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Realigning the Revolving Door: An Analysis of California Counties' AB 109 2011-2012 Implementation Plans

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Introduction: The Road to AB 109

On April 5, 2011, California Governor Jerry Brown signed into law AB 109, the "2011 Realignment Legislation Addressing Public Safety" ("Realignment"), which dramatically shifted responsibility from the state to the counties for tens of thousands of offenders.[1] The state was in an unprecedented financial crisis, and recent budget deficits had forced legislators to make tough decisions that included cutting spending not only in the criminal justice system, but in education and other social services as well. Not only that, but just a few weeks before the bill's signing, the United States Supreme Court had upheld a lower court's judgment ordering California to reduce its prison population by approximately 40,000 persons within two years.[2] California, and its prison system, had to make big changes.

California's Prison System in Crisis

The California criminal justice system is comprised of state corrections, which includes prisons and parole, local law enforcement, county jails and probation departments. Since the fiscal year ending in 1977, spending on corrections alone in California has risen from $345.6 million to slightly less than $10 billion, and it now accounts for more than one-quarter of total state and local criminal justice spending.[3] From the fiscal years ending in 1985 to 2009, spending on corrections increased from 4 percent to 10 percent of the state's general fund budget.[4] While many factors affect the rising costs, the increase has largely been attributable to the rising inmate population due to changes in sentencing laws in the 1980s and 1990s, increasing salary and pension costs of correctional officers, and the inflationary costs of inmate health care expenditures, notwithstanding the high costs of a particularly litigious correctional system.

Despite the high costs of California's prison system, experts agree that the system is broken. As Kara Dansky explains, California's "recidivism rates are extraordinarily high, its corrections budget is enormous, and its sentencing system is incoherent."[5] Joan Petersilia summarizes: "No other state spends more on its corrections system and gets

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[1] See Office of Governor Edmund G. Brown Jr., Governor Brown Signs Legislation to Improve Public Safety & Empower Local Law Enforcement (Apr. 5, 2011), http://gov.ca.gov/news.php?id=16964.
[2] Brown v. Plata, 131 U.S. 1910 (2011).
[3] California Budget Project, *Steady Climb: State Corrections Spending in California*, Budget Backgrounder 1 (2011), *available at* http://www.cbp.org/pdfs/2011/110914_Corrections_Spending_BB.pdf.
[4] Dean Misczynski, *Rethinking the State-Local Relationship: Corrections*, Public Policy Institute of California 5 (2011), *available at http://www.ppic.org/content/pubs/report/R_811DMR.pdf.*
[5] Kara Dansky, *Understanding California Sentencing*, U. SAN FRAN. L.R. 45, 45 (2008).

less."[6] Even with the state's extraordinary spending on corrections, 66 percent of California prisoners released from prison return to prison within three years (as compared to the 40 percent national average).[7] And nearly 50 percent of all inmates released in 2006 left prison without participating in a single program.[8]

Overcrowding

California has had prison overcrowding issues since the inception of its prison system. The State created its prison system in 1851, and by 1858, six hundred prisoners were housed in an institution with only sixty-two cells.[9] One-hundred and fifty years later, the state was housing over 170,000 inmates in 33 prisons that were designed to hold approximately half that number.[10]

While in the 20 years prior to 1981 the state prison population had never risen above 29,000, beginning in that year there began a steady increase.[11] Jumping from 24,000 to 32,000 inmates from 1980 to 1982, the population was up to 37,000 by 1983; 47,000 in 1985; 94,000 in 1990; and 162,000 by the year 2000.[12] When in 2006 the California prison population reached an all-time high of 173,000 prisoners, Governor Schwarzenegger issued a state of emergency, announcing: "[A]ll 33 CDCR [California Department of Corrections & Rehabilitation] prisons are now at or above maximum operational capacity, and 29 of the prisons are so overcrowded that the CDCR is required to house more than 15,000 inmates in conditions that pose substantial safety risks. . . . I believe immediate action is necessary to prevent death and harm caused by California's prison overcrowding."

For over a decade inmates, prison guards, and state officials litigated overcrowding in California's prisons in two cases challenging prison conditions as a deprivation of the constitutional right to adequate health care.[13] In May 2011 the Supreme Court of the United States affirmed a three-judge court's decision to impose a population cap on California's state prisons, holding that severe overcrowding was the primary cause of

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[6] Joan Petersilia, *California's Correctional Paradox of Excess & Deprivation*, CRIME & JUSTICE 207, 211 (2008).
[7] *Id.* at 263.
[8] *Id.* at 211.
[9] Dansky, *supra* note 5, at 52-53.
[10] Brown v. Plata, *supra* note 2.
[11] *California Prisoners and Parolees*, California Department of Corrections – Offender Information Services Branch, Table 3, 2001.
[12] *Id.*
[13] See Coleman v. Wilson, 912 F. Supp. 1282 (E.D. Cal. 1995) and Plata v. Schwarzenegger, 2005 WL 2932253 (N.D. Cal. Oct. 3, 2005). The prison guards ultimately joined the inmates as plaintiffs in *Plata*, arguing that the prison conditions were detrimental to their health as well.

"serious constitutional violations" and "[n]eedless suffering and death."[14] The Court ordered the State to reduce its prison population by 38,000 to 137.5 percent capacity within two years.[15]

Spending

In addition to the increase in the number of state prisoners, per inmate spending has vastly increased along with population. One of the main culprits of per inmate spending increases have been the increase in health care costs resulting from various court orders, and most notably the appointment of a federal Receiver in 2006 to manage the state's prison medical care delivery system. Just in the past decade, health care expenditures more than tripled rising to over $2.1 billion in 2010-11.[16] This was an increase from 12.4 percent of total corrections spending to 22.8 percent in a single decade.[17] However, even more shocking than the rise in health care costs has been the rise in spending on security and operations and supervising parolees, which increased 57.1 percent and 76.3 percent, respectively, during the same time period.[18] These enormous jumps were largely due to the negotiating power of the prison guard union, the California Correctional Peace Officers Association, and their ability to obtain the some of the highest salaries of all prison guards in the nation, along with lifetime pension benefits for its members.[19]

Given the foregoing reasons, it is clear why the state would look to corrections when faced with significant budget deficits. California has tried to shift spending from the state to the county level in corrections before. The California Probation Subsidy Act, in place for 13 years during the 1960s and 1970s, paid counties $4,000 per felon for each person sentenced to probation instead of prison, above the county's historical prison admission rate.[20] This policy resulted in a 20 percent decrease in adult admissions, which

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[14] Brown v. Plata, *supra* note 2.
[15] *Id.* The Court noted that the three-judge court that issued the release order "retains the authority, and the responsibility, to make further amendments to the existing order or any modified decree it may enter as warranted by the exercise of its sound discretion." The State may move for an extension of time.
[16] California Budget Project, *supra* note 3, at 8.
[17] *Id.*
[18] *Id.*
[19] Tim Kowal, *The Role of the Prison Guards Union in California's Troubled Prison System*, Union Watch (June 25, 2011), http://unionwatch.org/the-role-of-the-prison-guards-union-in-california%E2%80%99s-troubled-prison-system/.
[20] Legislative Analyst's Office, Achieving Better Outcomes for Adult Probation, May 29, 2009, *available at* http://www.lao.ca.gov/2009/crim/Probation/probation_052909.aspx.

the state considered successful; however, the program eventually became too costly for the state and poorly funded from the county perspective.[21]

More recent attempts to shift corrections spending from state to county control have included SB 678 in 2009, which incentivizes counties to reduce the number of felony probationers revoked to state prison. Each year, the Department of Finance determines statewide and county-specific probation failure rates. The county-specific rate is compared to each county's baseline failure rate, which was determined by a weighted average of the failure rate from calendar years 2006-08. If a county's probation failure rate has dropped from its baseline failure rate, it is eligible for a performance incentive grant. If a county's failure rate is more than 50 percent below the statewide probation failure rate, that county is also eligible for a high performance grant.[22]

In the first year of SB 678 implementation, "95% of [probation] departments planned to implement a risk and needs assessment instrument, up from 40% in 2009."[23] Additionally, "79% of departments planned to offer training to their probation officers in areas such as motivational interviewing, cognitive behavioral therapy, and case planning," and "74% of departments planned to offer increased rehabilitation services to probationers, including cognitive behavioral therapy, substance abuse treatment, and employment services."[24] Forty-seven of California's 58 counties saw a reduction of probation failures to state prison, and 88% of the statewide reduction came from the state's 15 largest counties. Moreover, 14 counties qualified for high performance grants.[25] The savings from this program amounted to $179 million in 2010 alone, and is considered by many counties in their Realignment plans as an important part of the ongoing Realignment efforts.[26]

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[21] *Id.*
[22] California Administrative Office of the Courts, SB 678 Year 1 Report 1. (2011), *available at* http://www.courts.ca.gov/documents/SB678-Year-1-Report-FINAL.pdf.
[23] *Id.* at 4.
[24] *Id.* at 1.
[25] *Id.* at 1. Contra Costa, Marin, Mendocino, Modoc, Nevada, San Luis Obispo, Santa Cruz, and Siskiyou received high-performance grants for the 2012-13 fiscal year based on their reductions in probation failure rates the previous year. *See also* Chief Probation Officers of California, SB 678 Fiscal Year 2012-13 Projected Allocations, http://cpoc.org/php/Information/sb678/SB%20678%20–%20GB%20Projections.pdf.
[26] California Administrative Office of the Courts, *supra* note 22 at 2.

Overview of AB 109

Substantive Impact

Under AB 109 three major changes took place beginning October 1, 2011: (1) felony offenders who have never been convicted of a "serious" or "violent" crime or an aggravated white collar crime and are not required to register as sex offenders (colloquially referred to as the "non-non-nons" or the "N3" population) will now serve their sentences in local custody, (2) most offenders released from prison will now be subject to local "postrelease supervision" rather than state parole, and (3) parolees who violate a condition of release will no longer be returned to prison but will be required to serve out any custodial punishment in county jail.[27] In addition, beginning July 1, 2013, "courts will hear and decide petitions to modify or revoke supervision and impose custodial sanctions for persons who are under state or local supervision after having served time in prison."[28] In his signing message, Governor Brown declared:

> California's correctional system has to change, and this bill is a bold move in the right direction. For too long, the State's prison system has been a revolving door for lower-level offenders and parole violators who are released within months—often before they are even transferred out of a reception center. Cycling these offenders through state prisons wastes money, aggravates crowded conditions, thwarts rehabilitation, and impedes local law enforcement supervision.[29]

Not only did AB 109 transfer an unprecedented amount of responsibility to counties; it also gave them an unprecedented amount of discretion. The bill puts few limits on how counties can spend their money, and it does not require them to report any results to the state or to measure the outcomes of their programs. There are two explanations for this grant of discretion: (1) It may have been necessary to get law enforcement buy-in to the bill, and (2) There is some evidence that counties may be better situated to make decisions about how to handle offenders in their jurisdictions. As Sheriff Wittman of Tulare County declared, "We know our county, and we know these inmates. If they were in prison they would be coming back to our county anyway. We think we can do a better job with rehabilitation. There's only one option, and that's to make it work."[30] Similarly, Merced County Sheriff and former President of the California

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[27] *See* Alison Anderson, CA Senate, *The 2011 California Public Safety Realignment* 1 (July 2011) (on file with authors).
[28] *Id.* at 2.
[29] AB 109 Signing Message, *available at* http://gov.ca.gov/docs/AB_109_Signing_Message.pdf.
[30] David Marsh, *AB 109 to Test Tulare County's "Can Do" Sheriff*, VALLEY VOICE, *available at* http://www.valleyvoicenewspaper.com/vv/stories/2011/vv_wittman_1149.htm. *See also Public Officials*

State Sheriffs' Association Mark Pazin announced, "Realignment will be a tall order . . . but ultimately the counties are up to the task. We believe it can be done better at the local level. Not to be critical or adversarial with our state counterparts, but that's just the way it is." Furthermore, as Lee Seale, Director of Research for CDCR quipped, "58 different experiments is not a bad thing."[31]

The Realignment planning process took advantage of the counties' existing Community Corrections Partnerships ("CCP"s), which were established under SB 678. Under SB 678, each county was to establish a CCP chaired by the Chief Probation Officer that included eleven members from various departments and branches of the government, as well as a representative from a community-based organization and an individual to represent the interests of victims.[32] To prepare for Realignment, each CCP was required to draft and recommend a local plan for implementing AB 109 to the county board of supervisors.[33] The CCP's executive committee voted on the plan, which would be "deemed accepted by the county board of supervisors" unless the board rejected the plan by a vote of four-fifths.[34]

AB 109 Funding

The budget passed by the legislature in June 2011 included $6.3 billion in total Realignment funds for AB 109, as well as for the realignment of other programs including local public safety programs, mental health, substance abuse, foster care, child welfare services, and adult protective services.[35] Approximately $5.6 billion of the funding is redirected from the state collection of the sales tax, while the remaining portion is taken from the vehicle license tax.[36] Specifically related to AB 109 Realignment programs, $354 million was allocated to pay counties in the first year of the program, increasing to

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Talk About Public Safety Realignment, Kero 23 Bakersfield, http://www.turnto23.com/news/30300113/detail.html (quoting, among others, San Mateo County Sheriff Greg Munks: "I think we can do a better job at the county level…keeping these individuals closer to the community, keeping them closer to their families, and connecting them with community-based resources that they're going to need to be successful when they get out, because they are going to get out;" Los Angeles County Chief Probation Officer Donald Blevins: "We feel that we can do a better job at the local level keeping people from going to prison;" Stanislaus County Sheriff Adam Christianson: "Quite frankly, I think the sheriff and probation chief will do a much better job with programming than the state does").

[31] Lee Seale, Presentation at Stanford Law School (Nov. 3, 2011).

[32] Cal. Penal Code § 1230(b)(2).

[33] Cal. Penal Code § 1230.1(a).

[34] Cal. Penal Code § 1230.1(c)-(d).

[35] Legislative Analyst's Office, *2011 Realignment: Addressing Issues to Promote its Long-term Success*, 7 (2011)

[36] Governor's Budget Summary – 2011-12, *Corrections and Rehabilitation*

$857 million and then $1 billion in the fiscal years ending 2013 and 2014.[37] The legislation called for the creation of a dedicated local fund—the Local Revenue Fund—in which to deposit the funds, which arguably do not count towards the Proposition 98 minimum guarantee.[38]

Many counties were concerned the funding for Realignment was not guaranteed; however, while the specific program allocations to the various accounts and subaccounts of the Local Revenue Fund are not mandated in the legislation beyond the fiscal year ending in 2012, it does guarantee revenues will be deposited into the fund on an ongoing basis.[39] Moreover, there is legislative intent language in the AB 118 trailer bill that indicates new allocation formulas should be developed for the subsequent fiscal years and that "sufficient protections be put in place to provide ongoing funding and mandate protection for the state and local governments."[40]

Additionally, in November 2012, Proposition 30 passed in California to increase sales and income taxes to benefit both Realignment and education. In Proposition 30, the personal income tax increases for taxable incomes over $250,000 for seven years, and the sales tax increases ¼ cent for four years. State revenues from Proposition 30 are expected to be about $7 billion annually. While the exact amount being allocated from this revenue was not laid out in the proposition, it is supposed to guarantee at least as much Realignment funding as the first two years.[41]

The Legislative Analyst's Office report on Realignment indicates the following savings are expected from the implementation of AB 109: $435 million savings to local law enforcement grant programs, $86 million net savings related to low-level offenders and parolees, as well as undetermined amounts related to fewer prison construction

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[37] *Id.*

[38] *See infra*, "Financial Crisis and Internal Tension". "This action reduced the Prop. 98 minimum funding guarantee by $2.1 billion. Budget trailer bill language specifies, however, that the exclusion of these revenues is contingent upon voter approval of a ballot measure providing additional funding for K-12 school districts and community colleges. If no ballot measure is adopted satisfying these requirements, the funds would not be excluded from the Proposition 98 guarantee moving forward and the state would need to repay K-14 education for the loss of $2.1 billion for the 2011-12 year over a five-year period. The Attorney General's office has been requested to issue an opinion regarding this matter." Legislative Analyst's Office, *Realignment: Addressing Issues to Promote its Long-term Success* 8 (2011).

[39] Chapter 40, Statutes of 2011, AB 118, Chapter 6.3(d) Local Revenue Fund 2011; LAO, s*upra* note 35 at 8 (2011).

[40] Chapter 40, Statutes of 2011, AB 118, Chapter 6.3(h)(5)(30027)(d).

[41] Ballot Pedia Analysis of Proposition 30, http://ballotpedia.org/wiki/index.php/California_Proposition_30,_Sales_and_Income_Tax_Increase_(2012).

projects.[42] Governor Brown's 2012-13 budget projected state savings of $454.3 million during 2012, and $1.1 billion over the budget year.[43]

Even with these permanent allocations, counties were concerned the amounts appropriated would not be sufficient to meet the needs of offenders being paroled to their counties, nor the new offenders sentenced in their local jails. The state's 2011-2012 formula used to allocate Realignment funds to each county considered three factors: 60 percent based on the estimated average daily population of offenders meeting AB 109 eligibility criteria; 30 percent based on U.S. Census Data pertaining to the total population of adults in the County as a percentage of statewide population; and 10 percent based on the SB 678 distribution formula.[44]

As it relates to corrections, there are four main funding streams the counties had at their disposal with which to implement AB 109. The first stream of funding ($354,300,000) is for AB 109 programs and is the main source from which counties would fund operations in the jail, probation and any programs in the community. The second funding stream ($12,700,000) was specifically allocated to the District Attorney and Public Defenders offices. Both of these sources of funding are on-going from year to year.

In addition, the State set aside two one-time funding allocations in order to accommodate the first year expenses of implementing the programs. One was for AB 109 training and retention programs ($25,000,000) and the other was for the planning expenses of the Community Corrections Partnership ($7,850,000). See Appendix E for a list of the amounts allocated to each county for the nine months of the current fiscal year that remained when Realignment began on October 1, 2011.

While the legislation limits the use of funds deposited into counties' accounts to the specific programmatic purpose of the account or subaccount, it does not contain any limitations on how the local governments can use the funds within those boundaries.[45] Given this, the budgeting process, scope, detail, and priorities resulted in vastly dissimilar allocations across the various counties.

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[42] LAO, *supra* note 35, at 9 (2011).
[43] Governor's Budget Summary, *supra* note6, at 126.
[44] *See* Madera Plan at 8.
[45] LAO, *supra* note 35, at 8.

Methodology

Coding County Plans

The first step was to acquire all 58 county plans. Only 35 counties had submitted their plans to the Chief Probation Officers of California (as required by the legislation) when our research began. Submitted plans were available on the Chief Probation Officer's website.[46] To acquire the remaining county plans, we called the county probation office to ask if a plan had been approved by the county Board of Supervisors. If the plan had not yet been approved, we requested a draft of the plan and asked for the estimated date of approval. We called the probation office again the day after the plan was estimated to be approved to ask again for the plan. If we did not receive the plan from the probation office or if we were unable to speak with someone there by phone, we followed up with emails. Additional plans were also posted on the Chief Probation Officers of California (CPOC) website. We received all county plans by August 6, 2012.[47]

In coding the plans, we first identified a list of topics to track across the plans to better understand how counties were implementing Realignment. The initial list of topics was created from reading and researching AB 109 and discussing the legislation with both county practitioners, and staff in Attorney General Kamala Harris's Office. We selected topics based on the stated goals of the AB 109 legislation, news coverage of county concerns, and conversations with policy makers interested in particular policy outcomes.

The list of topics changed as we began to read the county plans to be able to track information that was not thought of originally and to drop the tracking of information that did not differentiate the plans. For example, we started out tracking discussion of the public defender and district attorney, but ultimately discontinued tracking this category because it was not a significant or distinguishing component of any county plan. The county's planning process in creating plan was not coded originally, nor ultimately in depth. We added, however, several process-related coding topics, including: having an interim plan, hiring a consultant, or having a generally negative or positive attitude about AB 109. The final list of broad topics that we coded are: plan process/attitude, alternatives to incarceration, risk assessment, reentry and rehabilitation, probation, jails, law enforcement, measurement of outcomes and data collection, mental health

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[46] Chief Probation Officers of California, *County Criminal Justice Realignment (AB 109) Plans*, http://www.cpoc.org/county-plans.

[47] All but four of the plans that we coded are available at the Chief Probation Officers of California website. The other four plans (Alpine, Glenn, Modoc, and Sierra) we received directly from the county.

treatment, substance abuse treatment, and housing. Within each of these broader categories we tracked sub-topics (relevant programs and policy choices) as listed and defined in Appendix A.

Once the initial list of coding topics was created, we read and coded county plans for whether or not they mentioned the topics on our coding sheet, and to what extent and what depth they discussed these topics. In our spreadsheet, topics that were not mentioned at all in the plan were recorded as a "0," and topics that were mentioned were recorded as a "1." We did not define a topic as "mentioned" when it was merely part of the county's description of the AB 109 legislation. Instead, we tracked only topics mentioned within the county's plan as part of their proposed response to the AB 109 legislation and relevant population of offenders. The categories for "date plan passed" and "number of people on the committee" were not coded on a binary scale, but rather were recorded as the actual numerical date (when available) and the actual number of people who were listed specifically in the plan as participating on the Community Corrections Partnership[48].

In addition to looking at what a county mentioned it would be doing under Realignment, we also coded to what extent a county described the programs they would expand or implement. This look at depth was to get a better understanding of what counties were planning on doing. This allowed us to differentiate between plans that simply had a laundry list of programs and plans that described more specifically what they were planning. The idea was that counties that went into depth in describing their programs gave us more understanding of if they would be implemented, as it meant the county spent some time developing what the type of program would entail.

In coding for the depth of coverage on a particular program, a new spreadsheet was created to code to what extent a county described their proposed programs. A "2" was recorded for any of the coding topics discussed in the county plan for one to two paragraphs, or for coding working with community-based organizations or faith-based organizations a "2" was recorded if the county gave specific organization information regarding with whom they would be working. A "3" was recorded for any topic discussed for more than two paragraphs and with detail about the policy or plan at issue, and a "4" was recorded for any topic with an exceptionally lengthy and detailed discussion Fours were given rarely. A "0" indicated no significant depth of coverage; a county that had not mentioned a topic, or had simply mentioned a topic, but had gone into no depth, had a "0" recorded for the topic. There was no "1" in the depth coverage coding so that when

[48] Some counties listed only the Executive Committee of their CCP, whereas other mentioned all players involved in the planning for the AB 109 population. There is significant variance in the numbers listed, and mean most within the context of the county.

mentions and depth coverage were combined in one sheet, a "1" would signify a mention and a "2" or higher would indicate depth of coverage.

It should be noted that our sub-topics within the broader topic categories were in some cases combined for our depth coding. For example, we combined the sub-topics of "housing for the mentally ill and developmentally disabled, residential substance abuse treatment, transitional housing, and housing vouchers into one "specialized housing" category for the depth coding. The differences in topics between our "mention" coding and "depth" coding are noted in Appendix B.

Kathryn McCann Newhall and Jessica Snyder were responsible for the first reading of the plans. The plans were split down the middle, and each researcher read and coded half of the plans. During the first round of reading and coding, we recorded our initial impression of the plan in addition to coding the plan. As county plans were passed and received, we continued to code the new plans. For plans that were updated, we kept in our spreadsheet the coding for the old plans in addition to the new plan to be able to compare the two plans, should the need arise. Over the course of our research, the plans were read and recoded at least twice more by Kathryn, Jessica, or Sara Abarbanel, who joined the research team in December of 2011. The most recent comprehensive re-reading and re-coding took place in May and June of 2012. Each plan was read and coded at least three times. In order to ensure the accuracy of our coding, we also completed a spot check of the coding spreadsheet, by going through each county plan and checking the accuracy of the coding for a few randomly selected topics.

Coding the County Budgets

Collecting Budgets

We have classified the Realignment spending plans (budgets) of the 58 California counties.[49] County budgets breakdowns for their AB 109 2011-2012 spending were taken primarily from county AB 109 2011-2012 plans. Not every county included a formal budget with their AB 109 plan, and because of this, the budgets were significantly harder to collect than plans. Counties were also less willing, and sometimes less able, to share a

[49] The budget analysis is limited in several significant ways: First, counties reported dramatically different amounts of detail in their budgets. Some budgets were one sentence long, whereas other budgets were several pages long. Second, many counties left a significant portion of their AB 109 money in reserves. How this money is eventually spent might alter our assessment of the county's budget. And finally, included in our analysis was only the budget of AB109 funds, and did not include other sources of funding, such as SB678 or AB900.

detailed budget, perhaps because it was not required by the AB 109 legislation itself. For counties that did not provide a budget breakdown within their plan, we followed up with the county probation office by email; we followed up again with phone calls to the probation office if the email received no response. If a county sent an updated budget, it was used in lieu of the previous version.[50]

Budget Coding and Analysis Part 1

The budgets vary in their detail and formality: some counties provided a detailed list of expenditures (providing line item allocations for things like computers and law enforcement vehicles), while others grouped expenses into broader categories, such as "Sheriff" and "Probation". From the budgets, Angela McCray grouped the spending of the counties of their AB 109 program funds[51] into the following categories to be able to better compare spending across counties: Detention Release Services/Alternatives, Offender Housing, Sheriff, Probation, Programs & Services, District Attorney, Public Defender, Municipal Law Enforcement, Evaluation & Data Analysis, Administration, Health Services, Workforce Development, Human Resources, and Reserves. Like items were grouped together to increase comparability. For example, we grouped mental health spending and physical health spending into "Health Services." This grouping increased comparability, since some counties had combined mental and physical health spending and some had not.

Several of the categories require additional definition: The Administration category included clerical or accounting staff, the Health Services category included both mental and physical health services, the Programming category including behavioral health and substance abuse. We selected these categories to track in our budget analysis after reading the legislation itself and several of the budgets. Like with the coding topics for the county plans, the budget categories evolved over the course of our research—several categories were added or taken out of the spreadsheet as the research progressed.[52]

In order to avoid double counting in breaking down the budgets, we would subtract relevant sub-designations from larger categories. If a larger section of the

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[50] The budget used for Los Angeles County was for one quarter. To be able to compare with other counties' three quarter budgets, it was extrapolated for three quarters.
[51] County spending from other revenue streams (i.e. AB678) were noted, but not included in this analysis.
[52] The original list of budget categories included: AB 109 Supervision Staffing, Detention Release Services/Alternatives, Cars, Fuel Costs, Building Space, Offender Housing, Services and Supplies, Sheriff, Probation, Programs and Services, Behavioral Health, District Attorney, Public Defender, Municipal Law Enforcement, Evaluation and Data Analysis, Administration, Rewards, Programs, Health Services, Workforce Development, Human Resources, Local AB 109 Plan Development, and Reserves.

county's budget included spending that fell into a different category, it was subtracted from the original category and added to the appropriate one. For example, if a jail program were included in the county budget within the sheriff's budget, it was subtracted from Sheriff and added to Programs & Services.

From the aforementioned spending categories, spending was grouped into broader spending units: Sheriff and Law Enforcement and Programs and Services. Sheriff and Law Enforcement spending included the subcategories Sheriff and Municipal Law Enforcement. Programs and Services included the subcategories Offender Housing, Programs & Services, Health Services, and Workforce Development.

The total expenditures of the main spending units Sheriff and Law Enforcement and Programs and Services were then taken as a percentage of the county's total AB 109 budget expenditure (not the total amount allocated from the state). The counties range from 0 to 89 percent of their expenditures allocated for Sheriff and Law Enforcement and from 0 to 59 percent of their expenditures allocated to Programs and Services.

The data for an important piece of our budget analysis can be found from the additional breakouts of the budgets in the "details" tab of the budget spreadsheet. The details tab tracked information for six interesting and significant issues: Salaries, Day Reporting Centers, Electronic Monitoring, Jail Expansion, Transitional Housing, Rehabilitation Programs, and Reserves[53]. These particular categories played a critical role in the analysis section of our paper.

Budget Coding and Analysis Part 2 (Recoding)

In April 2013, we completed a reanalysis of the county 11-12 budgets. There were two main reasons that this was done: (1) to confirm that the budget breakdowns were consistent across counties; and (2) to be able to include any new budgets we had received since the initial analysis.

Like the previous budget breakdowns, the new budget breakdown only included the programming budget, unless it was impossible to tell what items came from which allocation.[54] In the updated breakdowns of the budgets, the following changes were made:

[53] The categories in the details tab record the breakout for these items, removing any salary information in the salary breakdowns for probation, sheriff, or "other" salaries.
[54] Because some of the DA/PD funding was difficult to discern from which allocation it came, these categories may be over allocated in some counties.

- New spending units were created in addition to Sheriff and Law Enforcement and Programs and Services. The new spending units are: Detention Release Services/Intensive Supervision (includes Detention Release Services/Intensive Supervision and Day Reporting Centers); Probation (includes only Probation); Miscellaneous (includes District Attorney, Public Defender, Evaluation & Data Analysis, Administration, and Human Resources); and Unallocated (includes Reserves). Exactly what the spending units include is enumerated in Appendix D.[55]
- In-custody programming was allocated to the Programs & Services category, rather than to the Sheriff category.
- Day Reporting Centers were allocated into their own category, and included in the new Alternative Detention Services/Intensive Supervision spending unit.[56]

The recoding of the county budgets led to a few changes in our understanding of them. With the recoding, across the board, more money overall was allocated to the Programs and Services spending unit, much due to the placement of in-custody programming in that category. The allocation to the spending unit of Sheriff and Law Enforcement tended to go down, both because of some of the allocation going into programming, but also because as possible alternative sentencing was broken out more consistently to the spending unit of Alternative Detention Services/Intensive Supervision.

Indices

From the original reading and coding each of the county plans, we created two indices to array the county plans from those that relied on surveillance and the use of custody to those that relied more heavily on programs and services. The first index was based solely on the narrative description of the plans themselves, and the second was based on a combination of the narrative descriptions and the budgets.

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[55] The new spending units are: Detention Release Services/Intensive Supervision (including Detention Release Services/Intensive Supervision and Day Reporting Centers); Probation (included only Probation); Miscellaneous (including District Attorney, Public Defender, Evaluation & Data Analysis, Administration, and Human Resources); and Unallocated (included Reserves).

[56] Day Reporting Centers were included in their own category, and grouped under the spending unit of Alternative Sentencing/Intensive Supervision, because while DRCs house programs and services, they are a better fit for the Alternative Sentencing/Intensive Supervision spending unit, as they, like other alternative sentencing and intensive supervision sub-topics, are more vehicles for programs, rather than programs themselves. To mitigate the issue of programs and services provided through the DRC, salaries of employees hired through other departments (i.e. mental health practitioners) were removed as possible and re-allocated to the home department.

The index for the narrative description array gave weight to five items within the category of programs and services: transitional housing, in depth description of mental health treatment programs, in-depth description of substance abuse program, specialty courts, and in-depth discussion of education programs. Plans also received weight for the total number of programs and services that they mentioned in their plan. In the category of surveillance and custody, the narrative index gave weight to five things: law enforcement helping with supervision of post-sentenced offenders, building or expanding jails, a high-risk probation unit for the AB 109 population, plans to arm probation officers, and hiring law enforcement officers. Again, plans received weight for the total number of surveillance or custody issues that they mentioned in their plan.

Our second index combined the scores from the first index with points awarded based on county budgets.[57] If the county was between the median and the 75th percentile for program and services spending, then they received two additional points towards the programs and services side of the array. If the county was above the 75th percentile for Program and Services spending, then they received three additional points towards the program and services side of the array. If, on the other hand, the county was between the median and the 75th percentile for law enforcement and jail spending, then they received two points towards the surveillance and custody side of the array. And finally, if the county was above the 75th percentile for law enforcement and jail spending, then they received three additional points towards the surveillance and custody side of the array.

Formula[58]

Program and Services Mentions

+1 (15-20)
+2 (21-34)
If a county had between 15 and 20 program or services "mentions" then they got a score of +1. If a county had between 21 and 34 program or services "mentions" then they got a score of +2. If a county had less than 15 program or services "mentions" then they got a score of 0.

Surveillance and Custody Mentions

-1 (6-10)

[57] Detail on what is included in each budget and narrative categories can be found in the appendices.
[58] The excel spreadsheet is set up to automatically calculate the array score with this formula when the coding is entered.

-2 (11-19)
If a county had between 6 and 10 law enforcement or surveillance "mentions" then they got a score of -1. If a county had between 11 and 19 law enforcement or surveillance "mentions" then they got a score of -2. If a county had less than 6 law enforcement or surveillance "mentions" then they got a score of 0.

Excluded Categories

- Work release
- Fire camp
- MO (all)
- RA (all)
- Other (all)

These categories did not count as a "mention" for the purposes of our calculation of total "mentions," because they did not cleanly fit into either the "Program and Services" category or the "Surveillance and Custody Mentions" category.

Surveillance and Custody (-1)

- LE helping with supervision of probation
- Building/Expanding jails
- High risk unit
- Arming probation
- Hiring LE

For each of these things, a county got -1 points.

Programming and Treatment (+1)

- Transitional housing
- MH (score of 2 or more on depth coding)
- SA (score of 2 or more on depth coding)
- Specialty Court
- Education (score of 2 or more on depth coding)

For each of these items, a county got +1 points.

Budget points (Only relevant to the narrative + budget index)

- If between median and 75th percentile for Programs and Services spending unit, then +2
- If in 75th percentile for Programs and Services spending unit, then +3

- If between median and 75th percentile for Sheriff and Law Enforcement spending unit, then -2
- If in 75th percentile for Sheriff and Law Enforcement spending unit, then -3

Limitations

Limitations of Coding and Analysis of the Plans

These results are limited in that they are representative only of what counties included in their plans, not what counties are actually doing in response to Realignment. Because many counties prepared their plans in haste, there is reason to believe that they will not all accurately mirror the counties actual actions since October 2011. Furthermore, counties shared vastly different amounts of detail. The plans ranged in length from 2 1/3 pages (Lake County) to 120 pages with appendices (Santa Barbara). They represented varying degrees of professionalism and writing ability. In addition, the fact that counties had different levels of existing programs made it hard to compare what new programs are being implemented for AB 109.

Limitations of Budget Analysis

The budget analysis is limited in several significant ways: First, counties reported dramatically different amounts of detail in their budgets. Some budgets were literally one sentence long, describing that they were going to split their AB 109 funding equally between the sheriff and probation departments (Yuba County). Other budgets were several pages long and described details like the cost of computer software or gas for law enforcement vehicles. Second, many counties left a significant portion of their AB 109 money in reserves. How this money was eventually spent might alter our assessment of the county's budget. And finally, other sources of revenue (like AB 900, and AB 678) might supplement the counties' response to AB 109. Ultimately, in order to accurately assess how counties spent their money, we will need to factor in these other revenues sources.

Limitations of Indices

There are several limits to the representativeness of the indices. Limitations of the narrative-only formula include: (1) the plans are an imperfect measure of the actions the counties will actually take, (2) phased-in plans that focused on responding to immediate infrastructure needs likely appeared more surveillance/custody oriented than the full

plans may end up being, (3) plans that listed a number of items without fully exploring their implementation may have received more weight on either end of the spectrum than they deserved, and (4) jail expansion or building was not necessarily representative of a greater focus on custody; counties who were extremely focused on programs and services, and who traditionally heavily use alternatives to incarceration, could simply have been out of jail space.

Limitations of the narrative-plus-budget formula include: (1) we were only imperfectly able to categorize budget expenditures based on the counties' varying levels of specificity, and (2) again, jail spending was not necessarily representative of a greater focus on custody.

Discussion of County Plan Narratives

Overview of Counties' Responses

Tone of Language

Most counties expressed a mixture of enthusiasm and concern for Realignment, with many of the concerns centering around funding and population estimates. Calaveras County's response in regard to funding was fairly representative: "While there is considerable enthusiasm for meeting the public safety goals of AB 109 through the proposed Plan, this enthusiasm is tempered by the knowledge that the funds being provided by the State are not sufficient to support the levels of supervision and treatment required to fully address the complicated drivers of recidivism."[59] Similarly, Santa Barbara County wrote, "The Realignment of California's criminal justice system holds tremendous potential. . . . However, it is the opinion of the education Corrections Partnership Executive Committee (CCP-EC) that the State is not adequately funding Realignment. . . . The result of inadequate funding resources to detain, supervise, and program the realigned population could result in a significant reduction in public safety and the quality of life in the County."[60]

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[59] Calaveras Plan at 4.

[60] Santa Barbara Plan at 1. *See also* Del Norte Plan at 12 ("In summary, the AB 109 allocation is inadequate when considering the impact on local services."); Tuolumne Plan at 15 ("Every effort will be made to deal with the offenders, but serious concerns exist relative to the impact on the county as a whole and lack of stable and adequate funding."); Fresno Plan at 1 ("The Fresno County CCP is concerned that the state of

Both San Francisco and Yuba expressed frustration with the initial funding formula and recommended that their respective counties as well as the California State Association of Counties lobby representatives to change the formula.[61] San Francisco believed the formula should be based on the county's percentage of the overall statewide population of adults,[62] while Yuba believed it should be based on counties' evidence-based success.[63] Both counties advocated economic incentives "that support counties who have effective strategies in place."[64]

Another major concern was the belief that the state had underestimated both the severity and the number of the offenders who would be realigned to the counties. For example, the Placer CCP wrote that it believed "the State of California has significantly underestimated the population to be realigned to the County, the impact on the crime rate as a result of that [R]ealignment and the impact on local law enforcement agencies."[65] And Placer County DA's Office pointed out the seriousness of the AB 109 population, stating that "a majority of non-violent, non-serious, non-sex offenders who were previously sentenced to state prison were recidivists that already had the benefit of supervised probation that likely included rehabilitative programs" and that many of these offenders "will likely now be released back into the community on electronic monitoring with little or no significant punishment in the form of incarceration."[66]

Overall, those counties that had existing alternatives to incarceration, treatment programs, and data collection and evaluation processes firmly in place seemed more confident that they could successfully implement Realignment. The Santa Cruz CCP, for example, wrote, "There is considerable readiness for the process of planning and implementation of AB 109,"[67] and "AB 109 represents a remarkable opportunity for our county . . . ."[68]

California significantly underestimated the population to be realigned to Fresno County. The funding is disproportionate to the task required which inhibits the CCP from fully providing the safest possible realignment to our community."); Kern Plan at 5 ("There is simply not enough money to do everything the CCP and the Executive Committee feels [sic] is necessary to address all of the issues that Realignment presents.")

[61] San Francisco Updated Plan at 7; Yuba Plan at 9.

[62] San Francisco Updated Plan at 7.

[63] Yuba Plan at 9.

[64] San Francisco Updated Plan at 7; *See also* Yuba Plan at 9.

[65] Placer Plan at 10-11.

[66] Placer Plan at 37.

[67] Santa Cruz Plan at 1.

[68] Santa Cruz Plan at 29.

Interim and Phased Plans

Many of the counties were clear that the plans they submitted will be significantly modified as Realignment progresses, and a number of plans were initial implementation strategies intended to address only the beginning stages of Realignment.[69] These counties agreed with Contra Costa's sentiment that "the only plan that should be offered is one that continues as a work in progress."[70] Several counties addressed the problem of uncertainties surrounding Realignment by creating phased plans. Seventeen counties submitted phased plans[71]. These plans ranged from two to four phases and laid out the first phase (usually the first six to nine months of Realignment) in detail, while broadly sketching what would take place in the following phases. For many of these counties, the first phase primarily consisted of making sure the necessary structures were in place to handle the incoming populations. For example, Siskiyou took a phased planning approach to "allow for identification and approval of immediate department staff and equipment needs, while reserving additional available funds for service needs identified through a more comprehensive planning process."[72] Some counties planned to hire consultants to help with all or just the later phases of the plans.[73]

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[69] *See, e.g.*, Sonoma Plan at 4 ("The specific extent to which Realignment will impact Sonoma County is currently unknown. Accordingly, the CCP developed this Interim Plan to guide the system over the next 6-9 months, managing the most urgent issues."); *see also* El Dorado Plan at 8-9 (explaining that the CCP created an "initial implementation plan to address immediate issues presented by population shift, and will continue to plan throughout FY 11/12 to create a long-range plan"); Santa Barbara Plan at 12 (noting that the "long term success of the 2011 Public Safety Realignment will be a long and complicated process. *Consequently, the recommendations of this plan are meant to address initial implementation strategies* . . . .").

[70] Contra Costa Plan at 3. *See also* Glenn Plan at 9 ("The CCP submits this report with the understanding that the plan will need to be modified. . . ."); Monterey Plan at 3 ("Due to the realignment's wide scope, certain uncertainties in terms of projected populations, and the need to clarify and define new protocols and processes, this is intended to be a dynamic document, and only the beginning of a long-term process."); Sacramento Plan at 12 ("The CCP recognizes that the Realignment process will be highly dynamic and will require monitoring and a capacity to modify approaches and programming to meet emergency needs and address new opportunities. The Realignment plan offers an initial set of strategies. . . ."); Solano Plan at 3 ("The CCP considers this initial plan to be a 'living document.'").

[71] The counties that submitted phased plans are: Imperial, Marin, Mariposa, Monterey, Nevada, Santa Cruz, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Ventura, and Yolo. Sonoma also described its plan as "interim".

[72] Siskiyou Plan at 5.

[73] *See, e.g.*, Ventura Plan at 8; Siskiyou Plan at 5; *see also* Sonoma Plan at 4. Sonoma submitted an interim plan, but the county is hiring a criminal justice consultant to help implement the interim plan, study the system, and "help create longer-term system change."

Alternative Sanctions and Intensive Supervision

AB 109 added Section 17.5 to the California Penal Code. Section 17.5 which states that "California must reinvest its criminal justice resources to support community-based corrections programs and evidence-based practices that will achieve improved public safety returns on this state's substantial investment in its criminal justice system."[74] It provides that such "community-based punishments" may include (but are not limited to): flash incarceration; home detention with electronic monitoring or GPS monitoring; community service; restorative justice programs; work, training, or education in a furlough program; work release programs; day reporting; mandatory residential or nonresidential substance abuse treatment programs; random drug testing; mother-infant care programs; and community-based residential programs offering various interventions.[75]

The alternative sanctions and intensive supervision that we tracked were day reporting centers, mental health courts, drug courts, domestic violence review courts, Prop. 36 courts, veterans courts, reentry courts, community service, flash incarceration, state fire camp, work release, and electronic or GPS monitoring. Of those, the sanctions that the highest percentage of counties that mention they plan to use them are electronic or GPS monitoring pre- or post-sentence (96 percent), flash incarceration (72 percent), work release (71 percent), day reporting centers (52 percent), community service (48 percent), and drug courts (38 percent). Counties mentioned planning to use specialty courts as follows: mental health courts (14 percent), reentry courts (10 percent), Prop. 36 courts (8 percent), domestic violence review courts (7 percent), and veterans courts (3 percent). Nineteen percent of counties mentioned utilizing the state fire camp.

Some counties conducted studies of their jail populations and found that a significant percentage of those currently incarcerated were good candidates for alternative sanctions. For example, Napa estimated that without alternatives to incarceration, "the transfer of correctional responsibility for new offenders represents a 25% increase in the jail population over the first year of Realignment," but that "many beds are occupied by lower-level defendants and offenders for whom alternative dispositions may be appropriate."[76] Napa is developing specific profiles for groups of interest (probation violators, DUI and unlicensed drivers, drug offenders, and "frequent flyers") to guide its diversion and recidivism reduction plans.[77] The "frequent flyer" group is particularly interesting because this group uses a disproportionate amount of jail resources. Of 10,000 persons booked into the Napa jail over the last three years, 529 (5

[74] Cal. Penal Code § 17.5(a)(4).
[75] Cal. Penal Code § 17.5(a)(8).
[76] Napa Plan at 8.
[77] *Id.* at 8.

percent) had 5 or more admissions and accounted for an average of 60 beds (25 percent) on a daily basis.[78] Napa plans to assess which of this group's criminogenic needs should be targeted for alternative interventions because "repeated incarceration has evidently not changed their patterns."[79] Similarly, Humboldt conducted an analysis of its inmates and found that 15 to 19 percent of the pre-trial population could be viewed as viable candidates for an alternative to incarceration program, and 10 to 15 percent of sentenced inmates could be considered for an alternative in lieu of jail confinement.[80] San Diego determined that it had a potential pool of 1,000 to 3,000 low and medium risk offenders who might benefit from alternative sanctions in lieu of or in addition to jail time.[81] Of course, counties who were already extensively using alternative sanctions may not have additional viable candidates for alternative sanctions in their jails. While these counties will benefit from their experience with alternative sanctions in dealing with the AB 109 population, they may not be able to use alternative sanctions to make space in their jails.

Electronic and GPS Monitoring

Not surprisingly, given the lower cost of electronic monitoring as compared to incarceration, nearly every county plans to use electronic or GPS monitoring as an alternative sanction or as a pre-trial alternative to incarceration. Many counties are contracting with private companies to provide this service. Behavioral Interventions Incorporated (BI) and Sentinel were the two most-mentioned private contractors.[82] Electronic monitoring programs are one of the cheapest options available to counties because offenders pay for their own housing and food while on electronic monitoring, and most programs require offenders to pay for the cost of monitoring itself[83]. (As with most other offender-paid programs, most counties make exceptions for indigent offenders or provide a sliding scale of fees.[84]) Moreover, home detention programs can be good for offenders because they allow the ability to maintain "significant community ties"—"to family, friends (restricted visitation is ordinarily allowed), employers, and community groups."[85]

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[78] *Id.* at 8.
[79] *Id.* at 8.
[80] Humboldt Plan at 20.
[81] San Diego Plan at 12.
[82] Butte, Lake, Los Angeles, Riverside, Sacramento, and San Bernardino all contract with Sentinel. Sacramento Plan at 24-25. Madera is one of the counties contracting with BI. Madera Plan at 20.
[83] Twelve counties specifically mention that offenders will be paying for all or part of alternative sanctions.
[84] For example, Tuolumne has an offender-paid program, but it makes exceptions for indigent offenders and provides a subsidy when necessary. Tuolumne Plan at 7.
[85] AMERICAN CORRECTIONS 226 (Todd R. Clear et al., eds., 2009).

One limitation of electronic monitoring is that at least some systems require a home with a telephone line and power to supply the electronic monitoring unit.[86] Many offenders—particularly homeless offenders—will not be able to meet this requirement. Another concern is that some evidence suggests that "the effectiveness of home confinement seems to wear off after a few months" and that it becomes "increasingly difficult to enforce conditions" after the first six months.[87] In addition, while GPS systems are very accurate, some other electronic monitoring options have had reliability problems. Offenders have figured out how to remove them without being detected, and some offenders have even been found at the scene of a crime although their monitoring systems indicated they were at home.[88] Counties should be aware of these limitations as they implement their electronic monitoring programs.

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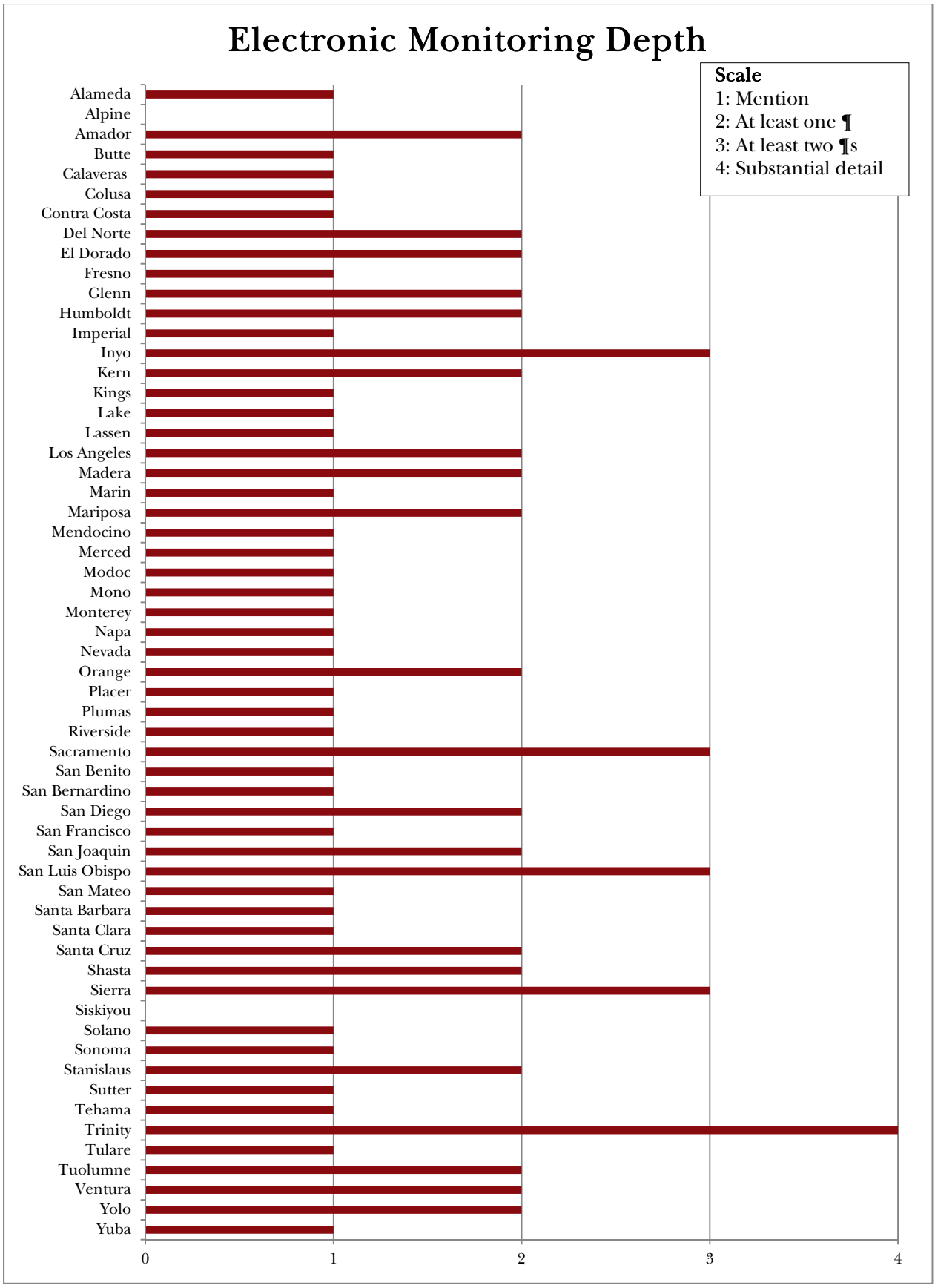
[86] *For example,* Trinity Plan at 20.
[87] AMERICAN CORRECTIONS, *supra* note 84, at 226.
[88] *Id.* at 227.


Electronic Monitoring Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
Alameda
Alpine
Amador
Butte
Calaveras
Colusa
Contra Costa
Del Norte
El Dorado
Fresno
Glenn
Humboldt
Imperial
Inyo
Kern
Kings
Lake
Lassen
Los Angeles
Madera
Marin
Mariposa
Mendocino
Merced
Modoc
Mono
Monterey
Napa
Nevada
Orange
Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Francisco
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
Shasta
Sierra
Siskiyou
Solano
Sonoma
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Trinity
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Flash Incarceration

Although the AB 109 legislation listed "flash incarceration" as a "community-based punishment," it is not actually an *alternative* to incarceration. It is a short-term (one to ten days) period of custody as a sanction for those on postrelease community supervision.[89] Flash incarceration, which is also known as "shock incarceration," is controversial. Critics of the practice argue that "it combines the undesirable aspects of both probation and imprisonment. Offenders who are incarcerated lose their jobs, have their community relationships disrupted, acquire the label of convict, and are exposed to the brutalizing experiences of the institution."[90] Moreover, many studies of flash incarceration show no reduction in recidivism.[91] In addition, because it involves incarceration without a hearing, flash incarceration raises due process concerns that the counties should be aware of and design processes to avoid.

Not only did AB 109 authorize flash incarceration; the bill actually "encouraged [it] as one method of punishment for violations of an offender's condition of postrelease supervision."[92] While 72 percent of counties mentioned planning to use flash incarceration, only three counties devoted any substantial space to discussing flash incarceration Given that flash incarceration was given as an option in the legislation, it surprised us that counties did not discuss it in more detail. It remains to be seen how probation departments will use flash incarceration.

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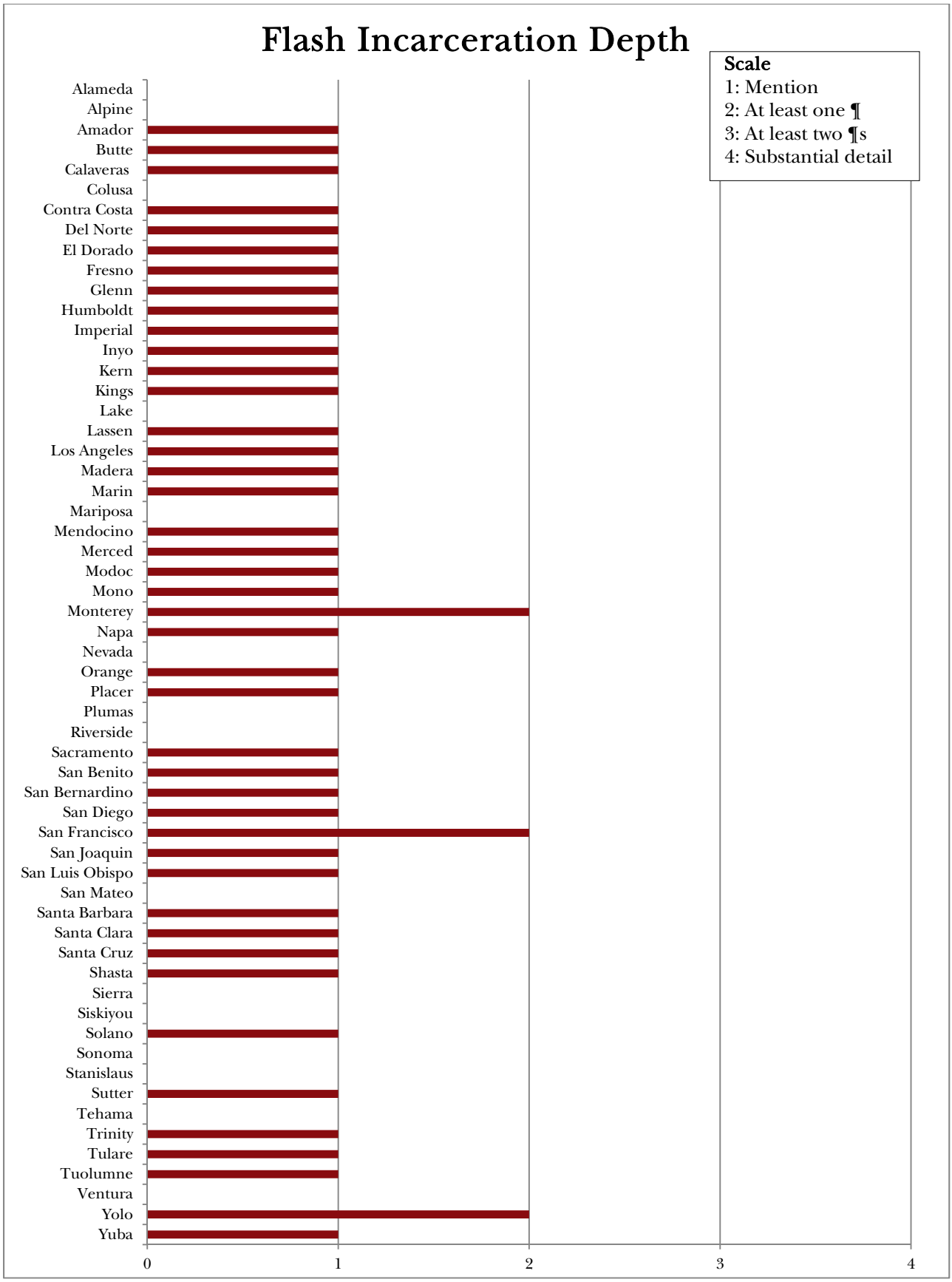
[89] Cal. Penal Code § 3454(c).
[90] AMERICAN CORRECTIONS, *supra* note 84, at 227.
[91] *Id.*
[92] Cal. Penal Code § 3454(b).


Flash Incarceration Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
Alameda
Alpine
Amador
Butte
Calaveras
Colusa
Contra Costa
Del Norte
El Dorado
Fresno
Glenn
Humboldt
Imperial
Inyo
Kern
Kings
Lake
Lassen
Los Angeles
Madera
Marin
Mariposa
Mendocino
Merced
Modoc
Mono
Monterey
Napa
Nevada
Orange
Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Francisco
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
Shasta
Sierra
Siskiyou
Solano
Sonoma
Stanislaus
Sutter
Tehama
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Tulare
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Work Release

Like electronic monitoring, work release allows offenders to maintain community connections, but even more than that, it has the goal of "plac[ing] offenders in jobs they can retain after their release, or, at a minimum, increas[ing] their job readiness."[93] 71 percent of counties mentioned using work release, but only 22 percent discussed work release for a paragraph or more. Humboldt County discussed work release in the greatest depth among the counties. Humboldt's Sheriff's Work Alternative Program is the county's major post-sentence alternative to incarceration program, and the county plans to expand it to accommodate the incoming AB 109 populations.[94]

One aspect of work release that is simultaneously an advantage and a drawback is that participants in work release programs are generally responsible for paying fees for their own supervision. This makes work release an attractive option for funding-squeezed counties, but it also makes work release less viable for indigent offenders. Some counties mentioned that they have addressed this, like with electronic monitoring, by charging for work release on a sliding scale "to accommodate all offenders".[95] Humboldt is also considering a work release option that would reduce fees based on risk level: a three-tiered program with different levels of supervision for different risk levels of offenders. Because lower risk offenders would require less supervision, they could be charged lower administrative and daily fees.[96]

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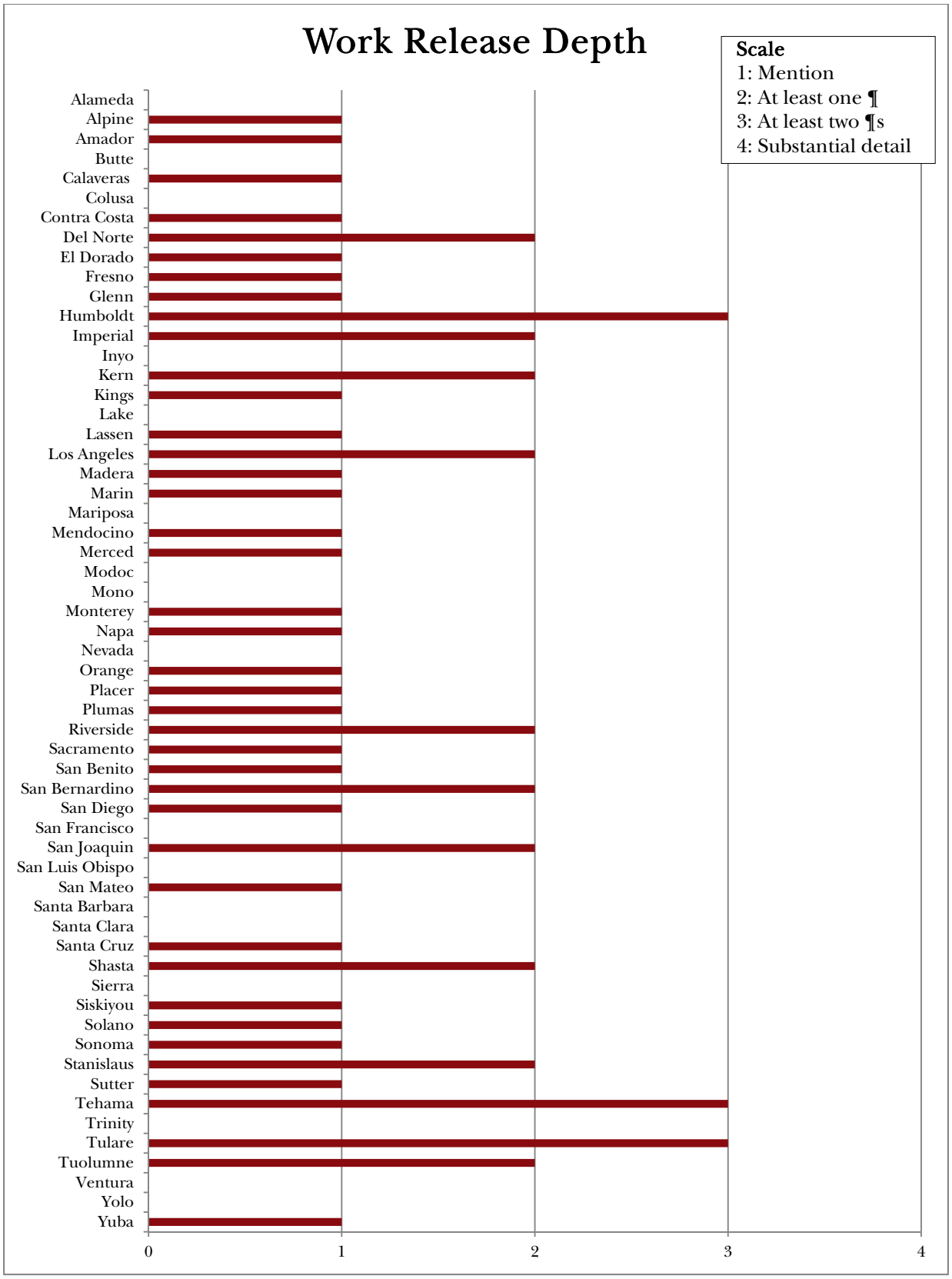
[93] Joan Petersilia, WHEN PRISONERS COME HOME 99.
[94] Humboldt Plan at 26.
[95] *See, e.g.*, Tuolumne Plan at 8. *See also* Humboldt Plan at 30.
[96] Humboldt Plan at 31.


Work Release Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
Alameda
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Amador
Butte
Calaveras
Colusa
Contra Costa
Del Norte
El Dorado
Fresno
Glenn
Humboldt
Imperial
Inyo
Kern
Kings
Lake
Lassen
Los Angeles
Madera
Marin
Mariposa
Mendocino
Merced
Modoc
Mono
Monterey
Napa
Nevada
Orange
Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Francisco
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
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Day Reporting Centers

Half of the counties plan to use day reporting centers ("DRC"s), which many described as "one-stop" centers for services, programming, and supervision.[97] A DRC "is an intermediate sanction that requires the offender to be supervised by a probation officer and assigned to a 'facility to which offenders are required . . . to report on a daily or other regular basis at specified times for a specified length of time to participate in activities such as counseling, treatment, social skill training, or employment training.'"[98] DRCs started in Great Britain in the 1970s and first came to the United States in 1986.[99] Since then they have spread rapidly across the country, "with hundreds of programs now operating in more than half the states."[100] However, few evaluations have been conducted on DRCs,[101] and those that have are inconsistent in their results.[102] A potential concern about the counties' heavy use of DRCs is that these "centers are growing in popularity faster than evidence concerning their effectiveness is appearing."[103]

Some of the counties offered statistics about the success of their existing day reporting centers, and one, Fresno, has plans for an in-depth study of its center. The counties that offered statistics about their success did not provide meaningful comparison recidivism rates.[104] The California State University, Fresno Department of Criminology has offered to fund a "comprehensive process and outcome evaluation" of

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[97] *See, e.g.*, Fresno Plan at 15 (describing DRC as a "one-stop center for offender accountability and evidence-based supervision and services."); Humboldt Plan at 41 (same); Orange Plan at 16 (planning to open several DRCs as "collaborative and evidence-based one-stop service delivery sites"); San Bernardino Plan at 10 ("one stop concept"); *see also* Sonoma Plan at 3 (explaining that DRC will be the "key, central point for community-based programming, treatment, and services").

[98] *The Addition of Day Reporting to Intensive Supervision Probation: A Comparison of Recidivism Rates*, 64 FED. PROBATION 34, 34 (2000).

[99] *Id.*

[100] AMERICAN CORRECTIONS, *supra* note84, at 225.

[101] *Id.*

[102] *Compare id.* ("[I]nitial studies suggest that day reporting does not result in lower rearrest rates than do other intensive supervision methods") *and The Addition of Day Reporting to Intensive Supervision*, *supra* note 98 ("The results of the analysis show that the addition of a Day Reporting Center to ISP does not significantly reduce the rate of rearrest.") *with* Office of Justice Programs, Crime Solutions.gov, *New Jersey Community Resource Centers Program Profile*, http://www.crimesolutions.gov/ProgramDetails.aspx?ID=110 (giving DRC-type centers a "promising" rating and noting that participants in evaluated DRCs had the lowest reconviction rates among groups of participants, but that DRC participants did not obtain statistically significant lower rearrest rates).

[103] AMERICAN CORRECTIONS, *supra* note 84, at 225.

[104] For example, Merced compared its recidivism rates (15 percent within 18 months for those who completed the program, 53 percent for those who attended but did not complete) with the 70 percent statewide recidivism rate, not a sample of statistically similar offenders. Merced Plan at 12. And Monterey shared that of the first 30 probationers who had graduated its DRC, only two had been re-arrested for a probation violation or new crime. Monterey Plan at 19-20. Monterey plans to add a Reentry Center modeled on its DRC. *Id.*

Fresno's Adult DRC, which is being expanded to include probation services to offenders in the medium to high risk category.[105]

Fresno's study is promising and should be helpful to all the counties offering DRCs.

A number of counties are contracting with BI Incorporated to establish their day reporting centers. BI is owned by the GEO Group, and it contracts with federal, state, and local agencies to provide "offender monitoring technologies and community reentry services for parolees, probationers, pre-trial defendants and illegal aliens involved in the U.S. immigration court process."[106] BI has operated DRCs for over a decade, and it claims that its centers "deliver evidence-based practices proven to reduce recidivism."[107] Kern, Lake County, Merced, and Tuolumne all mentioned that they were contracting with BI,[108] and San Luis Obispo noted that it was contracting with "a private contractor with a proven track record in this area of services."[109] As noted in their plan, San Joaquin did have a DRC operated through BI, but the county terminated the contract in 2011-12 because of fiscal constraints and now runs its DRC with probation department staff.[110]

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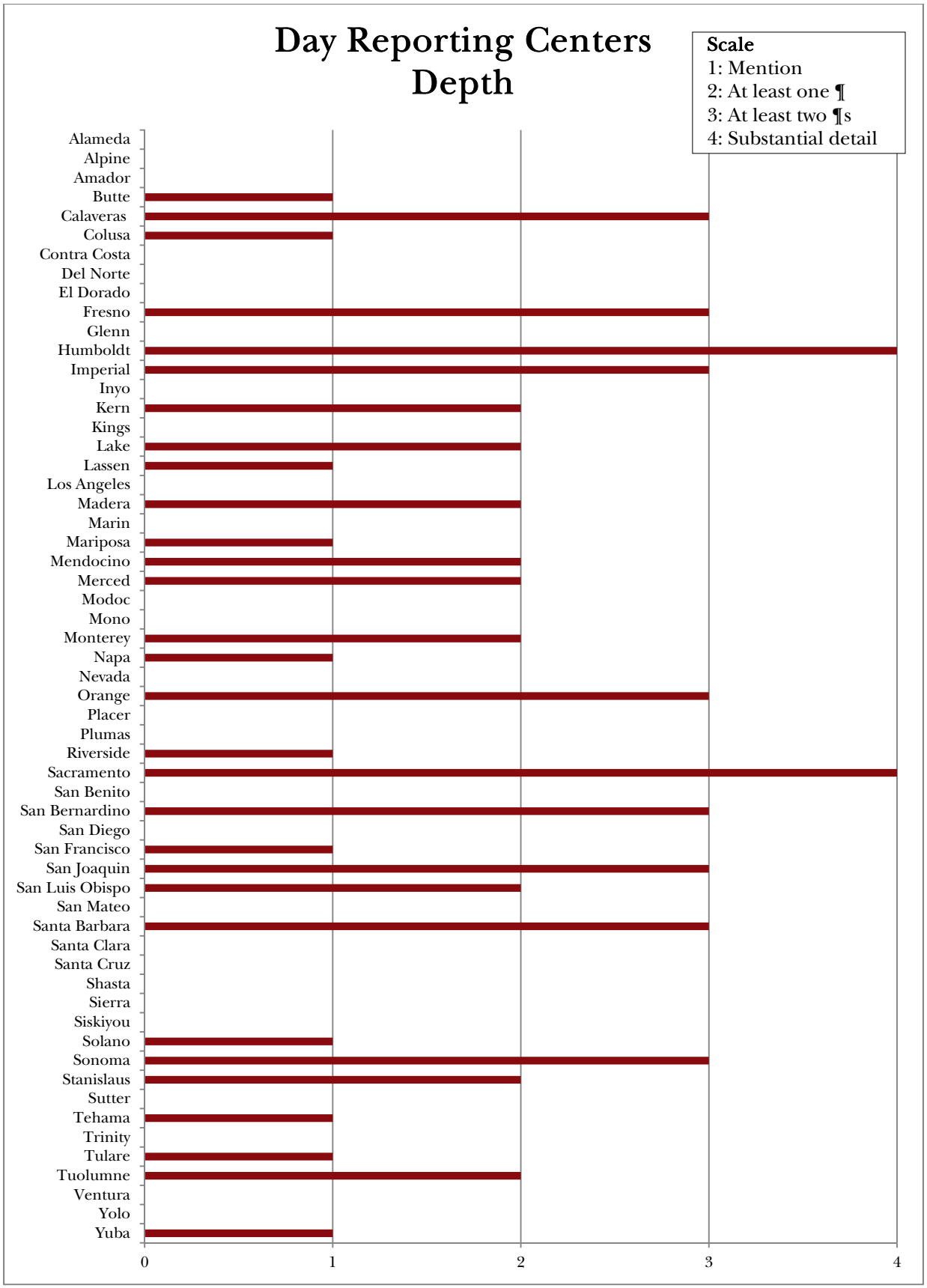
[105] Fresno Plan at 15.
[106] BI Incorporated, *About BI*, http://www.ab109.com/about/.
[107] BI Incorporated, *Full Day Reporting Centers*, http://www.ab109.com/solutions/day-reporting-programs/full-day-reporting-centers/.
[108] Kern Plan at 8; Lake Plan at 1; Merced Plan at 12.
[109] San Luis Obispo Plan at 12.
[110] San Joaquin Plan at 21.


Day Reporting Centers
Depth
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1: Mention
2: At least one ¶
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Specialty Courts

The first drug court was started in 1989 in Dade County, Florida, and by 2007, there were more than 2,100 drug courts and 601 other specialty courts across the country.[111] The number of non-drug specialty courts grew from 229 in 2004 to 601 in 2007—a nearly 62 percent increase.[112] While a synthesis of studies finds that drug courts reduce recidivism by an average of 13 percentage points, evaluations of non-drug specialty courts are mixed.[113] The counties should ensure that they are engaging in ongoing evaluation of their specialty courts to make sure they are an effective use of resources.

Although the counties that already have specialty courts will be using and often expanding them as an option for the AB 109 population, few counties are seriously considering establishing new specialty courts with AB 109 funds. The exceptions are Madera, Merced, El Dorado, and San Joaquin. In addition, although Santa Barbara does not currently plan to institute a reentry court, its plan noted that a reentry court "may well be the preferred model for supervising parolees under local supervision as well as parolees coming from CDCR" and that the "expeditious development of a 'Re-entry Court' would provide all parties with the opportunity to gain the experience and expertise that will be needed after July 2013."[114]

The Madera County Probation Department and Behavioral Health Services are also discussing developing a new mental health court,[115] and efforts are underway in Merced to establish both a mental health court and a reentry court.[116] El Dorado is looking into specialty courts in general.[117] San Joaquin seems to be the only county that is definitely establishing a new court: a post supervision release reentry court.[118] This court is intended to meet the substance abuse and mental health needs of participants as well as to "comprehensively address the numerous barriers to successful reentry into the community" by aiding participants in obtaining employment, education, benefit services, family reunification, primary care and dental services, anger management, and other

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[111] Ojmarrh Mitchell, *Drugs & Other Specialty Courts*, *in* OXFORD HANDBOOK OF CRIME AND CRIMINAL JUSTICE 843, 847 (Michael Tonry, ed., 2011).
[112] *Id.* at 848.
[113] *Id.* at 844.
[114] Santa Barbara Plan at 22.
[115] Madera Plan at 25.
[116] Merced Plan at 11.
[117] El Dorado Plan at 14 ("Specialty courts . . . have proven very successful in gaining offender compliance and reducing recidivism.")
[118] San Joaquin Plan at 25-27.

community supports.[119] San Joaquin already has a similar parole reentry court, which it reports has been "highly successful."[120]

Like work release programs, at least some specialty court programs require participants to pay. For example, Sonoma's Domestic Violence Specialty Court works in tandem with the county's six domestic violence programs, all of which charge participants.[121] The county noted that many domestic violence offenders are unable to enroll in the program because of the cost, even though participants are charged on a sliding scale and each of the six programs offers one scholarship a year.[122] Sonoma's CCP recommended that a small amount of funding be used to fund the first few months of domestic violence treatment for offenders without financial resources.[123] However, if offenders secure employment, these fees will be added to the fines and fees the offenders owe the county.[124]

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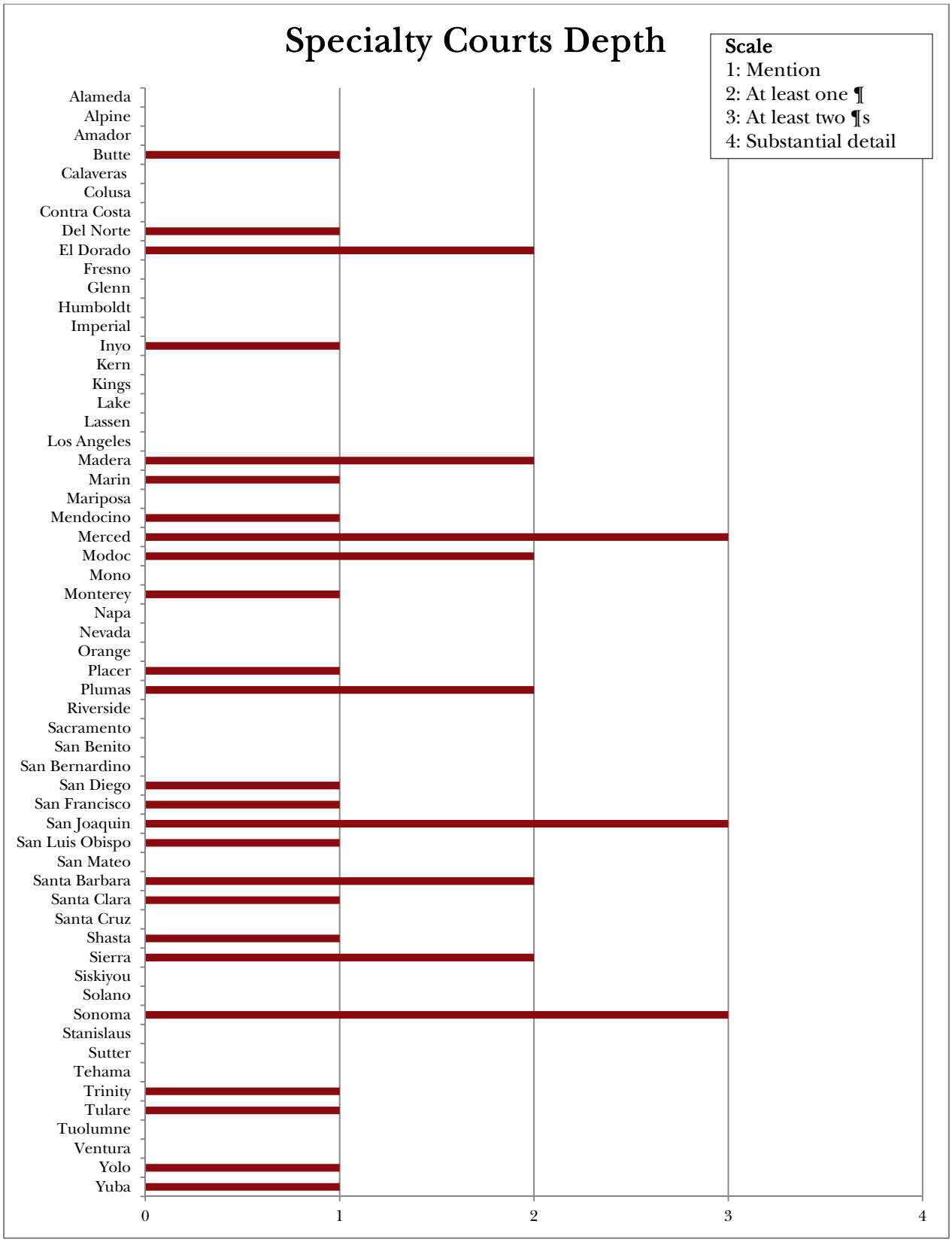
[119] *Id.* at 26.
[120] *Id.* at 26.
[121] Sonoma Plan at 21.
[122] *Id.*
[123] *Id.*
[124] *Id.*


Specialty Courts Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
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Fire Camps

California has 42 adult Conservation Camps (fire camps) that use approximately 4,000 inmates as firefighters.[125] Because the state pays the inmates far less than it would have to pay professional firefighters, these camps save the state over $80 million a year. But AB 109 has created a potential problem for the fire camps.[126] Only minimum custody inmates who have no history of violent crimes are eligible to participate in the camps,[127] and many of the offenders who previously would have been eligible for fire camp work will be realigned to the counties. Therefore, CDCR is asking counties to contract back with the state to send county inmates to the fire camps. CDCR projected a need for the use of county inmates in the state fire camps as early as the first quarter of 2012.[128] Eleven counties mentioned either planning to use the fire camps or keeping them as an option in dealing with the AB 109 population. Lassen, which has two fire camps in the county, has a vested interest in keeping the fire camps successful; the county noted that the camps "provide an invaluable public safety resource to our communities, and are important to our local economy."[129]

Rehabilitation and Reentry Programming

As many counties noted, effective rehabilitation and reentry are key to preventing recidivism, and increasing public safety.[130] Within the broad category of rehabilitation and reentry we tracked two categories of programs: first, partnerships with the community, and second, programs provided in the community. Within the first category, we tracked when counties plan to partner with community-based organizations (67 percent), contract with community-based organizations (55 percent), and partner with faith-based organizations (21 percent) to provide programs and services. Additionally, we kept track of any plan to educate the broader community about AB 109 (16 percent). In the second category, we noted when counties mentioned cognitive behavioral intervention (76 percent), evidence-based programming (97 percent), mentoring programs (3 percent), employment support (88 percent), vocational training (76 percent), education support (91 percent), benefits and economic support (57 percent), self-help and peer support (52 percent), programs for family involvement (53 percent), and parenting classes (41 percent). Finally, we coded for counties that plan to use a

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[125] CDCR, *Conservation (Fire) Camps*, http://www.cdcr.ca.gov/Conservation_Camps/.
[126] *Id.*
[127] *Id.*
[128] Kern Plan at 22.
[129] Lassen Plan at 13.
[130] *Joan Petersilia*, *supra* note 92 at 14.

reentry team (41 percent), and those that plan to use pre-trial programming (40 percent).

Community Partnerships[131]

Of the counties that mentioned partnership with community based organization, Alameda, El Dorado, and San Joaquin stand out. San Joaquin, for example, noted the successful "partnership of community provided services" that support the county's several drug court programs. Because of the past success of this partnership, San Joaquin plans to expand its collaboration with community "providers who use evidence-based and culturally relevant methodologies" as part of their Post Supervision Release Court.[132] San Joaquin further plans to partner with community-based providers to connect offenders with programs that "will range from Sober Living Environments, Intensive out-patient counseling, full residential treatment, [to] work development."[133]

Although many counties plan to partner with their local community college, El Dorado's description of their partnership is uniquely comprehensive. Through El Dorado's "Transitional Program Planning," Lake Tahoe Community College will be providing a class in the South Lake Tahoe Jail that addresses "basic living skills such as paying rent, obtaining social services, employment skills, parenting skills, etc."[134] El Dorado allocated $10,000 in initial planning and curriculum development for this partnership.[135]

Because Realignment will surely mean both more inmates and longer sentences served in the local jail, Alameda County plans to expand the in-jail services and programs. Many of these programs, including education services, anger management, and employment support, were provided through partnerships with outside organizations.

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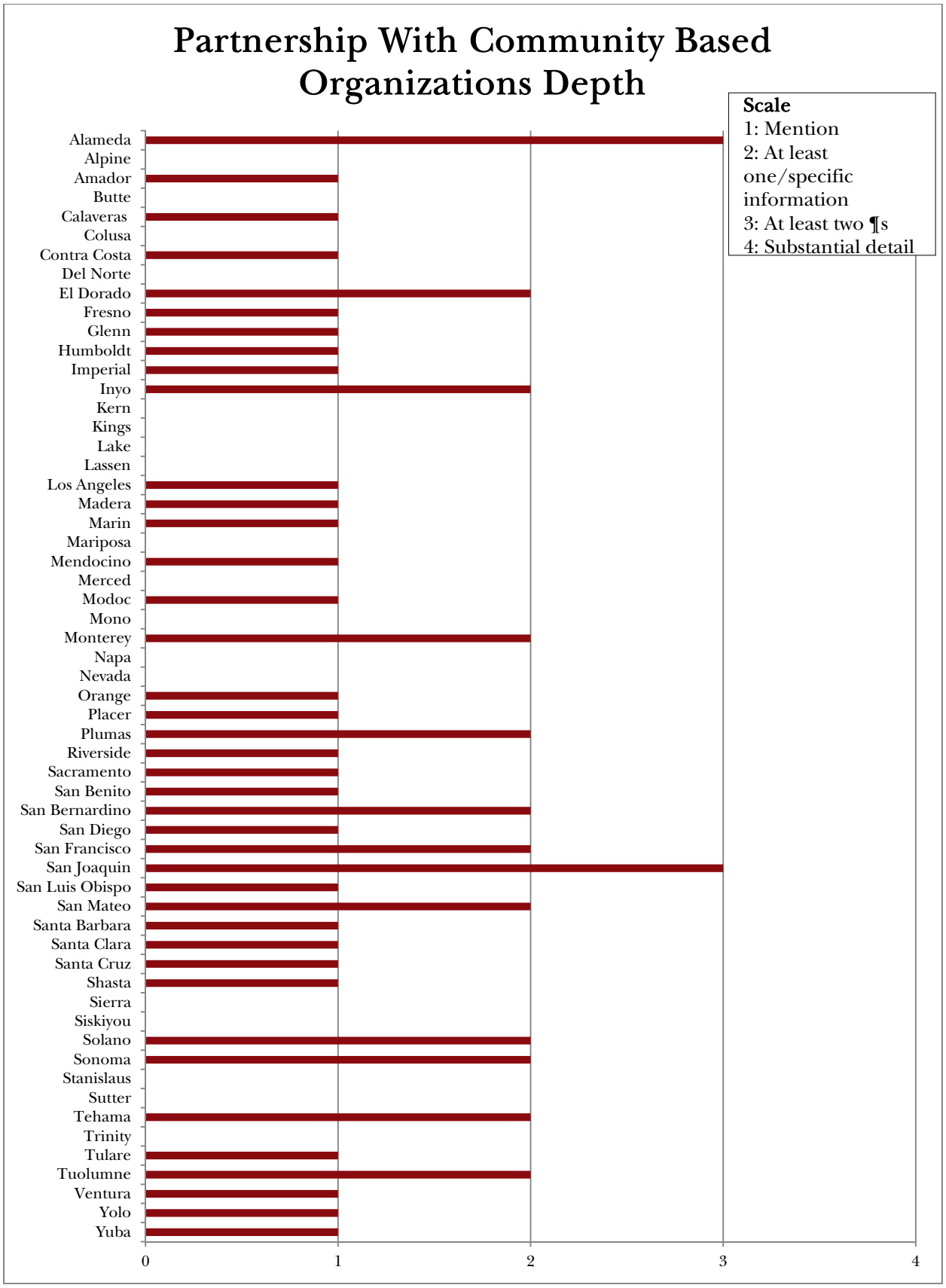
[131] For community based organizations, depth was considered not only one paragraph or more, but if a county included specific information about the community based organization(s) with which they would be working.
[132] San Joaquin Plan at 26.
[133] San Joaquin Plan at 27.
[134] El Dorado Plan at 10.
[135] El Dorado Plan at 10.


Partnership With Community Based Organizations Depth
Scale
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3: At least two ¶s
4: Substantial detail
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Employment Support

In terms of services provided within the community, the vast majority of plans mentioned employment support, vocational training, and education support; however, very few counties provided any details about how they planned to implement or provide this support. For example, only fifteen counties went further than merely mentioning employment support, and only three counties (San Joaquin, Santa Barbara, and Tehama) spent more than a paragraph discussing details of the employment support they intended to provide.

Though not the most detailed description, Kern County plans to implement a unique program called Employers Training Resource ("ETR"), which would provide job search assistance, GED services, vocational training, career counseling, and case management.[136] Offenders will be referred to the ETR from probation, and will receive orientation training and then assigned to an Employment Specialist who will be in touch with the offender monthly. The Employment Specialist will also monitor job search activities and will make referrals to other community agencies to address barriers to employment. Kern County will use AB 109 funds to hire three new staff members for the ETR.[137]

San Joaquin County's employment assistance program, WorkNet, is a partnership between the San Joaquin County Board of Supervisors, the local Workforce Investment Board, and several partner agencies, including the local community college, the State Employment Development Department, the Human Services Agency, the Housing Authority, and the County Office of Education.[138] Offenders who are identified by the Day Reporting Center for employment preparation services will be provided with cases management, supportive services, an employment orientation, employment preparation workshops, labor market information, assessment, job search assistance, classroom training, and even on-the-job training.[139]

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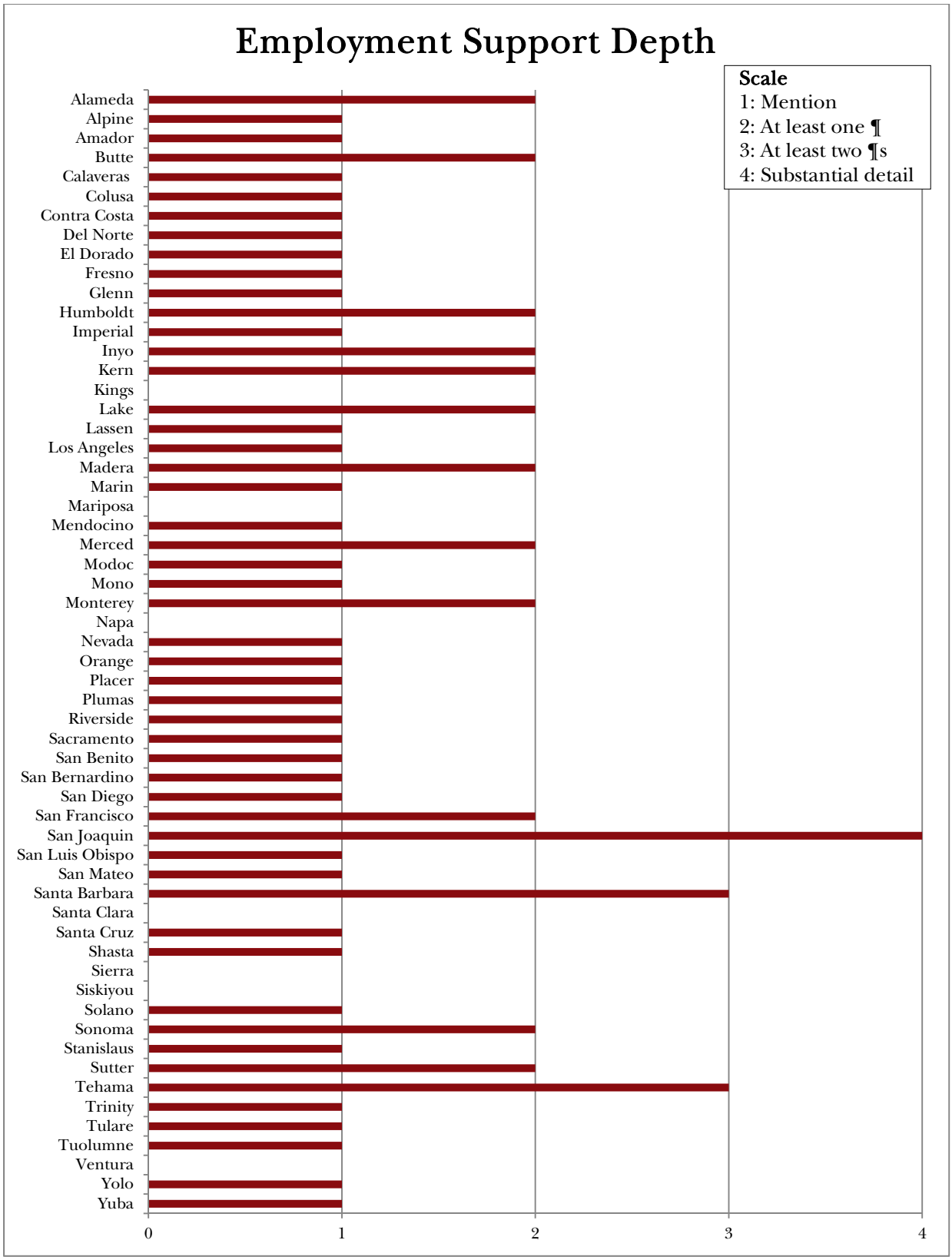
[136] Kern Plan at 19.
[137] Kern Plan at 20.
[138] San Joaquin Plan at 34-35.
[139] San Joaquin Plan at 36-37.


Employment Support Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
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Vocational Training

Despite the fact that over two-thirds of the counties mentioned vocational support, only four counties (El Dorado, Madera, Sacramento, and Santa Barbara) provided any detail of their vocational training program. El Dorado plans to expand an existing culinary arts vocational training program. Beginning vocational training in the jail, El Dorado provides inmates participating in the program experience both preparing and serving food.[140] The culinary arts program has successfully placed participants in culinary and other jobs throughout the community.[141] Sacramento County has a variety of existing vocational programs that will be made available for the realigned population, including engraving, culinary arts, custodial techniques, computer applications for the workplace, ornamental horticulture and landscaping, and safety and sanitation.[142] Madera County has specifically identified four vocational training programs at the community college that will be particularly relevant for the realigned offender population. These include: Maintenance Mechanic Certification, Welding Program, Office Technology Program, and Licensed Vocational Nursing Program.[143] Madera also outlined procedures for students to receive financial aid, a fee waiver, and further financial support (for books and parking) from the Madera Workforce Development Office.[144] Santa Barbara plans to start a new vocational training program in reprographics. This "new skill would provide probationers a competitive edge when seeking employment in printing shops, graphic design companies, or office environments."[145]

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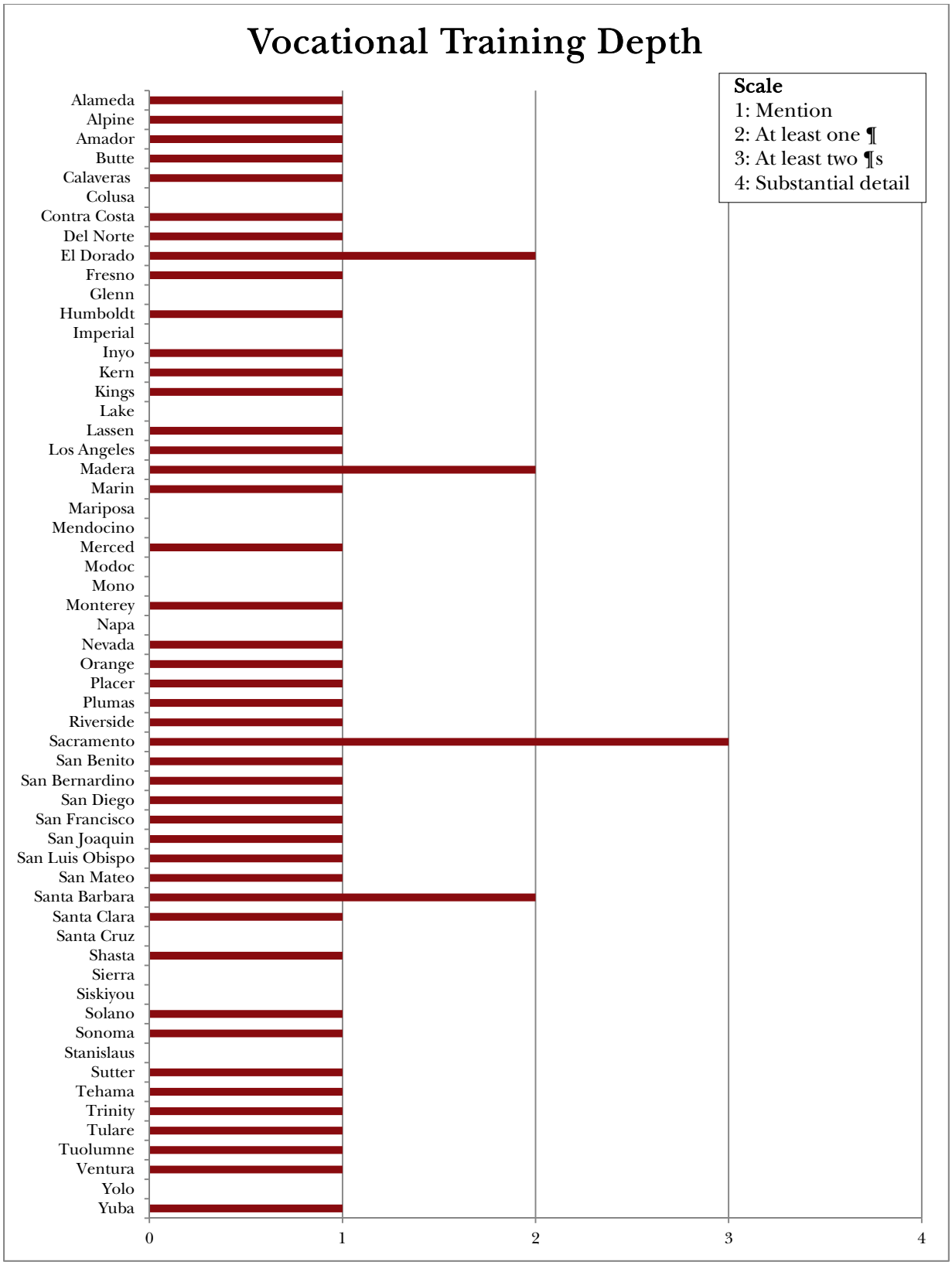
[140] El Dorado Plan at 7.
[141] El Dorado Plan at 7.
[142] Sacramento Plan at 44-45.
[143] Madera Plan at 31.
[144] Madera Plan at 31.
[145] Santa Barbara Plan at 92.


Vocational Training Depth
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Educational Support

While all but five of the counties mentioned educational services and support, only 36 percent of counties described in detail the educational programming they hoped to utilize. Madera, Sacramento, and San Joaquin provided particularly interesting detail about their plans to support offenders both in jail and reentering the community with their educational needs. In Madera, the probation department will refer probationers to educational services based on their needs as assessed through the CAIS risk and needs assessment. Once offenders are referred for education assistance, Madera not only provides an Educational Opportunity Program, but also has developed an "Early Alert/Progress Monitoring System" in order to promptly identify students who struggle with academic and performance difficulties. Madera's education program also provides no cost tutoring services to students who are identified as needing additional academic assistance.[146]

Sacramento plans to expand the in-custody education program. This program has four components: program orientation, GED preparation and testing, adult basic skills (reading, writing, math), and English as a Second Language.[147] Similarly, San Joaquin provides a GED program in their jail and at the day reporting center.[148] San Joaquin also partners with the Rebuilding Futures Academy Charter School to provide probationers an opportunity to participate in YouthBuild San Joaquin (YBSJ), where students 17-24 years of age can attend school five days a week for nine to twelve months. Through YouthBuild, students can participate in alternating two-week rotations of education and hands-on training.[149] YouthBuild has a long waiting list, so San Joaquin has recently started a Pre-YouthBuild program, to provide students with initial educational services that will prepare them for the charter school experience.[150]

The general lack of depth on the topics of employment support, vocational training, and education support is somewhat worrisome, particularly considering the harsh job market and economy that offenders face. In fact, many county plans pointed out that now more than ever, meaningful employment, vocation, and education support could make a real difference for offenders. Without specifics, it's hard to see how counties will manage to provide all the services and programming that they promise, particularly when they are dealing with the more immediate issues of jail space management and probation case load.

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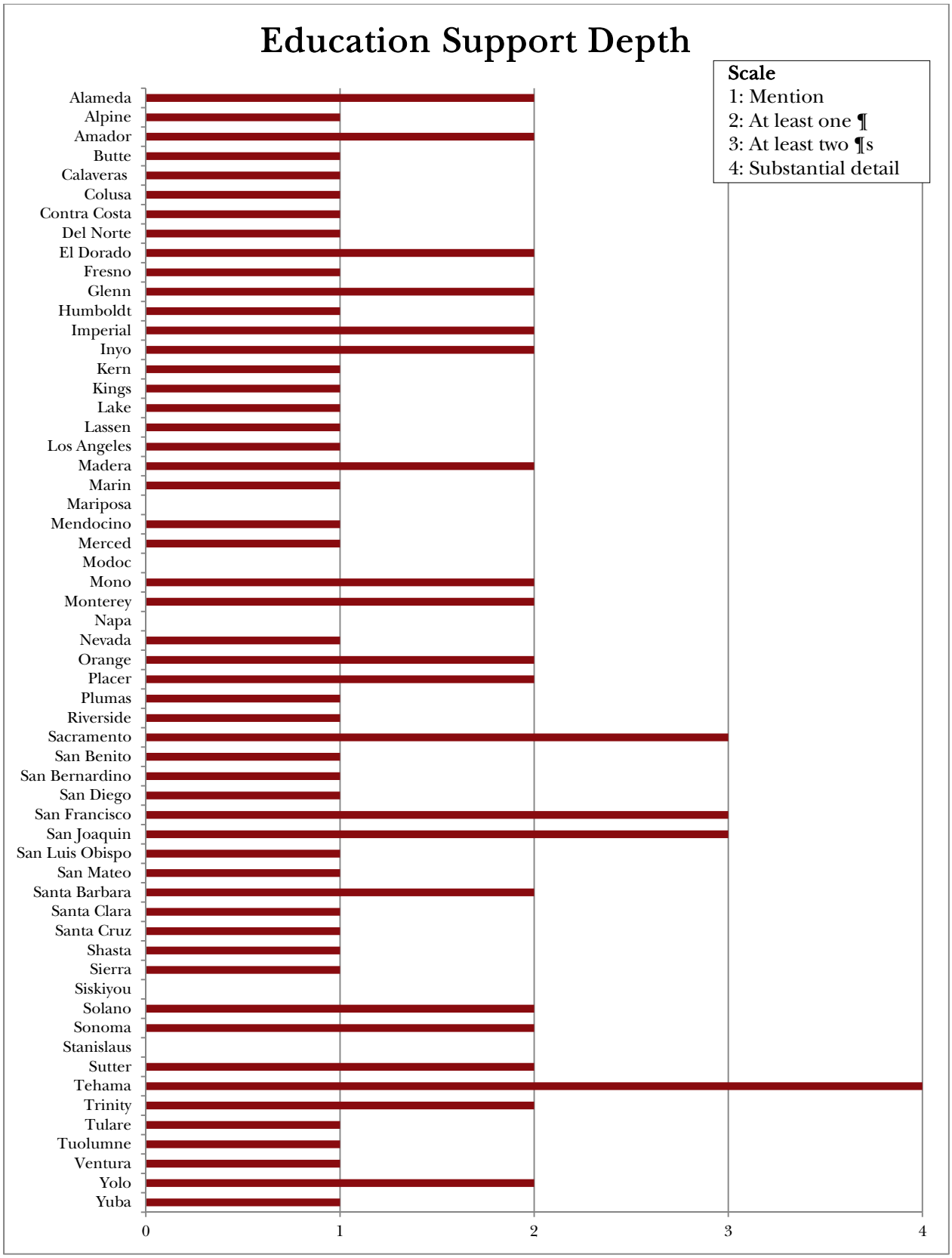
[146] Madera Plan at 31.
[147] Sacramento Plan at 44.
[148] San Joaquin Plan at 33.
[149] San Joaquin Plan at 33-34.
[150] *Id.*


Education Support Depth
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2: At least one ¶
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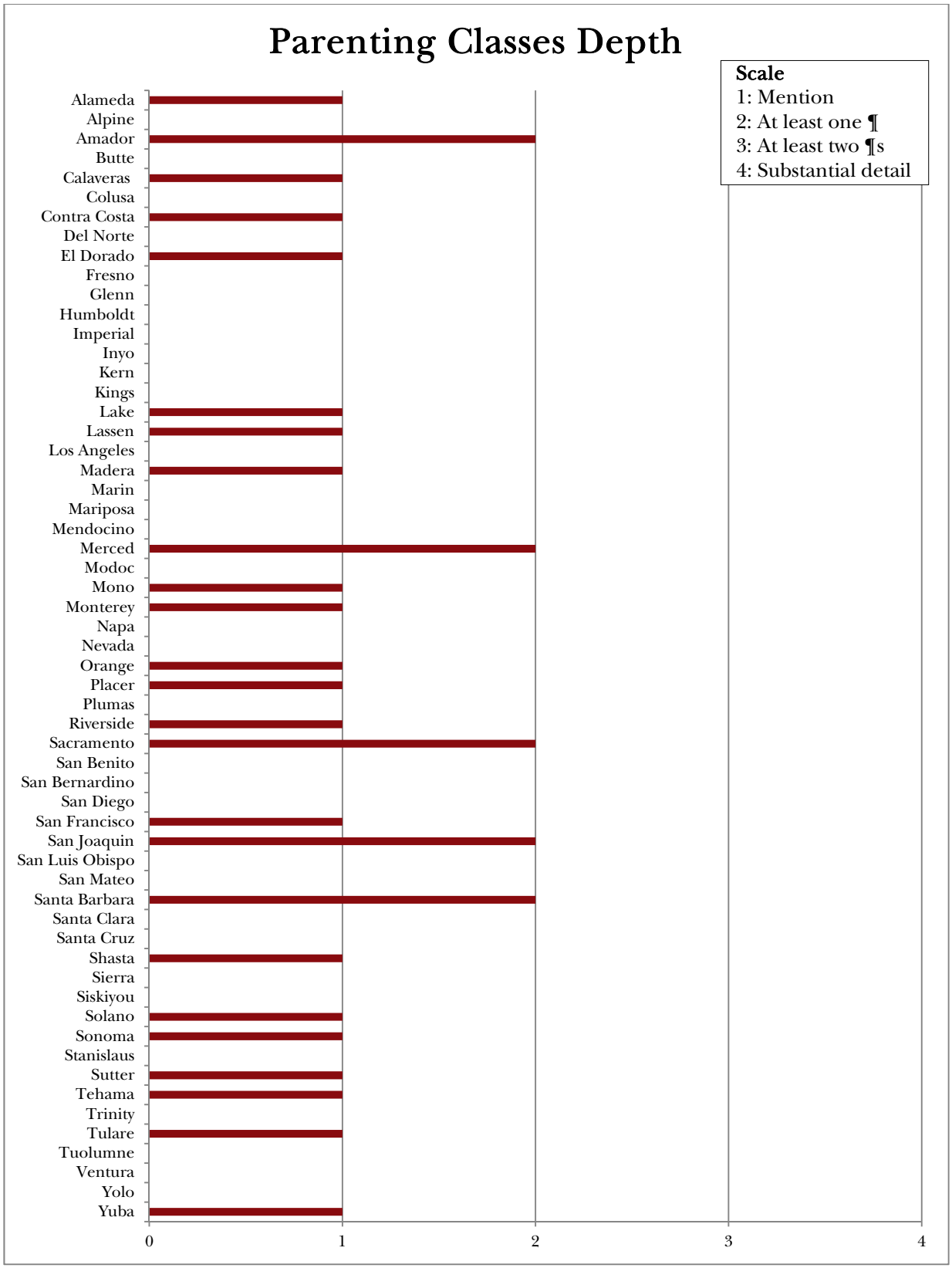
Parenting Classes

Almost half of the counties mentioned a plan to provide parenting classes to either inmates or probationers. Merced and San Joaquin will both be providing "Common Sense Parenting" classes from Boys Town Press.[151] Common Sense Parenting provides practical and skill-based lessons that teach parents techniques and strategies for dealing with "communication, discipline, decision making, relationships, and self-control."[152] Santa Barbara's parenting class is called "Parenting Wisely," which uses a risk-focused approach to reduce family conflict and child behavioral problems.[153] Parenting Wisely is focused towards families who do not usually seek out help for child misbehavior or family conflict.[154]

[151] San Joaquin Plan at 19; Merced Plan at 13.
[152] Merced Plan at 13.
[153] Santa Barbara Plan at 91.
[154] Santa Barbara Plan at 91-92.


Parenting Classes Depth
Scale
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Evidence-Based Programming

AB 109 added Section 17.5(d) to the Penal Code, which states: "California must reinvest its criminal justice resources to support community-based corrections programs and evidence-based practices that will achieve improved public safety returns on this state's substantial investment in its criminal justice system."[155] Both SB 678 and AB 109 define evidence-based practices as "supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or post release supervision."[156] While all but two counties mentioned evidence-based programming, few provided actual details about the specific evidence-based practices that they intended to implement. Instead, most counties listed the "principles of evidence-based programming" or a definition, and moved on.

Of those counties that did provide discussion of evidence-based programming, many mentioned that SB 678 spurred them to adopt evidence-based practices that they planned to continue and even expand under AB 109. For example, Monterey noted that "[w]ith the implementation of SB 678, the Probation Department had already initiated its internal shift toward an evidence-based model."[157] Similarly, Plumas and San Bernardino noted that their probation departments "will continue to utilize evidence-based practices implemented via Senate Bill 678, 'Recidivism Reduction Program."[158]

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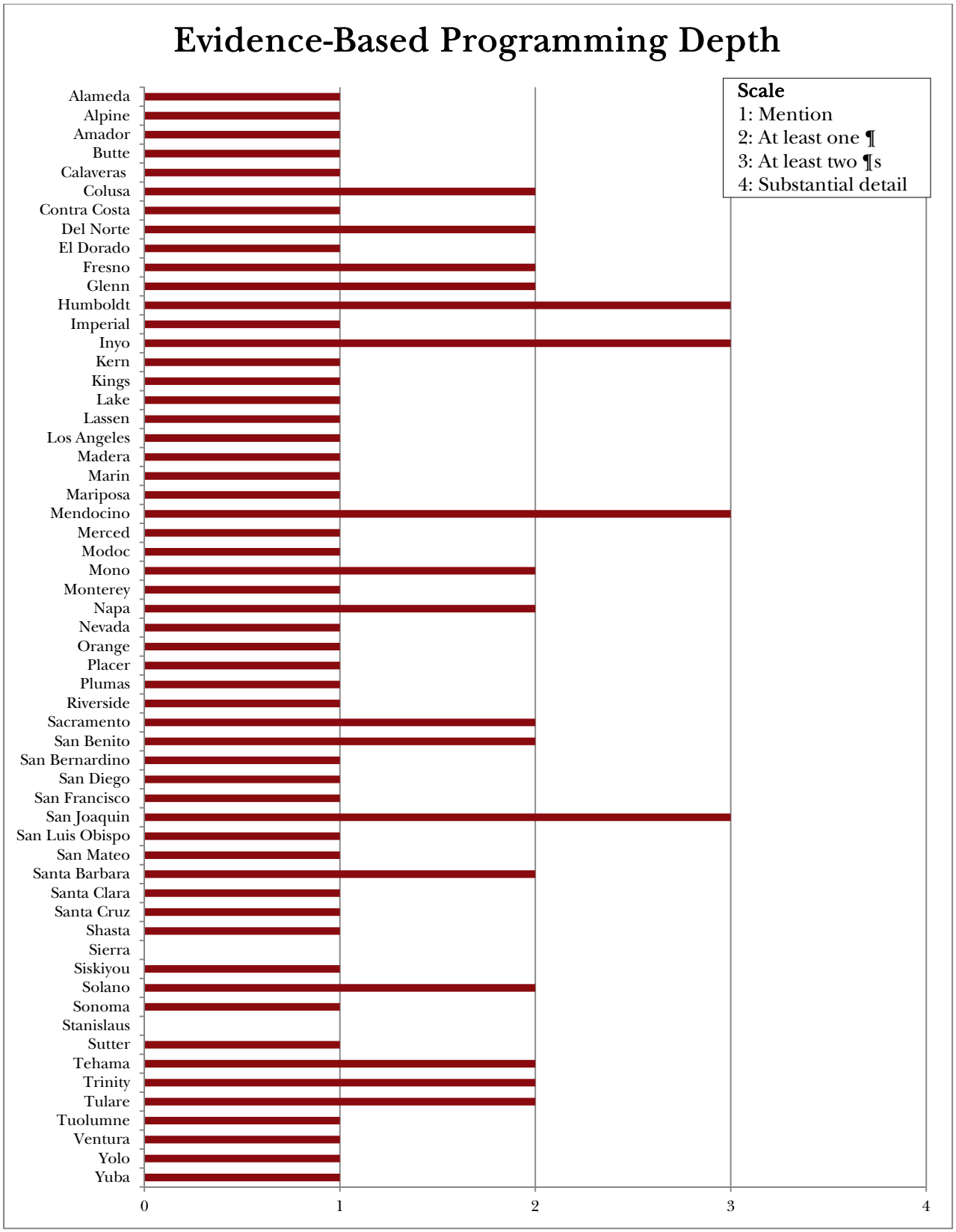
[155] Cal Penal Code § 1229(a)(4).
[156] Cal. Penal Code §§ 1229(d), 17.5(a)(9).
[157] Monterey Plan at 15.
[158] Plumas Plan at 7, San Bernardino Plan at 9.


Evidence-Based Programming Depth
Scale
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Risk Assessment

In the last twenty years, most correctional institutions have shifted away from a focus on rehabilitating offenders, away from a focus on proportionate sentences for offenders, and towards management of risk.[159] While all of these principles are necessarily linked together, management of risk is different in that its goal is using resources effectively to protect public safety. While every correctional agency realizes that low-risk offenders are not no-risk offenders, they also face seriously limited resources, and cannot expend the adequate level staff time, money, and programming on every offender that enters the system. They "are the triage business," and must "exercise discretion every day at both the case and the agency level."[160] Therefore, criminal justice experts agree that a foundational principle for reducing offender recidivism is "assess[ing] offender risk and needs and [] prioritiz[ing] supervision and treatment resources for the higher-risk offenders."[161] Through risk assessment, correctional agencies can use their resources more effectively to promote public safety and the rehabilitation of the offenders.

Overview of Risk Assessment Tools

Most risk assessment tools are based on the principles of risk, need, and responsivity. Risk assessment matches the level of supervision or service to the offender's risk to re-offend, need assessment assesses criminogenic need and seeks to target them in treatment, and responsivity tailors the rehabilitation to the offender's actions, personality, and needs.[162] Most risk assessment tools use "static" indicators, which measure things that stay the same, like criminal history. Additionally, many risk assessment tools also measure "dynamic" indicators, which measure things that can change, like education, employment, and friends. Assessment tools that use dynamic indicators usually must be re-administered regularly as to adequately measure offender change.

There are six main risk assessment tools used by counties in California. STRONG: Static Risk and Offender Needs Guide, COMPAS, CAIS: Correctional Assessment and Intervention System, Modified Wisconsin Risk Assessment System, LS/CMI, and Ohio Risk Assessment System (ORAS). Each of these tools is described briefly below:

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[159] Stan C. Proband, Probation and Community Penalties, Oxford Handbook, 836.
[160] White, T., *Implementing an Offender Risk and Needs Assessment: An Organizational Change Process*, National Institute of Corrections (2004) at 42.
[161] *Id.*
[162] Bonta, James & Andres, D.A., *Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation*, Public Safety Canada (2007) at 1.

- **STRONG** (Static Risk and Offender Needs Guide): There are two components to the STRONG assessment: first, a static risk assessment, which deals primarily with the offender's criminal history, and second, a needs assessment, for the higher risk offenders, so that a plan for offender change can be implemented.[163]

- **COMPAS**: "A statistically based risk assessment specifically designed to assess key risk and needs factors in correctional populations and to provide decision-support for justice professionals when placing offenders into the community." COMPAS uses static and dynamic data, and allows for re-testing over time to measure changes in dynamic scales. Provides help with decision-making pre-trial release, pre-sentencing, probation/parole, prison/jail, reentry, institutional treatment, institutional programming, work release screening, community corrections, early release screening/overcrowding.[164]

- **CAIS (Correctional Assessment and Intervention System)**: Produced by the Council on Crime and Delinquency, the CAIS combines a case management classification system, a risk assessment system (validated), a needs assessment system, and a web-based data system that supports the system and provides quality control. Reassessment tools provide updated information on each offender.[165]

- **Modified Wisconsin Risk Assessment**: The National Council on Crime and Delinquency developed the original Wisconsin Risk Assessment. Since that time, it has been criticized for "having internal validity problems," and for being biased against black offenders.[166]

- **LS/CMI**: LS/CMI is a comprehensive measure of risk and need, combined with a case management tool. This tool has been validated with a variety of offender groups. The overall risk assessment is determined through both static risk factors and dynamic need factors. The system also focuses on client responsibility and treatment plans. It assesses both general and specific risk and needs factors. Additionally, it helps with case planning, management and tracking of offender progress.[167]

- **Ohio Risk Assessment System (ORAS)**: The ORAS was finalized in 2009 through a collaboration between Edward Latessa P.D. and the University of Cincinnati as

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[163] The STRONG—Static Risk and Offender Needs Guide, Assessments.com
[164] COMPAS, Comprehensive Offender Assessment, Classification and Case Management. northpointeinc.com.
[165] CAIS, National Council on Crime and Delinquency, www.nccd-crc.org.
[166] Susan Turner and Terry Fain, *Validation of the Los Angeles County Probation Department's Risk and Needs Assessment Instruments*, RAND (2003) at xviii.
[167] LS/CMI, MHS Inc., http://www.mhs.com/product.aspx?gr=saf&prod=ls-cmi&id=overview.

part of a contract with the Ohio Department of Corrections. This tool was validated with the Ohio population in 2009. ORAS is in the public domain and available in paper format from the University of Cincinnati at no charge. Assessments.com sells the suite of ORAS assessments in computer program form. The suite consists of a pre-trial tool, community supervision tool, prison intake tool, reentry tool, and a postrelease supervision tool.[168]

Risk Management and AB 109

Risk Assessment was a significant topic for many of the California counties in their plans to address the AB 109 population. We tracked when counties were planning to use risk assessment for determining sanctions (27 percent), and when counties were planning to use risk assessment for determining services needed (78 percent). We also tracked whether counties mentioned using their current risk assessment tool (52 percent), or mentioned implementing a new tool (9 percent).[169] Counties used, or plan to use, several different risk assessment tools: STRONG (40 percent), COMPAS (19 percent), LS/CMI (9 percent), CAIS (9 percent), and Modified Wisconsin Risk Assessment (2 percent).[170] Nine of the counties using STRONG risk assessment joined together as a consortium to contract with Assessments.com for STRONG.

What distinguishes risk assessment from the other broad categories that we tracked is the fact that most counties did more than merely mention risk assessment in their AB 109 plans. In fact, 44 plans spent at least one paragraph discussing risk assessment, and 21 counties spent two paragraphs or more. The focus on risk assessment seems to stem from the fact that counties are worried about resource management, particularly considering that they believe that the AB 109 population is going to be higher risk and higher need than the state anticipated.

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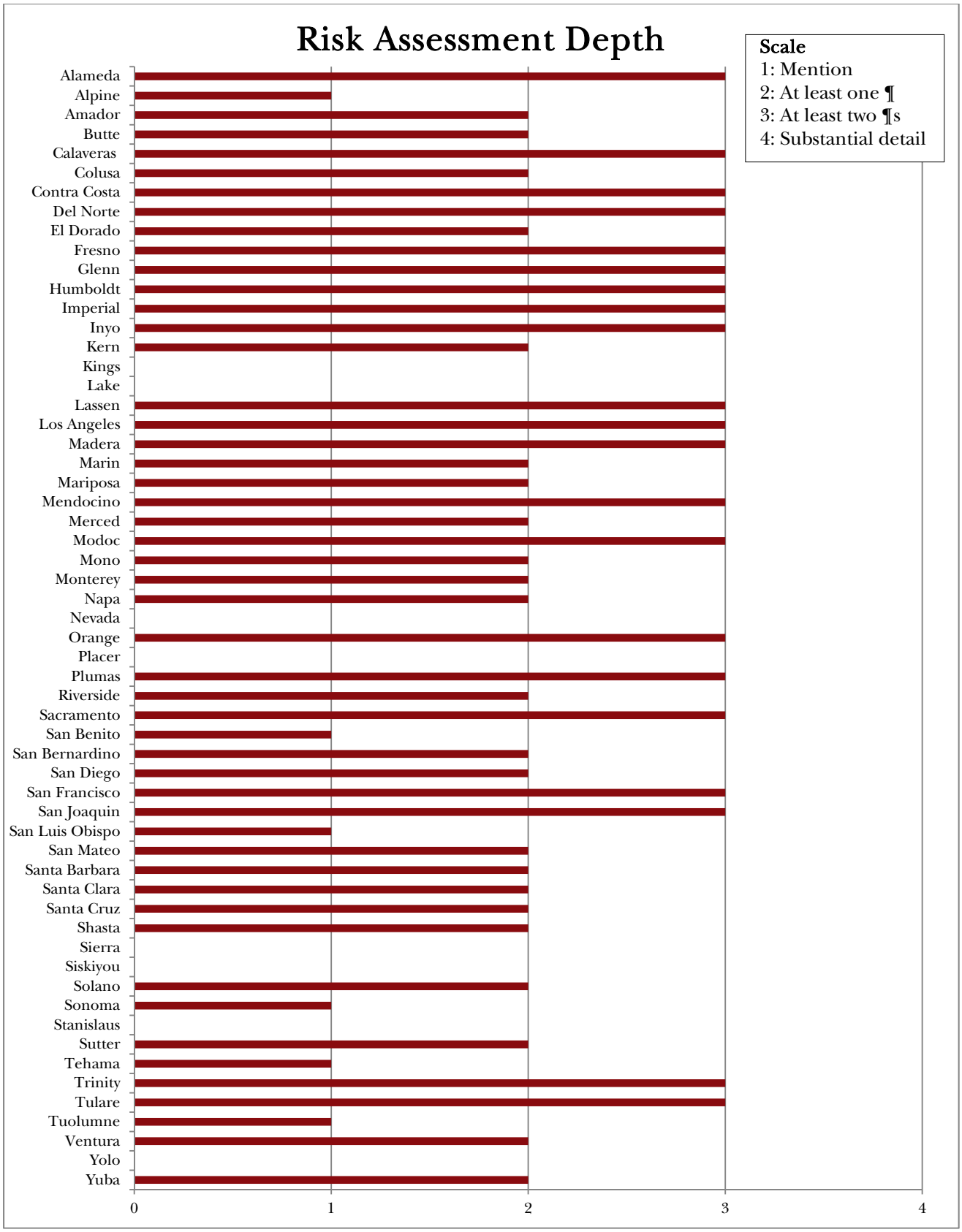
[168] ORAS Overview, 2, *available at* law.utoledo.edu/students/lawreview/PDF/Trout_ORAS-Overview.pdf.
[169] Note that more than 9% of the counties are implementing a new risk assessment tool, as 9 counties joined together to contract the STRONG assessment tool. However, only five counties mentioned this explicitly.
[170] The use of the ORAS risk tool was not coded for this project.


Risk Assessment Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
Alameda
Alpine
Amador
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Calaveras
Colusa
Contra Costa
Del Norte
El Dorado
Fresno
Glenn
Humboldt
Imperial
Inyo
Kern
Kings
Lake
Lassen
Los Angeles
Madera
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Mariposa
Mendocino
Merced
Modoc
Mono
Monterey
Napa
Nevada
Orange
Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Francisco
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
Shasta
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Measurement of Outcomes

AB 109 provides for "a data-driven approach to reduce corrections and related criminal justice spending and reinvest savings in strategies designed to increase public safety."[171] However, AB 109 does not require the counties to report any outcomes or to reserve any money for evaluating programs. We were pleased to see that, despite the lack of an evaluation mandate, the great majority of the counties plan to collect data and measure the outcomes of their programs and services. Seventy-six percent of counties mentioned planning to conduct internal evaluations (or did not specify who would be conducting the evaluation), and 9 percent (5 counties) mentioned planning to have an external party conduct an evaluation. In addition, CPOC hopes to collect some data from all the counties.[172]

Despite the counties' good intentions, many of them lack trained staff, adequate software, and accurate historic information to establish baselines. They must address these problems before they can meaningfully evaluate their programs. Yolo, for example, planned to focus on collecting data to establish basic measurement baselines during fiscal year 2011-2012.[173] Plumas also mentioned that it needed to collect data to establish baselines.[174] Sutter, which at the time of drafting had no staffing to provide data collection, analysis, or evaluation, plans to hire an officer to manage these tasks.[175] The county also purchased new software.[176] Sacramento and Santa Cruz both mentioned an additional need for meaningful outcome measurement: the need to develop "[c]learly stated and commonly agreed upon definitions to measure recidivism and other offender and community outcomes."[177]

San Joaquin is one of the counties planning to use an outside evaluator, and it devoted a significant amount of its plan to listing the many data inputs it will be collecting. The San Joaquin Community Data Co-Op, an independent nonprofit applied social research and evaluation organization, will provide the county's data collection and evaluation.[178] This may serve as a model for other counties who have research nonprofits and universities within their limits. Even if an organization is unwilling to take on the evaluation of all AB 109 programs and systems, it might be willing to evaluate one program. For example, as mentioned above, the California State University, Fresno

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[171] Cal. Penal Code § 17.5(a)(7).
[172] Researching Realignment Convening, Stanford Law School (Jan. 20, 2012).
[173] Yolo Plan at 26.
[174] Plumas Plan at 25.
[175] Sutter Plan at 23.
[176] *Id.* at 23.
[177] Sacramento Plan at 4; Santa Cruz Plan at 2.
[178] San Joaquin Plan at 41.

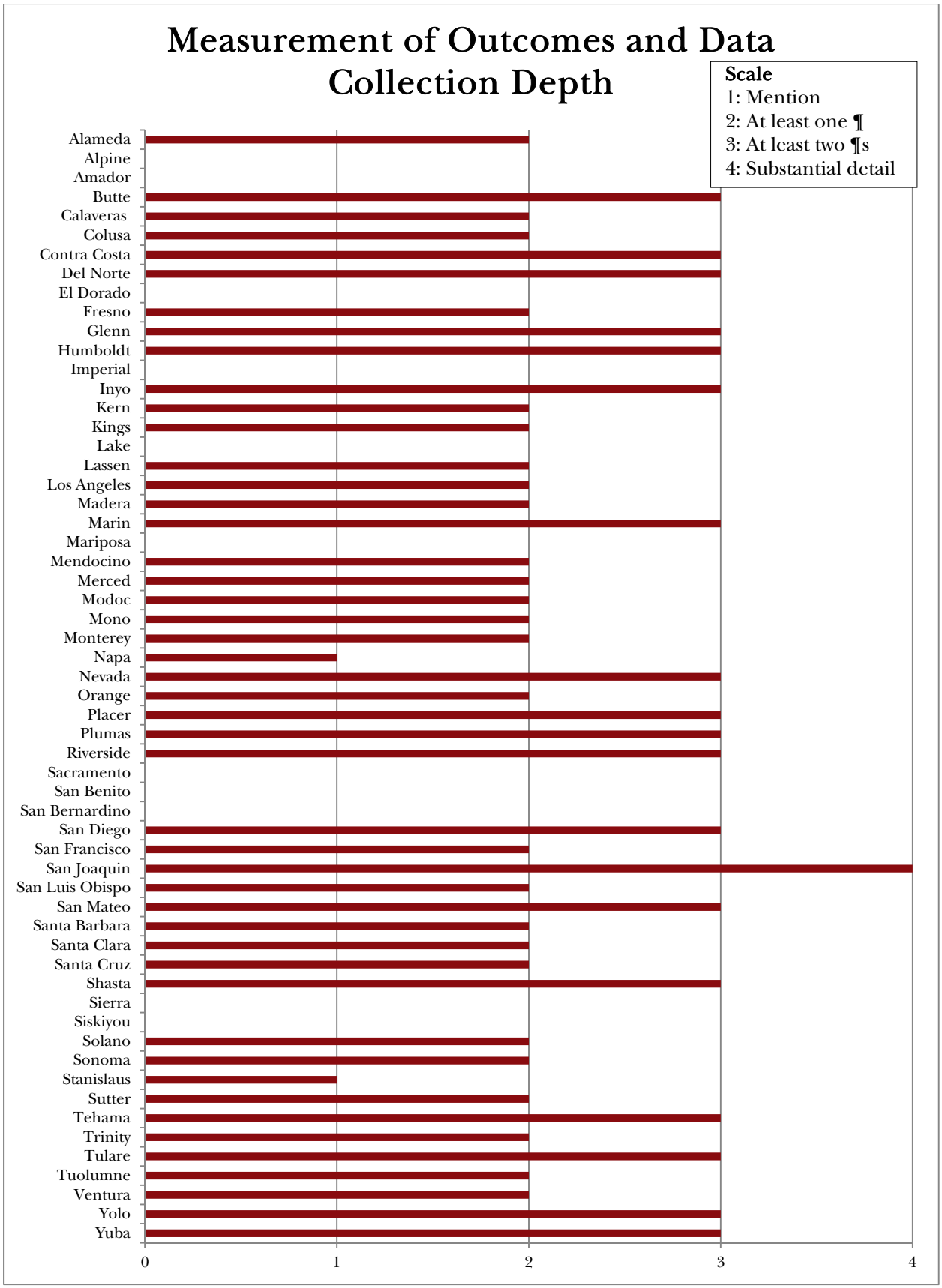
Department of Criminology plans to conduct a "comprehensive process and outcome evaluation" of Fresno's adult DRC.[179]

Yolo highlighted an important reason for collecting data:

> It is highly likely that there will be isolated incidents of specific crimes that will cause many to react negatively to the reform efforts that will be initiated in this shift. It will be important that data is collected, monitored, reviewed, and reported in a way where any breakdowns in system effectiveness are illuminated at the earliest possible moment and collective success is clearly demonstrated.[180]

If California is serious about making policy based on data rather than events, accurate, meaningful data is a must.

[179] Fresno Plan at 8.
[180] Yolo Plan at 5.


Measurement of Outcomes and Data Collection Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
Alameda
Alpine
Amador
Butte
Calaveras
Colusa
Contra Costa
Del Norte
El Dorado
Fresno
Glenn
Humboldt
Imperial
Inyo
Kern
Kings
Lake
Lassen
Los Angeles
Madera
Marin
Mariposa
Mendocino
Merced
Modoc
Mono
Monterey
Napa
Nevada
Orange
Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Francisco
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
Shasta
Sierra
Siskiyou
Solano
Sonoma
Stanislaus
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Tehama
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Jails

Only 12 percent of counties mentioned planning to build jails; however, as of September 13, 2012, twenty of fifty-eight counties had applied for Phase II of AB 900 funding to construct new jails, and fourteen counties received funding.[181] Forty-five percent of counties mentioned planning to hire correctional staff (for many counties, this may mean hiring back staff they had to lay off due to budget cuts), and 28 percent of counties mentioned planning to expand existing jails. Nineteen percent of counties mentioned reopening jail space that was closed at the time of the plans' drafting.

Three counties in particular seem to be relying principally on incarceration to manage the newly sentenced AB 109 population. While Kings County noted that its plan was "not all inclusive" and was only "a starting point for the immediate needs," its plan focused almost exclusively on the plan to expand the jail beds and provide for jail needs.[182] Alternatives to incarceration were addressed in two brief sentences under the heading "Future Plans."[183] Although Placer devoted more space to alternative sanctions and services than did Kings, the bulk of its plan was also devoted to the jails. Placer stated that it "remains committed to incarceration of criminal offenders" and that "incapacitation is the surest short term way to prevent recidivism."[184] Lassen also devoted significantly more space to jails than to other alternatives, and the plan expressed a number of concerns about alternative sanctions. Lassen wrote that the

> legislature made these alternatives available, while at the same time transferring these offenders to local custody . . . . The state effectively crafted a pilot project to release felons back into our communities but placed local officials in a position to bear the burden if this experiment fails. The Sheriff wants to try to implement the provisions of AB 109 as intended by the legislature, but his primary responsibility will be to maintain the security of our communities.[185]

Jail Space

Eleven counties plan to reopen closed jail space in preparation for the incoming AB 109 population. Many of these jails were closed partially or entirely because of budget cuts, but AB 109 funding will help the counties to fund their reopening. Stanislaus may

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[181] Corrections Standards Authority, *AB 900 Phase II Jail Construction Financing Program Applications Received by Jan. 11, 2012, available at* http://www.cdcr.ca.gov/csa/CFC/Docs/Applications_Submitted_in_AB_900_Phase_II_1_11_12_for_posting.pdf.
[182] Kings Plan at 3-5.
[183] *Id.* at 5.
[184] Placer Plan at 4-5.
[185] Lassen Plan at 9.

be the starkest example. The county has closed 434 inmate beds since June of 2009 due to budget cuts, and in June of 2011, only 19 percent of the county's inmate population was serving a custody sentence.[186] Stanislaus plans to reopen two of its closed housing units, which will provide it with an additional 150 beds.[187] In addition, Stanislaus requested $80 million in AB 900 funding.[188]

Several counties are concerned that, even though they may have enough total beds for the in-custody population, the AB 109 offenders may be higher-risk and may have classification or segregation needs that the jails are not prepared to meet. For example, Lassen explained that its jail has adequate bed space to deal with the total number of projected inmates, but there is a lack of segregated housing space available, and "[a]dding inmates that are either charged with violating terms of release . . . or new felony convictions will put an immediate strain on the segregated housing beds in the jail."[189] State parole violators are many counties' most serious concern, both in terms of space and atmosphere in the jails. Lassen noted that these offenders "failed to program under the supervision of State Parole, are less likely to comply with program requirements in the jail, and will increase the risk of assault on jail personnel, and other inmates."[190] Unlike the newly sentenced AB 109 offenders, this population may have committed serious, violent, or sex offenses in the past.

Tulare was one of the few counties to discuss jail design and its effect on inmate behavior. Tulare plans to use its Pre-Trial Detention Facility, the newest of its facilities, for AB 109 inmates, in part because of its ample space and in part because of its "direct supervision" design, which allows inmates to spend more time in a common area outside their cells (in contrast to a traditional "linear" design, in which inmates spend the majority of their time inside locked cells).[191] The Sheriff's Office believes that AB 109 inmates may result in increased behavioral issues for the system and that this may in part be addressed by providing them with an open design jail, which "cuts down on inmate tension and behavioral problems."[192] Placer also addressed design; the county will have to

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[186] Stanislaus Plan at 5.
[187] Stanislaus Plan at 6.
[188] Correction Standards Authority, *supra* note 179.
[189] Lassen Plan at 9; *see also* Humboldt Plan at 57 ("For several years, the Sheriff has had to deal with a low number of maximum security custody beds."); Santa Barbara Plan at 13 ("It is noted that unoccupied beds are not always available for use by any given inmate due to gender, segregation, and/or classification restrictions or other operational limits upon inmate housing.").
[190] Lassen Plan at 8.
[191] Tulare Plan at 21.
[192] *Id.* at 21. Another particularly interesting aspect of Tulare's jail system is that Tulare has a Sheriff's Farm, located on 1,110 acres, that produces considerable meat and vegetables for inmate and staff meals. *Id.* at 21. The Sheriff's Farm utilizes an average of 40-45 inmates per day as workers. In 2010, it produced 7,160 pounds of vegetables and watermelon; 373 head of cattle; 426 hogs; and more than 5,400 pounds of feed grain. *Id.* at 25. Napa is considering developing a small, minimum-security farm for inmates. Napa Plan at

make changes to the Main Jail because its original design was not intended for in-custody programming and the county does plan to implement this programming.[193]

Pre-Trial Population

AB 109 added California Penal Code Section 1203.018, which provides that a county board of supervisors may authorize the correctional administrator "to offer a program under which inmates being held in lieu of bail in a county jail or other county correctional facility may participate in an electronic monitoring program."[194] Inmates will be eligible for the program if they have no holds or outstanding warrants and have been held in custody for 60 days post-arraignment, or 30 days for those charged with misdemeanor offenses.[195]

Section 1203.018 specifically limits the eligible population to those "being held in lieu of bail." These inmates would be able to leave jail were they able to meet the financial demands of bail. However, this is simply not possible for many. Sacramento's figures offer an example of the high price of bail. Average pre-trial bail in Sacramento County is $488,484. Approximately 10 percent of the pre-trial population have bails under $30,000, and 46 percent have bails between $30,000 and $150,000. One out of every four pre-trial inmates has bail set at over $300,000.[196]

Pre-trial release programs are an important tool in reducing jail population because a significant number of California's jail inmates are awaiting trial. For example, at the time of writing their plans, 78.3 percent of those in Solano's jails,[197] 82 percent of those in Sutter's jails,[198] and 62 to 65 percent of those in San Diego's jails are unsentenced.[199] Nine months into Realignment (as of June 2012), the pre-trial populations in county jails are still high, but have gone down; 73.7 percent of those in Solano jails, 71.8 percent of those in Sutter jails, and 55.5 percent of those in San Diego jails are unsentenced[200]. After analyzing their respective pre-trial populations, Sacramento estimated that about 12 to 15 percent of that population could be considered for an

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10. While Tulare did not provide any information measuring the outcome of inmates working on the Sheriff's Farm, it seems that it could provide a healthy activity as well as vocational training that could be beneficial.

[193] Placer Plan at 24.

[194] Cal. Penal Code § 1203.018(b).

[195] Cal. Penal Code § 1203.018(c).

[196] Sacramento Plan at 17.

[197] Solano Plan at 16.

[198] Sutter Plan at 12.

[199] San Diego Plan at 9.

[200] *Jail Profile* Survey, Board of State and Community Corrections, June 2012, http://www.bdcorr.ca.gov/joq/jps/QuerySelection.asp.

alternative to incarceration program,[201] Humboldt estimated that 15 to 19 percent could be considered for such programs,[202] and Butte estimated that a pre-trial release program would free up 75 to 100 of its jail beds.[203] A few counties mentioned pre-trial programs that were discontinued because of funding shortages. For example, Sacramento operated a program from 1983 to 2009,[204] Fresno operated a program from 2007 to 2010,[205] and Humboldt operated a program until budget cuts required it to close.[206]

Effective pre-trial release is dependent on effective risk assessment. Counties generally conduct interviews with defendants in making pre-trial decisions, but not all counties plan to use evidence-based risk assessment tools. A few counties specifically mentioned planning to use such tools. Most who did are using the Virginia Pretrial Risk Assessment Instrument or a modified version of that tool.[207]

A simple, but important, factor in administering an effective pre-trial release program is a reminder service. Sacramento currently plans to manually call defendants, but it is working to replace this process with an automated calling system.[208] Fresno also mentioned planning to set up a reminder service because "[s]ystems of reminders such as live, automated and mail have been shown to be effective."[209] However, such services are only as good as their information. Nationally, 95 percent of pre-trial release programs report trying to verify defendants' information, but in a 2009 study of a New York City program, pre-trial services personnel were only able to verify about 28 percent of the information defendants provided about community ties.[210]

Some pre-trial defendants have social service needs that may prevent them from being released on their own recognizance or to an electronic monitoring program. Napa and San Diego provide two examples of possible alternatives to incarceration for this population. Napa is considering providing enhanced day reporting for this population.[211]

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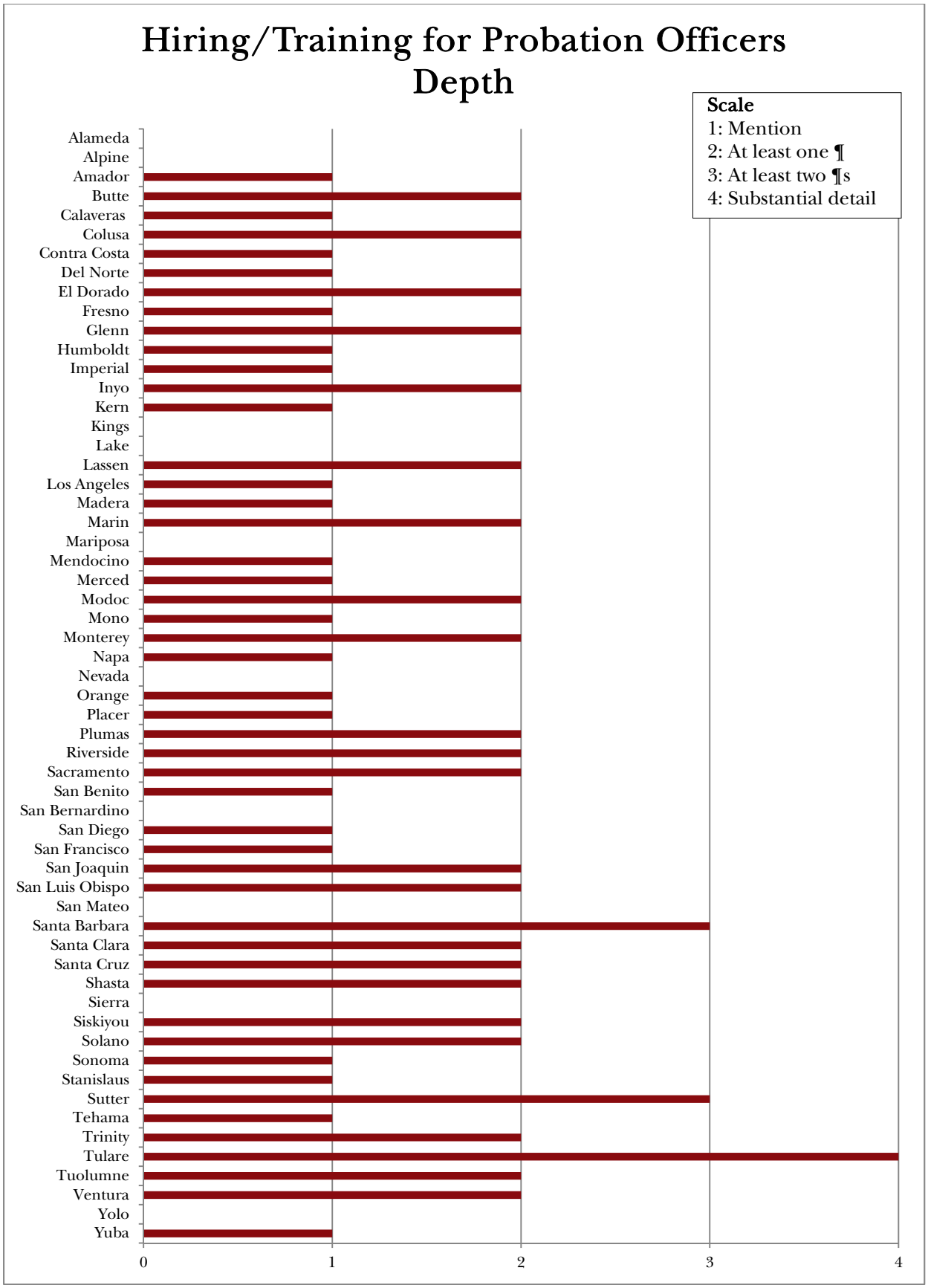
[201] Sacramento Plan at 17.
[202] Humboldt Plan at 20.
[203] Butte Plan at 11.
[204] Sacramento Plan at 19.
[205] Fresno Plan at 18.
[206] Humboldt Plan at 21.
[207] Sacramento will be using the Virginia Pretrial Risk Assessment Instrument (the county noted that the previous incarnation of its pre-trial services program did not use an evidence-based assessment tool), and Madera is developing its own assessment based on the Virginia instrument. Sacramento Plan at 21; Madera Plan at 20. Humboldt is comparing the Virginia instrument to the Ohio Pretrial Release Instrument before deciding which to use. Humboldt Plan at 25. Butte did not specify which "evidence-based risk assessment protocol" it planned to use. Butte Plan at 11.
[208] Sacramento Plan at 21.
[209] Fresno Plan at 19.
[210] Brandon K. Applegate, *Jails and Pretrial Release*, *in* OXFORD HANDBOOK OF CRIME & CRIMINAL JUSTICE 795, 809. (Michael Tonry ed., 2011).
[211] Napa Plan at 9.

And San Diego plans to increase the use of residential treatment beds in lieu of pre-trial custody for offenders with significant substance abuse issues. A bed in a residential treatment facility costs half what a bed in a jail costs.[212]

Probation

In many ways, probation officers are the county employees most affected by AB 109. Probation will not only be supervising more probationers, but will also be supervising a more high risk and high needs population of probationers. Because of this, almost every county plan mentioned either hiring or training probation officers. Moreover, 43 percent of the counties did not merely mention hiring or training, but discussed these issues in depth.

[212] San Diego Plan at 9.


Hiring/Training for Probation Officers
Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
Alameda
Alpine
Amador
Butte
Calaveras
Colusa
Contra Costa
Del Norte
El Dorado
Fresno
Glenn
Humboldt
Imperial
Inyo
Kern
Kings
Lake
Lassen
Los Angeles
Madera
Marin
Mariposa
Mendocino
Merced
Modoc
Mono
Monterey
Napa
Nevada
Orange
Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Francisco
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
Shasta
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Within the probation category, we also tracked when counties mentioned arming probation officers (10 percent), and creating high-risk probation units for high-risk offenders (20 percent).[213] Some counties, like Kern County, plan to add additional armed deputy probation offers to supervise all of the realigned "non, non, non" offenders.[214] Others, like Sacramento, plan to arm "a majority" of the officers staffing their high-risk probation unit.[215] Arming probation officers is one way that county probation officers are becoming more like state parole officers.

A second way that probation might become more like parole is through the high-risk probation units that counties are forming. Within many of the high-risk units, probation officers will have smaller caseloads, and will use more surveillance and drug testing, and less social services and programming in supervising high-risk offenders. Interestingly, in Sacramento, the probation officers who will staff the high-risk units will receive a training called "How to Supervise a Parolee vs. a Probationer" which addresses workloads and the responsibility of managing high-risk offenders.[216]

Many counties mentioned that they would like to lower the caseload for all probation officers, but might only be able to do so for those who are staffing high-risk units. For example, Kern noted, that although the ideal offender to officer ratio was 50 to 1, "with the allocated funds, this ratio will not be achievable for all offenders. In order to ensure the most efficient use of Realignment funds the offenders shown to be at higher risk to re-offend will be placed on caseloads of 50 to 1 while those shown to be lower risk to re-offend will be placed on larger caseloads."[217] Madera similarly noted that the caseload size recommended by the American Probation and Parole Association is 40, but considering the limited resources that they are dealing with, a 50 to 1 ratio for the high-risk units was the best they could do.[218]

San Joaquin, like several other counties, is developing a system of rewards and sanctions for their high-risk probation units.[219] They developed a "Violation Response Table" that will guide probation officers in using intermediate sanctions to respond when offenders violate their probation.[220] Additionally, when a probationer meets a benchmark

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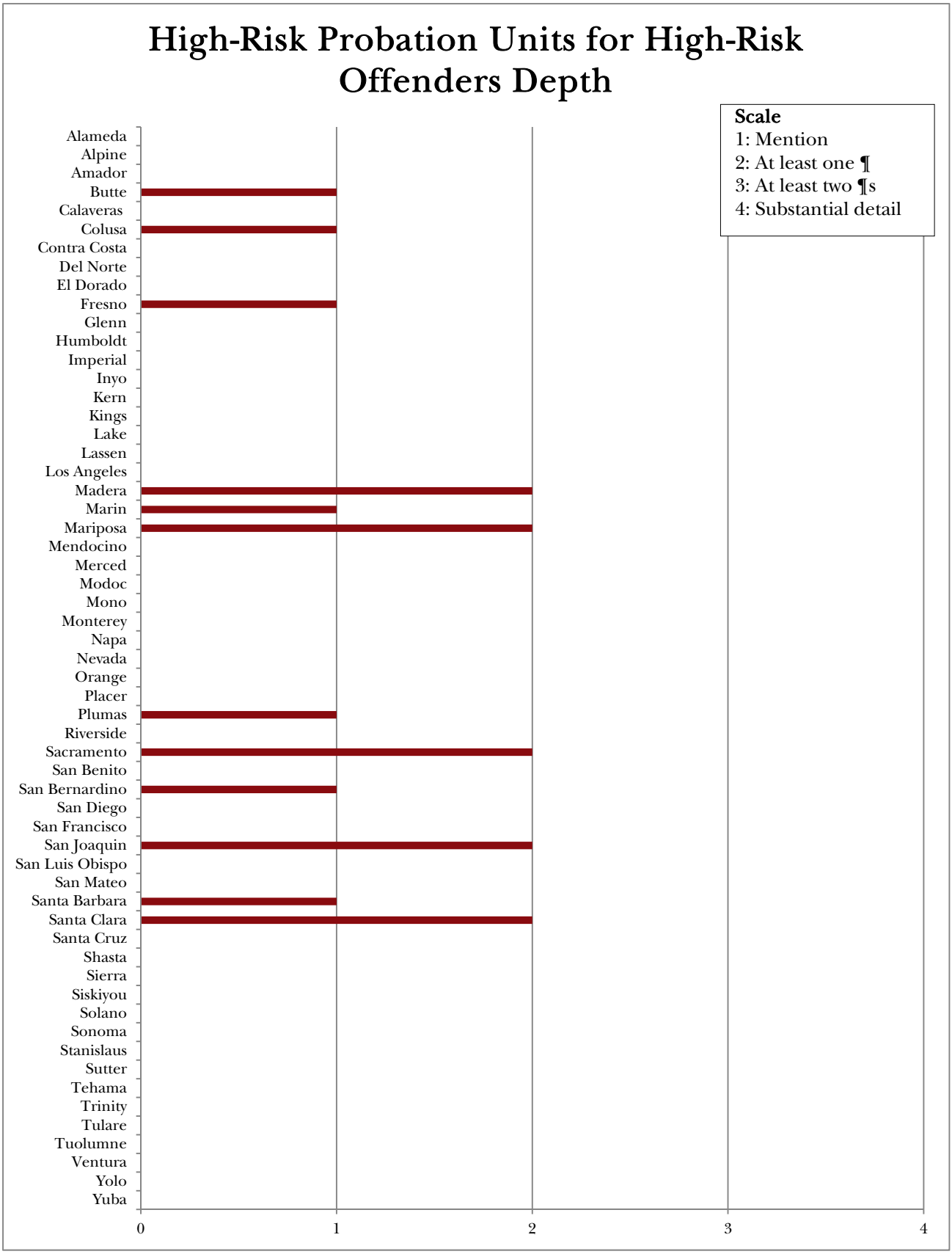
[213] Based on our budget analysis, we expect that more than 10 percent of the counties will actually be arming probation officers.
[214] Kern Plan at 6.
[215] Sacramento Plan at 35.
[216] Sacramento Plan at 34.
[217] Kern Plan at 6.
[218] Madera Plan at 19.
[219] San Joaquin Plan at 16.
[220] *Id.*

in his or her supervision, the officer will identify the appropriate incentive through the "Positive Incentive Table."[221]

These examples suggest that some counties are using high-risk units to increase only surveillance, while others are focusing both high levels of surveillance and high level of services at the most high risk and needs offenders.

[221] *Id.*


High-Risk Probation Units for High-Risk Offenders Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
Alameda
Alpine
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Del Norte
El Dorado
Fresno
Glenn
Humboldt
Imperial
Inyo
Kern
Kings
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Lassen
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Madera
Marin
Mariposa
Mendocino
Merced
Modoc
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Napa
Nevada
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Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Francisco
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
Shasta
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Sonoma
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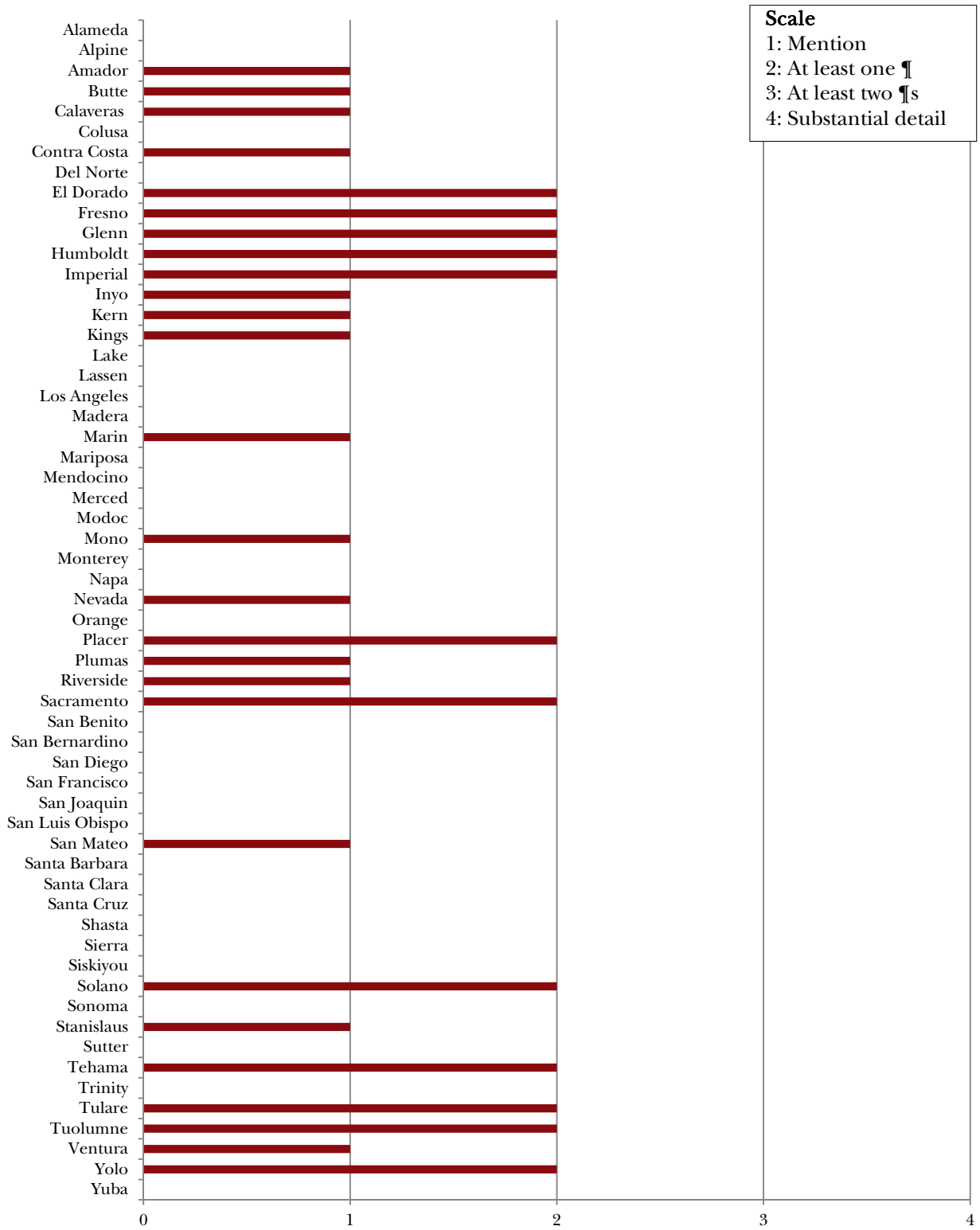
Law Enforcement

Since Realignment will result in more felony offenders remaining in local communities, county law enforcement will be impacted. As many counties noted, it is hard to tell exactly what effect the realigned population will have on law enforcement agencies; however, counties attempted to prepare for this effect through hiring, training, and funding their local law enforcement. We tracked when counties mentioned hiring law enforcement staff (26 percent), funding law enforcement (12 percent), training law enforcement to deal with the realigned population (19 percent), and using law enforcement to assist with postrelease supervision (33 percent). Those counties that mentioned hiring or training law enforcement tended to discuss the issue in depth.

Hiring/ Training New Law Enforcement Staff Depth



Because it is hard to assess exactly what impact the AB 109 population will have on law enforcement agencies, many counties planned for one year with the intent to assess and evaluate on an on-going basis. For example, El Dorado funded law enforcement to "offset costs associated with enforcement activities directly pertaining to the realigned population."[222] Examples of such activity would include "targeted enforcement sweeps, joint agency operations, improving inter-agency information sharing, and assisting in Probation Department enforcement activities."[223] Riverside similarly noted the potential, yet unknown, impact that Realignment will have on law enforcement. Because of this, Riverside will assign a probation officer liaison to each local police department throughout the county.[224] Through these liaisons, Riverside hopes to both improve information sharing, and also prepare law enforcement to assist with compliance issues.[225]

Nineteen of the fifty-eight counties plan to use law enforcement to help monitor post-released offenders. An example of this is the Madera County "Realigned Offender Sub-unit" task force. This team will be a collaborative effort between the probation department, the Madera County Department of Corrections, and the Madera Police Department "to provide direct enforcement for the realigned population who will be under the supervision of the probation department."[226] The sub-unit will be a "fully functional taskforce" that will be able to conduct searches in order to ensure the compliance of offenders.[227]

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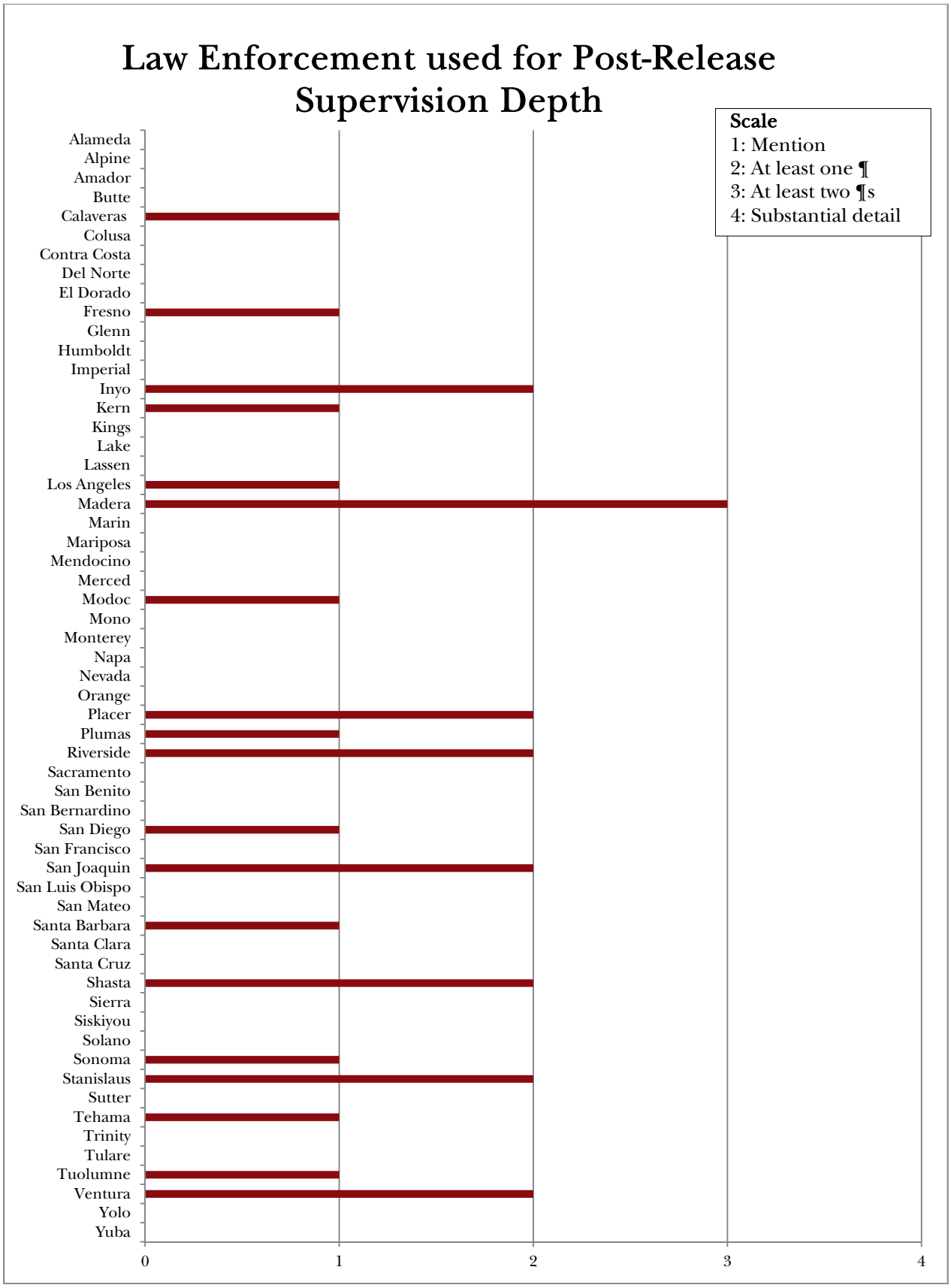
[222] El Dorado Plan at 12.
[223] El Dorado Plan at 12.
[224] Riverside Updated Plan at 38-39; Riverside Original Plan at 20.
[225] Riverside Plan at 39.
[226] Madera Plan at 30.
[227] Madera Plan at 30.


Law Enforcement used for Post-Release Supervision Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
Alameda
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Calaveras
Colusa
Contra Costa
Del Norte
El Dorado
Fresno
Glenn
Humboldt
Imperial
Inyo
Kern
Kings
Lake
Lassen
Los Angeles
Madera
Marin
Mariposa
Mendocino
Merced
Modoc
Mono
Monterey
Napa
Nevada
Orange
Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Francisco
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
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Mental Health

Ninety-one percent of counties mentioned providing services for the mentally ill, 28 percent mentioned providing medications for the mentally ill, and 7 percent mentioned providing risk and/or needs assessment for the mentally ill. Forty-five percent of counties spent at least a paragraph discussing provision for the mentally ill under AB 109. As Kern noted, "[w]ith AB 109, there will be an increase in both the number and acuity of inmates seeking mental health services."[228]

The counties that engaged in the most in-depth discussion of mental health were Humboldt, Kern, Madera, Plumas, Sutter, and Ventura. One of Humboldt's major focuses was making sure that mentally ill offenders have a "seamless continuation" of necessary medications and services when moving from custody to the community.[229] Humboldt is implementing a "jail crosswalk" program and DRC multi-disciplinary team of professional clinicians and service staff. The jail crosswalk program will link offenders exiting the jail to the DRC to "help ensure a coordinated handoff of medical/behavioral health records and staff consultation with DRC Probation Officers and DHHS Multi-Disciplinary staff."[230]

Kern was similarly concerned with mentally ill offenders' transition from custody to the community, and it has an existing Adult Transition Team that serves mentally ill inmates being released from jail. The county will expand this team to serve mentally ill inmates returning to the county for postrelease supervision.[231] The team has "consistently met their goals of a 90% reduction in jail days and a 70% reduction in hospitalization."[232]

Madera County's program for the mentally ill was one of the most comprehensive programs we saw. Madera will be using the Forensic Assertive Community Treatment (FACT) program for offenders with mental illness and/or substance abuse issues.[233] This program offers a continuum of treatment over a minimum of 12 months.[234] The principles behind the FACT program include highly individualized services, integration, and emphasis on vocational expectations, psycho education services, and community attention to health care needs.[235] All of the treatment planning will follow the best

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[228] Kern Plan at 15.
[229] Humboldt Plan at 33.
[230] *Id.* at 33.
[231] Kern Plan at 16. Similarly, Tulare is also creating a mental multi-disciplinary team to assess the post-release community supervision population as they leave prison. The team will generate referrals and establish eligibility for benefit programs. Tulare Plan at 12. El Dorado is establishing a transition medication program. El Dorado Plan at 10.
[232] *Id.* at 16.
[233] Madera Plan at 24.
[234] *Id.* at 25.
[235] *Id.* at 24.

practice APIC (Access, Plan, Identify, and Coordinate) framework.[236] An important aspect of FACT is that it coordinates mental health and substance abuse services. Since this population often has co-occurring mental health and substance abuse issues,[237] a program that combines treatment for both may be more effective than one that attempts to address the issues separately.

Also interesting is the program with which Ventura will be contracting to serve mentally ill postrelease community supervision offenders, Telecare Corporation. Telecare Corporation ran a pilot program in collaboration with Los Angeles, San Bernardino, and San Diego, and the company reported that only 29.5 percent of their clients returned to custody in the first year compared to a recidivism rate of 77.9 percent to 90 percent for this population.[238] (However, the Ventura plan did not mention whether Telecare controlled for other variables.) The Telecare clients also had reduced hospital and homeless days.[239]

Several counties' mental health services are already at capacity. Riverside mentions in their original plan that they will need to hire new psychiatrists because "[c]urrent outpatient capacity is extremely limited, especially for immediate access" and "[m]edication service needs are an issue."[240] Stanislaus's programs "are currently at capacity and not able to absorb the increased demands for service for the realigned population without expanding the existing program."[241] The county plans to add staffing to its mental health programs in the first phase of its plan. Kern is contracting with CDCR for custody of the seriously mentally ill because its existing capacity to manage this population in a custody setting "is limited."[242] Ensuring sufficient capacity to treat the mentally ill should be a priority in implementing AB 109.

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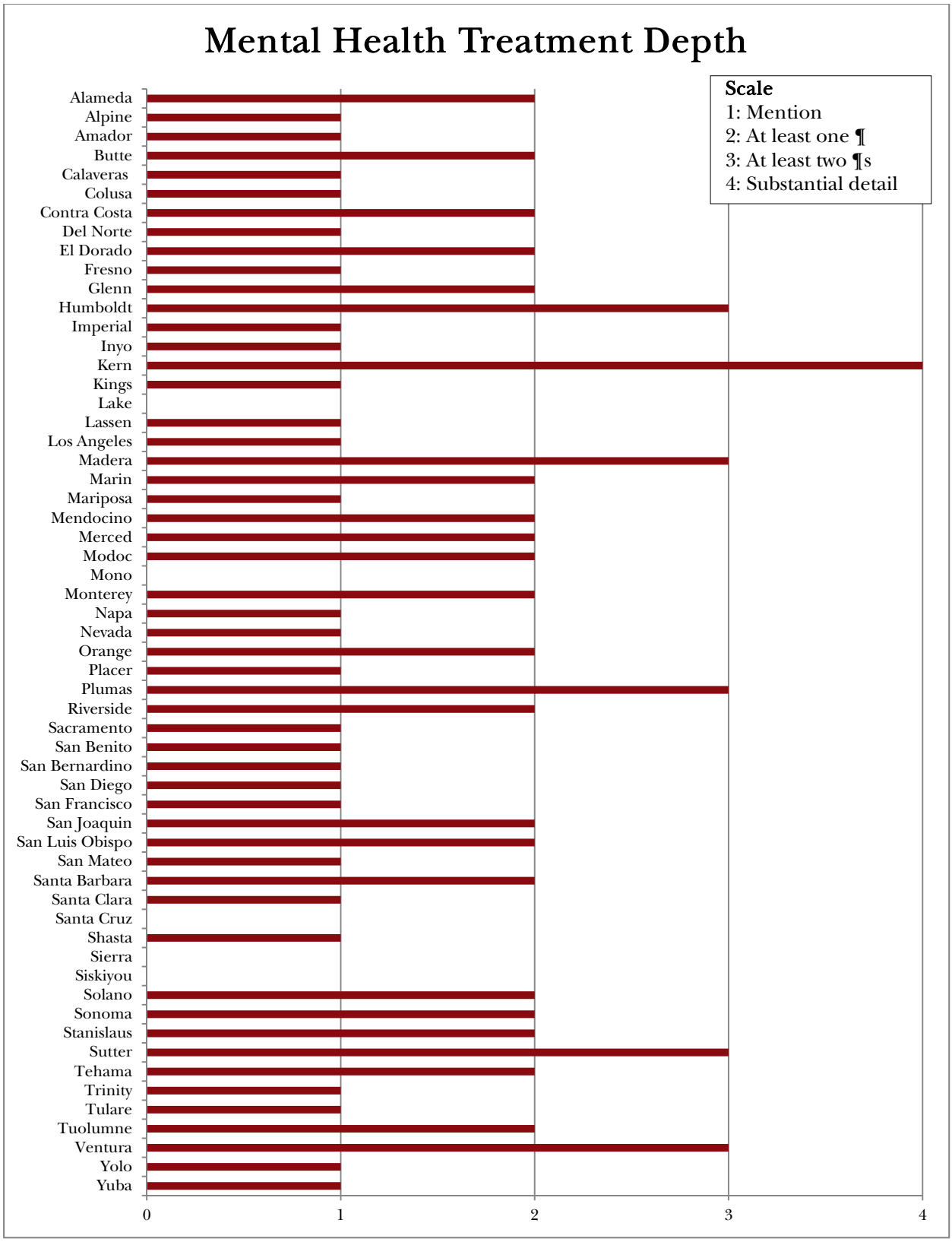
[236] *Id.* at 25.
[237] A 2003 study interviewing 280 felony drug sale offenders with substance abuse issues found that 40 to 60 percent had comorbid psychiatric disorders, and two-thirds reported recent psychiatric symptoms or emotional problems. Michael D. White, John S. Goldkamp, & Suzanne P. Campbell, *Co-occurring Mental Illness & Substance Abuse in the Criminal Justice System: Some Implications for Local Jurisdictions*, 86 PRISON J. 301, 303 (2006), *available at* http://tpj.sagepub.com/content/86/3/301.
[238] Ventura Plan at 14.
[239] Id. at 14-15.
[240] Riverside Original Plan at 18.
[241] Stanislaus Plan at 7.
[242] Kern Plan at 12.


Mental Health Treatment Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
Alameda
Alpine
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Calaveras
Colusa
Contra Costa
Del Norte
El Dorado
Fresno
Glenn
Humboldt
Imperial
Inyo
Kern
Kings
Lake
Lassen
Los Angeles
Madera
Marin
Mariposa
Mendocino
Merced
Modoc
Mono
Monterey
Napa
Nevada
Orange
Placer
Plumas
Riverside
Sacramento
San Benito
San Bernardino
San Diego
San Francisco
San Joaquin
San Luis Obispo
San Mateo
Santa Barbara
Santa Clara
Santa Cruz
Shasta
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Substance Abuse

Every county in California already had inmates and probationers with substance abuse problems. This population is expected to increase as the result of Realignment. Because of this, and because of the particular likelihood of recidivism for addicted offenders, substance abuse treatment is an important element of any plan to decrease recidivism and increase public safety. We coded for two topics related to substance abuse: first, community based substance abuse treatment, and second, in-jail substance abuse treatment. More than half of the plans (66 percent) mentioned providing in-jail substance abuse treatment. Additionally, while most plans (83 percent) mentioned implementing community substance abuse treatment as part of their implementation of AB 109, less than half of the plans (36 percent) provided any detail about the substance abuse treatment that they would provide.

Those counties that did provide detail, particularly surrounding substance abuse treatment in jail and during the reentry process, mentioned several interesting and ambitious programs. For example, Alameda plans to use AB 109 to expand their existing "DEUCE: Deciding, Educating, Understand, Counseling and Evaluating" program. This 60-day program, targeted at offenders reentering the community, offers counseling and addresses addictive behavior and lifestyles.[243] Alameda also plans to expand their existing gender-responsive substance abuse and parenting skills program "MOMS: Maximizing Opportunities for Mothers to Succeed."[244] El Dorado broke up its substance abuse plan into three categories: first, substance abuse assessment and treatment matching; second, engagement in treatment, and third, comprehensive case management.[245] As part of its first phase, El Dorado will be administering a substance abuse assessment called the Addictions Severity Index to every offender. Then, based on the results from this assessment, they County will provide each client with varying in and out of jail services to match their needs.[246] Orange County also plans to use an addiction severity assessment tool. Their tool, the American Society of Addiction Medicine Patient Placement Criteria (ASAM PPC) will also facilitate referrals and enrollment in services and treatment.[247]

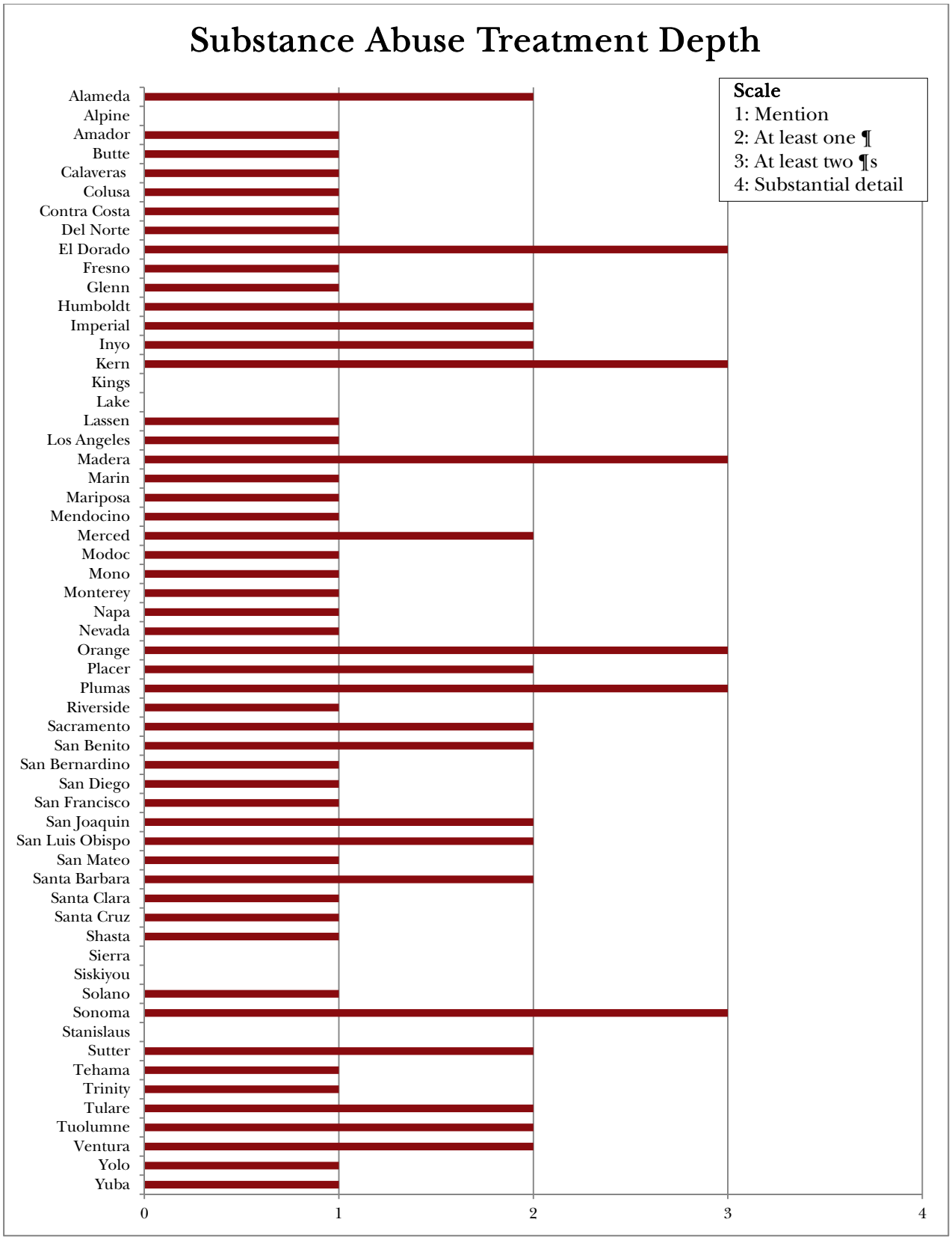
Because of the new population of offenders who will be in county jails due to AB 109, Kern County plans to intensify the substance abuse treatment provided in custody to inmates. They expect to implement the "Matrix Model," which will provide up to seven hours of treatment per week in the first four weeks that offenders are in custody. In order to transition inmates smoothly back into the community, Kern County will be pre-

[243] Alameda Plan at 7.
[244] Alameda Plan at 8.
[245] El Dorado Plan at 11-12.
[246] El Dorado Plan at 11.
[247] Orange Plan at 19.

scheduling an appointment with a community-based provider for every inmate the week of the inmate's release.[248] Plumas County similarly plans to utilize a "continuation of services upon release." As part of this, Plumas will integrate transitional housing into the substance abuse treatment continuum so that the housing situation is supportive of recovery.[249]

Madera provided perhaps the most detailed and ambitious substance abuse program for offenders reentering the community. This program, FACT: Forensic Assertive Community Treatment is described in full above. Additionally, Madera allocated AB 109 money to hiring several full-time and several part-time clinicians, case managers, and counselors to run this program.[250]

[248] Kern Plan at 18.
[249] Plumas Plan at 17.
[250] Madera Plan at 24-25


Substance Abuse Treatment Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
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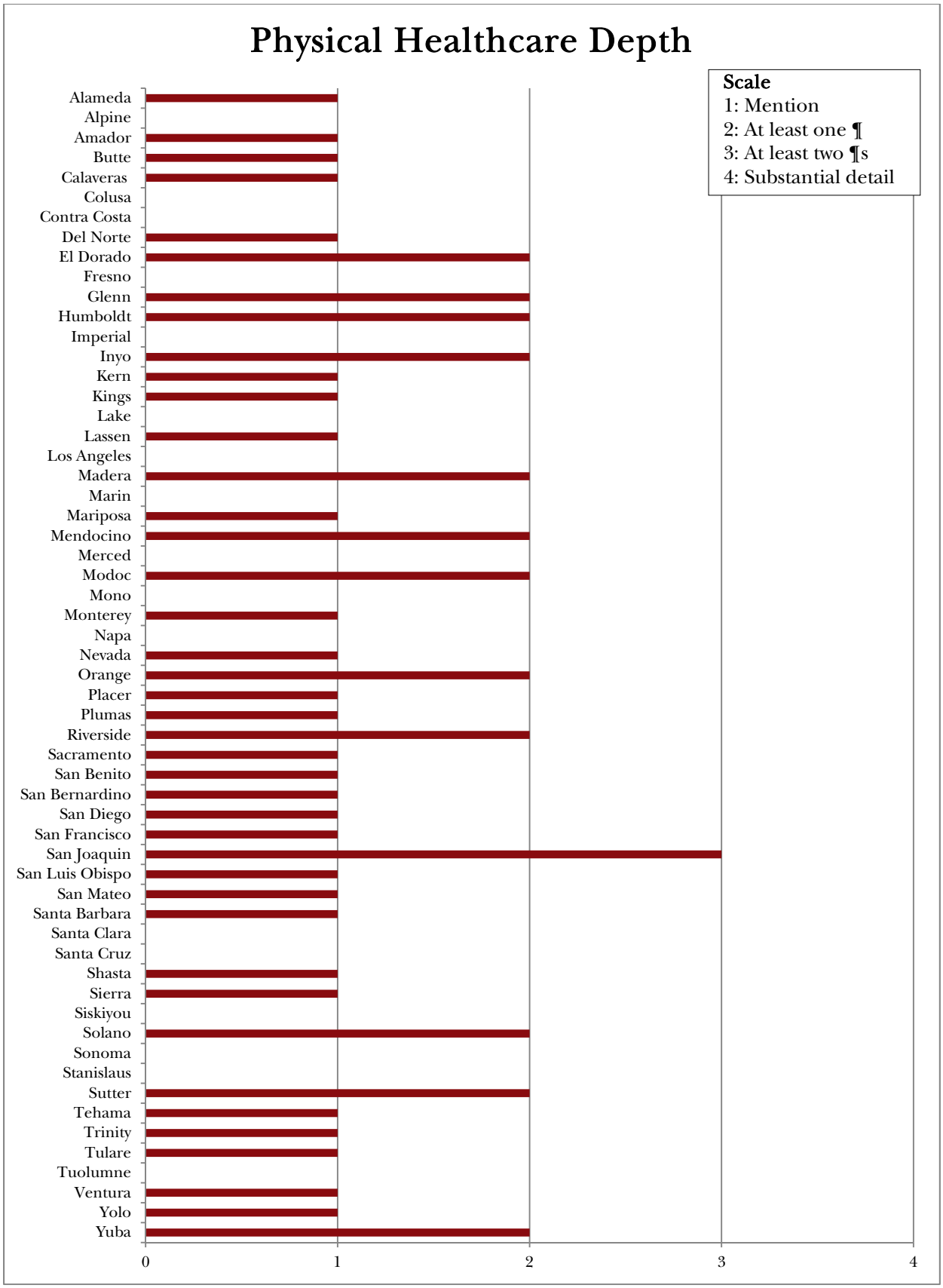
Physical Healthcare

Although healthcare for offenders, both in and out of jail, is going to be a large expense for the counties, very few counties focused on this issue in their plans. While 41 percent of the plans mentioned in-jail healthcare, and 48 percent mentioned healthcare for offenders in the community, only thirteen counties went beyond merely mentioning physical healthcare of any type in their plans. San Joaquin was the only county that spent more than one paragraph discussing healthcare for the AB 109 population.

Orange County noted the particular importance of connecting probationers with health insurance. Additionally, Orange County identified a number of public health services that would be useful to offenders upon reentry.[251] San Joaquin specifically allocated money towards covering the surely increased costs of in-custody healthcare because of Realignment. The increased funding to the county's Correctional Health Services will cover "on-site medical care, non-emergency treatment, and behavioral health services" at the jail. San Joaquin also noted that "treating inmates on-site decreases the need to transfer them to more expensive hospital emergency departments, outpatient clinics or outside private services, which in turn helps minimize the cost for services to the County."[252]

[251] Orange Plan at 16-18.
[252] San Joaquin Plan at 29-30.


Physical Healthcare Depth
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Specialized Housing

Housing is extremely important to the success of the realigned population,[253] and it is one of the greatest needs facing the realigned population. A COMPAS Validation Study in 2010 for CDCR reported that 39 percent of the former inmates in the sample had a high need for housing assistance.[254] County estimates of the need for transitional housing varied, but hovered around 20 percent.[255] Santa Barbara pointed out that, while an estimated 17.5 percent of the realigned population will require transitional housing, "there is another segment of the population who may have a place to stay but, their living environment will not be conducive to sobriety or successful re-entry." The county projects that "at least an equal amount of clean/sober beds will be required for this population."[256]

Fifty-seven percent of counties mentioned planning to provide transitional housing, and 40 percent mentioned planning to provide residential substance abuse treatment. Only 20 percent mentioned providing housing for the mentally ill. Five percent mentioned planning to provide housing vouchers. San Francisco provided among the most detail about its plans for specialized housing. San Francisco has residential treatment programs, supportive housing, a rent subsidy program, an emergency shelter, and permanent supportive housing.[257] The rent subsidy and rental assistance programs are limited in that they mostly restrict eligibility to families with dependent children, are operating at maximum capacity, or are short-term programs.[258] However, the rent subsidy program is a "model with demonstrated success," and San Francisco may consider expanding it to meet the needs of the AB 109 population.[259] The

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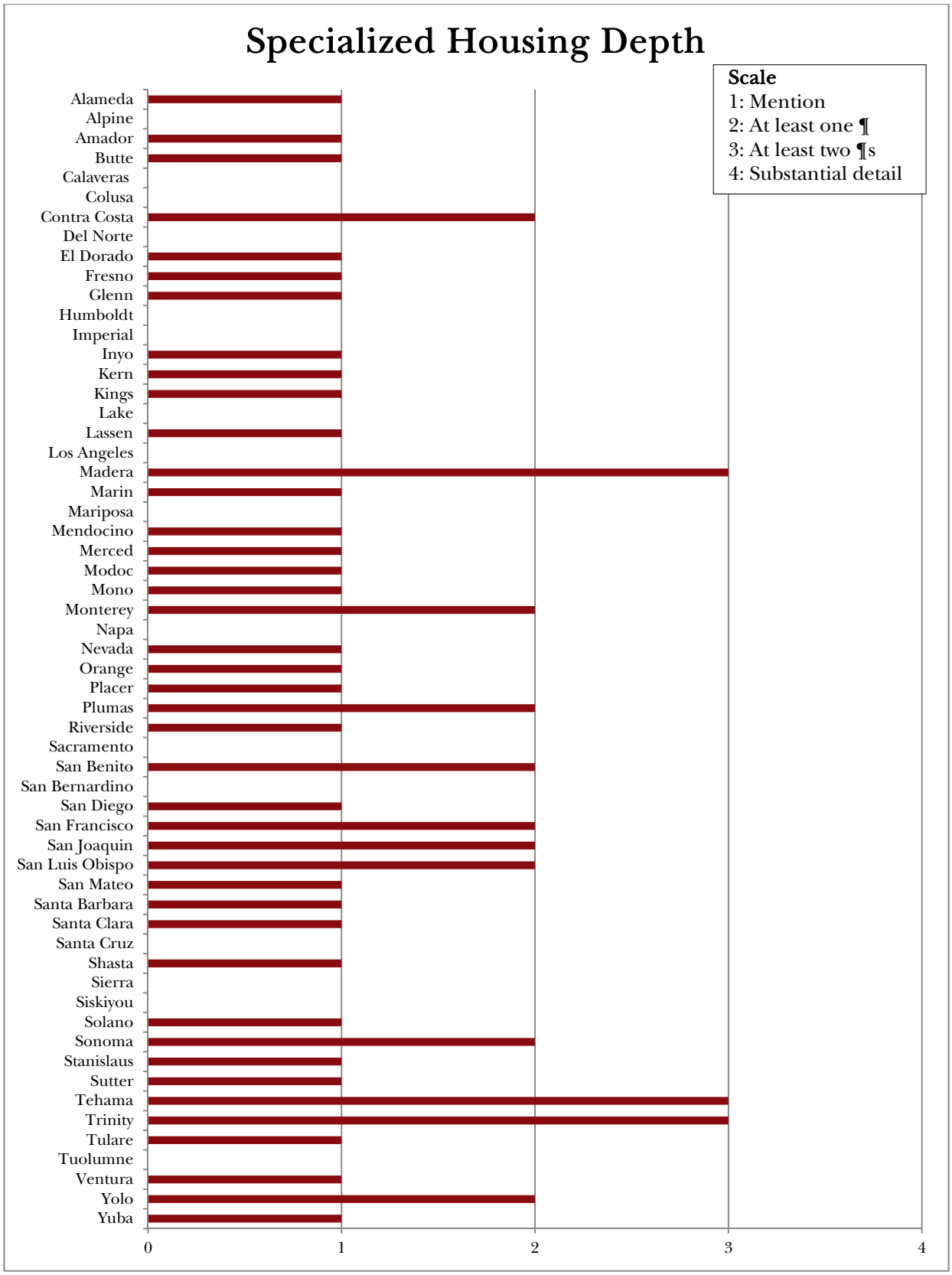
[253] Parole officials report that finding housing for parolees is "by far their biggest challenge, even more difficult and more important than finding a job." Joan Petersilia, *supra* note 92, at 120.
[254] Monterey Plan at 21.
[255] *See, e.g.*, Orange Plan at 20 (estimating that 20 percent of the individuals being shifted to local supervision will need housing assistance); Santa Barbara Plan at 26 (estimating that 17.5 percent of the realigned population will require transitional housing in the first year); San Francisco Original Plan at 20 (estimating that 25 percent of those being shifted to local supervision will need housing assistance); San Joaquin Plan at 39 (estimating that 20 percent of the offenders being released on post-release community supervision will have transitional housing needs); Sonoma Plan at 21 (assuming 10 percent of offenders being released from CDCR may be homeless); Monterey Plan at 23 (estimating that "at least 8.6% of the PRCS population will need intensive housing assistance," but noting that"[h]ousing resources are extremely pressured in Monterey County").
[256] Santa Barbara Plan at 26. Santa Barbara budgeted $165,000 for 2011-12 transitional housing/sober living. *Id.* at 37.
[257] San Francisco Updated Plan at 20-21.; San Francisco Original Plan at 21-22.
[258] San Francisco Original Plan at 22.
[259] *Id.*

plan noted that a portion of the AB 109 population will likely benefit more from independent housing than from a living situation with onsite staffing and supervision.[260]

Madera also provided substantial detail about its housing plans. The county plans to collaborate with a nonprofit to provide three to twelve month transitional housing that would include intensive programming.[261] Madera also provides one-time rental assistance grants as well as two programs that provide assistance with utilities bills.[262]

[260] *Id.* at 21.
[261] Madera Plan at 28.
[262] *Id.* at 26.


Specialized Housing Depth
Scale
1: Mention
2: At least one ¶
3: At least two ¶s
4: Substantial detail
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Riverside
Sacramento
San Benito
San Bernardino
San Diego
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Discussion of Budget Analysis

Financial Crisis and Internal Tension

While the cases decided by the Supreme Court in 2011 were certainly catalysts for the implementation of AB 109, top officials in California government will concede the budget crisis was the true impetus.[263] Record budget deficits forced legislators to make tough decisions that included cutting spending not only in the criminal justice system, but in education and other social services as well. Mirroring the national economic crisis that was precipitated by the collapse of the financial and housing markets in 2008, Californians saw a significant decrease in personal wealth and lost a substantial number of jobs.

In 2009, personal income in California declined by 2.4 percent, the first time there had been any decline at all since 1938.[264] While 844,000 jobs were added between July 2003 and July 2007, in the following 3 years during the recession the state lost 1.3 million jobs.[265] In addition, the on-going world economic crisis has depressed international trade activity, a $145 billion industry for California pre-recession, and overall economic recovery has been remarkably slow.[266] Unemployment numbers released in December 2011 showed California has the second highest unemployment rate in the nation at 11.3 percent.[267] The most recently released numbers, for March 2013 show that while California's unemployment rate has dropped to 9.4 percent, it has only dropped to the fourth highest unemployment rate in the nation.[268]

On top of the economic crisis, California legislators must make budget decisions in an environment that demands much as it relates to social services, but in many ways ties their hands when it comes to increasing revenues or cutting spending when economic times are hard. A few key aspects of the system affect a significant portion of the distress in the budgeting process. First, California was the only state in the country that required a two-thirds vote in the legislature to not only pass a budget, but to raise

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[263] Matt Cate, Address to Stanford Law School Class, "Advanced Criminal Law: A Policy Practicum" taught by Joan Petersilia (Nov. 3, 2011).
[264] *Cal Facts*, Mac Taylor, California Legislative Analyst's Office, 4 (January 2011)
[265] *Id.* at 3.
[266] *Id.* at 7.
[267] Regional and State Unemployment Summary—November 2011, Bureau of Labor Statistics, Tuesday, Dec. 20, 2011.
[268] Unemployment Rates for States, March 2013, Bureau of Labor Statistics, *available at* http://www.bls.gov/web/laus/laumstrk.htm.

revenues as well.[269] However, in 2010, Proposition 25 was approved by voters which got rid of the two-thirds requirement to pass the budget. (The two-thirds requirement to raise revenues remains.)

In addition, Proposition 13, passed in 1978, not only introduced the restriction on raising taxes by imposing the two-thirds vote restriction, but also limited the state's ability to collect on the increasing value of homes through property taxes.[270] The amendment set a uniform statewide property tax rate and transferred control of the allocation of the property tax to the state government, initiating the still present and ever-growing struggle to fulfill state versus local fiscal needs. Prior to the passage of Proposition 13, property tax revenue totaled 28 percent of state and local general revenue; after its implementation, it now hovers between 13 to 15 percent.[271]

Another amendment to the Constitution, Proposition 98 is a budget restriction passed many years after Prop. 13 in 1998. It calls for constitutionally mandated minimum state spending of approximately 40% of general fund spending on K-12 education, guaranteeing an annual increase in education spending, and funded by transferring property tax revenue from city and county governments to schools (called the Educational Revenue Augmentation Fund-ERAF).[272] These two changes – Propositions 13 and 98– created a difficult situation in which localities who once received a significant portion of their funding via the property tax were now competing against the state and local school districts to fund its general fund activities. Furthermore, in addition to these constraints the California Constitution contains a balanced-budget amendment.[273] All of these requirements have made it increasingly difficult in recent years to get legislative approval of any budget within constitutionally required time limits, particularly given the increasingly partisan political environment.

The relationship between the State and the various counties has grown increasingly stressed over the last 30 years, and the recent financial crisis has only fueled the fire. As one researcher stated, "Cities and counties have suffered from declining economic conditions that have eroded their revenue bases, but they must also contend with attempts by the state itself to cure its fiscal infirmities with program shifts, cuts,

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[269] Department of Finance, "California's Budget Process," a*vailable at* http://www.dof.ca.gov/fisa/bag/process.htm.

[270] Art. 13A of the Constitution of the State of California—"Section 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties."

[271] Elisa Barbour, *State-Local Fiscal Conflicts in California: From Proposition 13 to Proposition 1A*, Public Policy Institute of California, 3 (2007).

[272] *Id.*

[273] Department of Finance, "California's Budget Process," http://www.dof.ca.gov/fisa/bag/process.htm

adjustments, and deferments, as well as the devolution of responsibilities down to the local level."[274]

The 2011 Realignment legislation is not the first time the California Legislature has pushed programs from state to local control. In 1991 a multibillion-dollar state fiscal shortfall was the driving force behind a realignment of various mental health, social services and health programs.[275] Some differences between the two programs include that the 1991 program was smaller, only about $2 billion of programs versus $6.3 billion in the current one, and while the old program raised taxes to fund it, the current Realignment program simply reallocates existing revenue.[276]

There are things to be learned from the 1991 plan that could play into the effectiveness of the current one. The Legislative Analyst's Office issued a report analyzing the 1991 plan in which it found that the plans success could largely be attributed to it having a reliable funding stream, creating incentives to the counties for coming up with innovative, less costly approaches and for allowing flexibility in programming.[277] What improvements did the LAO suggest should have been in the 1991 program? Better data collection and a simpler funding allocation.[278] (See the discussion below describing the details of the 2011 legislation.) The final major difference between the two Realignment plans is that the 2011 Realignment is largely driven by criminal justice programs, and more specifically the corrections duties it seeks to send to the counties.

General Results

While it is difficult to compare the counties' budgets due to the variation in reporting formats, there are some generalizations to be made. The populations expected to be monitored or housed by counties vary greatly across the state. Therefore, in analyzing the budget, population considerations are vital. Below is a graph showing the expected population of inmates in the local jails and offenders on PRCS at full implementation of AB 109[279]. Because Los Angeles County houses such a significant share of the state's offender population, it has been excluded from this graph, for better comparison purposes.

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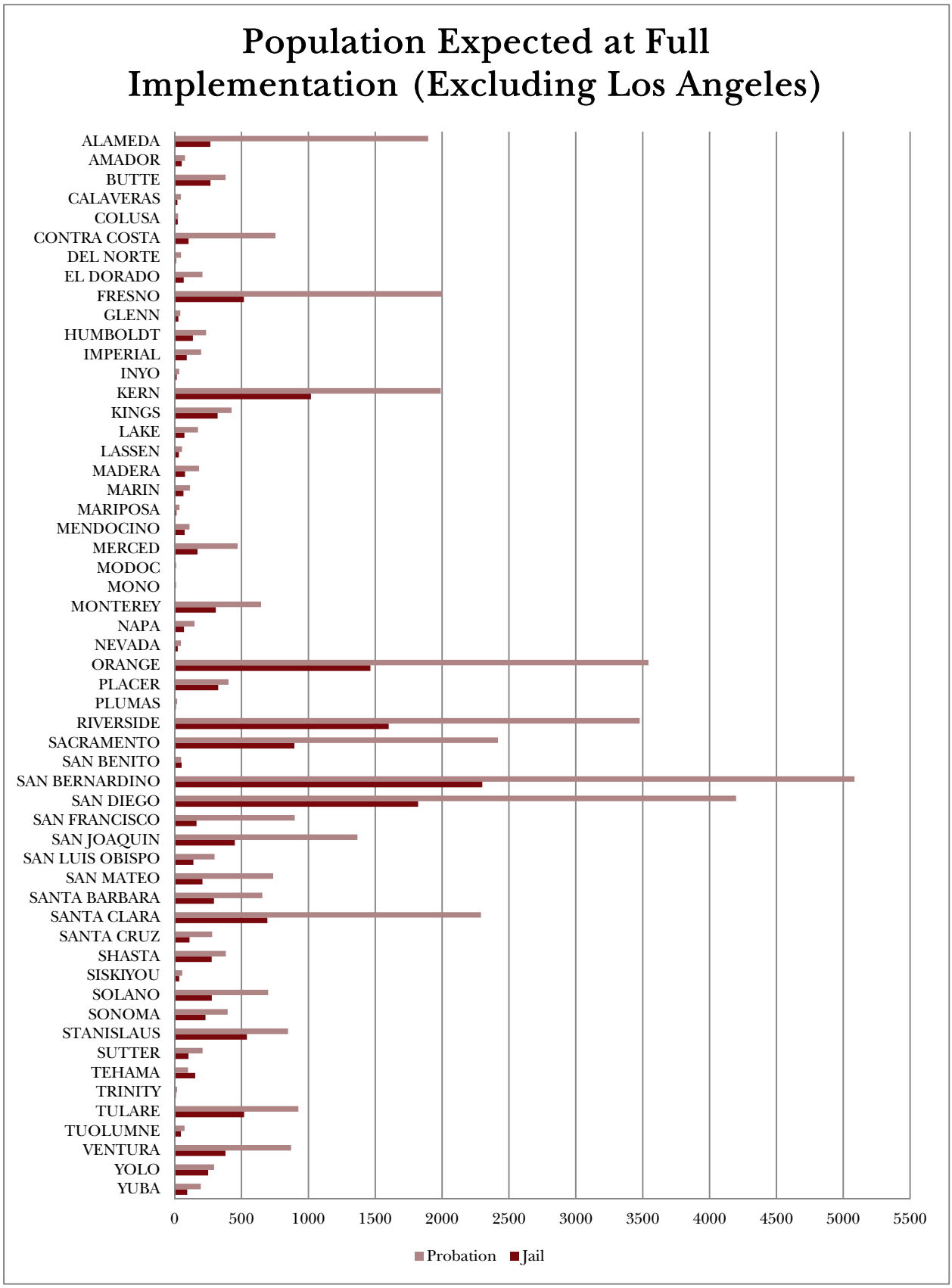
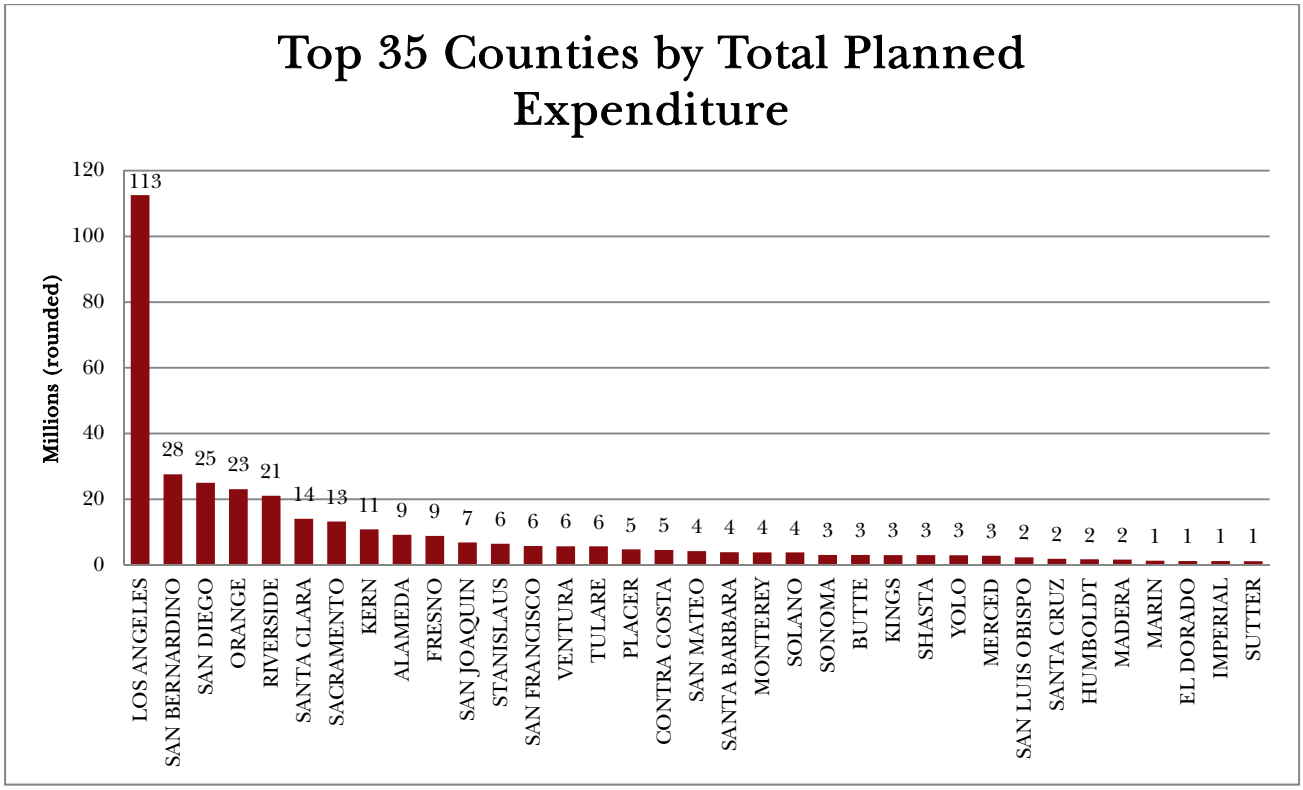
[274] Max Neiman and Daniel Krimm, *Perceptions of Local Fiscal Stress During a State Budget Crisis*, Public Policy Institute of California, 8 (2009).
[275] LAO, *Supra* note 3535 at 6.
[276] *Id.*
[277] *Id.*
[278] *Id.*
[279] Full implementation of AB 109 is Year 4 of rollout. California Department of Finance, AB 109 Population Estimates.



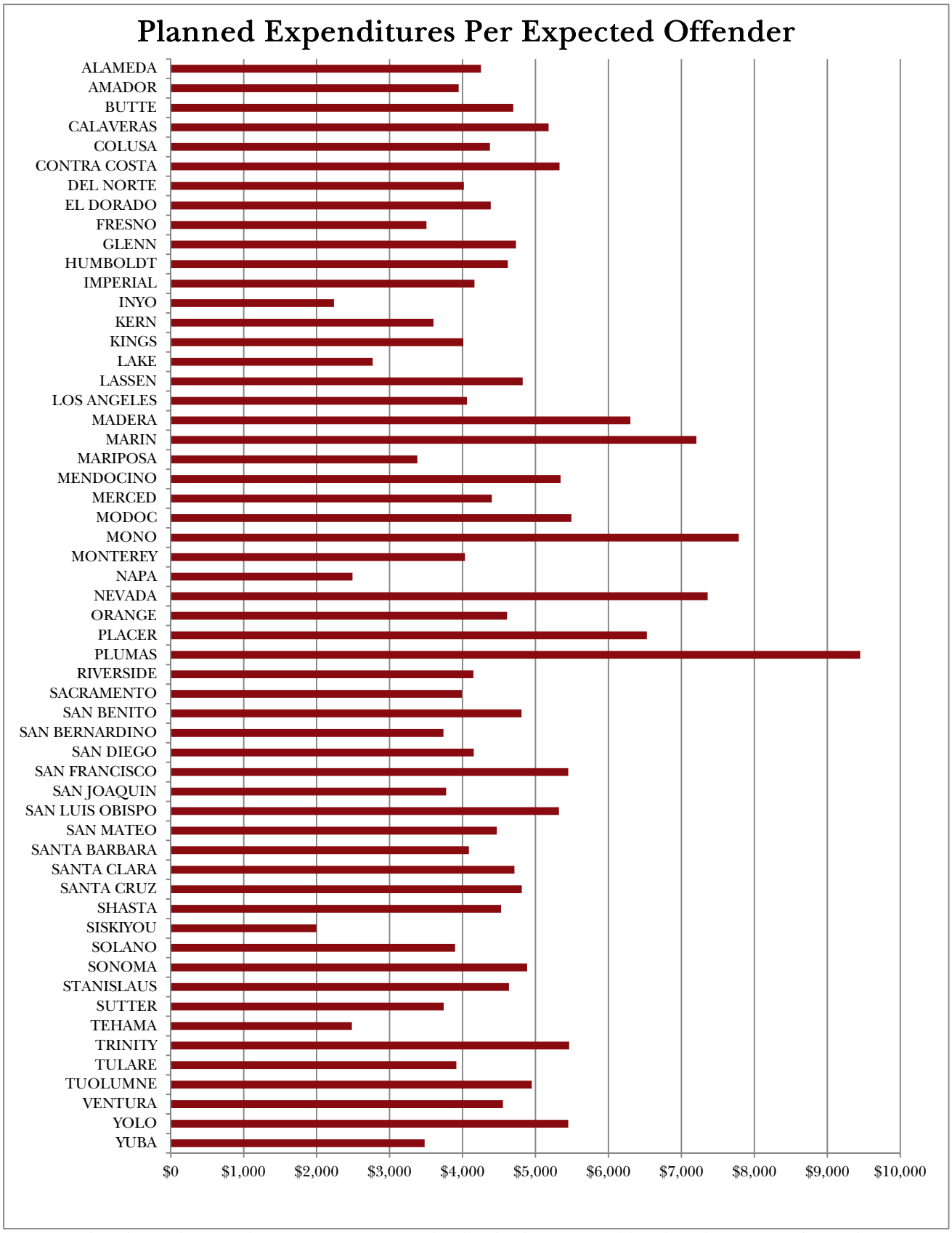
***Note**: The expected population figures are from the California Department of Finance.*

More than $354 million in revenue was allocated to counties for AB 109 programming. The following two charts show the total expenditures allocated in the budgets for the top 35 counties as arrayed from largest to smallest[280], as well as the total expenditures per expected offender for each county[281]. The graph showing the total expenditures per expected offender includes the expected offenders under custody of both jail and probation. It excludes Alpine and Sierra counties because they each have fewer than 10 expected offenders, making their expenditures per offender significantly higher than other counties (with Alpine County at $19,220 and Sierra at $38,250, compared to the next highest county of Plumas at $9,450). The state average of expenditures per offender (including Alpine and Sierra) is $5,413.



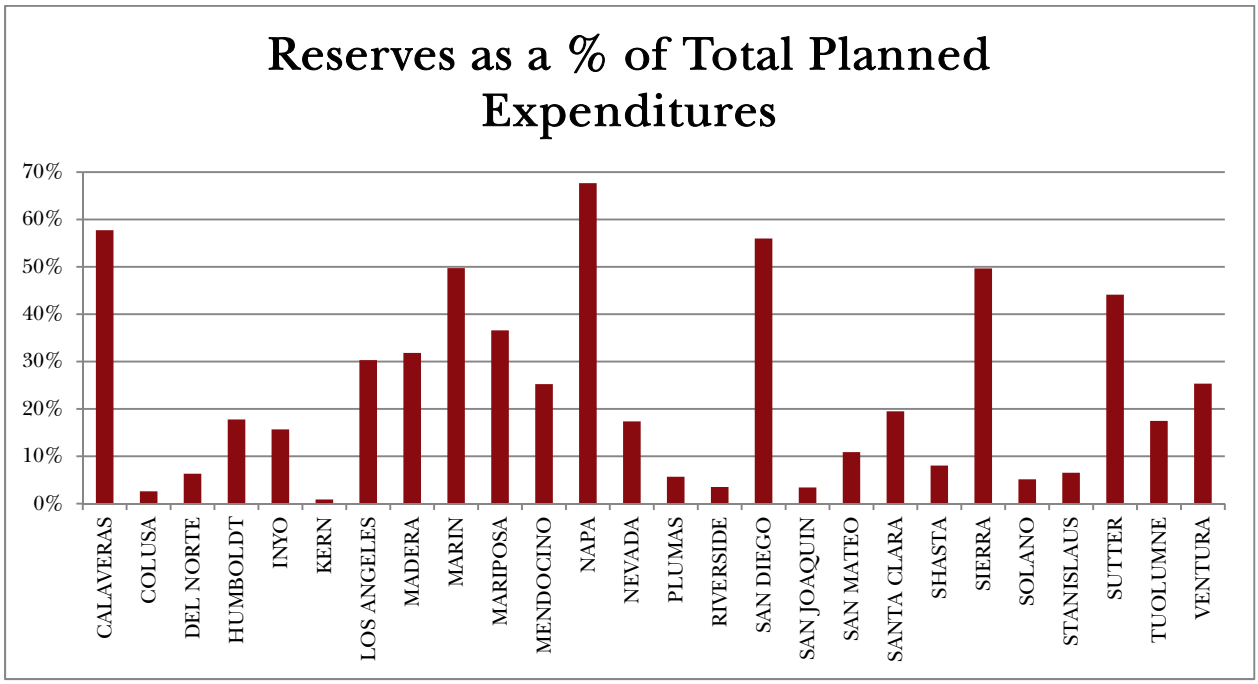
***Note**: The planned expenditures are for county AB 109 budgets for 2011-2012.*

[280] Los Angeles County's budget was calculated by extrapolating the one quarter budget they provided by three.
[281] Los Angeles County's budget was calculated by extrapolating the one quarter budget they provided by three.



***Note**: The planned expenditures are for county AB 109 budgets for 2011-2012. The expected population figures are from the California Department of Finance. The expected offender count includes jail and probation. This graph excludes Alpine and Sierra Counties.*

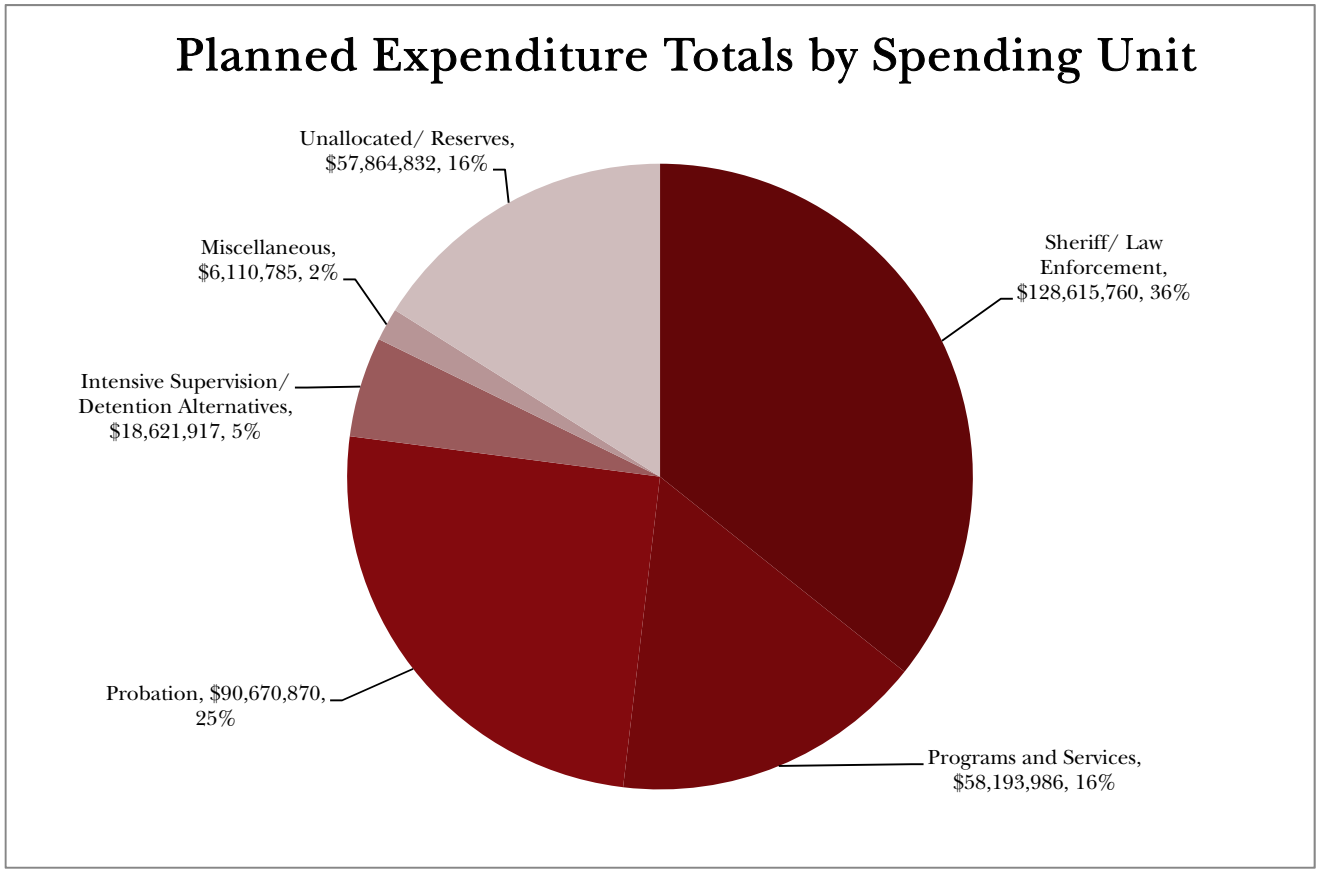
Over $57 million, or 16.1 percent of expenditures allocated, were explicitly put in reserves by the counties in a "wait-and-see" effort that will allow them to observe the actual characteristics of offenders coming back to their jurisdictions before making final spending decisions. San Diego put the highest percentage of their money in reserves for the first year, allocating $14,000,000, or 56% of its budget to this line item. Overall, 27 counties explicitly allocated some money to reserves. [282]



***Note**: The planned expenditures are for county AB 109 budgets for 2011-2012.*

The most well-funded areas were the Probation and Sheriff's departments, programs and services, health and human services, and alternative detention services. The following chart shows the total amounts allocated in all counties by spending unit.

[282] Los Angeles County's budget was calculated by extrapolating the one quarter budget they provided by three.



***Note**: The planned expenditures are for county AB 109 budgets for 2011-2012. The two categories Intensive Supervision/ Detention Alternatives and Programs and Services reflect program type rather than agency running the program. For example, an electronic monitoring program run by the Sheriff is included in the Intensive Supervision/ Detention Alternatives allocation, and not the Sheriff/ Law Enforcement allocation. This means that the Probation and Sheriff/ Law Enforcement allocations are not full representations of the allocation to those agencies, as programs such as Day Reporting Centers, work release, transitional housing, and employment programs are included in the Intensive Supervision/ Detention Alternatives and Programs and Services allocations. This graph differs from the allocations listed in the Petersilia and Snyder "10 Questions" paper, as the Intensive Supervision/ Detention Alternatives category was added as a way to keep track of programs that are not themselves supervision or services, but rather vehicles for them.*

Sheriff's departments were allocated the largest amount of funding at $128,615,760, or 35.7 percent of all expenditure. Los Angeles County allocated the most dollars to the Sheriff at almost $42.2 million[283], followed by Orange at $14.3 million, Riverside at almost $10.1 million, and Sacramento at $5.9 million. However, as a percentage of total expenditures Amador, Alpine, Kings, Fresno, and Orange counties lead the pack. Looking only at the counties that received over $1 million individually,

[283] Los Angeles County's budget was calculated by extrapolating the one quarter budget they provided by three.

Kings is out front with 68 percent of its funding going towards sheriff and law enforcement. San Francisco spent the least of these top revenue counties that allocated to the sheriff, allocating only 3 percent of its budget to the sheriff.

As it relates to funds allocated to the Sherriff's office, Alpine County surpasses all other counties allocating 72 percent of its budget for in-custody supervision. Of counties that received over $1 million, Kings County allocated the most to the sheriff, with 68 percent allocated, to increase jail capacity by 80 beds, and hire additional sheriff's deputies. Behind Kings are Fresno and San Luis Obispo counties allocating 64 and 62 percent of their budgets, respectively. In Fresno, over $4 million of the $5.5 million allocated to the sheriff is being spent to open two floors 432 beds that are currently not being used.

Probation departments were allocated the second largest amount of funding at $90,670,870 or slightly over 25 percent of all expenditures. San Bernardino County allocated the most dollars to Probation at $17.5 million, followed by the projected Los Angeles allocation of $12.8 million, [284] and Orange at $6.7 million. However, as a percentage of total expenditures Trinity, Colusa, and Glenn counties lead the pack. These three counties however only received just under $1 million combined, so the costs of a single probation officer can skew their budget allocation significantly. Looking at the counties that received over $1 million individually, San Bernardino is out front with 63 percent of its funding going towards probation. Los Angeles, based on its projection spent the least of these top revenue counties that specifically allocated to probation, allocating only 11 percent of its budget.

Approximately one-third of all expenditures ($102.6 million) were allocated to salaries (probation, sheriff and other departments such as mental health services[285]. Salaries were the single largest expense across all the budgets, with most positions going to probation officers at a cost of $48 million, then sheriff's deputies for a cost of $43 million. Numerous new behavioral health specialists, substance abuse counselors, and district attorneys were also budgeted for separately, such that with other miscellaneous hires, they comprised about 10 percent of total salary spending. Not every county line-item allocated their budgets. The following graph shows salaries as a percentage of total expenditures for each county that allocated specifically toward salaries.

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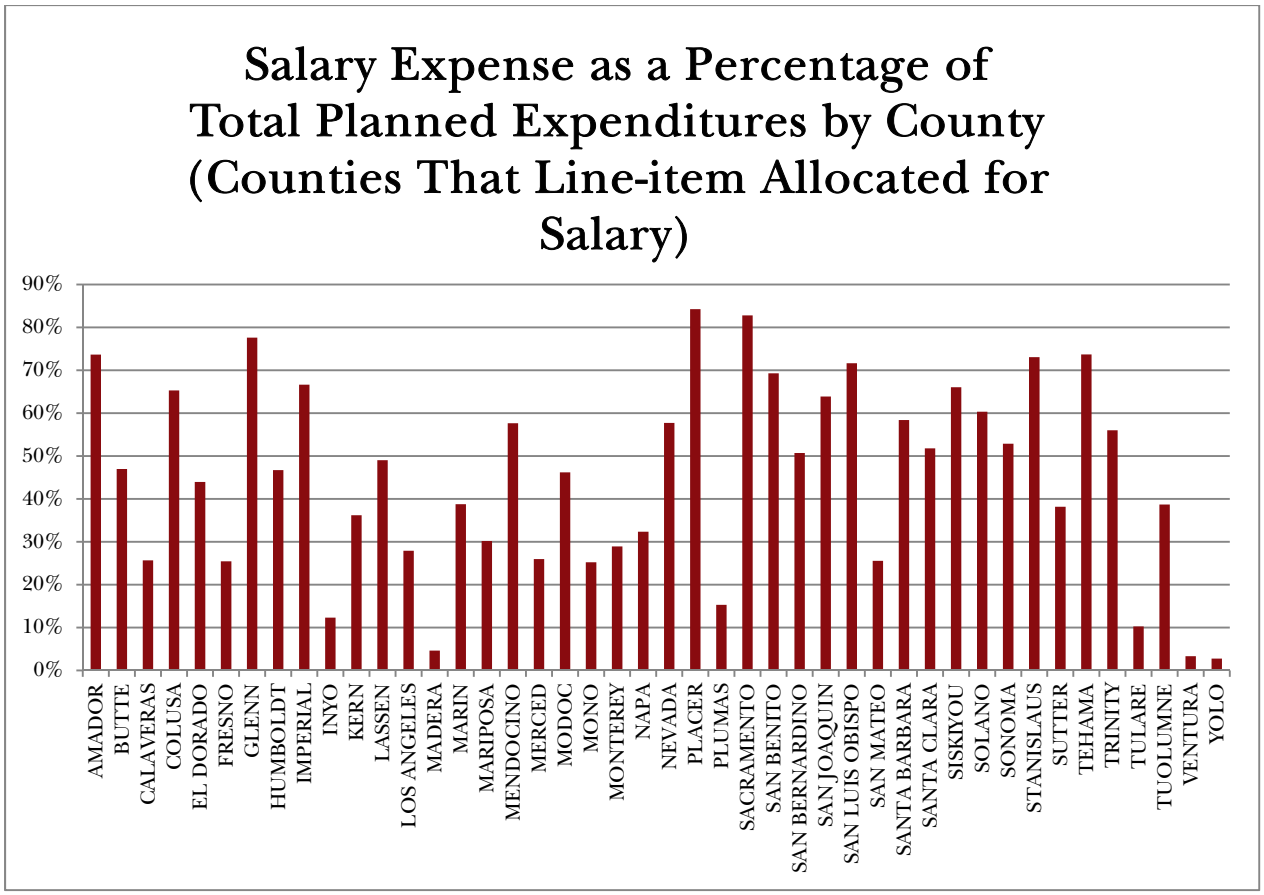
[284] Los Angeles County's budget was calculated by extrapolating the one quarter budget they provided by three.

[285] This number does not take into account that many counties did not allocate specifically to salaries. The average amount allocated to salaries was 45.31%. Fourteen counties did not allocate any money specifically for salaries.



***Note**: The planned expenditures are for county AB 109 budgets for 2011-2012.*

As noted in the county plans section, many counties are focusing on alternative sanctions and intensive supervision in order to mitigate the stress to their jail systems. Three percent of total expenditures were allocated by counties for various programs (not including Day Reporting Centers). Day reporting centers were a specific focus of the counties, with 18 counties allocating $7.4 million total to either open new centers or expand existing ones.[286] San Bernardino allocated $2.3 million for its day reporting centers that are spread across three locations. Counties also plan to invest in increased capacity to perform electronic monitoring pre- and post-sentencing. Among the 21 counties that separately stated funding to purchase electronic monitoring equipment, $3.9 million was spent.

Another method, and perhaps the most obvious way, to deal with the population increase is to expand jails. Surprisingly, most counties did not discuss expanding or

[286] The amount allocated to Day Reporting Centers does not including hiring positions that are in other departments (i.e. probation officers). Those positions were pulled out and allocated to category in which they were hired.

building jail space, and only 6.4 percent of sheriff's expenses were specifically set-aside for jail expansion. In fact, only 7 counties separately stated funding for jails, including Sacramento, Fresno, Monterey, Yolo, San Luis Obispo, Humboldt and San Benito. The total amount allocated for all of these counties combined was less than $10 million, and Fresno's budget comprised over $4 million of that total. As stated in their plan, Fresno is under a federal consent decree for overcrowding that requires the release of an inmate if there are no designated beds for his classification.[287] The funds allocated will be used to open existing unused jail space containing 432 beds.

One reason counties may not have mentioned funding additional jail space in their Realignment plans is because they are planning to use money from other sources to accommodate their needs, particularly AB 900. This legislation was passed in 2007 in one of California's long past efforts to ease the overcrowding problem. It authorized $7.7 billion in all, and $1.2 billion specifically to jails, mainly to fund prison construction, but also to expand rehabilitation programs.[288] The impact of this program has been slow, however, because counties must first identify a location for their facility before receiving the funds. Nevertheless, some counties are now planning to more aggressively pursue this funding post- AB 109. For example, Orange County claims it qualifies for up to $100 million and as such, plans to take advantage of these additional funds. As of September 2012, 14 counties were awarded Phase II AB 900 awards, totaling $774 million to build 5,947 beds.[289]

Outside of using AB 109 and AB 900 funding, Riverside has contemplated an interesting attempt at funding the housing of new offenders. Allegedly facing an $80 million shortfall in their city budget, the County Board of Supervisors approved a plan in December that would charge inmates during their period of incarceration at the local jail to reimburse the county for food, clothing and healthcare.[290] Under the ordinance, indigent offenders won't have to pay, but the county can garnish wages and place liens on homes.[291] It is yet to be seen whether this program can be effective at indemnifying the county for its costs.

As it relates to treatment and rehabilitation, the main programming counties addressed were transitional housing and health programs. Forty-three percent of

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[287] Fresno Plan at 10.
[288] LAO, *A Status Report: Implementing AB 900's Prison Construction and Rehabilitation Initiatives*, 1 (2009).
[289] "AB 900 Phase II Awards—Updated September 13, 2012", Board of State and Community Corrections *and* "AB 900 Phase I & II Status Update—January 25, 2013" Board of State and Community Corrections, *available at* http://www.bscc.ca.gov/programs-and-services/cfc/services.
[290] Jennifer Medina, *In California, A plan to charge inmates for their stay*, NY TIMES, Dec. 11, 2011, *available at* http://www.nytimes.com/2011/12/12/us/in-riverside-california-a-plan-to-charge-inmates.html?_r=1.
[291] *Id.*

programming and services, or $25.4 million, was dedicated to expanding offender housing services, substance abuse, and mental health programs. Santa Clara allocated the most money to housing, designating $2.5 million for services and supplies for transitional housing units. More than $20 million was allocated for substance abuse and mental health programs by the counties, and total programming and services comprised $58 million, or 16 percent of all expenditures.

Eleven counties allocated more than $1 million for the Programs and Services spending unit: Los Angeles, Riverside, San Mateo, Orange, San Joaquin, San Francisco, Kern, San Bernardino, San Diego, Santa Clara, and Alameda. Of those eleven, when analyzing the programming and services budgets as a percent of total expenditures, only San Mateo stays among the top plans in spending, allocating 56 percent of its budget on programming. This is compared to the next highest percentages spent on Programs and Services of the eleven: Santa Clara spent 32 percent, San Francisco spent 31 percent, and San Joaquin spent 28 percent. Of the counties that spent less than $1 million on Programs and Services, Lassen set aside 59 percent for programming, Modoc at 44 percent, Plumas at 43 percent, and Santa Cruz at 33 percent.

It should be noted that many counties focused their first year of funding on hiring probation officers and sheriff's deputies in order to ensure they can meet the immediate needs of offenders coming home in the first few months of implementation. They are applying a "wait-and-see" mentality (like with reserve allocations) as it relates to programming in order to tailor their offerings to offender needs.

Selected County Observations

As previously stated the variation among the plans is quite great. Not only did counties provide significantly differing amounts of detail, they also budgeted different percentages of their state allocation. While some counties accounted for too little, most other counties either allocated the exact amount they expect to receive from the state, or budgeted for far more expenditures than AB 109 revenues will be able to cover. Twelve counties including Tehama, Napa, San Benito and Siskiyou all under-allocated their apportioned program revenues by at least $1,000. Of the counties that budgeted for more than their AB 109 allocation, some considered revenues from other sources. San Francisco, for example, considered an additional $4.8 million in its budget that will be allocated from their General Fund. Of course, those counties that are eligible will also continue pursuing SB 678 funds.

Given that mental health services are largely what brought California's prison overcrowding situation to the national forefront, it is no surprise that a significant

portion of expenditures are being attributed to health services (7.6 percent of the total county allocations to health services overall and 4.8 percent overall to mental health services). After the probation department and sheriff's office, health services comprise the next largest category of expenditures. In particular, Riverside plans allocated about $4 million to the Department of Mental Health.

Other counties that paid special attention to health and mental health needs include Orange, allocating just over $2 million, Kern at about $1.5 million, and San Mateo allocating approximately $1 million. In addition, although the dollar amount is not as great ($274,066), El Dorado focused 23 percent of its budget on a health coordinator and to contract for health services. Many counties also mentioned continuing to fund their mental health services using funds from the Mental Health Services Act (MHSA). Portions of the MHSA were also realigned in the 2011 Realignment legislation. While there may be other counties that are planning to use MHSA funds, Santa Clara County specifically mentioned in its plan $853 thousand for these purposes.

Lastly, there were some plans that took a balanced approach to funding various expenditures. Santa Clara allocated 24 percent to the sheriff, 24 percent to probation, 33 percent to programs and services (including housing, health, and workforce development) and 20 percent to reserves. Ventura was equally as balanced designating 24 percent to the sheriff, 26 percent to probation, 16 percent to program and services (including housing, health, and workforce development) and leaving 25 percent in reserves.

As more and more offenders are sentenced to local jails and as AB 109 offenders are released to local supervision, counties will be able to form a clearer picture of the challenges and risk they are facing. As Realignment moves forward, and more information becomes available, counties should reassess the financial decisions made in these first few months of implementation and take full advantage of the flexibility offered by the legislature.

Discussion of County Indices

The arrays below are based on two formulas that included (1) the items counties mentioned, (2) the depth at which they discussed certain items, and (3) the ways counties chose to allocate their money. These charts provide a picture—albeit a picture with limitations—of the spectrum along which the county plans fell.

Many, if not most, of the counties' positions on the arrays matched our subjective evaluations of their plans. Other counties did not line up with where we believed they ultimately fell on the spectrum from surveillance/custody focused to programs/services focused. For example, we believe Santa Cruz belonged farther along the programs/service axis. We think Santa Cruz's position on the charts below was tempered by the fact that the county did not include as many specifics about the programs it was planning as many of the other counties did, so it did not receive as many points in that area. Santa Cruz only provided in-depth detail about the first phase of its plan, which focused on "those resources that are needed to expand system capacity regarding incarceration and community supervision for the initial cohort of offenders."[292]

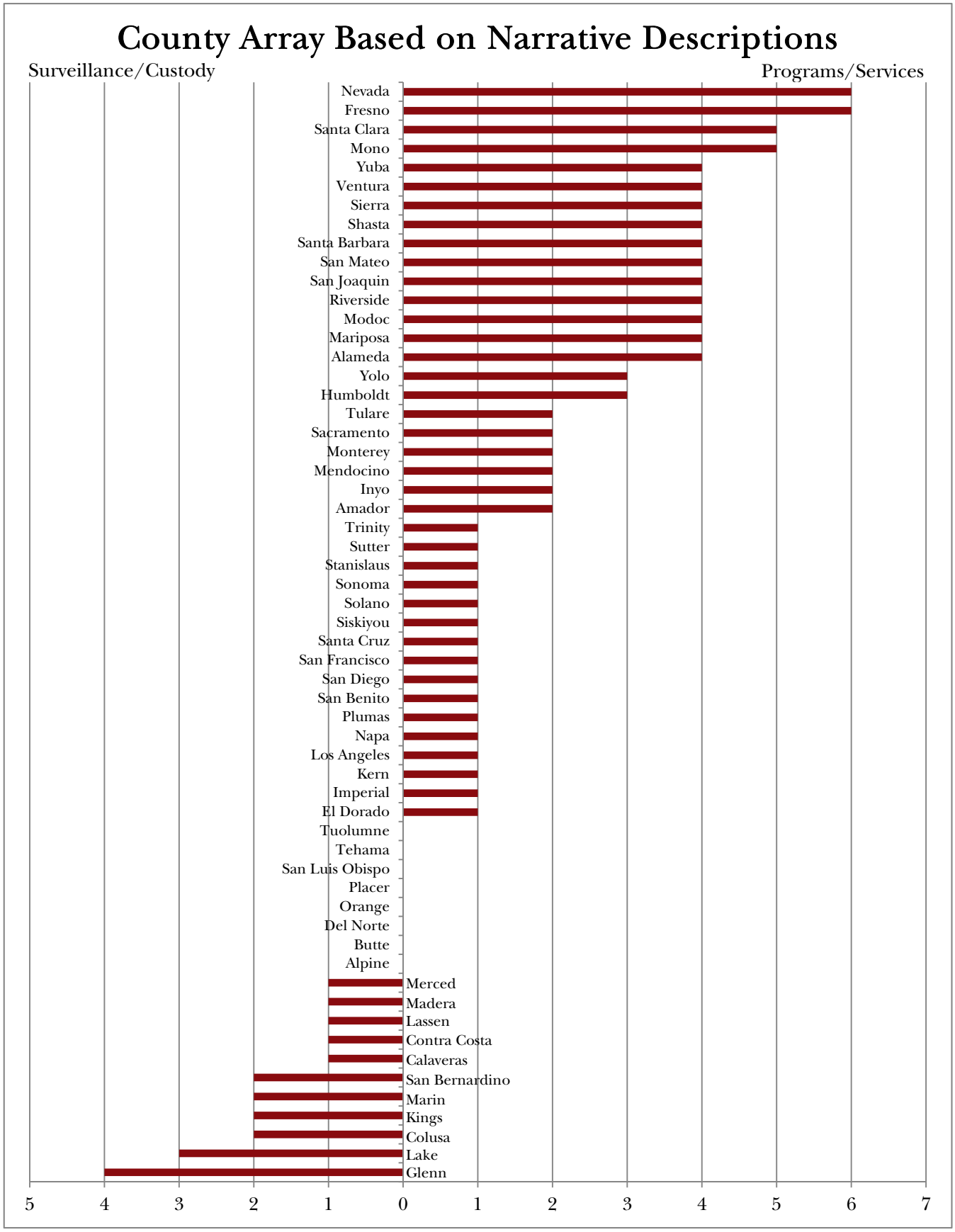
One interesting point to not about the indices is how many more counties fall on the custody/surveillance side of the array when budgets are taken into account. There are a number of possibilities for this. Some possible reasons include: While more counties talked about implementing programs and services, more funding went to (or was necessary) for the custody and surveillance parts of their plans. For example, a county may be instituting many programs, but in the initial time frame of Realignment, needs to hire new correctional officers that cost more than the steps needed to start the programs. Another related issue could be that counties needed to spend more on custody and surveillance during the first year to deal with the initial influx of offenders. It could also be that the counties that move from the programs and services side to the custody and surveillance side had less detailed budgets, and did not separate out as much programs.

Limitations of the narrative-only formula include (1) the plans are an imperfect measure of the actions the counties will actually take, (2) phased-in plans that focused on responding to immediate infrastructure needs likely appeared more surveillance/custody oriented than the full plans may end up being, (3) plans that listed a number of items without fully exploring their implementation may have received more weight on either end of the spectrum than they deserved, and (4) jail expansion or building was not necessarily representative of a greater focus on custody; counties who were extremely focused on programs and services, and who traditionally heavily use alternatives to incarceration, could simply have been out of jail space.

Limitations of the narrative-plus-budget formula include (1) we were only imperfectly able to categorize budget expenditures based on the counties' varying levels of specificity, and (2) again, jail spending was not necessarily representative of a greater focus on custody.

[292] Santa Cruz Plan at 25.

Despite these limitations, we think the following arrays provide a starting point for discussion and are representative of what the counties said in their plans, regardless of whether they are perfectly illustrative of the actions the counties plan to take.


County Array Based on Narrative Descriptions
Surveillance/Custody
Programs/Services
Nevada
Fresno
Santa Clara
Mono
Yuba
Ventura
Sierra
Shasta
Santa Barbara
San Mateo
San Joaquin
Riverside
Modoc
Mariposa
Alameda
Yolo
Humboldt
Tulare
Sacramento
Monterey
Mendocino
Inyo
Amador
Trinity
Sutter
Stanislaus
Sonoma
Solano
Siskiyou
Santa Cruz
San Francisco
San Diego
San Benito
Plumas
Napa
Los Angeles
Kern
Imperial
El Dorado
Tuolumne
Tehama
San Luis Obispo
Placer
Orange
Del Norte
Butte
Alpine
Merced
Madera
Lassen
Contra Costa
Calaveras
San Bernardino
Marin
Kings
Colusa
Lake
Glenn
5
4
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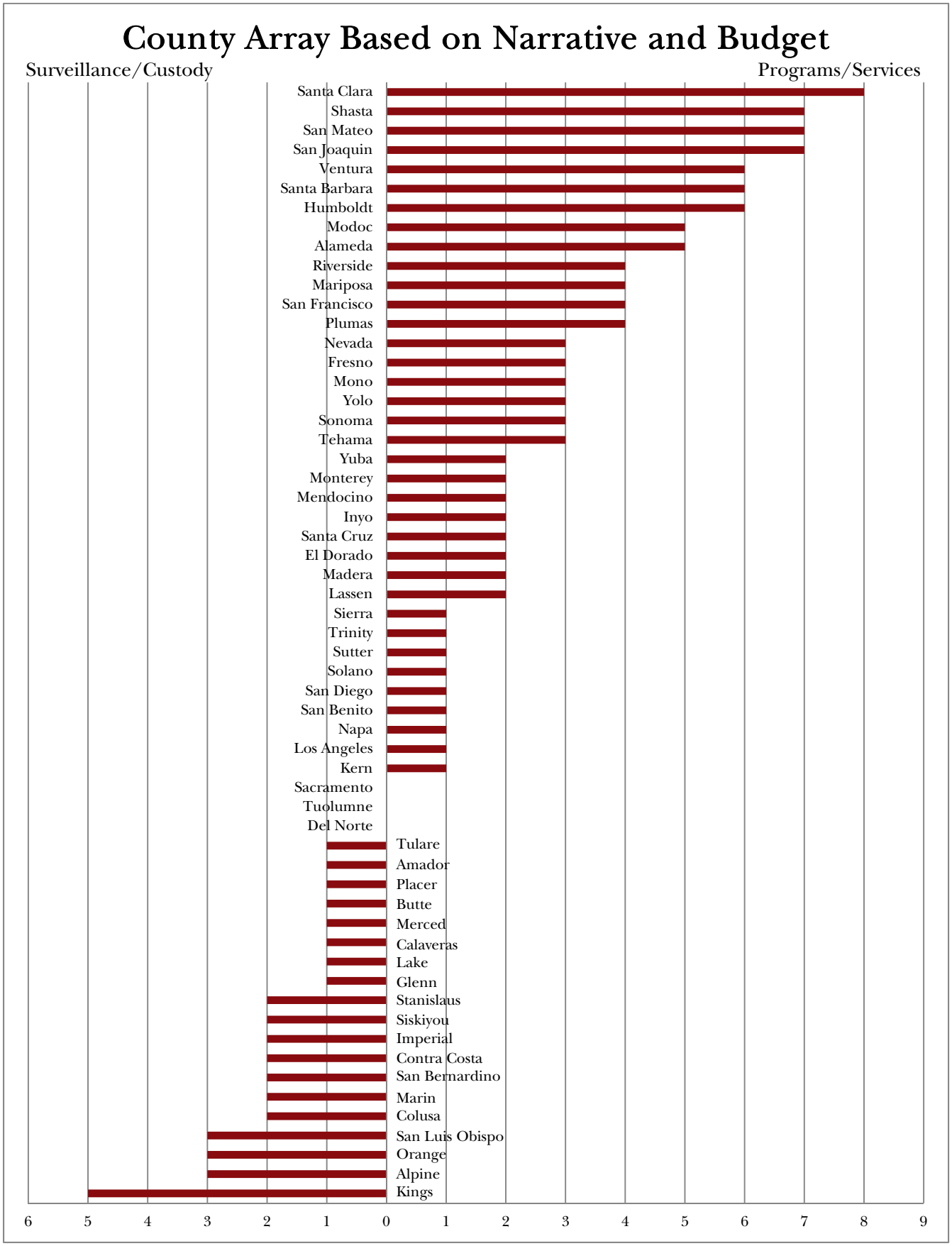
County Array Based on Narrative and Budget
Surveillance/Custody
Programs/Services
Santa Clara
Shasta
San Mateo
San Joaquin
Ventura
Santa Barbara
Humboldt
Modoc
Alameda
Riverside
Mariposa
San Francisco
Plumas
Nevada
Fresno
Mono
Yolo
Sonoma
Tehama
Yuba
Monterey
Mendocino
Inyo
Santa Cruz
El Dorado
Madera
Lassen
Sierra
Trinity
Sutter
Solano
San Diego
San Benito
Napa
Los Angeles
Kern
Sacramento
Tuolumne
Del Norte
Tulare
Amador
Placer
Butte
Merced
Calaveras
Lake
Glenn
Stanislaus
Siskiyou
Imperial
Contra Costa
San Bernardino
Marin
Colusa
San Luis Obispo
Orange
Alpine
Kings
6
5
4
3
2
1
0
1
2
3
4
5
6
7
8
9

Conclusion

California is now over 18 months into Realignment, and the feedback is mixed. Mayor John Solis of La Puente blamed Realignment for the area's jump in crime, reporting that sexual assaults are up about 300 percent and assaults with guns and knives are up nearly 150 percent citywide since Realignment took place.[293] Mayor Solis believes "more crimes are being committed because, 'Go in for a year, I'll be out in a week, I'll take my chances, it's worth it.'"[294] Similarly, Gilroy police, who have conducted a few recent high-profile rearrests of men released back into the community under AB 109, are saying that "the state's inmate release program will likely increase Gilroy's crime rate."[295]

On the other hand, Shasta County Chief Probation Officer Wesley Forman believes Realignment gives the county a "chance to do it better": "What it's doing is giving us control of the offenders who are committing crimes and living in our community. . . . It's in our power now. We are looking at it as an opportunity." And Realignment is certainly making a difference in the prisons. CDCR announced in early January, 2012 that it had "cut prison overcrowding by more than 11,000 inmates over the last six months," meeting the court-ordered six-month benchmark.[296] A recent editorial in the Sacramento Bee began, "Gov. Jerry Brown's [R]ealignment already is having a positive impact on the statewide prison system."[297] In January 2013, Governor Brown announced that "the prison crisis is over", requesting that federal oversight of the prisons is lifted.[298]

What is yet to be seen is whether Realignment will put an end to California's revolving door of incarceration and release. The county plans reveal some strong ideas as well as some gaps in implementation. One of the most important factors that will dictate the success of the legislation is whether the state will design a funding allocation formula that is sufficient to meet the needs of the offenders returning to the counties. The state

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[293] Jon Baird, *La Puente Mayor Blames Prison Realignment for Surge in Violent Crime*, CBS Los Angeles (Jan. 12, 2012), http://losangeles.cbslocal.com/2012/01/12/la-puente-mayor-blames-prison-realignment-for-surge-in-violent-crime/.
[294] *Id.*
[295] Amy Larson, *Police: "Career Criminal" Released by State Nabbed in Gilroy*, KSBW.com (Jan. 12, 2012), http://www.ksbw.com/news/30200838/detail.html. One of the men, who was deemed a "career criminal," was rearrested for auto theft, resisting arrest, possessing methamphetamine for sale and violating his parole, while the other has been rearrested twice and charged with violent felonies since his release.
[296] CDCR, *CDCR Meets First Court Benchmark to Reduce Prison Overcrowding* (Jan. 6, 2012), http://cdcrtoday.blogspot.com/2012/01/cdcr-meets-first-court-benchmark-to.html.
[297] *Editorial: Progress in Reducing Prison Overcrowding*, SACRAMENTO BEE (Jan. 20, 2012), http://www.sacbee.com/2012/01/20/4201289/progress-in-reducing-prison-overcrowding.html#storylink=misearch#storylink=cpy.
[298] *See, for example*, Paige St. John, "Gov. Jerry Brown calls on feds to give up oversight of prisons", LOS ANGELES TIMES, Jan. 8, 2013, *available at* http://articles.latimes.com/2013/jan/08/local/la-me-prisons-brown-20130109.

should collaborate with the counties to create financial incentives that align their goals with the state's vision for Realignment. As the counties bring their plans into full implementation, they have an opportunity to work together and share best practices. In order to determine what the best practices are, they must be willing to collect meaningful data, evaluate their programs, and make changes when systems are not working. CPOC's and other organizations' efforts to bring the counties and researchers together are key to developing these best practices. Overall, the goal of Realignment is not simply to shift the location where offenders serve their time. It is to reinvest justice resources where they can make the most difference in the lives of offenders and the communities where they live.

Appendix A

Topics Coded for Mentions from County Plans

Topics highlighted in yellow were added while coding.

Topics highlighted in blue were taken out while coding.

Plan Process/Attitude

- Phased-in
- "Interim"
- Hired consultant
- Negative about amount of funding
- Negative about formula/formula incentives
- Negative about risk levels
- Positive about opportunity
- Negative about lack of time to prepare
- Statistical analysis used in planning
- Negative about number of or projection of number of offenders coming under county supervision
- Date Plan Passed
- Plan Updated?
- Number of People listed on the committee

Alternative Sanctions

- Day reporting centers
- Mental health court
- Drug court
- Domestic violence review courts
- Prop. 36 court
- Veterans court
- Reentry court
- Other specialty court
- Community service
- Flash incarceration
- State fire camp
- Work release
- Electronic monitoring (pre-sentencing)
- Electronic monitoring (post-sentencing)
- Offenders are paying part/all of the cost of alternative sanction program
- If offenders are paying, there is a sliding scale or fee waiver available

Risk Assessment

- For determining sanctions
- For determining supervision
- For determining services needed
- Have current risk assessment tool

- Developing new risk assessment tool
- COMPAS tool
- STRONG tool (Static Risk Assessment Offender Need Guide)
- CAIS tool (Correctional Assessment and Intervention System)
- Wisconsin Risk & Needs Validated Assessment Tool
- Level of Service/Case Management Inventory (LS/CMI)

Rehabilitation & Reentry

- Cognitive behavioral intervention
- Mentions evidence-based programming
- Explaining how particular program has been validated through studies
- Partnership with community-based organizations
- Contracting out for services with private contractor (e.g., BI, Inc.)
- Faith-based organizations
- Mentoring program
- Employment support
- Vocational training
- Education support
- Benefits and economic supports
- Self-help and peer support networks
- Family involvement
- Reentry team/program
- Community meetings/community education about Realignment
- Parenting classes
- Pre-trial programming
- Gender-specific programming

Probation

- Training for probation department
- Hiring new probation officers
- Weapons training
- Arming probation officers
- High-risk probation units for high-risk offenders

Jails

- Currently overcrowded jails
- Jails currently under court order
- Building jails
- Expanding existing jails
- Reopening closed jail space
- Hiring new correctional staff
- Training for correctional staff
- Improvements to correctional facilities

Law Enforcement

- Hiring new law enforcement staff
- Funding for law enforcement
- Training law enforcement to deal with new population

- Using law enforcement as postrelease supervision supervisors (distinguish from pre-sentencing law enforcement supervision)

Measurement of Outcomes & Data Collection

- Internal evaluation
- External evaluation (done by non-profit, etc.)
- Evaluation of specific program(s)

Mental Health Treatment

- Medications for mentally ill
- Risk assessment for mentally ill
- Services for mentally ill

Substance Abuse Treatment

- Community-based substance abuse treatment
- In-jail substance abuse treatment

Physical Healthcare

- In jail
- In community

Specialized Housing

- Housing for the mentally ill/developmentally disabled
- Housing for the developmentally disabled
- Residential substance abuse treatment
- Transitional housing
- Housing vouchers

Other

- District attorney training
- District attorney funding
- Public defender funding
- Public defender training
- Court funding

Topics Coded for Depth from County Plans

Topics highlighted in yellow were added while coding.

Topics highlighted in blue were taken out while coding.

Alternative Sanctions

- Day reporting centers
- Specialty courts (all courts combined)
- Community service
- Flash incarceration
- State fire camp
- Work release
- Electronic monitoring

Risk Assessment

- Risk assessment

Rehabilitation & Reentry

- Cognitive behavioral intervention
- Evidence-based programming
- Partnership with community-based organizations
- Contracting out for services with private contractor (e.g., BI, Inc.)
- Faith-based organizations
- Mentoring program
- Employment support
- Vocational training
- Education support
- Benefits and economic supports
- Self-help and peer support networks
- Family involvement
- Reentry team/program
- Community meetings/community education about Realignment
- Parenting classes
- Pre-trial programming
- Gender-specific programming

Probation

- Training/hiring/funding for probation officers
- Weapons training/arming probation officers
- Arming probation officers
- High-risk probation units for high-risk offenders

Jails

- Capacity
- Currently overcrowded jails/jails under court order for capacity
- Building jails
- Expanding existing jails
- Reopening closed jail space
- Hiring/training correctional staff

Law Enforcement

- Hiring/training/funding law enforcement staff
- Using law enforcement as postrelease supervision supervisors (distinguish from pre-sentencing law enforcement supervision)

Measurement of Outcomes & Data Collection

- Measurement of outcomes & data collection

Mental Health Treatment

- Mental health treatment

Substance Abuse Treatment

- Substance abuse treatment

Physical Healthcare

- Physical healthcare

Specialized Housing

- Specialized housing

Appendix B

Topics Coded for Depth from County Plans

These variables code for the depth that the county discussed specific programs in their county plan for the Public Safety Realignment Act.

0=no significant depth of coverage
2=1 to 2 paragraphs of coverage
3=more than 2 paragraphs of coverage, with detail about policy or plan at issue
4=exceptionally lengthy and detailed coverage

Exception:

For community based organizations, contracting out for services, and faith-based organization, if the county mentioned the name of the organization or company with whom they would be working, it was coded at least a 2 (higher with more depth), because it provided more detail than simply stating they would be working with a community- or faith-based organization or contracting with a private contractor.

Alternative Sanctions

Day reporting centers	This codes the depth that the county discussed the details of their implementing a Day Reporting Center or a place for day reporting or including the AB109 population in their current one.
Specialty courts (all courts combined)	This codes the depth that the county discussed the details of their implementing specialty courts reporting or including the AB109 population in their current ones. This includes Mental Health Courts, Drug Courts, Domestic Violence Courts, Proposition 36 Courts,

	Veteran's Courts, and Reentry Courts.
Community service	This codes the depth that the county discussed the details of their using or continuing to use community service as an alternative sanction.
Flash incarceration	This codes the depth that the county discussed the details of their using flash incarceration as an alternative sanction.
Work release	This codes the depth that the county discussed the details of their using or continuing to use work release as an alternative sanction.
Electronic monitoring	This codes the depth that the county discussed the details of their using or continuing to use electronic monitoring as an alternative sanction. This combines both the pre- and post-sentencing use of electronic monitoring.

Risk Assessment

Risk assessment	This codes the depth that the county discussed the details of their using or continuing to use a risk assessment to evaluate the risk levels of offenders in the county. This combines discussion of risk for sanctions, supervision, and services with discussion of a specific risk assessment and if the county is developing or already has a risk assessment.

Rehabilitation & Reentry

Cognitive behavioral intervention	This codes the depth that the county discussed the details of their using or continuing to use cognitive behavioral intervention as a program for rehabilitation. This is not limited to Cognitive Behavioral Therapy (which is also coded here), but open to all cognitive behavioral interventions used. This variable codes both in jail and community-based cognitive behavioral interventions

Evidence-based programming	This codes the depth that the county discussed the details of their using or continuing to use evidence-based programming for rehabilitation and reentry programs. This variable codes both in jail and community-based evidence-based programming interventions
Partnership with community-based organizations	This codes the depth that the county discussed the details of their partnering or continuing to partner with community-based organizations to implement or continue programs in jail or in the community. This variable notes non-faith community-based organizations only, not for-profit, private organization, faith organizations, or other county organizations.
Contracting out for services with private contractor (e.g., BI, Inc.)	This codes the depth that the county discussed the details of their forming or continuing a contract to implement or continue programs in jail or in the community. Contracts that were coded included rehabilitation programs, housing, and in-jail programming. Contracts that were not coded included OffenderLink (for phone-in reporting) and organizations who make risk assessments (who produce, but do not provide the service).
Faith-based organizations	This codes the depth that the county discussed the details of their partnering or continuing to partner with faith-based organizations to implement or continue programs in jail or in the community. Faith-based programming (generally in jail) was not coded if it was not explicitly run by a faith-based organization.
Mentoring program	This codes the depth that the county discussed a mentoring program for offenders for rehabilitation and reentry in jail or in the community that is current or being implemented.
Employment support	This codes the depth that the county discussed employment support programming that is to be implemented or continued, including help in

	areas including the job search, resume skills, job placement, and post-placement services to help offenders remain employed. Employment support both in and out of jail was coded.
Vocational training	This codes the depth that the county discussed vocational training programming that is to be implemented or continued to give offenders employable skills. Vocational training both in and out of jail was coded.
Education support	This codes the depth that the county discussed education support programming that is to be implemented or continued This includes, among other programs, GED classes, higher education, and English as a Second Language classes. Education support both in and out of jail was coded.
Benefits and economic supports	This codes the depth that the county discussed benefits or economic supports to offenders that will be implemented or continued. This includes counties helping offenders gain access to benefits and economic supports (such as CalWORKs and CalFresh).
Self-help and peer support networks	This codes the depth that the county discussed self-help and peer support networks for offenders that will be implemented or continued. This included self-help classes (such as anger management) and peer support classes and programs. Self-help and peer support both in and out of jail was coded
Family involvement	This codes the depth that the county discussed having the involvement of the offender's family to aid his or her rehabilitation and reentry that will be implemented or continued.
Reentry team/program	This codes the depth that the county discussed providing a reentry team or program that will be implemented or continued. These programs are specifically targeted to help offenders in the reentry process. Reentry teams and programs who work with offenders pre- and

	post-release were coded.
Community meetings/community education about Realignment	This codes the depth that the county discussed having community meetings and education to help teach the community about what Realignment is and how the new populations of offenders will affect the community, the local justice system, and public safety.
Parenting classes	This codes the depth that the county discussed providing parenting classes, teaching parenting skills, which will be implemented or continued. Parenting classes both in and out of jail were coded.
Pre-trial programming	This codes the depth that the county discussed having or beginning pre-trial programming for the pre-sentencing offender population. This includes rehabilitation programming and pre-trial release programs.
Gender-specific programming	This codes the depth that the county discussed having or beginning rehabilitation and reentry programming that is gender specific. Gender specific programming both in and out of jail was coded.

Probation

Training/hiring for probation officers	This variable combines the depth that the county discussed the hiring and training (new and continuing) of probation officers. This includes training to deal with the new populations as well as training in evidence-based practices and programming such as Motivational Interviewing. Other probation training is also included, but regular onboarding training is not. This also includes re-hiring previously removed positions. Administrative staff for the probation department was not coded.

Weapons training/arming probation officers	This variable combines the depth that the county discussed giving or continuing to give weapons training and weapons to probation officers.
High-risk probation units for high-risk offenders	Notes the depth the county discussed the high-risk probation unit for high-risk offenders it will be forming or it already has.

Jails

Currently overcrowded jails/jails under court order for capacity	This variable combines a counties depth of discussion of their currently overcrowded jails or jails currently under court order. This does not note counties who say that new AB109 offenders will cause the jails to be overcrowded. This also does not note if their jails used to be under court order and now are not.
Building jails	This variable codes the depth of discussion a county has on building a new jail to deal with the new population or finishing a current jail building project that will be used to help accommodate the new population.
Expanding existing jails	This variable codes the depth of discussion a county has on expanding their current jails to increase bed space. This does not include reopening portions of jails that had been closed.
Reopening closed jail space	This variable codes the depth of discussion a county has on reopening portions of jails that had been closed. This does not include if the county will be expanding their current jails to increase bed space.
Hiring/training correctional staff	This variable combines the depth of discussion a county has on hiring new correctional staff for their jails and training their correctional staff (new and old). This includes re-hiring previously removed positions. Administrative staff in correctional facilities was not coded.

Law Enforcement

Hiring/training law enforcement staff	This variable combines the depth of discussion a county has on hiring new law enforcement staff and training their law enforcement staff (new and old) to help them deal with the new population. This includes re-hiring previously removed positions. The hiring of administrative staff was not coded. Regular onboarding training is not.
Using law enforcement as postrelease supervision supervisors (distinguish from pre-sentencing law enforcement supervision)	This variable codes the depth of discussion a county has on using or continuing to use law enforcement at either the county or the city level to aid the probation department with offenders on postrelease. This does not include law enforcement supervising offenders in pre-sentence alternative supervision programs.

Measurement of Outcomes & Data Collection

Measurement of outcomes & data collection	This variable combines the depth of discussion a county has on the measurement of outcomes and data collection done both internally and externally.

Mental Health Treatment

Mental health treatment	This variable combines the depth of discussion a county has on services they will or continue to provide for the mentally ill, medications they will or continue to provide for the mentally ill, and risk assessment they will or continue to administer for the mentally ill. This includes if the county is assessing for criminogenic risk, and does not include a mental health risk assessment (that assesses a mentally ill individual's risk of harming oneself or others). This also includes services both in and out of jail.

Substance Abuse Treatment

Substance abuse treatment	This variable combines the depth of discussion that a county has on both in jail and community-based substance about treatment.

Physical Healthcare

Physical healthcare	This variable combines the depth of discussion that a county has on both in jail and community-based physical healthcare services.

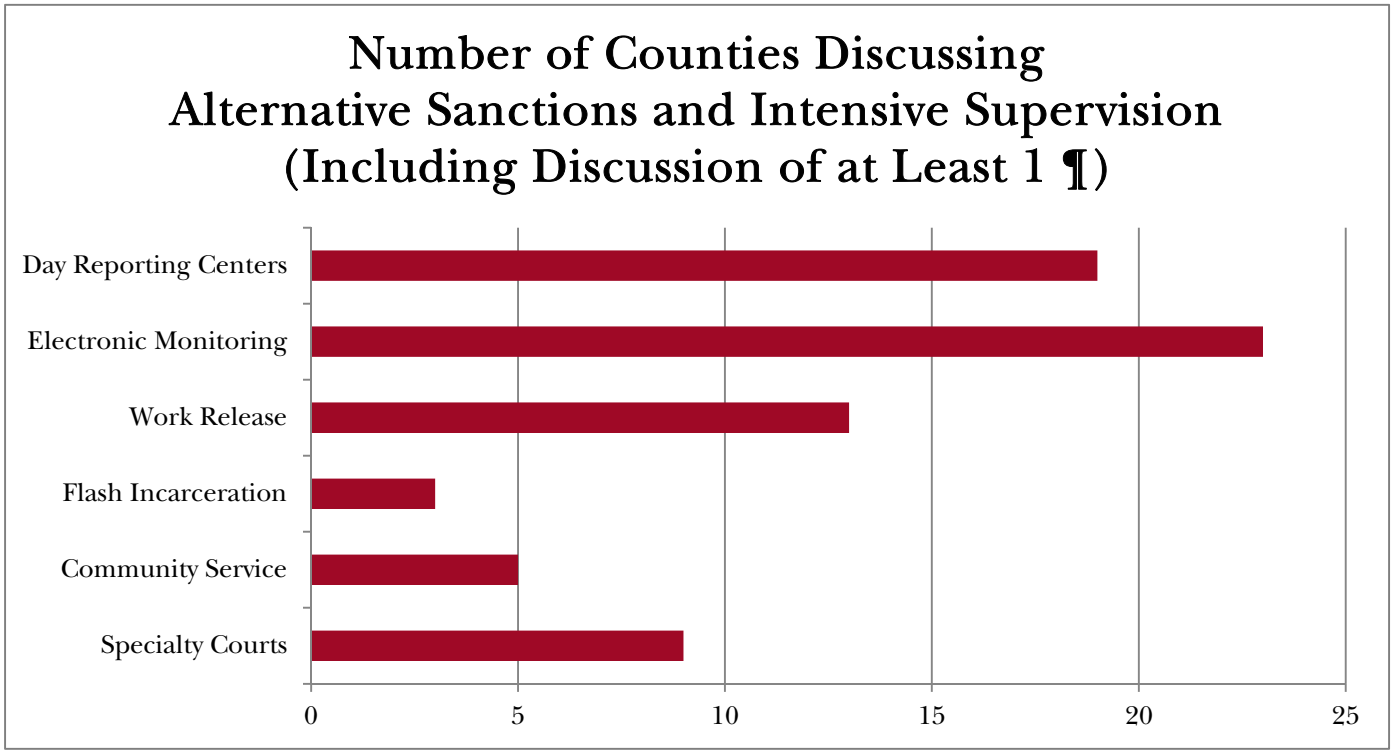
Specialized Housing

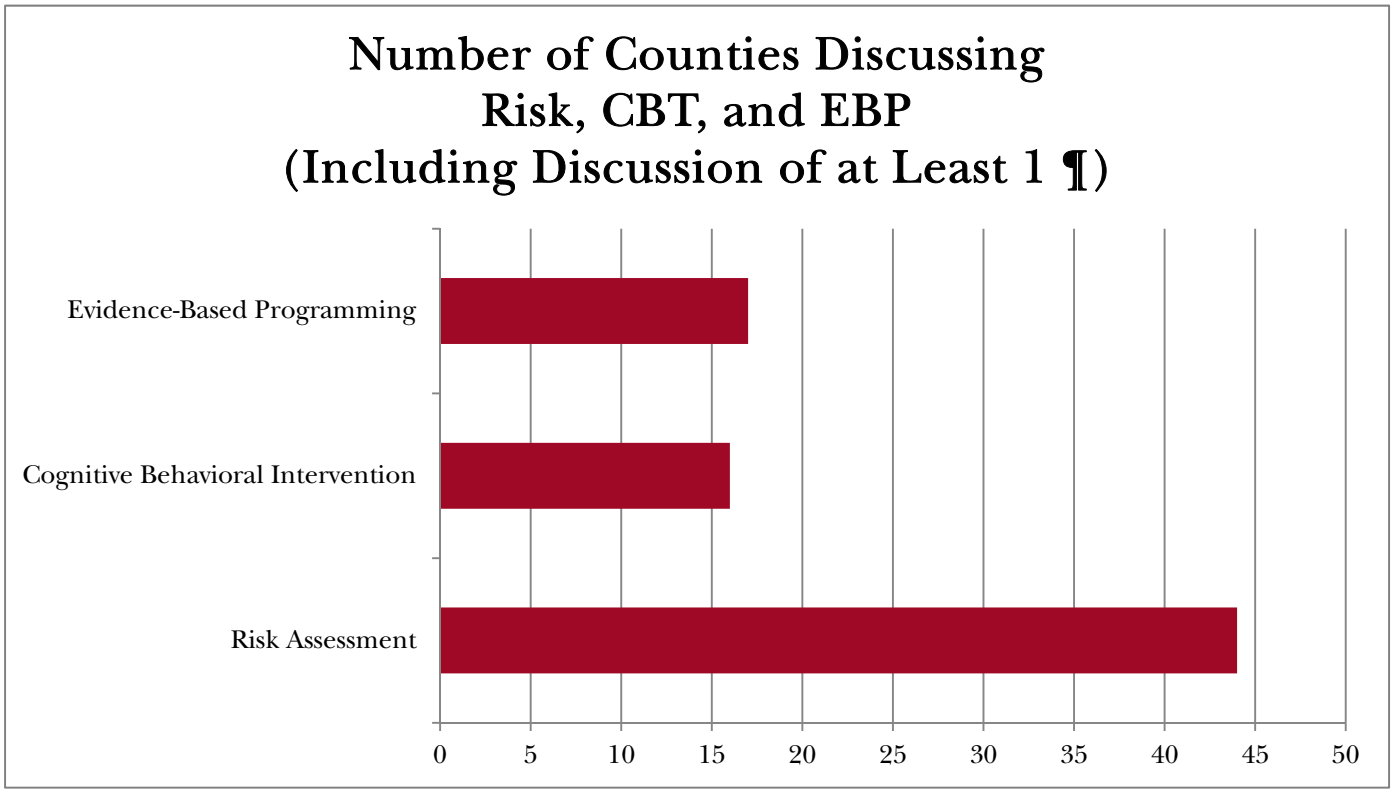
Specialized housing	This variable combines the depth of discussion a county has on housing for the mentally ill or developmentally disabled, residential substance abuse treatment, transitional housing, and housing vouchers.

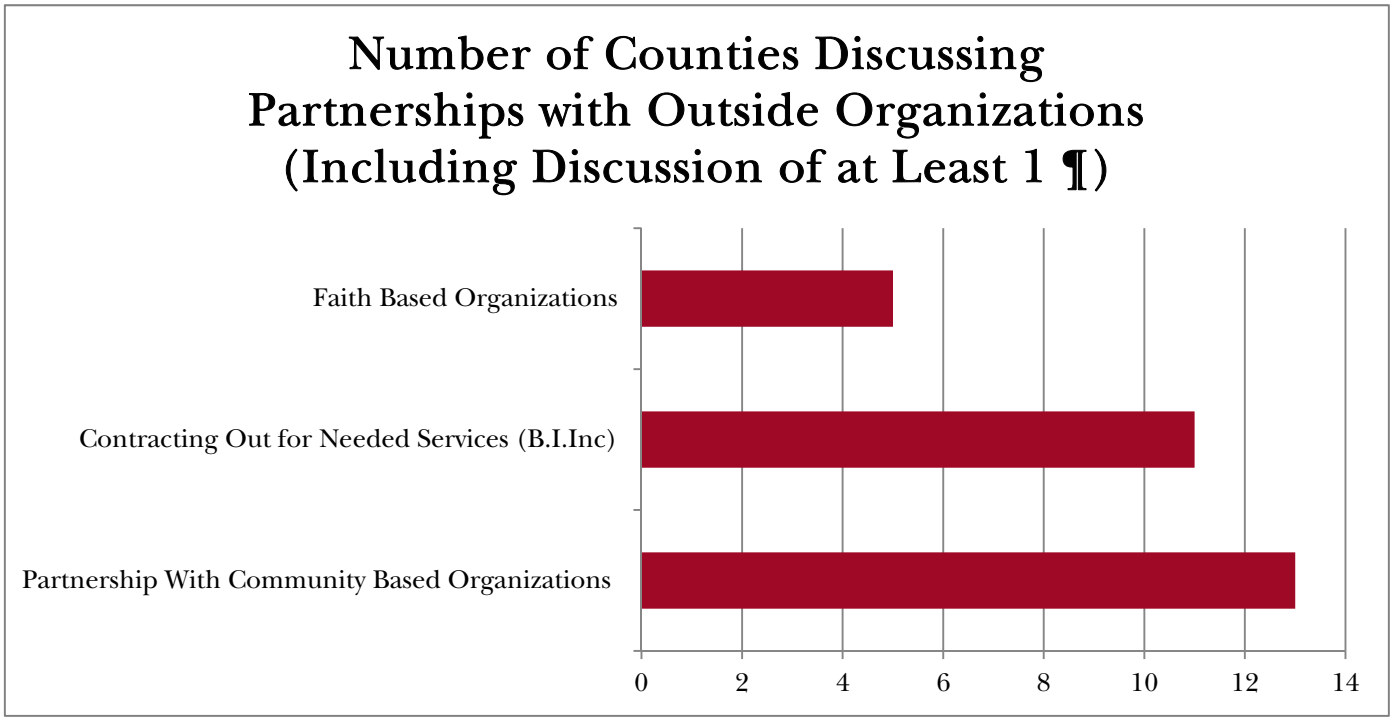
Topics that had been coded but were either deleted or combined with other variables

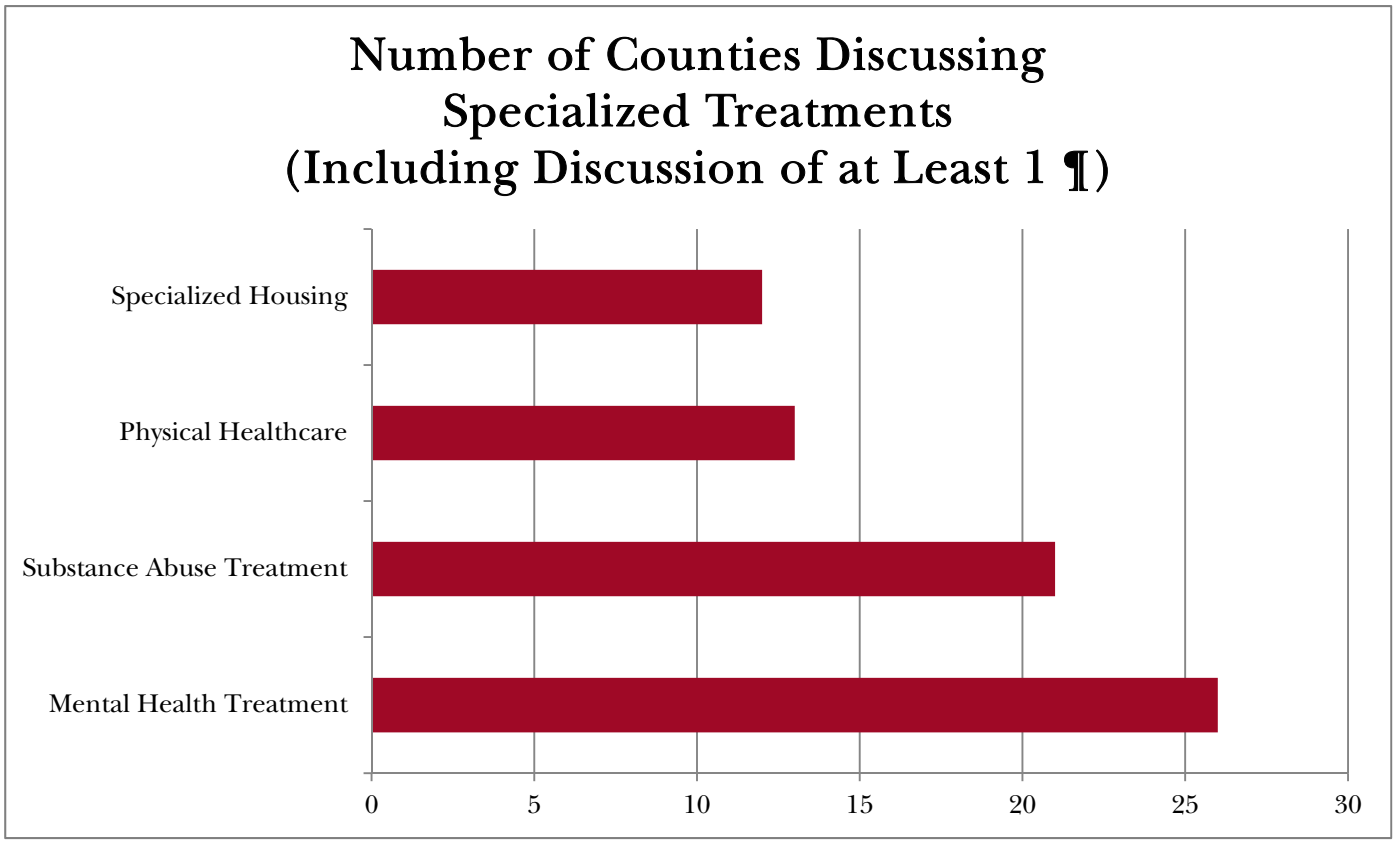
State fire camp	This category was deleted.
Funding for probation officers	This category was deleted.
Arming probation officers	This category was deleted.
Capacity (we are going to separate out these categories)	This category was separated out into currently overcrowded jails/jails under court order for capacity, building jails, expanding existing jails, and re-opening closed jail space.
Funding law enforcement staff	This category was deleted.

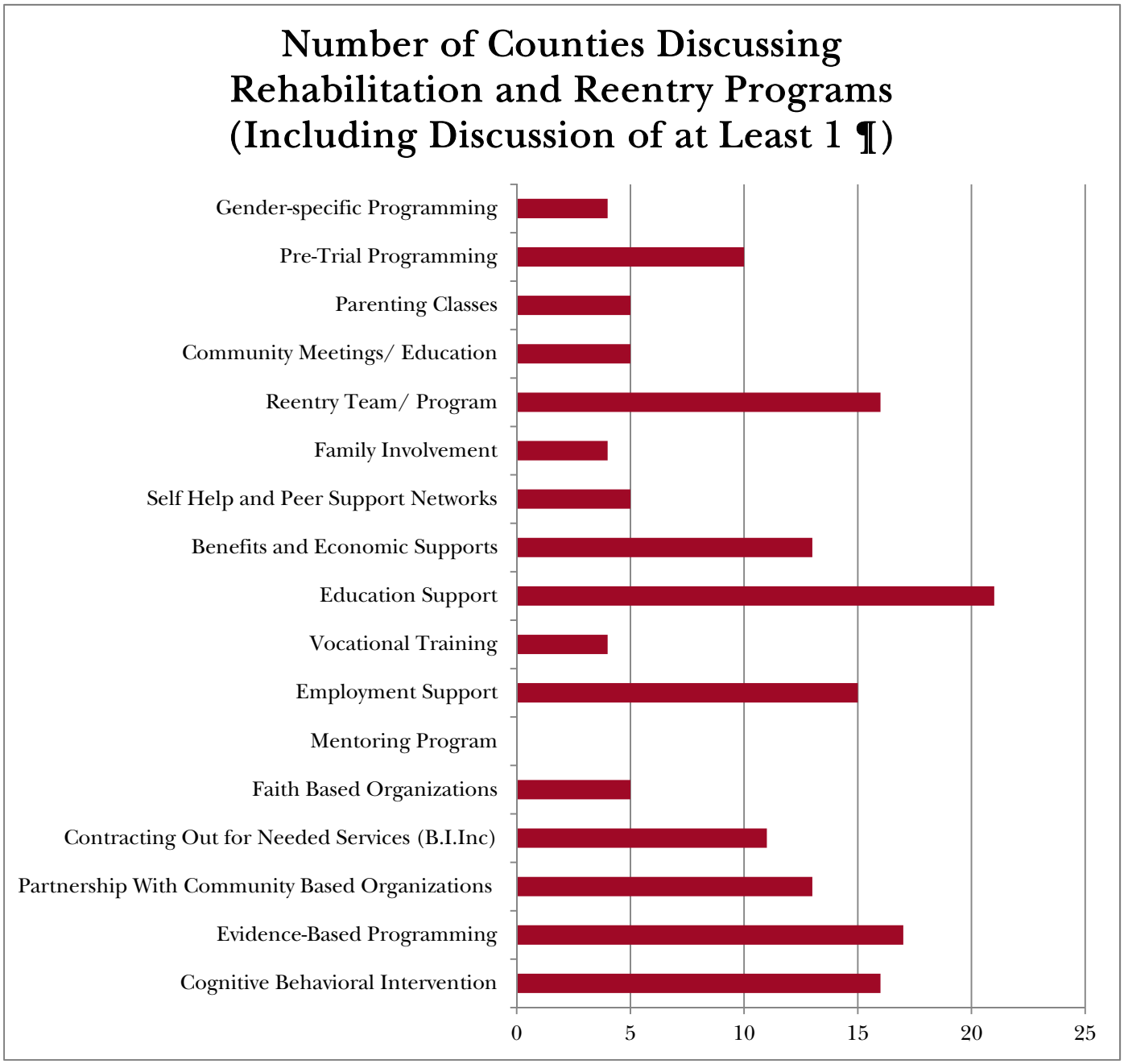
Appendix C


Number of Counties Discussing
Alternative Sanctions and Intensive Supervision
(Including Discussion of at Least 1 ¶)
Day Reporting Centers
Electronic Monitoring
Work Release
Flash Incarceration
Community Service
Specialty Courts
0
5
10
15
20
25

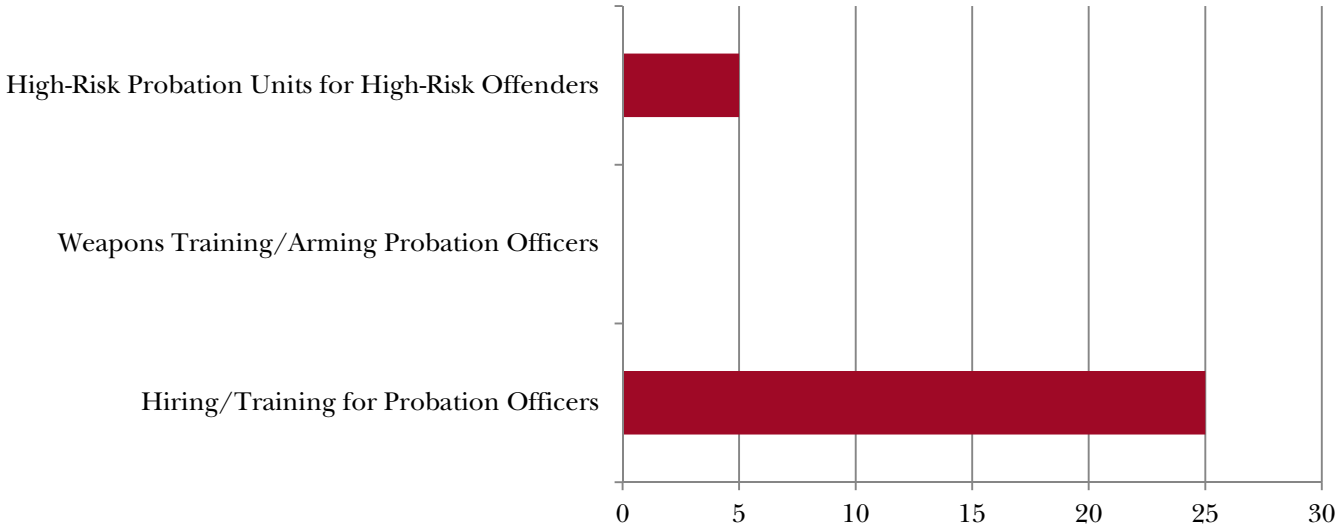

Number of Counties Discussing
Risk, CBT, and EBP
(Including Discussion of at Least 1 ¶)
Evidence-Based Programming
Cognitive Behavioral Intervention
Risk Assessment
0
5
10
15
20
25
30
35
40
45
50


Number of Counties Discussing
Partnerships with Outside Organizations
(Including Discussion of at Least 1 ¶)
Faith Based Organizations
Contracting Out for Needed Services (B.I.Inc)
Partnership With Community Based Organizations
0
2
4
6
8
10
12
14

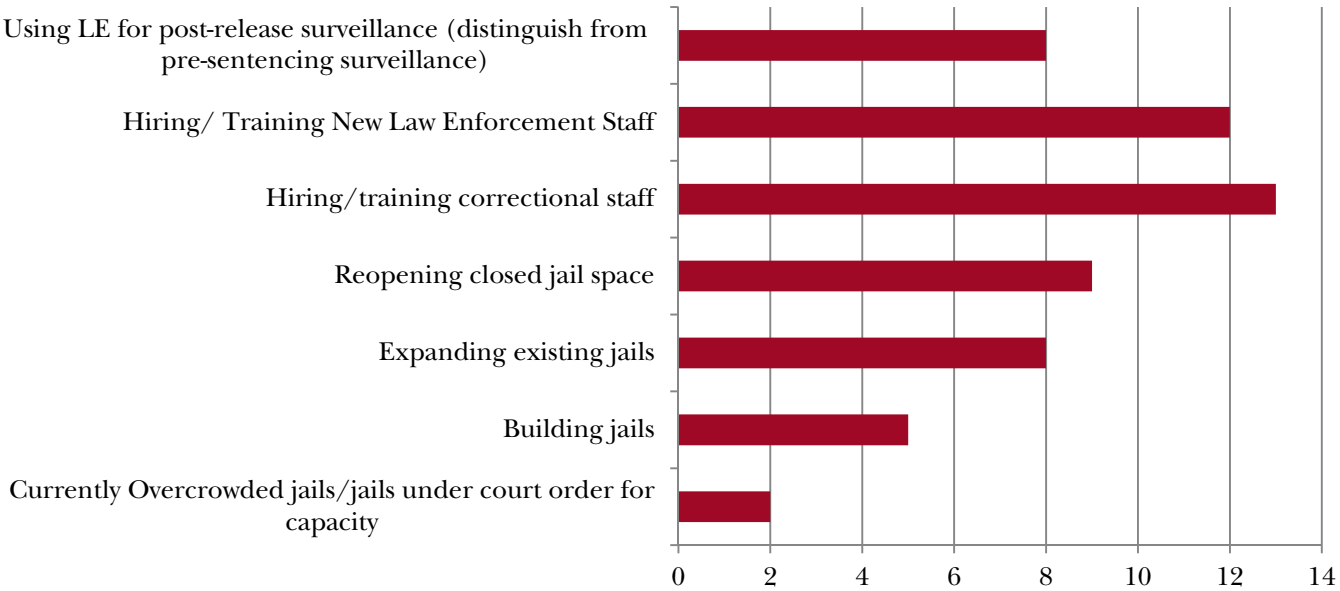

Number of Counties Discussing
Specialized Treatments
(Including Discussion of at Least 1 ¶)
Specialized Housing
Physical Healthcare
Substance Abuse Treatment
Mental Health Treatment
0
5
10
15
20
25
30


Number of Counties Discussing Rehabilitation and Reentry Programs (Including Discussion of at Least 1 ¶)
Gender-specific Programming
Pre-Trial Programming
Parenting Classes
Community Meetings/ Education
Reentry Team/ Program
Family Involvement
Self Help and Peer Support Networks
Benefits and Economic Supports
Education Support
Vocational Training
Employment Support
Mentoring Program
Faith Based Organizations
Contracting Out for Needed Services (B.I.Inc)
Partnership With Community Based Organizations
Evidence-Based Programming
Cognitive Behavioral Intervention
0
5
10
15
20
25

Number of Counties Discussing Probation (Including Discussion of at Least 1 ¶)



Number of Counties Discussing Jail and Law Enforcement (Including Discussion of at Least 1 ¶)



Appendix D

Budget Category Definitions

Sheriff and Law Enforcement:

- Allocations to sheriffs (salary, supplies, services)
- Allocations to jails (salary, expansion, etc.)
- Allocations to local law enforcement (for extra work related to realignment, multi-agency teams, and other discretionary funding.
- Does not include: in-custody programming and alternative sentencing.

Probation:

- Allocations to probation departments (salary, supplies, services)
- Salary for probation officers located out of the probation office (i.e. probation officers at a DRC.)
- Does not include: programs and services, even if being administered by probation.

Programs and Services:

- Overall programs and services (if not allocated more in depth by a county)
- Mental Health Treatment
- Physical Health Services
- Substance Abuse Treatment (including sober living and residential treatment)
- Housing Programs (including transitional housing, emergency housing, and housing vouchers)
- In-Custody programs and services
- Victim Services
- Evidence-based practices
- Cognitive Based Treatment
- Education Programs
- Employment/Workforce Development/Vocational Training
- Reentry Programs
- Gender Based Programming
- Sex Offender Programming

- Domestic Violence Programming
- Self Help/ Anger Management
- Parenting Classes
- Family Classes
- Benefits
- Incentives

Alternative Sentencing and Intensive Supervision:

- Day Reporting Centers
- Community Transition and Alternative Custody
- Community Service
- Home Detention (not otherwise specified)
- Electronic Monitoring (pre- and post-sentence, administered by both sheriff and probation)
- Pre-Trial Services
- Specialty Courts
- Work Release

Miscellaneous:

- Data Collection and Evaluation
- Administration
- Human Resources
- District Attorney/Public Defender

Unallocated/Reserves

- Funds that were allocated as general reserves or contingency.

Appendix E

2011-2012 AB109 County Allocations

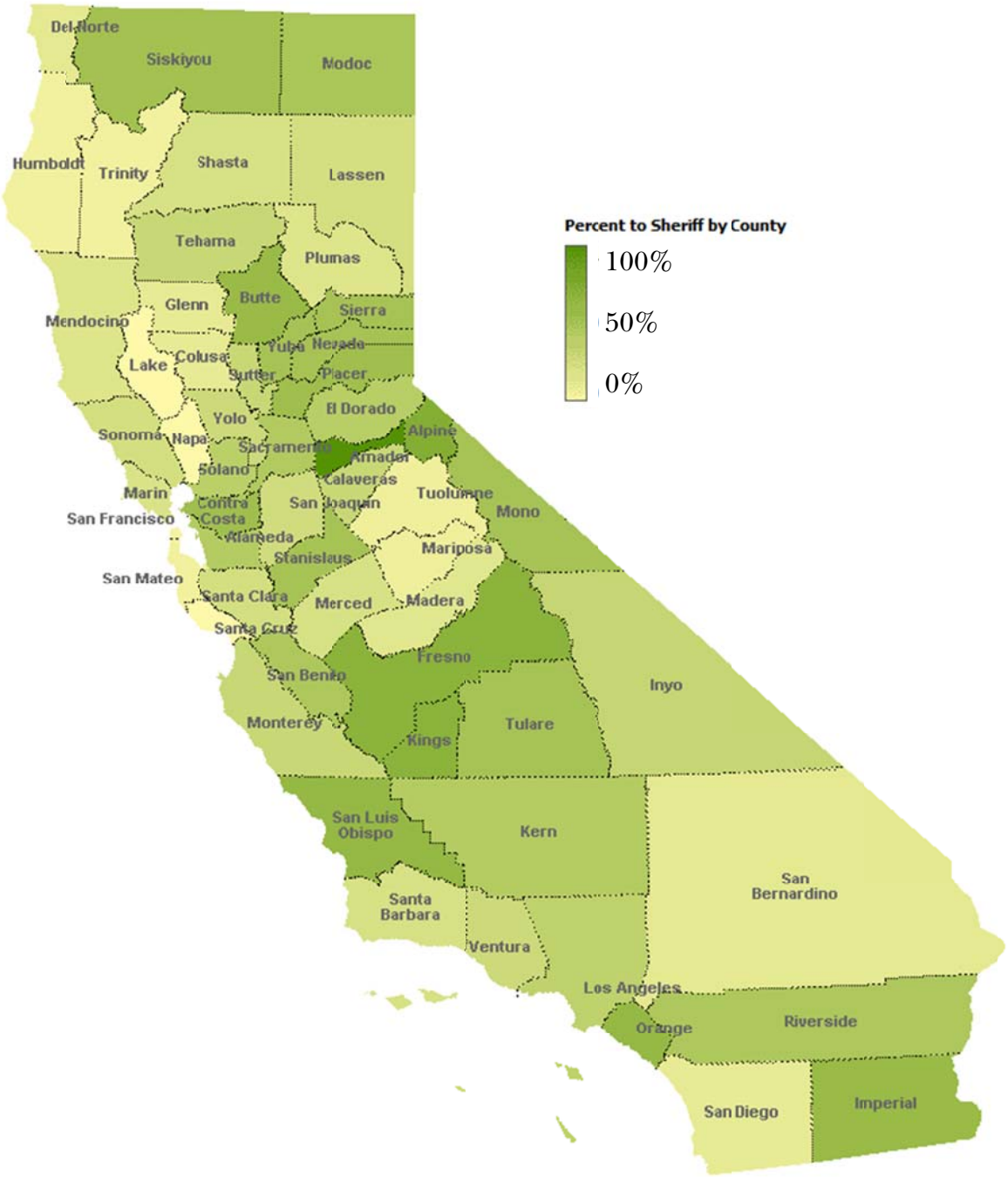
	2011-12 Allocation for AB 109 PROGRAMS	2011-12 Allocation for AB 109 DA/PD Activities (revocation)	2011-12 allocation for training, retention purposes (one-time)	2011-12 allocation for Community Corrections Partnership planning (one-time)	Total
CALIFORNIA	$354,300,000	$12,700,000	$25,000,000		
LOS ANGELES	$112,558,276	$4,034,688	$7,942,300	$200,000	$124,735,264
SAN BERNARDINO	$25,785,600	$924,293	$1,819,475	$200,000	$28,729,368
SAN DIEGO	$25,105,698	$899,922	$1,771,500	$200,000	$27,977,120
ORANGE	$23,078,393	$827,253	$1,628,450	$200,000	$25,734,096
RIVERSIDE	$21,074,473	$755,421	$1,487,050	$200,000	$23,516,944
SACRAMENTO	$13,140,278	$471,018	$927,200	$200,000	$14,738,496
SANTA CLARA	$12,566,312	$450,444	$886,700	$200,000	$14,103,456
KERN	$10,834,140	$388,353	$764,475	$200,000	$12,186,968
ALAMEDA	$9,221,012	$330,530	$650,650	$200,000	$10,402,192
FRESNO	$8,838,368	$316,814	$623,650	$200,000	$9,978,832
SAN JOAQUIN	$6,785,908	$243,243	$478,825	$150,000	$7,657,976
STANISLAUS	$6,010,700	$215,456	$424,125	$150,000	$6,800,281
VENTURA	$5,696,790	$204,203	$401,975	$200,000	$6,502,968
TULARE	$5,657,817	$202,806	$399,225	$150,000	$6,409,848

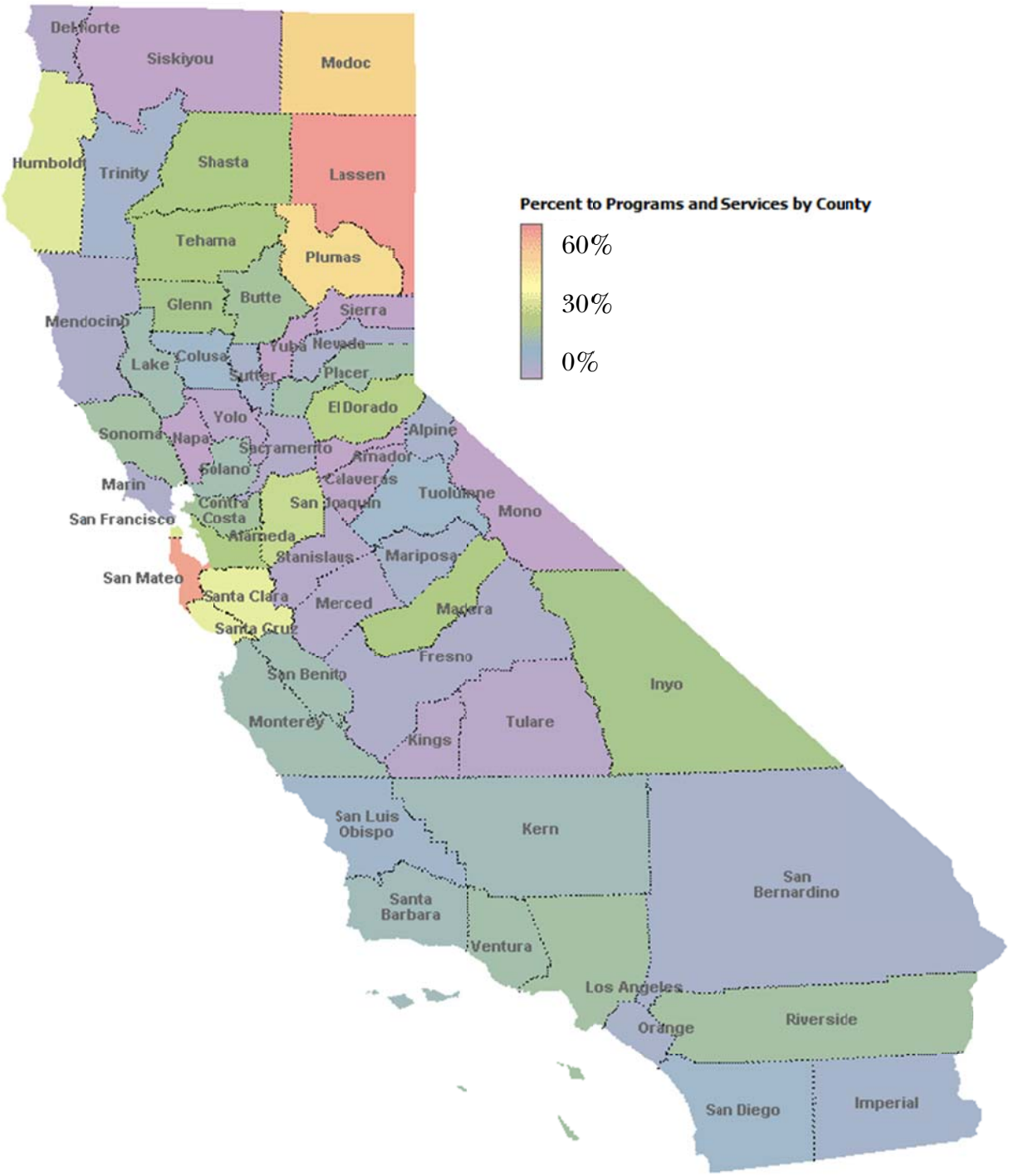
SAN FRANCISCO	$5,049,838	$181,013	$356,325	$200,000	$5,787,176
CONTRA COSTA	$4,572,950	$163,919	$322,675	$200,000	$5,259,544
SAN MATEO	$4,222,902	$151,371	$297,975	$150,000	$4,822,248
SANTA BARBARA	$3,878,876	$139,040	$273,700	$150,000	$4,441,616
MONTEREY	$3,846,989	$137,897	$271,450	$150,000	$4,406,336
SOLANO	$3,807,662	$136,487	$268,675	$150,000	$4,362,824
SONOMA	$3,240,428	$116,154	$228,650	$150,000	$3,735,232
PLACER	$2,986,395	$107,048	$210,725	$150,000	$3,454,168
YOLO	$2,974,703	$106,629	$209,900	$150,000	$3,441,232
SHASTA	$2,988,875	$107,137	$210,900	$100,000	$3,406,912
KINGS	$2,862,035	$102,591	$201,950	$100,000	$3,266,576
BUTTE	$2,735,905	$98,069	$193,050	$150,000	$3,177,024
MERCED	$2,498,524	$89,560	$176,300	$150,000	$2,914,384
SAN LUIS OBISPO	$2,200,557	$78,880	$155,275	$150,000	$2,584,712
SANTA CRUZ	$1,662,730	$59,601	$117,325	$150,000	$1,989,656
MADERA	$1,688,240	$60,516	$119,125	$100,000	$1,967,881
HUMBOLDT	$1,526,679	$54,724	$107,725	$100,000	$1,789,128
MARIN	$1,304,178	$46,749	$92,025	$150,000	$1,592,952
IMPERIAL	$1,296,384	$46,469	$91,475	$100,000	$1,534,328
TEHAMA	$1,212,415	$43,459	$85,550	$100,000	$1,441,424
EL DORADO	$1,210,643	$43,396	$85,425	$100,000	$1,439,464

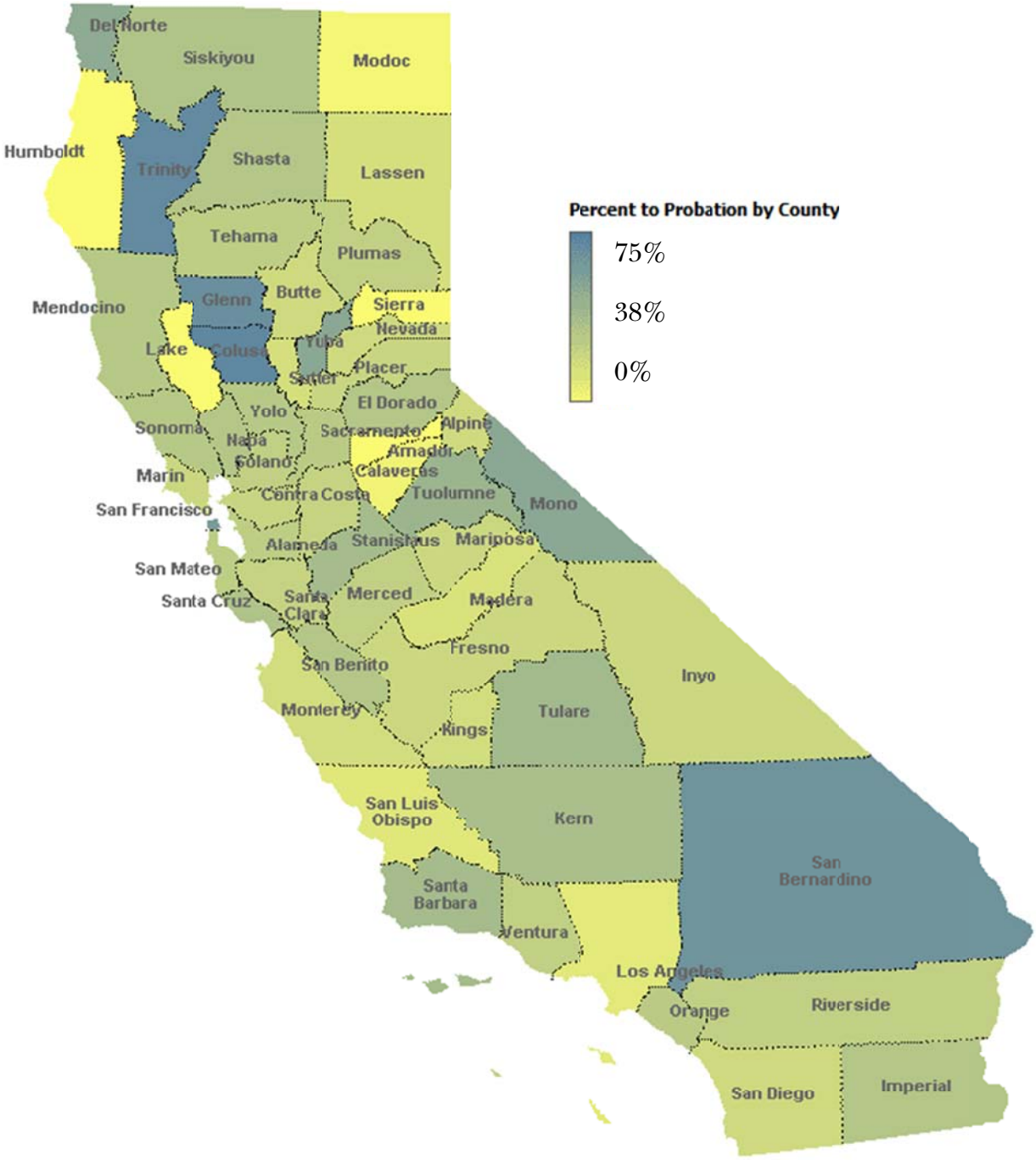
SUTTER	$1,167,419	$41,847	$82,375	$100,000	$1,391,641
NAPA	$1,051,917	$37,706	$74,225	$100,000	$1,263,848
YUBA	$1,005,858	$36,055	$70,975	$100,000	$1,212,888
MENDOCINO	$993,812	$35,624	$70,125	$100,000	$1,199,561
LAKE	$820,913	$29,426	$57,925	$100,000	$1,008,264
TUOLUMNE	$598,767	$21,463	$42,250	$100,000	$762,480
SAN BENITO	$547,748	$19,634	$38,650	$100,000	$706,032
AMADOR	$543,496	$19,482	$38,350	$100,000	$701,328
NEVADA	$515,152	$18,466	$36,350	$100,000	$669,968
SISKIYOU	$445,001	$15,951	$31,400	$100,000	$592,352
LASSEN	$384,770	$13,792	$27,150	$100,000	$525,712
CALAVERAS	$350,757	$12,573	$24,750	$100,000	$488,080
GLENN	$331,271	$11,875	$23,375	$100,000	$466,521
DEL NORTE	$221,438	$7,938	$15,625	$100,000	$345,001
COLUSA	$214,352	$7,684	$15,125	$100,000	$337,161
INYO	$190,968	$6,845	$13,475	$100,000	$311,288
MARIPOSA	$165,458	$5,931	$11,675	$100,000	$283,064
PLUMAS	$153,766	$5,512	$10,850	$100,000	$270,128
TRINITY	$144,554	$5,182	$10,200	$100,000	$259,936
MONO	$100,267	$3,594	$7,075	$100,000	$210,936
SIERRA	$76,883	$2,756	$5,425	$100,000	$185,064
MODOC	$76,883	$2,756	$5,425	$100,000	$185,064
ALPINE	$76,883	$2,756	$5,425	$100,000	$185,064
TOTAL	**$354,300,000**	**$12,700,000**	**$25,000,000**	**$7,850,000**	**$399,850,000**

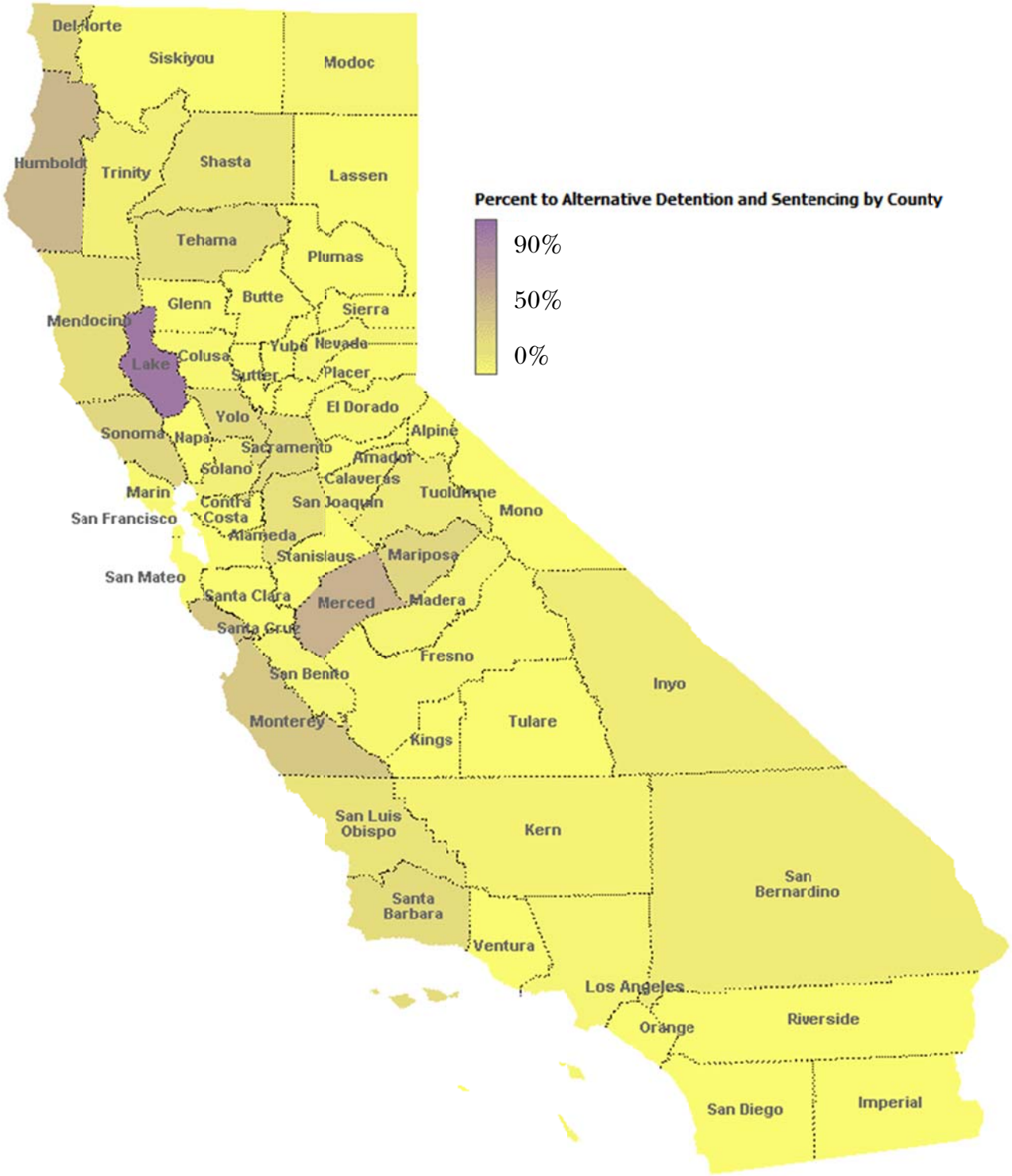
Appendix F

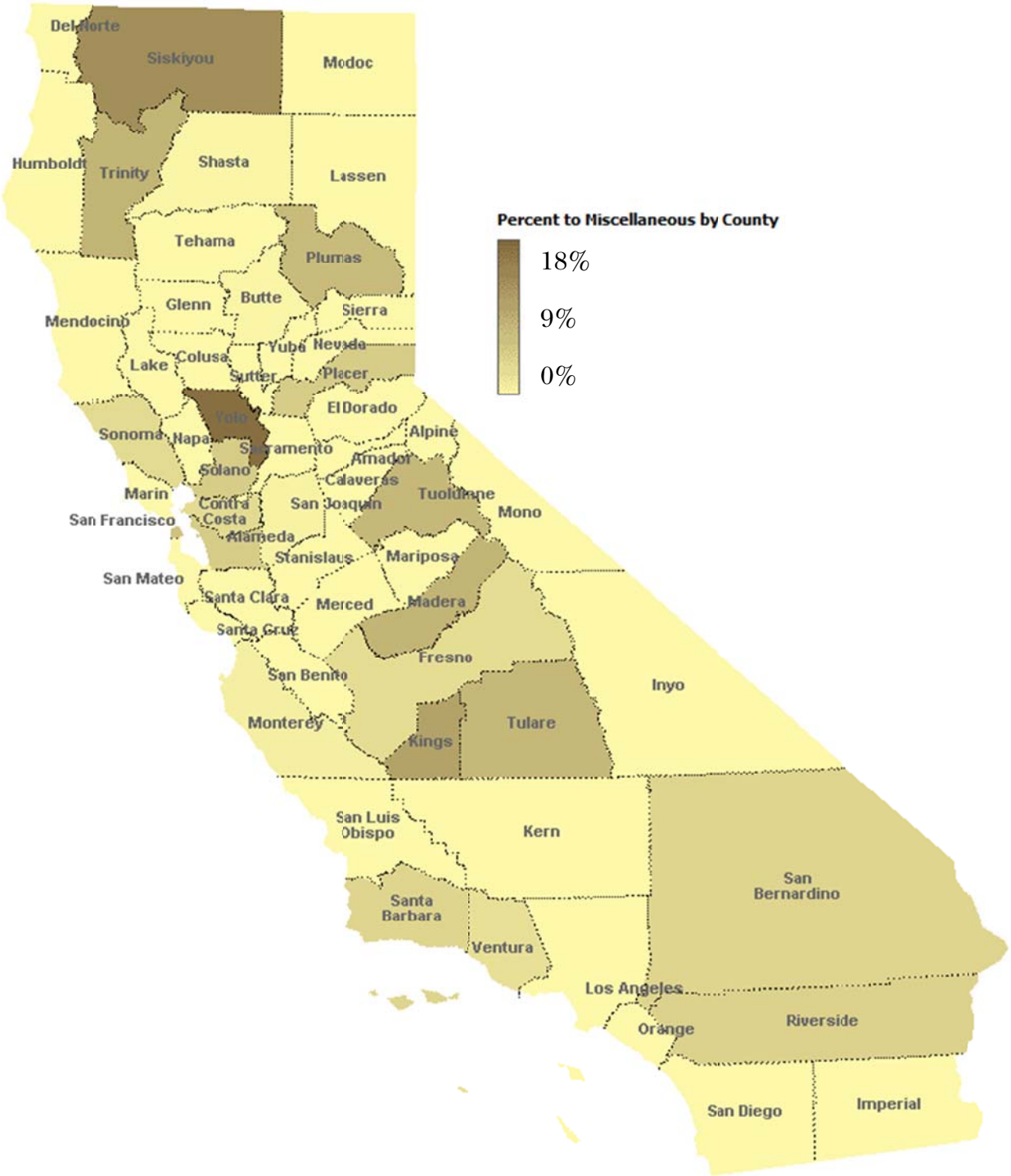
Maps of Budget by Spending Unit by County

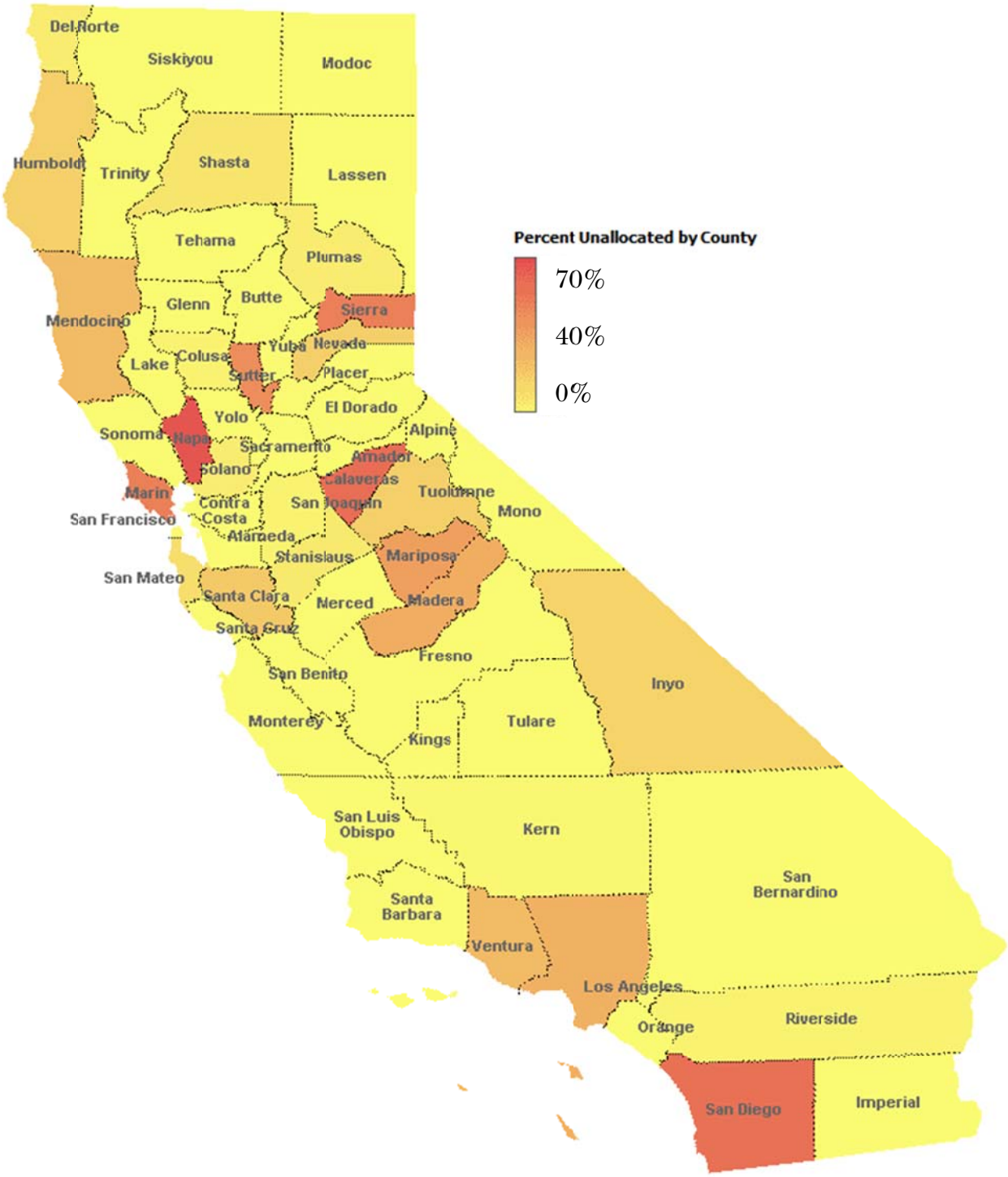



Percent to Programs and Services by County
60%
30%
0%
Del Norte
Siskiyou
Modoc
Humboldt
Trinity
Shasta
Lassen
Tehama
Plumas
Glenn
Butte
Sierra
Mendocino
Colusa
Yuba
Nevada
Lake
Sutter
Placer
El Dorado
Yolo
Sonoma
Napa
Alpine
Sacramento
Amador
Solano
Calaveras
Marin
Contra Costa
San Joaquin
Tuolumne
Mono
San Francisco
Alameda
Stanislaus
Mariposa
San Mateo
Santa Clara
Merced
Madera
Santa Cruz
Fresno
San Benito
Inyo
Monterey
Tulare
Kings
San Luis Obispo
Kern
San Bernardino
Santa Barbara
Ventura
Los Angeles
Orange
Riverside
San Diego
Imperial


Percent to Probation by County
75%
38%
0%
Del Norte
Siskiyou
Modoc
Humboldt
Trinity
Shasta
Lassen
Tehama
Plumas
Mendocino
Glenn
Butte
Sierra
Nevada
Lake
Colusa
Yuba
Placer
Sutter
El Dorado
Yolo
Sonoma
Napa
Sacramento
Alpine
Amador
Solano
Marin
Calaveras
Contra Costa
Tuolumne
Mono
San Francisco
Alameda
Stanislaus
Mariposa
San Mateo
Santa Cruz
Santa Clara
Merced
Madera
Fresno
San Benito
Inyo
Monterey
Tulare
Kings
San Luis Obispo
Kern
San Bernardino
Santa Barbara
Ventura
Los Angeles
Orange
Riverside
San Diego
Imperial


Percent to Alternative Detention and Sentencing by County
90%
50%
0%
Del Norte
Siskiyou
Modoc
Humboldt
Trinity
Shasta
Lassen
Tehama
Plumas
Glenn
Butte
Sierra
Mendocino
Colusa
Yuba
Nevada
Lake
Sutter
Placer
Yolo
El Dorado
Sonoma
Napa
Alpine
Sacramento
Amador
Solano
Calaveras
Marin
Contra Costa
San Joaquin
Tuolumne
Mono
San Francisco
Alameda
Stanislaus
Mariposa
San Mateo
Santa Clara
Merced
Madera
Santa Cruz
Fresno
San Benito
Inyo
Monterey
Tulare
Kings
San Luis Obispo
Kern
San Bernardino
Santa Barbara
Ventura
Los Angeles
Orange
Riverside
San Diego
Imperial


Percent to Miscellaneous by County
18%
9%
0%
Del Norte
Siskiyou
Modoc
Humboldt
Trinity
Shasta
Lassen
Tehama
Plumas
Glenn
Butte
Sierra
Mendocino
Yuba
Nevada
Lake
Colusa
Sutter
Placer
Yolo
El Dorado
Sonoma
Napa
Sacramento
Alpine
Amador
Solano
Calaveras
Marin
Contra Costa
San Joaquin
Tuolumne
Mono
San Francisco
Alameda
Stanislaus
Mariposa
San Mateo
Santa Clara
Merced
Madera
Santa Cruz
Fresno
San Benito
Inyo
Monterey
Tulare
Kings
San Luis Obispo
Kern
San Bernardino
Santa Barbara
Ventura
Los Angeles
Orange
Riverside
San Diego
Imperial


Percent Unallocated by County
70%
40%
0%
Del Norte
Siskiyou
Modoc
Humboldt
Trinity
Shasta
Lassen
Tehama
Plumas
Glenn
Butte
Sierra
Mendocino
Colusa
Yuba
Nevada
Lake
Sutter
Placer
Yolo
El Dorado
Sonoma
Napa
Sacramento
Alpine
Solano
Amador
Calaveras
Marin
Contra Costa
San Joaquin
Tuolumne
Mono
San Francisco
Alameda
Stanislaus
Mariposa
San Mateo
Santa Clara
Merced
Madera
Santa Cruz
Fresno
San Benito
Inyo
Monterey
Tulare
Kings
San Luis Obispo
Kern
San Bernardino
Santa Barbara
Ventura
Los Angeles
Orange
Riverside
San Diego
Imperial