duties. It is the Board of State and Community Corrections that mandates that all peace officer staff must complete a minimum of 40 hours of training annually. APD newly hired Deputy Probation Officers (DPOs) must attend 200 hours of CORE training and 40 hours of search and seizure training within one year of appointment, per California Penal Code Section 832. Therefore, APD newly hired DPOs must complete total of 240 hours of State mandated training within their first year.

APD DPOs may be required to attend additional training such as refresher training for authorization to use specific safety and field equipment. Consequently, armed Officers are required to complete 40 hours of Core Firearms training and 8 hours of First Aid/CPR within the first year of appointment or from time of assignment. Annually, armed officers must complete 16 hours of qualifications training, and bi-annually armed officers must update their CPR certification. Further, all DPOs are trained internally on new APD policies, as they are issued.

All mandatory CORE hours (240 hours) were completed for the new DPOs hired in September 2012, and are included in the 102-hour average for APD DPOs. It is important to note that the state implementation of SB678 provided funds to improve adult services by utilizing a risk needs assessment for case plan development and applying a case management process to refer 18-25 year old Transitional Age Young Adults Probationers for services. A major element of AB109 is the requirement to implement evidence-based principles for effective interventions.

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APD Comments on 2.2 (continued): In order to implement these research based principles, the SF Adult Probation Department needed to change its supervision strategy from one that is surveillance focused to one that is a strength-based, behavior modification approach to improve public safety outcomes. Consequently, in addition to traditional peace officer training, all levels of staff in the Department needed to learn new skills related to actuarial risk/needs assessment, motivational interviewing techniques, recognizing/managing stages of behavior change, utilizing cognitive based interventions, building case plans and responding to behaviors through graduated rewards and sanctions. Overwhelmingly, research shows that training officers in evidence based practices results in reductions in recidivism rates of clients under supervision. For example, a recent study in the *Journal of Crime and Justice* shows that trained probation officers demonstrated greater use of the skills taught during evidence based training and their clients had lower failure rates by nine percentage points, equating to a reduction in relative risk of approximately 25%. Training deputy probation officers in evidence based practices is one of the most cost effective investments to reduce recidivism.

In addition to state mandated training, APD DPOs have received 24 hours of COMPAS Risk/Needs Assessment training, 20 hours Evidence Based Practices training and Skill building for Risk Needs and Responsivity training, and 32 hours of Motivational Interviewing training. These trainings have been key to aligning our APD DPOs with the best case management practices in the field. The AB109 trainings include Legislative Realignment Training, Felony Sentencing, Thinking for Change, and a series of Officer arming training. These trainings are a combination of State requirements, APD policy, and recommendations by the National Institute of Corrections. Newly hired DPOs successfully completed all of these trainings within their first 90 days and started supervising caseloads on December 20th, 2012. The above trainings have equipped DPOs assigned to the AB109 population with the necessary skills and abilities to effectively and efficiently supervise clients.

Our DPOs assigned to supervising the AB109 population have developed the necessary knowledge and skills to enable our officers to address complex high risk/high needs population; 80% of active PRCS clients have been assessed as high risk for recidivating and have an average of 8 prior felony convictions; 84% of active 1170(h) Mandatory Supervision clients have been assessed as high risk for recidivating.¹ APD received one-time funds for this training as a part of the State Realignment AB109 & SB678 Funds for Evidence Based Supervision Practices; \$200,000 was allocated for AB109 and \$67,700 for SB678 implementation grant funds for a total of \$267,700.

¹ APD AB109 Weekly Status Reports, January 24, 2013.

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	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chief Adult Probation Officer should:			
3.1	Streamline CASC services in order to (a) pay the increased lease costs, and (b) reduce duplication of services.	1	Disagree	<u>APD Status:</u> The increased lease costs may be funded through AB109 allocation. The CASC services complement work of DPOs and other APD reentry services, treatment, and housing. There is no duplication of services.

APD Comments: A key barrier to the opening of the CASC has been the availability of a sufficient space equipped to house the necessary classrooms and service function needed to meet the program demands. Further, identification of an appropriate geographic location was challenging, given need for CASC to be in gang neutral territory, and in close proximity to the Court and the County Jail. The original CASC budget underestimated the real cost of the increase in SOMA commercial property rent and tenant improvements, which resulted in an under budgeting of rent, associated costs and tenant improvements expenses. Real estate market rate costs in SOMA escalated over the last eighteen months resulting in significantly higher than projected costs for a suitable CASC site. LCA has entered into a lease for space at 564 6th Street, with annual rent and related costs that exceed original budget by \$400,642. The Department expects to receive an annual allocation from the state through AB109 to cover the CASC expenses, including the supplemental amount needed for the remainder.

The CASC services are designed to be complement the work of DPOs and other APD reentry services, treatment, and housing, in line with best practices. The CASC will provide services to APD clients, including those on Post-Release Community Supervision (PRCS) and those on P C1170(h) Mandatory Supervision. The Sheriff’s Department does not provide post-release supervision to these individuals. These AB109 clients of APD will be eligible to be served by the CASC, whether they have spent time in the County Jail, or not. According to the CASC Request for Proposals, the CASC should be able to process 600 unduplicated clients per year and 250 clients per day, including those Post-Release Community Supervision (PRCS), Penal Code (PC) 1170(h), Mandatory Supervision

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APD Comments on 3.1 (continued):

PC1170(h)5(b), and Probation, PC1203. As of April 1, 2013, APD is projected to be supervising 625 clients on PRCS and 1170(h)5(b) supervision.

Once fully operational, the Adult Probation Department plans to extend CASC services to AB109 clients who may be required to utilize the CASC as a sanction, in lieu of jail time. These AB109 clients would include individuals on PRCS or PC1170(h) Mandatory Supervision who receive a violation. Currently, individuals serving a PRCS or Mandatory Supervision violation serve that time in county jail. When the CASC is fully operational, these individuals will have the opportunity to be sentenced to serve their violation time at the CASC, instead of in county jail. Superior Court judges have expressed a keen interest in and commitment to utilizing the CASC as an appropriate alternative to incarceration. This would save the County jail bed days, and reduce the costs associated with jail operations. The Superior Court has already demonstrated its commitment to utilizing alternatives to incarceration and split sentencing, as appropriate, with the AB109 population. San Francisco has used split sentences in 46% of the PC1170(h) sentences in the first year of realignment, well above the statewide average of 22%. Individuals receiving a PC1170h split sentences serve a portion of the jail-portion of their sentences, due to PC4019 credits and credits for time served prior to sentencing. They serve all of the Mandatory Supervision-portion of their sentences.

Community corrections research indicates that best case management practice is a 20:1 client to case manager ratio for high risk supervisees requiring the most intensive supervision and case management. Research has shown that when caseload reduction is combined with evidence based training for staff, recidivism reduction is demonstrated, with a 26% reduction in recidivism in one county.²

DPOs supervise PRCS and Mandatory Supervision clients at a 50:1 caseload, with only two caseloads intensively supervised at 20:1. The 5 CASC case managers are expected to provide varying levels of case management and related services to approximately 250 individuals each day, and 600 unduplicated individuals over the year. The DPOs will spend much of their times supervising clients in the field, with the CASC case managers being CASC clients primarily interacting with CASC case managers from day to day. While DPOs will meet with clients at least twice a month, the CASC case managers will meet with CASC clients many times a week.

While DPOS and CASC case management staff will share a common understanding of case management techniques, they serve distinct functions. APD DPOS will be entirely responsible for surveillance, compliance, court reporting and motions, in addition to

² Jalbert, Sarah Kuck, et al, "A Multi-Site Evaluation of Reduced Probation Caseload Size in an Evidence-Based Practice Setting," *A Final Report by Abt Associates Inc. to National Institute of Justice*, 31 March 2011.

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conducting the COMPAS assessment, and developing a client’s Individualized Treatment and Rehabilitation Plan (ITRP). The Adult Probation Department’s Reentry Division and CASC will coordinate wrap around support services provision to clients. By April 2013 APD and the CASC will finalize a Services Policies and Procedures Manual that outlines APD and CASC roles and responsibilities, streamlines referral protocols, protects client confidentiality and rights, and maximizes the impact that a coordinated and formalized rewards and sanctions approach can have on clients.

While there are distinct roles that are played by DPO and CASC staff, given the volume of APD clients, DPOS will also have to perform resource navigation and case management services for individuals on their caseloads. DPOS and CASC staff will communicate daily through face to face and phone check-ins, and will have monthly collaborative case management sessions which will be an opportunity to routinely review communication systems, shared duties, client progress and challenges, and to eliminate any potential for duplication of case management services. CASC case managers provide progress reports through secure portal to APD case management system to provide real-time or daily updates to client’s participation in CASC services and progress in meeting goals of ITRP. Following is a delineation of the responsibilities of DPOs and CASC case managers.

DPO	CASC case manager	Both DPO and CASC case manager
<ul style="list-style-type: none"> • Initial Case Review • Initial Contact • Intake Interview • COMPAS Risk and Needs Assessment • ITRP Development • Investigation and Surveillance • Field Supervision, including Home Visits • Enforce Search Provisions • Issue Warrants • Provide Reports to Court • Track and Capture Absconding Supervisees • Provide Services to Victims throughout Offender’s Supervision • Case Supervision Review • Employment Verification 	<ul style="list-style-type: none"> • Secondary assessments, as appropriate • Establish and verify a comprehensive daily schedule for clients based on the ITRP • Identification and benefits assessment and enrollment • Lead Rehabilitative Groups • Conduct individual and group counseling sessions • Real-time/Daily Progress Reports on client activities through secure portal 	<ul style="list-style-type: none"> • Family Outreach • Address needs for stabilization, e.g., housing • Ongoing contacts and coaching • Resource navigation and Collaboration with Programs

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	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chief Adult Probation Officer should:			
8.1	Expedite the launch of the Smart Probation case management system. The department should seek to launch the system earlier than fall 2013. According to the Project Plan, there is minimal customization needed so the vendor should not need eight months or more to install the program.	2	Disagree	<p><u>APD Status:</u> The fall 2013 go-live date is already an aggressive implementation schedule which APD expects to meet. The contract amendment was signed on January 29, 2013.</p> <p>The transition from cTAG to the integrated COMPAS and Smart Probation case management and risk and needs assessment system is very complex. It will require customization development, implementation, testing, APD’s data migration from cTAG to a new system, building SRF (DOJ) interface and JUSTIS interface, building integrated Document management system, training for DPOs, Admin and IT staff. Although the department would like to expedite the go-live date, it cannot be accomplished without sacrificing quality and the functionality of the system that will negatively impact Adult Probation Department and all other JUSTIS project members as the Department will be exchanging this data with them.</p>

Public Safety Realignment Audit

APD Comments on 8.1: The Adult Probation Department has procured and in the process of implementing new case management system (COMPAS). The existing system, called cTAG, was originally procured in 2002 for a cost of \$532,875. This system was a significant improvement for the Department, it automated some of the Department's business processes, centralized clients' data collection and tracking and allowed to develop consistent reporting and data analysis. As reporting and programmatic needs changed with new legislative mandates, cTAG could not quickly, efficiently and cost effectively adapt to the changes needed, nor interface with JUSTIS. In 2008, Adult Probation Department had only one IT position (IS System Administrator) and just hired a new IS Principal Business Analyst to address the Department's outdated and degraded IT infrastructure, hardware/software issues and work on the JUSTIS interface. Integration between JUSTIS interface and cTAG would require: upgrade of cTAG to a newest version (that would require additional funding), development of additional functionality and building JUSTIS interface. The vendor estimated the cost of building JUSTIS interface at \$280,000. The system had already proven to be cumbersome to use, costly to upgrade, unable to satisfy APD's growing business needs and a continuing lack of cooperation from the cTAG vendor to the Department's needs and requests. The Department determined that the funds for building JUSTIS Interface (\$280,000) would be better invested in replacing cTAG with a new system. This new system would integrate Case Management System, Risk/Needs assessment, Document Management, automated Supervision Plan, Supervise Release File (SRF) to DOJ and JUSTIS interfaces.. cTAG continues to be the Department's centralized Case Management System, while the new system is in the implementation phase. The decision of replacing the cTAG was made by the Department in middle of 2010. While the Department continues to fully utilize cTAG until the new integrated Case Management system is fully operational, a payment of \$57,000 per year in cTAG maintenance fees will be required. From the time the Department made a decision to replace cTAG with the new case management system the cTAG maintenance fees for 2011–2013 for the amount of \$114,000 had been paid.

The department has procured and in the process of implementing a new integrated case management and risk and needs assessment system called COMPAS and Smart Probation through the existing contractor (Northpointe). The contract amendment was signed on January 29, 2013, and the department expects Smart Probation to be operational (including the JUSTIS interface) by fall 2013. The Department will utilize the \$280,000 funding from the JUSTIS project to build an integrated Case Management and Risk/Needs assessment system, Document Management, automated Supervision Plan, Supervise Release File (SRF) to DOJ, and JUSTIS interfaces.

The Department has consistently produced comprehensive and reliable data on AB109 through the development and use of data collection methods that supplement existing case management system. Partnered with the City Performance Unit, City Services Auditor Division of the Controller's Office to track, measure, and report on the impact of Realignment across City/County departments. As a result, San Francisco has produced and published more extensive local data on AB109 than in any other California county to our knowledge.

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	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chief Adult Probation Officer should:			
8.2	Ensure that the interface between Smart Probation and JUSTIS happens immediately upon the system’s launch. The Department should work closely with the JUSTIS project team to identify any remaining challenges in advance of the system’s launch.	2	Disagree	<u>APD Status/Comments:</u> Currently, JUSTIS Go-live is scheduled for the month after the entire case management system goes live assuming system is performing without any ‘show-stoppers’ issues and the testing of data exchange with JUSTIS is successful.

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	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chair of the Community Corrections Partnership should:			
4.3	Provide detailed and comprehensive reporting on the City's use of alternatives to incarceration. Where possible, the Community Corrections Partnership Executive Committee should attempt to quantify the savings resulting from the reported use of alternatives to incarceration.	2	Agree	<u>APD Status:</u> The CCP and its Executive Committee have provided extensive and ongoing reporting on the use of alternatives to incarceration, and has been supported by the Controller's Office City Services Auditor for over a year in this effort. See <i>Public Safety Realignment in San Francisco: The First Twelve Months</i> , released December 19, 2012 (see pages 45 and 47). The Chair of the CCP will request that the Sheriff produce and include placement by SFSD into SFSD Community Programs as a regular area of reporting regarding AB109. The CCP Executive Committee will quantify the savings that result from the use of all alternatives to incarceration. This effort will be supported by the Reentry Council's <i>Justice Reinvestment Initiative</i> , a data driven analysis the drivers of the criminal justice population and costs. San Francisco is one of only two localities in California selected for this national initiative.

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APD Comments on 4.3 (continued): APD first received a copy of Chapter 4 in final draft form on January 25th, while other relevant draft chapters of the report were received December 28th. As a result, APD has not provided a full review of the Chapter. On the whole, Chapter 4 considers a narrow set of alternatives to incarceration—those available through the discretion of the SF Sheriff’s Department through its authority provided by the state for inmates of SF County Jail. Public Safety Realignment redefined certain felonies through PC1170(h). Individuals convicted of certain felonies on or after October 1st may be sentenced to San Francisco County Jail, rather than state prison, for more than 12 months. Per the sentencing judge’s discretion, the sentences for eligible felonies can be served in county jail (“straight jail sentences”), per § 1170(h)(5)(a), or split between time served in county jail and time supervised by the Adult Probation Department under Mandatory Supervision (“split sentences”), per § 1170(h)(5)(b). San Francisco has used split sentences in 46% of the PC1170(h) sentences in the first year of realignment, well above the statewide average of 22%. All of these split sentences are alternatives to incarceration, with the decision being made earlier—by the judge at the time of sentencing. Individuals receiving a PC1170h split sentences serve a portion of the jail-portion of their sentences, due to PC4019 credits and credits for time served prior to sentencing. They serve all of the Mandatory Supervision-portion of their sentences.

Once fully operational, the Adult Probation Department plans to extend CASC services to AB109 clients who may be required to utilize the CASC as a sanction, in lieu of jail time. These AB109 clients would include individuals on PRCS or PC1170(h) Mandatory Supervision who receive a violation. Currently, individuals serving a PRCS or Mandatory Supervision violation serve that time in county jail. When the CASC is fully operational, these individuals will have the opportunity to be sentenced to serve their violation time at the CASC, instead of in county jail. Superior Court judges have expressed a keen interest in and commitment to utilizing the CASC as an appropriate alternative to incarceration. This would save the County jail bed days, and reduce the costs associated with jail operations. The Superior Court has already demonstrated its commitment to utilizing alternatives to incarceration and split sentencing, as appropriate, with the AB109 population.

APD has established AB109 caseloads of 50:1 for AB109 clients and 20:1 for the highest-risk AB109 clients. AB109 clients are a complex high risk/high needs population: 80% of active PRCS clients have been assessed as high risk for recidivating and have an average of 8 prior felony convictions; 84% of active 1170(h) Mandatory Supervision clients have been assessed as high risk for recidivating.³ 20:1 caseloads are the national standard for supervision of high risk populations. APD officers are utilizing the CASC and the array of reentry services, treatment, and housing to provide individualized, continuous programming that meets clients’ assessed criminogenic needs, in accordance with their Individualized Treatment and Rehabilitation Plan.

³ APD AB109 Weekly Status Reports, January 24, 2013.

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	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chair of the Community Corrections Partnership should:			
6.1	In consultation with the Mayor’s Office, evaluate the impact of the transfer of parole revocation hearings from the State to the San Francisco Superior Court on the need for staff resources in the Public Defender’s Office and District Attorney’s Office, which may include reallocating existing staff resources or AB109 funds in the FY 2013-14 budget.	1 APD: 2	Agree	<u>APD Status/Comments:</u> The Governor’s January budget states that the FY13/14 AB109 allocation grows, and additional dedicated allocations for Public Defender and District Attorney, Court, and Police (new) increase.

APD Comments: The FY13/14 increased statewide allocation for AB109 will result in an increase to San Francisco’s \$17,298,112 AB109 allocation. Further, the separate allocation dedicated to Public Defender and District Attorney activities will increase significantly, from statewide allocation of \$4.6 million to \$17 million, as a result of the July 2013 realignment of parole revocation hearings from the state to the Court. Locally, San Francisco’s Public Defender and District Attorney allocation will increase significantly. Additionally, there is a law enforcement (police) funding allocation of \$27.5 million statewide to address local law enforcement AB109 impacts. Last, the Court’s funding to administer new responsibilities will be based on caseloads for the AB109 hearings.

Each year, the Community Corrections Partnership Executive Committee (PC 1203.1) assesses local needs through a community process, and recommends an annual local plan to implement Public Safety Realignment. This plan is developed by the Executive Committee, presented for approval to the Board of Supervisors, and then approved by the Mayor. The annual AB109 funding allocations distribution is recommended by the Community Corrections Partnership Executive Committee via Public Safety Realignment Plan, for consideration by the Board of Supervisors in the regular development of the annual budget.

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	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chair of the Community Corrections Partnership should:			
6.2	Evaluate the impact of the transfer of parole revocation hearings from the State to the San Francisco Superior Court and implement recommendations to: (1) merge procedures for parole; Post Release Community Supervision, and probation revocation hearings and ensure compliance with due process requirements; (2) provide for review of Post Release Community Supervision revocation petitions by the Adult Probation Department’s Division Director; and (3) analyze the number of parole revocation proceedings and the stage at which they are settled six months after the County assumes responsibility for these proceedings and on a continuing basis.	2 APD: 3	Partially Agree	<u>APD Status:</u> (1) : The CCP has no statutory authority related to parole oversight ⁴ ; (2) APD disagrees with need for additional, redundant level of review; ⁵ (3)The CCP Chair will request that the Court, District Attorney, and Public Defender prepare analysis of number of parole revocation proceedings.

⁴ a) Persons released from state prison on or after October 1, 2011, after serving a prison term or, whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes shall be subject to the jurisdiction of and parole supervision by the Department of Corrections and Rehabilitation: Cal. Penal Code § 3000.08 (West)

⁵ Senate Bill 1023 stated that revocation procedures should be uniform, that procedures outlined in PC 1203.2 be applied, and that all procedures comply with under Morrissey v. Brewer (1972) 408 U.S. 471, and People v. Vickers (1972) 8 Cal.3d 451, and their progeny. Further, Rule of Court 4.541 defines the minimum contents of the supervising agency’s reports for petition for revocation.

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APD Comments on 6.2: Re: (1) and (3) Neither the Community Corrections Partnership, its Executive Committee, or the City/County have any statutory authority over the California Department of Corrections, Board of Parole Hearings, or the Judicial Council. PC 3000.08(f), operative July 1, 2013, specifies that the Judicial Council shall adopt forms and rules of court to establish uniform statewide procedures to implement this subdivision. Currently, the Administrative Office of the Courts has statewide responsibility on behalf of the Judicial Council to develop these procedures that will be effective statewide.

Re: (2) Prior to the implementation of Realignment, the Adult Probation Department convened a working group of the Public Defender's Office, District Attorney's Office, and Rosen, Bien, and Galvin, LLP, the plaintiff's counsel in the *Valdivia* due process case against the state. The working group and resulting procedures were developed in an effort to protect individuals' due process rights. The Adult Probation Department shall continue to comply with its Rewards and Responses to Client Behavior policy (5.02.04), which guides the Department's utilization of rewards and responses, including the use of flash incarceration for PRCS. APD Policy provides strict guidance regarding the use of overrides, and requires that a Supervising Probation Officer approve all overrides. This quality assurance process is in place, and provides effective, efficient oversight. APD conducts regular quality assurance efforts on an as needed basis to ensure the faithful implementation of this policy. APD may adjust the policy or enhance training when it is called for. SPOs are responsible for conducting monthly quality assurance audits of their units to monitor the following: the rate of overrides, and the ratio of rewards to responses (each in aggregate within the Unit and by the DPO). When standards are not being met, the SPO will work with the Division Director and other Department leadership, as appropriate, to determine whether there is an issue of training, policy, or information technology, and will take appropriate follow-up measures. Additionally, when the new case management system is activated in fall 2013, we will have further automated quality assurance reports related to this oversight.

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	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chair of the Community Corrections Partnership should:			
7.1	In consultation with the Mayor’s Office of Housing, present a report to the Board of Supervisors on the housing needs of AB109 offenders and the current utilization rates of housing programs in order to identify where gaps exist prior to July 31, 2013.	2	Agree	<u>APD Status:</u> The CCP will request that MOH provide assistance to develop and present a report on housing needs of AB109 offenders and current utilization rates of housing programs. APD regularly produces reports on utilization rates of its AB109 funded housing programs.

APD Comments: Based on the State’s funding formula for Realignment implementation, San Francisco County received \$5.79 million in Fiscal Year 2011-12 (for 9 months of Realignment implementation) and \$17.30 million in Fiscal Year 2012-13. The Board of Supervisors allocated General Fund support to supplement the State’s funding and allow for the successful implementation of the County’s Realignment Plan. The General Fund support over Fiscal Years 2011-12 and 2012-13 totaled \$9.25 million.

The total spending Countywide on Realignment implementation is budgeted to be \$12.7 million for nine months of Fiscal Year 2011-12 and \$19.6 million in Fiscal Year 2012-13. Of this total funding, \$1.8 million in Fiscal Year 2011-12 and \$2.9 million in Fiscal Year 2012-13 is allocated to housing, job training and placement, behavioral health, substance abuse, case management, and other services coordinated through the Adult Probation Department’s Reentry Division for individuals on AB109 community supervision. Though APD administered 47.6% of the Realignment funding in FY12/13, APD work ordered and contracted out \$3,089,204 to provide array of services, treatment, and housing. APD utilized only 32% of the Realignment funding for its own supervision and operations.

APD developed two housing programs and an array of treatment were developed specifically for AB109 clients, in partnership with Human Services Agency, Department of Public Health, and community partners. AB109 funding for housing includes rent subsidies and stabilization units. Array of treatment includes outpatient, residential, transitional housing, and primary care.

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	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chair of the Community Corrections Partnership should:			
7.2	In consultation with the Mayor’s Office of Housing, evaluate the impact of discrimination and residency requirements on housing stability and recidivism rates to assess whether policy changes are appropriate.	2 APD: 3	Agree	<u>APD Status:</u> The CCP will consult with MOH to evaluate impact of discrimination and residency requirements on housing stability and recidivism rates to assess whether policy changes are appropriate. The CCP will partner with Reentry Council and Human Rights Commission to build upon prior work done in this area.

APD Comments: The inter-county transfer process for felony probation is guided by PC 1203.9. The transfer process for PRCS is outlined in the Protocol for Transfers of Post Release Community Supervision Offenders, as adopted, by the Chief Probation Officers of California (CPOC) on March 14, 2012. The transfer process for 1170(h) Mandatory Supervision was not articulated in the original AB109 legislation, effective October 1, 2011. However, legislation enacted in July 2012 established PC 1203.9 as the transfer process for 1170(h) Mandatory Supervision, in addition to felony probation.

A comprehensive evaluation of the impact of discrimination and residency requirements on housing stability and recidivism rates will take a substantial amount of staff time. APD is committed to working with partners to conduct such an evaluation by no later than January 31, 2014.

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	Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
	The Chair of the Community Corrections Partnership should:			
8.3	Provide a report to the Board of Supervisors on the status of the information systems management, which should include related costs and timelines, prior to July 31, 2013.	2	Disagree	<u>APD Status/Comments:</u> APD believes that it would be more appropriate to have the JUSTIS Governance Council (SF Admin Code 2A.85) provide such a report since such Citywide oversight of criminal justice information systems is their responsibility.



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Ms. Severin Campbell
Ms. Amanda Guma
San Francisco Board of Supervisors
Budget Analyst's Office

January 30, 2013

RE: Response to Performance Audit of San Francisco's Implementation of Public Safety Realignment

The San Francisco District Attorney's Office has prepared the following response to the Budget Analyst's Performance Audit of San Francisco's Implementation of Public Safety Realignment. Our comments include a brief summary of public safety realignment successes and a detailed response to the formal recommendations. Recommendations are limited to; Section 1 Planning for Public Safety Realignment Implementation; Section 5. Public Defender and District Attorney Positions Supporting Public Safety Realignment; and Section 6. Planning for Parole Revocation Hearings. Recommendations were made by the Budget Analyst in each of these sections that impacts the District Attorney's Office. In instances where the recommendations matrix was not provided, the department response is provided in the following narrative.

District Attorney's Office Public Safety Realignment Successes

Coordination with Criminal Justice Partners for Effective Implementation

The District Attorney's Office collaborated with the Public Defender's Office, Adult Probation Department, Sheriff's Department, Police Department, Department of Public Health and Controller's office for the effective implementation of realignment. Planning meetings began shortly after the passage of AB 109 and continue to allow criminal justice and social service partners to identify issues and celebrate successes. The outcomes of this collaboration include but are not limited to modifications to court dispositions to permit accurate tracking of 1170(h) cases, flash incarceration procedures that honor defendant due process rights, and regular tracking of realignment population demographics and supervision outcomes.

Alternative Sentencing Planner

The Alternative Sentencing Planner is the first of its kind position in a District Attorney's Office. While other collaborative efforts have resulted in Assistant District Attorney's working with social workers to improve criminal case outcomes in the interest of public safety, this is the first time that expertise has been housed within the District Attorney's Office. In the first year, the ASP carried a caseload of 107 cases. Of the 107 cases, 51 have been 1170(h) eligible cases and 58 cases have been charged as non-1170(h) eligible cases. 87 case referrals requested a full analysis. There were 20 cases referred for a shorter, consultation report.

Improved Data Collection and Case Tracking

The District Attorney's Office meets regularly to review 1170(h) cases, and the implementation of the Alternative Sentencing Planner Program. These now monthly meetings have resulted in the creation and implementation of the ASP case tracking form, modifications to the DAMION

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case management system to accurately track the office workload of 1170(h) cases, and office wide trainings on realignment and community programs.

Creation and Implementation of the Sentencing Commission

District Attorney Gascón in partnership with Chief Wendy Still and the Board of Supervisors successfully established the San Francisco Sentencing Commission. The mandate of this body is beyond public safety realignment, the Sentencing Commission will provide policy and research leadership as the City and County of San Francisco explores the expansion of local discretion in sentencing.

Section 1. Planning for Public Safety Realignment Implementation

Audit Recommendation 1.1:

In order to streamline the planning and coordination of programs to reduce time spent in custody, assist ex-offenders on reentry, and reduce recidivism, the Board of Supervisors should evaluate integration of the functions of the City-mandated Reentry Council and Sentencing Commission, when they sunset, with the State-mandated Community Corrections Partnership.

District Attorney Response: Disagree

The San Francisco Sentencing Commission functions and responsibilities as defined by county Ordinance 10-12 which amended the San Francisco Administrative Code by adding Article 25, Sections 5.250 through 5.250-3 are not exclusively focused on the implementation of public safety realignment. The San Francisco Sentencing Commission was developed to assess and implement change to local criminal justice practices within the latitude of the current law and ultimately to propose legislative changes to the state legislature.

Over the course of the next two years the Sentencing Commission will:

1. Evaluate effective and appropriate sentences for the most violent offenders.
2. Explore opportunities for drug law reform.
3. Examine inconsistencies in the penal code related to realignment sentencing.
4. Identify and define the most important factors that reduce recidivism.

While the third goal identified above is directly related to realignment, the mandate of the Sentencing Commission is broad. For example, the Sentencing Commission will address appropriate sentencing for violent offenders not currently covered under public safety realignment. Newly released research conducted by the Council of State Governments Justice Center on who is arrested in San Francisco further validates the need to have separate but closely coordinated entities within San Francisco. The Justice Center found that 11% of new arrests involved individuals under probation or parole supervision at the time of arrest. This reveals that large proportions of individuals entering the criminal justice system and facing sentencing do not currently fall within the realignment or reentry population. The Community Corrections Partnership, the Reentry Council and the Sentencing Commission each play a distinct role whether it be to address the implementation of public safety realignment (CCP); local oversight of second chance act funds, coordinated provision of re-entry services to all individuals returning to the city and County of San Francisco after incarceration whether they be under local, state, federal or no supervision (Reentry Council); or evaluate the discretion that is afforded the courts and criminal justice partners to ensure the fair and equitable pursuit of justice (Sentencing Commission).

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January 30, 2013

Section 5. Public Defender and District Attorney Positions Supporting Public Safety Realignment

The San Francisco District Attorney's Office response to recommendations 5.1, 5.2 and 5.3 is in the attached matrix.

Section 6. Planning for Parole Revocation Hearings

District Attorney Response to recommendations 6.1, 6.2, 6.3, 6.4

Uncertain Extent of Role of the District Attorney in State Parole Violations

Beginning July 1, 2013, The San Francisco District Attorney's office will be reviewing, filing and handling parole revocations hearings in our local jurisdiction. Individuals on parole are defendants who have prior convictions for serious and violent felonies or were serving a current commitment for a serious and violent felony. The SFDA must be involved in revocation hearings of this classification of defendants.

The analysis, findings and recommendations in this section fails to understand or recognize that California Penal Code section 1203.2 and 1203.3 were amended specifically authorizing the District Attorney to file not only probation revocation matters but also to *file* Post-Release Community Supervision, Mandatory Supervision and *Parole* revocation matters. Therefore, there can be NO analysis comparing how parole hearings were conducted in the past with how they will be conducted after July 1, 2013.

The SFDA's office is charged with initiating Parole revocation proceedings beginning July 1, 2013. This means that the SFDA will review new reports of criminal activity involving defendants on parole and determine whether to charge new offense, file revocation matters or both. The SFDA will handle those matters from initiation of proceedings through sentencing, including any actual hearings that occur.

The SFDA is currently working with the Division of Adult Parole Operations (DAPO) to ensure an orderly transition of these hearings to local jurisdictions. This is a challenging effort since there are significant cross-jurisdictional issues presented. Since parolees are supervised by a state agency, defendants are supervised by local parole offices. However, an individual paroled to one jurisdiction may commit new offense in a separate jurisdiction. For example, a parolee is supervised by parole in Los Angeles. The parolee absconds and commits a new offense in San Francisco. The SFDA files a parole revocation. Unfortunately all of the parolee's supervision records are in Los Angeles. The Parole agent who is most familiar with the parolee's performance on supervision is located in Los Angeles. The SFDA will be required to coordinate information, resources and personnel to effectively and efficiently process parole revocation matters. SFDA is working with DAPO to try and create statewide filing documents, reports and processes.

The SFDA will work and coordinate with all of our criminal justice partners to make this transition as seamless and consistent as possible.

SAN FRANCISCO PUBLIC DEFENDER

JEFF ADACHI – PUBLIC DEFENDER
MATT GONZALEZ – CHIEF ATTORNEY



January 30, 2013

To: Severin Campbell
San Francisco Board of Supervisors
Budget Analyst Office

From: Jeff Adachi
Public Defender

Re: Comment on Realignment Performance Audit Report

The Public Defender has reviewed and accepted recommendation 5.1 and 5.4 of the Performance Audit of Realignment made by the Budget and Legislative Analyst Office.

The Budget and Analyst's recommendations are consistent with the current practices of the Public Defender. The Public Defender does have established criteria for use of the Criminal Justice Specialist (CJS) but will formalize the caseload and performance standards for the CJS position to include specific criteria for referral; caseload standards; tracking sources of referrals; and tracking and reporting outcomes.

The CJS will refer post-adjudicated cases to the Probation Department, as appropriate. The Public Defender is vigilant about avoiding duplication of services. We employ a collaborative approach when working with individuals who are receiving services from other departments. This coordinated effort allows all departments to maintain their individual goals while maximizing use of limited resources and improving outcomes.

The Public Defender does use automation to track performance. The following information is captured in every case and can be sorted within each category: the date of the case referral; the source of the referral, i.e., attorney name; client name; gender; court number; current case category: MTR, PRCS, 1170(H), etc; current charges; pre hearing offer or recommendation; assessment due date; actual assessment date; client status information: e.g., HIV positive, Veteran status, on parole, etc; final legal outcome; referrals made; and placements made. We will thoroughly review and attempt to enhance our use of automation data to track workload, performance and outcomes within our limited resources.

The CJS has met the primary goals of the position. Specifically, the CJS has been successful in conferring with attorneys handling realignment cases; creating reentry and alternative sentencing plans; obtaining dispositions resulting in alternatives to incarceration; attending court and advocating on behalf of clients; creating and submitting social histories and obtaining better outcomes as a result; maintaining data systems; conducting trainings; attending trainings; conducting education and outreach, etc. The Public Defender will develop and implement

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specific written criteria to prioritize CJS realignment activities, set guidelines about the hours or types of service CJS is expected to provide on a case, and create appropriate caseload measures.

Planning for Parole Revocation Hearings

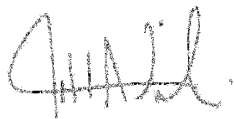
As indicated in the report, there could be as many as 2,384 parole revocations hearings, including probable cause and full revocation hearings, in Superior Court in FY 2013-14. While a large number of the cases will not proceed to full revocation hearings, the Public Defender's Office and will have new responsibilities in parole revocation hearings.

The due process standards applicable to parole revocations established in *Morrissey v. Brewer*, 408 U.S. 471 (1972) require an opportunity to be heard in person and to present witnesses and evidence. Consistent with state and federal law, the report acknowledges the need for investigation and legal counsel at parole revocation hearings. However, the report fails to recommend funding for an investigator and/or paralegal for the 2,384 parole cases. The Public Defender is charged with vigorously defending individuals accused of crime and providing effective assistance of counsel. Without proper investigation, the Public Defender cannot fulfill the constitutional obligations on behalf of its clients.

Pursuant to Penal Code 1230, the Community Corrections Partnership Executive Committee (CCP) is charged with developing a plan for Public Safety Realignment that implements specific evidenced-based practices and advising Adult Probation on the development and implementation of the community corrections program. The code does not explicitly require the continuation of the CCP or give authority to the Chair of the CCP to oversee the functioning of other departments. As such, recommendation 6.1 which provides that the Chair of the CCP "In consultation with the Mayor's Office, evaluate the impact of the transfer of parole revocation hearings from the State to the San Francisco Superior Court on the need for staff resources in the Public Defender's Office and District Attorney's Office..." is without legal authority.

Enclosed is the Public Defender's response to the Budget and Legislative Analyst's recommendations directed to our department. We look forward to implementing the Performance Audit recommendations.

Sincerely,



Jeff Adachi
Public Defender

SAN FRANCISCO PUBLIC DEFENDER

JEFF ADACHI – PUBLIC DEFENDER
MATT GONZALEZ – CHIEF ATTORNEY



January 30, 2013

To: Severin Campbell
San Francisco Board of Supervisors
Budget Analyst Office

From: Jeff Adachi
Public Defender

Re: Public Defender Accomplishments **Realignment**

In 2005, San Francisco Public Defender Jeff Adachi founded the San Francisco Safe Communities Reentry Council, a collaboration of more than 50 organizations and individuals helping those newly released from jail and prison secure housing, education, and employment and deal with their emotional, health, and legal needs. In 2008, under the leadership of the Public Defender, the San Francisco Safe Communities Reentry Council combined its efforts with those of the District Attorney and Sheriff to form the **Reentry Council for the City and County of San Francisco**. The first meeting of the Reentry Council was held on July 17, 2009.

The **Public Defender's Office** has long been a leader in creating and implementing innovative programs. To that end and in response to Realignment, the Public Defender created a *Realignment Team*, consisting of a Deputy Public Defender and a Criminal Justice Specialist. The Realignment Team works in collaboration with deputy public defenders handling felony matters and the Office's Reentry Unit, which provides a blend of legal, social and practice support through its Clean Slate and Social Work components.

The attorney assigned to the Realignment Team, using an understanding of evidence-based practices, advocated for, designed, and trained deputy public defenders on alternative sentencing strategies. The attorney also identified and referred eligible clients to collaborative courts and other evidence-based programs. The attorney investigated cases, litigated motions, and prepared for and conducts flash incarceration hearings and formal revocation hearings.

The Public Defender's Criminal Justice Specialist, a highly experienced reentry specialist with a social work background, conducted comprehensive assessments to determine client needs and collaborated with APD's PRCS unit to make service referrals and discuss the progress of clients receiving services. The Criminal Justice Specialist performed clinical work, assesses clients' needs, referred clients to services, and advocated for individuals both in and out of court.

In the first year of Realignment implementation, the Public Defender's Realignment Team successfully advocated on behalf of individuals impacted by Realignment and provided due process protections for clients on PRCS and Mandatory Supervision. Over the year, the Realignment Team represented a majority of the County's PC § 1170(h) defendants as well as nearly all of the PRCS clients with a PC § 3455 violation charge ensuring referrals to collaborative courts and achieving a high success rate for utilizing alternatives to incarceration. The Realignment Attorney obtained better legal outcomes in almost every PRCS case handled.

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The Public Defender also pushed for reforms in local sentencing practices that minimize incarceration and are successful in reducing recidivism. As a partner of the San Francisco Sentencing Commission, the Public Defender plays an active role in bringing about changes in sentencing practices, and reducing pretrial and prehearing incarceration. The Public Defender was a strong advocate for the use of alternatives such as electronic monitoring, placement in treatment, work furlough, and day reporting in lieu of incarceration.

Additionally, the Public Defender strengthened its collaboration with the Adult Probation Department, Superior Court, Sheriff's Department, District Attorney, Department of Public Health, community based agencies and others. The Realignment attorney established a strong relationship with the Probation Department's PRCS and 1170(h) officers and the Reentry Services Division. This coordinated response resulted in the efficient processing of cases and the achievement of better legal and social outcomes for individuals in the Realignment population.

The Public Defender was instrumental in improving the implementation of flash incarceration procedures in San Francisco. In response to the absence of language regarding the right to legal representation during the flash incarceration process as outlined in Penal Code § 3454, the Public Defender, Probation Department, District Attorney, ACLU, and Rosen, Bien and Galvin, LLP collaborated to establish protocols for ensuring the right to a hearing and an attorney for individuals receiving a flash incarceration.

The Public Defender also collaborated with the Reentry Unit within the office to better serve individuals in the Realignment population. The Clean Slate Program assists individuals who are seeking to "clean up" their records of criminal arrests and/or convictions. Clean Slate helps remove significant barriers to employment, housing, public benefits, civic participation, immigration and attainment of other social, legal and personal goals. The program prepares and files over 1,000 legal motions in court annually, conducts regular community outreach, and holds weekly walk-in clinics at five community-based sites, in neighborhoods most heavily impacted by the criminal justice system. The Realignment Team worked closely with the Clean Slate unit to obtain legal relief for individuals on PRCS and Mandatory Supervision.

The Public Defender's Reentry Unit is a referring agency to Shelter Plus Care—a HUD-funded program that provides a limited number of apartments and housing vouchers to clients experiencing homelessness. Shelter Plus Care helps homeless clients with disabilities achieve stability by providing life-long subsidized housing as well as voluntary support services including case management, specialized mental health services, access to substance abuse treatment, benefits advocacy, and vocational training, among other services. The Public Defender's Realignment Team made all appropriate referrals to Shelter Plus Care for individuals in the Realignment population.

In addition, individuals serving a sentence pursuant to PC § 1170(h) availed themselves to the services of the Children of Incarcerated Parents Program (CIP), part of the Public Defender's Reentry Unit. Services provided include addressing the urgent needs of children, setting up contact visitation, assisting clients with family court issues, child support, and reunification plans, as well as connecting clients with CPS case managers and additional social services.



February 5, 2013
Reference: 2013-025

Amanda Guma
Severin Campbell
Ted Walter
San Francisco Board of Supervisors
Budget & Legislative Analyst's Office
1390 Market Street, Suite 1150
San Francisco, Ca 94102

I write in response to the final draft **Performance Audit of San Francisco's Implementation of Public Safety Realignment**. I appreciate the consideration given to our concerns with the original draft of this document. However, after reviewing the final draft, I am not convinced that the auditors fully understand the criminal justice system and, more importantly, San Francisco's implementation of California's 2011 Public Safety Realignment Act (AB109).

2011 Public Safety Realignment Act (AB109)

REDEFINED FELONIES

- The audit report included the statement that "*Penal Code 1170(h),... created a new category of low level crimes that would now be sentenced on the local level.*" Convictions resulting from violations of the Penal Code (as well as other California Codes) continue to be sentenced through the State Superior Courts in each county. There was no change.

AB109 did revise several California Codes, including 1170 PC. The revision to 1170 PC provided that persons convicted of specific felonies and sentenced to a period of incarceration would be incarcerated in the county jail rather than in state prison. Another change to 1170 PC provided the sentencing court with the discretion to split the sentence between jail time and a period of Mandatory Supervision.

- The auditors further write that "*AB109 revised the Penal Code to create a new category of non-serious, non-violent and non-sex crimes for offenders without serious prior convictions that would be prosecuted on the local level starting October 1, 2011.*"

AB109 did not create a new category of crimes. As stated above, AB109 merely revised many California Codes to provide for incarceration in the county jail rather than state prison. Also, California Codes have always been prosecuted on the local level by local District Attorneys. AB109 did not change that.

- To write that “*AB109 created a new standard of custody credit*” is also not entirely accurate. In January 2010, 4019 PC, which addresses custody credits for persons incarcerated in local jails, was revised to provide for the “half-time” credits. (Previously, prisoners sentenced to at least six days in county jail received two days off for every six served.) Due to the backlash against that revision, 4019 PC was revised again nine months later in September – returning it to its previous language.
- “[L]ocal agencies would now have the ability to adopt additional tools through AB109. These include ...local jail credits for time served...” This reference to 4019 PC is misleading. Custody credits are mandated by state law; they are not a tool provided by AB109 – they preceded the adoption of AB109 by many years.

San Francisco Criminal Justice System

The auditors fail to realize that the criminal justice system *is a system* – with a variety of participants, procedures and outcomes. While there is occasionally some degree of overlap, each participant and/or department has a specific role to play within this system.

The State recognizes this; the State legislated the creation in each county of a Community Corrections Partnership as well as the Community Corrections Partnership Executive Committee to ensure that all agencies that make up each county’s criminal justice system are working together.

2011 Public Safety Realignment is both far-reaching and historic. Yet the audit report, the stated objective of which is to conduct a performance audit of the Department’s implementation of the legislation, has reduced the Sheriff’s Department’s implementation of AB109 to the number of offenders – both AB109 and non-AB109 – we have *not* released to alternatives to incarceration.

An entire section¹ of the audit report is devoted to the “Sheriff’s Department Use of Alternatives to Incarceration.” I think this demonstrates both a lack of knowledge of the San Francisco criminal justice system and a misunderstanding of the role the Sheriff’s Department plays in the system.

As AB109 went into effect, many of California’s counties were under either a court-ordered or self-mandated population cap. Expanded powers to release prisoners to alternatives to incarceration were provided to all the counties in order for them to manage their populations.

Within the last twenty years, San Francisco County has felt the impact of a court-ordered population cap for the jails due to overcrowding. At that time, the county developed programs to manage the population. Some of these included County Parole² to release minimum security

¹ The Sheriff’s Department’s Use of Alternatives to Incarceration was one of eight sections

² California Penal Code §§3074 et seq

and low risk offenders to alternatives to incarceration as well as the Supervised Pre-Trial Release (SPR) program (funded in main by the Sheriff's Department).

In recent years, however, and for a variety of reasons, the jail population in San Francisco has declined. This has allowed the Department to close an entire jail facility (County Jail #6) as well as to merge populations as much as feasible to close housing areas within individual jails.

The Role of the Sheriff's Department in the San Francisco Criminal Justice System

The role of the Sheriff's Department is to maintain public safety by keeping prisoners in custody as required by law. The Department has the legal authority to release prisoners prior to either the adjudication of their cases or the completion of their jail sentences. With that authority comes commensurate responsibility. No early release from custody is without risk to public safety. The Department will always strive to keep that risk to a minimum and to use our authority to release with discretion and awareness.

SUPERVISED PRETRIAL RELEASE PROGRAM

While it is not the role of the Sheriff's Department to release prisoners to alternatives to custody without a need to manage the jail population, there *are* departments within San Francisco whose role it is. For example, San Francisco's successful Supervised Pre-Trial Release program reviews each prisoner who is booked into the jail to determine his or her eligibility for release to some form of pre-trial supervision. SPR staff prepares a packet for eligible prisoners to be presented to a judge who makes the final decision on whether or not to release the prisoner to SPR.

AB109 provided county sheriff's with increased authority (subject to approval by the Board of Supervisors) to release pre-trial detainees to Electronic Monitoring in lieu of bail³. This authority has yet to be granted to the Department. Should it be granted, it would be a tool in our belt. However, the Department does not expect to have great need of it due to the work already being done by SPR.

SAN FRANCISCO SUPERIOR COURT – DISTRICT ATTORNEY'S OFFICE – ADULT PROBATION

Additionally, bail is reviewed and/or set in court by the judge. Should the District Attorney feel that bail is unwarranted, they can support efforts to lower the bail or release the prisoner on Own Recognizance. If the District Attorney is not inclined to take such action, it is unlikely that the Sheriff would override the decisions made by the judge or DA.

The Adult Probation Department also plays an important role in whether an offender remains in custody. Probation, Post Release Community Supervision and Mandatory Supervision violators are held in custody by the decision of APD. At any time (absent any additional charges or holds), APD can drop a probation hold and allow the offender to be released back to supervision.

When an offender is convicted of a crime, the judge imposes sentence. AB109 gives the bench additional options when sentencing an offender pursuant to 1170(h) (i.e., straight jail time or a

³ 1203.018 PC

sentence split between jail time and Mandatory Supervision) in addition to the previous authority to sentence an offender to felony probation. A judge who feels that the society and the offender are best served by an alternative to incarceration is free to make that decision by sentencing the prisoner to some form of supervision.

CALIFORNIA STATE PAROLE

The Parole Department has a similar ability to remove their hold from offenders to allow the individual to be released back to supervision.

DECISION POINTS

In the San Francisco criminal justice process, there are numerous decision points allowing for an offender to be released from custody while still holding the individual accountable for an alleged offense. Various departments have the ability to allow for a prisoner's release from custody. When those entities do not use that authority, the Department will, lacking sufficient stimulus, allow those decisions to stand.

Low-level vs Low-risk

The auditor's report appears to equate "low-level" with "low-risk". These are not the same. The 1170(h) offenders who are sentenced to a term in the county jail are considered "low-level". The crimes for which they have been convicted are non-serious, non-violent and non-sexual (as those crimes are defined in the Penal Code). Additionally, the criminal history of this population is equally non-serious, non-violent and non-sexual.

"Low-risk" is generally considered to convey the risk of *reoffending*. A low-level 1170(h) offender may still be at high risk of reoffending.

Justice Reinvestment

The auditor's report quotes from the Penal Code: "'Justice Reinvestment' is a data-driven approach..."

The thrust of "The Sheriff's Department's Use of Alternatives to Incarceration" suggests that the Department was in some way non-compliant with the City & County of San Francisco Public Safety Realignment & Post Release Community Supervision 2011 Implementation Plan (as well as the 2012 Plan) by not releasing AB109 offenders – especially 1170(h) offenders – to alternatives to custody.

As mentioned previously, that role is more appropriately assigned to the Courts. Had we the expected population increase, we would have been forced to consider options such as alternatives to incarceration as well as re-opening County Jail #6. While we did receive more AB109 prisoners than the California Department of Corrections and Rehabilitation projected, due to our low jail population, the effect on the jails was minimal.

However, of additional concern is that AB109 has been in effect for less than eighteen months. During that time, the Department – along with our criminal justice partners – has been collecting and sharing data. Our review of the data will inform our decisions regarding this and our non-AB109 population. To make policy decisions without a comprehensive review of the

data – as it seems the audit reports suggests we should have - would be counter to best practices.

Community Programs Eligibility Criteria

As noted in the audit report, prisoners must pass certain criteria to be eligible for Community Programs placement. The October 2011 Eligibility Criteria excluded AB109 offenders. This would be consistent with the Department's approach of gathering data before making policy changes.

The AB109 population represented, in some respects, an unknown. We had many questions – not the least of which was: "How often are these offenders re-arrested after release from custody?" The Department's belief was that staffing at Community Programs should be increased to include the swing and midnight shifts prior to releasing 1170(h) offenders to alternatives to custody. The increase staffing would allow the Department to monitor and respond to violations of supervision in a timely manner during all shifts.

RE-OFFENSE RATE OF AB109 OFFENDERS – Initial Review

Recent reports run by the Department reveal that 49% of the 1170(h) offenders who were released between October 2011 and December 2012 have been rearrested an average of two times (as of January 11, 2013). This suggests a degree of risk not consistent with a Sheriff's legal authority to release from incarceration. Prior to AB109, low-risk offenders or minimum security offenders were eligible to be released early to alternatives to incarceration through 1203.016 PC. The revision to this code by AB109 removed the "low-risk"⁴ and "minimum security" limitations. However, the Board of Supervisors must approve⁵ this expanded authority for the Sheriff, and that has not yet happened.

The PRCS and Parole violators – another part of the AB109 population – have also had many rearrests during the first year of implementation. A report run in September 2012 revealed that 444 parolees had been arrested for a violation of their parole two or more times during the first year of implementation. Thirty-five of these had been arrested five or more times during that first year.

RE-BOOKING OF AB109 OFFENDERS – Time of Day of Violations

The auditors write, "According to Community Programs staff, few violations occur on the night shift, and potential AB109 participants do not require higher levels of supervision than non-AB109 participants."

This is untrue. It has always been the Department's position that increased staffing will be needed to accommodate increases to Community Programs. The 2011 Implementation plan

⁴ "Low-risk offender" as defined by PC §1203.016 means a probationer as defined by the National Institute of Corrections model probation system. The DOJ NCIC publication "Topics in Community Corrections", (Annual Issue, 2004), says "...'risk' refers to the probability of reoffending."

⁵ An ordinance was introduced in November 2011 by then-Supervisor Mirkarimi to amend Administrative Codes 13.63 and 13.64 to conform with provisions of AB109 to allow the Sheriff more authority to release prisoners to Home Detention (§1203.016), and also, to Electronic Monitoring in lieu of bail (§1203.018)

reports that “increased staffing for Community Programs will likely be needed to ensure strong enforcement and maximize community safety.”

Also, of the PRCS offenders who were booked since implementation, 154 bookings occurred on the midnight shift, 190 on the dayshift (when staffing levels are often higher – and thus officers are more available to respond to violations) and 190 bookings occurred during the swingshift.

Of the 1170(h) offenders who have been re-arrested, 58 bookings occurred on the midnight shift, 60 bookings occurred on dayshift and 109 bookings occurred on swingshift.

Clearly, violations do occur during the off-shift and staffing during those hours is necessary.

NORTHPOINTE COMPAS – Risk and Needs Assessment Instrument

During the first year of implementation, the Department has been in the process of obtaining Northpointe’s COMPAS –Risk & Needs Assessment software. The contract has been recently finalized and will allow the Department to make more informed decisions when deciding who would benefit from participation in Community Programs while minimizing the risk to public safety.

The audit report seems to suggest that the only form AB109 implementation took for the Sheriff’s Department’s was to release prisoners to alternatives to incarceration. Some points on alternatives to incarceration:

- *Every 1170(h) “split” sentence includes a release to alternatives to incarceration (Mandatory Supervision)*
- *Every 1170(h) “straight” sentence releases the offender from custody without any supervision period. The judge has the option of including a release to alternatives to incarceration and chose not to impose such a sentence.*
- *The fact that Motion-to-Revoke offenders (probationers who had committed a violation of the terms and conditions of their supervision) were excluded from consideration for placement in Community Programs at the same time as the AB109 population was excluded is linked – without adequate justification – to the Department’s implementation of AB109. The only evidence offered is that both groups were excluded at the same time. The auditors are demonstrating fallacious reasoning when they assume that because two things happen at the same time, the two things are necessarily related.*
- *The report states that 223 offenders sentenced pursuant 1170(h) PC were excluded from consideration for Community Programs placement during the first year of realignment. Sixty-one of those 223 1170(h) offenders did not have any additional jail time to serve at the time of their sentence. Thirteen more had fourteen or fewer days left on their sentence.*

Reporting on the Use of Alternatives to Incarceration

The auditor’s report says that neither the Community Corrections Partnership nor other local criminal justice agencies have reported the number and type of offenders sentenced to probation or alternative programs.

For almost a year, the Department has reported the number of AB109 prisoners released to alternative to custody programs to the Board of State and Community Corrections in the Monthly AB109 Jail Survey Report. We have also provided the information to other departments as requested.

We cannot, however, report on placements to alternatives to incarceration made by other departments or the courts.

Costs and Benefits

The "Sheriff's Department's Use of Alternatives to Incarceration" suggests that if the Department increased participation in alternatives to incarceration by 50 prisoners, the Department could close half a housing pod at County Jail #5. This would eliminate 14 shifts per week and result in 4.2 FTE Deputy Sheriffs being freed up.

The role, and therefore perspective, of the Budget & Analyst's Office is necessarily very different than that of the Sheriff's Department. Our first concern is for the safety of the public we serve. Our second concern is for the safety and security of the prisoners and staff in our facilities.

The Department's Classification deputies thoroughly review each prisoner and assign him or her a Classification level. A prisoner's Classification level (minimum, medium or maximum) affects his or her housing options in the jail. Other legally imposed limitations are also placed on the housing of prisoners. The Department cannot house males and females together, prisoners held under civil process must be kept separate from those held under criminal process, etc.

Additionally, the Department will segregate prisoners due to issues relating to behavior, protective custody status, gang affiliation and psychiatric or medical needs.

A recent review of 52 1170(h) prisoners (of which 17 were identified as being eligible for Community Programs under the 2012 Eligibility Criteria) reveals that those prisoners were found in diverse housing areas:

- 3 – Medical Housing
- 2 – Psych Housing
- 8 – Female Housing (including 1 in Administrative Segregation and 1 in Detox Housing)
- 1 – Administrative Segregation
- 7 – Male General Population (non-Sureno affiliated)
- 11 – Worker Housing (from two different facilities)
- 1 – COVER program
- 5 – RSVP program
- 1 – ROADS program
- 9 – Five Keys Charter School program (8 from non-Sureno affiliated, 1 from Sureno affiliated)
- 3 – Male GP (Sureno affiliated)

For the auditors to suggest that we take even these 52 prisoners and closed half a pod or a pod is unrealistic. Twenty-five percent of this population is housed in Special Housing. These

prisoners (leaving out the issue of classification level) are too diverse with multiple issues including behavioral, gender, gang affiliation, etc. to allow us to consolidate prisoners and close a housing area.

The Department recognizes its responsibility to being fiscally accountable and has already closed housing areas (and a facility) as needed due to the population count.

Conclusion

AB109 is legislation that affects all parts of the criminal justice system in every county in California. Sheriffs were given authority to release offenders from custody – both pre- and post-sentencing. Judges were given the authority to sentence certain eligible offenders to county jail or to county jail and Mandatory Supervision. Probation Departments were given supervision over two new classes of offenders (PRCS and Mandatory Supervision). Options in lieu of incarceration for many offenders were allowed but not mandated. Data driven policy making was encouraged.

The audit report appears to suggest, in an effort to make use of one of the many tools in our tool box (i.e., alternatives to incarceration) the Sheriff should essentially disregard or override the decisions made by our criminal justice partners.

While the Sheriff's Department would like nothing more than to direct the majority of our population to alternatives to incarceration as a way to facilitate their rehabilitation and successful reentry into the community, our number one priority will always be the safety of the public. It would have been premature to make major – and unnecessary given the available bed space in our jails – policy decisions based on speculation and the unconvincing CDCR projections.

INTENT OF CALIFORNIA 2011 PUBLIC SAFETY REALIGNMENT ACT (AB109)

“SEC. 638. This act addresses the fiscal emergency declared by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.”⁶

The goal of 2011 Public Safety Realignment Act was to address the declared state fiscal emergency by reducing the overcrowded prison population along with the associated costs to the state. San Francisco County has been among four counties who have been leading AB109 implementation in its goal of reducing the number of prisoners sent to state prison⁷. We should all be commended for that.

I appreciate how difficult it is for persons unfamiliar with the criminal justice system to attempt to review the performance of participants in the system. I hope that my remarks clarify the Department's implementation of AB109. Our goals were to 1) train our staff in the requirements of AB109, 2) maintain public safety by not releasing prisoners without a thorough understanding of the risks of each individual, 3) to acquire COMPAS Risk and Needs Assessment software to assist us in making decisions regarding individual prisoners, 4) collect data on this

⁶ http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_0101-0150/ab_109_bill_20110329_enrolled.html

⁷ Center on Juvenile and Criminal Justice, December 2012, “One Year into Realignment: Progress Stalls, Stronger Incentives Needed”

population using both New World Systems Jail Management Software (NWS JMS) and ad hoc data collection methods, 5) review and assess the data to ensure the best possible outcomes for all stakeholders and 6) make policy decisions based on data and legal requirements.

Enclosed, please find the Department's response to the Budget & Legislative Analyst's recommendations directed to our department



Ross Mirkarimi, Sheriff

enc. SFSD Public Safety Realignment Audit Recommendations

Public Safety Realignment Audit

Recommendation Priority Ranking

Based on the management audit findings, the Budget Analyst has made 20 recommendations which are ranked based on priority for implementation. The definitions of priority are as follows:

- Priority 1: Priority 1 recommendations should be implemented immediately.
- Priority 2: Priority 2 recommendations should be completed, have achieved significant progress, or have a schedule for completion prior to July 31, 2013.
- Priority 3: Priority 3 recommendations are longer term and should be completed, have achieved significant progress, or have a schedule for completion prior to January 31, 2014.

Public Safety Realignment Audit

Recommendation Priority Ranking

Recommendation	Priority	Department Response (Agree/ Disagree)	Department Implementation Status/ Comments
<p>The Sheriff should:</p>			
<p>4.1 Develop a thorough and rigorous planning process for the future use of alternatives to incarceration. This planning process should include (1) developing estimates of the number of offenders that will be placed in alternatives to incarceration as a result of the November 2012 Eligibility Criteria and future proposed revisions to the Eligibility Criteria, (2) closely monitoring the number of offenders in alternatives to incarceration and evaluating the results of the Eligibility Criteria to identify opportunities for further revisions, and (3) conducting a thorough review of staffing needs in the Community Programs Division, resulting in guidelines for appropriate client-to-staff ratios.</p>	2	Agree	We shall develop a planning process.
<p>4.2 In collaboration with the Community Corrections Partnership, clarify the need for the Sheriff's Department to have the authority to place pretrial defendants on Electronic Monitoring without a Court referral, and if confirmed, pursue legal authority from the Board of Supervisors.</p>	2	Agree	We shall pursue this.