

❖ This section takes a look across the System Continuum to consider ideas to strengthen and expand the services available.

## Improve the outcomes

The following points on the continuum are discussed:

- ❖ Pre-Booking
- ❖ Pretrial Services
- ❖ Probation
- ❖ Treatment & Diversion
- ❖ The Jail
- ❖ Re-entry

### ❖ Pre-Booking

Law enforcement decisions and pre-booking resources have a significant impact on jails. Placer County is fortunate to have law enforcement personnel who are receptive to new ways of doing business, and a Behavioral Health Department that is committed to building a full continuum of services, including the front end.

The best promise for addressing mental health and addiction needs in a cost-effective and clinically beneficial manner is to reach the person prior to their entering the criminal justice system. Front-end services can alter the trajectory of the individual and ultimately conserve expensive jail resources. The repeat cycling of these individuals through the system is wasteful. Pre-booking services are an essential component of a comprehensive criminal justice system, whose benefits are realized in downstream resources saved and lives improved.

A plan to better address the problems that plague this criminal justice system, drug use and mental health issues, must be a plan that Gets Out Ahead of the problem and tries to interrupt the familiar cycle of booking, custody time and release. A front-end plan must involve law enforcement, the Behavioral Health professionals, and the service community. The need for front-end services is always great. With AB109 and the shift in focus to a more serious population of offenders, the need for front-end diversion for the less serious offender is all the more important.

**Recommendation: Develop new services to divert & stabilize the mentally ill and the chronic inebriates**

**In Placer Count a small subset of individuals has a disproportionate impact on the local jail:** The average number of Jail admissions (for the sample of jail inmates serving a sentence of 30 days or more) was 8 bookings. However, 10% of the sample had an average of 20 or more bookings. And, 7% of the sample had an average 32 bookings each, or a collective 221 bookings.

A small number of offenders can have an over-sized impact on a jail. A recent study in Florida was able to quantify this.

In Miami-Dade County, it was determined that 5% of jail admissions exacted a large financial toll on the system. Over a 5-year period, a subset of 97 individuals, with an average of 22 jail admissions and an average 275 days in jail, cost the county \$12.6 million dollars. But the jail was only one part of the system impacted. These same individuals had, on average, 72 inpatient psychiatric days, 33 days in the state hospital, and 27 days in local emergency rooms. (This did not include outpatient, or inpatient substance abuse treatment or pharmacy costs.) The realization of the collective impact of this small group of individuals has led to a county movement to design a better coordinated social and criminal justice response.

**In Placer County, the average number of days spent in jail per booking for each of the 7 ‘frequent fliers’ studied, was 35 days:** This represents a total 1068 jail days collectively spent by these 7 individuals.

**Little evidence of past programming:** 94% of the offenses for which these 7 ‘frequent fliers’ had been booked into jail were non-violent offenses. There were many drug charges; 29% of most recent bookings were for Narcotic offenses. There was, however, little proof of program involvement over the course of their contact with the system, to address underlying issues.

**Fedcap releases contributed to the recycling of ‘frequent fliers’:** Of the 49 most recent bookings for these 7 persons, 20% had been released on a Fedcap order.

In some of the cases one can see the escalation of crime over time as the person continues to cycle through the jail, demonstrating the importance of interrupting the pattern at an earlier stage.

Studies in other jurisdictions have shown that the average offender in the criminal justice system is not a newcomer to the Behavioral Health or Medical community. In Salt Lake County we found that their Mental Health Court participants had an average 10 years from the first admission to the local Behavioral Health system to admission into Mental Health <sup>9</sup>.

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<sup>9</sup> Russel K. Van Vleet, M.S.W., Audrey O. Hicert, M.A., Erin E. Becker, M.C.J., and Chelsea Kunz, M.S.W., (June 2008), *Evaluation of the Salt Lake County Mental Health Court, Final Report*, Utah Criminal Justice Center, University of Utah

Nationally, it is estimated that 8-16% of all jail inmates are seriously mentally ill. It has also been estimated that at least 40% of all seriously mentally ill individuals are arrested at least once <sup>40</sup>. In large part this reflects the failure of a mental health system that has never realized the vision of a community-based network of services to support the deinstitutionalization movement.

Systems must get out ahead of this issue. We must build a social safety net at the front end. And for those who spend time in custody, we must be ready with specialized transition services. Anything short of this consigns us to the same recycling; a failure that comes at a terrible cost to both human beings and the coffers of local governments.

**In Placer County, a small percentage of high risk probationers assessed for service needs were Homeless at the time of the Behavioral Health review: 13%** of the probationers assessed indicated they were homeless. (Behavioral Health Assessment study)

Placer County is fortunate to already have some pre-booking services in place. A Crisis Response Team is available to support law enforcement, and Crisis Intervention Training (CIT) is provided to law enforcement by Behavioral Health staff. More is needed. And more is being considered as Behavioral Health staff explores grant funding to enhance front-end services.

At this time law enforcement has limited options for responding to a mentally ill person who has not committed a crime that necessitates a criminal justice system response. A Police Officer can either bring them to Sutter Hospital if they are a danger to themselves or others, or bring them to jail.

Law enforcement would welcome having a mental health worker who could respond to a scene and help to explore options other than the hospital or jail.

***Recommendation: Identify high frequency jail users***

Interventions for those who repeatedly cycle through the jail must be coupled with case management for any long-term success. This starts with the ability to identify these repeat cyclers at each point in the process. Law enforcement officers need access to information about the person's past experience with the Behavioral Health system. There are various ways to accomplish this that honor privacy laws. All should be explored.

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<sup>40</sup> Survey of 1400 NAMI families

**Recommendation: Develop a Mental Health Receiving Center**

As Placer considers how to strengthen the front-end response to mental illness one model to examine is the Mental Health Receiving Center.

A Mental Health Receiving Center is designed for immediate law enforcement drop-off. It provides a stabilization alternative to jail or the hospital for appropriate mental health cases. The Center functions as a filter to divert, from expensive jail beds, individuals who are more in need of a social, public health response than a criminal justice intervention. The identification of individuals in need of a public health response begins with law enforcement and the support of specialized support, such as a Mobile Crisis unit or a dedicated mental health worker, who can respond on site.

Where properly implemented, Mental Health Receiving Centers have proven to have a positive effect, both for the person served and the system.

In Lee County, Florida the implementation of a Receiving Center (called a ‘Triage Center’) helped cut the number of low-level offenders in the local jail by 25%, thereby saving jail beds. It also resulted in reducing repeat bookings: the number of repeat bookings fell after just a few months of program operations.

The Lee County Receiving Center beds, which costs less than a jail bed, have reduced the impact on the jail, reduced the law enforcement time spent dealing with non-violent persons, and contributed to a long-range goal of stopping the unproductive repeat cycling of the mentally ill and the addicted through the county jail.

Given the high percentage of local jail inmates with mental health issues, some version of a Receiving Center would be a good investment.

**Recommendation: Develop new services to divert & stabilize chronic inebriates stabilize and divert the chronic inebriate**

Front-end diversion and stabilization services save lives and they save money.

Last year Pinellas County, Florida Public Defender received a grant to start a program for chronic inebriates. The program was designed to provide case management and treatment and medical linkages. Referrals came from Homeless Outreach workers and the Detoxification center. In 2013, the program took in 40 clients. Before the program, these 40 individuals had 853 arrests in Pinellas County alone. After the Chronic Inebriate program the same group had a total of 23 arrests. The top 3 “frequent fliers” had the following results:

- 100 arrests to 0 arrests

- 98 arrests to 0 arrests
- 84 arrests to 0 arrests

**Recommendation: Develop Detoxification Center**

To get out ahead of this issue the County should consider several front-end initiatives. These include a Detox facility. At this time there are several detox beds available at treatment providers but this resource is not sufficient. Roseville Police Department reports that their officers rarely use these beds, either because they are full or the inebriate is considered incompatible with the resource.

**Excluding persons booked on 647f, almost one-third of defendants (31%) booked into the local jail on misdemeanor charges were intoxicated.**

Although ‘intoxication at booking’ is not synonymous with bookings solely for detoxification, there is no question that this is a big community problem. As such, a detoxification facility is an important part of any local criminal justice master plan.

**19% of felony defendants were intoxicated at the time of booking into the local jail**

**Recommendation: Consider pre-booking treatment diversion**

Placer County would be a good jurisdiction to pursue new pre-booking diversion programs. This is a community troubled by significant issues with drug addiction. This is also a community that has law enforcement personnel eager to address the problem at a deep level.

**In Placer County, one-third of felony dispositions (32%) are for Narcotics offenses.**

A new pre-booking diversion model that is being piloted in Seattle is worth consideration. The Law Enforcement Assisted Diversion (LEAD) program gives law enforcement officers the ability to connect non-violent drug users with treatment and services as an alternative to jail. The eligible population is defined to meet parameters agreed to by the district attorney. Once a group is selected, police can divert to community-based treatment and support services individuals who would otherwise be processed through the traditional criminal justice system process. The goal is to improve public safety and public order by enlisting the police to address and solve the root cause of criminality, which for many individuals is addiction. This approach should be a central consideration of any criminal justice system with an interest in conserving jail resources and improving outcomes.

❖ “ We would like to know how a person is progressing in treatment as this would help us decide how best to respond on the streets.”

*Roseville Police Chief*



## Pretrial services

Placer County has a Pretrial Services program that has many good features. It has adopted a risk tool and it offers Pretrial supervision. It has relatively low re-arrest rates for those defendants released prior to trial.

The Placer County Pretrial Services program has done a good job of laying a foundation for a full-service program. It has representatives in court, and offers active case management, including efforts to get those defendants who miss court back on the calendar.

At the same time the Placer County Pretrial Services program is challenged by several factors: the lack of 24/7 operations; Pretrial releases that occur outside of their risk-based recommendations, including Fedcap release; and the system’s relatively low reliance on Pretrial supervision.

Pretrial Services is the gatekeeper for the system. A fully functioning Pretrial Services program is essential to the efficiency of the criminal justice system. Pretrial Services provides objective information to the courts to guide release decision-making, supervises released defendants, and provide on-going bail review for those persons detained after the initial court appearance.

The benefits of a comprehensive Pretrial program are many. We recommend that the County support the development of a full-service program.

### **A public Pretrial Services program advances the principles of equal justice and due process**

A publically operated Pretrial Services program ensures the use of reliable and objective information for release decision-making; promotes public safety by tailoring release plans; and works to support the notion that financial conditions be used only as a last resort.

The effectiveness of a Pretrial program is measured by the degree to which it ensures that fundamental Pretrial principles are honored (the presumption of innocence, the use of the least restrictive options, and the presumption toward non-financial conditions) and the extent to which the integrity and neutrality of the pre-adjudication process is maintained.

### **A Pretrial Services program promotes system efficiency**

A comprehensive Pretrial Services program provides a range of services that help manage and preserve criminal justice resources.

❖ “ The purpose of the pretrial release decision includes providing due process to the defendant accused of a crime, maintaining the integrity of the judicial process by securing defendants release before trial, and protecting victims, witnesses and the community from threat, danger and interference. ”

*ABA, Criminal Justice Standards, 2004*

A comprehensive Pretrial Services program performs the following tasks:

- Interview all Defendant booked into Jail
- Verify information provided in interview
- Apply objective risk assessment to inform release decisions
- Contact victims for input in cases of violence
- Conduct criminal history checks
- Screen defendants for appointed counsel eligibility
- Identify diversion candidates
- Prepare reports for court
- Staff in court to provide information and track cases
- Support Early Case Resolution Program
- Routine review of Jail population for bail review
- Provide court date notification
- Supervise defendants: conduct drug testing, refer to services, report non-compliance
- Facilitate return to court for defendants who Fail to appear for scheduled hearings
- Collect and analyze program data

### **A Pretrial program supports jail population management**

Policies and practices that affect Pretrial release have a direct impact on jails.

A nationwide trend in courts has been an increased use of financial bonds, and this has directly corresponded to an increase in the percentage of jail beds occupied by pretrial defendants.

*As courts have imposed more and more financial bonds, the result has been an increase in jail population. This is because 5 out of 6 felony defendants detained Pretrial were unable to post the financial bond ordered by the court.*

Pretrial programs offer a systematic, front-end mechanism for managing jail populations. This replaces the ‘back-end’ approach currently in place in Placer County that depends on the forced release of inmates to manage the population when it nears or exceeds capacity. This is not the way to manage a jail. Pretrial programs help forestall jail overcrowding through a risk-based approach that reduces the need to resort to emergency releases.

*Jurisdictions with comprehensive Pretrial Service programs are less likely to have an over-crowded jail*

Without structured, front-end approaches to jail management, small shifts in

❖ Two-thirds of jail inmates are in Pretrial status, up from just over half in 1996.

*Bureau of Justice Statistics, Jail Inmates at mid year 1996 - 2008*

system policies or practices can undo any short-term gains. The way to sustain progress for the long run is by establishing a comprehensive Pretrial program.

*National data indicate that defendants released from jail on a forced (citation) release are more than two times as likely to have a bench warrant issued because of a failure to appear in court, than those released with Pretrial conditions and supervision <sup>11</sup>.*

The goal of a full-service Pretrial program is to prevent these types of release, replaced by a system that allows early release decisions and follow-up monitoring, tracking and supervision.

### **Pretrial programs promote public safety: Reduce re-arrests**

National data indicate that re-arrest rates for defendants released from jail to Pretrial supervision are significantly lower than those released on either deposit bonds or through a forced release.

The Bail Bondsmen is focused on securing the appearance of the defendant in court in order to not lose their bond, not on public safety: if the defendant is re-arrested the Bondsman does not lose the bond — and the new arrest provides another business opportunity for the defendant to post another bond to secure release. In contrast, a person released to Pretrial supervision is monitored through drug tests, office visits, and supervised according to an individualized plan designed to reduce failure-to-appear and protect the public.

*The national re-arrest rate for supervised defendants is almost half that of forced releases <sup>12</sup>.*

A full-service Pretrial Services Program supervises defendants based on a validated risk assessment. The Pretrial risk assessment structures the frequency of contact and helps inform the setting of conditions. Not only is this assessment vital for public safety considerations, but:

*National data indicate that Pretrial programs that rely exclusively on subjective determinations of risk are more than twice as likely to have a jail that exceeds its capacity than those that rely exclusively on an objective risk assessment <sup>13</sup>.*

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<sup>11</sup> “Pretrial Release of Felony Defendants, 1992,” Bureau of Justice Statistics, U.S. Dept. of Justice

<sup>12</sup> “Pretrial Release of Felony Defendants, 1992,” BJS, U.S. Dept. of Justice, Nov. 1994

<sup>13</sup> Clark, John and D. Alan Henry, “Pretrial Services Programming at the Start of the 21st Century: A Survey of Pretrial Services Programs,” BJA, July 2003.

## **Pretrial programs minimize failures-to-appear**

Failures-to-appear are costly to the system. The cost to the system can be measured in a number of ways: in expended staff time, in the issuance and enforcement of warrants, and in jail days to respond to violations.

Pretrial Programs contribute to reductions in FTA's through systematic case monitoring: providing court date notification, and working to return FTA cases to court without the issuance of a bench warrant.

### ***Recommendation: Ensure fully staffed during jail classification hours***

The ultimate goal is a comprehensive Pretrial program. The first step is to ensure that Pretrial program staff is available to support Jail classification staff during their working hours. The information provided by Pretrial staff regarding defendant criminal history, Pretrial recidivism risk, and community stability are important considerations in Jail staff decision-making and ensure that the system is meeting its responsibilities.

In California the presumption for Pretrial release prior to disposition is found in the State Constitution and in statute. Under these, the outright denial of Pretrial release is limited to capital offenses, felonies involving violence, felony sexual assault, and felonies involving the threat of bodily harm. (Penal code 1271 and 1270.5)

### ***Recommendation: Reduce Pretrial failure-to-appear rates***

#### **High rates of Pretrial failure to appear (FTA):**

At 31%, the local Pretrial failure-to-appear rate for felony defendants is almost 2x the national average. This reflects:

- Delays in case processing
- Delays in filing decisions
- High number of court hearings
- Loss of system integrity through Fed-cap releases
- Loss of system integrity through own recognizance' releases due to delays in filing
- Low use of formal Pretrial supervision

This should be addressed through system improvements, such as improved case processing times, and by greater use of Pretrial supervision.

**Mixed findings on pre-trial re-arrest rates.** Placer County felony pre-trial re-arrests

rates ranged from 13% to 29% in two separate analyses. The case processing analysis yielded a 13% pre-trial re-arrest rate; a separate examination of several hundred cases that had been screened by the Pre-Trial Services program yielded a 29% pre-trial re-arrest rate. The discrepancy could not be explained suggesting the need for further review. At the high-end the local pre-trial re-arrest rate is more than 2x the national average.

***Recommendation: Stop jail over-crowding releases***

**Pretrial Release is compromised by the ‘wildcard’ of Fedcap Releases and delays in District Attorney filing:** 21% of all Pretrial releases are unplanned: the defendant does not exit jail as the result of a Pretrial assessment of the structured decision of a judge. In almost a quarter of the cases a Pretrial release is the result of either an over-crowding release pursuant to a federal court order (5%) or a release on ‘own recognizance’ due to the District Attorney having not yet made a filing decision (16%).

One consequence of operating a completely full jail is that the system can come to rely on over-crowding releases (OCR) to manage the jail population. However, emergency releases are always a sign of system failure.

**Felony failure-to-appear (FTA) rates of 33% are stark proof of system breakdown.** The goal is to get out ahead of Jail over-crowding through Pretrial management and other measures to forestall the need to employ ‘release valve’ management strategies. At an absolute minimum, clients that are released today on a Fedcap release should be released to Pretrial Services instead.

Unplanned or Unstructured Pretrial releases guarantees failure: 63% of Pretrial Fedcap releases failed to appear in court prior to the adjudication of their case, as did 56% of unstructured releases due to pending further investigation by the district attorney and the making of a filing decision.

***Recommendation: Validate the Pretrial risk tool or adopt new tool***

We applaud Placer County for adopting a risk tool to help inform Pretrial decisions. This is an important step toward a strong Pretrial Services program. This practice reflects good science and it is the direction increasingly taken by Pretrial programs. Today, eleven states instruct their courts, through statutory language, to consider the results of a risk assessment when making the Pretrial release decision.

Of course, by itself, the use of a risk tool cannot guarantee fail-safe results. That tool should be validated for local use to ensure the ‘best fit.’

**Half of Pretrial defendants scored as high risk according to the Ohio Risk Tool:** 52% of Pretrial defendants interviewed by staff scored as high risk.

A risk instrument is a policy tool. The development of a tool begins with statistical data, but it also requires policy choices regarding how to create risk thresholds to categorize low, moderate and high-risk defendants. And, risk levels translate into differential practices. As such, the development of a Pretrial risk tool should involve the system. We recommend the formation of a Pretrial policy group that can review the study data and participate in tool design.

The Pretrial policy group (advisory board) should review the study data and participate in tool design. The first decision should be whether to launch a local validation or to adopt the new Arnold Foundation Pretrial tool. This Pretrial tool was just released after the largest cross-state risk study of its kind. This 9-question tool, validated on more than 1 million defendants has been shown to do a good job across jurisdictions in predicting three types of Pretrial failure: re-arrest during the Pretrial phase; failure-to-appear a court hearing; and, the commission of a violent act.

For the first time the field has a simple tool that may serve as a universal template for Pretrial use of refinement.

***Recommendation: Set goal of a full-service Pretrial services program***

Of course, a good risk tool presupposes a comprehensive Pretrial services program. The benefits of a validated Pretrial risk scheme can only be realized within a quality Pretrial program. A full-service program should offer 24/7 services; provide universal financial screening to determine public defender eligibility; provide consistent bail review for those detained; and offer a full range of supervision and sanction options.

A top quality, full-service Pretrial program supports all other system reform. Placer County has taken an important step toward this goal by investing in the adoption of a risk tool. However, this alone is not sufficient to achieve the goals of eliminating inappropriate detention, ensuring equitable treatment, or improving defendant outcomes.

The Federal District Court found this out when the recent adoption of a validated risk tool did not result in substantive changes in Pretrial release rates. This is not surprising. The implementation of a risk tool must be accompanied by the adoption of program standards (NAPSA standards), core system practices (such as routine bail review), the forging of new system policies, and a full review of existing practices that run counter to a risk-based philosophy (bond schedules)

The expansion of the program is also an opportunity to reassess existing program and system practices. Pretrial Services is not treatment nor is it punishment. As such, any reliance on Pretrial treatment should be strictly reserved for those defendants who, if not for enhanced stabilization efforts, would remain in custody

until case disposition.

***Recommendation: Reconsider blanket detention for defendants with a ‘high risk’ score***

**In Placer County, Pretrial release type shows little variation by Pretrial risk score:** Not only do release types not vary substantially by risk score, but also time in Pretrial detention was also not associated with risk score. This suggests that courts are not fully incorporating risk information into their release-decision-making and (like in many jurisdictions) bond setting by bail schedule results in disproportionate detention of those defendants who do not pose a high risk, but are unable to afford the bond.

***Recommendation: Shift from financial to risk-based release decision-making***

**Surety releases comprise a very high percentage of Placer County Pretrial releases.**

The case processing study reveals that, after removing unplanned Pretrial releases: (Fedcap releases and unstructured exits due to district attorney pending investigation), 70% of Pretrial defendants exit jail on a financial release; 67% exit on surety release. These are very high rates.

**In Placer County, felony defendants released on surety had failure-to-appear rates 4x higher than those defendants released on Pretrial Services electronic monitoring:** The FTA rate for felony defendants released on a surety bond was 4x the FTA rate for those released to Pretrial Services electronic monitoring. (No reliable conclusions can be made for Misdemeanors given the broken process for their release: MORE THAN 30% of Pretrial misdemeanants in Placer County exit on a ‘Promise to Appear’ prompted by a Fedcap release.)

This is an important finding, and it is consistent with national research: Surety releases do nothing for higher risk defendants to protect the public or prevent failure. Not only do Pretrial releases to the bail bondsmen not improve outcomes for felony offenders, but also they come with a terrible cost: the required non-refundable payment (innocent or not) paid by the defendant to the for-profit bail bondsman. The fees are expenditures that could go towards public defender costs, treatment costs, fines, restitution or supporting the offender’s family.

**In Placer County, felony defendants released on surety had a significantly higher failure-to-appear rate (35% higher) than those defendants released to formal Pretrial Services supervision.** Both forms of Pretrial Services release: electronic monitoring and formal supervision produced better Pretrial outcomes than a surety release.

### ***Recommendation: Expand use of Pretrial services***

Pretrial supervision yields good results for felony defendants (both electronic monitoring and formal supervision). Pretrial electronic monitoring reaps the same outcome as a surety release, without the financial cost to the defendant or his family. There is no question that the higher risk defendant should be released to the monitoring, court case tracking, and supervision of Pretrial Services.

### ***Recommendation: Replace bail bonds with a 10% court payment***

If the court requires some kind of financial bond in addition to Pretrial supervision, we recommend that the defendant have the option to post a cash bond with the court in the form of a 10% deposit. The shift should be away from financial releases, but when used to rely on the public offices of the courts to collect, and return, defendant payments.

### ***Recommendation: Eliminate for-profit sureties***

The American Bar Association (ABA) and the National Association of Pretrial Service Agencies (NAPSA) have both called for the abolition of compensated sureties. The American Bar Association standards state, *“A system of public prosecution ought not to depend upon private individuals using personal means to bring defendants before criminal courts.”* (ABA Criminal Justice Standards, Chapter 10, Pretrial Release, 1985. pp. 114-115).

The National District Attorney’s Association Standard 45.6 (a and b) states, *“Money bail should be set only when it is found that no other conditions of release will reasonable assure the defendant’s appearance in court. Money bail should not be set to punish the defendant or to placate public opinion.”*

Attempts at reform have long been under discussion. This is not a new issue: In the late 1960’s Attorney General Robert Kennedy called for reform in the use of money bail, which resulted in the Bail Reform Act (which makes financial release the **last resort** after all other release conditions have been considered). Nor is this an issue that has escaped the attention of major advocacy groups: The American Bar Association has long called for the abolition of the compensated surety system. Four states and almost the entire federal district court have already done so.

<b>Placer County - Pretrial Release Type</b>		
	<b>Felony</b>	<b>Misdemeanor</b>
<b>Financial Release</b>		
<b>Surety</b>	<b>51%</b>	<b>62%</b>
<b>Cash</b>	<b>1%</b>	<b>4%</b>
<b>Non-Financial Release</b>		
<b>Own Recognizance</b>	<b>37%</b>	<b>26%</b>
<b>Pretrial Services</b>	<b>6%</b>	<b>2%</b>
<b>Fedcap Release</b>	<b>5%</b>	<b>6%</b>

Reliance on financial Pretrial release conditions, coupled with the use of for-profit compensated sureties, can result in unequal treatment for poor defendants. Financial criteria should not result in Pretrial detention.

Inmates in Pretrial status have not all been disqualified for release. Some remain in jail because they are awaiting a Pretrial interview ordered by the judge; others wait placement in a diversion program; and, then there are those who remain in jail unable to post bond. Oftentimes those who remain in jail are there only because they cannot afford to post a bond, and are not necessarily defendants with serious charges or high bond amounts. Oftentimes the sex offender with a high bond is more likely to have the financial resources to post a bond than the lower risk offender with a low bond.

Across the county, jails hold low-risk Pretrial defendants who cannot afford to pay bail; and cannot attract a bondsman because of the small profit yielded on a low bond. The danger in a system that depends on a for-profit business to approve and effect releases from jail is that inmates who pose a low criminal risk, but a high financial risk, are often the most likely to remain detained.

A recent study in New York City showed that 42 percent of those who had bail set by a judge remained in custody until their case disposition. Of those who remained incarcerated prior to trial, many had low bails: more than one-third of those with a bail between \$500 and \$1,000 could not afford to post it <sup>14</sup>. For the lack of a few hundred dollars many defendants remain detained through the Pretrial period.

*Importantly, the effects of this injustice are compounded. Research shows that defendants who remain in custody receive harsher sentences than those released pending disposition.*

<sup>14</sup> "The Pretrial Reporter," Volume XXXIII, No. 5, Oct-Dec. 2007

When the release decision is given to the bail bondsman, by refusing to write a bail bond – to accept a client – the bail bondsman is in effect overriding a judicial decision. This compromises the integrity of the system, and results in the disproportionate detention of the poor, the mentally ill, and others who cannot afford to purchase their release.

Nationally, the percentage of felony Pretrial releases that include financial conditions has climbed from 37 percent to 61 percent over the last several years. And this has contributed to an increase in the percentage of jail populations made up of Pretrial defendants, now over 60%.

We recommend that Placer County reduce the reliance on for-profit compensated sureties; establish a 10% Court Deposit program; shift from a bail schedule to a risk tool to guide pretrial conditions; and work toward a full-service Pretrial Services program.

**Recommendation: Do away with bail schedules**

National studies demonstrate that there is no relationship between bond amounts and public safety. The reliance on bond schedules should be replaced by a reliance on risk information, and the use of presumptive detention for those deemed too have a risk to release: those for whom no conditions of release can ensure appearance in court or the commission of a new crime.

The average bond amount for felony defendants in Placer County is, at \$28,000 higher than the national average of \$25,000. High bonds impact jails negatively, have a disproportionate effect on low-income defendants, and do little to enhance public safety.

High Bail Amounts for felony defendants: For felony defendants the average bail amount is \$28K. For 59% of felony defendants in Placer County, the average bail amount is \$30K or higher; for 23% the average bail amount is \$50K or higher. The average bail amount for misdemeanor defendants is \$7,700.

<b>Placer County - Average Bail Amount</b>		
	<b>Felony</b>	<b>Misdemeanor</b>
<b>\$501 – 2,500</b>	<b>4%</b>	<b>55%</b>
<b>\$2,501 – 10,000</b>	<b>42%</b>	<b>29%</b>
<b>\$10,000+</b>	<b>54%</b>	<b>15%</b>

We recommend that Placer County do away with the Bail Schedule. Bail schedules, which provide offense-based bail amounts, have little to do with offender risk

(they do not include criminal history or risk scores); offer a false sense of security (there is no evidence that posting high bonds reduces Pretrial criminal activity); and contribute to unequal treatment (poor defendants are less able to make bail). The bail schedule in use in Placer County adds \$10,000 for each additional prior felony count. The calculation of risk by a simple offense count does not provide judges with reliable information to make informed release decisions. New risk tools that provide validated risk information: risk of committing a new crime; risk of committing a violent offense; and risk of failing to appear in court.

We recommend the shift to risk-based release decisions and greater use of Pretrial Services supervision.

Unlike the surety agency, comprehensive Pretrial programs monitor all court conditions (not only the condition to appear) and can administer drug tests. Pretrial programs also check with victims to monitor compliance, assist the defendant to become stabilized in the community, and monitor the defendant in treatment thereby addressing issues of public safety.

*Importantly, there is no relationship between the ability to post money bail and subsequent criminal activity.*

The money bail system is not intended to ensure public safety. Posting a bond does not, by itself, do anything to protect victims or the community. In fact, national data shows that many high-risk defendants are purchasing their way out of jail. According to national data, 30 percent of defendants who have bail set in the range of \$40,000 to \$50,000 post that bail and are released <sup>45</sup>.

Economic status should never dictate whether a defendant is released from jail. To fulfill the Bail Reform Act, jurisdictions need public Pretrial Services programs to offer non-financial monitoring and supervision options. These programs should be considered a fundamental feature of our criminal justice system, replacing profit-based practices that are not in keeping with the basic principles of our system of justice.

***Recommendation: Stop unplanned & unstructured Pretrial releases / stop overcrowding (Fedcap) releases***

21% of all Pretrial defendants who exit the jail are released on either an unintentional Fedcap release (5%) or a release due to pending district attorney investigation — the case is not yet filed (16%)

Emergency jail releases are not the answer to jail overcrowding. Emergency releases always represent system failure. They perpetuate defendant failure

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<sup>45</sup> State Court Processing Statistics Project, 2002 data

and erode the integrity of the system. And once a system turns defendants out of jail on an over-crowding release (Fedcap release) it loses its ability to compel compliance.

***Recommendation: Minimize non-filing ‘Own Recognizance’ releases***

The delays in District Attorney (DA) case filing result in irrational Pretrial release decision-making.

DA delays in case filing result in defendants being released on their ‘own recognizance’ (without supervision) even though the Pretrial Services interview and risk assessment might have resulted in a recommendation against release. In fact, in most cases in which a Pretrial defendant exited the jail on a DA filing delay release Pretrial staff had either recommended ‘no release’ or a more stringent release, due to the defendants assessed risk level.

**Placer County Pretrial Services program has a release rate (73% of felony defendants and 89% of misdemeanor defendants are released prior to trial):** However, until these unintended releases are stopped there is no way to assess whether this rate represents good practice.

***Recommendation: Increase use of formal Pretrial supervision as a release option***

**Formal Pretrial Supervision is not fully used:** A mere 5% of all Pretrial defendants released from jail were released to the supervision of the Pretrial Services program (6% of felony defendants and 2% of misdemeanor defendants).

**Of those defendants released to Pretrial services, the majority is supervised through electronic monitoring.** 92% of felony Pretrial supervision releases were placed on electronic monitoring, as were 88% of misdemeanants. Electronic monitoring should be reserved for only the most serious offenders for whom no other release condition will assure appearance without commission of a new Pretrial crime.

In California, penal code 1203.018 authorizes electronic monitoring for Pretrial defendants detained for at least 30 days for a misdemeanor or 60 days for any offense.

**More than one-quarter of Pretrial defendants were already on active Probation supervision:** 28% of Pretrial defendants interviewed by Pretrial program staff were on active Probation supervision at the time of the Pretrial interview.

The recent study by the Arnold Foundation provides valuable confirmation of the importance of Pretrial risk tools and formal Pretrial supervision. Highlights follow:

## **ARNOLD FOUNDATION PRETRIAL STUDY (2013)**

- Pretrial Services supervision was shown to significantly reduce the likelihood of a failure-to-appear (FTA). The positive impact of supervision was most pronounced for higher risk defendants.
- Higher risk defendants who were released to pretrial supervision had a 42% lower FTA rate compared to higher risk defendants who were released from custody but not supervised. This held true after controlling for age, race, gender, risk score, and other variables.
- The positive effect of Pretrial supervision on lowering FTA rates was fairly consistent over differing time-to-disposition periods. Pretrial supervision of any length was shown to make FTA's less likely.

### ***Recommendation: Release all Pretrial Fedcap cases directly to Pretrial services for supervision***

The Pretrial program must keep tabs on all Pretrial defendants. As such, when a Pretrial detainee is unexpectedly released due to jail over-crowding the Pretrial program should be immediately and routinely notified and the case routinely released to Pretrial services for supervision.

### ***Recommendation: Expand assessment role of Pretrial services to support release, diversion, and medical & treatment access***

Pretrial Programs serve another important role in the immediate identification of possible candidates for Drug Court, Mental Health Court, and any other diversion options. This serves to both broaden the pool considered for these important programs as well as to shorten the time to program entry.

*Importantly, time to program entry has been shown to be a predictor of positive program outcome.*

Without a universal, front-end screening process, the identification of potential diversion clients is a made more challenging. A Pretrial intake unit consolidates what is, in many jurisdictions, a fragmented approach to identifying diversion clients.

The Pretrial screening also provides an opportunity to flag underlying issues that merit further assessment, such as mental health issues or repeated entry into the jail. Pretrial screening can serve as the referral point for individuals in need of clinical mental health assessments and referral services.

***Recommendation: Develop a plan for screening and enrollment in Medicaid and for marketplace insurance under the Affordable Care Act***

This front-end screening becomes all the more important with the passage of the Affordable Care Act. The new law broadens access to medical, mental health and substance use disorder treatment by expanding eligibility to Medicaid and providing Marketplace insurance for those who enroll. Since 65% of all adults in the U.S. Corrections system meet medical criteria for drug and or alcohol use disorders; and since we know that treatment participation reduces subsequent criminal activity by 33-70%, depending on the model, it is very important that jail booking be a portal through which this population is linked to ACA coverage. Enrolling Pretrial defendants in coverage and facilitating access to treatment will result in decreased criminal activity and cost savings to tax payer. All Pretrial Service programs should develop plans for screening and enrolling defendants in Medicaid and Marketplace plans.

***Recommendation: Hire a professional Pretrial Manager***

Pretrial Services is a crucial component of the criminal justice system. It is a specialized service that requires specialized professional expertise.

The importance of a fully functioning Pretrial Services program cannot be over-emphasized. The extent to which the program realizes its full potential influences jail usage, system costs, and the success of any system reform.

Specialized management expertise is increasingly important for this important system function. This takes nothing away from the current management of this program. It simply reflects the need to professionalize this component of the system and to view it as a distinct and crucial function with its own legal and profession requirements. We encourage the hire of a full-time Pretrial Manager with a background in a medium size jurisdiction.

## Probation services

Probation Services is doing an excellent job in integrating best practices into its operation and developing quality services. It has adopted a risk tool to better prioritize its resources; has an Orientation session for offenders new to supervision that is an opportunity to explain the rules and connect them to services; is working to make pre-sentence information more responsive to judicial needs; and is taking the lead when it comes to filling a gap on the continuum: It has proposed a plan for Jail Transition Services.

In this Probation Department, the effort to tailor services for the Realignment

population is a lesson in adaptation and optimism. Staff with high-risk caseloads of post-prison release community supervision cases (PRCS) develop individualized supervision and treatment plans, reach out to families to verify information, and hold offenders accountable while preserving a least restrictive philosophy: flash incarceration is used sparingly and often as a last resort. Creative use is made of alternatives as a sanction option, including mandating offender participation in cognitive change coursework for a low level violation, in lieu of a custody sanction; increasing drug tests; increasing office visits; and requiring alcohol and drug counseling. We are impressed.

Probation Services has also made good use of their AB109 funds. Two Behavioral Health specialists are now stationed in the Probation Office to conduct offender assessments and make service referrals. Funds for transitional housing, the availability of cognitive-behavioral programming, substance abuse treatment, mental health counseling, and other services allow some flexibility in offender plan development. And we know that they work to reduce recidivism.

Cost/benefit data developed by the Washington State Institute on Public Policy shows the relative return on the investment (in terms of recidivism reduction and cost) for various interventions.

<b>Benefit to Cost: Return on the Dollar</b> <sup>16</sup> (Adult Corrections Programs - Community Based)	
	<b>Dollars</b>
<b>Cognitive-Behavioral Treatment</b>	<b>\$24.72</b>
<b>Employment Training</b>	<b>\$35.13</b>
<b>Work Release</b>	<b>\$11.19</b>
<b>Drug Treatment in the Community</b>	<b>\$10.85</b>
<b>Mental Health Court</b>	<b>\$6.75</b>
<b>Intensive Supervision Only</b>	
(No Treatment)	<b>(+) \$0.14</b>
<b>Domestic Violence Treatment</b>	<b>(+) \$2.91</b>

*Note: cost returns are based on expected taxpayer savings for reduced criminal justice expenditures and avoided costs to victims*

Programs such as cognitive-behavioral therapy hold great promise for reducing system costs and improving outcomes. The cost/benefit analysis shows the futility of supervision alone: Intensive probation supervision without a therapeutic component actually results in **increased** costs

<sup>16</sup> Elizabeth, Drake (December, 2013) "Inventory of Evidence-Based and Research-Based Programs for Adult Corrections," Olympia: Washington State Institute of Public Policy

***Recommendation: Expand jail alternatives, release options, and offer probation increased flexibility to manage offenders***

Probation has risen to the challenge of trying to provide alternatives to Jail for inmates identified as eligible by court order. It is, however, constrained by court orders with blanket exclusions for alternatives and limited release options. The one stand-by alternative sentencing option is work crew, but this is best reserved for offender with relatively short sentences (45 day sentences or less): offenders with long-term work crew assignments can be set up for failure. Offenders assigned to this program should reside at home and report in for supervision if they reside in Placer County; however, there are approximately 100 offenders a day who are in jail and go out and work in the community. Many of these offenders should be residing at home and reporting in for work.

To realize the full potential of offender management along the continuum we recommend that court orders, release options, and new formalized step-down procedures be discussed and developed.

As part of this review a discussion about the judiciary's use of 'the box' on court orders, in which alternative eligibility is checked should be reviewed. An approach in which the judge sets the sentence length and probation and clinical staff manages the case along a continuum based on clinical data and behavior affords the greatest flexibility in offending management in service of offender change.

It is also important that judges sentence in a manner that 'banks' some custody time for supervision non-compliance. This would greatly aid the work of the probation department in managing offender behavior.

Expansion of alternatives is especially important given the new AB109 population. There are no barriers to Alternatives for PRCS and 1170(h) cases and as such should be fully utilized.

***Recommendation: Dedicate jail beds for probation sanctions***

Placer County Probation has done a good job of using jail as a last resort for sanctions. This is due to philosophy and pecessity. The jail simply does not have the 'One Empty Bed' needed to follow through on the threat of custody for probation non-compliance. This can undermine the best efforts of this probation department.

In Placer County a 10-day flash incarceration can result in 1-2 days in jail. Even worse, in some cases, great efforts to apprehend non-compliant probationers result in no consequence at all: an offender is booked and immediately released.

Any delay in responding to probation violations challenges effective probation

practices. Violations should be resolved in days, not months. The same amount of time served as a sanction for a particular behavior is much more effective than being held awaiting disposition and then released credit for time served.

The integrity of the process is compromised when the system cannot swiftly respond to offender non-compliance, and the lack of swift and sure consequences adversely affects recidivism rates.

Placer County Probation needs the One Empty Jail Bed. The best and most lasting solution to this problem is to institute the kind of system reforms noted in this report; reforms that will reduce the impact on the jail through system efficiencies and improved outcomes. Until this takes effect we recommend a short-term measure to dedicate some custody resource for Probation sanctions.

***Recommendation: Rethink domestic violence offender management***

The supervision and monitoring of the domestic violence offender poses a special challenge. The effective management of this population begins with case processing.

**In Placer County only 15% of felony domestic violence bookings result in a felony conviction.** This very high attrition rate confounds the effective management of this population. Accountability is eroded when defendants are arrested and booked but the case does not result in a sentence. We know that the prosecution of domestic violence cases can be improved. San Diego reports uniformly high domestic violence conviction rates, independent of victim or defendant statements, witness testing or fail proof evidence. In San Diego, the prosecution rates for domestic violence increased after the formation of a special prosecution unit.

The problem of low prosecution rates is compounded by other challenges. The Corrections field has, in general, struggled to find risk tools to better predict domestic violence re-abuse or to find programs that help reduce it. Recent research calls into question the 52-week domestic violence that has been standard fare for many years. Add to this the criminal justice weakness in delivering swift sanctions for probation non-compliance and a chronic lack of domestic violence treatment in custody and the picture looks bleak. But there are some new tools and new models that are proving effective in DV management, which should guide local strategies.

**Domestic Violence management strategies to consider**

***Recommendation: Review specialized domestic violence risk tools***

More is known about DV risk for re-abuse than ever before. We know, for example, that offenders with the highest risk for a repeat DV crime are: younger; have at least 1 prior arrest for any crime; have a prior arrest for substance abuse; have a

pending warrant at the time of the DV arrest; and are already on probation. The risk is higher if the suspect has fled when the police respond. We also know that risk of DV re-offense is not associated with the charge severity (whether it is a misdemeanor or felony offense). Other factors have been identified that help predict lethality of any subsequent incident. Law enforcement officers in Maryland use a lethality risk tool.

The assessment of domestic violence risk is crucial for offender risk management. More than 15 specialized DV risk tools are in use but, at this time, no one has been shown to be superior to the others: the predictive accuracy of the measures is similar, and all tools demonstrate a moderate predictive ability. Some research suggests that these tools be enhanced by victim input. All options should be reviewed.

***Recommendation: Consider ceasefire-like ‘Focused Deterrence’ model for DV cases***

The High Point, North Carolina Police Department has been testing a new approach to reduce domestic violence re-abuse that borrows the key elements of the Ceasefire model. This model, already applied in their jurisdiction to homicides and drug market crimes to great success, was implemented for domestic violence cases 18 months ago. The results are very promising. The goal is to visibly punish high-risk offenders; deliver a ‘carrot and stick’ message about consequences and help to a middle risk group (the message is delivered by the prosecutor, sheriff, police, probation, and community in a group setting); and deliver face-to-face messages to suspects in custody by specially trained police officers. This innovative strategy to get out ahead of the next crime is worth investigating.

***Recommendation: Release Pretrial DV cases to Pretrial services supervision***

Most DV offenders who re-abuse do so quickly. In a Brooklyn, NY study, the majority of DV cases were re-arrested while their initial case was still pending in court. This speaks to the need for good Pretrial supervision.

**Of defendants booked into the Placer County Jail on a felony domestic violence charge who exited jail prior to case disposition, 53% exited on a surety release, as did 77% of those charged with a misdemeanor DV.**

All Pretrial DV cases released from jail prior to case disposition should be under the supervision of Pretrial Services. In Placer County too many defendants charged with domestic violence exit jail on a surety release.

***Recommendation: Ensure swift & routine non-compliance court hearings for DV cases***

Research has shown that of all men convicted of domestic violence, the subsequently severely violent men were predominantly those who dropped out of treatment and were not sanctioned further by the court. This speaks to the importance of swift sanctions, at least for the higher risk DV offender.

The rate of repeat violence was lower in cases where the courts reviewed program compliance, programs included addiction treatment, and the woman had follow-up contact with a shelter (or other services).<sup>17</sup>

The failure of the system's response to DV cases is often attributed to treatment programs that haven't yet found the right formula. On the other hand, the handling of DV offenses has been a disaster in most systems. These largely misdemeanor offenses are often supervised on large caseloads, with no access to affordable quality treatment, and are supervised and treated within a system that often does not hold the DV offender accountable for violations. Routine court monitoring of high-risk DV cases should be part of the equation.

***Recommendation: Ensure access to affordable treatment***

In Placer County, DV offenders under probation supervision can find it difficult to satisfy a DV treatment mandate because they can't afford it. As a result, the probation officer may respond to this violation by extending the length of probation, which does not solve the problem. *"It's a vicious cycle,"* one local Probation Officer said of this issue.

***Recommendation: Standardize treatment quality***

The Placer County Probation Department audits the 7 DV programs which serve the offenders under its supervision. This process should be reviewed in light of new best practice quality control tools available. The same basis standards and features outlined in a Corrections program audit tool (such as Cincinnati's CPAI) have application for DV treatment as well.

As quality control protocols are reviewed and revised we also recommend that programs be asked to submit uniform progress reports on their probation clients; set new standards for communication (at least one local DV program lacks email access); and be required to supply routine program data, including client outcomes.

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<sup>17</sup> Gondolf, Edward (2011) *Risk Management in Intervention Systems*, chapter from a not yet published book

Finally, given the research that suggests that 52-week perpetrator treatment does not reduce repeat offending it is important to not just improve the monitoring of programs, but reconsider the model.

***Recommendation: Ensure continuity of DV treatment***

Jail time should not lead to an interruption in treatment for the DV offender. The system should also review the policy that requires DV offenders to re-start a whole course of DV treatment every time they re-start Probation. Within a certain timeframe the goal should be continuation of treatment, not a re-start.

***Recommendation: Review gender-based strategies***

**Males and females booked into the Placer County Jail had the same percentage of person offenses.** Data from the Placer County case processing study revealed unexpected gender equivalence for person crime bookings. In most jurisdictions we would find males over-represented for person crimes. In Placer County the equivalency extends to domestic violence crimes as well. DV cases make up the same proportion of person crime bookings for males and females. This begs review. What are the circumstances under which male vs. female defendants are arrested and booked for DV crimes? Does this reflect an inability to distinguish victim and perpetrator at the crime scene? Does the gender equivalency persist to the point of Probation supervision? If so, how do the profiles of male and female DV offenders differ; look the same? And finally, does Probation have different strategies for managing the female and male person crime and DV offenders?

***Recommendation: Review how to strengthen victim services***

At each stage of the criminal justice process the victim must be consulted and supported. At the front-end we know that law enforcement officers have a hand in reducing DV re-abuse by providing victims with information; take good witness statements to support prosecution; and helping with securing a protective order. Pretrial Services should review the questions it asks and the sharing of information with Victim Services. Probation should consider its role in checking with victims to verify offender compliance. A fresh look should be taken at each stage of the system to consider how to improve prosecution rates, improve outcomes, and protect victims.

The research on domestic violence recidivism highlights the importance of a coordinated system response for the higher risk offender: one that involves the judiciary; mandates addiction treatment, where appropriate; and attends to the need for on-going victim support and stabilization.

***Recommendation: Ensure full use of probation step-down***

Behavior-based offender management allows a step-down to less stringent

oversight for those who meet certain expectations. This has been shown to be an effective way to motivate offenders and safely reduce workload pressure.

*Corrections programs achieve the best results when they have leverage. An approach that responds with swift consequences for negative behavior and swift reinforcement for positive behavior offers the best opportunity to realize long-term behavior change.*

This concept was fully tested, and evaluated, in Arizona with the 2008 passage of the ‘Arizona Safe Communities Act.’ Among other things, it created performance incentives for probationers to earn time off supervision through compliance. This measure, in concert with a broader adoption of evidence-based supervision practices (full use of risk assessment) resulted in a 31% reduction in new felony convictions and a 28% reduction in revocations over 2-years — an impressive outcome <sup>18</sup>.

A system is in place to allow early termination for PRCS cases after 6 months of compliance. We recommend that the system support a formalized step-down from Probation in general.

### **Recommendation: Optimize Resources by using Risk Assessment**

Both optimizing and expanding resources can strengthen the resource continuum. Existing resources should be optimized through measures that use risk scores to prioritize resources, vary treatment length and intensity by risk level, develop performance indicators to move individuals through treatment, and extend the continuum to make more low-end options available.

The good work that the Probation Department does to use risk to guide case management should be extended to treatment and other decisions.

### **Evidence-based Practices**

Improving offender outcomes depends upon ensuring best practices. Placer County can improve existing services by:

- Ensuring that services are targeted to the highest risk offender
- Appropriate caseload sizes: Pairing treatment with supervision
- Expediting entry into treatment
- Delivering swift sanctions

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<sup>18</sup> Jennifer Laudano, “The Impact of Arizona’s Probation Reform,” PEW, May 2011

- Delivering rewards for good behavior: the termination of probation based on treatment completion or good behavior should be formalized in the system

***Recommendation: Review all cognitive-behavioral offerings***

- **The most frequently assigned treatment was Cognitive-Behavioral coursework:** 60% of assigned treatment was to one of several cognitive class options. This is positive. It reflects research on the positive effect this intervention can have on behavioral change.

Placer County Probation and the Jail are both offering cognitive-behavioral classes. Although the research does not suggest that one particular program is superior to another, as the County expands jail program offerings and builds a Transition program it will want to ensure that there is continuity in program offerings between custody and the community

- **Substance abuse treatment referrals were almost evenly divided between outpatient and residential treatment:** Approximately 40% of the service referrals were to substance abuse treatment; of these 53% were to outpatient services and 47% were to residential programs.
- **The most frequently reported Drug of Choice among the probationers assessed was Methamphetamine:** 46% of those assessed reported Meth as their most serious drug of choice; Alcohol was the second more frequently reported, at 20%. Cocaine and Heroin made up 5% of reported drug use.
- **The Behavioral Health Assessment process is not a conduit into Drug Court:** Only 4% of the service referrals were to Drug Court.
- **A small percentage of referrals were to Violence specific programs:** Although 10% of the probationers assessed score Very High Risk, making prior or current violence a high likelihood, there were no Anger Management classes for assignment, and less than 3 of the 225 referrals were to domestic violence or batterers treatment.

***Recommendation: Reduce caseload size for moderate risk offenders***

At an average caseload size of 115 for moderate risk offenders, Probation staff is at the high end of acceptable case size.

High-risk cases are more in keeping with expected standards. The post-prison population under supervision (Realignment cases) all score as high risk and are supervised on smaller caseloads.

***Recommendation: Adopt ‘ceasefire’ components for Special Investigations Unit (SIU)***

The Placer County SIU is a collaborative effort between law enforcement, the Sheriff, County Probation, and Health and Human Services designed to bring more intensive monitoring to those offenders released back to the community from prison under Realignment.

The team monitors a select group of AB109 parolees in the field through unannounced visits at their residents to make compliance checks. The team has adopted an approach that is more than simply surveillance; with a caseload of around 40 offenders they refer offenders in need of services to treatment; and they allow individuals to work their way off the caseload through positive behavior. This is the kind of balanced approach that can help yield good results.

With this structure in place it would behoove the County to ask how the program might be strengthened. We recommend that the SIU team take a look at the Ceasefire program and consider adopting some of its elements.

Ceasefire is a crime-reduction strategy that targets a small sub-set of high impact/high violent offenders for a carefully crafted ‘carrot and stick’ intervention. In the Ceasefire model, the monitoring component that SIU offers is preceded by a ‘call-in’ meeting which high value offenders are asked to attend by special invitation of the sheriff. At the meeting offenders are confronted by system representatives (prosecution, probation, law enforcement, treatment providers) as well as community representatives (family, victims, churches) where a very clear message is delivered:

***“Violate the rules and these are the consequences. Decide to change your path and we will help. We want you to succeed and we are prepared to support you in that direction. But make no mistake there are certain consequences if the behavior continues.”***

Of course, not all offenders being monitored under SIU may warrant the intensity of this intervention. The profile of this population should be reviewed to determine which, if any, offenders on this caseload would benefit from such an approach.

The combination of caring and consequences, and the contagious effect created by the message getting out to the larger offender population produces remarkable results. In San Joaquin, a county with one of the highest homicide rates in the

country, homicides have dropped by 55% over the last year since the start of this program <sup>19</sup>.

Ceasefire has lessons for the entire system as it attempts to better manage offenders. Enhanced public safety is not achieved by single solutions. The best results are produced when a system focuses on the highest risk offenders; delivers a clear message; balances concern and consequences; and has one empty bed available in the local jail.

## ❖ Treatment & diversion

The cost of processing a drug offender through the criminal justice system is upwards of \$70,000. This figure, which was calculated in 1989, represents the costs of apprehension,

investigation, prosecution and defense, pretrial detention, court work, incarceration and probation <sup>20</sup>.

Given this tremendous expense it is reasonable to ask: What do we get in return? What does this effort yield in terms of public safety, victims prevented, and future costs avoided? What is the return on this investment?

Systems that are attempting to reduce pressure on their jails must confront this question, especially in light of research that presents good, solid effective alternatives. Not only do we have three decades worth of results on Drug Courts and other treatment options, but we now have the results of the amendments to the Rockefeller drug laws that suggest a new way forward.

The New York Rockefeller drug law sentencing requirements were passed 40 years ago and resulted in long custody sentences. The sentencing rules were amended in 2009, expanding judicial discretion to offer Drug Court alternatives to addicted non-violent offenders; added a provision to allow the judge to order treatment without the DA's consent; and eliminated mandatory prison sentences for classes of felony drug offenses.

A continuing drop in crime has accompanied a dramatic drop in prison sentences for felony drug users.

### ***Recommendation: Improve and expand treatment offerings***

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<sup>19</sup> The Record (Stockton newspaper), January 25, 2014

<sup>20</sup> D. E. Olson, et. al, "Cost of Processing a Drug Offender Through the Criminal Justice System," Illinois Criminal Justice Information Authority, 1991

Probation staff, jail staff, and staff who work with defense counsel all suggested improvements to offender treatment and services. Some suggestions include:

- Expand co-occurring treatment

“If an offender has mental health issues or serious health issues they are kind of out of luck when it comes to gaining access to longer term treatment.”

- Need better linkage between jail and community treatment

“If a mentally ill offender is in jail and wants to access treatment in the community I encourage them to ask to be screened by clinical staff. But if they are in custody for less than 30 days it is highly unlikely they will be referred to residential treatment. And there is little linkage upon release. They are, for the most part, on their own to pursue treatment when they exit jail.”

- Build in routine court review for domestic violence cases

“Most offenders charged with domestic violence fail in the first 10 weeks but there is no routine court review. This would help.”

- Expand treatment offerings for offenders with violence issues

“Sex offenders are locked out of a lot treatment options.”

- Better accommodate working offenders

“A person in Vet Court or Drug Court has to appear in court during the day, even if they are working. Transportation is also a problem.”

- Expand funding for treatment outside AB109 population

“Although new money was made available for the AB109 population it is not easy to access treatment for a non-AB109 offender.”

- Review community faith-based drug treatment program exclusions

“Most of the available residential treatment is offered by faith-based services, but they have exclusions.”

“Most will not, for example, allow offenders who are on medications because they are not in a position to monitor that. This is an impediment.”

- Develop more treatment options that are not faith-based

“Drug programs for female offenders are almost exclusively offered by faith-based programs. This can be a barrier for some.”

- Make drug treatment of varying lengths available

“The shortest free drug treatment program is 6 months. Need some 3 month residential programs from which offenders can step down to outpatient.”

### ***Recommendation: Develop quality indicators for programs***

Program quality is essential for achieving reduced recidivism. Corrections program assessment tools are now available and the County should select one. The better tools, such as the University of Cincinnati’s CPC, measures program indicators that have been shown to be directly related to offender outcome. These indicators include: offender type, treatment dosage, use of risk assessment, staff qualifications, etc.

The assessment of program quality should be done in the spirit of supporting improvements in service delivery, not to punish a program.

A program monitoring and assessment protocol should include: program self-assessments (using a standardized format); site visits and evaluations; program participant interviews; and program assistance plans. This process should occur at least once per year and for those that fall short of standards, the process should be repeated every 6-months.

Corrections ‘best practices’ have evolved to a point where standard quality standards can be developed for all Corrections programs and practices.

### ***Recommendation: Consider more ‘navigator’ positions to improve connection with treatment***

**There is disconnect between eligibility for alternatives and actual placement:** Of those individuals deemed eligible for Alternatives at the point of sentencing (40%) only half (53%) were actually placed in treatment. Therefore, only 21% of the individuals who came before a judge in this sample were both ‘found eligible for an alternative’ and ‘placed in an alternative.’

**Offenders refusing treatment does not appear to explain low placement rates:** Of those deemed by the courts to be eligible for placement, only 5% of individuals are documented as refusing treatment.

***Recommendation: Improve system trust in the Drug Court program***

Drug Court is a tough program. Unlike a jail sentence, which can be served without much effort, Drug Court demands a lot of a person. It demands change. The process involves a year to 18-month commitment, routine drug tests, and the rigors of treatment. Those who opt in are not choosing the easy path. Drug Court is tough and, when done right, it works.

**The Placer County Drug Court should be full. Instead it is significantly underutilized:** From September 2011 to October 2013 there were only 44 active participants in the program. At present there are approximately 15 individuals in the program. Drug Court team members estimate that they could double the number of participants within existing resources (the judge was not at this meeting).

**Over a recent 8-month period only 32 people were assessed for the Drug Court program.** Given that 31% of the 3,500 annual admissions into the local jail are for Narcotic offenses (1085 Narcotic admissions) the number of Drug Court participants is shockingly low.

To increase usage the system must have confidence in the program. National reviews of Drug Court programs make a strong case for their effectiveness.

The recent ‘Multi-Site Adult Drug Court Evaluation,’ conducted by The National Institute of Justice and the Urban Institute provides the latest proof of their benefits <sup>21</sup>. This study is remarkable because it tracked offender outcomes longer than many studies and it compared Drug Court participants to matched offenders who received conventional case processing. According to this study:

- Drug Courts were effective at reducing both substance abuse and crime
- Participants were one-third less likely to report using drugs at 18-months after enrollment
- Participants were responsible for *less than one-half as many crimes* as the comparison group who received conventional case processing and sentencing
- Each Drug Court participant saved the system \$5,680

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<sup>21</sup> Roman, J, “Cost-Benefit Analysis of Criminal Justice Reforms: NIJ’s Multisite Adult Drug Court Evaluation highlights important considerations when analyzing the costs of

benefits of crime interventions,” National Institute of Justice, NIJ Journal, July 2013  
We recommend that a local contingency (Court Administrator and select judges and prosecutors) join the Drug Court team at the 28-31 May 2014 National Association of Drug Court Professionals annual conference in Anaheim.

### ***Recommendation: Strengthen local Drug Court program***

The Placer County Drug Court program has a dedicated judge, passionate Probation and Behavioral Health staff, and a network of treatment and services.

**The Drug Court makes good use of short sanctions:** The average jail sanction for Drug Court non-compliance is 6 days. This conforms to Drug Court research, which suggests that short and swift sanctions are as effective as longer sanctions, and that sanctions of more than 6 days per incident actually **increase** recidivism.

**The Drug Court holds participants accountable through numerous and routine drug tests:** Program participants received an average 55 drug tests.

The program is challenged by system issues (garnering the trust of the prosecution and the courts), a cumbersome selection system that often does not begin until the offender is in jail, the lack of system incentives to participate (an offender is confronted with a choice of 90-days or less in jail or an intensive 18-month program); the lack of charge dismissal (persons who successfully complete the program are recorded as ‘sentence satisfied’). The high numbers of out-of-county residents, who come through the local system and who, by policy, are not necessarily eligible for the program also challenges the program.

**The Drug Court has a relatively low successful completion rate:** 56% of participants successful complete the program

Not only is there is there strong empirical support for the Drug Court model but research has identified the characteristics of the most successful Drug Court programs.

### **Characteristics of effective Drug Courts**

- **Focus on high risk & high need offenders:** Programs that focus on high risk/high need offenders have 2x the crime reductions, and return 50% greater costs, than those programs that serve a lower risk offender
- **Focus on those offenders with drug and alcohol dependence:** Nationally, approximately half of Drug Court participants are not drug dependent. This results in the use of an intensive and expensive

resource for a lower risk population.

- **Use short and swift jail sanctions:** Programs that routinely use 3-5 day jail sanctions as a certain response to violations yield the best results. The use of jail sanctions longer than 6 days increases criminal behavior.
- **A fully engaged Judge:** The quality of interaction with the judge is among the most influential factors for program success. Judges who are perceived as fair and respectful get the best results. Placer County has an excellent Drug Court judge.
- **Frequent court status hearings:** Status hearings should be held no less frequently than 1x every 2 weeks (biweekly) during the first phase of the program. Higher risk offenders do better with more frequent hearings.
- **Programs that use clear sanctions and rewards for behavior:** The use of incentives and rewards has been shown to be as important as sanctions in helping to change behavior. Clearly defined behaviors that result in program advancement is key to good outcomes.
- **Full team participation:** The full involvement of the district attorney, defense counsel, probation officer and treatment staff improves outcomes.

***Recommendation: Focus on higher risk offenders: both felony & misdemeanor cases***

Drug Courts achieve optimal results by focusing on offenders who are high risk to re-offend and have substantial addictions. The benefit of focusing on the high-risk population can be seen in national analyses of cost-benefits for Drug Court. It has been shown that Drug Courts produced an average \$2.21 in direct benefits to the criminal justice system for every \$1 invested <sup>22</sup>. These good results can, however, be improved upon. When Drug Courts target the more serious, high-risk drug offender the average return on investment almost triples: a \$3.36 return for every dollar invested.

Research shows that, across jurisdictions, the cost benefits reported for Drug Courts actually reflect large drops in crime for a small subset of higher risk program

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<sup>22</sup> Bhati, A.S., Roman, J.K. & Chalfin, A. (2008) "To treat or not to treat: Evidence on the prospects of expanding treatment to drug-involved offenders." Washington, DC: The Urban

Institute

participants (even high violent) offenders. As this report has discussed with other parts of the system, the focus on the higher risk offender reaps the best public safety and cost benefits.

Research also shows that all forms of drug treatment yield reductions in recidivism, especially when directed toward the higher risk offender. In general, Drug Courts and community-based intensive outpatient treatment programs reap similar benefits in terms of cost avoidance for victims and the criminal justice system, due to reduced reoffending. Of course, Drug Courts cost more to operate than outpatient treatment. The key is to have a continuum of treatment options to accommodate offenders with different levels of risk and need.

**The Placer County Drug Court has a significant number of low risk participants:**

The program is serving a relatively large percentage (33%) of low risk offenders who might not need a program of this length and intensity; and the program lacks differential treatment ‘tracks’ by risk level. Twenty-two percent of program participants were moderate risk; only 44% were high risk.

We recommend that offender Risk be the guiding principle to direct offenders to the Drug Court program. Higher risk individuals with verified chemical dependency issues (not just problems, but dependency), who are facing sentences long enough to serve as an incentive for participation should be the target group.

**The majority of Placer County Drug Court participants are felony offenders: 89% of participants had felony charges/convictions:** The participation of misdemeanor offenders is the exception.

At this time the Drug Court focuses on felony offenders; the participation of misdemeanants is an exception. We like that the program will accept non-drug cases. We also realize that, in a County where a good percentage of cases are from out-of-county, a program is challenged when it will only accept offenders who live in the local area.

***Recommendation: Develop treatment ‘tracks’ for Drug Court participants***

**The Drug Court program is a long program:** Participants spent an average 328 days in the program.

Treatment tracks of varying length and intensity should be developed to reflect different levels of risk and need. A 6-month, 9-month, 12-month + schedule could be considered.

***Recommendation: Consider low level tracks without treatment***

The other consideration is how to stretch treatment resources. This has to do not

only with who is prioritized for treatment resources, but how they move into these treatment slots.

A new court-based Probation program in Hawaii called the HOPE program offers some lessons on how to stretch resources. High risk Probationers are given clear instructions from the court about the consequences of non-compliance. Each dirty urine test results in an immediate return to court and a 2-3 day jail sanction. After three failed tests the offender is mandated into treatment. This process sorts the high-risk population into those who can comply without treatment and those who ultimately need it.

***Recommendation: Consider a lower level Drug Court ‘track’ for Prop 36 cases***

**Prop 36 programs Fail to hold Offenders Accountable:** In fiscal year 2011-2012, 150 individuals in coming through the criminal justice system in Placer County were deemed eligible for Prop 36 programs. Of those, 30% never attended court even once; 65% were not referred to treatment; and, only 20% successfully graduated from treatment and had their charges dismissed.

***Recommendation: Increase number of Drug Court status hearings***

The Placer County Drug Court has one hearing per month. The Placer County Drug Court should increase its number of status hearings from 1x per month to 1x per month. The key to the Drug Court model is predictability along with swift and certain. Once per month does not work for this population.

***Recommendation: Strive for full team participation***

**The Drug Court does not have the benefit of District Attorney’s participation:** The Drug Court is built on a team model that assumes participation of key system players. The full participation of the District Attorney is essential to achieve full program potential.

***Recommendation: Create better incentives for program participation***

The use of legal leverage is important for compelling Drug Court participation. The ability to avoid a long sentence and/or to have charges dropped upon successful completion provides clear incentives. Absent these a program can struggle. The Placer County system should consider how to improve the impetus to join.

***Recommendation: Have Pretrial services identify Drug Court candidates***

At this time the entry into Drug Court can be happenstance. Referrals may come from defense counsel, or it might come through the courts. However, some offenders make a request through the Jail ‘kite’ system, through which they ask

for an application.

Pretrial staff is well positioned to identify defendants who meet the program criteria for Drug Court, Mental Health Court and vet court. Given that early entry into treatment is associated with better outcomes it makes sense to have Pretrial staff assist.

### ***Strengthen Behavioral Health assessment & treatment referral***

AB 109 dollars support two Behavioral Health workers who provide treatment assessments and referrals focused principally on AB 109 cases.

**The majority of Probation Behavioral Health Assessments are directed toward prison release to community supervision (PRCS) cases:** 60% of the Behavioral Health assessments and referrals were conducted on PRCS cases. This reflects the intended focus of this newly funded assessment resource.

We recommend that all probationers who score high risk, regardless of AB109 status, receive a Behavioral Health treatment & service assessment.

### ***Recommendation: Make universal needs assessment available for all high risk probationers***

**The majority of probation behavioral health assessments are directed toward prison release to community supervision (PRCS) cases:** 60% of the Behavioral Health assessments and referrals were conducted on PRCS cases. This reflects the intended focus of this newly funded assessment resource.

We were pleased to find that the majority of those directed for a Behavioral Health assessment are high risk. However, all high-risk offenders, both misdemeanor and felony, should have access to a ‘needs’ assessment to help shape the supervision plan.

**The majority of probationers assessed by Behavioral Health scored as High Risk:** Of these, 11% scored as Very High Risk. This reflects a good focus on those individuals with the highest propensity for repeat criminal behavior.

### ***Recommendation: Encourage the courts to defer to clinicians for specific treatment placements***

Although not so frequent as in the past, court orders can be very specific with regard to type of treatment (for example, ‘residential’) and duration. With a good assessment process in place, it behooves the system to allow the treatment plan specifics to be guided by the clinical and risk assessment.

**Approximately one-third of offenders assessed by behavioral health had court-ordered treatment:** In 29% of the cases assessed, the offender already had been ordered to treatment by the courts.

***Recommendation: Review how to strengthen services for the high risk + homeless population***

**The majority of probationers assessed for treatment already had a history of treatment:** The probationers assessed by Behavioral Health staff for treatment consideration have a relatively high percentage of meth users (46%), and 57% scored as high risk.

**Approximately 10 percent of those assessed had already come into contact with the local behavioral health system:** These included prior contacts and cases currently case managed.

Special consideration is given by staff to those in need of stabilization and a network of housing options exists. This is important because it helps address that small percentage of the population who are repeat customers: those who recycle through the system. In this sample, 70% already had a history of treatment, and a smaller percentage was homeless. The ultimate challenge in prioritizing corrections treatment resources is how to take both risk and needs into consideration to keep the focus on developing a balanced plan to reduce recidivism.

**A small percentage of probationers assessed for service needs were Homeless at the time of the behavioral health review:** 13% of the probationers assessed indicated they were homeless.

***Recommendation: Incorporate risk information into the selection process***

Behavioral health assessors need the risk score of the person they are assessing. And we recommend a review of how to prioritize scarce treatment resources, such as residential treatment, according to the dual consideration of risk and need.

**The vast majority of probationers assessed were determined to be in need of treatment or services:** 91% of those assessed were deemed to be in need of treatment or services.

***Recommendation: Expand treatment options***

**The most frequently assigned treatment was Cognitive-Behavioral coursework:** 60% of assigned treatment was to one of several cognitive class options. This is very positive, reflecting the empirical data on the positive effects these courses can have on prompting behavioral change.

We would recommend addition of Anger management classes, more mental health counseling, co-occurring treatment, and mentorship options for a select young / high risk population.

**A small percentage of referrals were to violence specific programs:** Although 10% of the probationers assessed score Very High Risk, making prior or current violence a high likelihood, there were no anger management classes for assignment, and less than 3 of the 225 referrals were to domestic violence or batterers treatment.

***Recommendation: Consider how to use probation assessment process for Drug Court referrals***

**The behavioral health assessment process is not a conduit into Drug Court:** Only 4% of the service referrals were to Drug Court. A discussion that involves the courts regarding how to better use Drug Court, as a sanction for probation non-compliance should be pursued.

***Recommendation: Engage behavioral health in development of quality standards for treatment programs that serve offenders***

We recommend the development of corrections-oriented quality control audits of treatment programs. Specialized program assessment tools are available that rate programs based on practices proven to correlate with reduced recidivism. Behavioral Health should be a player in the development of this process.

**Substance abuse treatment referrals were almost evenly divided between outpatient and residential treatment:** Approximately 40% of the service referrals were to substance abuse treatment; of these 53% were to outpatient services and 47% were to residential programs.

**The most frequently reported drug of choice among the probationers assessed was methamphetamine:** 46% of those assessed reported Meth as their most serious drug of choice; Alcohol was the second more frequently reported, at 20%. Cocaine and Heroin made up 5% of reported drug use.

***Recommendation: Align risk & needs assessment protocols at screening clinics***

Probationers not seen by the in-house Behavioral Health workers for a treatment assessment can be directed to one of the BH screening clinics. These clinics are not specific to the Corrections population. However, given the importance of offender risk information in charting a treatment and supervision plan (and the knowledge that, for high risk offenders, one without the other does not yield great results) there should be a conversation about how to best align these separate processes.

***Recommendation: Minimize ‘offender motivation’ in treatment selection***

Given limited treatment resources, ‘motivation’ is one of the central considerations for referral for offenders who go to the Behavioral Health screening clinics. Although this might make intuitive sense (no one wants to waste resources on resistant clients) the research on the Corrections population reveals that initial motivation is not a good predictor of ultimate success in a program. The risk level of the offender, rather than client interest, should be the guiding factor in resource prioritization. It then becomes incumbent on the programs to have the skills, system incentives, and tools necessary to help motivate change in the individual.

***Recommendation: Make treatment / needs assessments available for all high risk***

The County should reassess the drug treatment continuum to determine where it needs strengthening. This assessment should be based on offender risk and need information. What percentage of the population is high risk? What percentage is moderate or low risk? For each risk level, what percentage are drug dependent? What level of service is needed to accommodate this population across the continuum? This kind of analysis provides a starting point for treatment planning. A continuum of treatment should be able to service all higher risk individuals in a range of treatment options, from short-term outpatient to intensive outpatient to residential treatment.

***Recommendation: Create alternatives for non-violent offenders***

A growing body of research questions the use of incarceration as a beneficial or cost-effective response for the low-risk, low-level offender. As such, judges should have a broad range of short, discreet, community-based options at their disposal for alternative sentences. Supervised work crew programs, cognitive-behavioral therapy, and brief interventions should be expanded and formalized as part of a low-risk continuum of alternatives.

Expediting case disposition makes more efficient use of system resources. However, simply resolving cases sooner does not by itself produce better offender outcomes. Improved outcomes depend upon meaningful sentences. Therefore, as a next step, we also encourage a planning effort in support of ‘Same Justice Better.’

Such planning would provide an opportunity to re-think traditional adjudication and sentencing practices in light of the latest research on recidivism reduction. How should risk assessment be factored into the decision-making? How could community-based options be fully utilized for the low-risk, non-serious offender? What would a strategy to ‘sentence to the continuum’ look like: setting a mid-point sentence with clear expectations about a step-up and step-down process based on offender behavior? What new models could be considered for post-adjudication court compliance monitoring for the high-risk offender? These and other questions

should be fully considered.

***Recommendation: Expand the continuum of mental health services***

**An estimated 13% of jail inmates serving a sentence of 30 days or more had both mental health *and* drug dependence issues:** This estimate was based on the inmate response to questions about needing mental health services and indicating a need for drug treatment.

***Recommendation: Develop more co-occurring treatment***

Over the course of this project there have been multiple calls from the probation and treatment community for more co-occurring resources in the county. The development of more co-occurring resources should be pursued as part of a discussion about the full continuum of mental health services for the offender population. True dual diagnosis treatment, with program staff certified in the treatment of both substance use disorders and mental health treatment is needed. An important place to start is to discuss how to standardize screening and assessment to identify this population.

***Recommendation: Confirm that co-occurring offenders are in most appropriate program***

**The Drug Court has a significant percentage of individuals with a mental health diagnosis:** 20% of Placer County Drug Court participants were described as having a mental health diagnosis. The research on Drug Courts shows them to be equally effective regardless of the offenders' mental health status. Of course, for the more serious mental health issues the more specialized psychiatric services of a Mental Health Court are needed.

Placer County is fortunate to have both a Drug Court and a Mental Health Court.

The Mental Health Court program is designed for offenders who are legally competent but have a mental diagnosis that contributes to their involvement with the criminal justice system: schizophrenia, bi-polar disorder or schizoaffective disorders. Many Mental Health Court participants have substance abuse issues as well. The program accepts both felony and misdemeanor charges.

The program is flexible in its acceptance criteria. It is commendable that the program will review for acceptance, on a case-by-case basis, a broad range of offenses. The goals of the program are:

- To create effective interactions between mental health and criminal justice systems
- To improve the mental health and well-being of participants

- To protect public safety
- To reduce clinical and legal recidivism
- To improve access to mental health resources
- To improve monitoring of mentally ill offenders

The mentally ill population that comes into contact with the Placer County criminal justice system is heterogeneous. We find mental illness across charge categories.

We recommend a periodic review of the policies and the referral processes that result in a co-occurring cases being routed to either Drug Court or Mental Health Court.

***Recommendation: Expedite entry into mental health court***

It was noted that in an attempt to better coordinate court case management a defendant approved for Mental Health Court must return to his/her ‘home court’ for disposition and formal entry into the program. The problem though, as reported, is that this requirement to return to the ‘home court’ can cause delays for program start. We recommend that this be reviewed. The earlier those clients enter specialty court, the higher the success rate. Mental Health clients in particular can have difficulty with a process that requires appearances in multiple courts.

***Recommendation: Consider the benefits of a drunk driving court with ‘tracks’***

**In Placer County, 52% of misdemeanor dispositions were for drunk driving.**

We recommend that Placer County take a look at the San Joaquin Drunk Driving Court program. This program, which is based on a couple tiers of treatment (each tier with different expectations regarding treatment, court reporting and other obligations), has been subjected to a rigorous outcome study. The results are promising and warrant review <sup>23</sup>.

In San Joaquin County, all repeat DUI offenders are required to participate in a DUI Court monitoring program. Because not all offenders are dependent on alcohol or drugs and do not need high levels of supervision and treatment there are two tracks to the program. Track 1 is the “monitoring track” where participants are required to come to court on an infrequent schedule to report on progress in completing their probation and DMV requirements. Track 2 is for those participants who demonstrate that they are unable to comply with Track 1 and assessed as needing drug and alcohol treatment. Track 2 more closely resembles a traditional Drug Court program.

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<sup>23</sup> NPC Research, “San Joaquin DUI Monitoring Court Process and Outcome Evaluation: Final Report,” September 2012

The study, which used a comparison group who did not go through the Court Monitoring program, found that, compared to offenders on traditional probation the DUI Court monitoring participants had (in the 18-months after their eligible DUI offense):

- Significantly fewer new DUI convictions
- Significantly fewer car accidents, including those related to drug and alcohol consumption
- Were significantly more likely to comply with court, probation and DMV requirements
- Were significantly more likely to regain their driver's licenses

## ❖ The Jail

The lack of an empty jail bed in Placer County undermines all other reforms and Fedcap releases challenge the integrity of the system. An overcrowded jail makes a mockery of justice. The prosecutor can ask for custody time, the judge can deliver a jail sentence, and then the Sheriff must release the person because there is no room in the inn.

All this has a ripple effect. Offenders soon learn that the system can't deliver on its promise of a 'certain consequence' and they soon stop accepting offers of diversion or complying with supervision. A Probation officer told us that he knows too well how this affects the perception of offenders.

The lack of the one empty bed erodes all best efforts. Probation Services which does such a good job of reserving custody for the repeat or serious violator needs to know that a jail bed is available when they need to follow through on the threat of a sanction for non-compliance. When a great effort is made to apprehend a violator and there is no room in jail to hold them; or, when a 'last resort' threat of jail melts into nothing, the system professionals cannot deliver on their promises. In Placer County a 10-day flash incarceration too often can become a 1-2 days custody stay.

The lack of an empty jail beds hampers the best efforts of system professionals.

This quote is in reference to the sky-high rates of failure for offenders in the Proposition 36 program. It was noted that there is little motivation for a person to agree to participate in treatment when they know that there is no serious consequences — a choice not to take the treatment option means minimal or no jail time.

❖ The word is out. The Placer County Jail is full. Offenders know they may be out in a day.

*Probation officer*

❖ The system kicks out violators and they keep coming back and back and back.

*Another Probation officer*

## Inmate risk study

The data presented in this section comes from an Inmate Risk Study conducted on a sample of inmates in the Placer County Jail. The study examined a randomly selected sample of 100 jail inmates who were serving sentences of 30 days or more. For each person in the sample the following information was gathered:

- Sentence length, most serious conviction offense, number of prior bookings, and other system information
- The Ohio risk tool was used to derive a recidivism risk score for each person
- A face-to-face survey was administered to each individual in the sample to ascertain information regarding drug use, mental health issues, and program involvement

The general profile of the sample:

- 19% female
- 81% male
- 91% felony offenders
- 9% misdemeanants

<b>Placer County - Inmates Serving in Jail Sentence of 30+ days</b> (N = 100)	
<b>Conviction Type</b>	<b>Percent</b>
<b>Person Offence</b>	<b>6%</b>
<b>Property</b>	<b>42%</b>
<b>Narcotics</b>	<b>29%</b>
<b>Public Order / Traffic</b>	<b>20%</b>
<b>Other</b>	<b>3%</b>

### ***Recommendation: Reduce jail population***

The Placer County Jail population is at its limit. The opening of the South Placer Jail is not, by itself, a long-term solution. Without changes in local policy and practice it won't take long for the new jail to fill to capacity. Time and again it has been shown that, "Build it and they will come."

The need to find new solutions to safely manage the local offender population

❖ We need a certain amount of custody time to motivate offenders.

*Probation officer*

is made more urgent by realignment. Jails were not designed for multiple year sentences, but this is what counties are now facing.

In our 'Placer County Jail Inmate Risk Study' we found that of the population of inmates sentenced to 30 days or more, 50% had a sentence of 1 year or more. Even though this does not represent the entire sentenced population in Jail, one can see the challenge of having a significant number of inmates with sentences longer than jails were designed to accommodate. (Statewide 1.4% of jail inmates are serving a sentence of 4 years or more)

***Recommendation: Allow low-risk Inmates doing community work to reside at home***

We recommend the adoption of home-based Work Alternatives for lower risk Inmates.

Relatively High Percentage of Lower Risk Inmates Serving a Jail Sentence: Overall, only 32% of inmates serving a jail sentence scored as High Risk; 68% scored as low or moderate risk — a population that in many cases has been shown to function well in non-jail alternatives.

***Recommendation: Provide universal screening & assessment for risk & need***

The strategic use of custody resources must take offender risk into account. Risk scores should be based on assessments conducted at each stage of the criminal justice process, including custody. Ideally, the courts would not send low risk inmates to jail. Research is definitive: incarcerating low risk inmates can actually increase recidivism.

**There was *not* a strong relationship between sentenced Inmate Risk Score and eligibility for alternatives:** A higher percentage of moderate risk inmates were deemed ineligible for alternatives (46%) than high-risk inmates (35%).

One an individual is sentenced to jail staff should employ a standardized risk and need assessment to develop risk & need based offender management plans, make in-custody treatment placement decisions, and coordinate transition services.

**Of those sentenced inmates not eligible for Alternatives, 63% are Low or Moderate Risk**

Coordinated management of the offender begins with standardized and universal screening and assessment. The same risk assessment and clinical screening and assessment tools should be used across the custody to community continuum; and a common Offender Plan should be available for review and updating at each stage of the process. All offenders sentenced to jail for more than a brief period should receive risk and needs screening.

### ***Recommendation: Expand treatment services in jail***

The goal for jail programs should be provide a portfolio of treatment programs that are sufficient for all higher risk inmates; that match what is in the community to ensure continuity of services; that offer universal transition services to support all longer-term inmates with successful re-entry into the community; and sufficient slots in intensive services (intensive drug treatment) should be available for the high risk population. And access to services should not be based solely on an inmate 'kite' (an inmate request) but based on assessed risk and need.

### **45% of the jail inmates surveyed (those serving a 30 days or longer sentence) said they are *not* currently participating in any program within the Placer County Jail**

In our survey, when inmates were asked what jail courses they would recommend, two programs rose to the top in terms of popularity: 1. Job training & vocational skills programs and, 2. Drug treatment. Schooling and Parenting classes came in next. Beyond these priorities, sentenced inmates offered a broad range of suggestions for in-custody programs, among them:

- Family counseling
- Anger management
- Mental health counseling
- The ability to satisfy DUI coursework while in custody
- Re-entry assistance (including 'navigators' to help guide them to resources
- Expanded work release opportunities

**Of those sentenced inmates participating in jail programs, the largest percentage (15%) were in some form of education class.**

### ***Skills training / job preparation***

The Placer County Jail has a culinary program, operated by the Probation Department that should be the envy of many jails. The select inmates who participate in this program gain practical skills that will serve them well. The new South Placer Jail will allow an expansion of this program. This is important, given the real need for inmate skill development and their expressed interest, in our survey, for culinary skills. The area of skill training and job preparation is one that allows creativity. As the South Placer facility comes on line a range of skills development options should be fully explored.

### **Job training was ranked #1 in terms of Placer County jail inmate interest**

This is not surprising: 53% of the inmates said that they were not employed at the

time of sentencing.

**Importantly, when inmates in this sample were asked, “*In the past, what has been the biggest contributor to you remaining crime free?*” the most common response by far was ‘A job’ or ‘Staying busy.’** The second most common response was ‘Family.’

When it comes to the specifics of Job programs, the most common request was for vocational training; and the most common skills training requested was culinary training. Computer training and mechanical skills was also noted.

In terms of what would help jump-start the job searching process, this question generated a lot of interest. An impressive list of ideas was offered, including:

- Help with drivers license
- Resume help
- Vocational education
- Trade school
- Transportation help
- On the Job Training opportunities
- List of employers who will hire ex-offenders
- Job placement assistance
- Being able to seal their record
- A stable residence
- GED
- Learning how to **keep** a job
- Resource list
- Stabilize mental health issue
- Help staying sober

### ***Intensive substance abuse treatment***

The Placer County Jail is lacking in substantive drug treatment. It also lacks any universal screening and assessment process to determine drug dependency or level of treatment need, although this was available in the past. We recommend the adoption of universal drug screening which, along with a risk assessment should guide the development of sufficient in-custody drug and alcohol treatment resources.

**64% of the sentenced inmates in this survey reported that they were using drugs at the time of the offense for which they were serving time.**

A recent analysis found that intensive outpatient drug treatment offered in custody

settings produces some of the highest system and victim benefits, measured in cost-avoidance through reduced recidivism; and, it offers a \$31 return on the dollar <sup>24</sup>.

**When asked if they had a problem with drugs, 60% reported ‘yes.’**

The inmates were also asked about their drug of choice. Methamphetamine was the most prevalent drug, with almost half of the population reporting its use. For 10% of the population heroin was the exclusive drug reported being used.

**Of those who reported having a drug problem, 80% said they wanted help. For those with heroin as their sole drug of choice, 100% asked for help.**

For those for whom meth was the sole drug of choice, 72% wanted help.

<b>Placer County Jail - Percent Requesting Help with Drug Problem</b>	
	<b>Percent</b>
<b>General drug problem</b>	<b>80%</b>
<b>Meth only</b>	<b>72%</b>
<b>Heroin only</b>	<b>100%</b>

Interestingly, when asked, “*In the past, what has been the biggest contributor in you remaining crime free?*” only a small percentage (9%) said that drug programs or achieving sobriety had been a principal factor. This is an important point for criminal justice systems to consider. Although there is no doubt that the offender population is immersed in drug use and plagued by addiction, we cannot therefore infer that drug use is always a causal agent for crime.

For this reason Drug Court research insists that programs must focus on those offenders who are both high risk offender (an increased probability of offending) and drug dependent. Likewise, intensive jail drug treatment programs should be targeted to the high risk/high need inmate.

So, how large is that population in the local jail? A rough estimate for the Placer County jail starts with the following parameters:

- Focus on those with sentences of 30 days or longer

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<sup>24</sup> Elizabeth Drake, “Inventory of Evidence-based and Research-based Programs for Adult Corrections,” (December, 2013), Olympia, Washington, Washington State Institute of Public Policy

- Identify inmates who score High-Risk for recidivism (using the Ohio risk tool approximately 31% of inmates with 30 days or longer sentences
- Identify inmates who are Drug Dependent (using the TCU screen / assessment or something similar). For this thumbnail calculation we use 60%, the percentage of sentenced jail inmates serving a sentence of 30 days or longer who also indicated that ‘they have a drug problem’

By this rough calculation we come up with a figure of roughly 19% of inmates as candidates for intensive drug treatment.

This is only slightly less than the 23% of CDCR inmates reported to be high risk/high drug dependent. And it is only slightly less than the 25% percentage (high risk/high dependent) we typically find in other jails.

### ***Parenting classes***

Parenting classes are good prevention. With the high percentage of inmates having family members who have been incarcerated there is no question the cycle needs to be interrupted.

**In the Placer County Jail, 50% of the sample population had children; 21% reside with their children. 87 percent are single or divorced; 13% married.**

Parenting classes help reform the parents and protect the children. There is evidence that parenting classes help reduce returns to custody. We recommend that they be made available to all incarcerated parents.

**Of those with children, 37% would be interested in a parenting class.**

### ***Family services***

On any given day, over 1.5 million children in this country have a parent serving time in a state or federal prison. According to the U.S. Department of Justice, the number of incarcerated women in the United States has more than doubled over the last 10 years, and 75% of women in custody are mothers.

Where are these children? A vast number are in foster care. And we know that, unfortunately, foster children have a dramatically heightened likelihood of entering the criminal justice system. The likelihood of reunification for children in foster care with their mothers is very low. Foster children who have incarcerated parents are 4x more likely than other foster children to ‘age out’ of the foster care system than reunite with their parents.

**51% of the Placer County jail inmates in the sample indicated that an immediate family member (parents, siblings) had a history of incarceration.**

The collateral consequences are many; this is one of the tragedies. Answers lie in more diversion options for male and female offenders; the involvement of families in offender treatment and transition; reunification assistance services for incarcerated parents; and specialized programs for female offenders.

We recommend that jails and the transition programs that they develop address family issues and provide assistance with reunification services for the longer-term inmate.

### ***Mental health services***

There is no question that mental health services are important for a jail population. The tremendous need for a strong continuum of mental health services requires system attention. Systems need better front-end diversion to ensure that mental illness is not criminalized because of the lack of a social safety net. Jail should not be the default response for persons who come to the attention of law enforcement for low-level or nuisance offenses complicated by mental disorders.

Once a person is convicted for a more serious offense the issue becomes more complex. One of the challenges in addressing this issue is that the problem is not neatly compartmentalized. In looking the sample population in the Placer County Jail (those with sentences of 30 days or longer) we found what other studies have noted, that at this level of system penetration, mental illness is not confined to a particular type of offense or a particular offender risk level. As such, we recommend that criminal-justice based mental health services be broadly available and, at the first level, be prioritized for the higher risk offender and the frequent flier.

However, there are real system deficiencies that need to be resolved to reduce the population of mentally ill offenders residing in jail. One is the waiting period for a bed at the state hospital for a competency evaluation (5150 cases). Current waiting times can be up to 5-months. This is a travesty. But the problem is not limited to the long-waiting period for an evaluation. Once the person is returned to jail, after receiving treatment at the state hospital to restore competency, they sit and wait for a court date and finally a hearing, over which time they can decompensate.

For misdemeanor cases the person is sent to the Kirby Hills program for a 5150 evaluation and treatment. It used to be that Kirby Hills could keep the person in treatment until a court date was set and would return them to jail after a court hearing had been scheduled. But a change in policy now requires that the person be returned to jail in order for a court date to be set. And so the defendant sits idly in jail, waiting, which can reverse treatment gains. This all needs review.

In this sample, 15% of the inmates indicated that they were taking medications for a psychological problem, either currently (while in jail) or at the time of incarceration. 14% of the population indicated that they had been previously hospitalized for a mental health issue.

Behavioral Health personnel in the jail do a good job of assessing inmate behavioral health needs; providing discharge planning, including starting the Medi-Cal application process; connecting the mentally ill inmate to services like Turning Point; and working to ensure access to approved medication in custody and upon release. However, effective discharge services for the mentally ill are premised on continuity of services. This is a challenge. In Placer County, a mentally ill offender released from jail confronts a 2-month wait to see a county clinician or a psychologist at the medical clinic. This is a big gap in the continuum of care and should be reviewed.

An estimated 17% of jail inmates serving a sentence of 30 days or more had both mental health *and* drug dependence issues: This estimate was based on the inmate response to questions about needing mental health services and indicating a need for drug treatment. When asked if they felt that they would benefit from mental health counseling, 27% responded ‘yes.’

Placer County - Inmate Drug & Mental Health Needs	
	Percent
<b>Co-occurring</b> (inmate requests both drug & MH treatment)	<b>17%</b>
<b>Drug only</b>	<b>30%</b>
<b>Mental Health only</b>	<b>10%</b>
<b>Neither</b>	<b>42%</b>

*Note: the determination of treatment need based on inmate self-assessment is of course only an estimate. However, interesting research that we conducted in another good-sized jail found close agreement between an inmate’s self-assessment of drug treatment need and their score on a validated drug dependency-screening tool.*

Effective mental health services also depend upon good information sharing. While privacy laws (HIPPA) appropriately restrict general access to client information there are built-in exceptions that pertain to the management of the corrections client. As an example, the ability for private psychologists and the jail psychologist to be able to share client records in order to provide the most complete picture to the court, is in the interest of the defendant and the system. We were informed that this is an issue locally, and one that can frustrate the best efforts to coordinate inmate mental health care. We recommend this be reviewed.

### ***Cognitive-behavioral treatment***

Cognitive-behavioral treatment (CBT) is one of the top performers in the treatment arena, when it comes to offender change. This approach, which challenges and re-trains thinking patterns and develops problem-solving skills, yields some of the largest recidivism reduction outcomes in the field, and it is comparatively inexpensive.

**Only 8% of those inmates with a 30 days or longer sentence were participating in MRT, a cognitive-behavioral class.**

Probation has made it available to those under supervision and we are pleased to see it being offered in the jail, but would recommend its expansion. It has been shown to be equally effective whether delivered in custody or in the community; and it is effective for offenders with all nature of issues: mental health included.

We recommend that CBT be made available to all sentenced inmates serving a 30 days or longer sentence AND to high risk offenders with shorter stays. In both cases coursework should be started in custody and continued in the community without interruption.

### ***Anger management***

**The AB109 population comprises the majority of the sentenced population serving a local jail term: 58% of sentenced inmates were AB109 offenders.**

Many of the offenders in this population will have served time in prison. They are by definition a group with more entrenched contact with the system. Even if they don't have violent offenses in the past a prison experience exposes any offender to a more violent environment. The jail custody experience must be a place in which inmates learn new tools for dealing with conflict and acquire new skills for diffusing not acting upon their anger.

**The AB109 population has a higher risk profile: 39% of sentenced AB109 inmates scored as High Risk compared to 21% of non-AB 109 inmates.**

We recommend that Anger Management classes be available for the highest risk inmates or those serving time for a violent offense, regardless of risk score.

### ***Female specific classes***

In Placer County a high percentage of felony bookings are for female: more than one-quarter. This compares to a national felony female arrest rate of 19%. Another surprise in examining the local data is that females and males who are booked on a felony charge have similar proportions of person crimes.

**Person crimes make up 41% of female bookings; Person crimes make up 39% of male bookings on a felony charge.**

This near equivalency in the distribution of charges by gender holds true for domestic violence bookings as well.

**Domestic violence charges make up 11% of female bookings; DV offenses make up 12% of male bookings on a felony charge.**

This equivalency, especially for domestic violence charges, raises some questions. Are distinctions by gender in the type of violence offenses that are resulting in arrest? How is law enforcement discriminating between victim and perpetrator in domestic violence arrests?

Other important questions go to the issue of treatment services. What resources are available for female offenders, in custody and in the community? Are there female specific services? Do they meet the need?

Evidence of high percentages of female offenders may signify both law enforcement practices, a low use of therapeutic alternatives to jail, and a lack of treatment and jail transition resources for females – who often have less family support than male offenders. All these questions should be explored.

We do know that quality female offender programs are effective. A good example of a female-specific program that had produced good results is the Female Offender Re-entry Group Effort (FORGE) that is part of New Jersey's prison transition services. This gender specific re-entry program provides transition help with job search, legal counsel, and psychological trauma; and it enhances conventional case management and support services with a monthly female support group. A study by Rutgers University examined the outcomes <sup>25</sup>.

❖ Drug programs for female offenders are almost exclusively offered by faith-based programs. This can be a barrier for some.

*Defense counsel resource staff*

<b>New Jersey Female-Specific Re-entry</b> (4 Year Post-prison Recidivism)	
	<b>Percent</b>
<b>Exit Prison with no Parole supervision</b>	<b>66%</b>
<b>Parole supervision</b>	<b>48%</b>
<b>Parole + FORGE program</b>	<b>42%</b>
<b>Parole + FORGE program + Monthly Support Group</b>	<b>28%</b>

<sup>25</sup> Yolette Cross, Parole Board Chairman, "New Jersey State Parole Board 2009 Annual Report," 2009

An examination of national data on female inmates shows that over 90% report sexual, physical or severe emotional abuse. Like veterans, many female inmates are dealing with, not only addictions but also trauma. We recommend the development of female specific services in-custody, in the community, and at the point of transition from jail. These services should take advantage of the power of the group dynamic for female offenders, be grounded in cognitive-behavioral therapy, address trauma, and be family-focused.

### ***Transition services***

**Only 8% of sentenced inmates in this sample indicated they would be on Parole upon release.** 40% will exit with some Probation supervision. The low rates of post-custody supervision for inmates with long sentences in the local jail challenges transition planning.

The fact that post-custody supervision is not standard practice locally (we recommend that it should be for inmates with longer sentences) formal Transition services become all the more important.

To address the issue of high risk offenders exiting with no supervision the program could consider adding some 'Navigator positions' to assist the transition. For example, Sonoma County has TASC workers (under the direction of the Behavioral Health Department) who strive to close the gaps in the system, assessing and tracking individuals to treatment and services as they move in and out of custody. This service-oriented monitoring supports and enhances Probation officer efforts. We recommend it be considered.

**11% of the inmates said that they don't know where they will live upon release.** And, the same percentage indicated that they would not feel safe. The majority of sentenced inmates indicated that, upon release, they would be living with family and friends.

### ***Continuity of services***

It is important that not only are services offered in the Jail but also that any programming started in custody is seamlessly continued in the community.

**Out of 100 inmates sampled about exit plans, only one person indicated that they would be exiting to a treatment program.**

### ***Victims***

Victim rights are a bedrock principle in justice systems. Realignment has resulted in some victim issues, across all California counties, regarding the transition of victim notification and restitution tracking. Offenders who exit jail on a 'straight'

sentence (no continued legal supervision) are not subject to continued restitution tracking; and there is no over-arching administrative body to monitor restitution payments after post-release community supervision. The problem is compounded by the lack of a statewide database for offenders that would allow law enforcement officers to check a person's status when they make contact. As local Jail and transition services are expanded and improved attention should be given to the attendant victim issues.

***Recommendation: Broaden efforts to include prevention***

As Placer County builds its Continuum it should encourage the work of groups that work 'upstream' from the criminal justice system. The offender population in this county, as in most counties, has more likely than not failed the school system before reaching the Corrections system.

**62% of sentenced inmates in this study had been suspended or expelled from school at some time.**

A comprehensive Plan for Corrections would address high-risk individuals and behaviors *before* they progress to adult criminal behavior. Successful programs and models exist in the community and within juvenile justice systems and we know that Placer County Juvenile Department has taken the lead in this direction. Still, there is more to do.

Prevention programs that reduce and prevent adult offending include family training programs for high-risk youth, and programs and policies to retain youth in school.

Consistent with corrections research that shows that punishment by itself has no benefit in helping offenders change course, the same holds for punitive or zero tolerance school policies that show no benefit in improving long-term behavior. In both the field of prevention and offender reform we know what works. It is time to apply it.

***Recommendation: Identify 'frequent fliers'***

A small subset of individuals has a disproportionate impact on the jail: For the overall sample, the average number of Jail admissions was 8; 10% of the sample had an average of 20 or more bookings; 7% of the sample had an average 32 bookings each. Or, to put it another way, 7 inmates had a collective 221 bookings.

**Small number of convictions for 'frequent flier' group:** Only 16% of the bookings resulted in conviction. Of the 221 bookings for this subsample of 7 offenders, there were only 36 convictions.

This is a subset that has been failed by the system. Although repeatedly arrested and booked there are few convictions. If convicted they are at a high risk of a Fedcap release. There was also little evidence of past programming for this group: 94% of the offenses for which this subset were booked were non-violent offenses. In looking at criminal history one can see, in many cases, the escalation of crime from low-level criminal activity to more serious offenses.

**Fedcap releases contributed to the recycling of 'frequent fliers':** Of the 49 most recent bookings for this subset; 20% had been released on a Fedcap order.

There were lots of drug charges among the group; 29% of most recent bookings were for narcotic offenses. There was, however, little proof of program involvement or completion to address.

The average number of jail days per 'frequent flier' offender booking was 35 days. For 221 bookings this represents a total 7,735 jail days for these 7 individuals. At the state average of \$114 per jail bed day the total cost impact can be calculated.

**These 7 individuals have cost the system more than \$880,000, or \$126,000 each.**

***Recommendation: Establish a Supervisory Authority Team***

With such a team in place judges can have confidence that the placement and movement of offenders is based on tested tools and accepted standards. At this time judges may 'direct order' offenders to treatment to meet real needs for structure, housing, or assistance. A team approach can help sort out, over time, how these needs can best be met in a coordinated, continuous, and least restrictive manner.

Supervisory Authority is an offender management tool that provides the Sheriff (and any other designated authority, such as the Probation Manager) to move offenders along a custody-to-community continuum without a return to court. Implemented either by court rule and/or statute that allows a multi-disciplinary team decide to step an offender down in to the community using our continuum of services / supervision.

Under this model, with some exceptions, the judge sentences to a defined term and then allows the custody and treatment professionals to manage the case along a continuum of programs to achieve optimal therapeutic value.

When the offender is committed to the custody of the Supervisory Authority, such as the Sheriff or a Sheriff / Probation team, the Supervisory Authority may impose sanctions other than incarceration for custody sentences in which incarceration is a condition of probation. This provides the flexibility to manage inmates in a step-down fashion from jail, moving them to halfway programs, home detention, or day

reporting and other community-based interventions, as risk and behavior permit. Oregon statute provides an example of this authority:

**ORS 137.523**

When the Judge sentences the defendant to confinement in a county jail as a condition of probation, the Judge shall sentence the defendant directly to the custody of the Sheriff or the Supervisory Authority.

The objective is to have a mechanism to reward/encourage inmates for good behavior and to encourage participation in the appropriate programs. This is best accomplished by having an attainable step-down program that allows early release for meeting clearly defined goals.

The principle of being able to earn an early release from custody, or be able to step-down to a lower level, is consistent with the principle of behavior-based offender management.

❖ Re-entry

***Recommendation: Fully support re-entry efforts***

We are pleased that the County has initiated the planning of a Transition project. The Probation Department, under the direction of Marshall Hopper, has the talent and innovative spirit to launch a model program. We recommend that this program serve as the foundation of a more expansive form of re-entry services, with the eventual development of a Community Corrections Center, to extend the re-entry continuum and make re-entry an integral component of the custody experience.

Characteristics of a quality re-entry program include:

- Re-entry plan based on risk and needs assessment
- In-custody and community programs are aligned
- Sufficient, intensive in-custody treatment available for all high risk inmates
- Probation reach-in services and Community treatment provider reach-in
- All inmates exit with identification, bus pass, referrals, etc.
- High-risk inmates exist with treatment continuation in community, job search assistance, family services, referral to clean and sober housing

- Highest risk inmates exit with more intensive case management / mentors
- Re-entry directed to all offenders in custody for 30 days or more
- Re-entry activities continue in the community for 90 days
- Specialized re-entry services for mentally ill, violent, and female offenders
- Quality control reviews of discharge planning protocols

**5% of the jail inmates serving a 30 day + sentence had a gang association.**

For those inmates with gang associations or with past violence we recommend the development of a ‘Boston Re-entry’ model. In this program, based on Ceasefire methods, groups of gang inmates are visited in custody by system representatives (sheriff, police chief, prosecutor, and family and community members) to deliver a message that the violence must stop; consequences for new violence will be serious; and that help is available to turn their lives around. This is followed by in-custody services and post-custody transition services.

A study of the program found that one-year post-release, 36% of Boston Re-entry participants had been arrested for a new crime compared to 51% of the control group <sup>26</sup>.

***Recommendation: Plan a Community Corrections Center***

We strongly recommend the development of a Community Corrections Center as the centerpiece of long-term Transition Planning.

A Community Corrections Center (CCC) prepares inmates for successful transition back to the community. It is a non-secure residential facility that offers a community-oriented environment as an alternative to Jail. Inmates at the CCC work in the community during the day and then return to the facility for the night. The Center provides a structured living environment in which to learn new skills and chart a path for the future.

A Community Corrections Center offers an option for serving jail time that can improve offender outcomes and thereby lower system costs. (It can also serve as an intermediate sanction for probation violators — an option that provides structure without the loss of a job that often comes with jail sanctions.) While living at the Community Corrections Center inmates earn income, reimburse the county for part of their confinement, are required to pay toward their restitution and family obligations, and build up savings for their eventual release.

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<sup>26</sup> [www.crimesolutions.gov](http://www.crimesolutions.gov) (Boston Re-entry)

The Community Corrections Center model is not a work release facility. It does not provide just another alternative to custody, but a whole new way of ‘serving time.’ It moves from a model in which time in custody is one of idleness punctuated by an occasional program, to a model in which the inmate moves through a holistic program plan and work experience, learning new skills and then testing them in the community during their stay. The CCC provides a model in which an offender leaves with new skills, new connections, and a plan for continued treatment and support. It offers a new beginning.

A Community Corrections Center should reduce system costs, improve offender outcomes, and help create a more cohesive system of local services.

### ***Benefits of a Community Corrections Center***

- Improved public safety outcomes
- Lower cost alternative to Jail
- Allows offender to step-down to lower cost community options
- Improves offender re-integration
- Enhanced flexibility in Jail management
- Expanded sanction options
- Cohesive system response

A recent cost-benefit analysis conducted by the Washington State legislative research team (the Washington State Institute of Public Policy) shows an \$11 return for every dollar invested in a Work Release Center.

Such a center (also called a Community Corrections Center) offers a step-wise and structured jail transition that provides a valuable option for the higher risk inmates. This kind of program represents a new paradigm for the system by changing the very nature of the incarceration experience. Successfully planned, it can serve to leverage other system reforms; but only if it is implemented as more than just a program, but as a broad system initiative.

To realize its full potential as a catalyst for change the CCC must operate within a new offender management structure, one that allows a risk-informed and behavior-based approach to offender management.

The concept of ‘supervisory authority,’ which formalizes the Sheriff’s ability to move offenders along a custody-to-community continuum without a return to court in all cases, is a key component of this model and should be pursued.