



Mendocino County
Public Safety Realignment and Post-Release
Community Supervision

Preliminary
2011 Implementation Plan

**Presented by the Executive Committee
of the Community Corrections Partnership**

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OVERVIEW OF 2011 PUBLIC SAFETY REALIGNMENT ACT--AB 109

In an effort to address overcrowding in California's prisons (California is under a federal court order to reduce its prison inmate population by 40,000 over the next two years) and assist in alleviating the state's financial crisis, the Public Safety Realignment Act (Assembly Bill 109) was signed into law on April 4, 2011. AB 109 is widely seen as being the most significant change to California's criminal laws since the state switched from the Indeterminate Sentencing Act to the present Determinate Sentencing Act in 1977. AB 109 transfers responsibility for supervising specified lower level inmates and parolees from the California Department of Corrections (CDCR) to counties. Implementation for the Public Safety Realignment Act is scheduled for October 1, 2011.

Additionally, Section 1230 of the California Penal Code is amended to read "Each county local Community Corrections Partnership (CCP) established pursuant to subdivision (b) of Section 1230 shall recommend a local plan to the County Board of Supervisors for the implementation of the 2011 public safety realignment. (b) The plan shall be voted on by an executive committee of each county's Community Corrections Partnership consisting of the Chief Probation Officer of the county as chair, a Chief of Police, the Sheriff, the District Attorney, the Public Defender, presiding Judge or his or her designee, and the department representative listed in either section 1230 (b) (2) (G), 1230 (b) (2) (H), or 1230 (b) (2) (J) as designated by the county board of supervisors for purposes related to the development and presentation of the plan. (c) The plan shall be deemed accepted by the County Board of Supervisors unless rejected by a vote of 4/5ths in which case the plan goes back to the Community Corrections Partnership for further consideration. (d) Consistent with local needs and resources, the plan may include recommendations to maximize the effective investment of criminal justice resources in evidence-based correctional sanctions and programs, including, but not limited to, day reporting centers, drug courts, residential multiservice centers, mental health treatment programs, electronic and GPS monitoring programs, victim restitution programs, counseling programs, community service programs, educational programs, and work training programs".

Key elements of AB109 include:

Target Population: The post-release community supervision population, released from prison to community supervision, is the responsibility of local probation departments and is inclusive of non-violent, non-serious, non-sex offenders with a prior PC 667.5 (c), PC 1192.7 (c) or registerable offenses pursuant to Penal Code Section 290. The population that will serve their prison sentences locally includes the non-violent, non-serious, non-sex offender group.

Redefining Felonies: Revises the definition of a felony to include certain crimes that are punishable in jail for 16 months, 2 years, or 3 years. Crimes designated as serious, violent, and sex offenses, as well as 60 other felonies designated by the legislature, are excluded and those sentences will continue to be served in state prison.

Local Post-Release Community Supervision: Offenders released from state prison on or after October 1, 2011 after serving a sentence for an eligible offense shall be subject to, for a period not to exceed 3 years, post-release community supervision provided by a county agency

designated by that county's Board of Supervisors. On July 26, 2011, the Mendocino County Board of Supervisors designated the Probation Department as the County agency to provide Post-Release Community Supervision.

Revocations Served Locally: Post-release community supervision and state parole revocations will be served in local jails (by law maximum revocations have been reduced from one year to 180 days), with the exception of paroled "lifers" who have a revocation term of greater than 30 days. The local Courts will hear revocations of post-release community supervision while the Board of Parole Hearings will conduct parole hearings on current state prison parolees in jail.

Changes to Custody Credits: AB 109 changes how credits for good time and work time are calculated from one day of good time and work time for every six days in jail (1/3 time off) to one day of good time and one day of work time for every four days served (1/2 time off). This change will help mitigate, to some degree, the impact of longer sentences being served in the county jails.

Alternative Custody: Penal Code Section 1203.018 authorizes electronic monitoring for inmates being held in jail in lieu of bail. Eligible inmates must first be held in custody for 60 days post-arraignment for felony charges, or 30 days for those charged with misdemeanor offenses.

Community Based Punishment: Authorizes counties to use a range of community based punishment and intermediate sanctions other than jail incarceration alone or traditional routine probation supervision.

IMPACT ON MENDOCINO COUNTY AGENCIES

SHERIFF'S DEPARTMENT – COUNTY JAIL

Projected Inmate Population Trends:

The Sheriff's Office anticipates a gradual increase of the inmate population beginning 10/1/11. The basis for this theory is the last seven months we have sent forty-two inmates on new prison commitments that would be considered non-serious, non-sexual and non-violent offenders. If this trend continues, we are well positioned in the first year to absorb not only the new commitments but also those listed below. Currently, we are averaging one hundred empty beds.

The additional inmates include:

- (1) Those non-violent, non-serious and non-sex offender inmates who receive a sentence of 16 months, 2 years, or 3 years in county jail in lieu of state prison;
- (2) Violators of post-release community supervision;
- (3) Violators of state parole up to 180 days;
- (4) "Flash incarceration" up to 10 days for violations of post-release supervision;
- (5) Mandatory minimum sentences;
- (6) Enhanced and consecutive sentences that create longer lengths of stay.

We truly will not know the full impact of AB 109 until full implementation. The variables of inmate population are driven by arresting agencies, number of prosecutions by the District

Attorney, Court decisions on pre-trial detention, length of a case for those in custody, and length of sentences.

Proposed Strategy to Manage the Inmate Population:

AB 109 has authorized new approaches to manage the inmate population. The most important is the expanded use of home detention. The act authorizes inmates who are both pre-trial and sentenced to be allowed on the program. It also expands our authority to include an involuntary home detention program. Our Work Release program will continue to be a critical component in managing the inmate population and avoiding incarceration of parolee's and post-release supervisee's serving violations.

The act also changes how credits for good and work time are calculated. Currently, an inmate's sentence is reduced by one-third for good and work time. AB 109 increases this to half-time. While this is good news in terms on managing lengths of stay, it still does not discount the fact that beds could be in use for years as opposed to our current situation of days and months. To put this in clearer terms if we have fifty inmates serving year and a half sentences, our capacity to hold other inmates drops from 301 (capacity) to 251 while those sentences are being served.

While we will have "relief valves" we can use to decrease the inmate population, the act also includes barriers to the use of jail beds for violations of probation. There are prescribed steps for the use of alternatives to incarceration prior to the use of the jail for sanctions or violations of probation sentences. The use of Home Detention and Work Release will be an important part of these alternatives to incarceration.

Inmate Programs:

Currently the jail utilizes many in-custody programs (Anger Management, Adult Education Programs, Life Skills counseling programs, Narcotics Anonymous, Alcoholics Anonymous, as well as Native American and other religious programs) to assist the inmates in their rehabilitation. These programs, which are primarily funded by the Inmate Welfare Fund, will be maintained and expanded as necessary. This is a critical component in the transition from the jail to the community. The inmates will be able to start working on their recovery and skill building and then, if qualified, continue through the Probation Departments' Day Reporting Center.

Transition Planning:

In addition to the above programs, staff assigned to inmate classification, medical and mental health staff, and the Inmate Services Coordinator will routinely meet with supervising Deputy Probation Officers prior to inmates being released to post-release supervision. Together they will work to ensure a smooth and successful transition to the community by the inmate.

Impacts on Staffing:

It is far too early to make solid projections on staffing allocations. We will closely watch our Home Detention and Work release caseload. If we see a sharp increase that impairs our ability to provide quality supervision, we will be asking for clerical help for our deputy overseeing these programs.

DISTRICT ATTORNEY

Realignment will have an unprecedented impact on the workload and public safety emphasis of the entirety of the Mendocino County District Attorney's Office (MCDAO), as well as have a significant impact on the sentencing options available to prosecutors seeking to resolve cases. Mendocino County District Attorney David Eyster anticipates the following three major impacts:

First, the MCDAO will now be responsible for reviewing, charging, and prosecuting many violations of post-release community supervision. Such responsibility and accompanying workload has never before been vested with the District Attorneys across the state. Jurisdiction of the Board of Parole Hearings (BPH) for these post-release supervision matters is being transferred to the Mendocino County Superior Court and violations hearings are expected to be worked up and prosecuted by the MCDAO. This means a significant increase in the current workload at the MCDAO for intake clerks, secretarial staff, victim/witness advocates, investigators, and all prosecutors.

Second, the MCDAO anticipates that prosecutors will need to make more court appearances and engage with cases for longer periods of time. Given that non-violent, non-serious, non-sex offender cases sentenced to state prison will now serve their "prison" time in the local county jail, local authorities will take on the additional responsibilities of tracking and monitoring offenders after conviction. The number of appearances on one case is expected to increase both before sentencing (because getting agreement on appropriate sentences is expected to become more protracted thereby lengthening the time it takes for cases to resolve) and also after sentencing (given that all sentence violations come back to the MCDAO for assessment and adjudication). The prosecution of violations of law and terms of release that the State's parole authority has traditionally handled will now be the responsibility of the MCDAO. Depending on the case, this assumption of work by the MCDAO is expected to require monitoring and engagement of the MCDAO staff for years at a time per case.

Third, the MCDAO must now engage in significant training and hold strategy roundtables so as to quickly develop expertise in alternative sentencing options, as well as work closely with criminal justice partners to ensure the availability of effective sentencing that does not necessarily rely on incarceration. What the public currently knows as prison (out-of-community incarceration in state-run secured facilities) will be excluded as a sentence option for a large number of offenses. Given that the incarceration option for many returned and excluded offenders will now only be the local county jail, reliance only on local incarceration in lieu of traditional prison time may ultimately overburden the Mendocino County jail. To hold these offenders accountable and, more importantly, to protect the public, the MCDAO needs to increase and expand in-house and out-sourced training for developing creative and effective sentencing approaches based on risk assessment and the individualized needs of each offender. The mandates of realignment present an uncharted territory which will require constant monitoring and flexibility by the MCDAO.

PUBLIC DEFENDER

The Public Defender's Impact and Implementation Strategy is as follows:

As a small office, and with limited budget and personnel, the Public Defender shall be in charge of the realignment implementation and training which will be ongoing throughout the next year and beyond.

It is the Public Defender's responsibility to work with each attorney in the office to discuss all available alternative sentencing strategies and determine which would be the most effective program or programs for each individual client to best effect change in our effort to reduce recidivism. As a part of the training the attorneys will become familiar with the tools being utilized by the Probation Department, i.e. evidence based practices, the STRONG risk assessment tool, and the Courage to Change Interactive Journaling System, so as to better understand the basis and foundation behind the various sentencing recommendations that may be submitted.

It would also be the responsibility of the Public Defender to closely work with other members of the criminal justice system, but specifically the District Attorney, the Sheriff, and the Probation Department, to evaluate and review the implementation of the Plan, as well as engage in regular discussions as to what is working and what is not. It is necessary that the collaborative effort of all members of the CCP continue on in the future to ensure we are all putting our best concerted effort into making this plan work.

The Public Defender will work with the District Attorney in an effort to establish any potential pre-plea dispositions that are available and under what circumstances; any post-plea judgment dispositions that could be available; any educational programs that could be used in lieu of court appearances, i.e. Western Corrections, Pacific Educational Services, etc.

The Public Defender will work with the Probation Department, and specifically with those probation officers handling post-release community supervision clients to help identify new referrals and to discuss progress of those clients already receiving services.

The Public Defender will have regular meetings with attorneys to learn of any new resources, programs, alternatives, that have been found or have been particularly useful in assisting their clients.

The Public defender shall also be available to assist in formulating or implementing the procedure for the representation of individuals facing "post-release community supervision" violation hearings. The volume of hearings, as well as the Court's protocol for handling the hearings will determine the extent of that representation and the nature of that representation.

SUPERIOR COURT

All low-risk offenders released from prison after September 30, 2011 will be subject to community release supervision by the Probation Department for a period of up to three years. If the Probation Department determines that a supervised offender is not responsive to the Department's intermediate sanctions and upon petition by the Department, the court has the authority to modify or revoke the offender's community release supervision. All petitions and court hearings shall comply with Court Rule 4.540.

All high-risk offenders released from prison shall continue to be supervised on parole by the Department of Corrections and Rehabilitation. However, for such offenders released after June 30, 2013, the Court will conduct hearings on all petitions filed by the Department for revocation of parole and will have the authority to reinstate, modify, and/or revoke parole.

The Court will develop such forms and procedures as are necessary to implement Rule 4.540 and any subsequently adopted rules. The Court anticipates an immediate increase in the number of hearings devoted to reviews, revocations, and pre-plea hearings. The Court will work with the Sheriff to address any safety issues that can be anticipated. The Court is currently devoting judicial time and resources to modify existing procedures and protocols to comply with new rules while preserving all due process rights of defendants. Judicial officers will be required to learn and implement all new Rules of Court we expected to be adopted by the Judicial Council in the near term. The Court is committed to an efficient and productive implementation of this revision of California's sentencing scheme while keeping in mind all the needs of the local communities and the County at large.

HEALTH & HUMAN SERVICES AGENCY

The Health and Human Services Agency notes potential impacts relative to their scope in the following areas:

- General Assistance
- Public Guardian
- Employment Services
- Mental Health
- Alcohol and other drug programs
- Health care
- Eligibility
- Housing

The plan that exists is preliminary and should be considered a fluid and working document. Many decisions regarding how these services will specifically be offered are yet to be determined. There is a potential of increased expenses in many areas. Equally there are opportunities for increased collaboration and services that flow between community and incarceration. It will be important for the CCP to continue to work on the development of appropriate strategies and management of these services. Since we are still in the planning stages

it is difficult to comment on impacts in any definitive nature so I will briefly comment on potential impacts in the various areas listed above.

General Assistance is currently a county general funded program. The consensus, statewide, is that 10% of the inmate population would be eligible for general assistance. This would be an increased caseload that could be dealt with by existing staff; however it could potentially increase the monthly allocation necessary to fund the program.

Public Guardian caseloads could be impacted if we have compassionate care releases. I have no estimation of this potential at this time.

Employment Services must be made available. These services will be offered through the Mendocino County Local Workforce Investment Act One-Stop Operator. Employment services are already provided to parolees and to the extent possible services will be offered to meet the individual needs of the participants.

Mental Health services have two separate components. First, mental health services are currently provided in the jail through an MOU with Health and Human Services Agency (HHS). If it was determined that additional hours of service were necessary to meet the increased client load in the jail we would need to determine how to accommodate that need. Secondly, mental health services will be necessary outside of the jail setting. Currently, approximately 20% of the prison population is considered to have a serious mental illness. For those that meet mental health criteria funding may be necessary in order to increase clinical capacity. For those that do not meet criteria for county mental health services, an arrangement with an appropriate partner or a referral system must be put into place.

Alcohol and Other Drug Programs are an integral component of services offered. Currently, 80 to 85 percent of all inmates in prison are there for drug related crimes and 65 percent meet the criteria for addiction. It has not been determined how these services will be offered. The intent of the plan is to maximize the effective investment of criminal justice resources in evidenced based sanctions and programs including, but not limited to, day reporting centers and drug courts. Drug courts have been an effective tool with good success in this community and should be considered.

Healthcare coverage for this population still has a lot of unanswered questions. Currently, healthcare costs of the inmates in local custody is a county obligation and is provided through a contract. For clients outside of the jail with the introduction of the Low Income Health Plan (LIPH) and the 1115 waiver in addition to changes in the penal code for AB 109, some healthcare coverage issues are still undetermined. What we do know is access to healthcare and a primary care home model are going to be paramount to the overall success of the client. Planning with Federally qualified health centers and community clinics is underway to determine the best structure for the provision of these critical services.

Eligibility screenings for programs such as Medi-Cal, Cal Fresh, Calworks will need to be conducted. This will be an additional caseload and may require an additional eligibility worker. Planning for how this is to be accomplished is not finalized yet; however the workable model is to incorporate an eligibility worker into some type of front end intake process with probation.

Housing is a primary need of many offenders being released back into the community. Shelter services are currently available on a limited basis. Individuals would go through the same process as others to access these services. An ad hoc committee of various community organizations that provide housing to various populations (veterans, mental health, transitional aged youth, low income, disabled, etc) is currently being convened. It is probable that most will meet the criteria of one of these other populations and can be served through existing systems.

PROBATION DEPARTMENT

Overview:

The Mendocino County Probation Department will implement AB 109 in an Evidenced Based Practices (EBP) supervision model with dual supervision programs serving: (1) State Prison post release community supervision offenders, and, (2) the low level non-violent, non-serious, and non sex-offenders (known as the non-non-nons), that otherwise would be sentenced to State Prison. The Probation Department will develop an offender classification system to target the AB 109 population by implementing post release community supervision requirements, creating phases of rehabilitation, establishing a case supervision management process with procedures designed to incorporate EBP principles for effective intensive intervention, and promoting the objective of producing a sustained reduction in recidivism. To effectively case manage the offenders from the California Department of Corrections and Rehabilitation (CDCR), the Probation Department has designed a case management system focusing on the appropriate level of supervision based on levels of risk and intervention strategies, including the best in evidence based practices (EBP) as determined by the Static Risk Assessment and Offenders Need Guide (STRONG).

A critical area in successful implementation of AB 109 is the processing mechanism of the Superior Court. Cases under AB 109 will no longer be handled as parole revocation hearings, but will instead be processed through the local court system. Probation has vast experience dealing with the Court preparing the numerous reports required for sentencing purposes and supervision management of an offender.

Quality Assurance:

Probation will incorporate a quality assurance component into the implementation plan of AB 109, which will include EBP methods in the training of staff, application of performance functions, creation of data analysis, completion of observation procedures, delivery of services and execution of case management practices.

Evidenced Base Principles for Effective Intervention:

Probation staff has been trained and is using the STRONG. This is a screening and assessment tool that focuses on dynamic and static risk factors, profiling criminogenic needs, and has been validated on similar populations. There are two components to the assessment process. The first is a brief (26 questions), static risk assessment which is comprised entirely of static factors dealing with prior criminal history. It produces three scores: (1) felony risk score; (2) non-violent felony risk score, and (3) violent risk score. A formula is then applied to these scores to classify offenders into five risk classification levels based on criminal convictions: (a) high risk violent;

(b) high risk property; (c) high risk drug; (d) moderate risk, and (e) low risk. This instrument serves as a "triage" tool to ensure, in keeping with the "Risk Principle", that treatment and public resources are devoted to the highest risk offenders. The tool provides an objective, consistent, and simple method of risk prediction and supervision level identification.

Once the classification has been made, the higher risk offenders receive the Offenders Needs Assessment. Each of the individuals assessed have unique risk and protective factors that need to be identified and taken into account when formulating a case plan for offender change. The Offender Needs Assessment includes approximately 70 questions in the following domains: education, employment, friends, residential stability, marriage/family, alcohol/drug issues, mental health, aggression, attitudes and behavior, and coping skills. The Offender Needs Assessment was developed to identify for each offender, the dynamic risk/need factors to be targeted for intervention. It was also developed to help enable staff to understand how each offender could change in order to stay out of the criminal justice system and develop a law abiding lifestyle.

All Deputy Probation Officers (DPOs) have been trained in Motivational Interviewing (MI). Motivational Interviewing is a direct client-centered approach for eliciting behavior change by helping offenders explore and resolve ambivalence. It is a focused and goal-directed approach to working with individuals. It is an evidenced based practice that has been shown to effectively change behavior. MI recognizes and accepts the fact that offenders who need to make changes in their lives approach counseling at different levels of readiness to change their behavior. MI is non-judgmental, non-confrontational, and non-adversarial. The approach attempts to increase offender awareness of the potential problems caused, consequences experienced, and risks faced as a result of the behavior in question. On October 4-6, 2011, all DPOs will participate in a three day Courage to Change facilitation training. This evidence based Cognitive Behavioral Therapy (CBT) curriculum was developed by the Change Company. The Courage to Change curriculum addresses the criminogenic risk factors of the STRONG through a developed process known as "Interactive Journaling". Interactive Journaling is a structured writing process that motivates and guides offenders in their decisions to make positive life changes. It incorporates the stages of change model, motivational interviewing principles, and cognitive-behavior strategies. During the Interactive Journaling treatment process, offenders identify, confront and alter the values and thinking patterns that led to inappropriate behavior. As a result, offenders gain the realization that they are both capable and responsible for changing their lives.

In order to provide access to necessary services as well as hold offenders accountable to the terms of their supervision, the Probation Department is planning to implement a Day Reporting Center (DRC). The DRC will serve as the designated reporting center for those probationers who have been identified to be in need of services associated with the DRC including, but not limited to, meeting with their Probation Officer, participating in Courage to Change, Motivational Interviewing, and substance abuse testing. In addition to being the mandatory reporting site and testing facility for adult probationers, future plans, based on funding availability, include expansion of the DRC to the North County and Coastal areas, collaboration with our community partners to provide an array of services which may include education, job training, mental health services, medical services, treatment groups such as AA and NA, and other necessary services to enable the probationer to successfully transition back into the community and reduce recidivism.

Implementation Plan:

The Probation Department will implement an evidenced based supervision model that serves three populations: (1) Post Release Community Supervision offenders; (2) the Non-Non-Nons described above (non-serious, non-violent, non-sex offenders); and (3) felony formal probationers. This plan will be used to address the needs of the client while ensuring public safety. It is designed to ensure that community supervision and outreach services are effective in promoting positive offender behavioral change in an effort to reduce recidivism. The plan can be described as involving several progressive steps from case intake to case termination. The Probation Department's evidence based supervision program will provide case management to all categories described above. To implement a response to the shift in community corrections the Probation Department will provide case management to the appropriate level of supervision based on levels or risk. Probation will categorize offenders according to the risk levels based upon the STRONG.

Probation currently provides supervision to 670 persons on formal felony probation. Based on the state's assumptions, over time there will be an additional average daily population of 75 offenders from CDCR to post-release community supervision and 111 of the non-non-nons. This population will receive services in accordance with evidence based supervision and will include the following services and case management practices: Caseload ration of 50 to 1; Supervision intake (file review); Risk and need assessment (STRONG); Review of the assessment; Caseload placement and assignment; Initial home/family visit (within 14 days of intake); Development of a probation supervision case plan; further home/family visits; MI practices; Courage to Change journaling (a minimum of one per month); Random chemical testing; Referrals to services (including monitoring of participation) according to criminogenic needs (for example, mental health, social services, substance abuse, education, and employment services). There will also be a graduated sanction process as needed to promote rehabilitation (community service, home detention with electronic monitoring, flash incarceration, etc.).

Within the first 30 days of supervision, all offenders will be required to report to the Probation Department a minimum of two times. In addition, one to two field visits will be conducted. After the first month, offenders will be required to report as mandated based upon their assigned supervision level. At the office visit, the offender will receive cognitive behavioral therapy administered by the DPO's through the use of the Courage to Change interactive journaling program. The DPO's will be responsible for providing reports, tracking and collecting data, and verifying proof of offender's compliance. It is critical that this population of offenders participate in structured behavioral, social learning, and cognitive behavioral evidence based intervention to target their prioritized criminogenic needs as determined by the risk and need assessment outlined in the case plan. Offenders will be supervised by the DPO's trained in principles of effective correctional intervention and cognitive behavioral curriculum.

Outcomes:

The purpose of AB 109 and the strategies articulated in the local Public Safety Realignment plan are intended to improve success rates of offenders under supervision resulting in less victimization and increased community safety. Accomplishing this in the most cost efficient manner and employing proven correctional and justice system practices, is emerging as the primary strategic goal of the initiative.

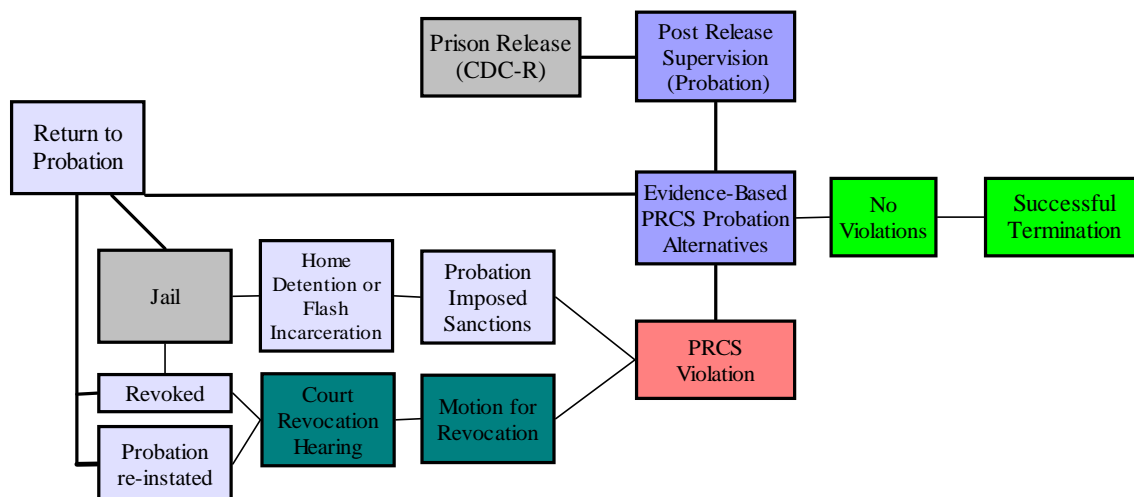
Goals:

1. Implementation of a streamlined and efficient system in the County of Mendocino to manage responsibilities under realignment;
2. Implementation of a system that protects public safety and utilizes best practices in recidivism reduction; and
3. Implementation of a system that effectively utilizes alternatives to pre-trial and post-conviction incarceration where appropriate.

Measures:

- 1: Recidivism rates for non-violent, non-serious, and non-sex offenders;
2. Recidivism rates for post-release community supervision offenders now under Mendocino County adult probation jurisdiction;
3. Number and type of offenders sentenced to county jail and state prison; and
4. Number and type of offenders sentenced to probation or alternative programs.

Probation Realignment Flowchart



Jail Realignment Flowchart

