

AB 109
The Criminal Justice Realignment Act
Adult Compliance Team (ACT)
September 2018

OPERATING AGREEMENT
Fresno County Probation Department
Fresno County Sheriff's Department
Fresno County District Attorney's Office
Fresno Police Department
Clovis Police Department
Selma Police Department
Reedley Police Department
Kerman Police Department
Kingsburg Police Department

I. PURPOSE

This document establishes the purpose of the Adult Compliance Team (ACT) as a joint and cooperative effort. Additionally, it formalizes relationships between participating agencies for policy and planning in order to create a cooperative unit capable of addressing the public safety concerns and issues facing local law enforcement in Fresno County regarding probation, post release community supervision (PRCS), and mandatory supervised release that may occur due to the passage of the Criminal Justice Realignment Act (AB 109) effective October 1, 2011.

II. MISSION

The mission of ACT is to provide an additional layer of offender supervision to ensure offender accountability, surveillance, and supervision through mobile, intensive and evidence based practices leading to enhanced public safety and offender compliance.

III. GOALS

- A. To reduce the occurrence of new criminal acts by targeting offenders on probation, post release community supervision, and mandatory supervised release with intensive surveillance by peace officers dedicated to enforcement of conditions of release.
- B. To identify supervised offenders who are not meeting their conditions of release in order to ensure compliance.
- C. To mitigate the need for custodial sanctions through appropriate early interventions.
- D. To document trends in the realignment population and respond efficiently to emerging trends that adversely affect public safety.
- E. To gather, collect, and provide information and direction regarding the post release community supervision (PRCS) and realignment populations for all law enforcement agencies in the County of Fresno and act as the point of contact for dissemination of offender information to law enforcement.
- F. To respond rapidly to emergency situations with knowledge and information about the offenders.
- G. To provide other public safety responses including searches as authorized by the terms of release and warrant services, as needed.

IV. GENERAL OPERATIONAL STRATEGIES

Intensive supervision based on offender assessment, enjoined with evidence based practices, forms the cornerstone of the Fresno County AB 109 supervision model. This intensive approach is seen in the formation of ACT; an interagency public safety alliance with local law enforcement agencies and county justice partners that provides an additional level of offender accountability and public safety. The "strike team" concept is used to describe peace officers under ACT, dedicated to particular enforcement and public safety purposes, with an immediate capacity to take action with offenders under probation supervision, post release community supervision (PCRS), and mandatory supervised release by the Fresno County Probation Department.

To this end, the participating agencies developed these operational guidelines and procedures concerning the formation of the Adult Compliance Team. The participating agencies agree jointly and separately to abide by these terms and provisions set forth throughout the formation of the joint operation.

V. ORGANIZATIONAL STRUCTURE

The Adult Compliance Team will be co-located at the Fresno County Probation Department. The Probation Department is the commanding agency of ACT and will maintain responsibility for the administrative direction, objective, and mission of the Adult Compliance Team.

The team will consist of sworn officers from the following agencies: two (2) deputy probation officers from the Fresno County Probation Department; one (1) sergeant from the Fresno County Sheriff's Department; two (2) deputies from the Fresno County Sheriff's Department; two (2) senior district attorney investigators from the Fresno County District Attorney's Office; one (1) sergeant from the Fresno Police Department; three (3) police officers from the Fresno Police Department; two (2) police officers from the Clovis Police Department; one (1) police officer from the Selma Police Department; one (1) police officer from the Reedley Police Department; one (1) police officer from the Kerman Police Department; and one (1) police officer from the Kingsburg Police Department. Dependent upon future funding, the size of ACT may fluctuate according to the number of officers and agencies.

A. Policy and Direction

Under the policy and planning direction of the Community Corrections Partnership (CCP), ACT will utilize an Advisory Sub-Committee of CCP.

B. ACT Advisory Sub-Committee of the CCP

Each law enforcement agency that assigns personnel to ACT may designate a member to the ACT Advisory Sub-Committee of the CCP. All law enforcement agencies operating within the county with an interest in ACT are welcome to attend the meetings of the ACT

Advisory Sub-committee.

Appointments to and removal from the ACT Advisory Sub-Committee and appointment of a Sub-Committee Chairperson will be made by the CCP Executive Committee.

C. Operations Commander

The Probation Services Manager is the Operations Commander and has overall responsibility for the operation of ACT. The Operations Commander implements direction to the team under the administrative direction of the Fresno County Probation Department's Realignment Division Director. The Operations Commander will liaison with individual members of the ACT Advisory Sub-Committee, and will attend meetings of the CCP as required.

D. Field Supervisor

The assigned Field Supervisor(s) will be the day-to-day operations supervisor(s) and responsible for overall coordination of tactical field operations. When ACT works as separate elements and both supervisors are working, each supervisor will be responsible for their assigned element. When only one supervisor is on duty, that supervisor will be responsible for the supervision of both elements.

E. Probation Department

All probation conditions and release compliance remains the responsibility of the AB 109 probation officer assigned to a specific offender. These conditions are predetermined before release from custody to probation, post release community supervision or mandatory supervised release. The offenders will be under the supervision of their assigned probation officer or ACT probation officer.

VI. OPERATIONS

A. Supervision and Field Responsibility

The use of surveillance, supervision, and field contacts will be established in conjunction with Fresno County Probation Department policies and as established by the CCP Executive Committee, ACT Advisory Sub-Committee, and policies and procedures of general law enforcement accepted practices as established by statute and case law.

All ACT personnel will conform to their own agencies' policies and procedures as well as policies and procedures that may be required by participation in ACT.

B. Records and Reports

All reports created by ACT related to contacts with those offenders under probation supervision, post release community supervision, and mandatory supervised release will be entered into the Probation Records Information Management System (PRIMS). All

agencies participating on the ACT will have full access to Sharenet and the information in PRIMIS. Information sharing with other law enforcement agencies regarding offenders under probation supervision, post release community supervision, and mandatory supervised release allowing for appropriate law enforcement response is a priority for ACT.

Any additional crime, arrest, or incident report will be documented by the primary investigative officer through the use of their own departmental report writing system.

VII. ADMINISTRATION

A. Financial Administration

Financial administration of ACT funds allocated by the CCP Executive Committee will be the responsibility of the Fresno County Probation Department Business Office through the duration of the program. In addition, the allocation and management of funds are guided by Fresno County Fiscal Policy and under the review quarterly of the CCP Finance and Audit Sub-committee for presentation to the CCP.

B. Vehicles

As provided for in the approved CCP budget, vehicles will be provided for probation staff and for participating law enforcement officers as specified in the final approved budget of the CCP and Fresno County, for use in executing the mission of ACT.

C. Communications

Each participating law enforcement agency will provide communications equipment for its own personnel through the duration of the OA. Each agency is responsible for its interagency communication operability. The policies and procedures of each agency will govern communication by its own personnel. The Fresno County Sheriff's Dispatch will be the primary contact for operations of ACT.

D. Firearms

Each participating agency will provide all necessary firearms for its own personnel through the duration of the OA. The policies and procedures of each agency will govern the use of firearms by its own personnel.

E. Equipment and Property

Any property, equipment or other items acquired with funds allocated by the CCP Executive Committee shall be the property of ACT through the duration of the OA. Upon termination of this OA or any revision, the property of ACT shall be distributed as determined by the CCP Executive Committee.

F. Training

ACT Officers will complete training as assigned and approved by the ACT Advisory Sub-Committee chairperson or their designee. Training for the team will be outlined during the fiscal year to reflect the needs of the team. The Probation Division Director may also assign training to the ACT members as it pertains to the Evidence Based Practices outlined by the AB 109 program.

G. Personnel Management

The selection of ACT members will be made by each participating agency. If any of the ACT policies and procedures conflict with any of the participating agencies' policies and procedures, notice of said conflict shall be immediately given to a supervisor. The supervisor will take whatever action necessary to reconcile the conflict.

Each participating agency retains full responsibility for the professional and personal conduct of its own personnel assigned to ACT. Each participating agency will follow their agency directives/MOU for working modified schedules.

VIII. MULTI-AGENCY ADMINISTRATIVE CONCERNS

All ACT personnel will conform to their own agencies' policies and procedures as well as policies and procedures that may be required by participation in ACT.

There are a number of categories of administrative issues or situations pertaining to individual team members which will or may arise. Those include but are not limited to:

- A. Citizen Complaints
- B. Employee Evaluations
- C. On-Duty Motor Vehicle Accidents
- D. Injuries Sustained on Duty
- E. Officer-Involved Shooting
- F. Discharge of Firearm
- G. Vehicle Pursuits
- H. Use of Force

Each participating team member's agency has in place an administrative process for addressing the situations listed above. Should these situations occur, ACT will immediately notify the involved officer's agency. It will remain the responsibility of the involved officer's agency to address those situations pursuant to their own administrative process. All agencies involved in a critical incident will have the opportunity to observe other agency interviews with their own employees.

IX. DURATION

This OA shall become effective upon execution and shall continue without change until amended in accordance with Section X or terminated as discussed below.

Participation in ACT by any participating agency may continue as funding provides or until said agency terminates participation in ACT. An agency shall terminate participation in the following manner: delivery of written notice to the Chairperson of the CCP Executive Committee and to all other participation agencies, with termination to be effective 60 days after delivery.

As to each participating agency, this OA will be in force from the date that agency signs the agreement. Termination of the OA has been provided for above.

X. AMENDMENT

Any member of the ACT Advisory Sub-Committee may propose an amendment to this OA by submitting it at any regular meeting of the ACT Advisory Sub-Committee. The proposed amendment would be submitted to the Executive Committee of the Community Corrections Partnership for their consideration and approval.

XI. LIABILITY

Each participating agency will be solely responsible for any and all damages, including attorney's fees, results from acts or omissions of its own employees including ACT assigned employee. Each participating agency shall indemnify and hold harmless each other participating agency for said acts or omissions. The provisions contained herein include any violation of applicable law, ordinance, regulation or rule, including where the claim, loss, damage, charge or expense was caused by deliberate, willful or criminal acts of any agency, or any of its agents, officers or employees in its or their performance thereunder.

It is the intent of the parties hereto that, where negligence is determined to have been contributory, principles of comparative negligence will be followed and each party shall bear the proportionate cost of any loss, damage, expense, and liability attributable to that party's negligence.

The participating agencies will establish procedures to notify the other agencies where appropriate of any claims, administrative actions or legal actions with respect to any of the matter described in this indemnification provision. The agencies shall cooperate in the defense of such actions brought by others with respect to the matters covered in this agreement. Nothing set forth in this OA shall establish a standard of care for, or create any legal rights in, any person not a party to this OA.

XII. NON-WAIVER

Waiver of any breach or default hereunder will not constitute a continuing waiver or a waiver of any subsequent breach, of either the same or another provision of this OA.

XIII. SEVERABILITY

If any term, covenant, or condition of this OA is held by a court of competent jurisdiction to be invalid, the remainder of this OA will remain in full force and effect.

XIV. AMBIGUITY

The participating agencies have each carefully reviewed this OA and have agreed to each term of this OA. No ambiguity shall be presumed to be construed against any other party.

XV. GOVERNING LAW


The interpretation and enforcement of this OA will be governed by the laws of the State of California, and where applicable, by federal law. The participating agencies agree to submit any disputes arising under this OA to a court of competent jurisdiction located in Fresno, California.

XVI. INTEGRATION

The OA embodies the entire agreement of the participating agencies in relation to the formation and operation of ACT, except for "Program Costs." Except for that, there is no other agreement or understanding, verbal or otherwise, existing among the participating agencies.


XVII. SUPPORTING AGENCIES

The following agencies support the mission and strategies of ACT:



Kirk Haynes, Chief Probation Officer
County of Fresno

9/26/18
Dated



Lisa A. Smittcamp, District Attorney
County of Fresno

9/24/18
Dated



Margaret Mirns, Sheriff
County of Fresno

9/24/18
Dated



Jerry Dyer, Chief of Police
City of Fresno

9/24/18
Dated




Matthew Basgall, Chief of Police
City of Clovis

9-20-18
Dated




Greg Garner, Chief of Police
City of Selma

9/20/18
Dated



Jose L. Garza, Chief of Police
City of Reedley

9/24/18
Dated



Joseph Blohm, Chief of Police
City of Kerman

9/20/18
Dated



Neil Dadian, Chief of Police
City of Kingsburg

9/20/18
Dated