

## JUDGES FOCUS GROUP – 8/15 (amended 8/19)

### **Attendees:**

Robert Bowers	Robert Fracchia	William Pendergast	Dan Healy
John Ellis	Peter Foor	Scott Kays	Paul Beeman
Mary Carnahan	Brad Nelson	David Power	Sharon Hoover
Tim Kam	Mike Mattice	Brian Taylor	

### **Issues and Concerns:**

1. Will the courts be overwhelmed – given the anticipated PRCS, non non nons and parole revocations? Will the courts be overwhelmed by cases that were formerly pled now going to trial, and those trials being extended?

2. Some expressed the notion that sentences in the new law are inappropriate – not long enough, not tough enough, e.g., PRCS revocations being 180 days w/ day for a day credit. The fear is that these offenders will get right out and commit new crimes. Also said defendants will want to go to jail rather than participate in any programs where they might have to do some work.

3. Very concerned about pre trial release / alternatives to custody for pre-adjudicated offenders.

- The Sheriff can release any felon or misdemeanor on whom bail has been set, i.e., the Sheriff can go around the court
- Alternatives (what was described as allowing defendants to ‘take classes’ instead of being in jail) will not be effective. [Did not seem to acknowledge the requirement of AB 109 to use proven, evidence based alternatives in lieu of and in support of incarceration.]
- Pretrial credit for time served will enable defendants to stall felony sentencing and get out w/out serving any post adjudicated time
- If defendants are to get pretrial release, victims should be notified – and perhaps even given a chance to comment per Marcy’s Law and/or the Victims’ Bill of Rights
- Also want to ensure the sentencing judge would get notice of pretrial releases
- Noted the Sheriff has said, relative to pretrial release, that he’ll “try to abide by the wishes of the court.”
- Releases must not occur in unpredictable and inconsistent ways – there must be clear and consistent processes including: procedures to provide information

4. The concern was expressed that “all the money” is going to hire POs and Sheriff’s personnel, so there won’t be any to create and/or sustain needed programs and services. It was suggested that the County increase funding for counseling programs, including (but not limited to) drug and alcohol testing; group and individual counseling for defendants with drug, alcohol and mental health issues; meaningful case management; residential treatment programs; and meaningful supervision of probationers to both motivate good behavior and immediately sanction non-compliance

5. Re revocation hearings, wanted to know:

- If they could do sequential 180/90 day revocations (*I didn’t know the answer but have since learned they can. May need to convey that to the court*)
- If revocation hearings should be conducted by a judge, pro tem or commissioner
- If person has the right to an attorney
- Who moves for the violation and/or who brings the action
- Whether all revocation hearings should be assigned to one judge or court, be put on the rotation or go back to the judge who sentenced initially
- If there is a new case / new law violation, should the VOP/revocation go with the new case? If not, a commissioner could hear the violation.

6. Also had questions about:

- whether judges are involved in flash incarceration [*they are not*]
- whether, since suspended state prison will not be available after October 1, they can suspend portions of state prison sentences – Brian said new sentencing rules are continuing to be forthcoming from the AOC
- whether the court will be able to review petitions and supporting reports w/in the prescribed time frames – Brian said the AOC is be working on forms and new rules for this
- who is responsible for notifying the court of parole/probation violations – These are to be filed by Probation as they are now; however, Court Clerk’s office will have to have new codes for these violations. Brian said AOC Rules of Court calls these Petition for Revocation.

7. There was discussion of Reentry Courts, as are operating in San Joaquin and Santa Clara Counties, but it seemed more a matter of curiosity than something Solano County’s Bench would be interested in exploring.

8. The question was raised whether the County is considering returning to weekend road crews / weekend commitments and furlough programs.

The judges said they would put together a committee to develop protocols for how realignment cases will be handled.