

ALADS Legislative Corner  
By  
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2011 was a watershed year for public safety. In 2011, the United States Supreme Court ruled against the State of California in the *Coleman/Plata* case, mandating that California had two years to reduce its over-crowded prisons from 187% of capacity to 137% – a ruling affecting a reduction of roughly 50,000 inmates. In 2011, in response to the court’s ruling, the Governor and the Legislature passed “public safety realignment,” and enacted a “shift” of responsibility for adult offenders from the California Department of Corrections and Rehabilitation (CDCR) to local law enforcement. (AB 109, Chapter 15, Statutes of 2011)

The “realignment” plan was borne of political necessity. The obvious solution to the state’s overcrowding problem, which has been an ongoing problem for well over a decade, was to build additional capacity. By the time the Supreme Court issued its ruling, there simply wasn’t time to construct new facilities, nor were there the resources to do so given the state’s massive fiscal problems. Frankly, the public perception of our corrections system and its components is largely a negative one, perhaps because the current recidivism rate is over 70%. Thus, there was little political will to entrust CDCR with added responsibility to administer the corrections system.

The prospect of releasing inmates from state prison, however, was also very disturbing. On average, just to get to state prison, an inmate must commit 3.6 felonies. Typically, most parolees recidivate within a year after release, and over 70% will recidivate within three years from their date of parole. From a public safety perspective, releasing state inmates en masse was simply unconscionable! As a result, the “public safety realignment plan” was formed as the alternative method to comply with the Supreme Court’s ruling.

Simply put, “realignment” contemplates increasing current jail time for certain felonies from one to three years, thus significantly reducing the population stream to state prison in a number sufficient to comply at least, substantially, with the Supreme Court’s order. As part of “realignment,” state parolees and some juvenile offenders would also come under the jurisdiction of local law enforcement (probation and sheriffs) based on the premise that local authorities will have more success in reducing the 70% plus recidivism rate.

Was “realignment” the right public safety option for state and local governments? In truth, the jury will remain out on that question for the next few years? Are criticisms of the “realignment plan” well founded? I agree with the substance of some concerns raised about “realignment.”

One of the criticisms and key components to the “realignment plan” has not yet been enacted – namely, the constitutional guarantee for “realignment” funding has yet to become law.

The proposed constitutional amendment has not passed yet and likely will not pass until the voters approve it in 2012. Without the state's resources to support "realignment," the "realignment plan" will surely fail as local governments are already strapped for money.

***Securing a stable source of funding in these difficult fiscal times must be for local public safety, including sheriffs, police, probation, and prosecutors, our top priority.***

However, even given adequate financial resources, "realignment" still poses a risk to public safety *simply because there is insufficient capacity in many local jails to accommodate the increase in jail population.* Overcrowding is not an answer since 60% of the state jails are either under court ordered, or self-imposed, population caps. In Los Angeles County, the Sheriff has implemented a "home detention" electronic monitoring program which, combined with probation supervision, has some promise to be effective. Even then, there is about a 6% failure rate, and that number is likely to increase given the increase in higher risk offenders who will qualify for "home detention." Simply put, added police and sheriffs' patrols are needed as there is no fool-proof method of reducing the safety risks of "realignment," short of securing custody with additional jail capacity. In the long term, that may well be the answer, but that solution may be years away.

In the final analysis, given the options the Governor had, given the public safety reality of releasing many dangerous state inmates, given the political impasse that regularly occurs in Sacramento, "realignment" was probably the Governor's best and only option, ***provided "realignment" is viewed as part of an ongoing process – still in need of some large and small fixes – and not as a completed plan!***

One of the other "hot" issues this session concerned "pension reform." In the end, little was actually accomplished, primarily because the Governor had not weighed in on the pension issue. After many meetings with state and local government officials, public employee unions, and many others, the Governor is now set to roll out his "pension reform package." In response, the Legislature has appointed a two house conference committee to receive his proposals. Some of the proposals focus on curbing pension abuses that management employees have taken, while others pose difficulties to rank-and-file members. Still other reforms have been collectively bargained. ***However, NONE of the Governor's proposals seeks to destroy the current "defined benefit" pension system,*** a sharp contrast to some of the prior administration's early pension policies and failed proposals. I will keep you posted on pension developments which will occur early next year, and will likely go on the November 2012 ballot. Pension reform, along with "pay check protection" and "permanent realignment funding" will make the November 2012 ballot one of the MOST SIGNIFICANT in years!

Overall, we have had a very successful year! Given the huge budget problems we faced and the challenge of continued Vehicle License Fee funding; given the enormity of "public safety realignment" and all the ongoing complexities; given the significance of pension reform for our members; given the number of onerous bills we successfully defeated – ranging from repeal of the death penalty to the repeal of "defined benefit" pensions, 2011 was indeed a watershed year for ALADS! It was one which pointed us in a positive direction.

Until next time, stay safe!