

WRITTEN TESTIMONY FOR THE LITTLE HOOVER COMMISSION

Submitted by

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This written testimony is in response to the Little Hoover Commission Executive Director Stuart Drown request dated October 31, 2012. The issue for consideration by the Commission is a statewide study of the bail schedules utilized by counties.

Introduction

In California each county sets bail by developing a bail schedule. This Uniform Bail Schedule is developed by the Superior Court of each county, and when a defendant is arrested, jail staff will refer to the bail schedule for each charge to set bail. When a defendant appears before a judge, the judge may take additional issues into consideration and can lower or raise the bail amount. Bail plays an important role in the justice system by helping to ensure the appearance of a defendant in court.

Thirty-two of the state's 58 counties have court ordered or self-imposed population caps. In Fresno County once the cap is reached, a Federal Consent decree requires the release of inmates. The inmate receives a court date to appear upon release, no bail is required. The Fresno County jail holds very few misdemeanor offenders and 70% of our total population is pre-trial.

Impact of Realignment

In October 2011 AB 109, also known as realignment, took effect. This change to the California justice system is unprecedented and the impact and consequences have been felt system-wide. Realignment affects counties in three major ways:

- 1) Inmates coming out of prison after serving their time for a non-serious, non-violent, non-sex offense are now supervised by County Probation on what is called Post Release Supervision (PRCS). The non-non-non status is only for their current offense. Many of these offenders have violent and serious past offenses. After the first year of realignment, the Fresno County Probation Department received 1,557 former prison inmates for PRCS, 58 % more than the CDCR originally predicted the County would receive.
- 2) Offenders sentenced after October 1, 2012, for non-non-non crimes do their in-custody time in the local county jail no matter the length of the sentence. Prior to realignment, the most an inmate could be sentenced to in a county jail was one year. The longest sentence so far for a sentenced non-non-non inmate in Fresno

County is 15 years. Judges have discretion to sentence defendants to straight county jail time with no supervision after time is served or may split the sentence requiring the defendant to be incarcerated for a portion of the sentence then spend the remainder on supervision by county Probation. For a snapshot of the realigned inmates in the Fresno County jail see Attachment A.

- 3) Parole violators are also booked into local jails and stay there while awaiting their revocation hearing and if revoked, do their revocation time in the local jail. Prior to realignment, the average parole population in the Fresno County jail was 50. After realignment that population is now 150, a 200% increase.

Funding provided by the State for realigned inmates has been used to:

- ▶ Hire Correctional Officers to increase jail capacity
- ▶ Hire Probation Officers to supervise the PRCS population
- ▶ Provide evidence-based treatment and supervision programs
- ▶ Expand our Day Reporting Center
- ▶ Provide beds for substance abuse residential treatment and severely mentally ill offenders
- ▶ Recently started a Pre-Trial program
- ▶ One of six agencies nationwide awarded a grant to work with National Institute of Justice to plan a program known as Transition from Jail to Community

Our current release policy is based on offense starting with misdemeanor property crimes defendants. Two years ago with the assistance of the National Institute of Justice we applied a 'risk to re-offend' tool to our jail population. The resulting data showed that we were keeping the right inmates in jail.

It is difficult to measure the impact of programs implemented after realignment on our jail population yet. AB 109 took effect very quickly, and it has taken time for counties to ramp up evidence based practices. It has taken several months just to hire and train staff. As time goes on we will be better able to measure impacts.

Our challenges include system wide understanding of the purpose and intention of realignment, which includes local control to reduce recidivism by customizing the response to criminal behavior and keeping our citizens safe. For example, a large percentage of sentenced AB 109 inmates receive straight time with no supervision once they have served that time and are released from custody. A split sentence gives the offender time in custody then time out of custody while being supervised by probation.

Preliminary information on bail schedules show a wide disparity in bail amounts from county to county. For example, Grand Theft bail is \$50,000 in San Bernardino County but is \$10,000 in Kern County. Drug Possession bail in Alameda County is \$10,000 and is \$5,000 in Sacramento County.

It is preferred that the defendant be out on bail rather than released due to overcrowding with no incentive other than an additional charge of failure to appear. Those out on bail are less likely to fail to appear in court and bond agents are helpful in discouraging flight. Many times the bonds are cosigned by family members which is also an incentive to appear in court.

I support the request by California legislators to the Little Hoover Commission for a study of the bail schedule throughout California's 58 counties. We should examine if there is a way to improve the process and hold offenders accountable without jeopardizing public safety.

Thank you.