

**County of Santa Clara**  
**Department of Correction**  
Administration




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DOC01-03042010

DATE: March 4, 2010

TO: Supervisor George Shirakawa, Chairperson  
Supervisor Donald F. Gage, Vice Chair  
Public Safety & Justice Committee

FROM:  RL  
Edward Flores  
Chief of Correction

SUBJECT: Update on the local impacts of the California Corrections Reform Package

**RECOMMENDED ACTION**

Accept report relating to the impact of the California Corrections Reform Package and changes to Penal Code 4019, and the effects these changes have on the Department of Correction.

**FISCAL IMPLICATIONS**

There are no fiscal implications associated with acceptance of this report.

**REASONS FOR RECOMMENDATION**

On February 9, 2010, the Board of Supervisors (Board), at the request of Supervisor Shirakawa, directed the Department of Correction (DOC) to return to the Public Safety and Justice Committee a report explaining the impacts of the California Corrections Reform Package (CCRP) and the effects of the recent changes to Penal Code (PC) 4019 (reduction in time of commitment).

**BACKGROUND**

California Corrections Reform Package (CCRP)

SB3X 18 (Ducheny, Chpt. 28, Stats. 2009) – was passed by the Legislature in September 2009 and signed into law by Governor Arnold Schwarzenegger in October 2009. This bill is commonly referred to as the California Corrections Reform Package. The bill made a number of reforms to state and local corrections. Below are the main provisions of SB3X 18:

- a. Risk-Based Parole Supervision and Lower Agent Caseloads (also known as non-revocable parole).
- b. Non-Revocable Parole Eligibility Criteria.
- c. Parole Violation Decision Making Instrument: Requires the CDCR to employ a parole violation decision making instrument to determine the most appropriate sanctions for parolees who violate their parole conditions.
- d. Parole Re-Entry Courts: Authorizes CDCR to refer specified parolees, if they have a history of substance abuse or mental illness and violate their parole conditions, to a reentry court program. Requires the CDCR secretary, subject to available funding, to enter into a memorandum of understanding with the Administrative Office of the Courts for the purpose of the establishment and operation of parolee reentry programs.
- e. Adjusting Property Crime Thresholds: Changes the monetary threshold that determines whether specified property crimes are a misdemeanor or felony by raising the dollar thresholds to adjust for inflation. Note: The dollar threshold for many crimes has not been adjusted for more than 20 years.
- f. Program Participation Credits: Allows inmates who participate in and complete rehabilitation programs such as GED, college degrees, and vocational training, to earn up to six weeks of additional sentence credits.
- g. County Jail Credits: Provides one day of sentence credit for every day served in county jail from the time of arrest. Current law provides one day of credit for every two days served in county jail from the time of conviction.
- h. Parole Violator Return-to-Custody Credits: Provides that all parole violators returned to custody who are otherwise eligible should receive one day of credit for each day served. Currently, only some violators receive such credit.
- i. Fire Camp Endorsement Credits: Provides two days of credit for every one day served after being endorsed to transfer to a fire camp, rather than providing such credit only after participation has begun.
- j. Day-for-Day Eligibility Credits: Provides a consistent rule of one day of credit for every day served for all eligible inmates, whether those inmates are on a waiting list for a full-time assignment, participating in college, or undergoing reception center processing, so long as the inmate is discipline-free during that time. Current law provides a similar credit structure, but does so through the existence, for example, of a “bridging program” whereby inmates in reception centers sign up for self-study programs and thereby receive credit.

- k. Community Corrections Performance Incentives Fund (CCPIF): Authorizes the state to annually allocate money into a State Corrections Performance Incentives Fund to be used for certain purposes relating to improving local probation supervision practices and capacities, as specified.

While there are many provisions within CCRP, only item g has an immediate impact on the DOC. The other provisions of CCRP may affect the DOC in the future if this specific population re-offends and is incarcerated in Santa Clara County. At this time, many of the provisions are not fully developed or implemented, and there is insufficient information to accurately predict those potential impacts.

Penal Code 4019 (Credit for Time Served)

A prisoner's commitment to a county jail can be reduced by what is known as PC 4019 or "good time/work time conduct credits": Good time credit for "good" behavior, and "work" time credit for performing labor as assigned by county jails within the facilities. Prior to SBX3 18, all qualifying prisoners committed to a county jail were awarded one day of good time and one day of work time credit for every six days of commitment. This is commonly referred to as one-third good time/work time credit. This automatic award is given with the understanding that the prisoner will not violate any major rules of the county jail. These good time credits can be reduced by the inmate's failure to comply with rules and regulations or refusal to perform labor as assigned by the county jail.

On October 11, 2009, the Governor signed SBX3 18 into law, and it took effect on January 25, 2010. The bill increased the amount of local good time/work time credit a county jail inmate receives. SBX3 18 amended PC 4019 to provide one-half time credits for time actually served. Some inmates now receive one day good time/work time credit for every two days served. This credit does not apply to sex offender registrants, or persons committed for or with a prior conviction of a serious felony or violent felony; such inmates continue to receive two days of credit for every six day period of confinement.

The DOC met with representatives from the courts, the Public Defender's Office, and the District Attorney's Office to discuss implementation strategies. It was determined that the courts would determine eligibility for half time credit on an individual basis and notify the DOC through sentencing documents.

When SBX3 18 was signed into law, the courts, district attorneys and county counsel had differing views on whether the amendment is retroactive (applies to in custody inmates sentenced before January 25, 2010) or prospective (applies to inmates sentenced on or after January 25, 2010). The Supervising Superior Court Judge took the position that Santa Clara County would sentence inmates prospectively. On February 19, 2010, Supervising Superior Court Judge heard arguments on the issue from the Office of the Public Defender and District Attorney's Office. At the conclusion of the hearing, the Judge rendered the decision that individual cases may be brought to the court for hearings on retroactivity. This decision allows defendants who have already been sentenced and are serving their time in DOC facilities to have their sentencing brought before the court on the applicability of half time credits. If the half time credits are awarded, then the defendant would receive that credit from January 25, 2010.

Since SBX3 18 has been in effect, the DOC has calculated 555 sentences as ordered by the courts as of February 17, 2010. Of this number, 473 sentences have been calculated with the new half time calculation. The remaining 82 sentences were not eligible for the new calculations and were computed with the one third credit. Of the 473 sentences calculated with the new method of calculation, 199 inmates have been released.

On February 16, 2010, the Attorney General (AG) provided clarification regarding the interpretation of the retroactive or the prospective application of PC 4019. The AG's Office wrote in part: "It is not normally the role of the Attorney General to resolve differences in possible interpretations of criminal statutes affecting local law-enforcement matters. But in light of numerous questions that have arisen, this Law Enforcement Bulletin summarizes the position briefs that will be filed today and in subsequent weeks, in cases before the state courts of appeal. That position is that Penal Code section 4019 should be deemed prospective because there is no clear evidence that the Legislature intended it to be retroactive."

The DOC and other agencies within the criminal justice system, including the Supervising Judge of the Superior Court of Santa Clara County, continue to meet on this topic to discuss problems as they arise.

### **CONSEQUENCES OF NEGATIVE ACTION**

The Public Safety and Justice Committee will not receive the information regarding the impacts of the California Corrections Reform Package or the effects to the change to Penal Code 4019.