



# The State Coalition of Probation Organizations

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## Response to the

### LAO Proposed Alternative Budget – Parole Realignment

#### **Summary**

On January 10, 2008, Governor Schwarzenegger released his proposed budget. To trim more than 14 billion dollars from the budget, the Governor proposed a 10% across-the-board cut to all departments and services and an early release program for certain state prison inmates. In response on February 20, 2008, the Legislative Analyst, Elizabeth Hill, released a proposed alternative to the Governor's budget that would target programs and departments based on perceived importance and priority. This was considered a more sound approach to resolving budget issues.

One specific change the LAO proposes is the transfer of 71,000 low-level parolees to local level supervision by county probation departments. The LAO also proposes a "new" funding stream equal to the current cost of supervising the parolees by CDCR parole agents. As added incentive the LAO would add another 12 million dollars (totaling 495 million dollars) to assist in creating and maintaining programs suited toward parolees. Funding for parole realignment would come from a reallocation of waste and water district property taxes, city Proposition 172 sales taxes, vehicle license fees and other sources.

Although the LAO strongly believes that parole realignment is a necessary component of their alternative budget, the lack of a true, guaranteed funding stream coupled with an unclear understanding of the disparate differences between parole and probation supervision and clientele leave the proposal somewhat wanting as a realistic solution.

On February 29, 2008, Brian Brown, Senior Fiscal & Policy Analyst with the LAO met with SCOPO representatives from around the state. During that frank discussion, 6 specific concerns were raised regarding the proposal. Mr. Brown was forthcoming in answers and SCOPO appreciates his time and expertise in answering the concerns of the representatives. The following response from SCOPO is based on these discussions.

#### **Projected 71,000 Parolees to Return to Local Supervision**

As of April 2008, there are 129,000 California parolees. The LAO believes about 52percent or 71,000 so-called low-level parolees can be returned to local supervision. Accordingly, this would increase probation caseloads by an average of 25 percent. Current caseloads for deputy probation officers range from 25-500 probationers or more, depending on the crimes charged and level of supervision required. There is a question of what the term "low-level" means. When queried, the LAO allowed that only the *current offense would be used* to determine a parolee's eligibility for realignment. SCOPO believes this method of determining eligibility is flawed.

Most parolees are multiple offenders who have, more than likely, been in the system for some time. Many parolees may be completing a sentence for a non-violent property or drug crime when, in fact, they have a long history of violent or predatory activity. To look only at a parolee's current charge would unnecessarily endanger the public as well as probation peace officers. If the LAO were to revise the eligibility requirements to include total criminal history and include adequate psychological evaluations, SCOPO believes the number of parolees eligible for realignment would be substantially lower and the cost-per-parolee supervision substantially higher.

#### **A Question of Administration**

The LAO proposes to transfer the parolees and provide a commensurate amount of funding based on the belief that these parolees will return to the local counties anyway and local resources could be used to better assist them in transitioning to the community. With an increase of 25 percent on each caseload, the resources that probation officers rely on for their clients would be overwhelmed and would simply shut down. This would leave probationers, who truly have the best chance for success in a community rehabilitation program, with degraded programs or loss of resources.

The LAO believes that increased funding will allow for hiring and training of additional probation officers to offset the 25 percent increase in clients. In today's climate, that is not likely. There are currently more than 10,000 vacancies in law

enforcement positions throughout the state. The number of prospects who actually qualify is substantially less and all law enforcement agencies draw from the same pool of applicants. A prospective peace officer applies to multiple agencies for employment and takes the best job offered. That is usually not a probation peace officer position. Although there is a possibility that parole officers released from the state may logically apply to counties, it might be useful to provide a “transition” of those officers to local control. Pay and benefits parity would be an issue.

The LAO believes that the state will simply hand over control of funding and administration to the counties and allow the counties to handle the issues themselves. Historically the state, when doling out money, has kept their hand in oversight and administration, requiring reporting of spending as well as outcomes. In realignment, complete local control would be essential as county governments would be hesitant to accept any other arrangement.

### **Officer Safety – an Essential Aspect**

In California, almost all parole agents are armed, reflecting the relative danger of the clientele they supervise. Conversely, most probation officers are not armed in this state. The penal code leaves the arming of probation peace officers up to the individual chief probation officer of each county. Only 6 counties arm all officers and 12 counties do not arm any officers (*source: 2003 Arming Survey, CPOC*). In fact Marin County does not provide any equipment whatsoever to its officers.

If they are to take on a parole population, probation officers cannot continue to rely on the cooperation of overburdened police and sheriffs departments’ protection to be able to function in their jobs. It is critical that careful planning of the release of these parolees to probation correlates with adequate staffing, training and increase of safety equipment. The Chief Probation Officers of California, a quasi-governmental sanctioned association of which every chief probation officer is a member, emphasizes the prerogative of every chief to make a determination of arming in their county. If left alone, mandated arming is not likely to happen. Many chiefs simply do not believe their personnel should be armed. As part of the realignment process, state-mandated arming of probation officers would be necessary.

### **No Guaranteed Funding Stream**

One of the most confusing aspects of the proposal is the funding stream and the savings to be realized from the realignment process. The LAO proposes that “new” funding streams would come from “a reallocation of waste and water district property taxes, city Proposition 172 sales taxes, and vehicle license fees” (*Source: LAO 2008 Perspectives and Issues*). The first question is, if there is new funding to be had, why not just use it at the state level using qualified parole agents who already have the expertise with the specific clientele? The LAO’s view is that the parolees would be better served at the local level, regardless of funding streams. If probation is to take over supervision of parolees, a better method to guarantee success would be to directly transfer the funding now used by the state to supervise these parolees, to the counties. The state would still realize substantial savings through reduced recidivism.

Even with a guarantee, the proposed funding stream is not realistic. Most counties do not allocate any Prop 172 money to probation departments. The lion’s share of that money is allocated to sheriff and fire departments, neither of whom would be willing to give up that source. Other prospective funding is just as unlikely. The LAO suggested Prop 36 funding, already inadequate for existing probation clientele, and Prop 63 funding which cannot be used in that manner and which probation does not have access. Other proposals, to take away 119 million dollars in COPS funding, and elimination or merging of JJCPA funding with youth camp funds, borrow from one source to pay for another. This leaves front line law enforcement with less than adequate funding while likely increasing their workload and endangering safety.

Even the LAO is not clear how funding will work or if it will create a new state mandate: “*Case law is not clear, however, whether tax revenues reallocated from other local governments would count as an offset for purposes of determining whether a mandate exists....*” (*Source: LAO 2008 Perspectives and Issues*)

Of significant concern to probation is the LAO’s proposal to eliminate MIOCR funding. The rationale? Only 3 million of the 40 million dollars in grant money available has been used. What the LAO fails to realize is that several counties already had infrastructure in place to enable programs to begin in a short amount of time. Many counties are in the midst of researching and preparing to begin MIOCR programs and would be devastated by the sudden loss of funding proposed

by the LAO. Existing programs that rely on this funding would be prematurely shut down, just as we see a promise of success.

### **Changing Wobblers to Misdemeanors Increases Frontline Law Enforcement Costs**

Wobblers, those crimes that may be charged either as a felony or misdemeanor, would be reduced in whole to misdemeanors and in some cases, infractions. There are hundreds of these crimes, mostly property and drug offenses and some very serious, that would be effectively reduced to misdemeanors and infractions. There is no doubt this change would increase the workload of frontline law enforcement and tax both the probation departments and local jails of each county. There would be no increase in funding for police and sheriff departments. In fact, frontline law enforcement would suffer a double reduction as the LAO already proposes to fund realignment by a transfer of Prop 172 and elimination of COPS funding.

### **Conclusion**

The realignment of parole to the county probation departments is not a new concept and has been proposed by the LAO before. Realignment appears to be more of a priority for its long term savings potential. However, probation and parole clientele, even low-level parolees, are dissimilar populations. Convicted felons are a different breed of individual, requiring a higher level of supervision regardless of the crimes they have committed. This in turn will require a higher level of supervision along with increased officer safety issues. Further, the proposed funding stream has no guarantee of success or continuance once the mandate is in place. This further endangers the public and peace officers at all levels in dealing with a clientele that is, more than likely, going to require a much higher level of supervision and more comprehensive programs than traditional probationers.

SCOPO, its officers and board are dedicated to improving public safety. Our desire is to work with collaboratives and stakeholders in any proposed parole realignment to craft innovative programs that further serve the public good. Necessary to any parole realignment process is a comprehensive plan that includes appropriate assessment and guaranteed, continual funding for psychiatric, educational and vocational programs that will aid in the probationer or parolee's return to society as a productive, law-abiding citizen. To that end, we offer the assistance of our entire membership to the governor, the legislature, the CDCR and the Office of the Legislative Analyst to improve public safety efforts while reducing costs to the California taxpayer.