

The Impact of California's Probation Performance Incentive Funding Program

California prisons have operated at around 200 percent of capacity for more than 11 years.¹ This has resulted in rapidly increasing costs: in 2011, the state budget included \$9.8 billion for corrections, an increase of about 300 percent from 1991.² Corrections expenditures now consume 11.2 percent of the state's general fund, up from 6.7 percent in 2001.³

While much attention has been focused on California's "three strikes" law and its high parole recidivism rate as the sources of prison growth, a far less well known driver of prison admissions has been the probation system. In 2009, the

California Department of Corrections and Rehabilitation (CDCR) estimated that 40 percent of new prison admissions in the past year were revocations from probation.⁴ Not only does the state have a large probation population (around 330,000 probationers in 2010), but California probationers had a 10 percent lower rate of successful completion than probationers in other states.⁵

Probation is administered by California's 58 counties. However, with limited funding available from county governments, probation departments typically have had few resources to

Revocations, Spending Down in Wake of Incentive Funding Legislation



improve community supervision. They also have had little incentive to do so: troublesome probationers could be revoked to state prison, relieving the counties of the cost of supervising them and the political liability of any future crimes they might commit.

“ With [SB 678] we can improve probation success rates, save the state money by reducing our prison population and keep our communities safe from repeat offenders.”

— State Senator Mark Leno (D-San Francisco)

In 2009, California created an incentive funding program to better align the responsibility for managing offenders with the funding to do so. The Community Corrections Performance Incentives Act (SB 678), sponsored by Sen. Mark Leno (D-San Francisco) and then Sen. John Benoit (R-Riverside), passed unanimously in both the Senate and Assembly despite an otherwise contentious political

environment on public safety issues. The 2009 state budget trailer set aside \$45 million from the federal stimulus program, the American Recovery and Reinvestment Act (ARRA), to provide seed money to counties to begin the program. The funds were part of a one-time expansion of the Edward Byrne Memorial Justice Assistance Grant (JAG) program administered by the U.S. Justice Department’s Bureau of Justice Assistance.

What does the Act do?

SB 678 awards counties that successfully reduce the rate at which they send probationers to state prison by sharing 40–45 percent of the savings the state accrues from not housing revoked offenders.⁶ County probation departments are required to reinvest their share of the savings in the implementation of evidence-based probation, defined as programs and practices that have been scientifically proven to reduce recidivism.

SB 678 also provides High Performance Grant awards to counties with very low probation failure rates.⁷ This ensures that counties that already had low rates of revocation prior to the start of the program do not miss out on the funding because of their strong efforts in the past.

What was the impact?

In the first year of implementation, the state probation failure rate—the number of probationers sent to state prison divided by the probation population—declined from 7.9 percent during the baseline years of 2006–2008 to 6.1 percent in 2010, a 23 percent reduction in revocations.⁸ The California Department of Finance estimated that because of this reduction 6,182 fewer probationers entered state prison in 2010, generating state savings of \$179 million.⁹

The state-level decline was the result of statewide change. Of California's 58 counties, 47 were able to reduce their probation failures both as a rate and in real numbers, with 14 counties qualifying for High Performance Grant awards. In the 2011 state budget, \$87.5 million of the state savings was shared with these successful counties.¹⁰

Of the probationers sent to prison in the second half of 2010, 18 percent were sent for a new crime while 82 percent were sent for a technical violation.¹¹ Because there are no statewide data on how many probationers sent to state prison committed new crimes during the baseline years, researchers cannot measure precisely how much of the drop in prison admissions was the result of probationers committing fewer crimes and how much was the result of changes to revocation policies and procedures.

Individual California probation departments that track probationer recidivism saw reductions in new felony convictions between 2008 and 2010.

In San Diego, only 31 percent of people who completed their term of probation (1,996 probationers) had a new felony conviction in 2010, down from 37 percent (2,403 probationers) in 2008.¹² In Orange County, 30 percent of people finishing probation (1,480 probationers) had a new law violation in 2010, down from 33 percent (1,711 probationers) in 2008.¹³

Finally, the FBI Uniform Crime Reports show that the overall crime rate in California fell in 2010. The violent crime rate declined by 6.9 percent from 2009, while the property crime rate dropped by 3.5 percent. Both of these declines were slightly larger than in the United States as a whole.¹⁴ The 2010 drop was California's largest one-year decline in the violent crime rate since 1999, though the property crime rate has been declining at a slightly faster rate (around 4.5 percent a year since 2006).¹⁵ All of these data support the notion that the decline in revocations to prison was most likely not linked to a rise in crime.

“ I am a strong supporter of evidence-based practices and legislation such as SB 678 in California to give us better tools and ideas to assist people caught in the criminal justice system for lower-level non-violent crimes to live more productive law-abiding lives and stay out of prison.”

— Gary Lieberstein, Napa County District Attorney

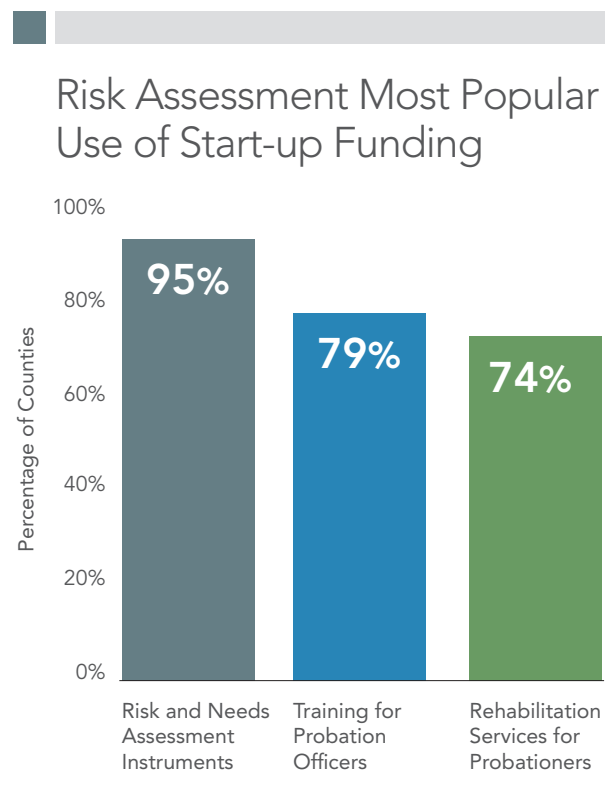
How are counties changing their probation practices?

Under SB 678 and the 2009 state budget trailer, counties are required to use their JAG grants and performance incentive awards to implement evidence-based practices in adult probation departments. In probation, some commonly used practices include the use of risk and needs assessments to determine supervision levels and case plans, the use of cognitive behavioral therapy with offenders, and the use of graduated sanctions and rewards to hold offenders accountable and encourage compliance with the terms of supervision.

In grant applications for the JAG funding submitted in late 2009, California probation departments specified that they planned to use the funding to:

- Implement risk and needs assessment instruments;
- Offer training to their probation officers in areas such as motivational interviewing, cognitive behavioral therapy, and case planning; and
- Offer increased programming to probationers, including cognitive behavioral therapy, substance abuse treatment, and employment services.¹⁶

The California Administrative Office of the Courts (AOC) recently completed a survey to assess county progress in implementing evidence-based practices as of July 2011. The AOC is currently validating the results of the survey, which should be released in 2012.



What's next?

These early trends suggest that California has successfully improved probation outcomes while reducing the state's expenditures on corrections. The next crucial step is to examine how crime rates have changed for people on probation throughout the state. The AOC is currently gathering these data and, in a report expected in early 2013, will link the data to information on how counties are improving their practices to determine the overall impact of the performance incentive program on public safety.

In 2011, the U.S. Supreme Court ruled that California must reduce its prison population by more than 30,000 offenders. In response, California Governor Jerry Brown led a push to shift more low-level offenders to county supervision. This program, known as "realignment," requires significant changes in California probation, including modifications to the performance incentive funding program. State officials are revising the funding formula to take into account legal changes in how and when probationers can be sent to state prison. In addition, realignment will most likely alter supervision practices as probation departments in many counties take on new responsibilities. All future evaluations of the impact of performance incentive funding on California budgets and public safety will have to take into account the impact of realignment on both local and state actors.

PERFORMANCE INCENTIVE FUNDING ACROSS THE NATION

Performance incentive funding is increasingly seen as an integral component of justice reinvestment efforts. In September 2011, the Pew Center on the States and the Vera Institute of Justice sponsored a summit on performance incentive funding that brought together eight of the states that have recently enacted performance incentive funding programs to discuss best practices for designing, implementing, and evaluating these programs. The states are Arkansas, California, Illinois, Kansas, Kentucky, Ohio, South Carolina, and Texas.

Information from this summit is available at www.vera.org/project/performance-incentive-funding, which will serve as a clearinghouse for information and resources around performance incentive funding moving forward.

Endnotes

1 Supreme Court of the United States, *Brown v. Plata*, Opinion of the Court (2011). <http://www.supremecourt.gov/opinions/10pdf/09-1233.pdf>.

2 California Department of Finance, *California State Budget 2011-12*, Summary Charts (2011). <http://www.ebudget.ca.gov/pdf/Enacted/BudgetSummary/SummaryCharts.pdf>; Legislative Analyst's Office, *Corrections Spending and Impact of Possible Inmate Population Reduction* (2009). http://www.lao.ca.gov/handouts/crimjust/2009/02_24_09_Corrections_Spending_Population_Reduction.pdf.

3 California Department of Finance, *California State Budget 2011-12*, Summary Charts (2011); California Department of Finance, *State Budget Summary 2001-02* (2001). <http://www.dof.ca.gov/budget/historical/2001-02/documents/FinalSpiral01.pdf>.

4 Legislative Analyst's Office, *Achieving Better Outcomes for Adult Probation* (2009). http://www.lao.ca.gov/2009/crim/Probation/probation_052909.pdf. This probably understates the percentage of new admissions coming from probation because there is evidence that the records used for this study are undercounting the number of people on probation.

5 Ibid.

6 Senate Bill 678, Chapter 608 (2009). <http://www.courts.ca.gov/documents/sb678.pdf>.

7 Ibid.

8 California Administrative Office of the Courts, *SB 678 Year 1 Report: Implementation of the California Community Corrections Performance Incentives Act* (2011). <http://www.courts.ca.gov/documents/SB678-Year-1-Report-FINAL.pdf>.

9 Ibid.

10 Ibid.

11 Ibid.

12 San Diego County Probation Department, *Annual Statistical Report 2010*, prepared by Natalie Pearl.

13 Orange County Probation Department, *Performance Measure Update*, (2009) and *Performance Measure Update*, (2011).

14 U.S. Department of Justice, Federal Bureau of Investigation, Uniform Crime Reports, *Crime in the United States 2010* (2011). Table 4. <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2010/crime-in-the-u.s.-2010/tables/10tbl04.xls>.

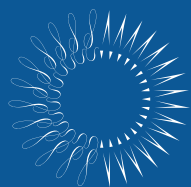
15 California Department of Justice. *Crime in California 2010* (2011). <http://ag.ca.gov/cjsc/publications/candd/cd10/preface.pdf>.

16 California Administrative Office of the Courts, *SB 678 Year 1 Report: Implementation of the California Community Corrections Performance Incentives Act* (2011).

Launched in 2006, the Public Safety Performance Project seeks to help states advance fiscally sound, data-driven policies and practices in sentencing and corrections that protect public safety, hold offenders accountable, and control corrections costs.

The Pew Center on the States is a division of The Pew Charitable Trusts that identifies and advances effective solutions to critical issues facing states. Pew is a nonprofit organization that applies a rigorous, analytical approach to improve public policy, inform the public, and stimulate civic life.

www.pewcenteronthestates.org



THE
PEW
CENTER ON THE STATES

STAY CONNECTED ▶ pewcenteronthestates.org

 twitter.com/pewstates

 youtube.com/pew

 facebook.com/pewtrusts

pewcenteronthestates.org/newsletter