

Overview of 2011 Public Safety Realignment Act (AB109/AB117)

In an effort to address overcrowding in California's prisons and assist in alleviating the state's financial crisis, the Public Safety Realignment Act (Assembly Bill 109) was signed into law on April 4, 2011. AB109 transfers responsibility for supervising specified lower level inmates and parolees from the California Department of Corrections and Rehabilitation to counties. Implementation of the Public Safety realignment Act became effective on October 1, 2011.

Additionally, Section 1230.1 of the California Penal Code is amended to "Each county local Community Corrections Partnership established pursuant to subdivision (b) of Section 1230 shall recommend a local plan to the County Board of Supervisors for the implementation of the 2011 public safety realignment. (b) The plan shall be voted on by an executive committee of each county's Community Corrections Partnership consisting of the Chief Probation Officer of the county as chair, a Chief of Police, the Sheriff, the District Attorney, the Public Defender, presiding Judge or his or her designee, and the department representative listed in either section 1230 (b)(2)(G), 1230(b)(2)(H) or 1230(b)(2)(J) as designated by the county board of supervisors for purposes related to the development and presentation of the plan. (c) The plan shall be deemed accepted by the County Board of Supervisors unless rejected by a vote of 4/5ths in which case the plan goes back to the Community Corrections Partnership for further consideration. (d) Consistent with local needs and resources, the plan may include recommendations to maximize the effective investment of criminal justice resources in evidence-based correctional sanctions and programs, include, but not limited to, day reporting centers, drug courts, residential multiservice centers, mental health treatment programs, electronic and GPS monitoring programs., victim restitution programs, counseling programs, community service programs, educational programs, and work training programs."

On July 26, 2011, the Yuba County Board of Supervisors approved the Yuba Country Probation Department's request to designate them as the county agency responsible for implementing post-release community supervision as specified in Section 3451 of the California Penal Code as added by the Post-release Community Supervision Act of 2011.

On August 23, 2011, The Board of Supervisors designated Health and Human Services Department Director as the remaining department representative to the executive committee.

Key elements of AB109 include:

Target Population: AB109 addresses three distinct target populations. The first is the Post-release Community Supervision (PRCS) population. This consists of offenders who are released back to the community after serving a term in State Prison. This population was previously placed on a grant of state parole which was supervised by the parole division of the Department of Corrections. Supervision of this population is now the responsibility of local probation department and is inclusive of offenders with a current commitment for a non-violent, non-serious, non-registerable sex offense regardless of any prior convictions. A violent felony is defined in Section 667.5(c) of the Penal Code. A serious felony is defined in Section 1192.7(c) of the Penal Code. Registerable sex offenses are defined in Section 290 of the Penal Code. (see attachments # 1)

The second largest population is offenders who will serve their felony prison commitments locally in county jail rather than in state prison. Pursuant to Section 1170(h) of the Penal Code, this population will serve their sentences in the local county jail, having been convicted of a non-violent, non-serious, or non-registerable sex offense. These offenders are comprised of two groups; those sentenced under Section 1170(h)(5)(A) of the Penal Code who will serve their entire sentence within the county jail and those sentenced under Section 1170(h)(5)(B) of the Penal Code who serve a portion of their sentence in the county jail with the remaining portion under mandatory supervision to be supervised by the probation department. Since the implementation of sentencing pursuant to Section 1170(h) of the Penal Code, there has been a statewide push for courts to sentence pursuant to Section 1170(h)(5)(B) of the Penal Code to include grants of mandatory supervision. Yuba County is in accordance with this mandate and has, over time, increased its recommendations to the court for sentencing pursuant to Section 1170(h)(5)(B) of the Penal Code (see attachment #2).

The third target population is released offenders who will remain under the jurisdiction of State Parole supervision. These are offenders with current commitments for violent or serious felony offenses, or offenders classified as “high risk sex offenders”. Parolees who violate the terms of their parole cannot be returned to state prison custody, rather these offenders will serve their violations of parole in the county jail (See attachments #3).

Yuba County’s “average daily population” (ADP) of these offenders as of November 2016 is noted below (see attachment #4);

105 Post-release community offenders

19 parole and post-release offenders currently serving a sentence for revocation

51 on mandatory supervision following sentencing pursuant to Section 1170(h)(5)(B) of the Penal Code.

The post-release population has significantly greater criminal histories and are more resistant to change compared to the probation or mandatory supervision population. This has resulted in higher rates of recidivism for the post-release population (see attachment #5).

Additional key element of AB109 include:

Redefining felonies: Revises the definition of 500+ felony offenses to mandate that the crimes are punishable in local county jail for the same length of term as prescribed in the Penal Code. Offenders convicted of committing serious or violent felonies, and those who must register as sex offenders will continue to serve their terms in State Prison. In addition, approximately 60 felonies have been specifically designated for commitment to state prison. (see attachment #6)

Local Post-release Community Supervision: Offenders released from state prison after serving a sentence for an eligible offense are subject to, for a period not exceed three years, post-release community supervision provided by the probation department.

Revocations Heard & Served Locally: Post-release community supervision and parole revocation as served in local jails (by law maximum revocation sentence is up to 180 days), with the exception of paroled “lifers” who have a revocation term of greater than 30 days. The Courts hear revocations of post-release community supervision.

Changes in Custody Credits: Jail inmates earn four days of credit for every two days served. Time spent on home detention (i.e., electronic monitoring) is credited as time spent in jail custody.

Alternative Custody: Section 1203.018 of the Penal Code authorizes electronic monitoring for pre-trial inmates being held in the county jail in lieu of bail. Eligible inmates must first be held in custody for 60 calendar days post-arraignment, or 30 calendar days for those charged with misdemeanors.

Community-Based Punishment: Authorizes counties to use a range of community-based punishment and intermediate sanctions other than jail incarceration alone or traditional probation supervision.

Probation Department’s Implementation Strategies:

AB109 funding has allowed the probation department to concentrate its resources to service the AB109 population utilizing evidence based practices. Probation was able to hire more officers and divide the existing caseloads by risk level, with the highest risk offenders garnering more attention and exposing them to more treatment options. Case plans have been implemented to assist in the supervision of AB109 offenders. The creation of a Day Reporting Center (DRC) was crucial to extending services to the AB109 population. The DRC is staffed by a full time by a probation officer who administers programming, an intervention counselor who assists the probation officer and two substance abuse counselors who provide free out-patient treatment for this population. Among the evidence-based programming available at the DRC, clients can receive Moral Reconciliation Therapy, a 52 week Batterer’s Treatment Program, Anger Replacement Therapy, Peer Relationships, Theft Awareness, drug counseling, and educational assistance to obtain their GED or diploma.

The addition of the intervention counselor will enable the probation officer more time to increase the number of clients they can facilitate and provide direct supervision of them. Probation will also be adding a probation aide to be stationed at the main office. This position will assist the probation officers working with AB109 clients. This position can assume the non-sworn type duties associated with supervising a caseload, thus freeing up the probation officers to concentrate more on the core functions of supervision. The probation department is looking to upgrade its DRC to allow more space for programming and space for additional staff for future expansion.

The probation department currently benefits from a grant administered by Sutter-Yuba Mental Health which funds a Mental Health Therapist stationed at the main probation office. This position provides streamlined unfettered access to mental health services to AB109 clients. The grant expires in 2018 and AB109 funds are being set aside to fund this position post grant.

Victim Witness Services:

With the passage of AB109 the multitude of changes brought on by realignment has caused confusion and frustration among the victims of crime. AB109 crime victims have experienced an overwhelming sense of injustice, lack of hope and frustration from feeling as though they have been victimized by the system. Local media has reported the majority of Yuba-Sutter residents surveyed feel as though crime is worse today than a few years ago. While Yuba County Statistics do not show an uptick in crime, rather statistically there has been a decrease, the individuals receiving services through this office have expressed a huge sense of injustice and feeling unsafe in their own community.

The Yuba County Victim Services unit has one full time advocate (Intervention Counselor II), one Intervention Counselor II (8 hours per week) and one Senior Victim Advocate (8 hours per week) assigned to deal with AB109 related cases. Since the implementation of AB109, the Primary Intervention Counselor served 703 victims whose offenders fall under 1170(h) of the Penal Code. The overwhelming sentiment from those victims is that there is no justice, they continue to experience a lack of safety and security in their own community with the offender spending prison time in county jail, or released with no probation (supervision). Since the passage of AB109 all advocates/staff in the Probation Department's Victim Service Unit have dedicated many hours explaining to victims the new rules under AB109, have had to calm most victims after learning of the punishment and have had to creatively seek alternative options for victims to begin to rebuild a sense of safety in within their community and reassure them that justice is being served even though far fewer offenders are being committed to state prison.

AB109 Budget:

In Fiscal year 2016/2017, Yuba County was awarded \$2,653,187 in AB109 money. Of that, the probation department received \$1,371,934, with the remainder awarded to the Yuba County Sheriff's Department. The great majority (over 81%) of probation's budget was allotted for staff salaries. In all, 19 positions were either fully or partially funded through AB109 monies. The breakdown of money spent is outlined below:

Total allotted = \$1,371,934

Salaries	\$1,116,051
Victim Services (Rent/Utilities/I.T.)	\$83,000
Day Reporting Center (Rent/Utilities/Improvement)	\$50,000
Funds allotted to Marysville PD	\$25,000
Contingency	\$12,141
I.T. Fees	\$6,808
Equipment (ballistic vests)	\$5,000
Training	\$2,000
Monies spent	\$1,300,000

Sheriff's Department:

The jail population has been affected since the implementation of AB109. The jail now houses state parole violators, post-release community supervision (PRCS) violators and prison commitments pursuant to Section 1170(h) of the Penal Code. These are all populations not experienced by the sheriff's department prior to AB109. A statistical analysis of the new populations shows the jail houses an average of 33 parole violators, 24 offenders sentenced under Section 1170(h) of the Penal Code and 20 PRCS offenders per month. In total, this represents a monthly increase of 77 inmates for a facility with a maximum capacity of 432 beds.

Strategies for County inmates:

The Yuba County Sheriff's Department will maximize county jail capacity and utilize alternatives to incarceration. By expanding the Sheriff's authority to the use of home detention, electronic monitoring and work release, the Board of Supervisors has provide additional alternatives to incarceration to be utilized for both the pretrial and sentenced populations. The sheriff's department operates one jail with a 432 bed capacity. PRCS and parole violation sentences can be up to 180 days. Sentences pursuant to Section 1170(h) of the Penal Code normally cap at three years, although there are notable exceptions due to consecutive sentencing and enhancements that result in a far longer periods of incarceration. AB109 changed the credit calculation for serving sentences, allowing one day each for good time and work time credit for every four days served. Prior to AB109, six days were required to receive good or work time credit. The net effect is now inmates are now eligible for release after serving 50% of their sentences. AB109 encourages the use of flash incarceration, a mechanism officers can utilize to incarcerate offenders for a maximum of 10 actual days, in lieu of filing revocations of parole or PRCS. Revocation of supervision exposes the inmate to lengthy periods of incarceration during the court resolution process and longer potential punishments.

Alternatives to Incarceration:

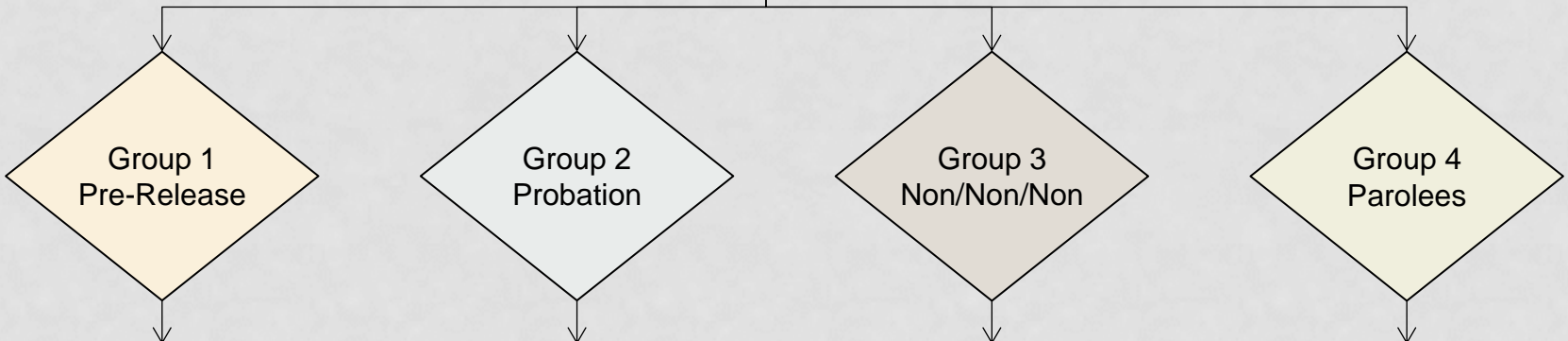
The Yuba County Sheriff's Department will increase reliance on alternatives to incarceration in order to manage increases under AB109. These additional alternatives provided for by AB109 legislation include involuntary home detention and electronic monitoring for the pretrial population. Penal Code Section 1203.018 allows YCSD to release pretrial prisoners being held in lieu of bail in the county jail to an electronic monitoring program under specific circumstances. The Sheriff and the District Attorney have prescribed reasonable rules and regulations for the operation of this program. Specific eligibility criteria limit the number and type of pretrial prisoners eligible for this program. Additionally, AB109 provides legal mechanisms to use alternatives to incarceration for sentenced populations. In Yuba County, these alternatives include electronic monitoring, home detention, work release, County Parole (pursuant to Section 3074 et seq of the Penal Code) and a day reporting center offering substance abuse services, parenting classes, educational development, employment and counseling services.

An inmate may be provided multiple services as determined by their individual needs. All jail programming and alternatives to incarceration managed by the Sheriff are made available to AB109 offenders providing they meet eligibility criteria and space is available. Once an offender has been sentenced to the county jail, staff reviews the programs and services available and appropriate for the offender and develop a timeline and plan for the prisoner, if eligible, to transition from the county jail to an appropriate alternative in incarceration. Decisions regarding this plan consider in-custody behavior, participation and progress in jail programs and services, the pre-sentence report, available risk assessment reports, the court commitment, eligibility based on current charges and prior convictions, and availability of the alternatives to incarceration best suited for the prisoner. YCSD supervises people in alternative to incarceration programs through a highly visible community presence and random site checks. YCSD provides a swift response if a person absconds or violates conditions of their participation in the program. Increased staffing for work release and electronic monitoring will likely be needed to ensure strong enforcement and maximize community safety.

Probation Department - Future Goals:

A central theme of AB109 legislation has been an effort to shift away from the traditional supervision model of zero tolerance/incarceration toward a model that incentivizes compliance by providing increased services to offenders out of custody. Yuba County Probation has made great strides in this area and continues to innovate in providing alternatives to revocation and incarceration. Since the passage of AB109, probation has organized the great majority of offenders and assigned their supervision based on their risk to reoffend. The highest risk offenders receive the highest levels of contact with their assigned officer and get priority for counseling programs. Probation is increasing its use of case planning, an individualized approach to address each offenders' specific needs. Since opening the Day Reporting Center, probation has expanded its service level, offering low cost or free programming to address a wide array of offender needs. Probation is expanding its contracted GED program to include the ability for an offender to complete high school and receive their diploma. Probation has, in fact, outgrown the existing Day Reporting Center and is exploring upgrade options which include relocation or construction. Probation is also developing an incentive based program to reward offenders for compliance. By doing this the probation department believes we will achieve a higher degree of offender buy-in leading them to contribute more to their own success. This is a multi-tiered approach to gradually increase the incentives as the offender progresses and completes programming. Incentives range from a simple verbal acknowledgment all the way to reducing their time under supervision (See attachment #7.)

AB109 Affects Four Incarceration Groups *Permanently*



- Permits correctional authority to release defendants on home detention instead of being held on bail.
- Board of Supervisors to create rules with the assistance of the Sheriff and the District Attorney.

Alternatives to Custody:

- Home Detention
- Work Release
- Sheriff's Parole
- Work Furlough
- Day Reporting Center
- Residential Treatment

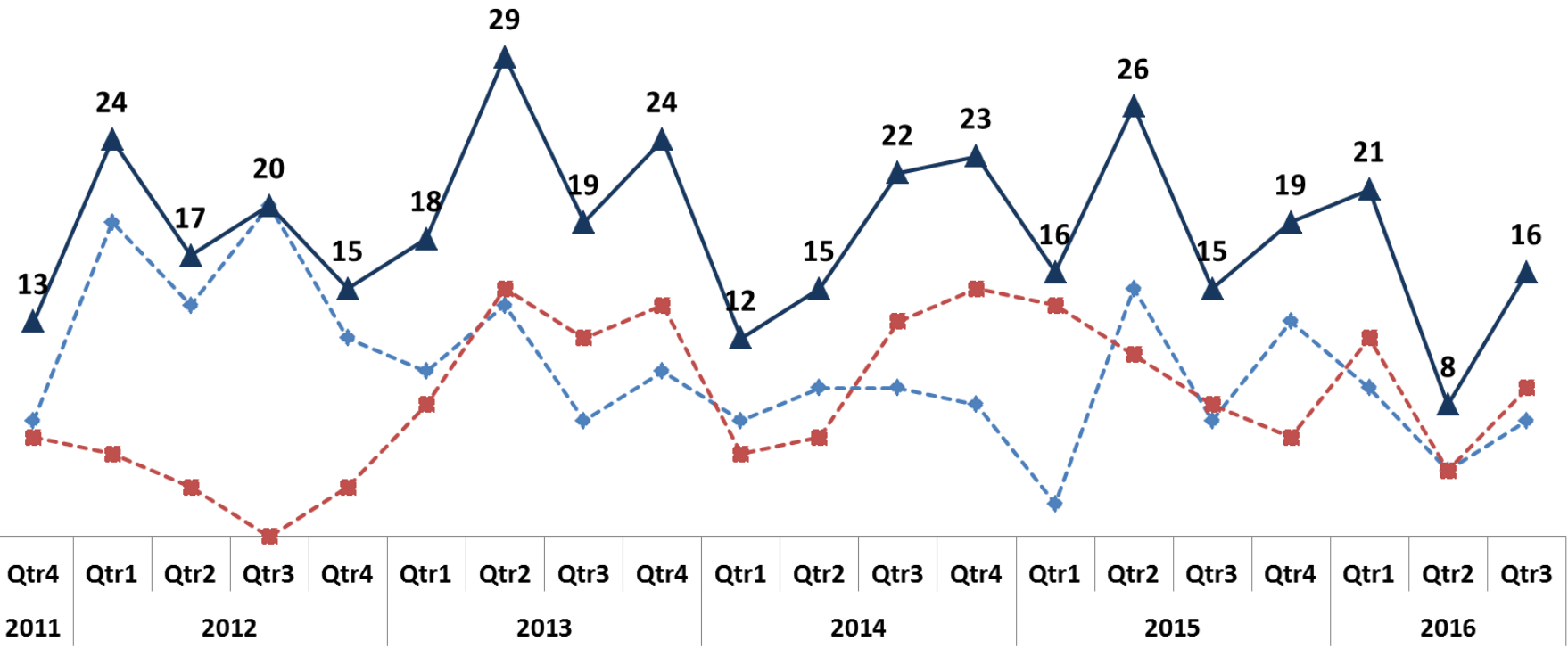
- Sentences for over 500 crimes that used to be served in State Prison will now be served in County Jail.
- Terms of sentences are unlimited.
- Estimated 94 inmates/yr.

- Prison inmates that were supervised by Parole will now be supervised by Probation upon release from prison – estimated to be 106 next year.
- Parole revocations, which were served in prison, will now be served in county jail.
- Parole revocation hearings previously heard by Board of Parole Hearings will now be heard by the Courts with the participation of the District Attorney's Office and the Public Defender.

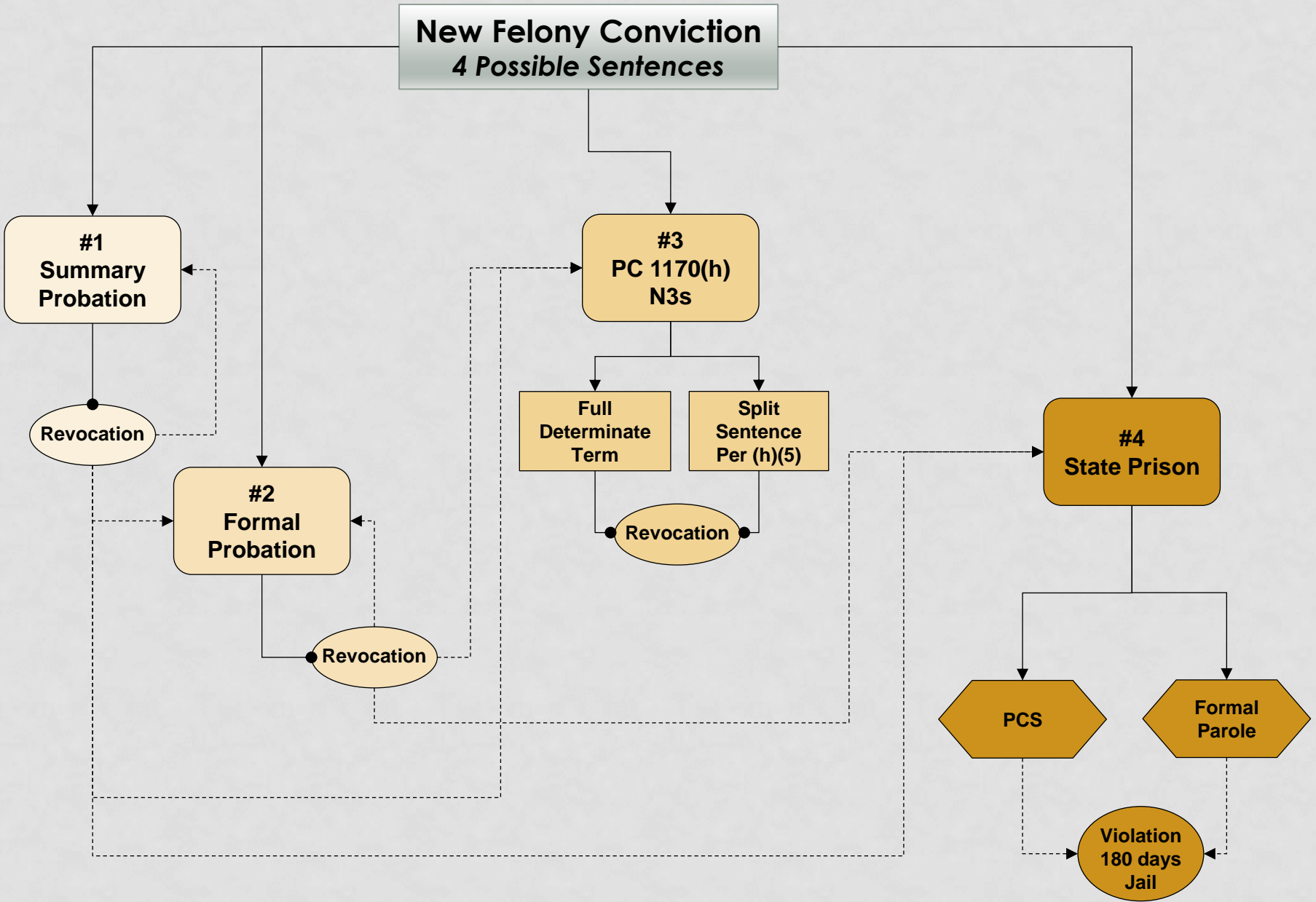
1170(h) A vs B Sentences Q4 2011 – Q3 2016

**Penal Code Section 1170(h) Sentences
Q4 2011 through Q3 2016**

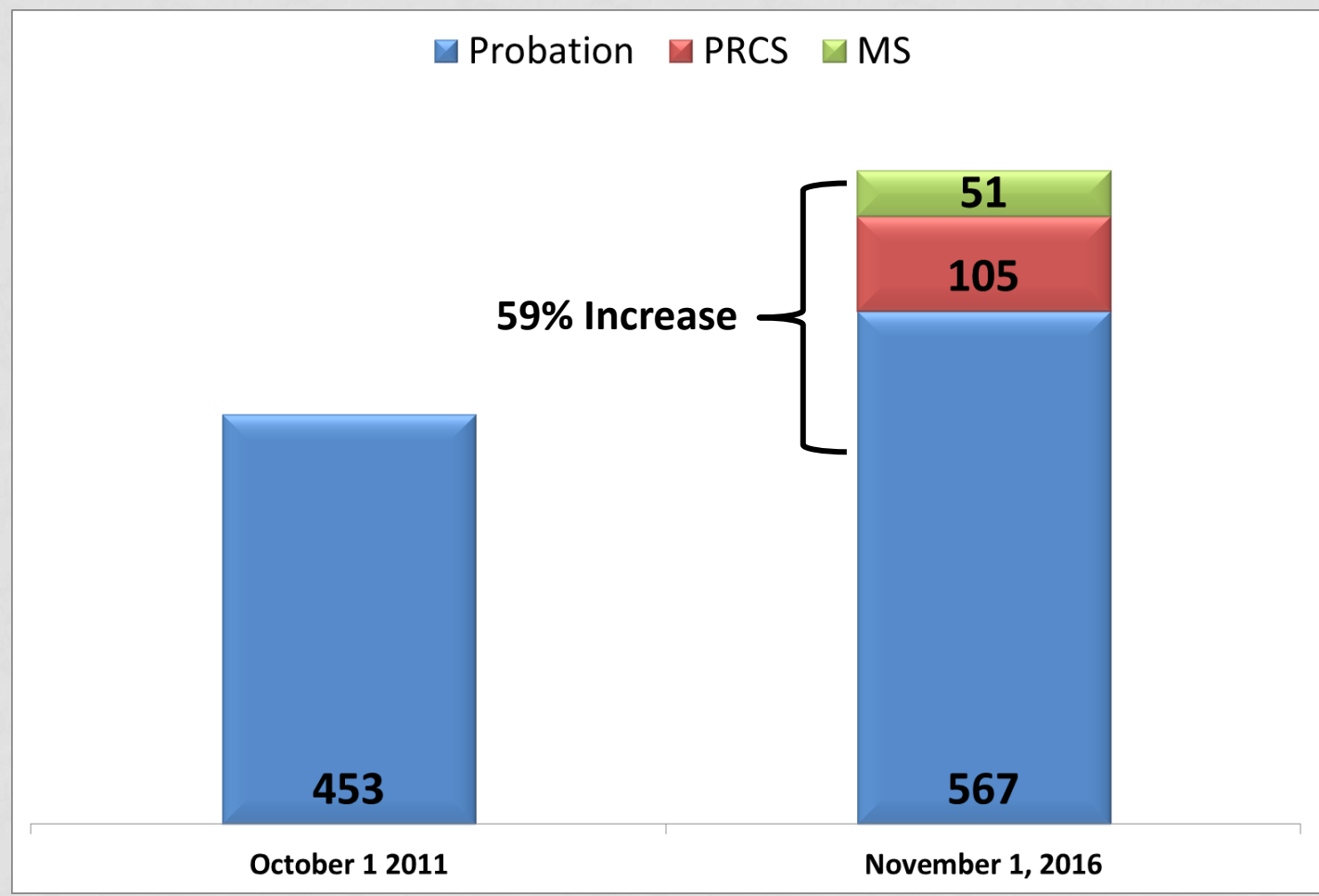
--◆-- 1170(h) A Jail Only
 --■-- 1170(h) B Jail + Mandatory Supervision
 --▲-- Sum of 1170(h) A + B



AB109 Felony Conviction Sentencing Options

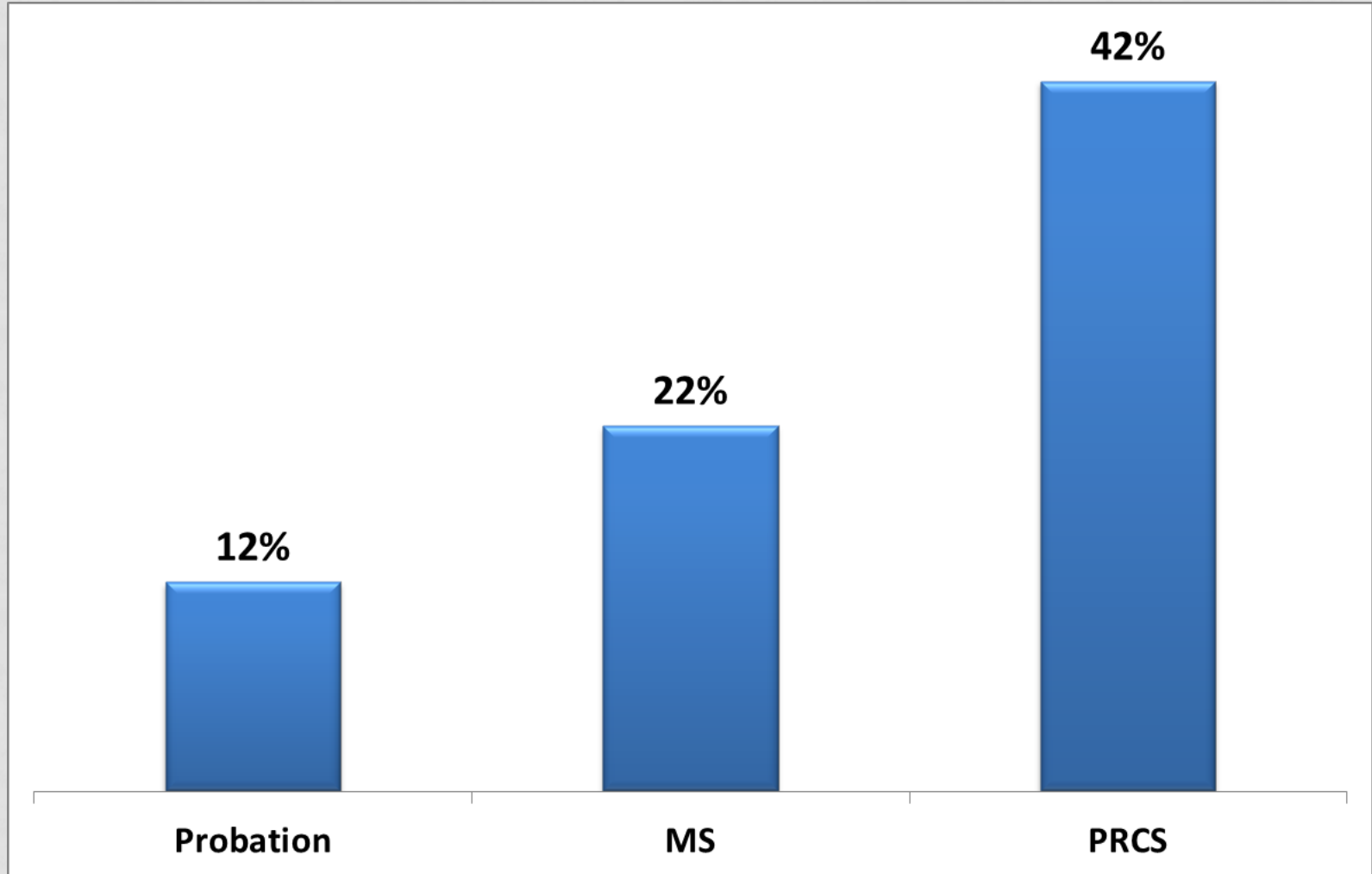


Probation Population Supervision Pre-AB109 vs Current



**Pre-AB109: 453 Total Under Supervision;
Now: 709 Total Under Supervision**

Arrest Reports by Probation Officers Shown as % of Population January – October 2016 Sample Data



Significantly greater number of arrests for PRCS than Probation or MS

Realignment

Offense Type	Prison Term Done At		Supervised by	VOParole Time	
	CDCR	Jail		CDCR	Jail
Three Strikes or Other Life Sentence	X		CDCR	X	
Two Strikes Sentence	X		CDCR		X
“High Risk Sex Offenders”	X		CDCR		X
Fresh violent Felony	X		CDCR		X
Prior Violent Felony*	X		Probation*		X
Fresh Serious Felony	X		CDCR		X
Prior Serious Felony	X		Probation*		X
*290 Registrant (Fresh/Prior)	X		Probation		X
Fresh Felony on Exceptions List	X		Probation		X
All Other Felonies		X	Probation		X

*But not if def sentenced under three strikes law

The courts took over parole violation hearings in July 2013.

Exceptions List:

67, 68, 85, 86, 92 & 93, 165	PC	Bribing / Accepting Bribes – Legislature, local, judicial
113 & 114	PC	False documents for citizenship
141(b)	PC	Plant Evidence
186.11 / 186.22, .26, .33	PC	White collar enhancement / Street gang enhancements
191.5(c)(1)	PC	Vehicular Manslaughter While Intoxicated
222	PC	Using drugs to commit felony
243.7, 243.9, 245(d)	PC	Assaults on Jurors, peace officers
266a, e, f, h, l, j	PC	Various types of abduction, pimping, etc.
272(b)	PC	Luring, etc., minor away from home
273a & 273ab	PC	Felony child abuse
273.5	PC	Domestic violence
298.2, 299.5	PC	Submitting false DNA specimens
347	PC	Poisoning food
368b	PC	Elder Abuse
417(c) & 417.8	PC	Brandishing a firearm at peace officer
424 & 504/514	PC	Misappropriate/embezzle public funds
452	PC	Arson of inhabited structure/property
598c & d	PC	Horse meat crimes
646.9	PC	Stalking
653f(b)	PC	Solicitation for murder
4532	PC	Escape
29800/29805	PC	Firearm by prohibited person
12303.2	PC	Explosive devices
11353, 11354, 11361, 11380(a)	HS	Inducing drug use by minor / giving, selling drugs to minor
11370.1	HS	Drugs & firearms
120291	HS	Knowingly expose someone to HIV
20001, 23153	VC	Hit & run, DUI w/injury
2800.2, 2800.3	VC	Evading a peace officer
1090/1097	GC	Conflict of interest
1195	GC	Taking subordinate pay
1855	GC	Destruction of documents
18501	EC	Public official who aids and abets voter fraud

Future: Utilize Internal Research Data to Inform Supervision

