

# Expansion of AB 109 Funded Services

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## Introduction

The following proposal is in response to the January 26, 2015 directive from the Public Protection Committee (PPC) of the Board of Supervisors to the County Administrator's Office (CAO) to amend AB 109 contracts with community based service providers to allow them to use available program capacity in contracted services for non-AB 109 residents of Contra Costa. The directive included an assurance that the use of AB 109 revenue would be prioritized for the AB 109 population and that data would be collected from the service providers to clearly show the AB 109 status of anyone receiving services and the outcome of the services provided.

To make the necessary changes as quickly as possible, in February 2015 the Quality Assurance Committee of the Community Corrections Partnership convened a collaborative working group on this issue that included representatives of the County and its partner CBO's. The workgroup convened in early March 2015 and included representatives from Probation (Todd Billeci), the CAO (Lara DeLaney), Behavioral Health (David Seidner), the Network System of Services Management Team (Kathy Narasaki), West County Reentry Resource Center (Jennifer Costa), Center for Human Development (Paul Taylor), Reach Fellowship International (Dr. Edwina Perez-Santiago), Rubicon Programs (Rhody McCoy), and Bay Area Legal Aid (Adam Poe). After the workgroup's first meeting, the CAO provided the PPC with a progress report. Included in this report was the workgroup's recommendation that amendments for service expansion were best implemented through inclusion in the FY 2015-2016 service provider contracts. With PPC support of this course of action, the workgroup continued to meet throughout the month of March for a total of six meetings; each 60 – 90 minutes in length.

This proposal for the expansion of AB 109 services is now presented for consideration by the PPC. In developing these recommendations, the workgroup was guided by a belief that a primary intent of AB 109 generally was to support local data-driven justice reinvestment strategies that seek to improve public safety by pursuing reductions in recidivism.<sup>1</sup> What is also important to note is that this expansion of services is only being considered for organizations that have contracted with the County to provide services to the AB 109 population which are administered by the CAO. This will not have an impact on services such as drug treatment and mental health services, that might include contracts administered by various other County agencies. These recommendations may, however, serve as a template for similar service expansion by these departments in the future.

## Available Capacity

Contractual deliverables for each service provider are as different as the services each organization provides (employment services, housing, mentoring, documentation support, leadership/entrepreneurial training, specialized employment training, and family reunification services). Nonetheless, each contract includes a description of the maximum number of clients to be served in one year under the terms of their contract. This ceiling is seen as the maximum program capacity of the service provider. When an organization has provided services to all of the suitable AB 109 clients that have been referred to them for a particularly period of time,

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<sup>1</sup> See Cal. Pen. Code § 17.5.

and has still not reached their numerical ceiling, this organization will be understood to have *available capacity* in their program. It is this available capacity that will be used to provide services to the non-AB 109 population. In coming to this conclusion, the workgroup understood that some AB 109 clients were not suitable for services due to untreated mental health or substance abuse issues. It is expected that available capacity will be used to provide services to the non-AB 109 population similarly suitable for services.

To operationalize this concept of available capacity, the number of clients to be served in a year should be divided into shorter periods of service delivery. For example, if a service provider is contracted to provide services to 120 clients in a year, this can be seen as a maximum ceiling of 10 clients per one month period or 30 clients in any given quarter-year period. When the number of AB 109 clients enrolled by a service provider in any period is less than the ceiling established for the period, this shortfall may then be used by the service provider to provide services to the non-AB 109 population in the period that follows. Continuing the example from above, if only 25 clients are enrolled by a service provider in the first quarter of the contract, then the 5 clients worth of available program capacity may be used by the service provider to provide services to the non-AB 109 population during the second quarter. Where a service provider uses more than their maximum capacity in a period, this over-capacity should rollover in the same way and reduce maximum capacity in the next period to ensure services continue to be prioritized for the AB 109 population.

For this to work effectively, the language in the contract should be clear that service expansion to the non-AB 109 population is optional for service providers. One concern raised by the workgroup is when an organization has a period of low enrollment followed by one of maximum demand the organization may be asked to provide services to 150% or more of their maximum ceiling in a period. This capacity overload could reduce the quality of services being provided. With the program being optional, however, a service provider will have the discretion to only roll-over the available capacity from a previous period that their organization can effectively manage.

Finally, in designing the contractual language around capacity, the CAO should be given the discretion to determine how long the period determining available capacity should be.<sup>2</sup> Although a shorter period will allow service providers to react more quickly to changes in the demand for their services, longer periods will also reduce the strain on limited administrative resources. The use of ServicePoint by all contracted service providers may provide an ability to use technology to provide real time reporting on the available capacity of each organization. In any event, available capacity should at least be determined and reported on a quarterly basis.

## **The Non-AB 109 Population**

An individual is considered part of the AB 109 population if s/he is currently serving a jail sentence in Contra Costa County under the sentencing laws created by AB 109 or for the violation of parole,<sup>3</sup> under supervision by Probation following a “mandatory sentence” in the county jail under Penal Code § 1170(h), or under Probation

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<sup>2</sup> The CAO should also be given discretion to determine if a mechanism should be created that will allow for services to be provided to the non-AB 109 population in the first determination period.

<sup>3</sup> A person in the County Jail will not be determined to be AB 109 until after sentencing has occurred. If the sentence is one created by AB 109, then the person will be considered part of the AB 109 population until the entire sentence (including post release supervision) is completed or terminated.

supervision after being released from prison on Post Release Community Supervision. Everyone else would be part of the non-AB 109 population.

## Prioritization

To ensure that all those classified as AB 109 have access to the services paid for by AB 109 revenue, it is recommended that the County utilize the following hierarchy of reentry populations within Contra Costa. In developing this list of priority status groups, special attention was paid to each population's inclusion in recidivism calculations, the ease at which each group could be referred to services, and the jurisdiction of the supervision agency. Given the limited resources currently available for reentry services, this list only considers adults whose qualifying event was being charged with or convicted of a felony offense.

## Priority Status Groups

1. AB 109 Sentence
2. Formal Felony Probation
3. Released from a Correctional Facility in the Past Three Years<sup>4</sup>
4. Pretrial<sup>5</sup>
5. Informal Felony Probation
6. Specialty Courts
7. Parole
8. None of the Above, and Beyond Three Years Since Incarceration Release

## How to Prioritize

After careful deliberation, the workgroup agreed that priority status 8 should not be included in the expansion of services due to its large size and inability to directly impact the County's recidivism metrics. While concerns were raised with using local County revenue to provide services to individuals being supervised by the State's parole agency, due to the current lack of services available to this population in Contra Costa County, some members of the workgroup expressed grave concerns about completely excluding this group from consideration. Workgroup members that wanted to include individuals on parole in this service expansion effort also believed that available capacity should be available to everyone who fit into any of the priority status groups 2 – 7.

The members of the workgroup who were concerned about the use of local AB 109 revenue for individuals on state supervised parole felt limiting service expansion to just a few of the higher priority groups would accomplish the goals of utilizing the available capacity of service providers while targeting populations most likely to reduce recidivism rates of the County's local justice system. In the alternate, it was also suggested that service expansion be phased in beginning with these higher priority status groups and only expanded further if

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<sup>4</sup> Because jail time should be substantial enough to cause a serious life disruption, the time of incarceration should be at least 30 days. Also, this priority status group was used to be consistent with the State's recidivism definition.

<sup>5</sup> This specifically refers to individuals that have been released pending trial through the Pretrial Services Pilot program that is currently funded by AB 109 revenue. There are pre-conviction and post-conviction populations currently in the jails that could be included on this list, but currently any services provided in the jails that are funded by AB 109 revenue allocated to the Sheriff are available to everyone. Upon release from jail these individuals will fall into one of the other enumerated categories, and become eligible for services at that time.

service providers continued to report available capacity. The PPC should give direction to the CAO on which of these approaches to implementation is preferred.

### **Risk and Needs Assessments**

While a risk and needs assessment is usually helpful in determining the likelihood of an individual to recidivate, they also tend to help obtain maximum value from scarce resources. While they are often an ideal way to prioritize service delivery within populations, it isn't clear if that is true here because the services being provided through these contracts do not provide the high dosage of cognitive behavioral interventions that are normally associated with recidivism risk reduction among the higher risk populations. For instance, those considered high risk have been found to require 150-200 hours of cognitive based therapy to effectively reduce their recidivism risk.

While risk and needs assessments may not be used to prioritize populations with the services now being provided, the results of such an assessment should add value to the reentry system generally. Specifically, when an individual enters the system through a service provider, the information provided by a standard assessment can be useful in supporting the case management functions that will be provided by the Network System of Services and the Reentry Resource Center. Because of this inherent value, there might be a need to explore future adoption of a risk needs assessment that can be adopted for use throughout the County's reentry system.<sup>6</sup> While Probation is willing to provide information from the risk and needs assessment they conduct, this information would not be available for those who were not being formally supervised by the department.

### **Data Management & Record Keeping**

Currently Probation acts as the hub of referrals for the AB 109 population. Referral authority has been centralized with this department because in addition to being the only agency performing risk and needs assessments, Probation uses a Microsoft Access database for its AB 109 unit that allows the department to accurately track referrals made to the various service providers. Because there is very limited use of this database by other populations supervised by Probation, a new system will need to be relied upon to track services being provided to any non-AB 109 population. Because the County has already been in the process of rolling out ServicePoint to its AB 109 contracted service providers, ServicePoint should also be used to record and report all required data for the services provided to both AB 109 and non-AB 109 populations.

### **ServicePoint**

All contracted service providers should be required to use ServicePoint to track client enrollment and exit data and specific information they will be expected to report that is related to the service being provided. This required reporting information should be, or continue to be, included in any future AB 109 service provider contracts for ease of reference and subject to change. To ensure consistent and accurate reporting, use of ServicePoint should be required to track data for all clients served regardless of their AB 109 status. In support of this, the County has made strides to ensure all contracted service providers are able to use ServicePoint by the start of the 2015-16 fiscal year. These efforts have included preliminary work to ensure ServicePoint will be

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<sup>6</sup> Currently the only risk and needs assessment being performed in the County is the Correctional Assessment and Intervention System (CAIS). This is done by Probation on just about everyone who is formally being supervised by the department to help tailor Probation's supervision strategy to each client.

able to track a person's AB 109 status, the services provided to them, and the available capacity of all contracted service providers.

Additionally, ServicePoint should be set up to indicate whether each non-AB 109 client's priority status, identity, and residency status have been verified. The system should also provide service providers with information about available capacity, as well as the ability to indicate they are not accepting new non-AB 109 referrals. This will allow service providers the ability to protect the quality of services being provided during periods where their services are in high demand. Finally, protocols will need to be developed so service providers can use ServicePoint to refer non-AB 109 clients to other service providers with available capacity. For the non-AB 109 clients served, it will also be important to record the source of the referral.

## Eligibility Determination

With services being expanded to the non-AB 109 population, there will be a need to verify a person's eligibility for services. Where the person walks into an organization, there could be difficulty establishing whether the person fits within one of the priority groups, confirming the person is a resident of Contra Costa County, or that the person is who they say they are. All three of these data points should be prerequisites to a service provider providing services to a non-AB 109 client. Understanding that it could be difficult for this population to document their eligibility for services, service providers should be required to record and report what was used to verify a client's eligibility, and what eligibility criteria the service provider was unable to verify despite their due diligence.

The following mechanisms are recommended as standards for due diligence of service providers attempting to verify a non-AB 109 clients eligibility. Government issued photo identification should be considered sufficient to verify both a person's identity and residency. Identity can also be documented by presentation of a government issued document (social security card, birth certificate, etc.) with the person's name along with a second document with their name issued by a government or non-government organization. If the person's address is listed on one of the two documents, then residency can also be established through this method.<sup>7</sup> For those who are living in shelter or some other temporary living arrangement within the County, a letter from the person or agency providing the housing will suffice to verify a person's residency. In looking at the priority groups, it is likely a straightforward countywide verification protocol can be established for most of the categories.<sup>8</sup> A government issued document (rap sheet, jail or prison release papers, minute order, etc.) may also be used to establish a person's priority status. If a service provider isn't able to verify the priority status, identity, or residency of a person, they must then have the person sign an affirmed statement attesting to the truth of all unverified eligibility criteria before enrolling the person in any services.<sup>9</sup>

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<sup>7</sup> To establish residency in this way, the document with the person's name and address should not be expired or more than six months old.

<sup>8</sup> This will likely consist of establishing a contact person within each public agency that can verify a person's status. For instance, a representative of Probation, the Court, or Parole can verify a person's current involvement with a particular agency or program. This can be done by phone, fax, email, or some other easily established method.

<sup>9</sup> The CAO might want to ensure the contract with the service provider includes a promise to immediately stop providing services to any client they believe has falsified any unverified information.