

AD HOC COMMITTEE

ASSEMBLY BILL 109

MISSION STATEMENT

The Mission of the Ad Hoc Committee AB 109 is to review the concerns of increased crime stated by the Kern County Board of Supervisors, County Counsel, and District Attorney due to the adverse effects of Assembly Bill 109 of releasing prisoners back to the counties.

AD HOC COMMITTEE MEMBERS:



Fred Evenson, Chair
Marla Dike
Elizabeth Fowler-Tavares
Patricia Golembefskie
Mahlon "Sonny" Keel
Jerald Palmateer
Horace Smith

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BACKGROUND:

On August 4, 2009, after more than 20 years of litigation dealing with the overcrowding of California State Prisons, a special three-judge panel ordered the State of California to implement a plan to reduce prison overcrowding within two years. The ruling stated the prison population reduction is necessary for prisoners to obtain medical and psychiatric care. These rights are mandated in the 1996 Prison Litigation Reform Act. In an attempt to lower the prison population, similar legislation was passed in 1965 titled the Probation Subsidy Act.

In May 2011 the U.S. Supreme Court upheld the 2009 decision.

On April 4, 2011, Governor Jerry Brown signed a budget package Assembly Bill that would begin the realignment process in California State Prisons. Assembly Bill 109 (AB 109), known as "*The Public Safety Realignment Act*" (PSRA) was a part of the budget package. The PSRA took effect October 1, 2011.

In order to lower the population of State Prisons, AB 109 set up mandated requirements for State prisoners to either be moved to county facilities or released early. AB 109 shifts responsibility for inmates from the State to the counties by:

- Creating the Community Corrections Partnership Executive Committee
- Changing sentencing rules for "lower level" felony offenders, parole violators and parolees
- Defining "lower level" offenders
- Creating and implementing Community-Based Rehabilitation programs
- Working together with other states, county and local agencies

PURPOSE OF INQUIRY:

The 2013-2014 Kern County Grand Jury (Grand Jury) began to inquire into the costs associated with AB 109, an Ad Hoc Committee (Committee) was formed. The Committee felt it necessary to investigate the costs and effects of AB 109 in Kern County. The Grand Jury has the authority to investigate AB 109 under Penal Code §925. Looking at the amounts of cash each county was paid per released prisoner, it was noted that Kern County received the lowest dollar amount of all 58 California counties in 2011. Kern County should not be financially penalized for its 87% conviction rate, one of the highest in the state.

PROCESS:

The Committee interviewed the Kern County Sheriff, the Head of Probation, the Probation Division Director for Adult Services and the Probation Department Special Projects Manager. The Committee also visited the Day Reporting Center and the New Life Residential Facility.

FACTS:

DAY REPORTING CENTER:

On November 25, 2013, Members of the Committee visited the Day Reporting Center (DRC), located at 500 Baker Street, Bakersfield, CA 93305. The DRC is managed by BI Corporation of Boulder, CO, innovators of electronic ankle bracelet monitors. The Committee met with the Area Manager, Program Manager, the Chief of Kern County Probation Department (KCPD), the Special Projects Manager of Research, Analysis and Data for KCPD and several other employees.

The facility opened in November 2010 with 50 probationers. The Program's Mission Statement is: "*Our intentions are to work with them, not against them*" and is based on motivational incentives designed to help change the client's way of thinking about life.

Currently the DRC handles approximately 100 clients. Due to \$ 2.2 million from the AB 109 growth money, the facility is currently doing some renovation and will soon be able to accommodate up to 200 clients. The clients are primarily probationers 18-25 years of age and are felons in the moderate to high risk category to reoffend. Ninety percent of the clients are men and ten per cent are women. As of the date of the visit, 236 people were on the waiting list to get into the program based on recommendations by the Probation Officers.

There are three main phases the clients go through at DRC.

- PHASE I: Clients check in seven days a week, submit to a Breathalyzer test every time they enter the main room, attend a Steps Program, address personal problems in Moral Recognition Therapy, and work towards a 90% clean check-in to be a client in good standing.
- PHASE II: Clients check in five days a week and must test clean 60 consecutive days and must be either employed or on Social Security Insurance Disability (SSI). The center helps clients obtain a General Education Diploma (GED) so they can go on to further education.
- PHASE III: Clients report only three times a week on days of their choosing making it easier to work or attend classes. After 90 days clean, clients graduate to an aftercare program and continue to report to the center as directed by Probation. In November 2013 the center honored 28 graduates.
- The Program also emphasizes the family unit. The DRC holds Family Days, Christmas parties, Easter parties and monthly celebrations for clients that have remained clean and/or completed a phase of their programs.

NEW LIFE CENTER:

On November 25, 2013, the Committee visited the New Life Center (Center) 3501 Edison Highway, Bakersfield, CA 93307. The Center is an Employee Development Training Service Institution contracted as a sober living residential facility through AB 109 funding. The Center has been open for six years although 2013 was the first year working with the AB 109 program.

The Center was founded and built by a local contractor. One building houses a community resource room with computers for GED study, meeting rooms, offices and dorm rooms. It also has a fully updated commercial kitchen and plans to add training which may lead to a certification in food service. The other building houses a local construction company and the New Life Construction Program.

The Center is a residential living facility and currently houses 20 men. When remodeling is completed it will house between 37 and 41 men. For the first 30 days of residence, the clients may not leave and are evaluated to see what programs are needed, such as the Day Reporting Center, Mental and Physical Health screening, and Anger Management. The ultimate goal for the clients is to be able to function in society with a job, or permanent disability as a last resort. After two weeks the clients can have family visitors. The visitors must have no open warrants or felonies convictions.

After 30 days, clients may receive an eight hour weekend pass. After 90 days clients are eligible for an overnight pass and after 120 days may receive a pass for a full weekend. If a client fails to return at the designated time, the Sheriff's Office or Police Department will be called and the client will be picked up. If clients test dirty for drugs or alcohol more than twice, some will return to the facility and others will go back into custody. If they are brought back to the facility, their treatment will start over with the 30 day black out period. The Center allows clients to return up to three times.

The second building on the property houses a local construction company and the NLC Construction Training Program. The program is accredited through Bakersfield College and clients receive seven class units upon completion. The program teaches clients all aspects of building and construction to aid them in gaining employment upon release. Projects include building park benches and refurbishing houses. Clients also learn how to write a resume and fill out a job application. Upon graduation they receive a WesTec Certification. Many are hired by Kern County Parks and Recreation Department. According to the Supervisor of the Parks and Recreation program, some of the best workers are hired out of the Work Release Program.

On November 20, 2013, an employment workshop was held by the Center in cooperation with Kern Employment Agency and others involved with AB 109. It was attended by 179 ex-

offenders and representatives from several companies ready and willing to hire ex-felons. The agency hopes to hold another larger workshop next year.

COUNTY AGENCIES AFFECTED BY AB 109:

The Community Based Organization (CBO) program receives approximately \$1 million from Kern County AB 109 funds. The program includes six sober living facilities and Westcare Case Management Service, a private company. The Sheriff's Office and Probation Department make referrals to these facilities.

The Probation Department hosts monthly collaboration meetings of Community Connections Partners (CCP) regarding AB 109 to improve services for inmates returned to Kern County because of realignment. The CCP Executive Committee includes representatives from the District Attorney, Sheriff's Office, Mental Health Substance Abuse, Probation, Bakersfield Police Department, Superior Court, and Public Defender. The rest of the CCP includes representatives from Human Services, the Board of Supervisors, CBOs, Kern County Superintendent of Schools, Substance Abuse Administration, Employer Training Resource and Victim Services.

AB109 FUNDING:

The funding formula for Fiscal Year (FY) 2011-12 according to the Probation Department was:

- 60% based on Average Daily Population (ADP) of offenders meeting AB 109 eligibility criteria
- 30% based on U.S. Census Data pertaining to the total population of adults 18-64 years of age in the county as a percentage of the statewide population
- 10% based on the SB 678 distribution formula

San Francisco City/County and Kern County were compared to show the disparity in the distribution of AB 109 State funds. Los Angeles County was not included due to differences in population and funding is by a different formula.

The FY 2011-12 Funding (nine months only):

Kern County	\$10,834,140	Total State Funding	3.0579%
San Francisco	\$ 5,049,838	Total State Funding	1.4253%

The funding formula for FY 2012-13 and FY 2013-14 was changed, resulting in a lower percentage for Kern County. The dollar amount increased because the total available State funding increased.

FY 2012-13 Funding:

Kern County	\$27,792,395	Total State Funding	2.7823%
San Francisco	\$20,239,712	Total State Funding	2.0262%

In FY 2012-13 Kern County received \$8,967,652, a 10.34% share of State Growth funding. San Francisco received \$1,072,965, 1.24% of State Growth Funding.

The funding formula remained the same for FY 2013-14 so each county received the same percentage of increased State funding available.
 No Growth Funds have been allocated for the current year.

FY 2012-13 Growth Funds Program Allocations for Kern County:

Program/Services	Amount
• Day Reporting Center (DRC) Expansion	\$2,201,548
• Pre-Trial Release Program, Electronic Monitoring Program (EMP) Expansion, Implementation of Specialized Risk Assessment Unit, Virtual Jail Program Expansion	\$2,076,675
• Community-Based Organizations (CBO's) Program Expansion of Sober-living Environment Housing, Case Management & Vocational/Job Skills/Educational Services	\$1,797,884
• Substance Use Disorder Treatment & Mental Health Treatment Services Expansion	\$ 875,953
• Paid Work Experience Training/G.E.D. Program & Supportive Services	\$ 711,500
• Support Staff-Personnel Assistant (Extra-Help)	\$ 39,708
• Employment/Vocational & Mentoring Pilot Program	\$ 15,000
• Program/Department Impact Adjustments	\$1,249,384
Total AB 109 FY 2012-13 Growth Funds	\$8,967,652

FINDINGS:

- F1. From October 2011 to June 2012 approximately 1,000 inmates were released back into Kern County where they were convicted. As of March 31, 2014, the total number of clients in the Post Release Community Supervision (PRCS) released back into Kern County is 3,116.
- F2. In FY 2012-13, the second year of AB 109 implementation, the change in the funding formula reduced Kern County's percentage of the State allocation. Kern County does not receive an amount per PRCS but a percentage (2.78%) of the total funds allocated. That same FY 882 entered the PRCS program.
- F3. In FY 2012-13, Kern County was allocated \$8.9 million for program growth but did not receive the funds until FY 2013-14. Kern County's Growth money was 10.34% of State funds, third highest in the State behind Los Angeles County (23.44%) and San Bernardino County (15.01%).
- F4. A new funding formula will determine funds for counties for FY 2014-15. Therefore Kern County cannot yet determine how much it will receive.
- F5. Probation's current active PRCS caseload is 1,650 probationers. Current active Mandatory Supervision caseload is 665. Mandatory Supervision is for individuals receiving split sentences. Penal Code §1170(h) provides for some incarceration followed by supervised probation for the remainder of their sentence.

- F6. In FY 2012-13, Kern County locally sentenced 1,914 felons who would otherwise have been sent to State Prison, twice the number of PRCS (882) actually returned from State Prison.
- F7. Kern County Probation Department caseload is currently 75 to 80 PRCS probationers for every Deputy Probation Officer. The national average caseload is 50. By contrast, Marin County PRCS caseload is 30.
- F8. Kern County is represented by a designee from the Board of Supervisors on the California State Association of Counties (CSAC). The Realignment Allocation Committee (RAC), a subcommittee of CSAC, recommends funding formulas for AB 109.
- F9. Kern County has an active CBP including CBOs dedicated to helping inmates released through AB 109, including Day Reporting Center, six sober living facilities, including New Life Center and several other agencies.

COMMENTS:

The Grand Jury would like to thank the Probation Department for all their help, the Day Reporting Center and the New Life Center for tours of their facilities. The attitude and accomplishments of the personnel involved with the implementation of AB 109 is to be commended. Expanding these programs will benefit PRCS and the whole of Kern County.

By continuing to sentence so many defendants to jail time only, instead of split sentences, Kern County will keep adding to the prison population and the huge caseload of Deputy Probation Officers.

Only with the continuation of these programs and equitable state funding does the county have a chance to achieve a lower crime rate and make Kern County a safer place for everyone.

RECOMMENDATIONS:

- R1. As funds become available Kern County should continue to expand existing programs and develop new programs to address AB 109. (Finding 9)
- R2. The Board of Supervisors should continue to diligently pursue through its representatives on California State Association of Counties and the Realignment Allocation Committee to assure Kern County receives its fair share of AB 109 funds. State Legislators from Assembly Districts 32, 34, and 26 and Senate Districts 33, 18 and 16 that include Kern County should continue to support the efforts of the Board of Supervisors. (Findings 4 and 8)

- R3. Additional funds should be allocated to the Kern County Probation Department for the purpose of hiring more Deputy Probation Officers to bring caseloads closer to the State average. (Finding 7)

NOTES:

The Board of Supervisors should post a copy of this report where it will be available for public review.

Persons wishing to receive an email notification of newly released reports may sign up at: www.co.kern.ca.us/grandjury, click on: Sign up for early releases.

Present and past Kern County Grand Jury Final Reports and Responses can be accessed through the Kern County Library system and the Kern County Grand Jury website: www.co.kern.ca.us/grandjury.

RESPONSE REQUIRED WITHIN 90 DAYS

**PRESIDING JUDGE
KERN COUNTY SUPERIOR COURT
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BAKERSFIELD, CA 93301**

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KERN COUNTY GRAND JURY
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Response to Findings:

The Board of Supervisors notes that the Grand Jury's findings are substantially correct.

Response to Recommendation:

R1: As funds become available Kern County should continue to expand existing programs and develop new programs to address AB 109.

The Board of Supervisors concurs with the Grand Jury recommendation. The Board of Supervisors has adopted the recommendations by the Community Corrections Partnership to fund a variety of programs proven to reduce recidivism, inclusive of community based organizations, programs and a Day Reporting Center.

R2: The Board of supervisors should continue to diligently pursue through its representatives on California State Association of Counties and the Realignment Allocation Committee to assure Kern County receives its fair share of AB 109 funds. State Legislators from Assembly Districts 32, 34, and 26 and Senate Districts 33, 18, and 16 that include Kern County should continue to support the efforts of the Board of Supervisors.

The Board of Supervisors concurs with the Grand Jury recommendation and will continue to pursue strong representation for the County through all channels identified.

R3: Additional funds should be allocated to the Kern County Probation Department for the purpose of hiring more Deputy Probation Officers to bring caseloads closer to the State average.

The Board of Supervisors concurs with the Grand Jury recommendation. The Board of Supervisors and AB 109 impacted departments will continue to lobby for AB 109 realignment funds from the State and pursue other funding opportunities in order to lower caseload ratios.