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**Performance Audit of  
County Resources Allocated to AB 109  
Final Report**

**County of Orange**

February 5, 2021

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## **Introduction**

The Assembly Bill (AB) 109 “Criminal Justice Alignment” or “2011 Realignment Legislation,” was passed in 2011 to alleviate the overcrowding found in state prison populations by giving the responsibilities of “new non-violent, non-serious, and non-high risk sex offenders” to county jails throughout California. State funding for AB 109 Public Safety Realignment funds, was allocated to counties to off-set the cost of managing the increase of the inmate and probation/community supervision populations at the county level. The State has authorized, within each county, Community Corrections Partnerships to develop their own implementation plans for allocation of the funds, allowing the funding of a broad range of public safety activities, as long as it is in agreement with the Community Corrections Partnership implementation plans, and local agencies do not use the funds to supplant other funding for Public Safety Services.

The allocation of AB 109 Public Safety Realignment funds to counties is based on a funding formula along with growth funds as incentives for lowering incarceration rates. The FY 2019-20 allocations received by the County of Orange (County) was \$90.7 million. The County allocates resources to various departments in order to provide for incarceration, community supervision by Probation and related services as directed by AB 109. The County departments directly impacted by AB 109 include the Sheriff-Coroner (Sheriff), Probation, the Health Care Agency, District Attorney, and Public Defender. Other County agencies, such as the Social Services Agency and OC Community Resources, are also indirectly impacted as the AB 109 population is often referred to County services managed by these departments.

The purpose of this project is to document the financial impact of AB 109 on the County and potentially to determine if the County is receiving proper funding to cover the increased costs of providing services to the AB 109 population. The County would also like to understand if there are Net County Costs associated with the AB 109 programs and services and if so, to determine those costs.

One of the primary challenges that we faced in conducting our evaluation is the question of how to define and identify the AB 109 population. Currently, each department has slightly different definitions of the AB 109 population that they serve. The definitions of the AB 109 populations for the Sheriff’s Department and Probation Department are designated by a judge at the time of sentencing or by the California Department of Corrections and Rehabilitation (CDCR). The Health Care Agency’s Correctional Health Services can serve any inmate, regardless of status. Thus, it finds it difficult to define its AB 109 populations because pre-sentenced inmates can switch into an AB 109 status after their sentencing, during the course of their treatments. The Health Care Agency’s Behavioral Health Services processes AB 109 individual referrals from Probation, but if an individual seeks treatment outside of the referral process, their status as AB 109 would be unknown. The District

Attorney and Public Defender manage caseloads of AB 109 probation and parole violators, categorizing both of these caseloads as AB 109 cases.

For the Sheriff's Department, those in the AB 109 population includes someone who is currently convicted under Penal Code (PC) § 1170(h) and has been sentenced to serve their time in County jail. However, other than the notation on their County record, they receive the same treatment and services as other inmates. The Probation Department's definition of an AB 109 person is someone on Postrelease Community Supervision (PCS) or Mandatory Supervision (MS). Most of those on Probation's MS caseload have completed their time in County Jail and/or are serving their time under Probation's supervision. Probation's PCS caseload includes those who have completed time in State prison and are required to complete their sentence under the supervision of County Probation rather than by the State Parole Board. As a result of AB 109, Probation created a separate AB 109 Field Supervision Division within the Adult Operations Bureau to manage the supervision of the County's AB 109 population.

While the initial identification of a person in the AB 109 population is fairly clear, a person in this population may find themselves back in the system related to a different infraction. For purposes of this project, we will define the County's AB 109 population as those whom pre-AB 109 (e.g. pre-Realignment Legislation 2011) would have been designated a PC 1170(h) felony and sentenced to state prison and under supervision of State Parole officers. Those that are flash incarcerated because of a probation violation will be considered part of the AB 109 population, while those who are awaiting trial for a new crime will not be considered as part of the AB 109 population, even if they were previously counted, just prior to the new arrest. Pre-AB 109, if the same person served their PC 1170(h) felony time in State prison or parole, it is likely they would have been in their home county committing the same new crime, ending up in a county jail awaiting their trial.

Since the passage and implementation of AB 109 in 2011, the AB 109 population being served by the County has also fluctuated as various state legislation changed penal codes and felony definitions. The biggest impact on the AB 109 population was Proposition 47 (2014), reducing many criminal acts from felonies to misdemeanors; thus significantly lowering the AB 109 population incarcerated in County jail and subject to supervision by Probation. Conversely this resulted in additional caseloads for the District Attorney and Public Defender as court hearings were required to reduce prior felonies to misdemeanors. Other significant legislation included Senate Bill (SB) 266 (2016), allowing for the use of flash incarceration for the violation of probation, eliminating some of the caseloads of court hearings by the District Attorney and Public Defender. SB 266 also allows for the period of flash incarceration to be included as credits earned, if an additional sentence is to be served, reducing the number or days sentenced for any new AB 109 sentences served in County jail.

## Methodologies

We used a combination of methodologies that serve to support our findings and recommendations. Below is a summary of each method we utilized:

- **Interviews.** We conducted small group meetings and interviews with County management staff as well as financial/budget management staff from the following departments:
  - CEO/Budget staff – Public Safety
  - Sheriff’s Department
  - Probation Department
  - Health Care Agency – Correctional Health Services
  - Health Care Agency – Behavioral Health
  - District Attorney
  - Public Defender
  - OC Community Resources
  - Social Services Agency

A list of interviewees is included in Appendix II.

- **Data and Document Review.** We reviewed data received from the departments and the County, including annual reports of the OC Community Corrections Partnership, Quarterly Reports submitted to the Board of State and Community Corrections (BSCC), departmental financial reports, and other reports received from Departments regarding services for the AB 109 population. A list of documents reviewed are included in Appendix II.
- **Smart Practices and Benchmark Analysis.** We conducted research and collected information regarding smart policies and practices of neighboring counties related to programs and services being funded by county AB 109 Public Safety Realignment (PSR) funding. In particular, we reviewed services being reported for PSR funding for Los Angeles, San Diego, Riverside, and San Bernardino counties.

## Calculating Net County Costs

The County utilizes the term “Net County Cost” to signify the amount of a department’s budget being supported by the County’s General Fund rather than other revenue sources. The Net County Cost is determined to be the difference between the total cost of operations less departmental revenues. With AB 109 PSR expenditures, any costs that are determined to not be sufficiently funded by the AB 109 PSR funding allocation or other revenue sources received by the department are determined to be a Net County Cost. We analyzed the budgets, AB 109 PSR expenditures, and the AB 109 PSR funding for each department to determine if the AB 109 PSR funding allocation was sufficient to cover the identified costs of providing services to the identified AB 109 population served by the department.

The State allows AB 109 PSR funding received by a county to be used for a broad range of public safety services. Each county has a developed plan for the use of the funds for public safety services that is developed by a county Community Corrections Partnership. Those funds are reported to the State annually in a Community Corrections Partnership Survey that includes goals, the general allocation of funds, and the allocation of funds devoted to services and programs. There is no requirement to ensure that the allocation of funds is being used towards the AB 109 population, specifically; only that it be used towards public safety services. E.g., each year in Orange County various police agencies and the Sheriff's public safety contracted cities, collectively Local Law Enforcement (LLE), receive 2% of the projected PSR funding revenue. Each city police department reports on the use of the funds received. While some cities use these funds to provide staff support to conduct compliance checks with a County Probation Officer from the AB 109 Field Services Division, others report that they use their funds towards their city's Automated License Plate Reader program or to offset unbudgeted overtime costs. The State allows the use of the funds as long as the allocation is approved by the county's Community Corrections Partnership, and aligns with the community corrections partnership plan approved by each county.

Senate Bill 678 (2009) required each county to establish a "Community Corrections Partnership" (CCP). For Orange County, the local CCP (OCCCP) was charged with advising on the implementation of SB 678 funded initiatives and AB 109 Realignment Programs. AB 109 (2011) Realignment tasked the OCCCP to develop and recommend an implementation plan for consideration and adoption by the Orange County Board of Supervisors. Within Orange County, the CCP approves the allocation of funds for programs from the annually allocated AB 109 PSR funding.

The OCCCP "discuss[es] how to enhance public safety by holding offenders accountable and reducing recidivism by utilizing fiscally responsible, quantifiable, evidenced based and promising practices that support victims and community restoration" (OCCCP Mission Statement). The Chief Probation Officer is the Chair of the OCCCP and the voting members of the committee consist of the heads of the Sheriff-Coroner, Health Care Agency, Public Defender, District Attorney, and a police chief of a local law enforcement agency in the County. Each year the OCCCP establishes priorities for the County allocation of AB 109 PSR funding, and any participating department or organization is given an opportunity to submit a request for AB 109 PSR funding from the OCCCP. CEO/Budget proposes its recommendation for the annual allocation to the OCCCP. The OCCCP reviews funding allocation requests, the CEO/Budget recommendations, and provides a recommendation to the Board of Supervisors for approval.

The County's AB 109 PSR funding is then allocated and distributed accordingly. Annually, a financial report and survey of the current and planned annual allocations is required to be submitted to the Board of State and Community Corrections (BSCC). Actual expenses are not required in the financial reporting process.

Some departmental AB 109 PSR expenditures in the County were easier to track than others. The Probation Department's AB 109 Field Supervision Division has its own separate budget

unit within the department. The Sheriff-Coroner Department uses AB 109 PSR funding to support the costs of the AB 109 inmates in the Custody Division. The District Attorney and the Public Defender track some AB 109 PSR expenditures, but incur other expenditures that are not tracked. The Health Care Agency collect counts of the services for the AB 109 population in order to provide information for quarterly and annual reports to the OCCCP.

In addition to AB 109 PSR funding, some departments directly receive other 2011 Realignment Local Revenue funds not directly tied to the AB 109 population. We attempted to compare the overall population served by the Department to the average of the AB 109 population served in order to conduct our best estimate of Net County Costs in comparison to AB 109 PSR funding allocated to each of the County departments. We also noted where departmental expenditures of AB 109 PSR funding were also used to support the non-AB 109 population. It was noted that some departments provided us with numbers that slightly differed from the Community Corrections AB 109 PSR funding from the OCCCP Annual Reports, likely because of the co-mingling of other 2011 Realignment funds within County departments such as in the case of the District Attorney and Public Defender subaccount. Other County departments also receive direct allocations of other 2011 Realignment funds, such as from the Mental Health and Law Enforcement Activities Subaccount.

Our analysis is primarily based on population figures and expenditures that we requested and received from the departments. If they were not provided, we utilized the OCCCP annual and quarterly reports. Departmental expenditures and population numbers utilized were primarily gleaned from the County’s budget reports.

## Benchmarking County Use of Public Safety Realignment Fund Allocations

We benchmarked the AB 109 PSR funding allocations and programs of four other counties in southern California, including Los Angeles, Riverside, San Diego, and San Bernardino for FY 2018-19. Of these four other counties, Riverside, San Diego, and San Bernardino are fairly similar in population size and annual allocations. We also found it useful to provide a comparison to Los Angeles, as scope of services is similar to the other counties. Though a much larger county, with larger allocations and resources, its approach to services provided and its allocation process is consistent with our peer group.

Department (in \$ millions)	Los Angeles	Orange	Riverside	San Bernardino	San Diego
Sheriff	\$ 215.56	\$ 47.60	\$ 29.74	\$ 48.72	\$ 44.88
Probation	\$ 119.07	\$ 18.33	\$ 19.57	\$ 36.80	\$ 37.40
Health Services	\$ 78.40	\$ 18.07	\$ 29.84	\$ 6.07	\$ 6.90
District Attorney	\$ 7.32	\$ 0.88	\$ 0.09	\$ 3.72	\$ 2.10
Public Defender	\$ 6.27	\$ 0.88	\$ 0.42	\$ 2.85	\$ 0.88
Local PDs	\$ -	\$ 1.76	\$ 1.62	\$ -	\$ -
Other Programs	\$ 6.87	\$ 0.62	\$ -	\$ -	\$ -
Total Annual Allotment	\$ 433.48	\$ 88.14	\$ 81.29	\$ 98.58	\$ 92.16

Table I-1

Comparison of Benchmarked Counties of Public Safety Realignment Funding Allocations for FY 2018-19

By comparing the allocations of other counties, we see that Orange County’s allocation for the Sheriff’s Department is higher than that of other counties. In addition, we also see that the allocation for Probation is significantly lower than other counties. Additionally in Orange County, a portion of the Probation allocation also pays for services provided by Health Care Agency (HCA) for substance use disorder related programs that are cost applied from HCA to Probation. The allocation to Health Services sees a large variation. It is likely that those on the lower end of the allocation, such as San Bernardino and San Diego counties, include Correctional Health Services as part of their Sheriff’s Department’s custody expenditures. Their Health Care Services allocations are primarily for Behavioral Health programs and services. The District Attorney for Orange County, receives a lower percentage of the AB 109 PSR funding allocation than the other benchmarked counties except for Riverside County. Local police departments are given allocations in Orange and Riverside counties, while the other three counties do not directly provide local agencies with AB 109 PSR funding.

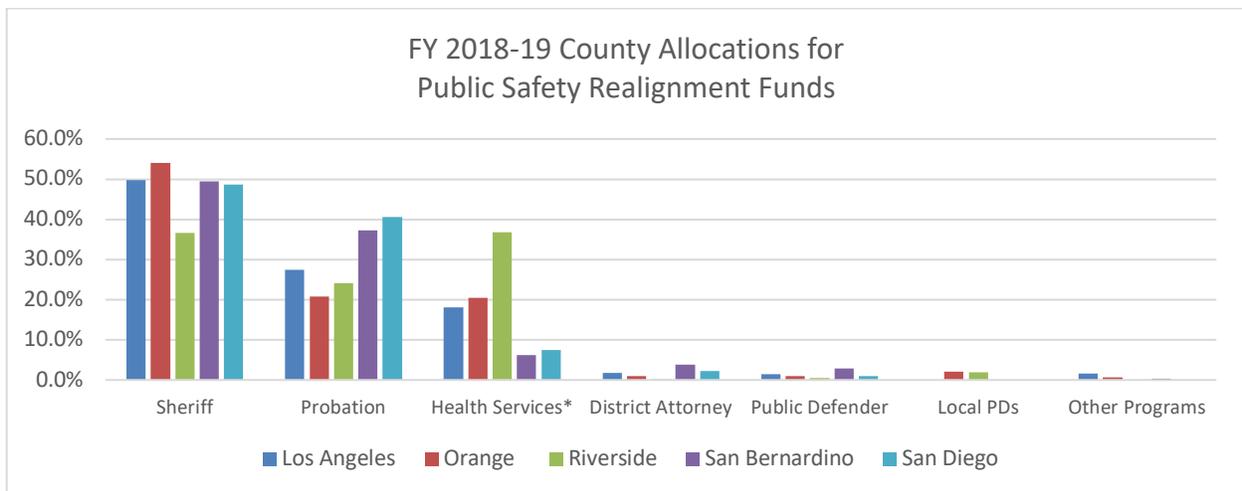


Figure I-1  
FY 2018-19 County Allocations for Public Safety Realignment Funds

## Summary of Issues

There were several issues and challenges that we found related to tracking the financial impact of AB 109 on County Resources.

***Challenge #1: There are varying labels and definitions of the AB 109 population used by the departments.***

In the Sheriff’s Custody Division, there are three primary categories of the AB 109 population. These include inmates that are serving a PC 1170(h) felony sentence, which may require up to three years in County jail. Another classification of the AB 109 population comes from probation violations, either those serving a flash incarceration (FLSH) in which they may serve up to 10 days in custody, or on an AB 109 probation violation, which may

require serving up to 180 days in County jail. Lastly, there is a third smaller population of AB 109 probation violators that are waiting for a revocation hearing (REXH) and may have their PCS or MS probation status revoked.

In the Probation Department, the AB 109 population includes individuals on PCS and MS. Those that are PCS are those being released from State prison into their local community and are being supervised by the County Probation Department. Those that are MS have completed their sentences in the County jail and are released to the Probation Department for community supervision.

Other County Departments generally utilize one of the two definitions; however, they have also included other non-AB 109 populations in their reporting of numbers. The Health Care Agency utilizes the definition of both departments to provide AB 109 counts. Correctional Health Services primarily utilizes the Sheriff's Custody Division of those on the PC 1170(h) felony as a count. Behavioral Health Services, primarily utilizes Probation's AB 109 definition, but only count those that are referred to services through the AB 109 Field Supervision Division. The District Attorney's Office and the Public Defender's Office utilize the Probation Department's definition of AB 109 individuals, but they additionally count individuals with parole violations as part of the AB 109 caseloads.

***Challenge #2: People move in and out of the AB 109 category while receiving County services.***

Using the Sheriff's Custody Division and the Probation Department definitions of AB 109, people can move in and out of the AB 109 category making it difficult to keep track of the costs for County services that one person receives. Correctional Health Services (CHS) has a challenge with identifying costs related to services for AB 109 inmates. To report on its service level counts for AB 109 inmates, it relies on the Sheriff's Department's data, and its definition of a PC 1170(h) conviction. Upon receipt of inmate files, CHS notes the designation as AB 109. Utilizing this determination method, they look to see if there is a PC 1170(h) conviction on the inmate's record as well as FLSH or REXH at the time of service. Parolees, not part of the original AB 109 population, have also been included in these counts in reports provided for this report. Some inmates may begin medication or treatment prior to a PC 1170(h) conviction.

While being supervised under Probation's PCS or MS programs, an individual convicted of a new crime is no longer supervised by Probation's AB 109 Field Services Division if they are incarcerated. While incarcerated in the County jail awaiting a new trial they would no longer be classified as an AB 109 inmate on a PC 1170(h) conviction. After their court date, they could once again be designated and counted as in the County's AB 109 population. The HCA would be challenged to allocate costs for services between Behavioral Health Services and Correctional Health Services, while a remaining a patient.

### ***Challenge #3: Departments self-report***

Currently, there is not a county-wide system to track current and former AB 109 inmates and probationers every time the person utilizes an Orange County service or gets placed in the system. This makes it difficult to track costs for services provided by the Health Care Agency, OC Community Resources, Social Services Agency or other departments which are not directly involved in the County's Public Safety services. While Probation noted that they send monthly lists to Health Care Agency to track AB 109 clients, Behavioral Health Services may not check those lists prior to services, only counting those who have been referred by Probation. Community Resources and Social Services are unaware of any AB 109 status of clients. It would aid the County to better understand its AB 109 population by developing a system to automatically keep track of this limited population, especially as it looks to aiding recidivism for this population; however, confidentiality issues may be a challenge.

Also, because the self-reporting system relies on counts for various units within a department, asking for counts during our performance audit yielded different results from the Annual Reports to the OCCCP. We have also noted that the reporting period of the Annual Report to the OCCCP changed between 2017 and 2018 from a federal fiscal year to the County's fiscal year to align with the funding period, capturing slightly different populations during these time periods.

### ***Challenge #4: There are various funding sources for Realignment in addition to the AB 109 PSR funding***

There are a variety of funding sources that are received by County departments under 2011 Realignment in addition to the AB 109 PSR funding that is allocated by the OCCCP. These include various sources for counties such as funding for enhancing law enforcement activities, a District Attorney and Public Defender Subaccount for revocation activities, a Mental Health Account, and a Behavioral Health Subaccount. Over the course of our engagement with the County, departments provided information that co-mingled AB 109 PSR funding and its activities with other Realignment funding.

## **Summary of Findings**

### **Financial**

- (1) There were no identifiable net county costs to County departments, with the exception of the Probation Department.*** The County's overall financial system does not readily report the direct AB 109 expenditures with the allocations of funds for departments. We have conducted evaluations of the overall departmental populations to the AB 109 population to determine share of departmental costs. While the budgeted expenses for the AB 109 Field Supervision Division were fully offset by allocated AB 109 funds, the portion of budgeted expenses for Probation's Adult Court Services Division associated with AB 109 direct activities were not

funded. The Probation Department utilize Net County Cost provided to fund those services.

**(2) The departments' revenue records for PSR funding do not always match with the CEO/Budget revenues.** Since each department manages their own financial records, typically outside of main accounting system (CAPS+). As such, the revenue amounts that were provided to us by the departments sometimes differed from the CEO Budget records.

### **Policy**

***There exist opportunities to utilize the AB 109 PSR funding allocation to increase community supports to the AB 109 population to decrease recidivism.*** One of the legislative intents is that non-serious, non-violent, and non-high risk sex offenders can be better rehabilitated at the community level with community support and services rather than serving time at a state prison. We have found that there are currently a few opportunities for the AB 109 population to receive community support with Probation's Day Reporting Centers partially funded by AB 109 PSR funding. Behavioral Health Services is also able to provide community supportive services to AB 109 clients. These services are available to the AB 109 probation community if the client is able to pursue the opportunities utilizing the Probation referrals and navigating barriers (e.g. transportation or housing needs, lack of knowledge about County systems, etc.) to obtaining those services. Additional County supportive services are currently provided to AB 109 individuals after they return to County jail with a probation violation through the Public Defender's Recidivism Reduction Unit where social service workers are able to follow-up services to the AB 109 client to help to eliminate barriers to receiving those services.

### **Summary of Recommendations**

***Develop a singular coordinated tracking system for AB 109 individuals in the County.*** Currently, AB 109 individuals enter the County's system from multiple agencies, sometimes at multiple points in time. A coordinated system would meet the AB 109 definitions utilized by the Sheriff and Probation Departments and provide a tracking method for the AB 109 individuals. It would allow each County department that interacts with the AB 109 individual to track County services already provided by other County agencies. It could also be used to develop individualized service plans for AB 109 individuals as well as improve the tracking of departmental AB 109 expenditures.

***Enhance additional recidivism reduction programs for the County jails and Probation, i.e. intervention programs.*** Currently, the District Attorney's Office and the Public Defender's Office have Recidivism Reduction Units which focus on individuals with probation and parole violations. There are a few limited opportunities for services and programs available to the AB 109 inmate while in County jail, with no significant changes in programs and services as a result of AB 109 PSR funding from the state. The Day Reporting Centers have

had some success with AB 109 probationers and could be expanded with intervention programs in County jails.

***Coordinate the development of longer term intervention services that begin in the County jails and move through Probation.*** Consider services that last several years, e.g. develop a partnership for enrollment into the Orange County community colleges. In light of COVID-19, many educational programs have been moved online. Should a classroom/study space become available, longer term inmates could begin educational programs, such as a GED or other community college programs that they could continue once being released from County jail.

***Enhance community partnerships.*** A primary purpose of AB 109 was to help enable the felony violator to be continually supported at the local level. Developing local partnerships with schools or community colleges that can begin in-custody and continue post-custody is likely to have a greater impact on recidivism than the currently separate custody and supervision programs.

We have noted that the Probation Department and the Public Defender's Office have programs to develop community partnerships for their AB 109 population. Probation's Day Reporting Centers rely on the AB 109 clients to be self-motivated to utilize the community partnerships offered through the Day Reporting Centers. The Public Defender's Recidivism Reduction Unit primarily offers connections to services after there has already been a probation violation. We found that the opportunity to develop community partners for AB 109 inmates while in custody is an untapped opportunity to start bridging community partnerships that could reduce recidivism.

***Pursue funding opportunities with community partnerships.*** Post-custody behavioral health programs for substance use disorders have multiple funding sources in addition to AB 109 PSR funding. Currently, the post-custody services offered by the Behavioral Health Services are further subsidized by other grants and external programs. The County should identify other external resources allowing it to further fund the programs that benefit the PCS and MS populations, and as well as other adults with mental and substance abuse issues. Such funding sources would allow enhancement of services without additional costs to the County.

**Description of Services**

The Sheriff-Coroner (Sheriff's) Department is directly impacted by the AB 109 requirement to house sentenced inmates convicted of non-serious, non-violent, and non-sexual felonies under PC 1170 (h) in County facilities. As a direct result of AB 109, the Sheriff's Department now houses inmates that pre-AB 109 would have served out their sentence in a State prison, categorized by the Sheriff's Department as State Prison OC Custody ("SPOC"). Tables II-1 and II-2 are based on Monthly Jail Statistics provided by the Sheriff's Department. While daily jail populations fluctuate, they give us a general picture of the jail population that is affected by AB 109.

The Sheriff's Department provided statistics of the average nightly jail population count by month. The "2400 Count" is a count of the entire jail population at midnight of each night and represents the average count each month. For Table II-1, in order to compare populations, we looked at the median of the monthly averages of the populations. The "Sentenced" population counts are the portion of the 2400 Count that have completed their trials and are serving sentences. "SPOC/AB 109 inmates" is a portion of the Sentenced that have been convicted of a PC 1170(h) felony. FLSH/AB 109 and REVH/AB 109 are a portion of the 2400 Count and are not considered to be part of the Sentenced population.

	FY 2016-17	FY 2017-18	FY 2018-19
2400 Count	6271	6266	6125
Sentenced	3085	3147	3002
SPOC/AB 109 inmates	528	479	487
FLSH/AB 109 probation violators	60	65	74
REVH/AB 109 probationers awaiting revocation hearings	98	133	156

Table II-1  
Median of Monthly Jail Counts

	FY 2016-17	FY 2017-18	FY 2018-19
Sentenced	49.2%	50.2%	49.0%
SPOC (AB 109 inmates)	8.4%	7.6%	7.9%
FLSH (AB 109 probation violators)	1.0%	1.0%	1.2%
REVH (AB 109 probationers awaiting revocation hearings)	1.6%	2.1%	2.5%

Table II-2  
Percentages of Sentenced, SPOC, FLSH, and REVH to 2400 Population Count

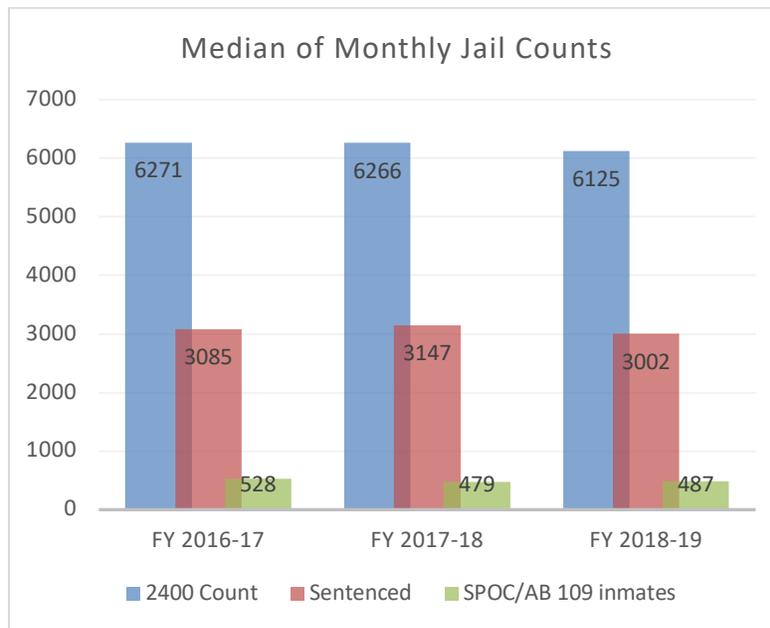


Figure II-1:  
Comparison of Median Monthly Populations in County Jails by Fiscal Year

*Between FY 2016-17 through FY 2018-19, the SPOC population has remained approximately 8% of the total inmate population.*

SPOC inmates, or AB 109 inmates, typically serve 180 days in a County Jail facility (FY 2018-19), while the average of all sentenced inmates in Orange County facilities is 98 days.

*In FY 2018-19, an AB 109 inmate served nearly twice as much as the average stay of a sentenced inmate.*

In addition to housing inmates serving sentences, the Sheriff’s Department is also impacted by AB 109 from the populations of those being supervised by County Probation. As a result of AB 109, Probation began supervision of MS and PCS. The Sheriff’s Department supports Probation by sending Sheriff Deputies with Probation Officers for compliance checks, sweeps, warrant services and surveillance operations for those under MS and PCS. The County jail also houses those under MS and PCS supervision for Flash Incarcerations and those awaiting Revocation Hearings for those who are under consideration for having their community supervision revoked. In FY 2018-19, flash incarcerations of those on MS and PCS, made up 1.2% of the total population count, typically staying 6 days. Those awaiting MS and PCS Revocation Hearings in County jail made up 2.5% of the monthly population count typically staying 57 days.

While the jail population of AB 109 inmates comprise 7.9% (FY 2018-19) of the total jail population, AB 109 inmates can receive a sentence of up to three years. County jail facilities were not built for inmates to serve out multi-year sentences as State prisons and do not offer many amenities and services. State prisons traditionally offer inmates more services such as long term education programs, libraries, and open space/prison yards.

In Orange County jails offer programs that are open to all inmates. Programs include courses on substance abuse, behavioral modification, reentry, life skills, educational classes, and vocational classes. In FY 2018-19, AB 109 inmate participants made up 19.2% of the program participants while comprising 16.3% of the sentenced population. The number of program participants has not changed significantly over the past five years. Program participants are allowed to take more than one class. Approximately 11% of the AB 109 inmates over the past three years participated in inmate programs, whereas 9% of all of the sentenced population participated in inmate programs. Jail Services noted that their programming is often limited due to availability of space to hold classes.

*AB 109 inmates participate in jail services programming at a slightly higher rate than the total sentenced jail population.*

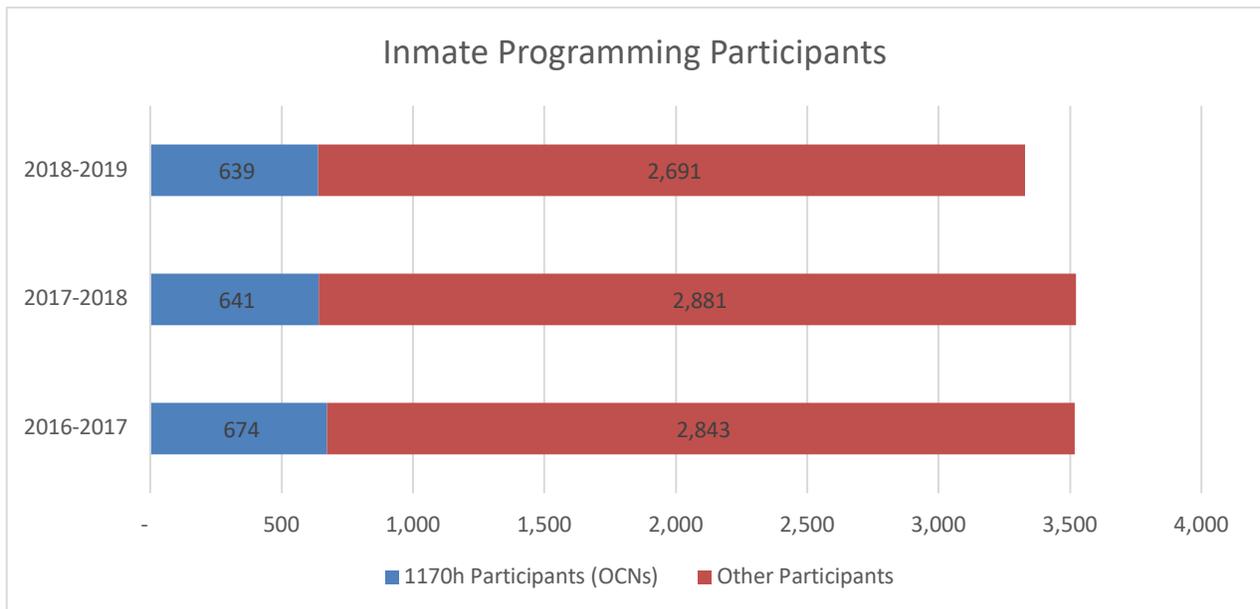


Figure II-2:  
Annual Participants in Educational Programs in County Jail Facilities of  
PC 1170h Participants (AB 109 Participants) to Other Inmate Participants

While the OCCCCP Annual Reports note that there are programs allowing job service opportunities outside of the jail such as the Fire Camp Program or Community Work Program, there are no indications that these programs are currently being utilized by AB 109 inmates.

The Sheriff’s and the Probation Departments have voiced concern that there is a higher risk of violence from inmates and probationers that they serve in the County. For the Sheriff’s Custody Division, this has required rethinking overall risk management and housing of more sophisticated criminals. For example, this created a need to separate gangs from other gangs to ensure safety of the inmates, and increasing sworn deputies to staff the County jail facilities. The number of violent incidents has increased in County jails over the past ten years as shown in Figure II-3. Approximately 13.4% of the violent incidents in 2018 involved AB 109 inmates. Coincidentally, the number of overall incidents seem to be rising faster than the number of incidents from AB 109 inmates, the total AB 109 population (SPOC, FLSH, and REVH) is 11.7% (FY 2018-19) of the total inmate population.

*The number of violent incidents in the County jails have increased over the past 4 years primarily by non-AB 109 inmates. Over those years, AB 109 inmates participated in up to 13% – 19% of all violent incidents, while comprising approximately 11% of the inmate population during the same time period.*

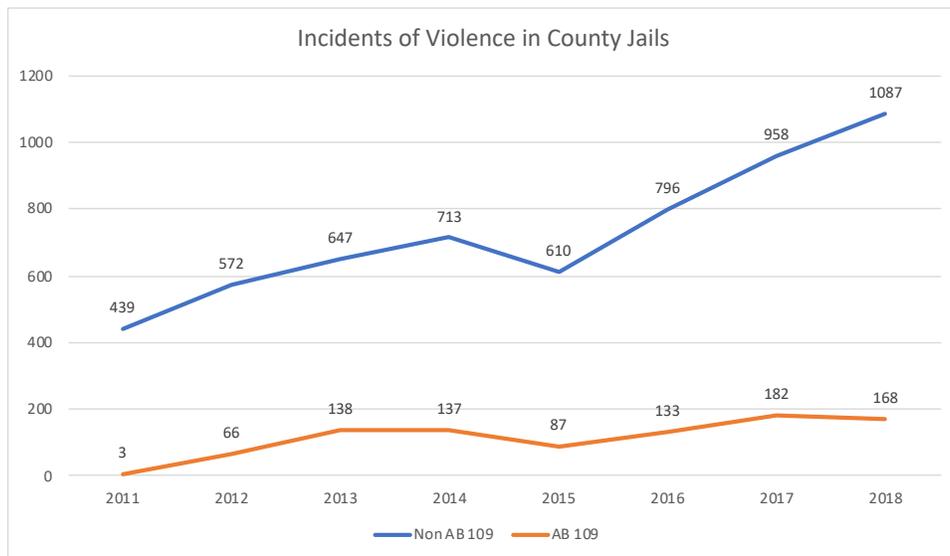


Figure II-3:  
Incidents of Violence in OC County Jails

## Financial Analysis

The Sheriff’s Department responsibility for housing AB 109 inmates and AB 109 probation violators in the County jail facilities is a significant expenditure. As a result, they have been allocated the largest County allocation of the AB 109 PSR funding. In FY 2018-19 the allotment was 54.0% of the County’s AB 109 PSR funding while the other benchmarked counties allocated their Sheriff’s Departments between 36.6% – 49.7% of their AB 109 PSR funding. When compared to the other benchmark counties, its percentage is the highest of the counties.

*Finding: Of the five benchmarked southern California counties, Orange County provides the largest allocation (54.0%) of the AB 109 PSR funding to the Sheriff's Department.*

*Finding: While the number of SPOC inmates has slightly decreased by 7.8% since FY 2016-17, the amount of AB 109 PSR funding to the Sheriff-Coroner's Department has increased by 12.0%.*

The Sheriff's Department is not required to designate the annual allocation of PSR funds directly to the costs of AB 109 inmates. We analyzed the budget and expenditures of the Custody Division comparing it with the AB 109 revenues, noting that the revenue comprised 19.4% of the expenditures of the Division over the past two fiscal years. In order to estimate the cost of providing inmate housing to the AB 109 inmates, we sought to use the same percentage of the AB 109 inmates to the overall inmate population to the expenditures of the Custody Division.

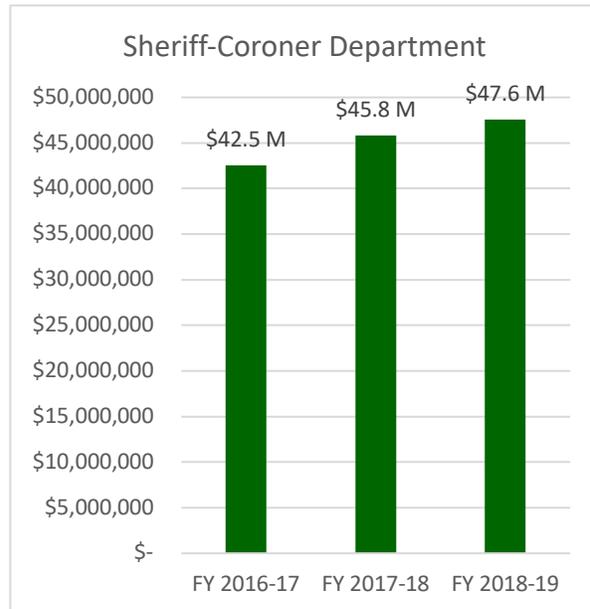


Figure II-4:  
Sheriff-Coroner Department Annual Allocations of AB 109 PSR Funding

	(millions of \$)	FY 2016-17	FY 2017-18	FY 2018-19
AB 109 Revenues	\$	42.6	45.9	47.6
Custody Division Expenditures	\$	222.5	236.8	244.9
<b>AB 109 Revenues/Total Division Expenditures</b>		<b>19.1%</b>	<b>19.4%</b>	<b>19.4%</b>

Table II-3  
Analysis of AB 109 Revenue to Actual Custody Division Annual Expenditures

In Table II-4 below, analyzing the AB 109 populations (SPOC, FLSH, and REVH) to the total inmate population, we note that the AB 109 population has been between 10.8 – 11.7% of the jail population compared to AB 109 revenue providing 19.1 – 19.4% of the revenue for the overall Custody Division.

Median Jail Population	FY 2016-17	FY 2017-18	FY 2018-19
2400 Count	6271	6266	6125
All AB 109 (SPOC, FLSH, and REVH)	686	677	716
<b>AB 109 Populations/2400 Count</b>	<b>10.9%</b>	<b>10.8%</b>	<b>11.7%</b>

Table II-4  
Comparison of AB 109 Inmate Populations in the County Jails

Table II-5, shows the estimated cost of the AB 109 inmates from Custody Division based on the AB 109 inmate populations in Table II-4. We note that this estimate does not take into consideration any weighted costs for accommodating longer term, high risk criminals. This

calculation would lead to an estimated AB 109 PSR revenue of \$18.3 - \$20.3 Million to support the additional AB 109 costs within the Sheriff's Department.

	<i>in \$ Millions</i>		
	<b>FY 2016-17</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Custody Division expenditures	\$ 222.5	\$ 236.8	\$ 244.9
Estimated cost of AB 109 inmates from Custody Division	\$ 24.3	\$ 25.6	\$ 28.6
Sheriff PSR funding revenue	\$ 42.6	\$ 45.9	\$ 47.6
<b>Net estimated cost of AB 109 inmates from PSR funding</b>	<b>\$ 18.3</b>	<b>\$ 20.3</b>	<b>\$ 19.0</b>

Table II-5  
Net Estimated Cost of AB 109 Inmates from AB 109 PSR Funding

Interviews with the Sheriff's Department noted that AB 109 inmates were generally considered higher risk inmates and required additional supervision compared to the average inmate. In the OCCCCP Agenda from February 27, 2020, the Department provided an estimated cost per AB 109 bed rate (\$142.41) citing an average daily AB 109 population of 762 in FY 2018-19. Utilizing this rate, the annual estimated cost of AB 109 inmates to the Custody Division should be \$39.6 Million for FY 2018-19, allowing \$8.0 Million for managing other departmental costs of AB 109 activities.

Our analysis finds that for FY 2018-19, the Sheriff's Department should have excess AB 109 PSR funding revenue beyond the expenditures of the Custody Division to provide support for AB 109 inmates. The Department carries administrative costs which includes meeting costs for participation in AB 109 and recidivism reduction meetings with other departments and agencies. The Department also provides support for activities carried by the other departments including Probation and the District Attorney. This includes serving warrants and providing public safety activities related to PCS and MS populations. Some of these public safety services are compensated through AB 109 PSR funding allocated to the Local Law Enforcement (LLE); however, the Department has not tracked time and costs for the support of these AB 109 activities.

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*Finding: There is no identifiable Net County Costs for AB 109 inmate expenses in the Sheriff's Department.*

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Reviewing FY 2019-20 Community Corrections Partnership Survey from around the California, the surveys from the benchmarked counties noted that they utilized AB 109 PSR funding to expand programming in the jails. They also noted increased coordination between the Sheriff's Department and Probation to improve the management of the AB 109 population's experience as they transitioned between jail and being released into the community.

## Recommendations

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*Recommendation II-1: Utilize AB 109 PSR funding to implement additional services and programming for intervention in the Custody Division.*

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The jail services programming has not changed significantly since the implementation of AB 109. One of the purposes of AB 109 was to provide an opportunity for people who have committed AB 109 felonies to be housed in their own counties for improved community support. Other counties utilized AB 109 PSR funding to implement new jail programs. These not only supported AB 109 inmates, but also other sentenced inmates in the jails as well.

Much of the overall County's current recidivism reduction programming focuses on the incarceration of those that have probation violations/flash incarcerations or have committed another crime since serving their AB 109 sentence or probation. In contrast, programs focused on life improvement, educational, or job readiness developed in partnership with community programs, such as the programming at the Day Reporting Centers, are much less costly per individual than additional time in County jails. Focusing on the development of additional programming and services and community interventions during the first time sentences in County jail (prior to recidivating) could reduce the number of those committing crimes in the future.

We recommend that the Sheriff's Department consider the development of programs in partnership with reentry services, homeless shelter programs, and recovery homes, to eliminate gaps in services between jail and community supervision. A focus on developing educational partnerships with Adult Educational Programming and Community College could help to provide more in-depth learning opportunities to incarcerated AB 109 individuals. Research on such programs from other benchmarked counties by University of Southern California Master of Public Administration students recommended that the Sheriff's Department consider the following:

- **Partnering with Job Centers:** In partnership with the Workforce Development, Aging, and Community Services (WDACS) Department, the Los Angeles Sheriff's Department implemented a job center pilot program at Pitchess Detention Facility, the men's jail, in 2018 (BSCC, 2019) and plans expanding this model to co-locate a career center at Century Regional Detention Facility (CRDF), one of the nation's largest women's jails.
- **Partnering with Educational Programs:** Incarcerated offenders that enter the San Bernardino County jail's InROADS program without a high school diploma are required to attend classes and earn their GED while they are in custody. This requirement is significant, because one of the biggest challenges to recidivism reduction is that many offenders lack a high-school education; there is often a direct correlation between their lack of educational attainment and resulting incarceration (Rutherford Report, 2013). The San Bernardino Sheriff's Department also partners with several other agencies and organizations, such as Chaffey Adult School, Cal State San Bernardino, San Bernardino County Superintendent of Schools, and the County Department of Workforce Development to offer a variety of other occupational training programs.

## **Description of Services**

The Probation Department changed its organizational structure in 2011, as a result of AB 109. The Probation Department formed what is now known as the AB 109 Field Supervision Division within the Adult Operations Bureau. This Division provides supervision to individuals on PCS and MS.

Individuals on PCS have completed their time in state prison and are supervised at the county probation level rather than by state parole. They have been released from state prison and had been incarcerated for a non-serious offense, pursuant to PC § 1192.7(c), a non-violent offense, pursuant to PC § 667.5(c), or a sex offender deemed not high-risk, as defined by California Department of Corrections and Rehabilitation. PCS are released to a local jurisdiction based on their county of residence at time of conviction for supervision under PCS. These individuals may have prior violent or serious offenses, or be registered sex offenders. PCS supervision cannot exceed three years.

Individuals on MS have served their felony sentences, pursuant to PC § 1170(h), in the county's jail system and are provided supervision by county probation. Those sentenced to MS have typically served felony sentences in county jail, with some bypassing sentences in county jail. MS individuals fall within the category of "non-serious, non-violent, or non-sexual" even as they may have previously served time for non-AB 109 felonies. Interviews with the Executive Management of Probation, have noted that many of those being supervised by the Division are deemed to be at high risk of receiving a new criminal conviction.

The summary on the Chief Probation Officers of California (CPOC) California County Probation Data Dashboard notes that the Orange County Probation Department supervised over 26,060 adult and juvenile offenders on court-ordered probation in June 2018. Of those, 3,087 or 11.8%, were on PCS and MS probation, being supervised by Probation's AB 109 Division. The number of individuals under AB 109 active supervision fluctuates in a number of ways. Individuals can complete their period of supervision, violate their terms and conditions and/or commit new crimes that could result in revocations or abscond (which could lead to the issuance of warrants).

Annual counts of new cases show that the number of new cases has decreased since the passage of California Proposition 47, where many crimes that were previously defined as felony conviction were moved to a misdemeanor conviction, lowering the number of AB 109 felony convictions. Since FY 2016-17, new cases each fiscal year have hovered around 1,100 – 1,200 new cases a year.

AB 109 Division New Clients	FY 2016-17	FY 2017-18	FY 2018-19
PCS Releases from Prison	775	822	827
MS Convictions	395	361	416
Total AB 109 Division	1170	1183	1243

Table III-1:  
AB 109 Supervision New Cases by Fiscal Year

We reviewed Probation’s AB 109 Monthly Stats reports from OCCCP meeting minutes. The ratio of actively supervised PCS individuals to those who absconded supervision and are on warrant status is 3 to 1. The actively supervised to warrants ratio for individuals on MS is worse, approximately 5 to 4.

The AB 109 Field Supervision Division deals with both the actively supervised individuals and provides some follow-up on those out on warrants for violating their probation. Investigating and locating those out on warrants requires more time and effort by the Deputy Probation Officer (DPO). The probation checks may also require the aid of local police and sheriff deputies.

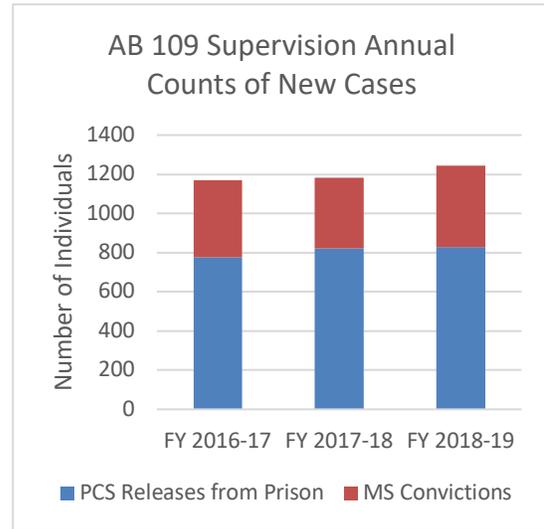


Figure III-1  
New AB 109 Cases by Fiscal Year

*Quarterly reports to the OCCCP show that in addition to the total actively supervised AB 109 individuals, there are approximately 43% more individuals who absconded supervision and have been subsequently placed on warrant status.*

As a result of AB 109 PSR funding, Probation was able to contract for the operation of Day Reporting Centers (DRC). This allowed the County to provide constructive programs and support services for PCS and MS individuals being supervised by the AB 109 Field Supervision Division. The first DRC in Santa Ana opened in 2012, near a Probation Regional Office. The second DRC opened in 2017 in Westminster, CA in the same building as a Probation Regional Office. In 2015, the DRC began accepting probation clients on formal probation, in addition to those on AB 109 supervision. The DRC’s have capacity for up to 140 clients in the Santa Ana site and 75 clients in the Westminster site. For the last two fiscal years, they have served close to 500 clients each year. The DRC contracts are now a part of both the AB 109 Field Supervision Division and the Adult Field Supervision Division's budgets, with 38.1% of clients being PCS and MS participants in FY 2018-19.

The formal probation (non-AB 109) participants in the DRCs are funded by SB 678 as part of the Adult Field Supervision Division’s budget.

Both DRCs are contracted out to BI Inc., a GEO Group company. Programs include developing individual plans for each client referred to the Day Reporting Centers and holding support group meetings for clients with regards to family reintegration, substance abuse, employment, anger management, transportation, housing, and community connections. The programs and services aid in the transition of adult probationers, connecting them with services after they complete their court ordered supervision. GEO Group also works with community partners and County departments, such as the Public Defender’s Office and the Health Care Agency, to help bring awareness to programs and services that are available to clients. The main objective for the participants is to increase their self-sufficiency. The staff at the DRC promote positive changes in behavior through delivering evidence-based practices and programs to reduce recidivism (Day Reporting Center Status Report, Feb 2020.)

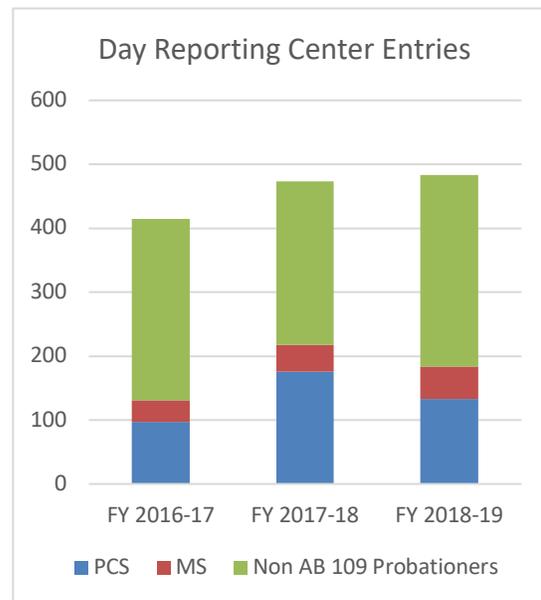


Figure III-2:  
Day Reporting Centers Entries

Day Reporting Centers - Entries	FY 2016-17	FY 2017-18	FY 2018-19
PCS	97	176	133
MS	34	41	51
Non AB 109 Probationers	284	256	299
Total	415	473	483

Table III-2:  
Day Reporting Center Entries per Fiscal Year

*Day Reporting Centers, initiated with AB 109 PSR funding, primarily serviced non-AB 109 adult probationers over the last three fiscal years.*

One particular issue regarding the supervision of AB 109 probationers noted by the Probation Department, is that individuals on probation for AB 109 violations tend to have longer and/or more intense criminal records. A majority of the adults on PCS and MS supervision are at a high risk of committing a new crime requiring court appearances thus can create a larger caseload for services by the Adult Court Services Division. The caseloads may be for probation violations, a new crime that has not yet been convicted, or may be for a crime unrelated to the AB 109 crime and conviction. The Adult Court Services Division is not funded with AB 109 PSR funding.

## Financial Analysis

The allocation of AB 109 PSR funding has fluctuated between 17% – 22% annually and in FY 2018-19, Probation received 20.3% of the County’s AB 109 PSR funding. The allocation of funds to the Probation Department has fully funded a dedicated AB 109 Field Supervision Division as part of the Adult Operations Bureau. This division supervises AB 109 probationers and also funds a portion of the Day Reporting Centers serving the PCS and MS probationers, a contracted service that was set up to provide additional supportive services for AB 109 probationers.

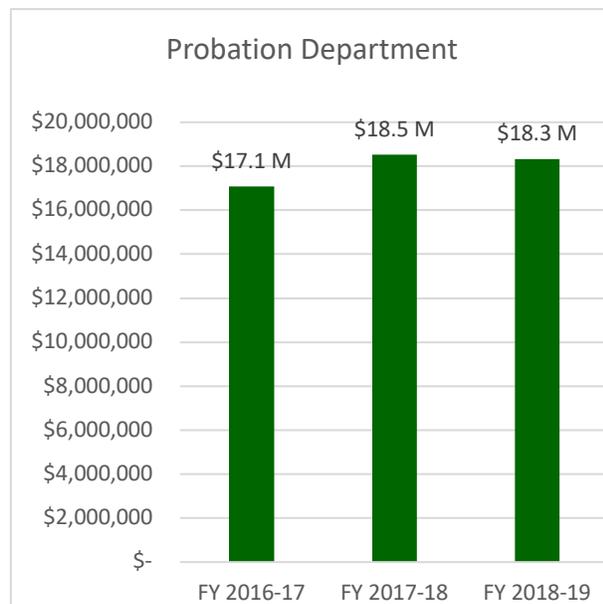


Figure III-1:  
Probation Department Annual Allocation of AB 109 PSR Funding

The AB 109 population in the Probation Department fluctuates with new cases, those who have completed probation, and probation violators. The Quarterly and Annual reports of the Probation Department to the OCCCCP reported monthly new cases of PCS and MS. The County’s Annual Budget Reports note annual probation caseloads. The California County Probation Data Dashboard, which includes current and new cases, shows numbers that are more than twice as high for AB 109 Probation and four times higher for Total Probation.

Population	FY 2016 - 17	FY 2017 - 18	FY 2018 - 19
AB109 Probation - new cases	1,170	1,183	1,243
Total Probation - cases Adult and Juvenile	5,919	5,939	6,043
<b>AB 109/Total new cases</b>	<b>19.8%</b>	<b>19.9%</b>	<b>20.6%</b>

Table III-3:  
Analysis of New Cases Reported by Probation Department

	\$Millions	FY 2016 - 17	FY 2017 - 18	FY 2018 - 19
AB109 Revenues	\$	17.08	\$ 18.51	\$ 18.33
AB 109 Division Expenditures	\$	11.25	\$ 16.56	\$ 14.82
<i>Net AB 109 revenues for AB 109 Division</i>	\$	5.83	\$ 1.95	\$ 3.51
Total Department Expenditures	\$	179.52	\$ 183.15	\$ 189.02
<b>AB109 Revenue/ Total Deptment Expenditures</b>		<b>9.5%</b>	<b>10.1%</b>	<b>9.7%</b>

Table III-4:  
Analysis of AB 109 Revenues to Unit Expenditures vs. Total Department Expenditures

The two Day Reporting Centers (DRC) are partially funded with AB 109 PSR funding through the AB 109 Field Supervision Division. In FY 2018-19, 62.0% of the participants in programs in the DRCs were not AB 109 probationers. Through the use of SB 678 revenue, additional formal supervision offenders, not currently under AB 109 supervision, have

benefited from DRC services. In FY 2018-19, SB 678 funded 67.2% of the DRC costs to cover the costs of services for the non-AB 109 participants.

While the number of new cases of AB 109 has remained about 20% of the total number of new cases managed by the Probation Department for the past three years, interviews with Probation have revealed that it is a challenging caseload, a majority of which are at high risk for recidivism as well as violating their probation as previously discussed. Despite the high-risk of new crimes, the AB 109 revenues offset approximately 10% of the overall Department expenditures, requiring the AB 109 Division to function with a smaller budget, in comparison to its caseload (Table III-3 & 4). The AB 109 Field Supervision Division manages its resources within this constrained budget.

The AB 109 Field Supervision Division is currently fully funded by its AB 109 PSR funding. After considering AB 109 Field Supervision Division expenses, there is a net allocation of AB 109 PSR funding to the Probation Department. For FY 2018-19, there was \$3.51 Million that could be utilized for other AB 109 related expenditures. Since FY 2017-18, the Probation Department has allocated a portion of its administrative cost to its various operating divisions. While much of the AB 109 related administrative costs are included in the AB 109 Field Supervision Division expenditures, other AB 109 related expenses have not, including such costs as the service of the Chief Probation Officer as chair of the OCCCCP. A significant and increasing AB 109-related expense for the Department has been for the processing of PCS and MS in the Adult Court Services Division. The total annual expenditures of the AB 109 Field Supervision Division and the AB 109 related expenses of the Adult Court Services Division have exceeded the AB 109 PSR funding revenue allocated to the Probation Department over the period reviewed in this study.

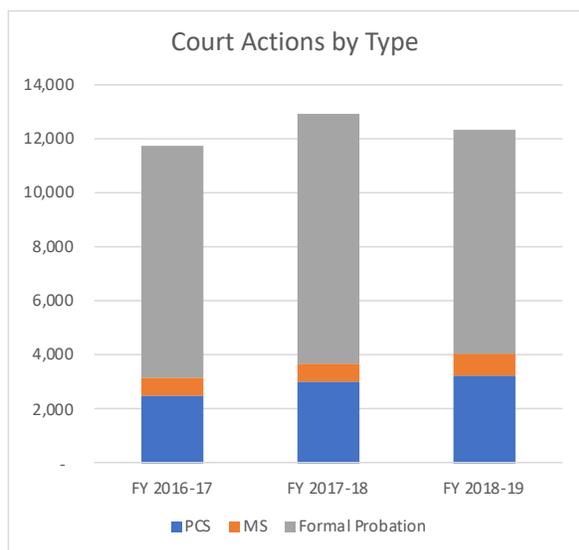


Figure III-2:  
Court Actions of the Adult Court Services Division

*Finding: While the AB 109 Field Supervision Division is fully funded through AB 109 PSR funding, the Probation Department's large caseloads of high risk probationers have led to additional Court Actions of Probation Department's Adult Court Services Division.*

The Probation Department has identified PCS and MS probationers as having an increasingly significant impact on the caseload of the court actions of the Adult Court Services Division. The expenses to support court actions are currently not funded through AB 109 PSR funding. Over the last three fiscal years, the percentage of court actions by PCS and MS has increased from 27.3% to 33.1%. The expenditures for the Adult Court Services

Division have increased significantly over the three fiscal years examined. The Department has noted that this was primarily due to a change in the methodology of recording indirect

costs. Currently, Probation is allocating administrative cost to all of the Divisions. This approach began in FY 2017-18. While these cost were not captured in the budgeting process in prior years, the future budgets will include the indirect expenditure in all Divisions. It is expected that these costs should remain relatively constant going forward. The costs of the court actions by PCS and MS have previously not been considered as an AB 109 cost for the County. Net County Cost has been utilized to fund the Adult Court Services Division expenditures for PCS and MS.

	\$ Millions	FY 2016-17	FY 2017-18	FY 2018-19
Adult Court Services Division Expenditures	\$	6.94	\$ 11.29	\$ 13.94
% of AB 109 Court Actions		27.3%	28.4%	33.1%
<b>Estimated Share of Costs of AB 109 Court Actions</b>	<b>\$</b>	<b>1.89</b>	<b>\$ 3.21</b>	<b>\$ 4.61</b>

Table III-5  
County Costs of AB 109 Court Actions

## Recommendations

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### *Recommendation III-1: Enhance staffing in the AB 109 Field Supervision Division.*

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We have also noted that the Probation Department’s AB 109 Field Supervision Division’s budget and programs are constrained by limited AB 109 PSR funding, the smallest share of the county allocated AB 109 PSR funding of all of benchmarked counties. The county with the second smallest Probation allocation was Riverside County, which receives a smaller county allocation of AB 109 PSR funding than Orange County, allocated \$1.3 Million more to their Probation Department, than Orange County. In order for the Probation Department to provide more effective supervision to the AB 109 high risk probation population, the Probation Department could use additional allocation for Deputy Probation Officers (DPOs) and programming. Should additional funds be allocated for this unit, more DPOs could be hired to lessen the caseloads per DPO, to provide a higher level of supervision. Lower caseloads would allow the DPOs to provide increased active supervision for the higher risk PCS and MS probationers, increasing the opportunities to follow up with probationers that are missing required probation supervision visits and out on warrant. According to a study done from the American Probation and Parole Association Caseload Standards (APPA, 2006), lower caseloads for DPOs correlate with lower probation violations, especially for higher risk probationers.

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### *Recommendation III-2: Enhance programming in the AB 109 Field Services Division by providing additional connections to community services.*

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Currently, many PCS and MS do not take advantage of services that are available to them. While a new AB 109 individual may be provided with material and referrals for services at their first meeting with their DPO, the AB 109 individual must follow up services on their own initiative. AB 109 probationers could be offered individualized case management to navigate services of the Health Care Agency, Social Services, Community Services, and Workforce Development prior to their transition from prison or jail to community

supervision. The Public Defender's Office, through its Recidivism Reduction Unit, has provided Recidivism Reduction Advisors (RRA) to offer these types of services to those who are in jail again on a probation violation. This type of case management should be offered to all PCS and MS, rather than waiting for the Public Defender's RRA services when PCS and MS find themselves back in County jail.

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*Recommendation III-3: Enhance services for reentry into the community from County jail facilities and State Prisons.*

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The Probation Department represents that transitioning an inmate, either from a State Prison or County Jail, to community supervision has been a challenge for individuals. An AB 109 Reentry Team assesses an individual's basic needs at the time of release from County jail and reentry into the community. This AB 109 Reentry Team can provide probationers with basic necessities such as hygiene kits, food gift cards, bus passes, housing referrals, and other necessities and services to help them appear at their first meeting with their DPO. These items are provided through AB 109 PSR funding. Recent changes in the daily release time for inmates from a night release to morning release have allowed Probation and other services to be provided to inmates upon release from jail. Since then, the AB 109 Reentry Team has utilized a desk just outside of the County's Inmate Release Center to greet those requiring MS probation. This opportunity for meeting with the AB 109 Reentry Team occurs outside the facility (due to lack of internet access for Probation in the Intake Release Center lobby); however, it may be easily bypassed after an AB 109 inmate is released from jail.

Prior to release, Probation offers an optional transition program for those going into probation to provide guidance and answer questions. Even with this service there is not much incentive for probationers to show up for probation checks, absent a threat of being served a warrant. Educational, behavioral, and health programs, such as those being offered by the Day Reporting Centers could be started on an in-custody basis. This could make it easier for programs to be continued while individuals are being supervised in the community, easing the transition into the community.

A smart practice with an 84% success rate of completion has been utilized for MS by San Diego County since 2017. It instituted a supervision model called the "Blueprint for Success," in which MS clients are provided an intensive supervision model to increase their chances of successful reintegration into the community upon release. To manage this population, the probation department prepares an MS pre-release plan, which includes an assessment and case plan depending on the particular client's identified risk and needs, that begins at sentencing. The increased community supervision plans are ramped up one month prior to release in a MS Court. This is carried forward through partnerships with Probation, District Attorney, and Public Defender offices.

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*Recommendation III-4: Provide Probation with AB 109 PSR funding for Adult Court Services.*

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The Adult Court Services Division has been managing an increasing caseload of court actions by PCS and MS and is currently a Net County Cost of the AB 109 population in the

Probation Department. The current caseload of PCS and MS is approximately a third of the caseload of the Division.

**Description of Services**

The Health Care Agency provides both in-custody services and post-custody mental and medical services to AB 109 inmates and probationers. A majority of the funds that the Health Care Agency receives is primarily allocated to Correctional Health Services for services provided to AB 109 inmates while in-custody. Post-custody, AB 109 individuals on community supervision are eligible for Medi-Cal and can seek out treatment for any health or substance use disorder services provided by the County. The Health Care Agency’s Behavioral Health Services provides some mental health services through their Adult Services programs. AB 109 PSR funding is used to fund some of the services for post-custody services. There are also a variety of other funding sources available to fund programs, such as residential treatment for substance abuse and other outpatient treatment for mental health and substance abuse. During FY 2018-19, OCCCCP began allocating a single amount to the Health Care Agency, consistent with other departments’ allocations, rather than providing separate allocations to Correctional Health Services (In-Custody) and Behavioral Health Services (Post-Custody). Our discussion in this section is broken down by In-Custody and Post-Custody.

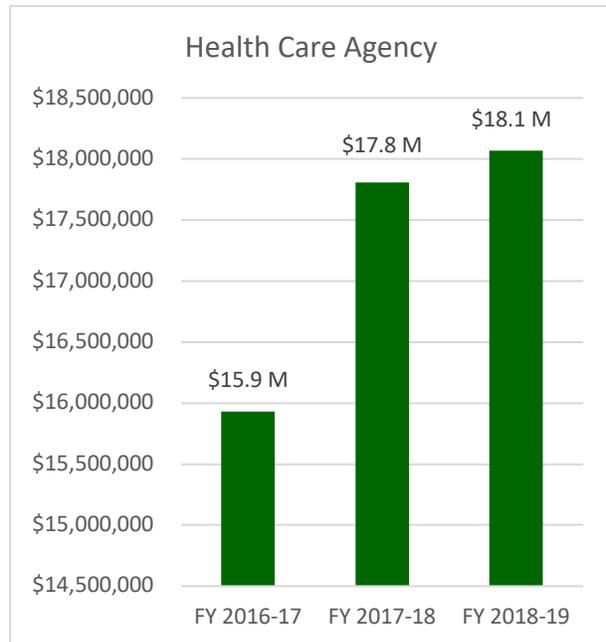


Figure IV-1:  
Health Care Agency Annual Allocation of  
AB 109 PSR Funding

**Description of Services: In-Custody**

Correctional Health Services (CHS) provides medical and mental health services to inmates in the County jails. Correctional Health Services does not track the number of AB 109 status of inmates while providing services. Tracking for AB 109 costs is a challenge for many reasons, including that an inmate’s medical care may often begin upon intake into the County jail facilities, prior to having an AB 109 conviction. Due to AB 109, County jail healthcare programs are now straddled with costs of treatment which previously were less costly and/or for a much shorter duration. For our analysis, we primarily utilized the Sheriff’s Department’s annual population numbers for AB 109 inmates, with the assumption that AB 109 receive treatments as frequently and average the same costs as the general inmate population from in-custody Correctional Health Services.

The OCCCP Annual Reports has reported on AB 109 activity via services provided to AB 109 inmates through outside specialty services since January 2016. Correctional Health has the ability to count the number of outside specialty services, by going back and manually reviewing the status of the patient at the time of the treatment. These services are provided to inmates by non-County contractors. The services delivered are then invoiced to the Health Care Agency per treatment administered. Figures IV: 2 – 4 show the number of emergency room visits, hospitalizations, and specialty clinic visits that are provided to inmates that are in addition to the primary care visits given by the in-house Correction Health Services workers in the jail clinics.

	FY 2016-17	FY 2017-18	FY 2018-19
<b>Emergency Room Visits</b>			
AB 109	58	34	38
All inmates	495	663	607
<i>Percentage of AB 109 treatments</i>	11.7%	5.1%	6.3%
<b>Hospitalizations</b>			
AB 109	30	20	20
All inmates	364	453	384
<i>Percentage of AB 109 treatments</i>	8.2%	4.4%	5.2%
<b>Specialty Clinics</b>			
AB 109	438	359	227
All inmates	1628	2170	2170
<i>Percentage of AB 109 treatments</i>	26.9%	16.5%	10.5%
<b>Total Specialty Treatments</b>			
AB 109	526	413	285
All inmates	2487	3286	3161
<i>Percentage of AB 109 treatments</i>	21.1%	12.6%	9.0%

Table IV-1  
Correctional Health Services Receiving Outside Services



Figures IV: 2 – 4

Emergency Room Visits, Hospitalizations, and Specialty Clinic visits by AB 109 inmates versus all other inmates

Figures IV:2-4 compares the number of AB 109 inmates to all other inmates receiving outside services. In two of the three years in which we evaluated outside services, AB 109 inmates received total outside services at levels similar to the general inmate population. Many AB 109 inmates, however, were receiving more specialty services, but made less

emergency room and hospital visits. During FY 2016-17, AB 109 inmates received proportionally more outside services than the general inmate population, when AB 109 inmates comprised of 11.2% of the inmate population, but received 26.9% of all of the specialty clinic services.

*In FY 2016-17, AB 109 inmates comprised of 11.2% of the inmate population, but received 26.9% of the specialty clinic services.*

In providing counts for AB 109 inmates for reporting purposes, Correctional Health Services reviews Sheriff booking records to determine if they are AB 109 inmates. Some of the records included counts of parole violations. For our analysis, we included counts to match the Sheriff-Coroner records for AB 109 inmates (SPOC, FLSH, and REVH) and eliminated other counts.

Mental health and substance abuse issues can also be addressed by Correctional Health Services for AB 109 clients. The County jail is in the process of creating in-custody modules for enhancing mental health treatment services. While the issue of increased mental health and substance abuse services are not singularly attributable to AB 109 inmates, detoxification of chemical and alcohol dependence can be treated effectively. However, it is not known if these mental and behavioral health treatments are more frequently or less frequently utilized by AB 109 inmates.

Counts and types of treatment for primary care visits to the in-house clinic have not been tracked for AB 109 inmates. Counting these services may enable the County to better track costs of services; however, because they have not been counted, we are only able to estimate the costs of the service based on services to the total inmate population.

### Financial Analysis: In-Custody

For the financial analysis of in-custody health services, we assumed that the health care costs of AB 109 inmates are similar to that of the rest of the County jail inmates, since In-Custody health services applies to the whole jail population and the type of health care offered does not depend on status. We could not analyze the actual cost of the services because the cost and frequency of the particular services by AB 109 inmates are not tracked by CHS.

Median Jail Population	FY 2016-17	FY 2017-18	FY 2018-19
2400 Count	6271	6266	6125
All AB 109 (SPOC, FLSH, and REVH)	686	677	716
<b>AB 109 Populations/2400 Count</b>	<b>10.9%</b>	<b>10.8%</b>	<b>11.7%</b>

Table II-4 (from section II Sheriff-Coroner Department)  
Comparison of AB 109 inmate populations in the County jails

From our analysis of the AB 109 revenues to the Correctional Health Service expenditures, we see that the AB 109 PSR funding revenue provided by CHS covers 17.8 – 19.7% of all correctional health expenditures, while the AB 109 inmate population is a smaller percentage of the in-custody population.

	\$ Millions	FY 2016-17	FY 2017-18	FY 2018-19
AB 109 Revenues (Dept Revenue Detail 6830 0122 for 3330 and 3360)	\$	12.4	\$ 13.9	\$ 13.7
Total Correctional Health Services Expenditures	\$	69.6	\$ 70.4	\$ 72.7
<b>AB 109 Revenues/Total Department Expenditure</b>		<b>17.7%</b>	<b>19.7%</b>	<b>18.8%</b>

Table IV-2  
AB 109 Revenues to Correctional Health Services Division Expenditures

We were able to utilize a weighted-average formula to expenditures for the AB 109 inmate population receiving outside services (specialty clinics, emergency rooms, and hospitalizations) in Table IV-3 below. These expenditures were shown in the budget detail as Professional/Specialized Services. The estimated share of health care expenditures of the AB 109 population from both the in-house jail clinics and the outside services was approximately \$8.0 – 10.0 Million for the last three years. Correctional Health Services received \$12.4 - \$13.7 Million in AB 109 PSR funding revenue, leaving an estimated \$2.4 - \$5.8 Million each year for other eligible AB 109 PSR funding expenses.

	in millions \$	FY 2016-17	FY 2017-18	FY 2018-19
Correctional Health Services Annual Expenditures	\$	69.6	\$ 70.4	\$ 72.7
Specialized Services (Outside providers)	\$	24.0	\$ 22.9	\$ 21.7
Net In House CHS Expenditures	\$	45.6	\$ 47.6	\$ 51.0
<b>% of AB 109 population in Custody Division (Table II-4)</b>		<b>10.9%</b>	<b>10.8%</b>	<b>11.7%</b>
Estimated AB 109 share of In House CHS Expenditures	\$	5.0	\$ 5.1	\$ 6.0
<b>% of Specialized Services received by AB 109 inmates (Table IV-1)</b>		<b>21.1%</b>	<b>12.6%</b>	<b>9.0%</b>
Estimated AB 109 share of Specialized Services Expenditures	\$	5.1	\$ 2.9	\$ 2.0
<b>Total estimated AB 109 (In House + Specialized Services) Expenditures</b>	\$	<b>10.0</b>	<b>\$ 8.0</b>	<b>\$ 7.9</b>

Table IV-3  
AB 109 Correctional Health Expenditures for % of Population

*Finding: There are no identifiable Net County Costs for the Correctional Health Services.*

## Description of Services: Post-Custody

Behavioral Health Services (BHS) for AB 109 clients are provided in partnership with the Probation Department. A DPO can make a referral to BHS for AB 109 clients to receive behavioral health services. A BHS AB 109 screener will seek to provide an assessment of the client and will offer to place those clients in an appropriate treatment program. The Probation Department can make several referrals for a single client, leading to a high annual caseload for referrals that exceed the actual number of AB 109 clients.

*The annual caseload of referrals from the Probation Department has regularly exceeded the number of annual new AB 109 clients to the Probation Department.*

The reporting and comparisons of referrals made to BHS and admission/placements to BHS programs were reported for the past two fiscal years, FY 2017-18 and FY 2018-19. Both years, over half of the referrals that BHS made for services to clients (66% and 52% respectively) resulted in admission into BHS funded programs. BHS staff noted that the low rate of admissions for clients, despite being approved for services, often is the result of the client not following through with receipt of the service. Multiple referrals for programs can be made for clients at any point during PCS and MS.

The majority of services provided by BHS for AB clients have primarily included both Outpatient and Residential Substance Use Disorder (SUD) Treatment, Recovery Residences, and Social Model Detox with a majority of the services offered to AB 109 clients are for treating substance abuse. For AB 109 clients struggling with mental health issues, BHS offers Outpatient Mental Health Services, Full-Service Partnerships, Mental Health Shelter Beds, and psychiatrist services.

*BHS services offered to AB 109 clients are primarily for the treatment of substance abuse (89.5% of offers to clients.)*

<b>BHS Admissions</b>	<b>FY 2017-18</b>	<b>FY 2018-19</b>
Outpatient SUD Treatment	534	296
Residential SUD Treatment	297	296
Recovery Residences	244	152
Social Model Detox	155	145
Outpatient Mental Health	85	55
Full-Service Partnership	17	28
Medical Detox	4	5
MH Shelter Beds	10	1
Methodone Detox	1	3
Methadone Maintenance	2	1
Clients seen by Psychiatrist	66	23
<b>Total</b>	<b>1415</b>	<b>982</b>

Table IV-4  
Admissions of AB 109 Probationers to BHS Programs

There exists a possibility that AB 109 clients could be receiving services from BHS without a referral from Probation, and thus are unknown to BHS as AB 109 clients. The Public Defender’s Office noted that they have provided referrals to BHS services from AB 109 inmates serving time as flash incarceration or waiting for revocation hearings. Because these services are referred from the Public Defender’s Office and not the Probation Department, they may not get counted as an AB 109 referral.

## Financial Analysis: Post-Custody

There are a variety of behavioral and mental health services available to AB 109 clients. HCA's AB 109 PSR funding is used where no other funding is available to provide needed services to this population. Where possible, BHS claims and collects Medi-Cal funds for services provided to eligible clients. AB 109 PSR funding is able to support some of the services provided to AB 109 clients that is not covered by Medi-Cal or other funding sources. There are a variety of funding sources available for Behavioral Health Services offered to AB 109 clients. Other significant sources of funds include: The Mental Health Service Act, 1991 Realignment Funds (for mental health programs), Medical Federal Financial Participation Funds, Drug-Medical Federal Financial Participation Funds, Substance Abuse Prevention and Treatment Block Grant, among other grants. Interviews with Behavioral Health Services managers noted that Net County Costs that are not covered by Medi-Cal or other grant programs is approximately 1% of the Division Expenses.

<b>Behavioral Health Services</b>	<b>FY 2016 - 17</b>	<b>FY 2017 - 18</b>	<b>FY 2018 - 19</b>
AB109 Clients (from Probation Referrals)	1,038	1,104	1,219
Total Correctional Health Services Recipients	37,418	40,301	40,276
<b>AB109 Clients/Total Population</b>	<b>2.8%</b>	<b>2.7%</b>	<b>3.0%</b>

Table IV-5  
Behavioral Health Services AB 109 Clients vs. All Department Clients

The HCA utilized excess BHS revenue from AB 109 PSR funding allocations for CHS AB 109 expenditures. Since FY 2018-19, AB 109 PSR funding has been allocated to the Health Care Agency rather than allocating AB 109 PSR funding separately to CHS and BHS. BHS has many funding sources for services to its clients with only 1 – 1.5% of the overall Unit's budget relying on Net County Costs. While AB 109 clients have been approximately 3% of its caseload and funds allocated to BHS have been between 1.4 – 2.2% of the allocation for the last three fiscal years, AB 109 expenditures have not exceeded its funding allocation.

	<b>\$ Millions</b>	<b>FY 2016 - 17</b>	<b>FY 2017 - 18</b>	<b>FY 2018 - 19</b>
AB 109 Expenditures	\$	3.6	\$ 3.9	\$ 4.3
AB 109 Funding Allocation	\$	6.9	\$ 5.1	\$ 6.2
Total Unit Expenditures	\$	316.1	\$ 371.2	\$ 408.8
<b>AB 109 Funding Allocation/Unit Expenditures</b>		<b>2.2%</b>	<b>1.4%</b>	<b>1.5%</b>

Table IV-6  
AB 109 Client Expenditures vs. Unit Expenditures

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*Finding: There are no identifiable Net County Costs for the Behavioral Health Services.*

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The Probation Department has noted that HCA charges the Probation Department for their Mental Health and Alcohol & Drug Assessment staff in addition to the cost of Recovery Residences and bus passes provided to PCS and MS clients from the AB 109 Field Services Division. The costs of the services over the past three years are shown in Table IV-7.

DESCRIPTION	FY 2016-17	FY 2017-18	FY 2018-19
AMHS Outpatient Assessment Staff (MH AB109)	\$ 270,951	\$ 331,683	\$ 332,491
Alcohol & Drug Abuse Assessment Staff	\$ -	\$ 239,541	\$ 105,970
Alcohol & Drug Abuse Sober Living Agreements	\$ 572,077	\$ 358,758	\$ 367,000
Alcohol & Drug Abuse Bus Passes	\$ -	\$ -	\$ 1,710
<b>Total Cost Apply to Probation/AB 109 Field Services Division</b>	<b>\$ 843,028</b>	<b>\$ 929,982</b>	<b>\$ 807,171</b>

Table IV-7  
Cost Apply for Services to AB 109 Field Services Division

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*Finding: While HCA receives AB 109 PSR funding for AB 109 service provision, they have also additionally utilized a cost apply for BHS to the AB 109 Field Services Division.*

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## Recommendations

We realize that our analysis utilizes estimates of the funds expended on the AB 109 populations served by the HCA. While the HCA currently does not have the ability to track costs of AB 109 clients, should the County desire to have more accurate data, we would encourage the Health Care Agency to add information while providing patient services that would allow for the tracking of AB 109 patient expenses.

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*Recommendation IV-1: Add data field for flagging all current patients as AB 109 persons for improved tracking of all medical care costs.*

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Medical care costs have been increasing across the board. In CHS, it is difficult to assess whether much of the cost increases is due to AB 109 inmates or the general jail inmate population. The costs associated with specialized services and prescription medications can vary greatly. It is difficult to determine the costs for specialty clinic visits and difficult to account for all the costs without differentiating the costs by types of treatment, such as for dialysis and radiology since CHS does not currently track the costs for services specifically to AB 109 inmates.

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*Recommendation IV-2: Improve partnerships between with in-custody and post-custody medical and mental health services to provide services that could begin in-custody and continue post-custody.*

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A majority of services provided by BHS are funded through other revenue streams. Developing program treatments that begin in-custody and continue as post-custody treatments may help reduce recidivism by providing consistent community point of contacts. Currently, much of the medical and mental health services that begin in-custody need to be individually sought post-custody, generally without much community support post-custody. BHS has a peer navigator for the County jails that works with a CHS nurse to review discharge plans and connect inmates to services post-custody. Prior to release, CHS staff are able to provide resources and links to needed services. Despite some assistance

prior to release from custody, the responsibility remains with the client to pursue and navigate County services and treatments, once post custody.

Substance abuse programs, which are often addressed during incarceration, could potentially be assessed and, if needed, be continued subsequent to release from jail, providing a better management of health care needs between in-custody and post-custody. A program from one of the benchmarked counties, Los Angeles County has begun utilizing this form of care by developing a Pre-Release Video Conferencing program utilized by probation officers and the Los Angeles County Department of Mental Health (DMH). Clinical staff from DMH assess the inmates' needs and review medical information--such as medications and past hospitalizations--in order to create an aftercare plan. By initiating contact with the individual before his or her release, local agencies such as DMH can better prepare to meet the needs of individual inmates. Moreover, local agencies and other service providers can proactively make arrangements to ensure that upon release, the individual will be linked to needed services.

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*Recommendation IV-3: Utilize HCA AB 109 PSR funding for PCS and MS clients for Behavioral Health Services.*

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Behavioral Health Services had been allocated AB 109 PSR funding that has not been fully expended by services to AB 109 clients. BHS has also charged a cost to the Probation Department for AB 109 Field Services Division for Assessment Services, Recovery Residences and bus passes despite receiving AB 109 PSR funding to service AB 109 clients. HCA additionally receives a direct allocation of Realignment Funds for Mental Health Services, separate from the PSR allocation. We recommend that HCA not require a reimbursement from the Probation Department for AB 109 services being rendered to PCS and MS individuals and utilize the funds available through HCA's AB 109 PSR funding allocation.

## Description of Services

The Orange County District Attorney's (OCDA) office is the chief prosecutor for the County. As such, they are responsible for the prosecution of probation and parole violators. Individuals caught for simple violations can receive flash incarcerations that do not require hearings. For more serious violations, Probation can request a probation revocation. Those cases are brought to the OCDA to process for a revocation hearing.

While Probation's quarterly reports to the OCCCCP note that there are warrants for a third of all PCS and MS clients not being actively supervised, not all of the warrants result in necessary action from the OCDA. OCDA tracks AB 109 expenses for revocation hearings, which includes parole, PCS, and MS violations. The definitions for the AB 109 population utilized by the Sheriff's Department and Probation Department do not include parole violators. In 2013, the state mandated that counties begin to manage the administration of parole violations for the California Department of Correction and Rehabilitation (CDCR). Because of the similar court processes of probation revocation petitions and hearings, OCDA also counts parole violators with PCS and MS violations for OCCCCP reporting.

Within the OCDA's Office, the Prosecution Operations I Division manages the Branch Court Units, which through the Central Justice Center, has a dedicated unit that supports submission of petitions for revocation of PCS and MS violations. While OCDA has reported on the number of petitions and hearings to the OCCCCP Quarterly and Annual Reports, these case numbers are more relevant to the District Attorney and Public Defender Subaccount (Subaccount) that is a separate state realignment funding source from the countywide shared AB 109 PSR funding. The Subaccount is a source of dedicated funding for revocation hearings for parole, PCS, and MS violators while the AB 109 PSR funding is for other AB 109 realignment activities.

The reporting of revocation petitions and hearings for the OCDA's report to the OCCCCP has created a false sense that the AB 109 PSR funding allocated to the OCDA is utilized for the revocation cases.

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*Finding: Revocation petitions and hearings have been reported to the OCCCCP as evidence of AB 109 PSR funding activities for Annual Reports, despite having a separate source of funding revenue for revocation activities.*

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Within the DA's Office, they have recently formed a Recidivism Reduction Unit (RRU) that addresses the issues of reducing the number of individuals that come through the OCDA's Office for multiple probation or parole violations as well as and new crimes. The Probation Department has regularly reported that a third or more of those probationers on PCS and MS are missing from active supervision. While the OCDA is not immediately involved in those missing from active supervision, having a large number of PCS and MS in the community that are not being actively supervised can lead to new crimes, especially for

PCS and MS who tend to be high-risk probationers. New crimes require investigation and prosecution by the OCDA. The OCDA has not reported the number of new crimes of current PCS and MS.

## Financial Analysis

Over the past few years, the OCDA’s Office has been allocated 1% or less of the AB 109 PSR funding. The allocation of the annual funds is noted in Figure V-1. OCDA also receives additional funding from the State for processing revocation hearings. Our financial analysis utilizes actual revenue reports received from OCDA. These reports include Community Partnership AB 109 PSR funding allocations along with drawdowns from the Realignment funding from the District Attorney and Public Defender Subaccount (Subaccount).

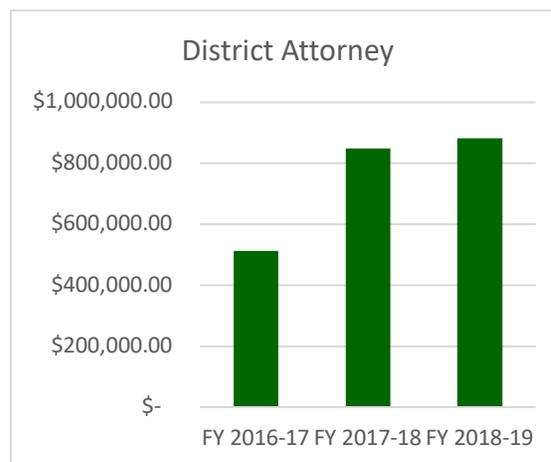


Figure V-1  
Annual Allocation of AB 109 PSR Funding for the OCDA

In all of the annual reports of the OCCCP, OCDA described their AB 109 activity by the number of PCS, MS, and parole violation caseloads for AB 109 revocation petitions and hearings. While these are AB 109 activities, there is a separate funding source dedicated to revocation hearings separate from AB 109 PSR funding. *“The District Attorney and Public Defender Subaccount and the District Attorney and Public Defender Growth Special Account, shall be used exclusively to fund costs associated with revocation proceedings involving persons subject to state parole and the Postrelease Community Supervision Act of 2011 (Title 2.05 (commencing with Section 3450) of Part 3 of the Penal Code), and may be used to fund planning, implementation, and training costs for those proceedings (Local Revenue Fund 2011).”* Because of this purpose of the Subaccount and the dedicated source for revocation petitions and hearings, AB 109 PSR funding should not be used towards this activity as long as the Subaccount funding is sufficient to fund all of the revocation activities, including investigations and filing of petitions.

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*Finding: OCDA combines AB 109 PSR funding and the Subaccount funding in its budget revenues (Revenue Object 6830 0000), despite the Subaccount funding having a dedicated purpose.*

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OCDA tracks job code numbers for expenditures in the Department’s AB 109 Cost Summary worksheet. CEO Budget office separately tracks funding for the Subaccount, which is shared with the Orange County Public Defender (OCPD). In the Department revenue sources, OCDA has combined Subaccount and AB 109 PSR funding revenue to fund these AB 109 court activities.

Our analysis, partially shown in Table V-1 below, has found that while the AB 109 PSR funding may have incurred Net County Costs in FY 2014-15 and FY 2015-16 due to

caseloads as a result of Proposition 47, involving changing felony convictions to misdemeanors, the current allocation of AB 109 PSR funding has provided excess funding for other eligible public safety activities of the OCDA not directly related to AB 109 clients.

DESCRIPTION	FY 2016 - 17	FY 2017 - 18	FY 2018 - 19
<b>AB109 Revenues (from OCDA)</b>	<b>\$ 1,508,262</b>	<b>\$ 1,627,798</b>	<b>\$ 2,291,939</b>
Subaccount Revenues (from CEO/Budget)	\$ 1,031,068	\$ 1,242,084	\$ 1,376,593
Revocation Expenditures (DA0079)	\$ 872,055	\$ 712,449	\$ 894,123
<b>Net Subaccount Revenues</b>	<b>\$ 159,013</b>	<b>\$ 529,635</b>	<b>\$ 482,470</b>
PSR Funding Revenues (from CEO/Budget)	\$ 512,936	\$ 848,017	\$ 881,410
Other Realignment (non-revocation) Expenditures (DA0081)	\$ 994,393	\$ 793,021	\$ 500,365
<b>Net PSR Funding Revenues</b>	<b>\$ (481,457)</b>	<b>\$ 54,996</b>	<b>\$ 381,045</b>
<b>AB 109 Revenues for other OCDA Public Safety Activities</b>	<b>\$ (322,443)</b>	<b>\$ 584,631</b>	<b>\$ 863,515</b>

Table V-1

Analysis of OCDA AB 109 Revenues from Funding Sources with Activity Expenditures

The scope of work for this Performance Audit only includes AB 109 PSR funding. While Subaccount funding may have been utilized for non-revocation purposes, we also note that while there has been an excess of AB 109 PSR funding to departmental AB 109 expenditures. In other departments we have noted that the excess could be used for departmental administrative costs; however, OCDA's AB 109 Cost Summary also includes indirect costs. We also note that AB 109 PSR funding is eligible for any public safety expenditures, which activities within the OCDA meet this requirement.

The OCDA's Bureau of Investigations has also recently taken the lead in developing an AB 109 Task Force. This multi-agency task force, includes the Probation Department and the Santa Ana police department. It was formed to track increases in crime by AB 109 current and former participants. In order to fund this new AB 109 Task Force, OCCCCP allocated special, one time funding for two Investigators and one Research Analyst from the OCDA's Office, as well as one Deputy Probation Officer from the Probation Department starting in FY 2020-21. The expenditures of the AB 109 Task Force should be tracked and reported to the OCCCCP on future AB 109 PSR funding allocation activities.

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*Finding: While there have been Net County Cost in FY 2014-15 and FY 2015-16, there are currently no identifiable Net County Cost for the District Attorney's Office for PCS and MS (non-revocation) activities.*

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While we have found evidence for the use of Net County Cost for AB 109 activities in FY 2014-15 and FY 2015-16 due to the passage of Proposition 47, there is no evidence of the use of Net County Cost since then. New violations and the County costs for prosecuting those new crimes committed by current and former AB 109 probationers are an unknown factor to AB 109 costs to the OCDA. A study on recidivism for the County would likely provide better answers on new violations of AB 109 inmates and probationers than is currently known. Expenditures for the prosecution of new crimes for PCS and MS should be continued to be monitored for possible needs for AB 109 PSR funding allocations. The

expenditures for the RRU should be also be monitored in order to potentially allocate AB 109 PSR funding for the unit as part of the OCDA funding allocation.

## Recommendations

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*Recommendation V-1: OCDA should utilize two subcodings for AB 109 PSR funding, one for the Subaccount and one for the AB 109 PSR funding and provide reports to OCCCP for AB 109 PSR funding activities separate from revocation petition and hearings.*

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Currently, OCDA combines the two separate revenues under one revenue code, making it difficult for the OCDA to accurately track the two revenue sources and the separate activities, and blurring costs needed to justify the use of the AB 109 PSR funding and Subaccount funded activities. OCDA's reporting on revocation petitions and hearings to the OCCCP are relevant to the Subaccount, but not the AB 109 PSR funding allocation. These funds should be recorded separately and thus reported separately and utilized for its intended purposes.

The Subaccount should be utilized for revocation hearings and drawn down for expenditures for Job No. DA0079, AB 109 Specific – Revocation Hearings, as is the legislative intent for the Subaccount. The revocation petition and hearing activities should not be reported in the OCCCP Quarterly and Annual Reports, but should be required for separate Subaccount reporting to CEO/Budget who manages the Subaccount. The Subaccount should not be utilized for other AB 109 activities.

OCDA should report on activities for Job No. DA0081 – Generic Realignment Services to the OCCCP. Activities for OCDA for these activities were severely impacted in 2014 due to Proposition 47, which reduced many criminal acts from felonies to misdemeanors, requiring a significant caseloads and expenditures for FY 2015-16. The activities for Job No. DA0081 have dropped in activity since then, with SB 266 (2016) allowing the use of flash incarcerations for processing probation violations. Moving forward, activities for the OCDA's Recidivism Reduction Unit should be monitored and reported to the OCCCP for OCDA AB 109 PSR funding activities.

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*Recommendation V-2: Continue to utilize a separate job number for expenditures related to AB 109 that are not related to revocation hearings, including the addition of RRU activities.*

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Expenditures related to the RRU and the prosecution of new crimes by MS and PCS individuals should be monitored by OCDA for possible needs for future AB 109 PSR funding allocation requests.

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*Recommendation V-3: CEO/Budget should provide training to new financial managers for all Public Safety Realignment funds.*

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New financial managers of any department that manages Public Safety Realignment funds should be briefed on the different purposes and uses of those funds. This is particularly

important for the departments that receive multiple sources of Public Safety Realignment funds so that funds and uses are not co-mingled.

**Description of Services**

The Orange County Public Defender’s Office (OCPD) provides representation to those individuals in need of legal representation in criminal or mental health cases but are unable to afford a private attorney. OCPD’s Recidivism Reduction Unit (RRU) offers services to the AB 109 population (PCS and MS) as well as the County’s parole population, typically when they are in-custody at the County jail during a flash incarceration or other in-custody probation violation. Clients can also be referred to the RRU, through word of mouth while in-custody, from Day Reporting Centers, and substance use disorder (SUD) programs through the Health Care Agency.

New Cases Opened	FY 2017-18		FY 2018-19	
	Cases	% of Total Adult Supervision Cases	Cases	% of Total Adult Supervision Cases
Post Community Supervision	1,881	56.6%	2,011	59.1%
Mandatory Supervision	779	23.4%	696	20.5%
Parol/State Supervision	662	19.9%	695	20.4%
Total	3,322	100.0%	3,402	100.0%

Table VI-1  
New Cases Opened in OCPD by Population Type

The OCPD RRU has three dedicated attorneys. They offer assistance to clients who have violated their PCS, MS, or parole requirements as shown in Table VI-1 above. In addition to legal assistance for revocation hearings or other legal assistance, they have also found that many AB 109 clients and parole violators also need a variety of non-legal assistance in order to navigate life in the County. These needs include assistance for substance abuse, medical needs, housing needs, as well as resources for employment such as cell-phones and IDs. While these clients have likely been referred for similar services from their DPO, they may not have followed through with receiving the services. In addition to providing clients with legal services, OCPD seeks to offer personal assistance to help their client gain access to other County programs and services where Probation typically provides a referral. Because of the frequent request for assistance to non-legal services, OCPD has requested the addition of social service workers to assist in providing these additional services.

Since June 2019, the OCCCCP additionally funded the OCPD’s Recidivism Reduction Advisors (RRA) pilot project where two social services workers visit the County jail facilities or other County agencies to provide individualized assistance to those waiting for petitions for their probation and parole violations. This pilot project has enabled increased outreach, resulting in being able to providing support services for twice as many clients prior to the pilot project, averaging 26 clients/month in 2020. Because the RRA has brought OCPD services into the County jail facilities as well as outreach through the Day Reporting Centers, it has also allowed for the increasing of awareness of resources and services to clients at a rate of over four times than before. Clients are often hesitant to request services of their DPO or Parole Officer for fear of being reported for a violation.

Frequent changes in legislation have continually impacted the workload of the AB 109 RRU in OCPD since the passage of AB 109 in 2011. Proposition 47 in 2014 implemented changes to felony law and many AB 109 inmates and probationers sought to have their felony sentences changed to misdemeanors that have requested OCPD representation. AB 1115 in 2017 expanded expungement relief for clients who were previously sentenced to state prison to have their guilty convictions withdrawn and dismissed if they would have qualified under the 2011 Public Safety Realignment. These legislative changes have increased the caseloads for the OCPD's RRU as current and former AB 109 inmates and probationers, seek to overturn felony convictions. This significantly increased the caseloads for the RRU. Should AB 109 felony sentenced be reduced to misdemeanors, the County should see cost savings from reducing days sentenced in County correctional facilities, cost reduction to Correctional Health for any medical and mental health programs received in a correctional facility, and possibly a reduction to Probation supervision costs. A successful reintegration back into the community would reduce the costs of public safety.

### Financial Analysis

Over the past few years, the Public Defender, like the OCDA, has been allocated 1% or less of AB 109 PSR funding. The allocation of the annual funds is noted in Figure VI-1. Our financial analysis utilizes AB 109 actual revenues from OCPD, rather than these allocation figures from the OCCCP Annual Reports of the allocations to the State. The AB 109 revenues provided by the OCPD are different from the CEO Budget PSR funding revenue records.

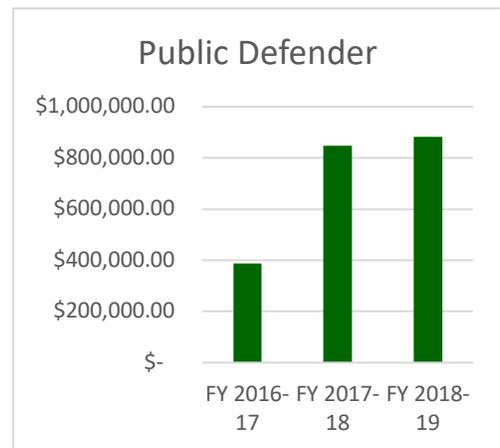


Figure VI-1  
OCPD Annual Allocations of  
AB 109 PSR Funding

The OCPD's RRU has three dedicated attorneys and they also utilize other attorneys and staff when needed. The workload of other OCPD staff and resources are not tracked by the Department. The AB 109 OCPD caseloads are as reported in the OCCCP Annual Reports. (The number provided for FY 2016-17 is from the 2016 Annual Report.) The AB 109 caseloads also include parole caseloads that require similar services to the PCS and MS cases.

Public Defender Caseloads	FY 2016 - 17	FY 2017 - 18	FY 2018 - 19
AB109 Public Defender Caseload	2,617	3,313	3,402
Total Public Defender Caseload	66,000	62,000	60,000
<b>AB 109 cases/Total Department cases</b>	<b>3.97%</b>	<b>5.34%</b>	<b>5.67%</b>

Table VI-2  
Caseloads of AB 109 to all Department Caseloads

	\$ Millions	FY 2016 - 17	FY 2017 - 18	FY 2018 - 19
Recidivism Reduction Unit Budget	\$	0.44	\$ 0.81	\$ 0.91
AB109 Revenues Received	\$	0.39	\$ 0.85	\$ 0.91
Total Public Defender Expenditures	\$	71.99	\$ 74.90	\$ 76.79
<b>AB109 Revenue/Total OCPD Expenditures</b>		<b>0.54%</b>	<b>1.13%</b>	<b>1.19%</b>

Table VI-3

Comparative AB 109 Revenue to Total Department Actual Expenditures

The caseload of the AB 109/RRU unit is approximately 3-6% of the caseload for all of the department, however, the allocated and received AB 109 PSR funding amounts to only 1% of the revenue for the department. Because OCPD relies on Net County Costs for 94% of the funding, there is potential that some Net County Costs are being utilized for AB 109 costs. The financial statements from the OCPD noted that they do not track specific AB 109 expenditures. In addition to the RRU, an AB 109 client can be involved in Assisted Intervention Court, Drug Court, Veterans Court, Homeless Outreach Court, Whatever It Takes court (WIT), Military Court, Opportunity Recovery court, etc. These additional court costs have not been tracked as AB 109 expenditures.

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*Finding: There are no identifiable Net County Costs for the Public Defender, however, because the department relies on 94% of Net County Costs and does not track AB 109 services beyond the RRU, we find that there is potential for their AB 109 caseload to be utilizing Net County Costs in addition to the AB 109 PSR funding.*

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## Recommendations

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*Recommendation VI-1: Track AB 109 expenditures by budgeting an RRU unit and activities within the Public Defender's Office.*

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Currently, OCPD does not specifically track the total costs of serving its AB 109 clients. It is unknown if OCPD's allotment of AB 109 PSR funding is sufficient for AB 109 client expenditures. Any tracking of staff and other expenditures allocated to AB 109 clients would allow the County to gain a better understanding of the actual costs associated with managing AB 109 clients. Any specific expenditures by the RRU for the AB 109 caseloads related to revocation hearings should be separately tracked for the District Attorney and Public Defender Subaccount to draw down eligible revenue from the Subaccount.

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*Recommendation VI-2: Enhance the RRA program to provide social service workers to AB 109 inmates as well as PCS and MS to manage their re-entry process.*

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The development of an RRA pilot program has demonstrated that there is a need for clients to have individualized assistance in order to be able to access the existing programs of the County. The OCPD attorneys are more suited to helping prepare for hearings and filing legal documents than providing access to social services. The current social service workers in the Recidivism Reduction Advisors (RRA) in OCPD's RRU, allow the attorneys to focus

on the legal issues while the advisors can help to direct the clients to available programs. While the AB 109 client may have been told about the programs and provided referrals, the OCPD RRAs are able to provide more personal attention, helping the client to fill out paperwork or make community connections for the client.

The County has other access points to provide this level of assistance and may find it more cost effective to provide RRAs to AB 109 clients prior to accessing OCPD services prior to returning to County jail due to a flash incarceration or a revocation hearing. Should RRAs be accessible prior to the completion of jail sentence or any time during supervision with Probation, it would make it less likely for an AB 109 client to violate their supervision because of a basic need for food, housing, communication, or transportation. RRAs would be able to help with navigating life after serving a sentence.

## VIII. OTHER COUNTY DEPARTMENTS

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County services, such as the Social Services Agency and OC Community Resources are available to anyone who lives in the County, including AB 109 adult offenders. While in custody, many services that an AB 109 inmate had previously, such as Medi-Cal, food, housing, or other social services and programs, would have been cancelled and would need to be reapplied. After reentry into the community, the applications would require review. Interviews with managers from OC Community Resources and the Social Services Agency note that they are constantly receiving applications for eligible services for anyone in the County and that the managers are not aware of any significant differences in workload due to the passage of AB 109 in 2011.

Other County departments do not identify or count AB 109 adult offenders. We also find it likely that pre-AB 109, the County would still need to accommodate the inmates reentering the community from state prison for the same crimes therefore not impacting the total number of applicants. While there may be a few more applications of services directed through the Day Reporting Centers or the Public Defenders' RRU unit, it was noted that a few hundred applications are a "drop in the bucket" compared to the number of applications the departments process each year for the County.

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*Finding: Since the same AB 109 individuals under supervision in the community would have been serving parole supervision in the community, there are no identifiable Net County Costs for other County Departments.*

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## Appendix I – List of Recommendations

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II-1: Utilize current AB 109 PSR funding to implement additional services and programming for intervention in the Custody Division.	17
III-1: Enhance staffing in the AB 109 Field Supervision Division.	24
III-2: Enhance programming in the AB 109 Field Services Division by providing additional connections to community services.	24
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IV-1: Add data field for all current AB 109 persons for improved tracking of all medical care costs.	33
IV-2: Improve partnerships between with in-custody and post-custody medical and mental health services to provide services that could begin in-custody and continue post-custody.	33
IV-3: Utilize HCA PSR funding for PCS and MS clients for Behavioral Health Services.	34
V-1: OCDA should utilize two subcodings for AB 109 PSR funding, one for the Subaccount and one for the PSR funding and provide reports to OCCCP for PSR funding activities separate from revocation petition and hearings.	38
V-2: Continue to utilize a separate job number for expenditures related to AB 109 that are not related to revocation hearings, including the addition of RRU activities.	38
V-3: CEO/Budget should provide training to new financial managers for all Public Safety Realignment funds.	38
VI-1: Track AB 109 expenditures by budgeting an RRU unit within the Public Defender’s Office.	42
VI-2: Enhance the RRA program to provide social service workers to AB 109 inmates as well as PCS and MS to manage their re-entry process.	42

## Appendix II – Lists of Interviews and Documents

### LIST OF INTERVIEWS

- CEO/Public Protection Budget
  - Kim Engelby, Public Protection and Community Services Manager
  - Oana Cosma, Public Protection Budget Manager
  - Dat Thomas, Budget Support Analyst
- Sheriff's Department
  - Brian Wayt, Administrative Services Command
  - Patrick Rick, Theo Lacy Facility Captain
  - Greg Boston, Inmate Services Director
  - Martin Ramirez, Intake Release Center Captain
  - Joe Balicki, Custody Services Commander
  - Lisa Von Nordheim, Central Jails Captain
  - Noma Crook, Financial/Administrative Services
  - Ryan Van Otterloo, Budget Officer
- Probation Department
  - Sue Delacy, Chief Deputy Probation Officer
  - Stacey McCoy, AB 109 Division Director
  - Cheryl Sannebeck, Research Analyst
  - Jon Baello, Research Analyst
  - Marya Forster, Research Manager for Probation
  - Steve Sandoval, AB 109 Assistant Division Director
  - Kim Olgren-Potter, Budget Manager
  - Dana Schultz, Division Director - Administration and Fiscal Division
  - Nancy Ehlers, Budget Analyst – Adult Operations Bureau
  - Day Reporting Centers/GEO Group
    - Alejandra Martinez, Program Manager at the Santa Ana DRC
    - Maribel Contreras, Program Manager at the Westminster DRC
    - Jessica Mazlum, Partnership Development for GEO Group
- Health Care Agency
  - April Thornton, Program Manager
  - Chi Lam, Collaborative Services
  - Erin Winger, Correctional Health Services, Deputy Agency Director
  - Joanne Lim, Correctional Health Services, Chief of Operations
  - Anthony Le, Administrative Manager for Financial Services
  - DeeDee Franks, Financial Services Manager
- District Attorney
  - Glenn Robinson, Acting Director of Administration
  - Jess Rodriguez, Deputy District Attorney
  - Kalpana Chakrabarti, Budget Manager
  - John Follo, Bureau of Investigations Commander
- Public Defender
  - Sharon Petrosino, Public Defender

- Frank Bittar, Assistant Public Defender
- Laura Jose, Sr. Assistant Public Defender
- Peter Perera, Administration and Finance Manager
- Community Services
  - Kathleen Reza, Manager of OC Community Services
  - Lillian Naruda, Grants and Programs Administration
  - Erica Danza – Veterans Office
  - Eddie Falcon – Veterans Affairs
- Social Services Agency
  - Mike Edmundson, Deputy Division Director of Assistance Programs Operations & Policy Team

## DOCUMENTS AND DATA

American Probation and Parole Association Caseload Standards, American Probation and Parole Association, 2006.

Board of State and Community Corrections various data (bscc.ca.gov)

California State Association of Counties & County Administrative Officers Association of California: Realignment Allocation Committee. ***Final Recommendation of the Realignment Allocation Committee (RAC) Distribution of AB 109 Funds: Community Corrections and District Attorney/Public Defender Subaccounts 2014-15 and beyond. Briefing Packet – Updated September 2015.***

FY 2019-20 Community Corrections Partnership Survey: Reports from California Counties (bscc.ca.gov)

Orange County Recommended Budget (FY 2014-15, 2015-16, 2017-18, 2018-19, & 2019-20)

Orange County Public Safety Realignment and Postrelease Community Supervision: 2011 Implementation Plan

Orange County Public Safety Realignment and Postrelease Community Supervision: 2013 Update Report

Orange County Public Safety Realignment and Postrelease Community Supervision 2014 Update

Public Safety Realignment in Orange County: The 4<sup>th</sup> Annual Report 2015

Public Safety Realignment in Orange County: 5<sup>th</sup> Annual Report 2016

Public Safety Realignment in Orange County FY 2017-18 Annual Report

Public Safety Realignment in Orange County Annual Report FY 2018-19

By-laws of the Orange County Corrections Partnership

Orange County Grand Jury Report 2014-15 ***AB 109 Offenders: Are Current Probation Strategies Effective?***

Orange County Probation Department Day Reporting Center Status Report 2017 (May 2018)

Orange County Day Reporting Center Status Report (February 2020)

Turner, Susan; Fain, Terry; and Hunt, Shirley. ***Public Safety Realignment in Twelve California Counties.*** RAND Corporation. 2015.

***Realignment 101: The Basics of 1991 and 2011 Realignment*** (www.csacinstitute.org)

***Realignment 301: Fund Flows in Public Safety Realignment*** (www.csacinstitute.org)

## Appendix III – Glossary of Terms

**PC 1170 (h)** Penalty Code felony conviction for non-serious, non-violent, and non-sexual offenses

**AB 109** Public Safety Realignment Act of 2011 that moved responsibility for those convicted of lower level felonies to serve time and be supervised at the County level

**DPO** Deputy Probation Officer

**DRC** Day Reporting Center

**HCA** Health Care Agency

**LLE** Local Law Enforcement

**MS** Mandatory Supervision - Felony conviction sentence that includes time served in County Jail with time supervised by County Probation after County Jail. Can also include only time supervised by County Probation.

**OCCCP** Orange County Community Corrections Partnership

**OCDA** Orange County District Attorney

**OCPD** Orange County Probation Department

**PC** Penal Code

**PCS** Postrelease Community Supervision – Supervision at the County level after release from State Prison

**AB 109 PSR funding** Community Corrections Public Safety Realignment allocated funding for AB 109 services