
**AB109-REALIGNMENT: ARE THE
PUBLIC AND PROBATION OFFICERS
AT GREATER RISK?**



GRAND JURY 2014-2015

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EXECUTIVE SUMMARY

The Public Safety Realignment Act (AB109) resolved longstanding federal court orders regarding California State Prison overcrowding by transferring certain offenders to county jails and to county probation departments for supervision. The 2014-2015 Grand Jury investigation examined whether AB109 offenders pose a higher risk to the Orange County community or affect the safety of the probation officers in the Orange County Probation Department (OCPD) who supervise them.

After a lengthy investigation, the Grand Jury (GJ) assessed whether AB109 offenders present an *increased* danger to the community. The GJ found that danger has not statistically increased *as a result of AB109*. Although AB109 offenders do not have sexual, violent, or serious crimes in their most recent conviction, many have these offenses in their criminal histories. These offenders do pose a high risk of criminal behavior, especially in relation to property crime. The OCPD has placed a high priority on officer and community safety, as reflected by its stated goals. Adequate defensive tools have been provided to the probation officers, including firearms, batons, pepper spray, and protective vests. However, an intermediate tool with less than deadly force, an electronic control weapon (referred to as a Taser), is not currently provided.

AB109 offenders are at a higher risk for reoffending with 88% of them having a drug abuse history. Research has confirmed that intensive supervision combined with drug treatment does result in lower reoffense (recidivism) rates. The Grand Jury has concluded that Orange County does not have adequate residential drug treatment beds available for the number of AB109 offenders, thus limiting the use of this preventative solution.

BACKGROUND

Effective October 1, 2011, the Public Safety Realignment Act (AB109) (hereafter referred to as “Realignment”) redirected prison inmates whose last conviction was for offenses considered non-serious, non-violent, and non-sex registrants (also known as the “three-nons” or “non-non-non”) to local county jails. This legislation implemented one of the most dramatic changes in California criminal justice history. The aims of AB109, as stated in Penal Code section 3450, are to reduce recidivism and to increase public safety through evidence-based practices and data-driven strategies.

The Legislature sought to achieve these goals by encouraging local government—specifically counties—to strengthen their community corrections programs through improved supervision strategies and community-based punishment. Realignment under AB109 is based on the theoretical supposition that offenders are more likely to respond to community rehabilitation programs, which in turn, will facilitate successful re-integration into the community.

Previously, all felons sentenced to more than one year of custody were required to serve their sentence in state prison. Under Realignment, almost all felons convicted of non-non-non crimes now serve their time in county jail, even if sentenced to over a year in custody or with previous convictions for more serious, violent or sex crimes. On

the other hand, offenders whose last conviction was for serious, violent, and/or sex crime(s) will continue to serve their sentence in state prison. Armed state parole agents continue to supervise high risk, sexual, and violent offenders.

Under Realignment, the Orange County Probation Department (OCPD) became responsible for supervising two new categories of offenders: (1) those released directly into the community from state prison under post-release community supervision (PRCS, also known as PCS by OCPD); and (2) offenders that would have been previously sentenced to state prison for “non-non-non” offenses are instead sentenced to county incarceration followed by a period of mandatory supervision (MS) in the community. Thus, PRCS places realigned prisoners released from state prison under the direct supervision of county probation officers for up to three years (versus state parole). Under MS, the trial court imposes a sentence that is served in the county jail, followed by a period of community supervision (Realignment Report, 2013).

Each of California’s 58 counties has designated its local probation department as the agency responsible for PRCS and MS cases. With the two new categories of supervision, each deputy probation officer (DPO) can administer a range of sanctions if offenders violate the conditions of their PRCS or MS. These sanctions include issuing a simple reprimand, imposing additional special conditions, and increasing reporting requirements.

A new sanction gives DPOs the authority to arrest an offender and impose a short period of custody not to exceed 10 days in county jail (known as “flash incarceration”). Flash incarceration is a useful, intermediate sanction that is designed to get the probationer’s attention and shake him or her into compliance without unduly disrupting the probationer’s employment status or educational endeavors. The sanction of flash incarceration does not require court permission, and the probation department may impose it multiple times (Realignment Report, 2013).

Along with a new category of offender, the probation departments received very specific instructions about the new approaches to take with AB109 offenders. The new philosophical orientation now taken by California is expressed in the legislative findings set forth in section 3450 of the Penal Code. Following the County’s implementation of the law, the OCPD has received significant funding to help cover some, but not all, of the costs of implementing the state-mandated program. AB109 included a requirement that the Post-Release Community Supervision Plan be under the supervision of the OC Community Corrections Partnership Committee (OCCCP), consisting of the following executive voting members:

- Chief Probation Officer (Chair)
- Sheriff
- District Attorney
- Public Defender
- Assistant Presiding Judge (non voting)
- Health Care Agency
- A representative of city police chiefs in OC

The OCCCCP is responsible for developing the realignment process in Orange County and provides regular reports to the Board of Supervisors on various components, including funding and programming (A Paradigm Change, 2012). Counties were afforded a great deal of discretion regarding their use of the state funding, and across California they varied in deciding how to allocate the monies provided by the State to compensate for the increased costs. Recidivism rates tend to be higher in those counties that emphasized enforcement strategies rather than rehabilitation strategies, such as treatment, transition, and reentry programs (Bird & Grattet, 2014).

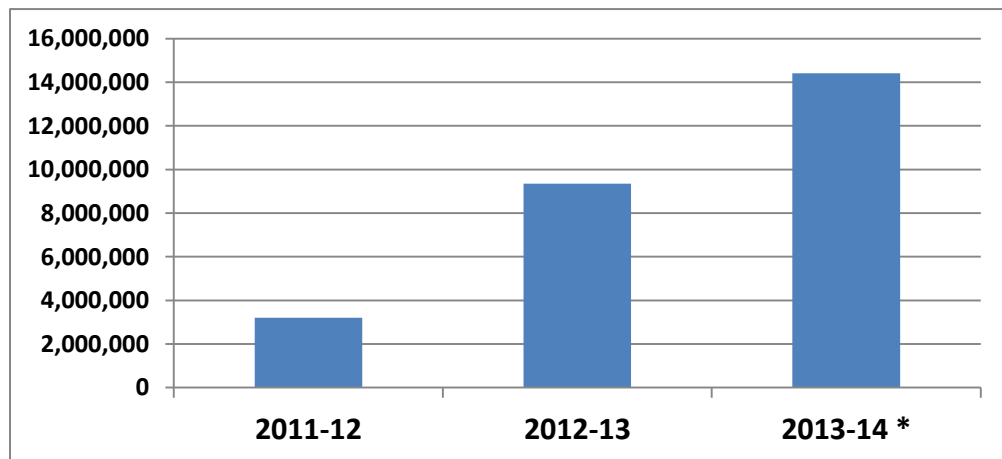
According to funding data provided by the OCPD, the agency's state funding allocation has increased substantially since implementation of AB109 as depicted in Table 1 and Figure 1.

Table 1: AB109 Funding Allocations

Fiscal Year	Probation Department AB109 Funding Allocation	Total County AB109 Funding Allocation	% of County Funding going to OCPD
2011-12	\$3,208,114	\$23,078,393	13.9%
2012-13	\$9,346,163	\$55,261,904	16.9%
2013-14*	\$14,415,013	\$73,512,720	19.6%

* After \$2.9M reallocation from OCPD to Sheriff's Dept.
(Orange County Community, 2014)

Figure 1: Probation Department AB109 Funding (\$)



*After \$2.9M reallocation from OCPD to Sheriff's Dept.
(Orange County Community, 2014)

The level of funding provided for the supervision of AB109 offenders allows the OCPD to implement a myriad of community and evidence-based practices that are intended to improve public safety, hold offenders accountable, and facilitate successful

reintegration—all consistent with the OCPD mission statement (see Appendix) and the goals outlined in the California Penal Code (California Penal Code sections 3450).

The OCPD has made several changes to adapt to the new requirements presented by the AB109 realignment. Separate organizational sections were established, with offices in Santa Ana, Anaheim, and Westminster. The creation of a Day Reporting Center (DRC) in Santa Ana provided a centralized resource facility for rehabilitation, education, and community transition services. The DRC, funded with AB109 monies, limits participants to either PRCS or MS offenders. The significant services include the following:

- Life skills and cognitive behavioral therapy
- Substance abuse counseling
- Anger management counseling
- Parenting and family skills training
- Job readiness and employment assistance
- Education services
- Community connections
- Restorative justice honors group
- Reintegration and aftercare

If the offender is required to participate in the DRC, failure to comply may result in an additional community sanction, such as an increase in supervision that may include additional classes, increased reporting, increased treatment, or possible flash incarceration (OC Realignment 2013 Update Report, 2013).

REASON FOR THE STUDY

AB109 significantly altered the type of offender supervised by the Orange County Probation Department. The release of state prison inmates to local supervision by county probation officers, rather than to supervision by state parole agents, has raised questions regarding whether they pose a greater risk to the community as well as whether they endanger the safety of probation officers who historically have not supervised state prison offenders. The scope of the study is limited to AB109 offenders within the five Realignment Units in the Division of PRCS of the OCPD. As of April - June 2014, there were approximately 2,547 AB109 cases being actively supervised by DPOs (See Table 2).

METHODOLOGY

The Grand Jury pursued several methods of investigation in order to understand the various aspects of the impact of AB109 on the Orange County Probation Department, the AB109 offenders, and the community at large. The Grand Jury reviewed a significant amount of literature on the subject as well as several research papers and governmental reports.

In addition, the Grand Jury examined a random set of AB109 files and reviewed the OCPD's policies and procedures. During this study, the Grand Jury made a site visit

to the OCPD's innovative and successful DRC in Santa Ana. The DRC is a "model" program where probationers gather to receive a variety of rehabilitative services to help and encourage rehabilitation and reintegration into the community.

Members of the GJ's Criminal Justice Committee also attended the AB109 Summit held at Concordia University in Irvine on October 10, 2014. Approximately 200 stakeholders attended this conference to review the status of AB109 in California generally and Orange County specifically. The Panel discussed a range of topics related to AB109 and how the legislation has impacted the community and various agencies like the OCPD, OCSD, and the DA's Office. Law enforcement personnel, judges, treatment administrators, and elected officials attended the half-day summit.

Interviews with numerous staff members of the OCPD and Health Care Agency (HCA) were an essential part of fact-finding for this report. Interviewees included an OCPD Executive, several supervising probation officers, eight field DPOs, OCPD support staff, and staff from the Orange County HCA.

INVESTIGATION AND ANALYSIS

AB109 Offenders Are Higher Risk Criminals – Profile of the Population

How do the AB109 probationers differ from the lower level offenders supervised by the OCPD prior to AB109? See Table 2 below for a brief overview of the Orange County AB109 offender population (cumulative). Note that PRCS offenders will transition from prison directly to community supervision. MS offenders complete a period of local incarceration prior to a period of community supervision.

Table 2: AB 109 Offenders

	PRCS	MS
Total released from prison	3,962	2,900
Actively Supervised	1,689	858
On active warrant	492	298
Sentenced but still in custody		306
Discharged pursuant to 3456(a)(3)	1,123	*
Other discharges/transfers	622	794
Office visits (cumulative)	5,579	*
Home visits	1,108	*
Search and seizures	2,018	*
Urine tests collected	1,554	*
Positive urine tests	307	*
Arrests	327	*

Source: 2014 Realignment Quarterly report (April-June 2014)

*Data not available

Section 3456(a)(3) noted on table 2 allows for the offender to be discharged if he or she has been on postrelease supervision continuously for one year with no violations of the conditions that result in a custodial sanction. When the Grand Jury interviewed probation officers, it was often reported that AB109 offenders were more sophisticated than regular probationers, and that most had extensive criminal records—some for serious, violent, and/or sex offenses.

During this inquiry, the Grand Jury randomly selected 10 AB109 offender files from the file drawers at the Main Street Probation Office. A close review of these files reinforced the description and characteristics identified in the Orange County Alignment 2013 Report. Most of the case files contained histories of long-term drug abuse, long prior records, multiple violations—most often associated with their substance abuse—and assessment scores substantially above the base score of 21 designating “high-risk” supervision.

The designation for a “high-risk” offender is a score of 21 or higher. The OCPD classifies each probationer on the basis of risk and needs, with the first score signifying risk and the second assessing needs. Observing risk scores for the sample cases reviewed, the GJ identified scores of 29/27, 26/34, 29/25, 33/32, 27/46, and 33/26. These scores are substantially higher than the minimal level for classification as high risk. In the cases cited, some AB109 offenders score as much as 12 points above the minimal score for high risk. The October 2011 Validation Study of the OCPD’s risk-

assessment instrument lists low risk offenders with scores from 0-8, medium risk, 9-20, and high risk 21 or greater. A maximum score for high-risk offenders is not contained in the re-validation study. However, it is noted that the range for minimum is 8 points, while the range for medium is 11 points. The Grand Jury observed that some of the risk scores noted in the cases were reviewed had a spread of as much as 12 points (21-33).

These elevated high-risk scores would seem to justify a classification of “intensive”—the highest designation used by most probation and parole agencies. PRCs cases had an average risk score of 26.9 (27). These scores reflect that AB109 offenders experience both very high needs and pose a high risk to the community. They require both a high level of services and a high degree of supervision and surveillance, it could be argued, however, that those scoring higher than 26 warrant intensive supervision.

Is the Community at Greater Risk Because of AB109?

Statistics collected by the FBI for 2013 demonstrated decreases in both property and violent crime nationwide. It should be noted, however, that there are geographic variations and that some regions/cities saw an increase in the violent and property crime rates from June 2012 to June 2013. Preliminary figures released by the FBI reflect that throughout the nation, there was an overall 5.4% decrease in violent crimes compared to the same time between June 2011 and June 2012. Violent crimes include murder, forcible rape, robbery, and aggravated assault.

Property crimes in the U.S. also decreased 5.4% from January to June 2013. Property crimes include burglary, larceny-theft, and motor vehicle theft. The Western region of the country showed more modest decreases: 3.7% for violent crimes, and a meager 0.3% decrease in property crime. Irrespective of AB109, recent FBI data reflect that the national trend seems to be a modest, overall decrease in violent and property crime (LA Times, 11/6/2014)(FBI Crime in the United States, 2013).

Policymakers, the law-enforcement community, researchers, and the community at large have repeatedly raised the issue of community safety after AB109 realignment. To answer this question, however, perhaps one should ask whether AB109 offenders are re-offending at higher rates now that they are under the supervision of county probation officers instead of state parole agents. It should be emphasized that these offenders would have been released to their communities irrespective of whether or not AB109 was passed.

In searching for an answer to this question, the Grand Jury reviewed three research studies: the California Department of Corrections and Rehabilitation’s (CDCR) Realignment 2013 Report, the Public Policy Institute’s Report, Evaluating the Effects of California’s Corrections Realignment on Public Safety Report of 2012, and the Orange County Public Safety Realignment Report of 2013.

Table 3: CDCR Report Summary

CDCR Report	AB109 Offenders	Pre-2011 Parolees
Non-felony arrests	56.20%	58.90%
Felony arrests	42.90%	36.90%
New crimes convictions (non-felonies)	21.00%	20.90%
New crimes convictions (felonies)	58.10%	56.60%
Return to Prison	7.40%	32.40%

(CDCR, 2013).

The CDCR Report (summarized in Table 3) found that AB109 offenders were arrested at a slightly lower rate than those paroled prior to October 1, 2011 (56.2% vs. 58.9%), but that the arrests of AB109 offenders were slightly more likely to be for a felony than the arrests of those paroled before October 1, 2011 (42.9% vs. 36.9%). The felony arrests for AB109 offenders were most often for non-violent crimes involving drugs or property. Convictions for new crimes by AB109 offenders were at almost the exact same rate as for crimes by pre-October 2011 offenders (21% vs. 20.9%). AB109 offenders returned to prison at a significantly lower rate than those offenders paroled prior to October 1, 2011.

This, of course, was a major goal of the legislation: to address violations using community alternative sanctions rather than a return to custody. After implementation of AB109, nearly all of the AB109 offenders who were returned to state prison did so only upon conviction of a new, serious crime, rather than being returned for a mere technical violation of a probation condition (99.9% vs. 0.1). Again, this was a major goal of the legislation (Realignment Report, 2013).

The Public Policy Institute of California (PPIC) concluded that there have not been significant changes in re-arrests and re-convictions for AB109 inmates released to the supervision of county probation departments. For AB109 offenders, felony re-arrests increased only 4.7%, and felony convictions increased a mere 1.9%. Interestingly, the PPIC study found that recidivism rates tended to be higher in those counties that emphasized enforcement strategies rather than treatment and reentry policies.

The Orange County Realignment Report (2013) found that 27% of PRCS probationers and 31% of MS probationers had convictions for new crimes. These county conviction percentages are slightly higher than those reported in the statewide CDCR Report (27% vs. 21%). However, the PPIC Study reports no significant changes in re-arrests and re-convictions among AB109 offenders.

More recent data from the FBI Uniform Crime Reports statistics quoted in the Orange County Register (Hernandez, OC Register, 2014), Los Angeles Times (Rubin & Poston, 2014) and the FBI Crime Reports (2013) suggest that the national trend seems to be toward a modest decrease in both violent and property crimes.

In November, the Orange County Register (Hernandez, OC Register, 2014) reported that violent crime has been on the downturn for years, but that several cities in Orange County saw property crime increase in 2011 and 2012. In 2013, however, that upward trend reversed itself when 25 of the 29 Orange County cities that submit data to the FBI saw a decrease in property crime. The most significant decrease was in Santa Ana, where violent crime and property crime dropped 16% and 13%, respectively. The most populous city, Anaheim, saw violent crime drop by 12% and property crime by 5%. Still, not all cities experienced decreases in the crime rate. Garden Grove, Huntington Beach, and Orange saw increases in violent crime (Bird & Grattet, 2014).

A cautious conclusion to be drawn from these studies is that AB109 offenders have not posed an *increased* risk to the community. However, this conclusion is no cause to rejoice. AB109 offenders—whether released to the supervision of state parole agents or county probation officers—were, and continue to be, high-risk offenders that pose a danger to the community, especially relating to property. All AB109 offenders are under supervision for a felony, and 94% have had one or more probation violations. Ninety-five percent have had a least one prior felony conviction, and fully 88% of AB109 have a drug history (Realignment Report, 2013).

Using a validated risk/needs assessment instrument, 91% of offenders are determined to be high-risk and likely to re-offend. A low risk score falls between 0-8, while a medium risk score is 9-20, or an eleven point spread. Ninety-one percent of AB109 PRCS offenders had risk scores between 21.9 and 27.

Thus, the Grand Jury concludes that, while there is scant evidence of any greater risk to the community because of the passage of AB109, the offenders released to county probation supervision on a daily basis continue to re-offend in significant numbers. Intensive supervision coupled with a high level of rehabilitative services is required to minimize their danger to the community. Research has consistently found that intensive supervision and sanctions alone do not affect the recidivism level of these high-risk offenders. Instead, the research has repeatedly found that intensive supervision combined with treatment results in lower recidivism rates (Skeem & Manchak (2008). According to interviews with probation staff, as well as a review of the programs available to AB109 offenders, the OCPD appears to be making a significant effort to provide a variety of treatment programs and alternatives to incarceration, consistent with the intent of AB109.

The Grand Jury has identified several areas of concern during this investigation. An AB109 offender's last conviction must be for a non-violent, non-serious, and non-sexual offense in order to qualify for the benefits provided by AB109. The legislation does not prohibit an offender's eligibility based on prior violent, sexual, or serious convictions. Thus, although an AB109 offender's most current conviction must be non-violent, non-serious, and non-sexual, AB109 does not preclude him from having a prior

conviction for violent and/or sexual offenses. In fact, the AB109 sub-division at the OCPD has specialized AB109 caseloads for sex offenders, domestic violence, gangs, white supremacists, and members of the Mexican Mafia.

Another major area of concern identified by the Grand Jury was that AB109 offenders are generally long-term substance abusers. According to data obtained from the OCPD, many of these offenders are referred for drug, alcohol, or mental health assessments and treatment. A major risk factor among almost all AB109 offenders is substance abuse: 90% of MS cases have a substance abuse history, and 86% of PRCS cases have a drug history. Combining these two categories, fully 88% of the OCPD's Realignment cases have a drug abuse history. Furthermore, the two major factors that are most correlated with the risk of new criminal conduct in the risk assessment instrument are (1) prior probation violations, and (2) drug use problems within the past 12 months (OC Realignment Report, 2013). One can logically conclude that prior probation violations are frequently related to positive drug tests, failures to show for testing, failing to participate in drug treatment, drug-related arrests, and/or absconding due to a developing drug habit. Thus, the two are interrelated.

While residential drug treatment is the most intensive, and perhaps most suitable modality for AB109 substance abusers, the OC HCA restricted residential beds to 25 per month in October 2014. Many times during interviews, probation officers complained of the difficulty in getting their cases into residential drug treatment, pointing out concerns for public safety and rehabilitation of offenders. OC Health Care Agency (HCA) personnel confirmed the limited bed availability due to budgetary problems. This has created substantial problems for public safety since probation officers cannot refer the substance abusers for diversion into residential drug treatment. Without this option, the offender faces an endless cycle of prosecution, incarceration, and the potential for commission of new crimes to support drug habits. Most AB109 Probation Officers will make every effort to place offenders in residential drug treatment programs as an alternative to incarceration. Many substance-abusing offenders are motivated to enter treatment and/or persuaded that it is a more constructive alternative to further jail time. With the limitations placed on the number of AB109 substance abusers that can enter treatment, probation officers are often left without the critical and constructive alternative.

Have Appropriate Adjustments Been Made to Keep the Probation Officers Safe While Interacting with the Higher-level Offender?

A second area of this investigation was whether the OCPD has taken measures to ensure that county probation officers are equipped to safely supervise a more sophisticated and dangerous criminal population. The CDCR arms all its parole agents. In this study we examined the tools and resources provided to probation officers who supervise AB109 offenders.

The OCPD has taken a proactive approach as it "considers the safety of its employees and the public to be a primary concern" (Procedure Manual Item 1-4-119, 12/01/11, p.1). Pursuant to this Manual item, all probation officers conducting field

supervision “shall” have the following equipment and be trained regarding its proper use:

- Badge and identification
- Department issued hand-held radio (known as a Pak set)
- Handcuffs

Additional equipment available can include:

- Cell phone
- Protective Body Armor
- Probation identification clothing
- Flashlight
- Web belt
- Camera
- Protective gloves
- Custody vehicle/Leg restraints

Designated officers, including those assigned to supervise specialized caseloads of AB109 offenders, are authorized to have the following additional equipment:

- Expandable Baton
- Firearm

DPOs that supervise AB109 offenders are further required to carry Oleoresin Capsicum (Pepper) Spray

Regarding the authority to be armed, the OCPD will not order a deputy to carry a weapon. The DPO must request to be armed. Procedures, guidelines, and protocol for being armed are outlined in considerable detail in Procedures Manual item 1-4-107 (07/19/12).

An OCPD administrator (personal communication, October 9, 2014) indicated that out of 344 probation officers, 177 are field (supervision) DPOs. Of the 177 supervision officers, 82 carry a firearm, including all DPOs supervising PRCS AB109 offenders. No threats or assaults against DPOs have been recorded from October 1, 2011 to the present, nor has there been any incident involving the discharge of a firearm. However, it was noted that several of the officers in one unit had been threatened, resulting in the preparation and submission of approximately six "threat packets" that report the details of each incident for subsequent action and attention.

In Procedures Manual Item 1-4-119, the OCPD provides guidance via a "Field Safety Matrix" on how field officers should respond to high-risk situations or encounters. The matrix indicates that unaccompanied home visits that are routine and considered non-threatening are "OK" with DPO discretion. However, home visits with a DPO partner are strongly encouraged. Home visits by a single DPO that are routine, but have a potential for violence or hostility, are prohibited. Additional detail on homes visits are

provided in the Matrix, along with guidelines on arrests, searches, encounters that escalate, car stops, and foot pursuits (Procedure Manual Item 1-4-119, 12/01/11).

There was no documentation or evidence indicating that there have been any assaults on probation officers since October, 2011, and not a single incident of discharging a weapon has been reported. While there appear to be no incidents of an officer discharging his/her weapon, DPOs have found it necessary to un-holster their weapons in certain high-risk situations, including several arrests. Several officers believed that a Taser would be a good intermediate step between pepper spray or a baton, and the use of deadly force. Being equipped with a Taser could potentially prevent the need to use deadly force.

As noted above, the OCPD's Policies and Procedures Manual places the highest priority on the safety of its employees and the public (1-4-110, p.1). AB109 officers are equipped with many, if not most, of the defensive devices provided to police officers. The Department provides training to accompany these defensive devices. However, as noted, Tasers are not included in the equipment made available to AB109 officers. Equipping AB109 officers with a Taser would be a desirable tool to have in the escalation of force. Access to a Taser would protect not only the officer, but would potentially prevent a fatal consequence with a firearm. The public would also be better served without the potential of stray bullets hitting innocent bystanders.

Based on the Policies and Procedures Manual, a review of the equipment provided to probation officers, and comments from AB109 officers, the Grand Jury concludes that the Orange County Probation Department has taken a proactive approach to assure officer safety. A large majority of the personnel interviewed were satisfied and passionate about their assignments. However, as noted, several DPOs reported that the addition of a Taser could prevent the use of deadly force.

FINDINGS

In accordance with California Penal Code sections 933 and 933.05, the 2014-2015 Grand Jury requires (or, as noted, requests) responses from each agency affected by the findings presented in this section. The responses are submitted to the Presiding Judge of the Superior Court.

Based on its investigation of AB109 and Public Safety in Orange County, the 2014-2015 Orange County Grand Jury has arrived at six findings as follows:

- F.1.** AB109 has not resulted in an overall increase in crime in Orange County.
- F.2.** Although AB109 offenders must meet requirements for no convictions of serious, violent, or sexual crimes, this is only true for their latest offense. Many AB109 offenders do have prior convictions for serious, violent, or sexual crimes in their criminal background.
- F.3.** AB109 offenders continue to pose a danger to the community at the current recidivism rate of approximately 30%, especially as it relates to property crimes.

- F.4.** AB109 offenders are at a higher risk for reoffending with 88% of them having a drug abuse history. Orange County does not have adequate residential drug treatment beds available for the number of AB109 offenders, thus limiting the use of this preventative alternative.
- F.5.** AB109 has placed Probation Officers at greater risk, however the Orange County Probation Department has placed a high priority on officer safety by providing adequate defensive tools to the officers including firearms, batons, pepper spray, and protective vests.
- F.6.** OCPD has provided many additional tools to probation officers under AB109 to ensure officer safety, with the exception of a Taser.

RECOMMENDATIONS

In accordance with California Penal Code sections 933 and 933.05, the 2014-2015 Grand Jury requires (or, as noted, requests) responses from each agency affected by the recommendations presented in this section. The responses are submitted to the Presiding Judge of the Superior Court.

Based on its investigation of AB109 and Community Safety in Orange County, the 2014-2015 Orange County Grand Jury makes the following two recommendations:

- R.1.** The Health Care Service Agency and/or the Probation Department should review the cost of services provided to probationers, and/or on enforcement actions, to determine if any of these services or actions provide less consistent benefits toward reduced recidivism than residential treatment beds and, using funds that would otherwise be spent on those services or actions, increase the number of residential drug treatment beds. **(F.4.)**
- R.2.** The OCPD should provide Tasers as an option for AB109 probation officers. **(F.6.)**

REQUIRED RESPONSES

The California Penal Code section 933 requires the governing body of any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the governing body. Such comment shall be made no later than 90 days after the Grand Jury publishes its report (filed with the Clerk of the Court). Additionally, in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such elected official shall comment on the findings and recommendations pertaining to the matters under that elected official's control within 60 days to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code section 933.05, subdivisions (a), (b), and (c), provides as follows, the manner in which such comment(s) are to be made:

(a) As to each Grand Jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) As to each Grand Jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the Grand Jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.

(c) If a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary /or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with Penal Code section 933.05 are required from:

Required Responses

Orange County Board of Supervisors: F.1., F.2., F.3., F.4., F.5., F.6., R.1., R.2.

Requested Responses

Orange County Probation Department: F.1., F.2., F.3., F.4., F.5., F.6., R.1., R.2.

Health Care Agency (HCA): F.4., R.1.

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APPENDIX

Mission Statement: Orange County Probation Department

"We are dedicated to a safer Orange County through positive change."

We believe:

- *Community protection can best be achieved via a role that balances enforcement activities and supportive casework.*
- *Our employees constitute our most valuable resource for accomplishing our Mission.*

We are committed to:

- *Delivering quality services in an effective and fiscally responsible manner.*
- *Providing a positive, challenging and supportive work culture.*
- *Improving our services through teamwork and program innovation, consistent with current knowledge influencing the field of corrections.*
- *Advancing professionalism through participation in joint efforts to improve the effectiveness of community corrections.*
- *Delivering services with integrity and in a manner which respects the rights and dignity of individuals.*