Key Findings and Budget & Policy Recommendations For Contra Costa County's AB109-Funded Activities

Submitted to the Contra Costa Community Corrections Partnership by the Contra Costa County Community Advisory Board

December 9, 2016

Research and analysis provided by Reentry Solutions Group

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Table of Contents

I. EXECUTIVE SUMMARY 1

II. POLICY RECOMMENDATIONS 3

PR 1. IMPROVE DEPARTMENTAL BUDGET DEVELOPMENT, REPORTING, AND ANALYSIS 3
PR 2. IMPROVE MULTI-DEPARTMENTAL BUDGET DEVELOPMENT, REPORTING, AND ANALYSIS 3
PR 3. IMPLEMENT CONSISTENT PROTOCOLS, DEFINITIONS, AND DOCUMENTATION 4
PR 4. IMPROVE PROCESS FOR MEANINGFUL ANALYSIS OF "BUDGET TO ACTUALS" 5
PR 5. REQUEST THAT AUDITOR-CONTROLLER CONDUCT AN AUDIT OF AB109 USES 5

III. CONTEXTS FOR CAB'S POLICY RECOMMENDATIONS 6

A. CAB ROLE 6
B. STATUTORY CONTEXT 6

IV. OVERARCHING PROCEDURAL ISSUES 6

A. INDEPENDENT OVERSIGHT 6
B. SUPPLANTATION 7

V. KEY FINDINGS 8

KF 1. INCONSISTENT FINANCIAL RECORDING AND TRACKING PRACTICES FOR REPORTING 8
KF 2. INCONSISTENT USES OF APPROVED FUNDS 9
KF 3. "STATUS QUO" DIRECTIVE SURRENDERS CRITICAL ANALYSIS AND STEWARDSHIP 13
KF 4. USE OF AB109 FUNDS TO OFFSET COSTS OF EXISTING STAFF AND POSITIONS 14
KF 5. IDENTIFYING AND REMEDYING SUPPLANTED FUNDS 15
KF 6. LACK OF PARITY IN PROCESS AND TREATMENT 16

VI. ANALYSIS OF DEPARTMENTAL AB109 BUDGET-TO-ACTUALS FOR FY 2015-2016 16

A. ORIGIN AND PURPOSE OF THIS BUDGET-TO-ACTUAL ANALYSIS 16
B. CAVEAT 17
C. COMMINGLING NONRECURRING AND OPERATING COSTS 17
D. PRETRIAL SERVICES BUDGET 17
E. SUMMARY FINDINGS WITHIN THE 2015/2016 AB109 BUDGETS FOR PUBLIC AGENCIES 18
F. SOURCE DOCUMENTS FOR THIS WRITTEN BRIEF AND ACCOMPANYING FINANCIAL ANALYSIS 20

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I. Executive Summary

The Community Advisory Board (CAB) to the Contra Costa County Community Corrections Partnership (CCP) submits this Key Findings and Budget & Policy Recommendations brief to support the CCP and the County Board of Supervisors (BOS) in developing budget and policy plans related to Assembly Bill 109 (AB109) for the 2017/2018 fiscal year and the ensuing years.

Accompanying this brief, and incorporated by reference, is CAB's comprehensive analysis of all approved and actual uses of AB109 funds by County agencies for the fiscal year 2015/2016. Drawing on multiple public documents released by the County Administrator's Office (CAO), gathered directly from the CAO, or accessed via online records, this analysis attempts to capture and examine the line-itemed approved and actual uses for each AB109-funded public agency, along with an integrated summary analysis.

As this brief will illustrate, CAB's work here highlights important opportunities to streamline AB109 budget development and analysis, improve AB109-related financial and operational efficiencies, and foster easier access to reliable, necessary, and relevant information.

CAB recognizes that the state of California tasks each county's Community Corrections Partnership with the responsibility for providing day-to-day management of the County's AB109-related activities and budgets, supported by the County Administrator and reporting to the Board of Supervisors. However, the CAB also recognizes that AB109 funds – unlike County General Funds – represent both a singular opportunity and a functional anomaly in County administration. As a dedicated stream of funding tied to specific statutory intent but implemented by a multi-sector array of agencies collectively responsible for achieving shared impacts, AB109 requires transparent, fair, and consistent financial, operational, and management practices.

Thus, CAB's recommendations are designed to enhance public trust in local government, encourage fiscal transparency and efficiency, foster critical inquiry into justice-related departmental operations, and advance efficient and effective use of public funds.

We appreciate that the CAO has provided public documents from which can be gleaned most of the raw financial data necessary to create an integrated budget and analysis. However, we are concerned that, in the absence of such analysis conducted by the CCP or CAO, this foundational responsibility has fallen to an all-volunteer advisory body, one that has no formal

authority, no access to County infrastructure, and no budget to offset the substantial time and effort required to complete this task.

The CAB experienced substantial challenges in producing a comprehensive budget document, a task that required more than 80 hours of direct technical assistance, along with multiple meetings with CAB members for collective review. This research was further supported by numerous phone conversations and email exchanges with County staff to conduct specific research, identify and gather additional source documents, and engage in joint study.

Given the self-evident challenges confronted in building this analytic document, CAB strongly urges the County to develop an organized, consistent, and well-managed document repository of AB109 budget materials. While many of these documents have traditionally been made public as components within packets prepared for CCP meetings, it is abundantly clear that the current system is insufficient to meet the needs of the public, County agencies, and other interested parties.

Indeed, the County's Better Government Ordinance Section §25-6.202 recognizes the benefit of creating such a records database, which "shall be for the use of county officials, staff and the general public, and shall be organized to permit a general understanding of the types of public information maintained, by which officials and departments, for which purposes and for what periods of retention, and under what manner of organization for accessing, e.g., by reference to a name, a date, a proceeding or project, or some other referencing system…. Any such master database shall be reviewed by appropriate staff for accuracy and presented to the board of supervisors for formal adoption. Any changes in the county's practices or procedures that would affect the accuracy of the database shall thereafter be reported by the responsible staff to the board of supervisors as the basis for a corresponding revision of the database."[1]

In creating this brief, the CAB devoted itself to the study of the budget-to-actuals of AB109-funded County agencies. CAB did not expand this study to include County-funded nonprofit organizations, due to the fact that the CAO's contract management processes for nonprofit organizations already include ongoing and highly attentive scrutiny of the use of AB109 funds; any modification in budgets for AB109-funded nonprofit organizations requires the explicit

[1] Better Government Ordinance, Division 25, accessible at municode.com/library/ca/contra_costa_county/codes/ordinance_code?nodeId=TIT2AD_DIV25BEGOOR

approval by the CAO. Thus, we concluded that the budget-to-actual use of AB109 funds by nonprofit organizations would add little insight in the current context.

However, should the CCP find potential benefit in such an analysis, the CAO (as the manager for all AB109 contracts) is well equipped to undertake it, and CAB would welcome the opportunity to review the County's findings.

By producing and publicly sharing this Key Findings and Budget & Policy Recommendations brief, along with the associated budget analysis, we hope to spur formal efforts by the CCP, CAO, and BOS to fulfill this duty in future, beginning immediately with quarterly invoices and with the County's annual budgeting process for fiscal 17/18.

II. POLICY RECOMMENDATIONS

PR 1. Improve departmental budget development, reporting, and analysis

a. Replace the use of "status quo" budget requests with a directive that agencies are to produce due-diligence renewal requests based on prior-year budget-to-actual analyses, functional analyses, and supplantation analyses

b. Create, deploy, and require the use of a standardized format for budget requests, reporting, and reviewing for all entities funded by or applying for AB109 funding

c. Ensure that this format requires line-item detail for all approved and actual uses of funds; distinguishes among staff, contracts, operating costs, and capital costs; quantifies FTEs and per-FTE cost; and captures monthly year-to-date budget-to-actual expenses

d. Ensure that this template is accompanied by a budget narrative that provides all underlying information necessary to track use of approved funds, including (but not limited to) staff purpose and justification, identification and quantification of funded services, and the assumptions underlying programmatic, operating, and capital cost calculations.

PR 2. Improve multi-departmental budget development, reporting, and analysis

a. Request that the CAO produce an annual integrated, comprehensive proposed budget for all departments requesting AB109 funding, with itemized departmental and collective budgets, proposed uses, and approved uses, both categorical and line items

b. Ensure that this summary budget is supported by the standardized, complete underlying budget developed for each entity, supported by all necessary detail to understand the assumptions and calculations, and accompanied by a written budget narrative and functional analysis of the collective use of funds

c. Ensure that this integrated budget is deployed to track and publish budget-to-actual uses, on no less than a quarterly basis

d. Ensure that the CCP publicly receives, reviews, and discusses these summary documents (approved budget, YTD actuals, and budget narrative), no less than quarterly, to support informed decision-making and course-correction as necessary

e. Ensure that meeting schedules and agendas provide CCP, BOS, and the public with sufficient time to engage in meaningful review and discussion of use of funds and their alignment with the County's established AB109 strategies and goals

PR 3. Implement consistent protocols, definitions, and documentation

a. Develop, publish, and enforce consistent definitions and protocols for AB109-related budgetary matters, including but not limited to definitions for "status quo," guidelines on cost of living or "contract-related" adjustments, and rules regarding supplantation

b. Develop and deploy a standard policy regarding use of AB109 funds to underwrite fixed costs (such as occupancy or equipment), indirect costs (such as office supplies, IT support or technology services or data processing services), capital costs, and non-cash charges/balance sheet items (such as depreciation or "accruals"), etc.

c. Develop, publish, and enforce a policy directive regarding the use of consistent accounting practices, a prohibition against overspending of approved line items, and a prohibition against unauthorized reallocation to unapproved items, or "adjustments," and the directive that approved line items with unspent balances be adjusted in the subsequent year to reflect actual need

d. Create an AB109 document repository using a clear taxonomy for labeling and filing, to foster readier access to relevant information for County leadership, contracted agencies, members of the public, and other interested parties; ensure that this database is clearly identified and web-accessible; and assign responsibility for its maintenance and quality control

PR 4. Improve process for meaningful analysis of "budget to actuals"

a. Ensure that all elements of, and the resulting findings from, quarterly and annual budgetary review and analysis are made public and are provided to the appropriate committees of the Board of Supervisors with sufficient time to review and discuss

b. Use the results of such discussions as the foundations for the subsequent year's budgetary planning; direct agencies to submit budget requests that reflect the findings from reviews of the previous year's budget, uses, and outcomes

c. Produce an annual financial report to be presented to the Contra Costa County Public Protection Committee and the County Board of Supervisors

d. Produce an annual Key Findings report to be presented to the Contra Costa County Public Protection Committee and the County Board of Supervisors to provide high-level analysis of the County's AB109's efforts, in the context of the guiding strategies and goals outlined in the County Reentry Strategic Plan, the County's AB109 Implementation Plan, and the County's AB 109 Operations Plan, and other relevant guiding documents that may exist now or in the future.

PR 5. Request that Auditor-Controller conduct an audit of AB109 uses

a. Ensure that all uses are consistent with the state statutory guidelines, including all sources and uses of AB109-related funding, including the dedicated subaccounts established under California Government Code §30025

b. Ensure that all allocations and accounting of operating, capital, and indirect costs are appropriate, valid, and accurate

c. Ensure that no existing funding sources are being supplanted by AB109 funds

d. Ensure that all federally-reimbursable funds are properly accounted for as reimbursables against budgeted AB109 uses

e. Ensure that no AB109 funds are being reallocated from their approved purpose, except with public review and formal approval by the CCP and BOS

III. CONTEXTS FOR CAB'S POLICY RECOMMENDATIONS

A. CAB Role

Established in early 2012, the Community Advisory Board is recognized as a standing committee of the Community Corrections Partnership. As asserted in its Operating Guidelines, "CAB shall advise the Contra Costa County Community Corrections Partnership (CCP) by providing input on community needs; assessing implementation of the Contra Costa County Reentry Strategic Plan; reviewing data on realignment outcomes; advising the CCP on community engagement strategies; offering recommendations for ongoing realignment planning; advising County agencies regarding programs for implementation in the County; and encouraging outcomes that are consistent with the County's Reentry Strategic Plan."[2]

B. Statutory Context

The California Penal Code establishes the intentions and obligations related to AB109. In part, the Penal Code asserts that "Fiscal policy and correctional practices should align to promote a justice reinvestment strategy that fits each county. 'Justice reinvestment' is a data-driven approach to reduce corrections and related criminal justice spending and reinvest savings in strategies designed to increase public safety. The purpose of justice reinvestment is to manage and allocate criminal justice populations more cost effectively, generating savings that can be reinvested in evidence-based strategies that increase public safety while holding offenders accountable." (California Penal Code §3450(b)(7))

IV. OVERARCHING PROCEDURAL ISSUES

A. Independent Oversight

Because of the unusual nature of AB109 funding – a dedicated pool of public funds distributed to multiple entities but restricted to specific allowable uses – CAB recommends that the County-Auditor conduct an audit of budgeting practices and actual spending for all AB109-funded County agencies; see Policy Recommendation PR 5, below.

As an elected official and operating under the legal authority set forth in the Government Code, the Auditor-Controller is responsible for fulfilling a variety of functions specified in the

[2] Operating Guidelines of the Contra Costa County Community Corrections Partnership (CCP) Community Advisory Board (CAB), as amended January 8, 2015, Section 1.

California Constitution, in various California codes, and by the Board of Supervisors. The Office of the Auditor-Controller's primary mission is to ensure the fiscal integrity of the County's financial records and to provide service, assistance and information to the public, the Board of Supervisors, the County Administrator's Office, and County departments and employees. With a staff of approximately 50 people and an operating budget of approximately $7.9 million, the Office of the Auditor-Controller is best suited to provide the CCP with objective analyses and recommendations for budgetary practices regarding AB109.

Given this scope and scale, the CAB recommends that the Auditor-Controller's Internal Audit Division be tasked with conducting an annual internal audit of all AB109-funded entities and producing a Key Findings and Recommendations report for presentation to the Board of Supervisors and for public review.

B. Supplantation

California Government Code §30025, which governs the management of AB109 funds, directs the state and its counties to create a master account ("County Local Revenue Fund 2011") to manage its AB109 funds.

Within this County Local Revenue Account, a master account – the "Law Enforcement Services Account" – is to be created, along with the following subaccounts:

i. Community Corrections Subaccount
ii. Trial Court Security Subaccount
iii. District Attorney and Public Defender Subaccount
iv. Juvenile Justice Subaccount (supplemented by two special accounts)
v. Enhancing Law Enforcement Activities Subaccount
vi. Local Innovation Subaccount

The statute establishes limitations on the ways that the master account and the subaccounts may be used. Specifically, Subsection §30025 (f) (11) states: "*This funding* ***shall not*** *be used by local agencies to supplant other funding for Public Safety Services,*" which is reiterated by Subsection 30026.5 (e) (6), which reads, "*The funds deposited into a County Local Revenue Fund 2011* ***shall not*** *be used by local agencies to supplant other funding for Public Safety Services*" (emphases added).

Thus, both the master account and the particular Community Corrections Subaccount contain prohibitions against supplantation.

The CAB recognizes the challenges related to tracking, preventing, and correcting supplantation across dozens of entities, accounts, and funding sources. It is due to this very complexity that the CAB urges the CAO and CCP to develop and implement accurate, consistent, and transparent methods to manage the challenge of budgeting, tracking, reporting, and remediating any supplantation, which is essential to establishing efficient budgets, to controlling costs, and to ensuring public trust.

V. KEY FINDINGS

KF 1. Inconsistent financial recording and tracking practices for reporting

In developing our analysis, CAB was struck by the wide variety of methods by which AB109-funded entities spent, recorded, tracked, and reported on their budgets and use of funds.

We were also struck by the realization that, in addition to their inconsistent recording/reporting methods, the reporting documents as submitted to the CCP by the CAO throughout the budget year largely lack contextual budgetary information critical to understanding, analyzing, and approving the quarterly invoices.

Given that the quarterly reports/invoices and year-end reports as presented to the CCP generally do not provide even basic contextual information, we believe that CCP members may find it difficult to fulfill their fiduciary responsibilities to steward AB109 funds. We note that these quarterly and annual reports generally lack such information as:

- Total amount allocated to the entity
- Approved line items and amounts
- Use of funds as compared to the approved items and amounts
- Explanation for substantial over/under-spending on an approved line-item
- Explanation for substantial reallocations of funds from an approved use to a use that had not been presented to or approved by the CCP or BOS
- Analysis of whether the deliverables specified in the initial budget request are being fulfilled

To foster public trust and faith, the CAB is committed to supporting the County in ensuring high standards of transparency, accuracy, and accountability in all AB109 activities and budgets. To that end, we feel that it is essential for the County to develop improved budget recording, reporting, and approval practices in order that the CCP may fulfill its statutory and fiduciary obligations.

KF 2. Inconsistent uses of approved funds

a. Over/under spending

i. The CAB's analysis has revealed that some departments substantially and persistently under-spend line item amounts approved for specific purposes.

This has been particularly apparent in the Behavioral Health division, in which funding for contracted direct services (including shelter beds, inpatient and outpatient substance use disorder services, and to some degree transitional housing) has been substantially under-spent in each of the past three years, with as little as 3.6% of the budgeted amount spent on outpatient substance use disorder treatment; use of the shelter-bed budget averaging 62.3% over the past three years; and a contract psychiatrist whose services have gone substantially under-utilized. In 2015/2016 specifically, 23.9% of the Contracted Services element of the Behavioral Health budget remained unspent.

We are troubled by this history of under-spending on contracted direct behavioral health services, especially in light of the twinned facts that these services are in chronically short supply and that they are most highly correlated with improving recidivism rates.

Similarly, the use of funds by the District Attorney (DA) includes a set of line-item costs that apparently were not publicly requested, discussed, or approved by the CCP or BOS. These new line items – "Paulson cost," "Benefits Adm Fee," "Retiree Health Cost," "OPEB Pre-Pay," and "Health Care Savings Deduction" – totaled $99,901 in apparently unapproved reallocations.

Even with the introduction of these new items, the DA's total use of funds was less than the budget allocated to the Office, suggesting a need to reconsider whether the budget allotted may exceed warranted need.

ii. The obverse is also true: The CAB's analysis has revealed that some entities exceed the allowed budget on a given line item, without any public review or approval process, and without written justification submitted with either quarterly demands or year-end reports.

A closer examination of this practice reveals that this has been the case over the course of several years, particularly among certain departments. For example, the "Labs & Pharmacy" line item in the Behavioral Health budget is annually approved at $120,000, but in the three years spanning 2012/2013 to 2014/2015, the amounts internally reallocated to this item ballooned (to totals of $279,824, $494,213, and $564,173, respectively). In each case, unspent funds from other line items were reallocated very in late in each fiscal year, perhaps in an effort to exhaust the entire budget. In the most recent year (15/16), the Labs & Pharmacy line shows a year-end overspending of only $3,749, which is substantially closer to the approved allotment than in the previous fiscal years. Nonetheless, of the entire "Labs & Pharmacy" budget for 15/16, a full 62.1% was booked in just the final two months the year.

Moreover, the monthly costs charged to this line item swing wildly throughout the year, from $171,899 in October to *negative* $144,233 in February. A footnote to this item explains, "Corrective entry for a missed posting of $177,899 *(sic)* in October and expenses through December 2015 resulted in the credit of $144,233. Lab and Pharmacy expenditures from Jan. - Jun. will be reflected in the final quarter." It's not clear to CAB how this posted credit of $144,233 rectifies this history, and this footnote raises additional questions – If there was a "missed posting" that exceeded the entire line item budget, what was its origin? And how does an adjustment in February align with a footnote reporting that January through June will be reported in the final quarter?

This is only one of the ten footnotes embedded in the Behavioral Health budget-to-actual report in an attempt to explain various accounting issues.

b. Unapproved reallocations and new line items

In addition to finding that some entities sometimes augmented line items through internal reallocations, our analysis also reveals cases in which some departments have reallocated substantial amounts of unspent money to entirely ***new*** line items, which

were not publicly presented to or approved by the CCP or BOS in the budget process, and which have not been subject to public presentation, discussion, or action during the year.

For example, the Probation department's approved budget included a category of operating costs totaling $98,597[3], to be allocated across a set of specified and quantified purposes. However, budget-to-actual analysis reveals that while Probation did exhaust this funding, $54,938.12 was not spent in the approved uses and amounts but was reallocated, of which $18,269.80 was spent on entirely new operating line items. In addition, within Probation's share of operating funds for Pretrial Services, $26,184.98 was used to purchase a vehicle, which is not included in the approved 2015/2016 budget request.[4]

Similarly, the DA's budget overspent funds on approved line items and reallocated funds to new, non-approved line items. For example, an unbudgeted services and supplies line item was created and then billed for a total of $14,618, of which 46.6% was billed just in the 4th quarter. At the same time, of the $12,669 approved for an array of specific Administration/ Operations items, $0 was spent.

CAB recommends that rather than retaining and reallocating funds, entities should be directed and expected to deploy them fully to their approved purpose to the degree necessary within the approved limit or to return unspent line item balances to the collective pool of unspent AB109 funds, with the renewal baseline request reduced to reflect the actual use of funds.

c. Inconsistent allocations across the fiscal year

Our analysis reveals a pattern of highly variable line-item accounting, including numerous occasions of unexplained/unapproved 4th-quarter adjustments.

In these cases, the spending rate (even for a steady-state item like a funded and filled staff position) substantially increases in the 4th quarter, oftentimes in the 12th month.

[3] $223,597 in Operating Costs minus $125,000 to underwrite the contract for the County Reentry Coordinator (which was entirely spent as budgeted) equals $98,597.

[4] Probation requested about $26,000 for a vehicle purchase in the 2014/2015 budget, and we found an invoice from June 2015 in the amount of $26,196.73 for the purchase of a Toyota Camry Hybrid. However, we also located a second invoice in the amount of $26,184.98 for a second vehicle, a Ford C-Max Hybrid, which was submitted in the October 2015 report.

For example, during the course of the year, Probation spent $12,785 on "minor equipment," which was not included in the approved budget; of this new line item, 76% was booked in the final month of the fiscal year.

In such cases, it may be the intention to spend the total amount of AB109 funds allocated to the agency, whether or not the use of funds is permitted by or consistent with the budgets as publicly presented to and approved by the BOS. We would recommend that the CAO establish and enforce a clear directive that funds are not to be reallocated from their approved purpose without formal approval by the BOS.

Probation was not alone in this practice, which was found in others as well; Workforce Development Board (WDB), discussed below, is particularly illustrative of this practice.

d. Indirect or "nonspecific" costs

Our analysis reveals a lack of consistent practices regarding allocations of certain indirect costs to AB109 budgets. In recent years, and increasingly, some departments have begun the practice of assigning costs for "occupancy," "office supplies," and "other." The use of AB109 funds to offset the existing costs of existing buildings is the very embodiment of supplantation.

In some cases, departments have used 4th quarter accounting to assign substantial funds to unusual line items, such as "County Expense Claims," unexplained "accruals" for staff positions, unexplained "accruals for operating costs," and non-specified items labeled only "nonspecified." We can find no evidence that these reallocations were publicly presented, discussed, or approved.

Workforce Development Board, for example, charged 42.2% of its budget to these unusual and unapproved line items, while also charging a full 71% of its total budget in just the final quarter of the fiscal year. This is hard to understand, given that 98% of the WDB budget is intended to cover (non-specified) portions for five staff members ($196K of $200K); it is hard to understand how such staff could require only 2% of the allotted budget in the first nine months of the year, with 98% charged in just the final three months. Indeed, in an established program and with established administrative positions, staff generally represents a highly consistent cost throughout a fiscal year.

This use is further complicated by the fact that in its budget proposal, the WDB does not identify the FTEs for the five staff whose positions, it says, are partially underwritten by AB109 budgets; thus, it is impossible to confirm the justification for this allocation; to track the actual costs; or to assess the possibility of supplantation. However, given the fact that federal funds generally represent a substantial portion of Workforce Development Board funding, it seems questionable to use AB109 funds to offset the cost of WDB management and existing staff; again, the possibility of unexamined supplantation should be raised.

KF 3. "Status quo" directive surrenders critical analysis and stewardship

Our analysis reveals inconsistent definitions of what it means to submit a "status quo" budget. The varieties are of several types:

- A department submits exactly the same line items, with the same amounts, year after year, even if the use of funds in the previous year differed sharply from its approved purposes
- A department submits exactly the same line items, with the same amounts, year after year, but increases the line items by some percentage, ascribes the increase to "negotiated contracts" (or remains silent as to the cause) and calls it a "status quo budget," nonetheless
- A department submits a request for the same total funding received the prior year, even if the prior year's budget included one-time items will not recur in the upcoming year and should be excluded
- A department submits a request for the same line-item amounts and total amounts received the prior year, even if the costs on various line items, as actually incurred, were substantially lower than the prior year's budgeted amount, lowering the overall total.

In all of these examples, the directive to submit "status quo" budget renewals does not seem to require entities to identify or report over/under utilizations, justify reallocations by explaining need or reason, or modify their associated line items or budget narratives to reflect past experience and inform the renewal request.

In other words, even though in many cases County agencies are not spending money on approved uses, the common practice is to submit renewal requests year after year as if they were.

Indeed, there seems to be little indication that departments are instructed by the CAO to identify potential cost savings (redundancies, inefficiencies, lower costs than planned, nonrecurring items, or supplantation). On the other hand, since various increases are allowed (COLAs, expanded staff positions, new line items), it seems clear that – absent a new directive – costs will do nothing but inexorably increase.

Thus, it appears that the CAO's annual directive for "status quo" renewal requests sidesteps any expectation that these annual requests should be built on a critical budget-to-actual analysis of the use of funds in previous years. By failing to require that all entities accurately track uses, purposes, and outcomes before developing a renewal request, this practice undermines CCP's ability and obligation to assess the true cost, efficiency, and benefit of funded activities.

In light of the persistent and oft-reiterated reminders by the CAO of potential future fluctuations in AB109 allocations to the County by the state, we feel it imperative that agencies be directed to engage in critical analysis.

While we readily perceive the appeal of offsetting General Fund costs with AB109 funding, we do not feel that such use is consistent with AB109 intent or with guidelines on supplantation.

KF 4. Use of AB109 funds to offset costs of existing staff and positions

Our budget analysis shows that in the 2015/2016 fiscal year, AB109 funds were used to underwrite at least 94.96 FTE positions[5] in County agencies. This is a remarkable number of AB109-funded County employees put to the purpose of managing a modest-sized AB109 population.

In the absence of a formal time study (which the CAB recommends the County undertake), it is hard to determine whether all 94.96 FTE employees are necessary to achieve AB109 purposes, and to what degree their time is in fact dedicated specifically to AB109-related purposes.

Further, it appears that many of the positions now being funded through AB109 were not

[5] Because WDB does not quantify the FTEs underwritten by AB109 funds, the total FTE cannot be precisely calculated.

created and filled specifically to meet incremental needs related to AB109. Rather, it appears that AB109 funds may have been (increasingly) allocated to County positions that existed prior to AB109, and that AB109 funds may be underwriting costs previously budgeted as County General Funds or supplanting other established funding sources.

However, without clear guidelines regarding such practices, and absent the documents and processes necessary to track sources and uses of funds, the County and public are limited in their ability to calculate the true incremental cost represented by AB109 activities in Contra Costa.

KF 5. Identifying and remedying supplanted funds

Given that many AB109-related staff and activities are or may be funded by other sources – dedicated state revenue streams; state, federal, or private grants; or federal sources such as Medi-Cal and the new Drug Medi-Cal – opportunities for unintentional supplantation are rife.

For example, the Sheriff's budget contains a line item of $456,250, for "food/ clothing/ household" for incarcerated AB109ers. It is hard to understand how the very small *incremental* number of people housed in the detention facilities as a result of AB109 could possibly generate an *incremental* cost for these items of nearly half a million dollars annually. Further, as actually expensed, this item was substantially over-budgeted, leaving $252,068 unspent.

However, in the absence of directive guidelines, clear calculations for justification, and careful auditing, it is impossible to determine whether this budget allocation supplants existing funds, whether such cost increases have been examined and confirmed, and whether 30 Deputy Sheriff positions funded by AB109 were in fact newly created in the aftermath of AB109. The risk is that costs previously covered by County General Funds as an ordinary element of detention operations may be supplanted by AB109 funding.

Similarly, the AB109 budget for Detention Health Services establishes funding to underwrite positions for 7.6 FTE health professionals, but without a budget justification that enumerates the specific incremental workloads resulting from AB109, it's hard to assess the necessity of these positions.

In addition, when some AB109-budgeted activities are likely to be reimbursed through federal sources, it can be difficult to predict and correct budgets to reflect such anticipated or actual reimbursements. This is particularly true of health-related items that are subject to

reimbursement by federal funds.

KF 6. Lack of parity in process and treatment

The policy recommendations provided in Section II of this document, taken in aggregate, would establish baseline systems of transparency, review, integrity, and scrutiny for County agencies, requirements that that have been imposed on AB109-funded *nonprofit* organizations ever since nonprofit organizations began receiving funding in 2013/2014.

In fact, the burdens currently imposed on nonprofit organizations are substantially higher even than what we recommend here for the County agencies.

For example, nonprofit organizations are required to submit specific metrics, on a monthly basis, as a condition of their contracts and invoices. In contrast, the County agencies are required to provide no such reports on services or outcomes, but receive continuous funding without obligations for such reporting.

Further, nonprofit agencies are required to submit competitive bids, cannot rely on extended years of funding, must implement newly funded efforts on accelerated and shortened timelines, and are expected to deliver specific measurable outcomes without the infrastructures, resources, and autonomy that characterize County agencies.

All of these differences suggest that County agencies should not be excused from the standards and expectations required of their nonprofit counterparts.

We strongly believe that good governance, necessary stewardship, and public trust require that AB109-funded County agencies be expected to adhere to the same level of scrutiny and consistency as their much smaller nonprofit partners.

VI. Analysis of Departmental AB109 Budget-to-Actuals for FY 2015-2016

A. Origin and purpose of this budget-to-actual analysis

Although it has been five years since AB109 began implementation in the fiscal year 2011/2015, the County has never produced an integrated "budgets to actuals" document to examine the uses of AB109 funds across all funded departments.

Therefore, and in order to provide a framework necessary for collective review and analysis of AB109's uses in Contra Costa County, CAB has undertaken the effort to produce this brief on the County's behalf.

B. Caveat

It is important to note that CAB's budget analysis represents a diligent, good faith effort to be as accurate and complete as possible. All of the information contained in the budget analysis comes from public documents, and in creating it, every effort was made not to infer, assume, or deduce information. For specific questions, clarification, and additional documentary sources, CAB consulted directly with senior staff of the CAO, and we deeply appreciate the careful and attentive collaboration provided.

Notwithstanding this demanding due diligence, we recognize that this document attempts to capture a tremendous amount of information drawn from disparate, non-standardized documents, requiring that CAB cobble together information drawn from dozens of source documents. Each of these source documents represented only one piece of this complex puzzle, and many did not readily align with one another.

Corrections may prove necessary, and in future we would welcome the transfer from the CAB to the purview of the CAO the responsibility for producing comprehensive, rigorous analytic reports such as this.

C. Commingling nonrecurring and operating costs

We note that in budgeting, analyzing, and discussing the annual cost of the County's AB109-funded operations, it is important to distinguish nonrecurring costs from annual baseline operating costs; this was sometimes overlooked.

In cases where operating funds are in fact reallocated to nonrecurring items (such as vehicle purchases), it is important for the County to reduce the subsequent year's operating budget allocations by the amount of the nonrecurring cost.

D. Pretrial Services budget

Unlike other AB109-funded budgets for County agencies, the $900,000 operating budget for Pretrial Services (PTS) is shared by the Probation Department and the Office of the Public Defender. As a result, each agency receives a portion of the PTS revenue allocation, and each agency submits its own invoices against that allocation.

Working with staff from the CAO, who in turn requested specific detail from the Probation Department's Administrative Services Officer, in this analysis we have been able to separate

the Pretrial Services sources and uses within each of these two departments, allowing us to produce an analysis of Pretrial Services independent of the larger budgets for both Probation and the Public Defender. On the accompanying budget analysis, the PTS-related budget is analyzed as an independent entity, separate from its larger departmental budgets.

E. Summary findings within the 2015/2016 AB109 budgets for public agencies

CAB's detailed budget-to-actual analysis of all funded public agencies for 2015/2016 has revealed multiple opportunities for the County to better match annual budget allocations to appropriate uses; reset status quo budget assumptions; establish shared protocols for budgeting, spending, and tracking; and revise the distribution of funds among agencies to most effectively steward this unique stream of dedicated state funds.

In this following section, we offer a simply high-level summary of the findings of our analysis, which is presented in much greater detail in the accompanying financial document.

1. Ongoing Operating Costs

Of the **$16,523,314** budgeted to public agencies for **ongoing** costs in FY 2015/2016, our analysis suggests that **$2,272,954.10**, or **13.76%**, remained unspent on approved uses.

FY 2015/2016 AB109 budgets	Amount at issue	% of operating budget
Operating funds budgeted in 15/16 Total operating funds budgeted to public agencies (excluding $900,000 PTS budget, $2.7 million in one-time capital set-asides, and $3.995 million for community-based organizations)	$16,523,314.00	100.00%
Unspent balance of approved uses	**$2,272,954.10**	**13.76%**

In addition to this unspent balance remaining on approved line items, our analysis also notes that in many cases the approved line items, as budgeted, were overspent, without authorization. We also noted cases in which funds were spent for purposes that had not been formally proposed or approved by BOS.

FY 2015/2016 AB109 budgets (ongoing operations, excluding PTS)	Amount at issue	% of operating budget
Total overspent on approved uses	$125,378.87	0.76%
Spent on new line items apparently without formal approval	$584,238.17	3.54%
Total operating funds apparently spent other than as approved	**$709,617.04**	**4.29%**

2. Pretrial Services

Of the $900,000 allocated jointly to the Public Defender's Office and the Probation Department for Pretrial Service costs, the Probation Department received a total of $757,448 (84.2%), and the Public Defender's Office received $142,552 (15.8%).

Within these allocations, $74,661.02 remained unspent in Probation's staffing line item, while the staff budget for the Public Defender's Office was overspent by $6,630.00. Meanwhile, Probation under-spent its operating costs line item, while the Public Defender's Office did not submit request for any costs other than staffing.

CAB suggests that the allocations for Pretrial Services be modified to reflect this over/under utilization. We also suggest that both revenues and the expenses for Pretrial Services be recorded as separate elements (both sources and uses) on Probation's and the Public Defender's planning and reporting, rather than being aggregated into line items and invoices within the larger departmental budgets.

We also note that Probation used PTS operating funds in the amount of $26,184.98 to purchase a vehicle. This is not an ongoing operations cost and thus should not have been funded through the ongoing operations budget.

Further, we note that although Probation invoiced a vehicle purchase in June 2015, as was authorized in the 14/15 budget, Probation then purchased a second vehicle in October 2015; this purchase was not included in the approved 2015/2016 budget. The reason for the purchase of the second vehicle has not yet been determined by CAO staff, who are researching the matter and will report on their findings to the CCP.

Pretrial Services Budget	Allocation	Unspent/(Overspent) on approved items	Spent on non-approved items
Probation allocation			
Staff	$747,167.00	$74,661.02	
Operating Costs	$10,281.00	$2,078.95	$26,184.98
Public Defender allocation			
Staff	$142,552.00	($6,630.00)	
Total	**$900,000.00**	**$70,109.97**	**$26,184.98**

3. Nonrecurring Costs

Of the $2,700,000 set aside over the course of several fiscal years for **one-time** capital projects for the Sheriff's Office, 87.48% remains unspent to date.

Nonrecurring set-asides		
Set-asides for capital projects for Sheriff's Office over several fiscal years	$2,700.000.00	100.00%
Unspent balance as of June 30, 2016	$2,361,908.00	87.48%

CAB recommends that the CAO establish a policy for determining deadlines by which set-aside funds must be expensed for the approved purpose, after which unspent balance would be returned to the general AB109 pool.

F. Source documents for this written brief and accompanying financial analysis

- **2012/13**: "FY2012/13 AB109 Public Safety Realignment Preliminary Financial Report," Community Corrections Partnership Agenda Packet, August 2, 2013, pp. 7-96, at http://www.cccounty.us/DocumentCenter/Home/View/27284
- **2014/15**: "FY 2014/15 Annual Financial Report for the Community Corrections allocation of AB 109 Public Safety Realignment revenue," Community Corrections Partnership Agenda Packet, November 6, 2015, pp. 29-208, at http://www.contracosta.ca.gov/DocumentCenter/View/38543
- **2015/16**: "FY 2015/16 AB109 Public Safety Realignment Budget Proposals," Community Corrections Partnership Agenda Packet, January 9, 2015, pp. 10-40, at http://www.co.contra-costa.ca.us/DocumentCenter/View/34978
- **2015/16**: "Community Corrections Partnership FY 2015/16 Annual Financial Report," Community Corrections Partnership Agenda Packet, November 4, 2016, pp. 10-119, at http://www.co.contra-costa.ca.us/DocumentCenter/View/43107
- **2016/17**, "FY 2016/17 AB109 Public Safety Realignment Budget Workshop," Community Corrections Partnership Agenda Packet, December 5, 2015, pp. 11-51, at http://www.contracosta.ca.gov/DocumentCenter/View/38967
- 2016/17: "AB109 Public Safety Realignment Program FY 2016/2017 Summary of Budget Allocations, as recommended by the Public Protection Committee," Public Protection Committee Agenda Packet, February 8, 2016," at http://64.166.146.245/agenda_publish.cfm?id=&mt=ALL&get_month=2&get_year=2016&dsp=ag&seq=771
- Contra Costa County Municipal Code, Division 25, Better Government Ordinance, at https://www.municode.com/library/ca/contra_costa_county/codes/ordinance_code?nodeId=TIT2AD_DIV25BEGOOR

- "Operating Guidelines of the Contra Costa County Community Corrections Partnership (CCP) Community Advisory Board (CAB), as amended January 8, 2015," at https://ca-contracostacounty2.civicplus.com/DocumentCenter/Home/View/9791
- Direct communications (telephone and email, including documentation provided as email attachments) with staff of the Contra Costa County Administrator's Office, November 11-December 7, 2016