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September 27, 2011

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Dear Governor and Members of the Legislature:

On October 1, 2011, California enters a new era of criminal justice policy as supervision for the majority of low-level felony offenders begins an historic shift from state to local control. If implemented correctly, public safety realignment could reduce crime and victimization and begin to reverse decades of ineffective correctional policies that have plagued communities.

This Commission and others have recommended expanding community corrections and alternative sanctions for low-level offenders for decades. Community-based corrections can serve the goal of public safety more efficiently and effectively, and potentially save money as well by eliminating costly, counter-productive, short-term prison stints. Supervised locally, offenders still will be held accountable for their crimes, while gaining greater access to the kinds of programs that can help them turn their lives around, programs currently in woefully short supply in California's prisons.

Realignment is the right thing to do, but it must be done right. Though the Commission applauds the realignment effort for its potential to improve public safety outcomes, it has serious concerns regarding funding, oversight and program integration. Successfully realigning corrections to the community level will depend on getting these things right. A badly managed or inadequately financed realignment could put offenders and the public at unacceptable risk.

Some local officials have expressed concerns that the state is moving too fast to implement realignment and has not provided adequate direction and communication. Some communities lack capacity to provide appropriate community corrections alternatives and need more time to establish evidence-based programs for the expanded caseload. Other local officials are ready and willing to assume responsibility for more low-level offenders, but want Constitutional certainty to ensure adequate and ongoing funding.

The Commission began its most recent examination of corrections in November 2010, as part of the commitment it made in 2005 to oversee Governor Schwarzenegger's

reorganization that created the Department of Corrections and Rehabilitation (CDCR). Since the 1990s, the Commission has examined corrections and public safety issues and juvenile crime prevention through 10 studies. These studies are available on the Commission's Web site at www.lhc.ca.gov.

As part of this ongoing oversight, the Commission held a hearing in November 2010 on the status of CDCR and learned that the agency's organizational structure, which was supposed to become more horizontal, instead had become even more vertical, and had ballooned as well, while promised rehabilitation programs still were lacking. After assuming office in January 2011, Governor Brown moved to shrink the headquarters bureaucracy and continued to implement a pilot parole program to improve strategies for offenders who will remain under state supervision.

Governor Brown included public safety realignment as part of his 2011-12 budget proposal and as discussions began to crystallize in the Legislature and with key stakeholders, the Commission convened a March 2011 hearing to learn about community-based corrections projects that could serve as models for other counties.

The Commission heard from leaders from San Diego, San Francisco and San Joaquin counties and learned about the success of probation departments in implementing SB 678, which provides incentives for counties to implement strategies to keep serious probationers from escalating to state prison. These programs provide a blueprint for California communities as they implement realignment. Written testimony from the witnesses who participated in the Commission's November 2010 and March 2011 hearings are available on the Commission's Web site at www.lhc.ca.gov.

Successful realignment will require continuing state involvement. The state must ensure that local governments have an adequate, reliable funding source that allows them to plan. The state must provide oversight to encourage accountability and incentives to use best practices. And the state must help counties eliminate statutory and regulatory barriers to program integration so that the funding they do receive can be used for strategies that have proven effective in reducing crime.

Funding. Counties need ongoing certainty about the amount and source of public safety funding. In negotiating the realignment legislation, counties asked for Constitutional protection for funding. The 2011 Budget Act, however, provided only one year of funding by designating a portion of the sales tax and vehicle license fees to realignment. Governor Brown has publicly endorsed Constitutional funding protection. Counties have been given a new and sizable caseload and must expand programs and staff accordingly without having to worry whether that money will remain after current lawmakers are termed out of office and replaced by new members who will not be familiar with commitments made during the realignment transition.

To keep California communities safe, the Governor and Legislature must ensure a permanent and stable source of funding. Additionally, as policy-makers continue to refine realignment funding, the state should re-visit the funding formula crafted this year to ensure that counties

that have historically invested in treatment and other alternatives to incarceration, and consequently sent fewer offenders to prison, are not fiscally punished for their early implementation of evidence-based practices.

Oversight. Realignment fundamentally changes the state's role. The state must lead by setting policy goals and creating conditions for success at the local level. The state must provide oversight by developing performance measures – with input from the locals – rooted in evidence-based practices. The state must then collect data on outcomes and use it to drive policy. It should inventory best practices and develop structural and fiscal incentives for counties to improve performance. Without this kind of oversight, California's realignment could produce 58 independent systems of justice, creating the potential for counties to repeat the mistakes made by the state that led to overcrowding and court injunctions. Counties have been given flexibility and one-time funding to develop implementation plans for public safety realignment through local Community Corrections Partnerships. County boards of supervisors will have a new and important role in shaping public safety in California. But the boards can only overturn these plans if they garner four out of five supervisor votes, which makes it critical for the partnerships to get the plans right. Although most, if not all counties will submit their plans to the Corrections Standards Authority, the realignment legislation lacked any further oversight role for the state.

Some state entity, whether the newly created Board of State and Community Corrections or another organization, must provide essential leadership and oversight. Not all counties will immediately have the capacity to offer the array of options that the City and County of San Francisco was able to include in its plan, but all counties should be on a path toward a similarly integrated community-based corrections model.

Program Integration. The state must help counties reduce unnecessary bureaucratic barriers to program integration at the local level, particularly as substance abuse and mental health programs also are being realigned to local control. Counties will need to integrate program delivery to ensure that law enforcement, public health, substance abuse and mental health treatment, education, employment and housing officials are able to work together toward a shared vision of reducing crime in the community. Successful counties have learned that better public safety outcomes mean more than simply jailing offenders. It requires problem-solving courts, drug and mental health treatment, day-reporting centers, electronic monitoring, flash incarceration, education and job training and other evidence-based solutions. Counties also need data for validated risk-and-needs assessment tools to guide decision-making at each step – from pre-trial to post-release – to ensure appropriate placement and sanctions. The state can help to break down silos that isolate these data sets and frustrate efforts to use data to drive better outcomes.

Counties that choose to rely heavily on jail incarceration rather than a strategy of escalating appropriate alternative sanctions, not only will exhaust their realignment money quickly, they also will be emulating the failed policies that resulted in the state system being overtaken by the federal courts. County leaders must develop plans that recognize the value of community corrections strategies that employ a broad spectrum of programs. Such programs reduce crime

by offering opportunities for offenders to provide restitution for victims and to improve their education, get a job, find housing, treat a mental health problem, or kick a drug habit.

The Commission urges the administration and Legislature to continue their efforts to refine California's criminal justice policies. Realignment is an important step, but it requires ongoing assessment. It redirects low-level offenders to local sanctions instead of state prison and focuses on offenders on their way back from state prison to the community. Realignment's focus on offenders as they enter the criminal justice system should be seen as an opportunity to examine California's 1,000-plus sentencing laws. The state can do so by establishing an independent commission to develop guidelines for coherent and equitable sentencing, guided by overarching policy goals that emphasize greater public safety.

Realignment of the scale California needs will not be easy. It will require planning, hard work and especially perseverance.

The Commission is available to meet with you to discuss further opportunities for improving California and stands ready to assist in ensuring success in realignment.

Sincerely,

Daniel Hancock
Chairman