

## **Effects of Assembly Bill 109 and Proposition 47 on the Probation Department**

### **SUMMARY**

Two recent California laws, Assembly Bill 109 and Proposition 47 have had a profound effect on law enforcement and corrections programs in Humboldt County, especially the Humboldt County Probation Department.

Assembly Bill 109, the Public Safety Realignment Act, was passed into law and took effect October 1, 2011. The law was a result of a U.S. Supreme Court order to decrease overcrowding in California's prisons. AB109 allows non-violent, non-serious, and non-sex offenders to serve their sentences in the county jail and in community corrections programs instead of state prisons, thus downsizing prison populations by transferring lower-level offenders from state prisons to county correctional systems, thereby lowering costs, and reducing recidivism.

AB109 requires the Community Corrections Partnership (CCP), established in 2009 under SB678, to implement a Community Corrections Plan. The Chief Probation Officer is the designated chair of the CCP. The law stipulates heads of specified departments within Health and Human Services (social services, mental health, employment and alcohol and substance abuse programs) shall be members of the CCP as a whole. The executive director of the Humboldt County Department of Health and Human Services is currently the sole representative from that division to the Humboldt County CCP.

The Humboldt County Grand Jury finds that the collaboration and problem solving capacities of the Community Corrections Partnership committee would be better served if the Humboldt County Board of Supervisors included in the CCP's membership the individual heads of Mental Health, Social Services, Alcohol and Other Drug Programs, and the Employment Training Program.

In Humboldt County, the Community Corrections Resource Center (CCRC) was created as a collaborative effort of the Probation Department and the Departments of the Health and Human Services Division. This is a one stop center with support and services work to get people back on their feet and integrated back into the community. Many of these services include strict client/service provider confidentiality.

The Humboldt County Grand Jury finds that the CCRC does not have the appropriate space to meet its mandated programmatic needs, and encourages the Humboldt County Board of Supervisors to expedite the necessary remodeling of the center.

The CCRC is not fully staffed by either the Probation Department or the Department of Health and Human Services. This understaffing is detrimental to the successful implementation of its mandated programs. Due to ongoing budget cuts, the Probation Department is also experiencing 22 frozen, unfunded positions. Both AB109 and Proposition 47 have placed increased demands on the Humboldt County Probation Department.

The Humboldt County Grand Jury recommends that the Humboldt County Board of Supervisors approve the proposed Measure Z funding of \$607,000 necessary to hire six new probation officers.

California Proposition 47, known as the Safe Neighborhoods and Schools Act, was approved and took effect in November 2014. The act reclassifies certain drug and theft crimes of less than \$950 from felonies to misdemeanors. It also allows for the resentencing of anyone currently serving a prison sentence for any of the offenses that the initiative reduces to misdemeanors. The resentencing allowed under Proposition 47 has significantly impacted the work of the Humboldt County Probation Department.

In 2014, 30 probationers removed and discarded GPS monitoring devices at an approximate cost of \$30,000 to the county. The previous Humboldt County District Attorney did not prosecute those offenders. The Humboldt County Grand Jury recommends that the current Humboldt County District Attorney enforce existing laws that prohibit the removal and discarding of GPS monitoring devices.

The goal of both AB109 and Proposition 47 is to make smarter use of California criminal justice and incarceration resources. It remains to be seen if funding from the State of California will be enough to effectively implement the programs needed to make a difference. The Humboldt County Grand Jury finds the Humboldt County Probation Department has provided sound leadership in the implementation of AB109 and Proposition 47 requirements.

## **BACKGROUND**

The 2005–2006 Humboldt County Grand Jury released a report on the Humboldt County Probation Department. Since that time, AB109 and Proposition 47 have made significant changes to the correctional system. The 2014-2015 Humboldt County Grand Jury investigated the Humboldt County Probation Department and how it is currently functioning under the new laws.

The mission statement of the Humboldt County Probation Department states that its goals are to, “reduce the impact of crime in our community through investigation, prevention, supervision, collaboration, detention, and victim restitution”.

### **Assembly Bill 109**

AB109, the Public Safety Realignment Act, is a California law that was passed in October, 2011. Humboldt County, led by the Humboldt County Probation Department, has implemented programs to comply with the provisions of AB109.

AB 109 was passed in response to a U.S. Supreme Court order to reduce overcrowding in California state prisons. Under realignment, newly convicted, lower-level offenders without current or prior serious or violent offenses serve their sentences in county correctional facilities instead of state prisons. The Humboldt County Probation Department collaborated with programs from the Department of Health and Human Services to create the Community Corrections Resource Center, a one-stop service center to offer support and rehabilitation programs.

According to a press release from Governor Edmund G. Brown, Jr.:

For too long, the state's prison system has been a revolving door for lower-level offenders and parole violators who are released within months—often before they are even transferred out of a reception center. Cycling these offenders through state prisons wastes money, aggravates crowded conditions, thwarts rehabilitation, and impedes local law enforcement supervision.

AB109 is funded with a dedicated portion of state sales tax revenue and Vehicle License Fees (VLF) outlined in trailer bills AB 118 and SB 89. The latter provided revenue to counties for local public safety programs and the former established the Local Revenue Fund for counties to receive the revenues and appropriate funding for 2011 Public Safety Realignment.

In November, 2012, California voters approved Proposition 30, which created a constitutional amendment that protected ongoing funding to the counties for realignment. The amendment prohibits the Legislature from reducing or removing funding to the counties.

### **Proposition 47**

Proposition 47 is the ballot initiative passed by California voters on November 4, 2014, that reduces certain drug possession felonies to misdemeanors. It also requires misdemeanor sentencing for petty theft, receiving stolen property and forging/writing bad checks when the amount involved is \$950 or less. The number of people incarcerated in the Humboldt County Correctional Facility has been reduced as inmates petition the court to request reduced sentences based on the provisions of Proposition 47. The Humboldt County Probation Department, Public Defender's Office, District Attorney and Sheriff's Department have all made changes to their operations based on the new requirements of Proposition 47.

The California Legislative Analyst's Office estimates that as a result of Proposition 47 there will be 40,000 fewer charges filed each year leading to potential incarceration. This, they estimate, will result in the state saving several hundreds of millions of dollars. The proposed reduction in sentences, under Proposition 47, will also reduce the amount of time prisoners spend in community supervision, thereby reducing the need for the costly resources of that supervision. It is unclear if the calculations made by the State of California will lead to enough local funds for Humboldt County to cover the increased costs of local policing, mental health, and drug abuse treatment services for those with reduced sentences as required by Proposition 47.

### **METHODOLOGY**

The Humboldt County Grand Jury examined the provisions of SB678, AB109 and Proposition 47. The Humboldt County Grand Jury conducted interviews with staff members from the Humboldt County Probation Department, Public Defender's Office, and the Department of Health and Human Services. The Humboldt County Grand Jury attended meetings of the Community Corrections Partnership Executive Committee. The Humboldt County Grand Jury gathered information from the Humboldt County Probation Department website, reports by the California Department of Corrections and Rehabilitation, reports by other California Grand Juries, and from other law enforcement professionals.

### **DISCUSSION**

The Humboldt County Probation Department budget has been cut by hundreds of thousands of dollars in recent years and the department has been using its reserve funds to partially offset these cuts. The Probation Department has 22 frozen, unfunded positions. This understaffing increases workloads for staff and challenges their ability to provide adequate supervision of offenders. The Probation Department has applied for \$607,000 from Measure Z funding in order to restore six probation officer positions. This would allow proper risk-based supervision of moderate- and high-risk offenders and would create caseload sizes that are necessary to properly perform the interventions that are proven to reduce the likelihood of re-offense.

AB109 requires each county to develop a Community Corrections Plan to address the local impacts of this legislation. Humboldt County's plan includes the implementation of a Community Corrections Resource Center as a one-stop shop to provide services and support to qualified offenders. The program provides correctional supervision, substance abuse and mental health assessment and treatment, vocational services, and other community-based services. The intent of this program is to reduce barriers to accessing needed services in order to reduce an offender's likelihood of committing new offenses, thereby increasing public safety.

### **The Community Corrections Resource Center (CCRC)**

Within the CCRC, probation officers are part of a collaborative effort with the Humboldt County Department of Health and Human Services and community based organizations to provide services intended to reduce recidivism. Programs are chosen based on their proven effectiveness.

Staff from the Humboldt County Departments of Mental Health, Social Services, Alcohol and Other Drug, and Employment Training, collaborate with Probation staff in developing appropriate services and treatment options. Currently, both the Department of Health and Human Services and the Humboldt County Probation Department are understaffed within the CCRC. Treatment programs include: group therapy, community service, substance abuse counseling, residential detoxification and rehabilitation programs, mental health counseling, health referrals, vocational counseling, and housing referrals. Recruitment and retention of staff is an ongoing problem.

Currently, there are about 400 people participating in the realignment programs. The rate of completion in the program is high, estimated at 90%.

The offices of the CCRC have limited work space. This creates issues of confidentiality and impacts the ability of staff to perform their work. The Probation Department has submitted a proposal for remodeling the CCRC building.

In 2014, Humboldt County received \$4,294,730 to implement AB109 mandated programs. The Community Corrections Partnership, chaired by the Chief Probation Officer, proposes the budget and membership of the CCP to the Humboldt County Board of Supervisors for approval. Funding is divided among the Sheriff's Department, Department of Health and Human Services, Revenue Recovery Division, and the Probation Department. Most of the funding supports staffing for the programs, with the Probation Department receiving \$1,744,000 and the

Department of Health and Human Services receiving \$1,320,086. It remains unclear if there is adequate funding to provide the necessary services and programs under AB109.

### **The Community Corrections Partnership**

Senate Bill 678 (2009) established the Community Corrections Partnership (CCP) as an advisory body to probation departments developing and implementing evidence-based practices to improve probation outcomes and reduce impacts on prisons.

AB109 created the seven-member CCP Executive Committee as defined in Penal Code Section 1230.1. The CCP Executive Committee is charged with making recommendations to the Humboldt County Board of Supervisors about the local Community Corrections Plan, and overseeing and managing the implementation of the board-approved plans. The CCP committee and the CCP Executive Committee are chaired by the Chief Probation Officer (CPO).

The law stipulates that in addition to the CPO, the CCP Executive Committee shall consist of representatives from the county Superior Court, the District Attorney's Office, the Public Defender's Office, the Sheriff's Office, a Chief of Police, and at least one representative from Health and Human Services.

The Community Corrections Partnership committee as a whole is comprised of the members of the Executive Committee plus a county supervisor or the Chief Administrative Officer, the head of the county Office of Education, the heads of the departments of social services, mental health, employment, and alcohol and substance abuse programs. The committee also includes a representative from a community-based rehabilitation organization and an individual who represents the interests of victims.

The Board of Supervisors approves membership of the CCP committees. The Board of Supervisors approved the Director of Health and Human Services to represent the four different department heads listed in California Penal Code Section 1230 who should be members of the CCP. Penal Code section 1230(b) lists social services, mental health, employment, and alcohol and substance abuse programs separately for membership in the CCP, but in Humboldt County they are not individually represented.

### **Post-Release Community Supervision**

Some released prisoners are fitted with GPS monitoring devices valued at \$1,000 each. It was reported that in 2014, 30 of these devices were removed and discarded and cost Humboldt County \$30,000.

### **Proposition 47**

No one is automatically released from state prison because of Proposition 47. The new law allows people who are already serving a felony conviction for specified offenses to petition the court for resentencing. In addition, Proposition 47 allows a person who has completed his/her sentence for the specified offenses to file an application before the trial court to have the felony conviction reduced to a misdemeanor.

The increased services are designed by Proposition 47 to keep offenders out of prison and jail, resulting in future additional savings to the state and counties. The annual savings from the proposition that go to the state are to be annually transferred from the general fund into a new state fund that would be divided as follows:

- 25% for grants aimed at truancy and drop out among K-12 students in public schools
- 10% for victim services grants
- 65% to support mental health and drug abuse treatment services that are designed to help keep individuals out of jail

It is unknown if funds that Humboldt County receives from Proposition 47 will be adequate to fully implement the programs and services required by the law. The state funds from their annual savings will not be available for another year.

## **FINDINGS**

- F1. Due to budget restrictions, the Humboldt County Probation Department is unable to fill the necessary positions required to implement the services mandated by AB109 and Proposition 47.
- F2. The Humboldt County Community Corrections Resource Center is not fully staffed by either the Humboldt County Probation Department or the Humboldt County Department of Health and Human Services. This understaffing is detrimental to the successful functioning of its programs.
- F3. The Humboldt County Community Corrections Resource Center does not have adequate and appropriate space to meet its programmatic needs. Space is needed to accommodate all the services under one roof and to provide confidentiality for group and individual meetings.
- F4. Offenders have not been prosecuted for improperly removing and discarding GPS monitoring devices at an approximate cost of \$1,000 each.
- F5. Having the Humboldt County Director of Health and Human as the only member of the Community Corrections Partnership to represent that department creates barriers to effective collaboration among staff from Social Services, Mental Health, Alcohol and Other Drug Programs, and Employment Training.
- F6. The Humboldt County Probation Department has provided sound leadership in the implementation of AB109 and Proposition 47 requirements.

## **RECOMMENDATIONS**

- R1. The Humboldt County Grand Jury recommends that the Humboldt County Board of Supervisors approve Measure Z funding on an annual basis necessary to hire and retain six new probation officers. (F1, F2)

- R2. The Humboldt County Grand Jury recommends that the Humboldt County Board of Supervisors direct the Humboldt County Department of Human Resources to review its hiring and recruitment procedures with an objective of increasing retention of probation and substance abuse counseling staff. (F2)
- R3. The Humboldt County Grand Jury recommends that the Humboldt County Board of Supervisors expedite the remodeling project for the Community Corrections Resource Center. (F3)
- R4. The Humboldt County Grand Jury recommends that any future grant applications for the expansion of the Humboldt County Correctional Facility include adequate space for the Community Corrections Resource Center. (F3)
- R5. The Humboldt County Grand Jury recommends that the Humboldt County District Attorney prosecute violations of existing laws that prohibit the removal and discarding of GPS monitoring devices. (F4)
- R6. The Humboldt County Grand Jury recommends that the Humboldt County Board of Supervisors appoint the individual heads of Mental Health, Social Services, Alcohol and Other Drug Programs, and Employment Training Program to the Community Corrections Partnership committee as a whole. (F5)

## REQUEST FOR RESPONSES

Pursuant to Penal Code section 933.05, the grand jury requests responses as follows:

From the following individuals:

- The Humboldt County Director of Health and Human Services (R2, R6)
- The Humboldt County Director of Probation Department (R1, R4, R5, R6)
- The Humboldt County Director of Human Resources (R2)
- The Humboldt County Sheriff (R4)
- The Humboldt County District Attorney (R5)

From the following governing bodies:

- The Humboldt County Board of Supervisors (R1, R2, R3, R4, R6)

## BIBLIOGRAPHY

The California Department of Corrections and Rehabilitation website:

<http://www.cdcr.ca.gov/realignment/>

2014 California Department of Corrections and Rehabilitation Report on AB109: [http://www.cdcr.ca.gov/Adult\\_Research\\_Branch/Research\\_Documents/Realignment\\_1\\_Year\\_Report\\_12-23-13.pdf](http://www.cdcr.ca.gov/Adult_Research_Branch/Research_Documents/Realignment_1_Year_Report_12-23-13.pdf)