

**LOCAL AGENCY FORMATION COMMISSION (LAFCO)
CONFLICT OF INTEREST COMPLAINT**

The Humboldt County Grand Jury conducted an investigation into LAFCO operations due to an allegation of conflict of interest between a private entity and LAFCO. One member of the Grand Jury, Robert McPherson recused himself from this inquiry because he is a member of LAFCO. The Grand Jury reviewed records, letters, and e-mails obtained from the County and interviewed officials from County departments and LAFCO. The Grand Jury determined that no conflict of interest exists between LAFCO and the private entity.

Information for district boundary determination at the county level, which had been submitted to a state agency for approval of new districts, did not meet the mapping guidelines for a County department. We discovered this occurred due to a difference in terminology used by California State agencies and County agencies. The Grand Jury discovered there is a difference between a County recognized “legal description” of a property line or district boundary and a State Board of Equalization accepted “metes and bounds” description of a property line or district boundary necessary for annexations. The technical differences between the two are slight; however, a legal description requires a licensed surveyor to write such a description. For an annexation description submitted to the State, no such requirement for a licensed surveyor is required. District Boundary documents submitted by LAFCO for certain districts did comply with State Board of Equalization “metes and bounds” descriptions. However, when these documents were submitted to the County, they did not meet the County’s “legal description” requirement. The County subsequently notified LAFCO of the requirement for a licensed surveyor to write the legal descriptions submitted to the County. When LAFCO was made aware of this, it informed all private planning businesses, which perform boundary descriptions for county districts, that they must use a licensed surveyor for this work.

The Grand Jury believed there were certain discrepancies that warranted investigation. After careful review of evidence, it was determined no conflict of interest exists.

**NORTHERN HUMBOLDT UNION HIGH SCHOOL DISTRICT BOARD OF TRUSTEES
BROWN ACT VIOLATION COMPLAINT**

The Humboldt County Grand Jury received a complaint about a possible Brown Act violation involving the Board of Trustees of the Northern Humboldt Union High School District. We conducted an investigation of internal communications, and we are gratified to know the District and the School Board realize the importance of the Brown Act and have contracted for ongoing, systematic training of its members.

LOCAL EFFECTS OF PRISON REALIGNMENT IN HUMBOLDT COUNTY

All of Humboldt County’s police and correctional staff, specifically, and the County’s population, generally, are dealing with the ramifications of the state law known as AB 109, commonly referred to as Prison Realignment. The Grand Jury decided that before we could develop a focused investigation of the

local effects, we needed a much deeper understanding of the historical events leading to passage of this act. This report is the result of our inquiry. We present a brief historical overview of incarceration in the state of California and then provide an account of what we found about the local implementation of AB 109. Because this effort is still in its early stages, there are no specific Findings or Recommendations. This report attempts to assess the impact of Prison Realignment on Humboldt County.

HISTORICAL BACKGROUND OF INCARCERATION IN CALIFORNIA

Through the early 1970's California's Department of Corrections imprisoned somewhere around 20,000 persons. Generally speaking, the physical institutions used for incarceration were old; medical care was considered adequate; there were small programs directed at rehabilitation: literacy, basic job skills. The prison system was a relatively small proportion of the state's budget.

In the middle 1970's, a major change occurred to California criminal law. Previously most inmates were sentenced to indeterminate sentences, for example 1 or 3 or 5 years to life, in some cases simply to life. How long an inmate was incarcerated was dependent on how good a job the inmate could do to convince a parole board, a committee of Corrections employees, that he, occasionally she, had learned how to be a productive member of society and was now a good candidate for release. Since the board's decision was subjective there was considerable sentiment that some individuals were treated unfairly.

In response to this criticism the state massively redesigned its sentencing scheme. Starting in 1976 individuals convicted of crimes would be given determinate sentences. A judge could select from a relatively narrow range of three sentences, a mitigated low term, a presumptive middle term and an aggravated upper term. There were also provisions for increasing sentences for factors that the legislature defined as aggravating and which, if the court found them to be true, could result in longer, "enhanced" sentences. There were also provisions added that allowed inmates to earn reductions in their sentences if they behaved acceptably while incarcerated. The sponsors of these new laws generally thought that while they would result in fairer sentences, the new scheme would not have a great impact on the amount of time any given inmate would serve for a given offense. There was a conscious effort to make the newly fixed sentences more or less equivalent to the sentences actually being served for any specific offense under the previous indeterminate sentencing law.

Coincidentally at about this same time capital punishment, which had been previously ruled to be in violation of the US Constitution, was redefined and reinstated. San Quentin's death row began growing.

The length of incarceration for a given individual was no longer determined, for the most part, by how the paroling authority viewed the crime and its perpetrator. Inevitably, inmates were released whose notoriety would have kept them imprisoned under the old law and the legislature came under pressure to increase the length of the determinate sentences. In practice, crime victims and other interested parties sought to increase the length of the determinate sentences whenever a particularly egregious crime occurred. When the legislature agreed, its only option was to increase the sentence for all individuals convicted of that offense. As sentences increased so did the population of the prison system. Over a thirty year period beginning about 1980 the number of inmates in California prisons increased almost eight-fold, from 20,000 to almost 160,000. This phenomenon was exacerbated by adoption of the "three

strikes” laws that significantly increased, sometimes to life, the punishment for some prisoners who had previously been convicted of certain offenses.

This ultimately led to the current situation in which California’s prison budget is substantially higher than its higher education budget and is, by all accounts, not sustainable. Although the state embarked on a very large prison construction effort it still found it necessary to double- and triple- cell inmates and to turn gymnasiums and cafeterias into dormitories crowded with triple bunks. Most rehabilitative efforts fell by the wayside and medical and emotional care of inmates suffered. Ultimately, the US Supreme Court ruled that the manner in which California provided medical and psychiatric care to prisoners violated the United States Constitution’s prohibition against cruel and unusual punishment, placing California’s prison system under Federal oversight. The Federal courts ordered California to reduce its prison population to 137.5% of design capacity. When that failed to happen the courts threatened contempt sanctions against the governor and prison managers.

At the Governor’s urging, the legislature responded in 2010 with the passage of Assembly Bill 109, the “prison realignment” plan which went into effect in late 2011.

Traditionally crimes in the United States have been divided into three categories; Infractions, Misdemeanors, and Felonies.

Infractions are crimes for which the punishment can only be a fine. (Refusal to pay a fine could be a crime itself which could lead to incarceration.)

Misdemeanors are crimes for which the most severe punishment is a sentence to the county jail. Punishment for any misdemeanor cannot exceed one year and prisoners could expect to earn one day of credit for each 2 days they served while staying out of trouble. Separate misdemeanors could theoretically be punished consecutively but this seldom happened, in part because county jails simply were not designed for long term incarceration.

Felonies were crimes for which perpetrators could be sent to state prison. In California periods of prison incarceration, which were imposed by the trial judge, ranged from a minimum sentence of sixteen months to life without possibility of parole. (Many people are convicted of felonies and not sentenced to prison. They are instead placed on probation. Often probation is accompanied by a period of incarceration in the county jail, almost always for not more than a year.) Everyone who was released from prison remained on parole for an additional period of time. During that time felons were supervised by state parole officers. When parolees violated rules or committed new offenses they would frequently be sent back to prison by a parole board. This procedure often eliminated the need for new trials for relatively minor offenses. A very large percentage of inmates held in state prison were parole violators, generally serving terms of less than a year. This punishment plan happened almost entirely under the authority, and financial responsibility, of the state.

In contrast realignment declares that most persons convicted of relatively minor felonies are no longer sentenced to state prison but rather are incarcerated in the counties’ jails. The exceptions to this rule are those crimes that the legislature has concluded are very serious, including most violent and sexual

crimes. Those offenders who are now incarcerated in county jails are convicted of "non, non, non"-non-violent, non-serious, non-sexual- offenses. The legislature determines which offenses are "non, non, non" and which are not. Under this plan the number of inmates under state control will fall significantly and those under county control will rise accordingly. Another aspect of realignment is that most current parolees who violate parole are sent back to county facilities rather than back to prison. Individuals sentenced to felony sentences in the county jails are no longer under the control of state parole but rather are supervised by county probation departments ("mandatory supervision"). Additionally there are some individuals sentenced to felony terms in the county jails who receive no community supervision at all upon completion of their jail terms. While in county custody these inmates earn two days credit for each day actually served.

Obviously all this means that counties will have much greater responsibility and the state will have less. And these responsibilities have costs. The realignment plan recognizes this and gives counties additional funding.

LOCAL IMPACTS OF AB 109

However, in all of the metropolitan areas of the state, and almost all of the rest, the jails are filled nearly to capacity. Certainly that is true in Humboldt. Now counties have to accommodate new felons and parole violators who previously would have been sent to state prison. The counties now must incarcerate people awaiting trial for any felony or misdemeanor and who are not released on bail or their own recognizance, people sentenced as a condition of probation and those convicted felons are no longer being sent to prison.

The state has made additional funding available but the counties are under significant pressure to keep their jails from becoming overcrowded. Humboldt County has unsuccessfully sought state funds to expand its correctional facility. The drive to keep the jail from becoming dangerously, and illegally, overcrowded led to inappropriate releases. The probation department, the jail, the courts and other stakeholders are working to find ways to minimize the inappropriate releases. While no one can predict the future, the instruments now being put into effect to determine who can be safely released pending adjudication of their crimes have been successfully implemented in other states.

California also has been spectacularly unsuccessful in managing to keep its prison releasees free of new offenses. Well over half those released have been returned to prison. Another of the aspects of realignment is greater emphasis on rehabilitation. Probation departments are ordered, and funded, to provide methods to help persons who have completed their initial sentence stay out of trouble and jail. In Humboldt County, more extensive probation services are available: probation officers will have more time to work with convicts to help them learn job and social skills; substance abuse rehabilitation is being expanded; mental health services that were previously unavailable to this population are now offered; a day reporting center has been implemented which offers guidance and assistance to help people remain crime free; there are limited reincarcerations in the county jail for individuals who get into new trouble but are not prosecuted for new crimes. All of these programs are to be "evidence based"; they are evaluated and modified to ensure effectiveness. Many people in the criminal justice

system feel that the new system lacks adequate punitive tools (reincarceration) to compel felons to participate in rehabilitative programs.

These programs are too new for us to evaluate but they are too important to the county for us to ignore. Each failure to help people to lead non-criminal lives has at least two victims, the person or other entity harmed by the crime and the criminal. For decades, California has been on a correctional path that doesn't correct much. The cost of our criminal justice system is bankrupting us. Criminology, the study of the causes of crimes, has been out of fashion for many years but we need to look anew at the questions raised by that discipline. If we can find answers to even a few of the questions of how to reduce criminality we have a meaningful chance to make California, and Humboldt County a better place. We all need to keep watchful eyes on the local successes and failures and benefits and costs of realignment. How will a jail designed to hold people for relatively short periods of time deal with individuals sentenced to multiple years? How will the probation department supervise parolees who, until recently, were the responsibility of the state? Who will bear the cost of all this?

It is the opinion of this Grand Jury that the people charged with putting this plan into effect are working hard to make it work. The people who live in Humboldt County need to keep informed of how this significant change is working. Such a major redesign of our penal system will have not only a bumpy road but no doubt some crashes along the way. We must be vigilant but we also must pay close attention and not rush to judgment.