



MEMORANDUM

July 12, 2011

1100 K Street
Suite 101
Sacramento
California
95814

Telephone
916.327-7500

Facsimile
916.441.5507

To: Members, Board of Supervisors
County Administrative Officers

From: Paul McIntosh
Executive Director

Re: AB 117 and the Community Corrections Partnership (CCP)

There continues to be a great deal of confusion and misunderstanding regarding the changes in the Community Corrections Partnership (CCP) encompassed in Assembly Bill 117 (Chapter 39, Statutes of 2011), passed as part of the 2011-12 budget. AB 117 did not change the make-up of the CCP, first formed in SB 678 in 2009, but does provide for revisions to the makeup of the CCP's Executive Committee, which originally was established in AB 109 (Chapter 15, Statutes of 2011).

The fourteen-member CCP in each county remains essentially unchanged and is comprised of the following (Penal Code Section 1230.1):

- Chief Probation Officer (Chair)
- Presiding Judge (or designee)
- County supervisor, CAO, or a designee of the BOS
- District Attorney
- Public Defender
- Sheriff
- Chief of Police
- Head of the County department of social services
- Head of the County department of mental health
- Head of the County department of employment
- Head of the County alcohol and substance abuse programs
- Head of the County Office of Education
- CBO representative with experience in rehabilitative services for criminal offenders
- Victims' representative

AB 117 requires the CCP to prepare an implementation plan that will enable the county to meet the goals of the public safety realignment. AB 117 is silent as to what those goals may be and provides counties with flexibility in how to address realignment. AB 117 does not abdicate the board of supervisor's authority over appropriations and does not enable the CCP to direct how realignment funds will be spent.

The seven-member CCP Executive Committee, as provided in AB 117, is comprised of the following:

Chief Probation Officer (Chair)

Presiding Judge (or designee)

District Attorney

Public Defender

Sheriff

A Chief of Police

The head of either the County department of social services, mental health, or alcohol and drug services (as designated by the board of supervisors)

Under AB 117, the CCP would develop an implementation plan and the Executive Committee would vote to approve the plan and submit it to the board of supervisors. The plan would be deemed accepted unless the board of supervisors voted via a 4/5 vote to reject the plan and send it back to the CCP. Concerns have been raised regarding why the CAO or board member is not part of the Executive Committee and why a 4/5 vote is required to reject the plan.

CSAC's role in the drafting of this component of AB 117 was as one of several stakeholders involved in the public safety realignment. While most of the county stakeholders maintained general agreement on realignment issues during each phase of negotiations in general, there were disparate opinions in how the planning process should unfold. CSAC felt strongly that the only way realignment will be successful is if the planning effort results in a significant shift away from a predominantly incarceration model and movement to alternatives to incarceration. Therefore, it was critical that the planning process be structured to encourage compromise in the CCP to reach the goals of the community in a manner acceptable to the board of supervisors.

The CAO, as you know, must be in a position to remain objective and provide the board of supervisors with unvarnished recommendations on matters that come before them. Having the CAO or a board member as part of the Executive Committee, and therefore casting a vote on the plan to be presented to the board of supervisors, would represent a conflict of interest to the CAO or board member and place them in a position that could compromise their independence. Rather, this approach seemed to capture the best of both worlds – the CAO is part of the planning process and can bring that global vision to that process but is also free to make contrary recommendations to the board of supervisors should they disagree with the ultimate plan adopted. Likewise with a member of the board of supervisors being part of the executive committee.

Some have commented that the 4/5 vote requirement to reject the plan submitted by the CCP limits local flexibility and discretion of the board of supervisors. While the dynamics of the planning process will differ from county to county, the goal was to force consensus within the CCP and the planning process and not

provide an avenue for a participant to try to push their opinion outside of the CCP with the board of supervisors. A super majority makes an “end run” difficult, but still enables the board to reject the plan if the board disagrees with it. A 4/5 vote requirement is not unusual, but does place a higher level of focus on the planning process. It should be noted, as well, that counsel has opined that meetings of the CCP and the Executive Committee will be subject to the Brown Act and all discussions will be required to be conducted in a public meeting.

AB 117 is not a perfect solution but it represents a negotiated agreement that will enable California’s counties to move forward with the dramatic changes necessary to make realignment successful. Clearly the successful implementation of realignment will require a significant paradigm shift in our public safety communities. The successful model will not be an incarceration model, but one that seeks to divert and rehabilitate citizens, returning them to be productive members of our community. Hopefully, the construct of the CCP – that is intended to drive the local public safety community to a consensus about a “different way of doing business” - will ultimately lead to that approach.