

COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE

MINUTES OF THE JUNE 1, 2011 MEETING

Kenneth Hahn Hall of Administration

500 West Temple Street, Room 739

Los Angeles, California 90012

MEMBERS AND ALTERNATES PRESENT

Chair: Michael Antonovich, Mayor, County of Los Angeles

Lee Baca, Sheriff and Vice Chair of CCJCC

Richard Barrantes for Larry Waldie, Undersheriff

Donald Blevins, County Chief Probation Officer

Ronald Brown, County Public Defender

Michelle Carey, Chief U.S. Probation Officer

Steve Cooley, District Attorney

Paul Cooper, President, San Gabriel Valley Police Chiefs Association

Brence Culp for William Fujioka, County Chief Executive Officer

Kathleen Daly for Marvin Southard, Director, County Department of Mental Health

Xiomara Flores-Holguin for Jackie Contreras, Director, County Department of Children
and Family Services

Janice Fukai, Alternate Public Defender

Pamela Hamanaka for Kamala Harris, California Attorney General

Eric Harden for John Torres, Special Agent-in-Charge, U.S. Bureau of Alcohol, Tobacco,
Firearms and Explosives

Anthony Hernandez, Director, County Department of Coroner

Tim Jackman, President, Los Angeles County Police Chiefs Association

Joe Leonardi, President, South Bay Police Chiefs Association

*Ted Marquez for Andre Birotte, U.S. Attorney

William Montgomery for Tom Tindall, Director, County Internal Services Department

Michael Moore for Charles Beck, Chief, Los Angeles Police Department

Steven Olivas for Antonio Villaraigosa, Mayor, City of Los Angeles

Andrea Ordin, County Counsel

Earl Perkins for John Deasy, Superintendent, Los Angeles Unified School District

Robert Philibosian for Isaac Barcelona, Chair, County Economy and Efficiency
Commission

Timothy Robbins, Field Office Director, U.S. Immigration and Customs Enforcement

Lakshmanan Sathyavagiswaran, County Coroner – Medical Examiner

Peter Shutan for Don Meredith, President, County Probation Commission

Carmen Trutanich, Los Angeles City Attorney

John Viernes for Jonathan Fielding, Director, County Public Health Department

Mike Webb, County Prosecutors Association

*Ruth Wong for William Sullivan, Chair, County Quality & Productivity Commission

*Steve Woodland for Tim Landrum, Special Agent in Charge, U.S. Drug Enforcement
Administration

***Not a designated alternate**

MEMBERS NOT PRESENT OR REPRESENTED

Cynthia Banks, Director, County Department of Community & Senior Services
Steve Beeuwsaert, Chief, Southern Division, California Highway Patrol
Matthew Cate, Secretary, California Department of Corrections and Rehabilitation
Jorge Cisneros, President, Southeast Police Chiefs Association
John Clarke, Superior Court Executive Officer
Lee Smalley Edmon, Presiding Judge, Superior Court
Gigi Gordon, Directing Attorney, Post Conviction Assistance Center
Jon Gundry, Superintendent, County Office of Education
Sean Kennedy, Federal Public Defender
George Lomeli, Assistant Supervising Judge, Criminal, Superior Court
Steve Martinez, Assistant Director in Charge, Los Angeles Division, Federal Bureau of Investigation
Michael Nash, Supervising Judge, Juvenile, Superior Court
Laura Olhasso, California Contract Cities Association
Charlaine Olmedo, Supervising Judge, North Valley - San Fernando, Superior Court
Ezekiel Perlo, Directing Attorney, Indigent Criminal Defense Appointments Program
Richard Propster, Peace Officers Association of Los Angeles County
Richard Sanchez, County Chief Information Officer
Miguel Santana, Los Angeles City Chief Administrative Officer
Patricia Schnegg, Supervising Judge, Criminal, Superior Court
David Singer, United States Marshal
Greig Smith, Los Angeles City Council, 12th District
Dennis Tafoya, County Affirmative Action Compliance Officer
Robin Toma, Executive Director, County Human Relations Commission
Frank Venti, President, Independent Cities Association
David Wesley, Assistant Presiding Judge, Superior Court

CCJCC STAFF

Mark Delgado, Executive Director
Kenna Ackley
Craig Marin

GUESTS/OTHERS

Gary Akopyan, County Chief Executive Office
Francesca Anello, County Department of Mental Health
Reaver Bingham, County Probation Department
Michael Bolton, U.S. Drug Enforcement Administration
Douglas Bys, U.S. Probation Department
Joseph Charney, Third District, County Board of Supervisors
Al Citraro, Fifth District, County Board of Supervisors
Rick DeMartino, LAPD
Rudy Diaz, Judge, Superior Court

Richard Fajardo, Second District, County Board of Supervisors
Kevin Goran, Sheriff's Department
Alex Johnson, Second District, County Board of Supervisors
Dave Keetle, San Gabriel Valley Police Chiefs Association
Dave Marin, U.S. Immigration and Customs Enforcement
Kevin McCarthy, LAPD
Ralph Miller, AFSCME 685
Anna Pembedjian, Fifth District, County Board of Supervisors
Ramon Quintana, Public Defender's Office
Cecil Rhambo, Sheriff's Department
John Ruegg, Information Systems Advisory Body
Devallis Rutledge, District Attorney's Office
Daniel Schichel, U.S. Immigration and Customs Enforcement
Gary Schramm, Los Angeles City Attorney's Office
Stanley Shimotsu, Public Defender's Office
Scott Stickney, County Probation Department
Jackie White, County Chief Executive Office
Steve Whitmore, Sheriff's Department
Gymeka Williams, U.S. Attorney's Office

I. CONVENE/INTRODUCTIONS

Lee Baca, Sheriff

The meeting was called to order at 12:05 p.m. by Los Angeles County Sheriff Lee Baca, Vice Chair of CCJCC.

Self-introductions followed.

II. APPROVAL OF THE MINUTES

Lee Baca, Sheriff

There were no requests for revisions to the minutes of the April 6, 2011 meeting. A motion was made to approve the minutes.

ACTION: The motion to approve the minutes of the April 6, 2011 meeting was seconded and approved without objection.

III. DRUG COURT OVERSIGHT SUBCOMMITTEE

Judge Rudy Diaz, Chair, Drug Court Oversight Subcommittee

Judge Rudy Diaz, Chair of the Drug Oversight Subcommittee, appeared before CCJCC to provide a summary of the Los Angeles County Annual Drug Court Report for Fiscal Year 2009-2010.

Los Angeles County Drug Court programs divert non-violent drug offenders with chronic substance abuse disorders out of the local jail and state prison systems and into treatment.

Drug courts employ a non-adversarial, cooperative approach and foster collaboration among the judicial officer, prosecution, defense, probation, law enforcement, and treatment providers.

The first drug court program in the county was begun in 1994. Today, there are twelve traditional adult drug courts, two juvenile drug courts, and several specialized court programs based on the drug court model.

Each program offers structured treatment and recovery services and utilizes community resources to offer drug involved offenders a chance at achieving sobriety and ceasing their involvement in the criminal justice system.

In Fiscal Year 2009-2010, 743 new participants entered the Los Angeles County Adult Drug Court programs. Combined with continuing participants, over 1,400 individuals received substance abuse treatment and services during the one-year period and almost 400 people graduated from drug courts.

Over the last ten fiscal years, 11,000 new participants entered the drug court programs and over 4,300 have graduated.

Two-thirds of drug court participants reported either methamphetamine or cocaine as their primary drug of choice. Methamphetamine surpassed cocaine in Fiscal Year 2004-2005 and remains the primary drug of choice among drug court participants.

Data indicate that drug court graduates have a five-year recidivism rate of approximately 30%. This means that over 70% of those that successfully complete the program remain conviction-free in the five years following their graduation. These percentages have been relatively consistent since the beginning of drug court programs in this county, are comparable to rates for drug courts nationwide, and reflect the effectiveness of the drug court model. These rates are also significantly lower than recidivism rates for similar offenders who do not participate in a drug court program.

Judge Diaz noted that, while success rates have remained steady, enrollment has fallen. This reflects a trend that can be observed over the course of the previous ten years. For example, in comparison to the 743 new participants in Fiscal Year 2009-2010, there were over 1,300 new participants in Fiscal Year 2000-2001. This is a 44% decline over a ten year period.

One reason for these reductions is that Proposition 36, which mandates probation and treatment for eligible substance abuse offenders in lieu of incarceration, continues to be an option for many drug court eligible offenders.

Proposition 36 is less demanding than the drug court programs and does not produce the same results. Furthermore, there is limited funding for Proposition 36 treatment since California eliminated Proposition 36 funding from its budget last year. Many offenders who choose Proposition 36 receive limited, if any, structured treatment.

Another factor in declining enrollment is that funding reductions for drug court programs from federal and state sources have decreased program capacity. In 2002, the number of drug court treatment slots peaked at 1,400. By 2010, the total number of budgeted drug court slots available for participants had dropped to 811.

Although the specialized collaborative courts in the county are relatively small, they are serving as pilot programs and may be expanded based on evaluations of their effectiveness and outcome measures.

The Co-Occurring Disorders Court (CODC), launched in 2007, provides intensive wraparound services to offenders who suffer from both a mental illness and substance abuse disorder. The program can accommodate up to 54 clients and targets the downtown/Skid Row population.

Early outcome indicators point to a positive effect of the CODC program on its participants. For participating individuals, the program has led to an 85% decrease in days spent in jail, a 79% drop in the number of arrests, and a 95% decrease in homelessness.

The program is funded with Mental Health Services Act (MHSA) funding, a federal grant from the Substance Abuse and Mental Health Services Administration (SAMHSA), and a federal grant from the Bureau of Justice Assistance (BJA).

The Sentenced Offender Drug Court (SODC) began in 1998 and is an intensive program for convicted, non-violent felony offenders who face state prison commitments.

All SODC court participants spend a mandatory 104 days in an in-custody treatment program in Los Angeles County jail, followed by residential and outpatient treatment.

SODC serves up to 100 participants and is almost always at full capacity.

The Women's Reentry Court, which began in May 2007, targets women parolees and probationers who are charged with a new offense and are facing a state prison sentence. In lieu of incarceration, participants are enrolled in an intensive six-month residential program followed by up to 12 months of out-patient treatment.

The program offers mental health, substance abuse, employment assistance, and trauma-related counseling services. It also assists those women who are mothers to reunite with their children.

The Women's Reentry Court is funded by a grant from the California Department of Corrections and Rehabilitation (CDCR) to CCJCC and a grant from the California Emergency Management Agency, which provides federal stimulus dollars to the program through the Los Angeles Superior Court.

Judge Diaz noted that Judge Michael Tynan serves as the judge of CODC, SODC, and the Women's Reentry Court.

There are several challenges that drug courts will likely face in the near future:

- Declining referrals and enrollment over the past several years continues to be a concern and will have to be monitored;
- Healthcare reform will change the way that substance abuse treatment services are provided for individuals seeking to enter drug treatment, including those individuals who are court-ordered; and
- The state's proposed realignment plan, which will shift a significant number of offenders from state to county responsibility, may have a notable impact on the local drug court programs.

The Drug Court Oversight Subcommittee will continue to address these issues at its meetings.

This year's Annual Drug Court Training Conference is scheduled for Thursday, June 9, 2011, at The California Endowment. Agenda topics will include fetal alcohol spectrum disorders, co-occurring substance abuse and mental health disorders, gender-responsive treatment, and medication assisted treatment for alcohol and opioid dependence. The plenary session will be a discussion on healthcare reform and its impact on substance use disorders treatment.

A copy of the Los Angeles County Drug Court Report for Fiscal Year 2009-2010 can be found online at the following link: http://www.ccjcc.info/cms1_160855.pdf.

A motion was made to approve the Drug Court Report for submission to the County Board of Supervisors.

ACTION: The motion to approve the Drug Court Report for submission to the County Board of Supervisors was seconded and approved without objection.

NOTE: During this presentation, Mayor Michael Antonovich arrived and served as Chair for the remainder of the meeting.

IV. U.S. SUPREME COURT RULING AFFIRMING PRISON POPULATION REDUCTION ORDER

Sheriff Lee Baca

Los Angeles County Sheriff Lee Baca reported on the recent United States Supreme Court case of *Brown v. Plata*. In this case, the Court upheld a lower federal court ruling that requires the California Department of Corrections and Rehabilitation (CDCR) to reduce its prison population based on a finding that the state prisons are overcrowded and provide substandard medical care.

Sheriff Baca stated that the ruling will result in about 36,000 inmates being released in the next two years. This ruling comes at a time when the state has proposed a public safety realignment plan (AB 109, which will be discussed in greater detail in the next agenda item) that would transfer responsibility for certain low-level offenders and parolees to the counties.

An important question to address is that of what expenses will be required on the part of counties. Neither local governments nor local courts are positioned to handle these changes without adequate funding from the state.

The State Sheriff's Association has taken a position in favor of a state constitutional amendment that would ensure that sufficient funding accompanies any realignment of responsibilities.

Sheriff Baca expressed his belief that, with the proper funding, the Sheriff's Department would be in a good position to manage the new parolee population. Law enforcement officers in patrol cars throughout the county have the ability to know who the parolees are in the areas that they serve. They also have the capacity to know the conditions of parole and the criminal history of the parolees. As a front line resource for ensuring public safety, law enforcement has a function concurrent with the responsibilities of parole.

The Sheriff noted that the state currently already paroles about 20,000 individuals every year.

Mayor Antonovich stated that on Tuesday, May 31, 2011, the County Board of Supervisors unanimously passed a motion requesting the Community Corrections Partnership (CCP), which had been established by CCJCC in January 2011, to convene and initiate realignment planning. This committee, which is required by law, will provide monthly status reports to the Board of Supervisors.

Mayor Antonovich expressed his belief that the decision in *Brown v. Plata* is reckless in that it will pose a threat to public safety in local communities. He stated that it is the state's responsibility to incarcerate state prisoners and that this should therefore be an issue for the state to address.

Sheriff Baca added that state prison inmates with medical or mental health needs require additional expenses that the state will need to fund if local governments are to become responsible for them.

Another concern with the realignment proposal was raised at the previous CCJCC meeting on April 6, 2011. Namely, county officials do not have the immunity privileges that state officials have with respect to state prisoners and parolees.

Los Angeles County District Attorney Steve Cooley stated that this issue of immunity from liability is a matter that appears to have been overlooked by state officials in designing the realignment scheme.

Los Angeles County Counsel Andrea Ordin stated that her office is not as concerned about this issue with respect to the Sheriff's Department as it is with respect to the Probation Department. This matter continues to be reviewed and it was agreed that attorneys from the County Counsel's Office will meet with attorneys from the District Attorney's Office to discuss it further.

Sheriff Baca recently sent a letter to Governor Jerry Brown that expressed his concerns about realignment with regard to both funding and immunity from federal civil liability.

Robert Philibosian of the County Economy and Efficiency Commission inquired as to the status of state bond funds for prison construction. Mr. Cooley responded that this has been delayed due to legislative inaction. Mayor Antonovich added that the ACLU has blocked the legislation.

Mayor Antonovich observed that many of the offenders that will become the responsibility of the counties have been plea-bargained down to a lesser offense.

Sheriff Baca stated that the parole revocation process under realignment will need to be addressed in a manner that takes into consideration the capacity of the local jails.

ACTION: For information only.

V. STATE PUBLIC SAFETY REALIGNMENT
Chief Donald Blevins, Probation Department

Chief Probation Officer Donald Blevins appeared before CCJCC to provide an update on the state's public safety realignment legislation, Assembly Bill 109 (AB 109), which was signed into law in April of this year.

Chief Blevins is in agreement with Sheriff Baca in stating that implementation of the state's realignment proposal would have to include sufficient funding from the state. He also recommended that an amendment to the state's constitution should be made that will ensure that the funding is permanent.

In brief, AB 109 requires local custody for all individuals sentenced to non-violent, non-serious, non-sex offenses, unless it is one of over 50 crimes that are excluded from this. It also makes changes to the state parole revocation process, creates Post Release Community Supervision (PRCS), and creates Community Corrections Partnership (CCP) Committees in each county.

The CCP (referenced by Mayor Antonovich in the previous agenda item) is tasked with recommending a local plan to the County Board of Supervisors for the implementation of the public safety realignment. The CCP Executive Committee consists of the Chief Probation Officer serving as Chair, a Chief of Police, the Sheriff, a County Supervisor or CAO/CEO, and the Director of Social Services.

The language of the legislation states that realignment is to become "...operative no earlier than July 1, 2011, and only upon creation of a community corrections grant program to assist in implementing this act and upon an appropriation to fund the grant program." At this time, it does not appear that funding will be appropriated by July 1, 2011.

AB 109 provides that the following sentences must be served in state prison:

- Prior or current serious or violent felony as described in PC 1192.7 (c) or PC 667.5(c);
- The defendant is required to register as a sex offender pursuant to PC 290; and
- Excludes certain other specified crimes ("excluded crimes" are those for which a defendant can still be committed to state prison).

The legislation presumes that local governments will handle offenders differently than CDCR. Evidence-based options may include: (1) Hybrid of incarceration with felony probation; (2) Community supervision/treatment; (3) Alternative custody; and (4) Diversion.

Mr. Cooley observed that the county has been utilizing each of these evidence-based practices for decades. AB 109 will require that these be utilized with a population that historically, according to the sentencing rules of the Superior Court and the Penal Code, should be in state prison. Many of those individuals have likely failed previously in one or more of the options referenced above.

Chief Blevins stated that there are three pools of funding related to taking responsibility for these offenders. One pool of money would be for incarceration costs, another for supervision costs, and a third would be for treatment services and diversion.

Additional features under AB 109 include features of enhanced local custody and supervision tools, among which are alternative custody tools for county jails, home detention for low-level offenders, and local jail credits like current prison credits (day-for-day).

AB109 allows counties to contract back with the state to send local offenders to state prison, but contracting back does not include parole revocations. Additionally, funding will not support contracting back all adult offenders. Chief Blevins stated that this would be the most expensive option available.

AB 109 makes it clear that no state prison inmates will be transferred to county jails. When the law takes effect, those individuals that would otherwise have been transferred to state prison will instead be kept locally.

Post Release Community Supervision (PRCS) refers to county-level supervision upon release from prison. Under AB 109, PRCS will apply to current non-violent offenders, current non-serious offenders, some sex offenders, and does include offenders with a serious/violent offense in their criminal history. However, PRCS does not include those individuals with a third strike, individuals with a serious commitment offense, individuals with a violent commitment offense, and high-risk sex offenders as defined by CDCR.

The County Board of Supervisors must designate a county agency to be responsible for those individuals released on PRCS and CDCR must notify counties of who is being released on PRCS.

Individuals on PRCS are released after three years by operation of law but can be released from supervision earlier. PRCS also includes graduated sanctions, including flash incarceration at the local level (revocations lasting longer than 14 days require a court hearing), in the statute. Courts may adjudicate violations and new conditions of release at the local level, and there are no supervision requirements or caseload ratios.

The state will maintain parole supervision if the parolee was convicted of a current serious or violent felony as described in PC 1192.7 (c) or PC 667.5(c), was convicted of a third strike, or is classified as a high-risk sex offender. AB 109 also specifies that CDCR will continue to have jurisdiction over all offenders on state parole prior to July 1, 2011 implementation.

Parole revocations will be served in county jail and contracting back to the state for revocations is not an option. Only persons previously sentenced to a term of life can be revoked to state prison.

AB 109 replaced the Board of Parole Hearings (BPH) with the local courts as the authority for determining revocations. BPH will continue to handle lifer hearings, medical parole, and Mentally Disordered Offenders (MDO)/Sexually Violent Predators (SVP) cases.

For the remaining low-level offenders on parole after implementation of realignment, parole has the authority to discharge these individuals after six months if no violations have occurred.

Brence Culp of the County Chief Executive Office (CEO) noted that a task force was formed by the CEO in order to address urgent matters associated with the implementation of AB 109. She stated that members of the CCP Executive Committee are invited to participate on this task force.

Mayor Antonovich requested that, rather than create a separate task force, the CEO should participate on the CCP Executive Committee established through CCJCC. The Executive Committee is mandated by law and provides a means for the county to speak with one voice on matters associated with AB 109 implementation.

ACTION: For information only.

VI. OTHER MATTERS/PUBLIC COMMENT

Dr. Lakshmanan Sathyavagiswaran, County Coroner – Medical Examiner, announced that the U.S. Department of Justice National Institute of Justice has just released a report entitled *Study of Deaths Following Electro Muscular Disruption*. Dr. Sathyavagiswaran served as one of the experts on the medical panel.

Those law enforcement agencies that utilize contact of energy devices, such as tasers, may find this study useful in providing guidance on what to do and what not to do with respect to these devices. Mark Delgado, Executive Director of CCJCC, will send a link to the report to all CCJCC members.

VII. ADJOURNMENT

The meeting was adjourned at 1:02 p.m.