

## **The Insignificant Effect of the Realignment On the Jail Population**

It is worth repeating the predictions of the effects of the Realignment on the jail's ADP which are found on page 4 of the County's 2011 Realignment Plan:

NX3 offenders serve an average of 166 days before sentencing. It is estimated that at full implementation approximately 66 NX3 sentenced inmates and 24 NX3 violators will be incarcerated in county jail on any average day. CDCR also estimates that approximately 37 paroled PRCS violators would be incarcerated locally on any given day in Santa Barbara County assuming, that on average, the violators would serve 30 days in jail. Based upon the previous full implementation projections, planning includes mitigations for up to 600 County jurisdiction supervision cases and for up to 125 collective jail beds or alternative detention slots.

According to the County's 2013 update of its Realignment Plan, some of these numbers have been revised upward:

CDCR also initially projected that approximately 37 PRCS and state parole violators would be incarcerated locally on any given day in Santa Barbara County. This number has proven to be underestimated and is at least two (2) times greater than projected. From July 1, 2012, to March 1, 2013, there have been 356 flash incarcerations in county jail involving approximately 170 PRCS offenders, resulting in 3,351 jail days. Revocation proceedings were instituted in 53 instances on 39 offenders resulting in 8,151 jail days, averaging 154 days per revocation. Fifteen (15) PSS offenders have incurred revocations accounting for an additional 741 jail days. State parole violators continue to impact jail housing with a monthly average of 1,476 jail days from October 1, 2012, through February 28, 2013. (pp. 4-5)

This is summed up in the following table from p. 5:

<b>July 1, 2012 – March 1, 2013</b>		
	<b>Revocations</b>	<b>Flash Incarcerations</b>
<i>Population</i>	<i># of Jail Days</i>	<i># of Jail Days</i>
<b>PRCS</b>	<b>8,151</b>	<b>3,351</b>
<b>PSS</b>	<b>741</b>	<b>N/A</b>
<b>Parolees</b>	<b>4,857</b>	<b>N/A</b>

The period July 1 2012 to March 1, 2013 represents 213 days. The total number of days from the above table is 17,100. Dividing by 213 gives an ADP of 80 which is slightly more than twice the 2011 projection of 37. The last full year before the realignment was 2010 which had an ADP of sentenced prisoners in jail of 213; adding 80 would bring it to 293 which is almost equal to the 292 sentence ADP for 2012 or the 290 for the first nine months of 2013. This total is approximately equal to that of 2009 (287) and well below that of all earlier years. If the pretrial ADP had been at the 45% rate the total incarcerated ADP would have been less than 530 in a jail system with a rated capacity of 816.

The full impact of the realignment on the sentenced ADP (the only affected part of the total ADP) may also be gauged by examining the monthly ADP values of sentenced prisoners from the latest available data which extends the monthly ADP values from March through September of 2013.

On page 8 of the new Realignment Plan, in the Sheriff's section, full implementation is described as being in July 2013 which is included in latest reported period (January through

September 2013). The peak month was August with a reported sentenced ADP of 326. This dropped to 250 in September. The average monthly ADP for 2013 was 290, almost the same as the 292 of 2012, another indication that the sentenced ADP had reach its full implementation steady state. Again, this confirms the conclusion that at a 45% rate of pretrial incarceration the total average daily population of prisoners in the jail system would have been below 530.

The Sheriff confuses the issue by failing to separate prisoners out of jail on electronic monitoring with the incarcerated ADP. On page 7, he wrote, "the ADP of AB109 inmates housed in the county's jail facilities or participating in EM [underlining added] during the 2012 calendar year was 145. This represents an estimated 14% increase over the original projections of 127 at full implementation." However, we can calculate the effect on the in-jail ADP of EM by looking at the Sheriff's Department 2012 Annual Report (found on-line). This states that there were 33,101 EM prisoner days. Dividing by 365, this gives an ADP of 91 which is 63% of the total of 145, leaving an in-jail sentenced ADP of 54, even lower than 80 from the above calculation.

The key fact is that at full implementation which is projected to be, all things equal, a steady-state level of incarceration reveals a total increase in the ADP of incarcerated non-pretrial prisoners in the range of 54 to 80, not 145, with a total in-jail sentenced ADP of approximately 290. This is well below the 2008 and earlier levels and approximates the 2009 sentenced ADP level of 287. (If the reforms of the Realignment are increasingly implemented, the number will be lower.) This demonstrates that the Realignment doesn't come close to supporting claims that it makes increased jail space urgent or even close to being needed.

The table below shows the actual numbers over the nine-month period given in a series of "AB 109 Operational Impact Reports" on pp. 43-49 of the revised *Realignment Plan*:

AB 109 Offenders	July 2012	Aug 2012	Sep 2012	Oct 2012	Nov 2012	Dec 2012	Jan 2013	Feb 2013	Mar 2013	9 Mon Ave
Pretrial Elig. for Rel.	32	41	50	Unk						
Pretrial Released	0	0	0	Unk						
Sentenced Days in Jail	3,879	3,721	3,836	4,232	4,116	4,282	4,224	4,082	4,486	4,607
Sentenced in-jail ADP	125	120	128	137	137	138	136	146	145	151
Sentenced Altern Days	595	602	634	710	849	1,051	978	750	1,068	905
Sentenced Altern ADP	19	19	21	23	28	34	32	27	34	30
Total Sentenced ADP	144	139	149	159	166	172	168	173	179	181
Percent Altern ADP	13%	14%	14%	14%	17%	20%	19%	16%	19%	16%

Note that NX3s are the only category of AB 109 offenders subject to pretrial detention. Since none of the qualified incarcerated pretrial defendants (average 41 per month) during the three months for which we have data were released, that means that **no NX3s were given early release**. Thus for NX3s incarcerated pretrial, we can guess at the number of incarceration days associated with unreleased but qualified prisoners (under the Sheriff's excessively stringent requirements). To do this we use 166 days as the average time spent in jail pretrial (from the 2011 Plan quoted above), and the estimated yearly total of qualified early releases ( $12 \times 41 = 492$ ). This yields  $12 \times 41 \times 166 = 81,672$  days during 2013, or a potential ADP of  $81,672/365 = 224$  which far exceeds the total added in-jail ADP of sentenced prisoners under the realignment.

This refusal to give pretrial release to those charged with non-violent, non-serious, non-sex offenses prisoners even when they meet the Sheriff's Department's rigid criteria for pretrial release confirms the dogmatic attitude which treats pretrial defendants as deserving of punishment, and fully supports Rosser's assumption that for the next 12 years 72% of the prisoners in the County jail system will be held pretrial.

Even if we were to accept Rosser's inflated projection for 2018, if the number of those held pretrial were at the 45% rate of the 1995-1998 period, the total ADP would be just 616—far lower than the capacity of the existing jail reported to the BSCC of 816.