



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

JODY PATEL
Interim Administrative Director of the Courts

CURT SODERLUND
Interim Chief Deputy Director

April 24, 2012

Hon. Mark Leno
Chair
Senate Committee on Budget and Fiscal Review
California State Senate
State Capitol, Room 5100
Sacramento, California 95814

Hon. Bob Blumenfield
Chair
Assembly Committee on Budget
California State Assembly
State Capitol, Room 6026
Sacramento, California 95814

Hon. Bill Emmerson
Vice-Chair
Senate Committee on Budget and Fiscal Review
California State Senate
State Capitol, Room 4082
Sacramento, California 95814

Hon. Jim W. Nielsen
Vice-Chair
Assembly Committee on Budget
California State Assembly
State Capitol, Room 6031
Sacramento, California 95814

Re: *Report to the Legislature, Actual and Projected Expenditure of FY 2011–2012
Funding for Workload Required by or Related to Criminal Justice Realignment*

Dear Senator Leno, Senator Emmerson, Assembly Member Blumenfield, and Assembly Member Nielsen:

Attached is the report of the Administrative Office of the Courts (AOC) on fiscal year 2011–2012 trial court expenditures that are a result of activities required by or related to the 2011 public safety realignment act, as required by the Legislative Analyst's Office, *Supplemental Report of the 2011–2012 Budget Package*.

Hon Mark Leno
Hon. Bill Emmerson
Hon. Bob Blumenfield
Hon. Jim W. Nielsen
April 24, 2012
Page 2

If you have any questions related to this report, please contact Zlatko Theodorovic, Director, AOC Finance Division, at 916-263-1397.

Sincerely,



Jody Patel
Interim Administrative Director of the Courts

JP/VM
Enclosure
cc: Members of the Judicial Council
Diane F. Boyer-Vine, Legislative Counsel
Gregory P. Schmidt, Secretary of the Senate
E. Dotson Wilson, Chief Clerk of the Assembly
Margie Estrada, Policy Consultant, Office of Senate President pro Tempore Darrell Steinberg
Darby Kernan, Policy Consultant, Office of Senate President pro Tempore Darrell Steinberg
Fredericka McGee, General Counsel, Office of Assembly Speaker John A. Pérez
Matt Osterli, Consultant, Senate Republican Fiscal Office
Joe Stephenshaw, Consultant, Senate Committee on Budget and Fiscal Review
Allan Cooper, Consultant, Assembly Republican Fiscal Office
Marvin Deon II, Consultant, Assembly Committee on Budget
Curt Soderlund, AOC Interim Chief Deputy Director
Christine Patton, AOC Regional Administrative Director
Zlatko Theodorovic, Director, AOC Finance Division
Donna S. Hershkowitz, Assistant Director, AOC Office of Governmental Affairs
Office of Communications, AOC Executive Office
Judicial Administration Library (two copies)



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

JODY PATEL
Interim Administrative Director of the Courts

CURT SODERLUND
Interim Chief Deputy Director

Report title: *Actual and Projected Expenditure of FY 2011–2012 Funding for Workload Required by or Related to Criminal Justice Realignment*

Statutory citation: Legislative Analyst's Office (LAO), *Supplemental Report of the 2011–2012 Budget Package*

Date of report: April 24, 2012

The Administrative Office of the Courts (AOC) has submitted a report to the Legislature in accordance with the LAO's *Supplemental Report of the 2011–2012 Budget Package*.

The Supplemental Report requires the AOC to submit to the Legislature a report detailing all expenditures, incurred and projected, during FY 2011–2012 that are a result of activities required by or related to 2011 public safety realignment as enacted by Assembly Bill 109 (Committee on Budget; Stats. 2011), ch. 15, Assembly Bill 117 (Committee on Budget; Stats. 2011, ch. 39), and Assembly Bill 116 (Committee on Budget; Stats. 2011, ch. 136), (hereafter “criminal justice realignment”).

The following summary of the report is provided under the requirements of Government Code section 9795.

A total of \$1.149 million in security funding was transferred to the counties to be used by the sheriffs for the provision of court security. Of the court operations funding, for the period July 1, 2011, through February 29, 2012, the trial courts expended \$2.229 million, and for the remainder of the fiscal year they project expenditure of an additional \$3.341 million on activities related to criminal justice realignment. The AOC's Education Division will spend \$92,203 by June 30, 2012, on educational activities for the trial courts related to realignment through the end of the fiscal year. More detailed information about these expenditures is discussed in the report.

April 24, 2012

Page 2

The full report can be accessed here: www.courts.ca.gov/7466.htm.

A printed copy of the report may be obtained by calling 415-865-7553.

JUDICIAL COUNCIL OF CALIFORNIA

Hon. Tani G. Cantil-Sakauye

*Chief Justice of California and
Chair of the Judicial Council*

Hon. Judith Ashmann-Gerst

*Associate Justice of the Court of Appeal,
Second Appellate District, Division Two*

Hon. Stephen H. Baker

*Judge of the Superior Court of California,
County of Shasta*

Hon. Marvin R. Baxter

Associate Justice of the Supreme Court

Ms. Angela J. Davis

*Assistant United States Attorney
for the Central District of California*

Hon. Emilie H. Elias

*Judge of the Superior Court of California,
County of Los Angeles*

Hon. Noreen Evans

Member of the California State Senate

Hon. Mike Feuer

Member of the California State Assembly

Hon. James E. Herman

*Judge of the Superior Court of California,
County of Santa Barbara*

Hon. Harry E. Hull, Jr.

*Associate Justice of the Court of Appeal,
Third Appellate District*

Hon. Teri L. Jackson

*Judge of the Superior Court of California,
County of San Francisco*

Hon. Ira R. Kaufman

*Assistant Presiding Judge of the Superior
Court of California, County of Plumas*

Ms. Miriam Aroni Krinsky

Lecturer, UCLA School of Public Affairs

Ms. Edith R. Matthai

Attorney at Law. Los Angeles

Hon. Douglas P. Miller

*Associate Justice of the Court of Appeal,
Fourth Appellate District, Division Two*

Hon. Mary Ann O'Malley

*Judge of the Superior Court of California,
County of Contra Costa*

Mr. Mark P. Robinson, Jr.

Attorney at Law, Newport Beach

Hon. Kenneth K. So

*Judge of the Superior Court of California,
County of San Diego*

Hon. David S. Wesley

*Assistant Presiding Judge of the Superior Court of
California, County of Los Angeles*

Hon. Erica R. Yew

*Judge of the Superior Court of California,
County of Santa Clara*

ADVISORY MEMBERS

Hon. Sue Alexander

*Commissioner of the Superior Court of California,
County of Alameda*

Mr. Alan Carlson

*Chief Executive Officer, Superior Court of
California, County of Orange*

Hon. David F. De Alba

*Judge of the Superior Court of California,
County of Sacramento*

Hon. Terry B. Friedman (Ret.)

*Judge of the Superior Court of California,
County of Los Angeles*

Hon. Robert James Moss

*Judge of the Superior Court of California,
County of Orange*

Mr. Frederick K. Ohlrich

Clerk of the Supreme Court of California

Hon. David Rosenberg

*Presiding Judge of the Superior Court of California,
County of Yolo*

Hon. David M. Rubin
*Judge of the Superior Court of California,
County of San Diego*

Ms. Kim Turner
*Court Executive Officer, Superior Court of
California, County of Marin*

Mr. David H. Yamasaki
*Court Executive Officer, Superior Court of
California, County of Santa Clara*

**ADMINISTRATIVE OFFICE OF THE
COURTS**

Ms. Jody Patel
*Interim Administrative Director of the Courts
and Secretary to the Judicial Council*

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

Hon. Tani G. Cantil-Sakauye

*Chief Justice of California and
Chair of the Judicial Council*

Jody Patel

Interim Administrative Director of the Courts

Curt Soderlund

Interim Chief Deputy Director

FINANCE DIVISION

Zlatko Theodorovic

Director

Steven Chang

Manager

Vicki Muzny

Primary Author of Report

Actual and Projected Expenditure of FY 2011–2012 Funding for Workload Required By or Related to Criminal Justice Realignment

The Budget Act of 2011 (Stats. 2011, ch. 33) provided \$18.931 million for estimated new costs for trial courts' caseload (\$17.689 million, of which \$9.678 million is ongoing), education activities (\$93,000), and court security (\$1.149 million) associated with new court revocation proceedings required by criminal justice realignment, as enacted by Assembly Bill 109 (Committee on Budget; Stats. 2011, ch. 15), Assembly Bill 117 (Committee on Budget; Stats. 2011, ch. 39), and Assembly Bill 116 (Committee on Budget; Stats. 2011, ch. 136), (hereafter "criminal justice realignment"). The Legislative Analyst's Office, *Supplemental Report of the 2011–12 Budget Package*, included the following language requiring submission of a report to the Legislature:

Judicial Branch Budget Display. No later than April 15, 2012, the Administrative Office of the Courts [AOC] shall submit to the appropriate budget committees of each house a report detailing all expenditures, incurred and projected, during the 2011–12 fiscal year that are a result of activities required by or related to the 2011 public safety realignment as specified in Chapter 15, Statutes of 2011 (AB 109, Committee on Budget), Chapter 39, Statutes of 2011 (AB 117, Committee on Budget) and Chapter 136, Statutes of 2011 (AB 116, Committee on Budget).

Because of the significant changes in anticipated workload for the courts and the uncertainties inherent in a change of this magnitude in terms of practice, the Legislature based its allocation for caseload on the existing revocation caseload of the California Department of Corrections and Rehabilitation (CDCR). At the time, it was anticipated that this number would serve as a placeholder while the caseloads developed—with the understanding that the caseloads will change as new policies and procedures are implemented in the counties.

Key Changes Under Criminal Justice Realignment

Criminal justice realignment made changes to California's criminal justice system that are having an impact on the trial courts. In order to make the adjustment process smoother, the changes will be phased in over approximately three years. A brief description of the changes created by realignment follows:

- State prison was eliminated as a sentence option for various felonies by authorizing superior courts to impose terms of over one year (but less than the maximum allowed by law) in county jail for certain felonies committed by specified defendants. Courts may split the sentence and impose a period of mandatory supervision to follow a period of custody, for a total period not to exceed that of the maximum sentence allowed by law.

- Persons released from state prison on or after October 1, 2011—after serving a prison term for a felony that is not a serious felony, a violent felony, a third strike, a crime where the person is classified as a high-risk sex offender, nor a crime where the person is required as a condition of postrelease supervision to undergo treatment by the California Department of Mental Health—will be supervised by a county agency, such as a probation department, rather than the CDCR.
- As a result of the new responsibilities for parole and postrelease community supervision, superior courts are authorized to appoint hearing officers to carry out the duties of the courts in conducting postrelease community supervision and, beginning July 1, 2013, parole revocation hearings.
- If a supervising county agency determines, following application of its assessment processes, that authorized intermediate sanctions up to and including flash incarceration are not appropriate, the supervising county agency shall petition the revocation hearing officer to revoke postrelease supervision. Upon a finding that the person has violated the conditions of postrelease supervision, the revocation hearing officer shall have authority to (1) return the person to postrelease supervision with modifications of conditions, if appropriate, including a period of incarceration in county jail; (2) revoke postrelease supervision and order the person to confinement in the county jail; or (3) refer the person to a reentry court pursuant to Penal Code section 3015 or other evidence-based programs.

Computation of Funding Needed and Allocation of Funding

The California Department of Finance used the CDCR's county-by-county *parole* revocation caseload experience during 2010 to estimate the number of petitions to revoke postrelease community supervision under Penal Code section 3455 each court might receive during the first year. These same estimates were used by the Judicial Council to allocate the \$17.689 million in caseload-related funding to the trial courts. The \$1.149 million in security funding was permanently transferred to the counties to be used by the sheriffs solely for court security. The allocation to each county of the security funding was also based on the estimated number of petitions to revoke postrelease community supervision under Penal Code section 3455.

New Caseload

In February and March of 2012, superior courts reported to the AOC on various new activities that occurred as a result of criminal justice realignment during the period October 1, 2011, through February 29, 2012. The table on the next page displays this information.

Activity	Number
Petition for Revocation of Community Supervision (form CR-300) filed with the court under Pen. Code, § 3455(a)	2,326
Petitions for revocation of the mandatory supervision portion of a split sentence imposed by the court under Pen. Code, § 1170(h)(5)(B)	322
Requests for warrants against persons supervised under postrelease community supervision sought by supervising county agencies under Pen. Code, § 3455(a)(4)	2,497
Requests for warrants against persons violating mandatory supervision	94
Mandatory supervision modification hearings	66
Other types of hearings ¹	3,387

Court Actual and Projected Expenditures

This report addresses costs related only to the effect of these changes in the first year, from July 1, 2011, to June 30, 2012. Although most of the changes became effective on October 1, 2011, many courts began planning for the implementation in the months before that date. In the same survey, the courts reported their actual expenditures on criminal justice realignment-related activities from July 1, 2011, to February 29, 2012, and their projected expenditures from March 1 through June 30, 2012. These expenditures reflect neither a full year nor a mature, ongoing program. The amounts reported by the trial courts are listed by court in the table below.

Court	Actual Expenses 7/1/11 to 2/29/12	Projected Expenses Between 3/1/12 and 6/30/12	Total Expenses
Alameda	\$29,835	\$32,837	\$62,672
Alpine	-	-	-
Amador	410	2,520	2,930
Butte	14,569	6,900	21,469
Calaveras	5,905	1,289	7,194
Colusa	1,180	1,346	2,526
Contra Costa	41,200	84,535	125,735
Del Norte	-	-	-
El Dorado	11,716	20,000	31,716
Fresno	113,199	122,605	235,804

¹Hearings include continuances, arraignments on violation of postrelease community supervision, disposition reset hearings, court costs/bail bond hearings, credit time served hearings, transfer out hearings, placement in residential treatment facility hearings, clarification of sentencing hearings, readiness conferences, admit or deny hearings, warrant recall hearings, evidentiary hearings, interventions, motions to vacate Pen. Code, § 3445(a) commitments, and motions requesting the court to modify the conditions of postrelease community supervision.

Court	Actual Expenses 7/1/11 to 2/29/12	Projected Expenses Between 3/1/12 and 6/30/12	Total Expenses
Glenn	8,306	10,640	18,946
Humboldt	29,077	20,203	49,280
Imperial	4,883	8,000	12,883
Inyo	5,210	2,633	7,843
Kern	94,295	220,799	315,094
Kings	4,381	11,600	15,981
Lake	2,620	7,000	9,620
Lassen	2,758	2,006	4,764
Los Angeles	519,936	623,234	1,143,170
Madera	1,120	1,120	2,240
Marin	412	1,329	1,741
Mariposa ²	-	-	-
Mendocino	17,732	9,582	27,314
Merced	34,033	65,000	99,033
Modoc	800	1,726	2,526
Mono	1,322	1,204	2,526
Monterey	8,044	10,750	18,794
Napa	12,064	2,888	14,952
Nevada	60	240	300
Orange	240,757	226,451	467,208
Placer	19,782	83,788	103,570
Plumas	3,247	2,358	5,605
Riverside	70,670	21,720	92,390
Sacramento	20,860	279,059	299,919
San Benito	-	-	-
San Bernardino	28,118	217,722	245,840
San Diego	88,307	223,551	311,858
San Francisco	130,694	87,268	217,962
San Joaquin	18,615	213,650	232,265
San Luis Obispo	87,706	43,578	131,284
San Mateo	49,504	25,000	74,504
Santa Barbara	37,916	118,702	156,618
Santa Clara	165,227	128,158	293,385

² Court received no funding in FY 2011–2012, based on funding methodology.

Court	Actual Expenses 7/1/11 to 2/29/12	Projected Expenses Between 3/1/12 and 6/30/12	Total Expenses
Santa Cruz	2,295	-	2,295
Shasta	68,145	81,667	149,812
Sierra ²			-
Siskiyou	3,118	3,200	6,318
Solano	25,535	47,657	73,192
Sonoma	104,429	91,526	195,955
Stanislaus	9,457	11,700	21,157
Sutter	13,802	25,250	39,052
Tehama	5,110	3,804	8,914
Trinity ²	7,607	3,700	11,307
Tulare	18,903	98,561	117,464
Tuolumne	7,651	5,913	13,564
Ventura	23,899	13,800	37,699
Yolo	6,180	5,339	11,519
Yuba	6,438	5,689	12,127
Total	\$ 2,229,039	\$ 3,340,797	\$ 5,569,836

How the Court Funds Were Used

A couple of courts have hired or plan to hire new staff during the period October 1, 2011, through June 30, 2012, to address increased workload resulting from realignment. At this early stage of assuming these new responsibilities, courts have used existing staff to address increased workload. Examples of the staff classifications whose costs have been partially charged against this funding include courtroom clerk, legal process clerk, court reporter, courtroom supervisor, court services manager, assistant court executive officer, court executive officer, analyst, court services assistant, information technology staff, fiscal staff, research attorney, criminal division director, deputy marshal, and human resources technician.

Courts have used or plan to use the funds to address a variety of operating costs that are a direct result of criminal justice realignment, including staff and other costs related to pre-implementation planning, training, equipment, furniture, office supplies, overhead, security, printing, travel, programming and modifications to existing case management systems, storage while new hearing room is under construction, copies, court reporter transcripts, recruitment of new staff to be dedicated to new caseload, and facility remodel.

Because of the sweeping changes in the law, we note that the initial reports of realignment-related caseload are not good predictors of the long-term caseload because policies, practices and procedures at the local level were in early phases of implementation. Based on the very limited experience of the first five months, courts had difficulty estimating what the increased level of activity would be during the remainder of the fiscal year. Although many courts spent significant amounts of time and effort planning for the changes resulting from criminal justice realignment, direct court involvement with cases did not begin until the filing of a *Petition for Revocation of Community Supervision* (form CR-300). Before a petition may be filed with the court, under Penal Code section 3455(a) the supervising county agency shall have “determined, following application of its assessment processes, that intermediate sanctions are not appropriate...” Due to this requirement, most courts did not receive a petition for revocation for several weeks, or even months, following the October 1, 2011, effective date.

Furthermore, courts indicate imposition in many cases of a split sentence under Penal Code section 1170(h)(5)(B), which involves a period of custody followed by a period of mandatory supervision. Many of those defendants are still serving the custody portion of the split sentence. These offenders will not be released from custody until late in the current fiscal year or early in FY 2012–2013. Once they are released to mandatory supervision, the work and cost to the court will substantially increase, as probation departments manage violations. In addition, because of the late start of the program and the length of time necessary for defendants to serve the jail portion of the sentence, some courts implemented the program in only one court location. As the caseload grows, they plan to begin hearing these cases in other locations, which will necessitate increased staff time.

We are confident, however, that the expenditures for FY 2011–2012 will be well below what can be expected in the following years when the activities relating to a full year of realignment implementation will be experienced. As caseloads grow and the trial courts gain experience implementing the changes, additional expenditure information will be available that will be of more value in predicting future costs. In the meantime, AOC staff will continue to monitor court expenditures on the program. The current year funding included one-time funding that some courts have indicated cannot be used until FY 2012–2013, as they evaluate their current systems and processes and how they are working with the new changes in the law and determine how they will need to be modified. It is possible that the budget year funding of \$9.678 million will be insufficient because the full impact of the workload will not be felt by the courts until that time.

AOC Expenditures

As mentioned previously, the 2011 Budget Act provided \$93,000 for education and training activities related to implementation of criminal justice realignment. Staff is projecting to spend \$92,203 on the following items:

- AOC Education Division technical and support staff time
- AOC staff travel costs for education programs including lodging, business meals, transportation, and incidentals
- Faculty and participant lodging, business meals, and travel
- Printing of participant materials
- Mailing
- Contract writer for judicial education benchguide for judges
- Expert faculty speaker for education workshops for judges
- Satellite broadcast transmission for distance education programs.