



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue
San Francisco, CA 94102-3688
Tel 415-865-4200
TDD 415-865-4272
Fax 415-865-4205
www.courts.ca.gov

HON. TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

HON. DOUGLAS P. MILLER
Chair, Executive and Planning Committee

HON. DAVID M. RUBIN
Chair, Litigation Management Committee

HON. KENNETH K. SO
*Chair, Policy Coordination and
Liaison Committee*

HON. HARRY E. HULL, JR.
Chair, Rules and Projects Committee

HON. MARSHA G. SLOUGH
Chair, Technology Committee

Hon. Marla O. Anderson
Hon. Brian John Back
Hon. Richard Bloom
Mr. Mark G. Bonino
Hon. Stacy Boulware Eurie
Hon. Kyle S. Brodie
Hon. Daniel J. Buckley
Hon. Ming W. Chin
Hon. Samuel K. Feng
Hon. James M. Humes
Hon. Hannah Beth Jackson
Mr. Patrick M. Kelly
Hon. Dalila C. Lyons
Ms. Donna D. Melby
Hon. Gary Nadler
Ms. Debra Elaine Pole
Hon. Dean T. Stout

ADVISORY MEMBERS

Hon. Jeffrey B. Barton
Mr. Jake Chatters
Mr. Richard D. Feldstein
Ms. Kimberly Flener
Hon. Scott M. Gordon
Hon. David E. Gunn
Hon. Brian L. McCabe
Mr. Frank A. McGuire
Hon. Eric C. Taylor
Hon. Charles D. Wachob

MR. MARTIN HOSHINO
Administrative Director,
Judicial Council

August 1, 2016

Ms. Diane F. Boyer-Vine
Legislative Counsel
State Capitol, Room 3021
Sacramento, California 95814

Mr. Daniel Alvarez
Secretary of the Senate
State Capitol, Room 400
Sacramento, California 95814

Mr. E. Dotson Wilson
Chief Clerk of the Assembly
State Capitol Room 3196
Sacramento, California 95814

*Re: Report on the California Community Corrections Performance
Incentives Act of 2009: Findings from the SB 678 Program (2016),
as required under Penal Code section 1232*

Dear Ms. Boyer-Vine, Mr. Alvarez, and Mr. Wilson:

Attached is the Judicial Council report required under *Penal Code section 1232 on the California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678)*.

If you have any questions about this report, please contact Francine Byrne, Manager, Judicial Council's Criminal Justice Services, at 415-865-8069 or Francine.byrne@jud.ca.gov.

Sincerely,

Martin Hoshino
Administrative Director
Judicial Council

Ms. Diane F. Boyer-Vine
Mr. Daniel Alvarez
Mr. E. Dotson Wilson
August 1, 2016
Page 2

MH/SC/ts
Attachment

cc: Shaun Naidu, Policy Consultant, Office of Senate President pro Tempore Kevin de León
Alf Brandt, Senior Counsel, Office of Speaker Anthony Rendon Anita Lee, Senior Fiscal and
Policy Analyst, Legislative Analyst's Office Tina McGee, Executive Secretary, Legislative
Analyst's Office Margie Estrada, Chief Counsel, Senate Judiciary Committee Mike Petersen,
Consultant, Senate Republican Policy Office Alison Merrilees, Chief Counsel, Assembly
Judiciary Committee
Paul Dress, Consultant, Assembly Republican Office of Policy & Budget Cory T. Jaspersen,
Director, Governmental Affairs, Judicial Council
Laura Speed, Principal Manager, Governmental Affairs, Judicial Council
Peter Allen, Director, Public Affairs, Judicial Council
Yvette Casillas-Sarcos, Administrative Coordinator, Governmental Affairs, Judicial Council

Judicial Council Members

As of June 13, 2016

Hon. Tani G. Cantil-Sakauye
Chief Justice of California and
Chair of the Judicial Council

Hon. Samuel K. Feng
Judge of the Superior Court of California,
County of San Francisco

Hon. Marla O. Anderson
Judge of the Superior Court of California,
County of Monterey

Hon. Harry E. Hull, Jr.
Associate Justice of the Court of Appeal
Third Appellate District

Hon. Brian John Back
Judge of the Superior Court of California,
County of Ventura

Hon. James M. Humes
Presiding Justice of the Court of Appeal
First Appellate District
Division One

Hon. Richard Bloom
Member of the California State Assembly
Sacramento

Hon. Hannah-Beth Jackson
Member, California State Senate
Sacramento

Mr. Mark G. Bonino
Hayes, Scott, Bonino, Ellingson & McLay, LLP
Redwood City

Mr. Patrick M. Kelly
Partner
Wilson Elser
Los Angeles

Hon. Stacy Boulware Eurie
Judge of the Superior Court of California,
County of Sacramento

Hon. Dalila C. Lyons
Judge of the Superior Court of California,
County of Los Angeles

Hon. Kyle S. Brodie
Judge of the Superior Court of California,
County of San Bernardino

Ms. Donna D. Melby
Partner
Paul Hastings Janofsky & Walker, LLP
Los Angeles

Hon. Daniel J. Buckley
Assistant Presiding Judge of the Superior Court of
California,
County of Los Angeles

Hon. Douglas P. Miller
Associate Justice of the Court of Appeal
Fourth Appellate District
Division Two

Hon. Ming W. Chin
Associate Justice of the Supreme Court

Judicial Council Members

As of June 13, 2016

Hon. Gary Nadler

Judge of the Superior Court of California,
County of Sonoma

Hon. Scott M. Gordon

Judge of the Superior Court of California,
County of Los Angeles

Ms. Debra Elaine Pole

Partner
Sidley Austin LLP
Los Angeles

Hon. David E. Gunn

Commissioner of the Superior Court of California,
County of Butte

Hon. David M. Rubin

Judge of the Superior Court of California,
County of San Diego

Hon. Brian L. McCabe

Presiding Judge of the Superior Court of California,
County of Merced

Hon. Dean T. Stout

Presiding Judge of the Superior Court of California,
County of Inyo

Mr. Frank A. McGuire

Clerk of the California Supreme Court

Hon. Marsha G. Slough

Associate Justice of the Court of Appeal
Fourth Appellate District
Division Two

ADVISORY MEMBERS

Mr. Jake Chatters

Court Executive Officer
Superior Court of California,
County of Placer

Hon. Kenneth K. So

Judge of the Superior Court of California,
County of San Diego

Mr. Richard D. Feldstein

Court Executive Officer
Superior Court of California,
County of Napa

Hon. Eric C. Taylor

Supervising Judge of the Superior Court of California,
County of Los Angeles

Ms. Kimberly Flener

Court Executive Officer
Superior Court of California,
County of Butte

Hon. Charles D. Wachob

Assistant Presiding Judge of the Superior Court of
California,
County of Placer

Judicial Council Members

As of June 13, 2016

JUDICIAL COUNCIL OF CALIFORNIA

Mr. Martin N. Hoshino

Administrative Director of the Courts
and Secretary of the Judicial Council



REPORT ON THE CALIFORNIA COMMUNITY CORRECTIONS PERFORMANCE INCENTIVES ACT OF 2009

FINDINGS FROM THE SB 678 PROGRAM

JULY 2016



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CRIMINAL JUSTICE SERVICES

JUDICIAL COUNCIL OF CALIFORNIA

Hon. Tani G. Cantil-Sakauye
*Chief Justice of California and
Chair of the Judicial Council*

Mr. Martin Hoshino
*Administrative Director
Judicial Council*

OPERATIONS AND PROGRAMS DIVISION

Ms. Millicent Tidwell
Chief Operating Officer

CRIMINAL JUSTICE SERVICES

Ms. Shelley Curran
Director

Mr. Jay Fraser
Research Analyst and Primary Author of Report

Table of Contents

- Executive Summary 1
- Introduction 3
- I. SB 678 Background..... 4
 - A. History of the SB 678 Program 4
 - Implementation of the SB 678 program and the incentive-based funding formula 4
 - California’s 2011 Public Safety Realignment Act and the impact on the SB 678 program 5
 - Proposition 47 and the impact on the SB 678 program 6
 - B. SB 678 Monitoring and Reporting 7
- II. Program Results 8
 - A. SB 678 Program Impact on Revocation Rates and Public Safety Outcomes 9
 - Revocation rates during the SB 678 program: analysis 9
 - Crime rates in California, realignment, and the SB 678 program impact on public safety 11
 - B. State Savings, Allocation to County Probation Departments, Reported Use of Funds for Evidence-Based Practices, and Evaluation 12
 - State savings and allocation to county probation departments..... 12
 - Probation departments’ reported use of funds for evidence-based practices and evaluation 13
 - C. Reported Implementation of Evidence-Based Practices and Impact on Outcomes 15
 - Reported implementation of evidence-based practices 15
 - Evidence-based practices and improvement in probation outcomes..... 19
- III. Recommendations for the SB 678 Program..... 21
- Conclusion..... 22
- Appendix A..... 23
- Appendix B..... 26
- Appendix C..... 28

Executive Summary

When originally passed, the California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678) was designed to alleviate state prison overcrowding and save state General Fund monies by reducing the number of adult felony probationers who are sent to state prison for committing a new crime or violating the terms of probation, and to meet these objectives without compromising public safety. The Senate Bill 678 program shares state savings from lower prison costs with county probation departments that implement evidence-based supervision practices and achieve a reduction in the number of locally supervised felony offenders who are revoked to state prison. The SB 678 program has been successful in supporting probation departments' increased use of evidence-based practices and lowering the percentage of individuals returned to custody without evident negative impact to public safety. Through the SB 678 performance based funding mechanism county probation departments have received a total of \$708.2 million since program inception, including a \$129.7 million allocation in the Governor's Budget for distribution in fiscal year (FY) 2016-2017.

The SB 678 program was one of the first of several justice reform initiatives in recent years in California and provided an early foundation for subsequent criminal justice reforms, such as the 2011 Public Safety Realignment Act and Proposition 47. The 2011 Public Safety Realignment Act significantly impacted the program by shifting some criminal justice responsibilities and funding from the state to the counties. It statutorily prohibited people convicted of certain lower-level felonies—who did not have previous convictions of serious crimes—to be incarcerated in state prison and instead, required that they be sentenced to local jails. The enactment of Prop. 47, the Safe Neighborhoods and Schools Act, by California voters in November 2014 further affected the SB 678 program by reducing several drug and property crimes from felonies to misdemeanors. These reforms and their impact on the probation supervision populations and practices resulted in the need to modify SB 678 funding mechanisms and data collection requirements.

Although recent criminal justice initiatives have presented challenges to isolating and identifying the effects of SB 678, in each of the six years since the start of the SB 678 program the state's overall revocation rate has been lower than the original baseline rate of 7.9%. Post enactment of public safety realignment the Judicial Council's Criminal Justice Services office began to collect outcome data on all supervised felony offenders (i.e., felony probation, postrelease community supervision, and mandatory supervision), and the return to prison rate for each felony supervision population has declined from 2013 to 2015. Although distinct trends cannot be established, return rates for felony probationers and individuals on mandatory supervision appear to be similar, whereas individuals on postrelease community supervision are returned to prison at a much higher rate.

Overall the SB 678 program and its performance-based funding mechanism created significant state savings by lowering the number of supervised offenders sent to state prison over the past six years with allocations to county probation departments ranging from \$88.6 million to \$138.3

million per fiscal year. While the number of probationers revoked has decreased since the SB 678 program's inception, California's crime rates remain below the 2008 baseline levels, and there is no evidence to suggest that public safety has been negatively affected by the SB 678 program. Given these positive outcomes, the state and the counties have an interest in sustaining and expanding upon the effectiveness of the SB 678 program.

A fundamental component of SB 678 is the implementation of evidence-based practices (EBPs) by county probation departments. SB 678 defines evidence-based practices as "supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or post release supervision." While no probation department in the state has fully implemented evidence-based practices in all facets of supervision, findings from an annual survey indicate that the SB 678 program has been highly successful in increasing the levels of EBP implementation throughout the state. All components of EBP measured in the survey are substantially higher than they were at baseline; however, improvements may have begun to level off.¹ As is typical with any project aimed at improving outcomes, it is expected that the most significant advancements occur in the earliest stages of the program and level off over time.

With adequate resources, probation departments will be able to continue using evidence-based practices developed through the SB 678 program to save state funds by reducing the number of felony offenders who are reincarcerated. Probation departments have been effective in continuing to lower incarceration costs and increase their use of evidence-based practices. This demonstrates that the counties' ongoing efforts to implement SB 678's careful design are meeting the legislation's objectives. Moving forward, the Judicial Council recommends maintaining an incentive-based funding formula, working cooperatively with other agencies to share and leverage data to further understand the impact of SB 678 on supervised populations, collaborating on a study of the impact of Prop. 47 on probation departments, further advancing the use of evidence-based practices, and encouraging counties to implement local performance-incentive funding programs.

¹ Overall reported levels of EBP implementation are calculated by taking the average of a department's scores across the five EBP categories.

Introduction

The California Community Corrections Performance Incentives Act of 2009² (implementation of which is hereafter referred to as the “SB 678 program”) was designed to alleviate state prison overcrowding and save state General Fund monies by reducing the number of adult felony probationers sent to state prison for committing a new crime or violating the terms of their county-supervised probation, and to meet these objectives without compromising public safety. The SB 678 program allocates a portion of reduced incarceration costs to county probation departments to support the use of evidence-based supervision practices and achieve a reduction in the number of supervised felony offenders who are revoked to state prison.

The Judicial Council has been charged by the Legislature to annually report on the implementation and outcomes of the SB 678 program.

This report:

- Presents a brief background on the SB 678 program, and documents changes made to the program as a result of public safety realignment and the enactment of Prop. 47;
- Provides results from the first six years of the program, including the impact of the SB 678 program on revocation rates and public safety, the amount of state savings from the reduction in returns to prison, and funding allocations to the counties; and
- Provides information on county probation departments’ reported use of funds and implementation of evidence-based practices.

² Sen. Bill 678 (Stats. 2009, ch. 608), www.courts.ca.gov/documents/sb678.pdf. (Accessed May 3, 2016.)

I. SB 678 Background

A. History of the SB 678 Program

The Legislature enacted the California Community Corrections Performance Incentives Act of 2009 (SB 678) with bipartisan support. This legislation created an incentive program designed to improve public safety, alleviate state prison overcrowding, and save state General Fund monies by supporting effective probation practices and reducing the number of adult felony probationers sent to state prison for committing a new crime or violating the terms of probation.

Courts have authority to order defendants to be placed on probation (a judicially imposed suspension of sentence and a form of community supervision) in lieu of a long-term jail or prison sentence.³ The typical adult felony probation term is for a period of approximately three years. If an offender successfully completes probation without a violation or a new charge, the probationer will not be required to serve any further custody time in jail or prison. If the probationer violates the conditions of probation or commits a new offense, probation may be “revoked” and the probationer sent to state prison or county jail, resulting in incarceration costs to the state or county.

Each of California’s 58 counties administers its own adult felony probation system.⁴ Historically, the probation departments’ inability to significantly reduce offender recidivism and revocations had been a major contributor to California’s incarceration costs.⁵ In a 2009 report, the Legislative Analyst’s Office (LAO) estimated that 40% of new prison admissions from the courts were due to probation revocations.⁶ The report also acknowledged that, in the preceding years, many county probation departments had insufficient resources to implement evidence-based probation supervision practices⁷ that could help reduce probation failures. The LAO recommended creation of a program to provide counties with a financial incentive to improve their community corrections practices and lower their probation failure rates.

Implementation of the SB 678 program and the incentive-based funding formula

Implementation of the SB 678 program began in FY 2009–2010 when the Legislature appropriated \$45 million in federal American Recovery and Reinvestment Act stimulus funds⁸ as seed money for county probation departments to begin expanding the use of evidence-based

³ Pen. Code, § 1228(c): “Probation is a judicially imposed suspension of sentence that attempts to supervise, treat, and rehabilitate offenders while they remain in the community under the supervision of the probation department. Probation is a linchpin of the criminal justice system, closely aligned with the courts, and plays a central role in promoting public safety in California’s communities.”

⁴ Probation differs from parole, which is a form of supervision that takes place upon release from prison for specified offenders and is administered by the California Department of Corrections and Rehabilitation (CDCR).

⁵ Legislative Analyst’s Office, *Achieving Better Outcomes for Adult Probation* (May 2009), http://www.lao.ca.gov/2009/crim/Probation/probation_052909.pdf. (Accessed May 3, 2016.)

⁶ *Ibid.*

⁷ Evidence-based practices are defined as “supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under local supervision.” (Pen. Code, § 1229(d).)

⁸ This was based on a one-time expansion of the Edward Byrne Memorial Justice Assistance Grant Program.

practices with adult felony probationers. After the first year of the program, the SB 678 state funding mechanism was activated. As originally designed, probation departments received a portion of the state's savings in incarceration costs⁹ resulting from a reduction in the probation failure rate (PFR). The PFR was initially defined in statute as the number of adult felony probationers revoked to state prison in a year as a percentage of the average probation population during the same year.

The amount of savings the state shared with probation departments each year was originally determined by each county's improvement in their PFR, as compared to their 2006–2008 baseline rate¹⁰ (see Appendix A). A county that returned fewer individuals to prison than would be expected (compared to their baseline rate) received a share of the state savings from reduced incarceration costs. Depending on how a county's PFR compared to the statewide average, a county received either 40% or 45% of the state savings. Counties that were unsuccessful in reducing their PFR were also provided with a small amount of funding to bolster their efforts to implement evidence-based practices and reduce recidivism. The SB 678 program also included a provision for high-performance awards to counties with very low probation failure rates. These awards supported the ongoing use of evidence-based practices in counties with probation failure rates more than 50% below the statewide average.¹¹

California's 2011 Public Safety Realignment Act and the impact on the SB 678 program

Two years after the SB 678 program went into effect, the California Legislature enacted the 2011 Public Safety Realignment Act,¹² the most far-reaching transformation of California's criminal justice system in more than 30 years. Realignment has had an impact on the SB 678 program by significantly reducing the number of probationers who are *eligible* for incarceration in state prison when they fail on probation, and instead are revoked to county jail. Public safety realignment also created new categories of offenders who are supervised by probation departments (i.e., Post Release Community Supervision [PRCS] and mandatory supervision [MS]) and similarly limited these offenders' eligibility for incarceration in state prison when they fail on supervision.

⁹ *Id.*, § 1233.1(a).

¹⁰ The baseline probation failure rate is a weighted average of the PFR in 2006, 2007, and 2008. After the conclusion of each calendar year, the Director of Finance, in consultation with the Department of Corrections and Rehabilitation, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Judicial Council, calculates for that calendar year an estimate of the number of adult felony probationers each county successfully prevented from being sent to prison (or to jail, following realignment) based on the reduction in the county's return to prison rate. In making this estimate, DOF is required to adjust the calculations to account for changes in each county's adult felony probation caseload in the most recently completed calendar year as compared to the county's adult felony probation population during the baseline period. (Pen. Code, §§ 1233.1(c), (d).)

¹¹ For FY 2010–2011 to FY 2014–2015, these awards were funded with 5% of the overall savings to the state. A county could receive an award based on state incarceration cost savings *or* a high-performance grant payment but not both; the county could choose which award to receive in a year when it qualified for both. (Pen. Code, § 1233.4(e).)

¹² 2011 realignment legislation addressing public safety, also known as the 2011 Public Safety Realignment Act (Assem. Bill 109; Stats. 2011, ch. 15 and Assem. Bill 117; Stats. 2011, ch. 39).

Following the implementation of realignment legislation approximately half of all revoked probationers served their time in county jail instead of state prison, which significantly reduced the amount of direct state savings related to the SB 678 program. With the changes brought about by realignment, it was no longer reasonable to measure performance by comparing counties' PFRs to the original 2006–2008 baseline rate since a large portion of the population could no longer be revoked to state prison. In order to account for these changes and continue to be able to use the original baseline, legislation was enacted in 2013 that temporarily changed the funding formula to include felony probation revocations to county jail.¹³

The 2015–2016 State Budget proposed a more permanent solution to address changes brought about by realignment by updating the SB 678 funding formula to include all types of local felony supervision (i.e., adult felony probation as well as mandatory supervision and postrelease community supervision, which were created through realignment), and refocusing the grant on local supervision admissions to prison (i.e., omitting county jail revocations from the formula). To reflect this refocus, the term probation failure rate (PFR) was changed to the return to prison rate (RPR). The formula now measures each county's performance against statewide returns to prison. More information on these changes can be found in Section II. B, and specific details related to the current funding mechanism are outlined in Appendix C.

Proposition 47 and the impact on the SB 678 program

On November 4, 2014, California voters enacted Proposition 47 (Prop. 47), the Safe Neighborhoods and Schools Act that implemented three broad changes to felony sentencing laws. First, it reclassified certain theft and drug possession offenses from felonies to misdemeanors. Second, it authorized defendants already serving sentences for those felony offenses to petition courts for resentencing under the new misdemeanor provisions. Third, it authorized defendants who had completed their sentences for felony convictions on those offenses to apply for reclassifying the convictions to misdemeanors.

These changes decreased the size of felony supervision caseloads and, as a result, impacted the SB 678 program. Beginning with Quarter 4, 2014, the quarter in which Prop. 47 was implemented, the Judicial Council began asking probation departments to report the number of individuals removed from felony probation as a result of Prop. 47.¹⁴ Statewide, over 5,000 Prop.

¹³ Sen. Bill 75 (Stats. 2013, ch. 31),

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB75&search_keywords. (Accessed May 3, 2016.)

¹⁴The two additional quarterly data points are:

Prop. 47 Terminations: Count of all supervised individuals who have been resentenced under Prop. 47 during the quarter and, as a result of the resentencing, have been completely terminated from all forms of felony supervision.

Individuals should be counted only if they are no longer under any form of felony supervision by the probation department.

Prop. 47 Reductions: Count of all supervised individuals who have been resentenced under Prop. 47 during the quarter, but remain on misdemeanor supervision by the probation department.

This item should be a subset of item 19.

47 terminations from felony supervision occurred in the fourth quarter of 2014, and the overall population of felony probationers decreased by nearly 3% in that time frame. By the end of 2015, the total number of Prop. 47 terminations had increased to over 25,000, and the total supervised felony population had decreased 6%, from 354,761 in quarter three of 2014 to 333,555 in quarter four of 2015. The number of new felony probation grants has decreased by approximately 27% since the enactment of Prop. 47 in 2014. (See figure 1.) This reported decrease was not experienced by every jurisdiction. However, some counties have seen an increase in their felony probation population during the same time frame.

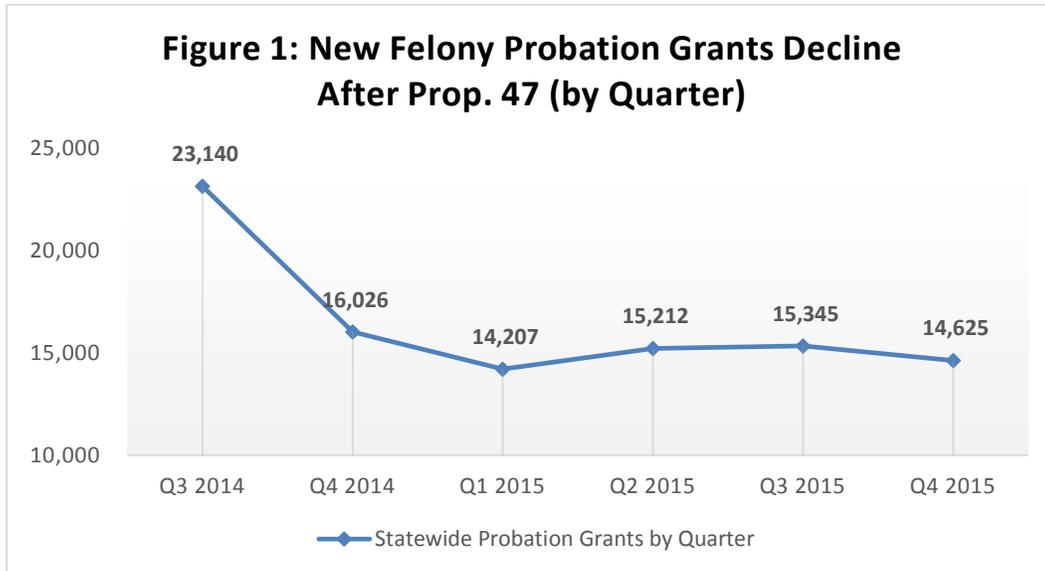


Figure 1. Source: new felony probation grants reported by probation departments to the Judicial Council.

More time and data will be needed to evaluate the long-term impact Prop.47 will have on the supervised populations. If the decrease in felony probation populations proves to be sustainable, this provides an opportunity for probation departments to implement or maintain lower caseload ratios, an important aspect of EBP. Some probation departments are expanding their misdemeanor probation caseloads and are considering modifications to supervision policies so that responses to probationers’ behavior are based on assessed risk of reoffending, rather than on the level of offense (i.e., felony versus misdemeanor). Judicial Council staff will continue to gather information from the county probation departments on the changes that result from the initiative and the probation departments’ responses.

B. SB 678 Monitoring and Reporting

SB 678 requires county probation departments to report on their implementation of evidence-based practices and probationer outcomes to enable the Legislature to monitor whether the program is having its intended effect.¹⁵ The Judicial Council collects quarterly statewide

¹⁵ Pen. Code, § 1231(a): “Community corrections programs funded pursuant to this chapter shall identify and track specific outcome-based measures consistent with the goals of this act.” *Id.*, § 1231(c): “Each CPO receiving funding pursuant to Sections 1233 to 1233.6, inclusive, shall provide an annual written report to the Judicial

outcome data reported by the counties.¹⁶ Since the start of the SB 678 program, the Judicial Council has provided technical assistance in data quality assurance to probation departments through site visits, multicounty conference calls, and contacts with individual counties.¹⁷

The Judicial Council's data collection methods obtain the most critical data, balancing county resource constraints with the Legislature's interest in program evaluation based on accurate and detailed information, as mandated by statute. Data reported by county probation departments focus on quantitative outcomes, including the number of felony offenders placed on probation, the number revoked to prison or jail, and the number convicted of a new felony offense during the reporting period (see Appendix B). The Judicial Council reports program data to the Department of Finance (DOF), which uses it to determine the appropriate annual level of performance-based funding for each county probation department.¹⁸

In addition to collecting quarterly outcome-focused data, the Judicial Council developed an annual survey, *Implementation of Evidence-Based Practices: Annual Assessment Survey* (Annual Assessment), to gather information on probation departments' implementation of evidence-based practices (EBPs) and assist them in fulfilling the legislative mandate for evaluating the effectiveness of the SB 678 program.¹⁹ The Annual Assessment focuses on five critical evidence-based practices: (1) use of validated risk and needs assessments; (2) effective supervision practices, including training on EBPs; (3) effective treatment and targeted intervention; (4) effective management practices; and (5) collaboration among justice system partners.²⁰ The survey is designed to measure probation departments' reported EBP implementation changes over time and to identify program spending priorities.

II. Program Results

The analysis of SB 678's effectiveness is guided by the Legislature's stated intent²¹ and summarized in three overarching questions:

Council, evaluating the effectiveness of the community corrections program, including, but not limited to, the data described in subdivision (b)."

¹⁶ *Id.*, § 1231(b).

¹⁷ The Judicial Council's Criminal Justice Services office has developed uniform data definitions, created and administered surveys, checked data submissions, matched revocation records submitted by probation departments with CDCR records, and investigated record inconsistencies.

¹⁸ Pen. Code, §§ 1231(d), 1233.

¹⁹ *Id.*, §§ 1231(c), 1232.

²⁰ The importance of each of these areas has been supported in a number of reports; see, for example, Crime and Justice Institute at Community Resources for Justice, *Implementing Evidence-Based Policy and Practice in Community Corrections*, 2nd ed. (Washington, D.C.: National Institute of Corrections, Oct. 2009) available at http://www.crj.org/cji/entry/publication_integratedmodel. (Accessed May 3, 2016.)

²¹ "Providing sustainable funding for improved, evidence-based probation supervision practices and capacities will improve public safety outcomes among adult felons who are on probation. Improving felony probation performance, measured by a reduction in felony probationers who are sent to prison because they were revoked on probation or convicted of another crime while on probation, will reduce the number of new admissions to state prison, saving taxpayer dollars and allowing a portion of those state savings to be redirected to probation for investing in community corrections programs." (Pen. Code, § 1228(d).)

- A. How did the SB 678 program impact revocation rates, and what was the effect on public safety?
- B. Did the state save money due to reductions in probationers sent to state prison, and was a portion of these savings directed to county probation departments to implement evidence-based practices?
- C. Did county probation departments implement evidence-based practices and how did these practices impact probationer outcomes?

A. SB 678 Program Impact on Revocation Rates and Public Safety Outcomes

Revocation rates during the SB 678 program: analysis

The SB 678 program's effectiveness was originally measured by annually comparing each probation department's probation failure rate (the percent of felony probationers returned to prison) to a baseline period before the program was implemented (a weighted average of the PFR in 2006, 2007, and 2008).²² As stated previously in section I.A. *History of the SB 678 Program*, there have been a number of changes to the SB 678 program and funding formula thereby altering the way in which effectiveness is measured. For purposes of being able to compare program outcomes over time from program inception, the following analysis focuses solely on the felony probation population and includes jail commitments in the years following realignment even though these are no longer included in the current funding formula.

²² The statewide probation return to prison rate was initially calculated as the total number of adult felony probationers sent to prison in the year as a percentage of the average statewide adult felony probation population for that year. (Pen. Code, § 1233.1(b)(1).) In response to California's 2011 Public Safety Realignment Act (discussed in section I.D of this report), section 1233.1(b) was revised by SB 105 (Stats. 2013, ch. 310) to include subsection (b)(2): "The statewide probation failure rate *for the 2012 calendar year* shall be calculated as the total number of adult felony probationers statewide sent to prison, *or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170*, as a percentage of the average statewide adult felony probation population for that year." (Emphasis added.) Section 1233.1(b) was further amended by SB 105, operative July 1, 2014, to place this revised statewide probation failure rate formula in effect each year, beginning with the 2013 calendar year. Similarly, each county's revocation rate was initially calculated as the number of adult felony probationers sent to prison from that county in the previous year as a percentage of the county's average adult felony probation population for that year. (Pen. Code, § 1233.1(c)(1).) In response to California's 2011 Public Safety Realignment Act, § 1233.1(c) was also revised by SB 105 (Stats. 2013, ch. 310) to include subsection (c)(2): "The probation failure rate for each county *for the 2012 calendar year* shall be calculated as the total number of adult felony probationers sent to prison, *or to jail pursuant to paragraph (5) of subdivision (h) of Section 1170*, from that county as a percentage of the county's average adult felony probation population for that year." (Emphasis added.) Section 1233.1(c) was further amended by SB 105, operative July 1, 2014, to place this revised county probation failure rate formula in effect each year, beginning with the 2013 calendar year.

While the statewide revocation rate has varied from year to year, including an increase from 2012 to 2013, in each of the six years since the start of the SB 678 program the state’s overall revocation rate has been lower than the original baseline rate of 7.9% (see figure 2).²³ In 2012, the year following public safety realignment, probation departments maintained their revocation rate at 5.5%. Of the probationers who were revoked in 2012, 48% were revoked to state prison, 52% to county jail. In 2013, the statewide revocation rate increased to 5.9%. Of those revoked in 2013, 49% were revoked to state prison and 51% to county jail. In 2014, the revocation rate declined to 5.6% of which approximately 46% were sent to state prison. In 2015, the revocation rate declined to 4.2% of which approximately 59% were sent to state prison. It is important to note that some of the increase in the proportion of felony offenders revoked to prison may be related to the impact that Prop. 47 had on both the population size and the nature of the offenses of the felony probationers, since lower-level possession and theft-related offenses no longer qualify as felonies.

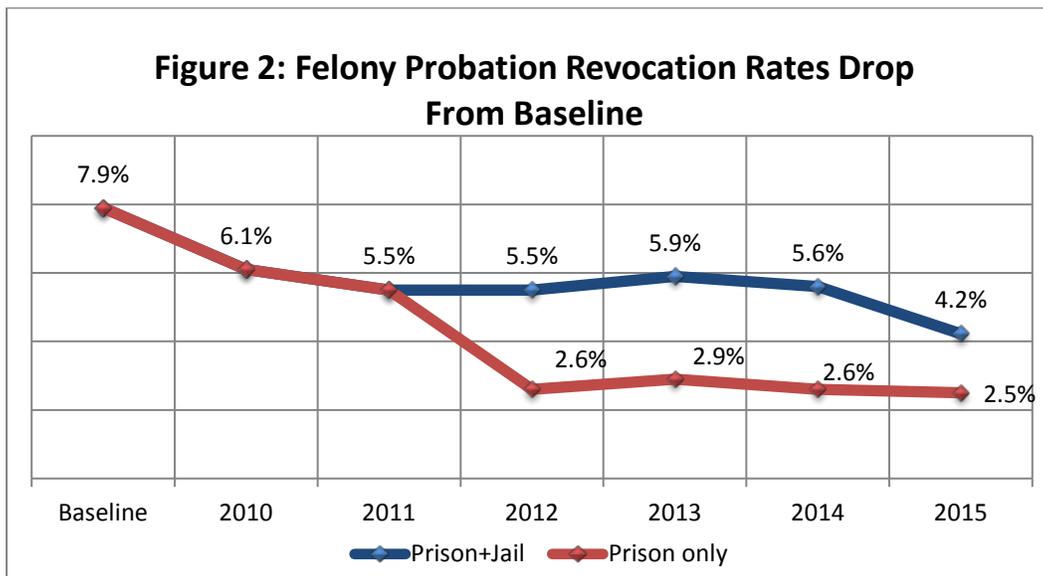


Figure 2. Probation revocation data reported by probation departments to the Judicial Council.

As stated previously in section I.A. *History of the SB 678 Program*, Senate Bill 85 (Stats. 2015, ch. 26) revised the SB 678 program to include all supervised felony offenders (i.e., felony probation, postrelease community supervision, and mandatory supervision) and to focus exclusively on revocations to state prison. The Judicial Council began collecting outcome data for these additional felony supervision populations in 2013. Return to prison rates for all supervision types are shown below (see figure 3). Data collected for 2012 were not included in the following analysis because the data were incomplete. There has been a decline in the return to prison rate for each felony supervision population from 2013 to 2015, although there is a slight increase in the return to prison rate for PRCS from 2013 to 2014 before it decreases

²³ Probation departments are allowed to revise previously submitted data. As a result of several resubmissions, the 2012 RPR referenced in prior documents may be different from what is reported here.

substantially in 2015. Although distinct trends cannot be established, return rates for felony probationers and individuals on mandatory supervision seem to be similar; whereas individuals on postrelease community supervision are returned to prison at a much higher rate. It is unclear as to whether these observed differences may be more attributable to the policies and practices of supervising agencies, other local criminal justice system practices, or offender behavior.

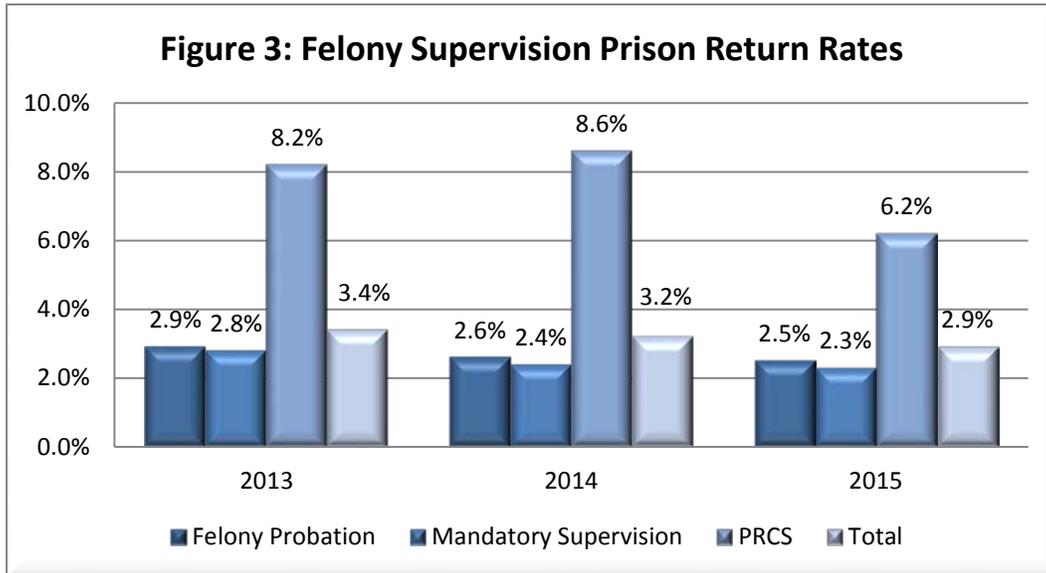


Figure 3. Probationer revocation data reported by probation departments to the Judicial Council.

Return to prison rates have been improving or remaining stable although statewide data indicate that the proportion of high-risk individuals on felony supervision increased (as a percentage of the total assessed supervised population), and the percentage of low-risk individuals declined. During the past five years of the program, of all individuals on community supervision that were assessed, the reported percentage of low-risk individuals decreased from 37% to 33%, while the percentage of high-risk individuals supervised increased from 25% to 37%.²⁴ Despite this change in the increased risk levels of their supervised populations, probation departments have generally maintained or improved their recidivism outcomes.

Crime rates in California, realignment, and the SB 678 program impact on public safety

The sweeping changes to the criminal justice system that resulted from realignment and Prop. 47 make it difficult to isolate and measure the SB 678 program’s impact on public safety. Although it is not possible to make a definitive statement about whether and how the SB 678 program has affected crime rates, it should be noted that in the first years following the implementation of SB 678, crime rates in California generally continued the downward trend of the past decade. Figure 4 displays the crime rates from the year prior to the enactment of SB 678 through 2014.

²⁴ These figures are based on data from counties that assessed more than 75% of their probation population in each fiscal year ($n = 31$).

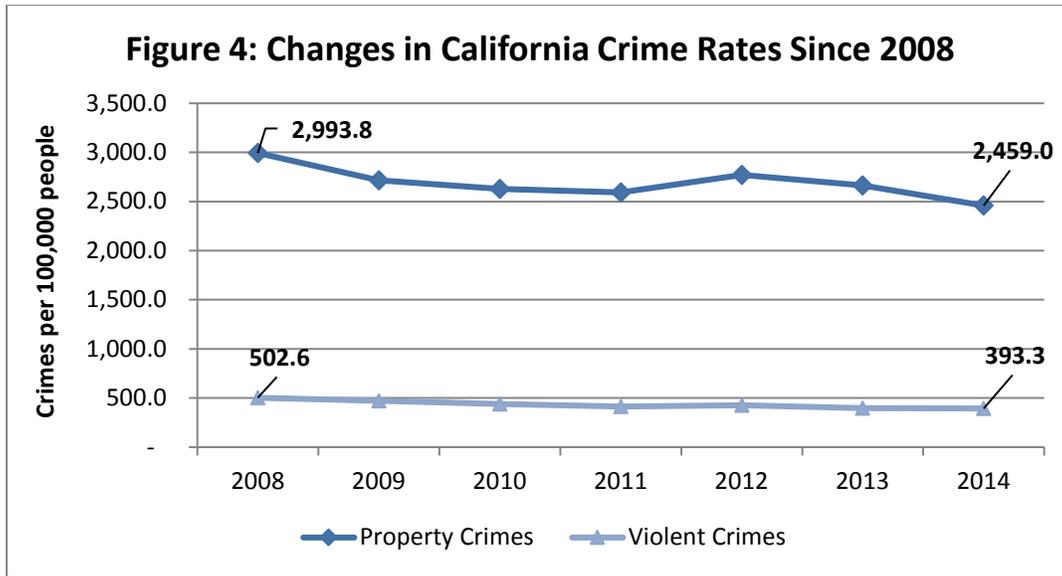


Figure 4. Property and violent crime data from the California Department of Justice, Office of the Attorney General, *Crime in California, 2014* report.

The Legislature designed the SB 678 program to save state funds and improve the effectiveness of community supervision practices without compromising public safety.²⁵ Although it is not possible to confidently identify the specific impact of the SB 678 program on crime, these data suggest that public safety has not been compromised as a result of SB 678.

B. State Savings, Allocation to County Probation Departments, Reported Use of Funds for Evidence-Based Practices and Evaluation

State savings and allocation to county probation departments

The SB 678 program has been effective in saving state General Fund monies. The 23% reduction in felony probation revocations in 2010 resulted in an \$88.6 million allocation to county probation departments in FY 2011–2012 to further their implementation of evidence-based supervision practices. In calendar year 2011, the probation departments further reduced the probation failure rate, resulting in an allocation of \$138.3 million in FY 2012–2013 for local probation departments to reinvest in effective supervision practices.²⁶

As noted in section I.A. *History of the SB 687 Program*, under the 2011 public safety realignment legislation, hundreds of felony offenses previously punishable by a term in state

²⁵ Pen. Code, §§ 1228(c), 1229(c)(1).

²⁶ The probation revocation reductions achieved in a calendar year are used to calculate state savings in the following fiscal year. County payments in FY 2012–2013 represent a portion of the state’s cost savings resulting from reductions in felony probation revocations in 2011. The calculation for the payments takes into consideration the number of felony probationers who were not sent to prison in the prior calendar year, as well as the average length of stay avoided.

prison may now be punished by a term in county jail.²⁷ After realignment went into effect, at least half of all felony probationers who are revoked or commit new crimes serve their time in county jail instead of state prison. To account for this change, beginning in FY 2013–2014 the state adjusted the formula for calculating savings to take into account the incarceration costs for prevented felony probation failures to both prison and jail. The Department of Finance (DOF) determined that the improvements in 2012’s revocation rate resulted in an allocation of \$101 million to county probation departments. Using the same funding formula in FY 2014–2015, county probation departments received an allocation of \$124.8 million.

The 2015–2016 State Budget made significant changes to the SB 678 funding formula, including the addition of mandatory supervision and postrelease community supervision populations. The SB 678 funding formula now has three funding components. The first funding component measures each county’s performance against statewide revocation rates since the original SB 678 baseline period (2006–2008). If a county’s return to prison rate (RPR) is less than or equal to the original statewide baseline of 7.9%, the county received a percentage of its highest SB 678 payment from the period between program inception and FY 2014–2015. Depending on how a county’s RPR compares to previous statewide revocation rates, a county received between 40 to 100 percent of its highest payment. The second component is based upon how each county performs in comparison to the previous year. The third funding component guarantees a minimum payment of \$200,000 to each county to support ongoing implementation of evidence-based practices. In FY 2015–2016, county probation departments received \$125.8 million. Using the same formula, the Governor’s Budget for FY 2016–2017 proposes an allocation \$129.7 million for county probation departments.

Probation departments’ reported use of funds for evidence-based practices and evaluation

Although not charged with conducting a formal accounting of funds received through the SB 678 program, the Judicial Council incorporates a limited number of funding questions in the Annual Assessment.²⁸ County probation departments across California reported using SB 678 program funds to implement a variety of evidence-based practices (detailed in table 4, below).²⁹ The Judicial Council uses the probation departments’ self-reported information to provide context for the ways in which resources are allocated.

²⁷ Pen. Code, § 1170(h).

²⁸ The SB 678 Annual Assessment is an annual survey of each probation department to measure their current level of implementation of evidence-based practices (EBP), as well as the programs and practices used or funded during the previous fiscal year. The Annual Assessment is used to satisfy the outcome-based reporting requirements outlined in SB 678. (See Pen. Code, § 1231(b).) This survey also fulfills the requirement in Pen. Code, § 1231 (c) that counties provide an annual written report to the Judicial Council. The Annual Assessment has been administered each year beginning in FY 2010–2011.

²⁹ Caution is advised when interpreting these results as the reporting categories are not mutually exclusive, and the reported proportions are likely representative of the SB 678 funds *spent* on the implementation of EBPs separate and apart from the amount of SB 678 funds *received* in a given fiscal year for EBP implementation. Information on the use of the 5% evaluation funds was asked separately and may overlap with information presented in table 4.

Table 1: Reported Use of Funds for Evidence-Based Practices

Spending Category	Average % Spent FY 2010–2011 (N=50)	Average % Spent FY 2011–2012 (N=48)	Average % Spent FY 2012–2013 (N=48)	Average % Spent FY 2013–2014 (N=50)	Average % Spent FY 2014–2015 (N=53)
Hiring, support, and/or retention of case-carrying officers/supervisors	28%	48%	60%	60%	58%
Evidence-based treatment programs	28%	27%	20%	18%	19%
Improvement of data collection and use	4%	3%	7%	2%	6%
Use of risk and needs assessment	12%	5%	5%	4%	6%
Use/implementation of intermediate sanctions	NA	NA	3%	7%	3%
Training for officers/supervisors on EBP	7%	8%	<3%	3%	3%
Other evidence-based practices ^b	10%	3%	3%	5%	5%

^aThe following counties provided incomplete or invalid responses to these questions and were excluded from these analyses:
FY 2010–2011 — Colusa, Kings, San Diego, San Luis Obispo, Santa Clara, Sierra, Tehama, Tulare
FY 2011–2012 — Alpine, Amador, Butte, El Dorado, Imperial, Kings, Napa, Plumas, Sierra, Tehama
FY 2012–2013 — Butte, Del Norte, Imperial, Madera, Modoc, San Benito, Santa Clara, Shasta, Sierra, Tulare
FY 2013–2014 — Alpine, Amador, Contra Costa, Del Norte, Lake, Modoc, Nevada, Yolo
FY 2014–2015 — Amador, Del Norte, Mariposa, Santa Clara, Tehama

^bIncludes operational costs, administration and clerical support, materials, incentives, and associated start-up costs. A number of counties reported placing some funds in a reserve account for program maintenance, additional positions, and services related to their SB 678 program.

Source: Annual Assessment data reported by probation departments to the Judicial Council.

Probation departments have consistently reported using the majority of their SB 678 funds on the hiring, retention, and training of probation officers to supervise medium- and high-risk probationers. Probation departments also report using a sizable proportion of their SB 678 funds on evidence-based treatment programs and services for probationers. The departments reported spending funds on five major categories of evidence-based treatment programs and services: (1) cognitive behavioral therapy, (2) outpatient substance abuse treatment programs, (3) day reporting centers, (4) vocational training/job readiness programs, and (5) other treatment programs/services. As noted in the table, the use of the funds shift over time in anticipated ways. For example, the need for EBP training in the earlier years diminishes over time as the use of EBP is more fully implemented within probation departments. It should be noted that the spending categories used in the Annual Assessment are not mutually exclusive. For example, funds for support of officers may be used for training or for the improvement of data collection because it is often case-carrying officers that perform these data collection functions.

C. Reported Implementation of Evidence-Based Practices and Impact on Outcomes

Reported implementation of evidence-based practices

The SB 678 program was designed to improve the effectiveness of probation departments' supervision practices through increased use of evidence-based practices, defined in statute as "supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under local supervision."³⁰ The term denotes a wide range of systematic supervision practices that research has demonstrated to be effective in promoting and supporting positive individual behavioral change in people with criminal convictions. The SB 678 program provides support to probation departments in their efforts to implement necessary programmatic and systemic changes, and to improve practices that directly target probationer behavior.³¹

The SB 678 program recognizes five areas of EBP as most critical for improvement for county probation departments. Each department is required to provide a yearly report ("Annual Assessment"³²) to the Judicial Council evaluating the effectiveness of their programs focusing on these five areas.³³ This survey is designed to measure probation departments' self-reported EBP implementation levels³⁴ and changes in EBP implementation over time.³⁵

Findings from the Annual Assessment indicate that the SB 678 program has been highly successful in increasing the levels of EBP implementation throughout the state (see figure 5 below). All components of EBP measured in the survey are substantially higher than they were at baseline; however, improvements appear to be leveling off.³⁶ As is typical with any project aimed at improving outcomes, it is expected that the most significant advancements occur in the earliest stages of the program and level off over time. The leveling reported in the FY 2014–2015 survey may be due in part to the natural stabilization of practices and policies.

³⁰ Pen. Code, § 1229(d).

³¹ *Id.*, § 1230(b)(3)(A–E).

³² Because the survey was developed prior to realignment, it was initially focused solely on the felony probation supervision population. Beginning in 2014, probation departments were asked about their use of evidence-based practices in supervising all felony populations, including individuals on mandatory supervision and postrelease community supervision (PRCS).

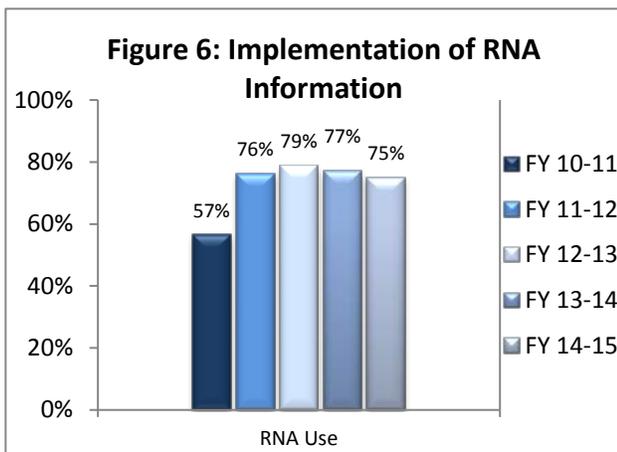
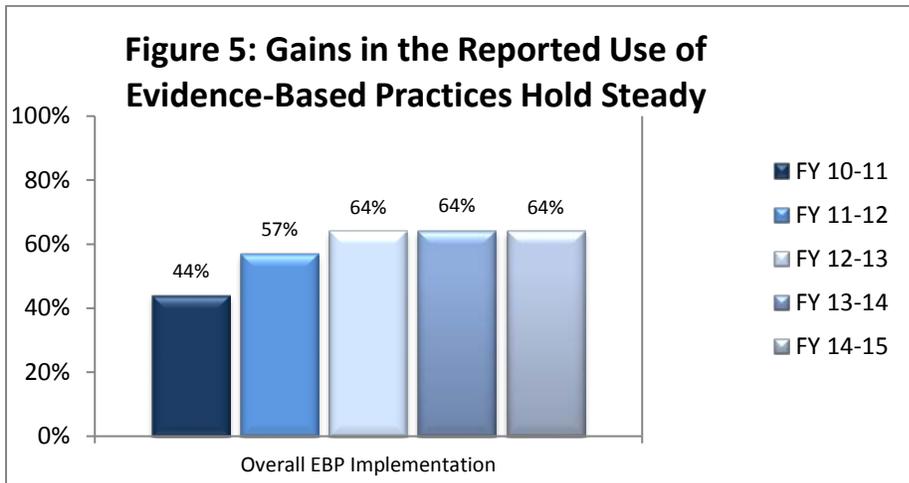
³³ Pen. Code, § 1231(c).

³⁴ The Annual Assessment includes 41 scaled items designed to measure the level in which specific EBP focus areas have been implemented by the probation departments. Scaled items are scored on a 4-point scale from 0 to 3, with 3 as a gold standard rating for a given aspect of EBP. Implementation levels for the five EBP categories are calculated by summing a department's responses in a particular category and dividing that sum by the total possible points for that category. Overall EBP implementation levels for each probation department are calculated by taking the average of a department's scores across the five EBP categories.

³⁵ Increases in the self-reported levels of EBP implementation may gradually flatten over time given the structure of the Annual Assessment's scoring scheme. It may be challenging for counties to achieve the highest/gold standard rating across multiple items and multiple categories. As a result, increases in the percentage change in EBP implementation in the future may be less than that reported in the current or previous years.

³⁶ Overall reported levels of EBP implementation are calculated by taking the average of a department's scores across the five EBP categories.

Another factor that might influence the measured level of implementation is related to changes in criminal justice policy, including criminal justice realignment. For example, results from the assessment suggest that probation departments have generally continued to focus their active supervision caseloads on high-risk offenders in accordance with evidence-based practices; however, some probation departments reported that all individuals on PRCS were supervised on high-risk caseloads because of the seriousness of their original charge, even if their assessment did not indicate that they were high risk.



Validated risk and needs assessments

Validated tools for risk and needs assessment (RNA) are standardized instruments that typically measure both static risk factors (those that do not change, e.g., criminal history) and dynamic risk factors (those that potentially may change). The use of validated risk and needs assessment tools has been substantiated as one of the most valuable components of evidence-based practices for supervision of felony probationers.³⁷ The tools can be used to provide caseload information to probation departments,

helping officers to identify and focus on higher-risk populations while investing fewer resources in low-risk probationers. Using validated risk and needs assessments to focus resources on higher-risk offenders, and to structure caseloads so low-risk offenders are supervised separately from higher-risk offenders has been demonstrated to be an effective EBP. The annual assessment

³⁷ Crime and Justice Institute at Community Resources for Justice, *Implementing Evidence-Based Policy and Practice in Community Corrections*, 2nd ed. (Washington, D.C.: National Institute of Corrections, Oct. 2009).

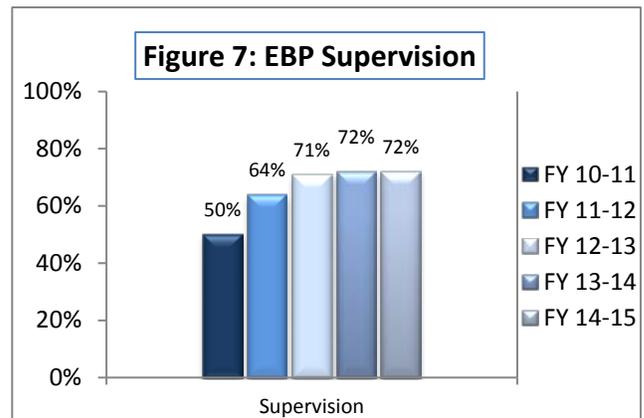
category of RNA information implementation is based on six questions covering the use and validation of risk and needs assessment tools and how thoroughly the department trains and oversees users of assessments.

Since the implementation of SB 678, probation departments have made significant improvements in incorporating the use of validated risk and needs assessments in their supervision practices. Every department in the state now uses an assessment tool, and the majority of individuals on supervision undergo an assessment. Although departments are not always able to assess all of their individuals (for example, individuals may abscond and be placed on warrant status prior to the administration of the assessment), and probation departments occasionally base supervision decisions on factors other than RNA information (as mentioned previously for individuals on PRCS), the use of RNA tools have been incorporated into general probation practices throughout the state.

Evidence-based supervision practices

The relationship between a probation officer and a probationer plays an important role in increasing the probability of an individual's success on probation. Officers can support probationers' positive behavior changes by forming appropriate, motivating relationships with those they supervise.³⁸ Providing swift, certain, and proportionate responses to probationers' negative behavior is also an important element in supervision that can increase the likelihood of success on probation.³⁹

The annual assessment category of evidence-based supervision practices is based on 15 questions focused on the relationship between the probation officer and the probationer. Probation departments have substantially increased the use evidence-based practices since SB 678 began.



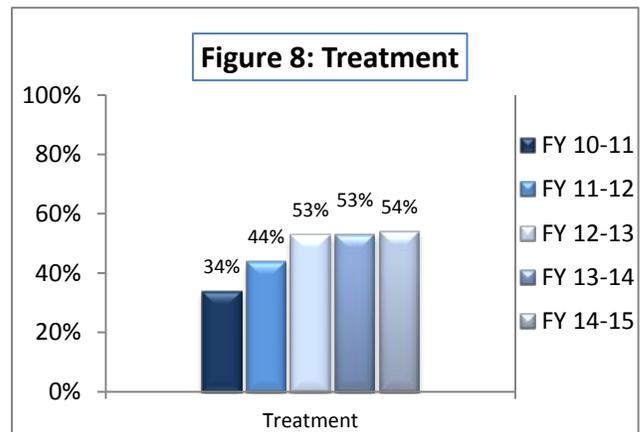
³⁸ M. L. Thigpen, T. J. Beauclear, G. M. Keiser, and M. Guevara, *Motivating Offenders to Change: A Guide for Probation and Parole* (Washington, D.C.: National Institute of Corrections, U.S. Department of Justice, 2007).

³⁹ M. A. R. Kleiman and A. Hawken, "Fixing the Parole System—A System Relying on Swift and Certainty of Punishment Rather Than on Severity Would Result in Less Crime and Fewer People in Prison" (2008) 24(4) *Issues in Science and Technology* 45; F. S. Taxman, D. Soule, and A. Gelb, "Graduated Sanctions: Stepping Into Accountable Systems and Offenders" (1999) 79(2) *The Prison Journal* 182–204.

Treatment and targeted intervention

Research suggests that treatment programs should address the individual offender’s assessed risk and needs, with a primary focus on dynamic risk factors. Cognitive behavioral therapy that addresses probationers’ antisocial thinking patterns has been demonstrated to be an effective technique for high-risk offenders. Research has also confirmed that the effectiveness of treatment programs is increased when the programs are tailored to characteristics such as gender and culture.⁴⁰ The annual assessment category of

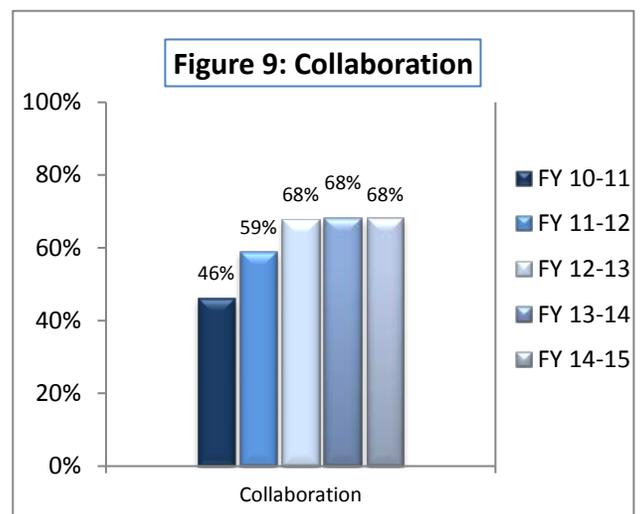
treatment and targeted intervention implementation is based on five questions about how referrals are made and the existence of treatment programs that have been evaluated for effectiveness, weighted by the amount of unmet need among medium- and high-risk probationers.



Probation departments have significantly improved in their use of evidence-based treatment since the implementation of the SB 678 program. Many departments developed their own EBP treatment programs or report having increased access to EBP treatment resources in their community; however, the majority of departments must rely on the treatment available in their communities. This is an area in which many probation departments report that improvements can still be made and that there is a persistent need for an increased capacity of EBP treatment programs.

Collaboration among justice system partners

Effective implementation of evidence-based supervision practices requires “buy-in” from criminal justice partners. The collaboration of judges, district attorneys, public defenders, sheriffs, service providers, and others facilitates efforts by probation departments to put new procedures and protocols into place. Collaboration enables the entire justice system to provide a consistent focus on probationer behavior change and recidivism reduction.⁴¹ The annual assessment measures the level of collaboration implementation based on six questions about the



⁴⁰ D. A. Wilson, L. A. Bouffard, and D. L. Mackenzie, “A Quantitative Review of Structured, Group-Oriented, Cognitive-Behavioral Programs for Offenders” (2005) 32(2) *Criminal Justice and Behavior* 172–204.

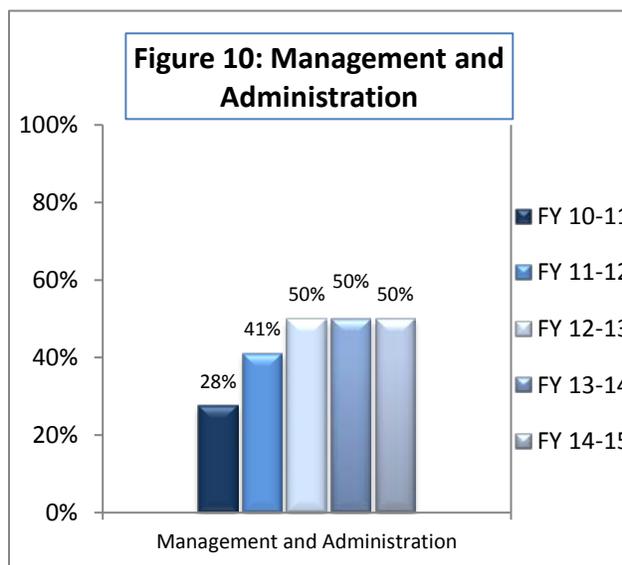
⁴¹ Crime and Justice Institute at Community Resources for Justice, *Implementing Evidence-Based Practices in Community Corrections*, 2nd ed. (Washington, D.C.: National Institute of Corrections, Oct. 2009).

ways in which the department works with its justice partners, including but not limited to courts and treatment providers. Nearly all probation departments have increased the level of collaboration within their county. Those that have shown the highest degree of collaboration have generally shown improved outcomes and are able to implement EBPs which may involve additional justice partner buy-in.⁴²

Management and administrative practices

Clear direction, support, and oversight from probation department management are necessary to ensure that officers understand the department’s evidence-based practices and protocols and are motivated to work toward full implementation.⁴³ In order to assess how probation departments’ management and administrative practices align with EBPs, the annual assessment includes nine questions that explore how hiring and performance review guidelines and practices are linked to EBP skills; whether supervisors monitor evidence-based probationer supervision practices by observing probationer contacts;

whether the department collects service and probationer outcome data and whether data are used internally to improve services and practices; whether there has been a formal evaluation of supervision practices; and whether supervisors support and monitor the use of risk and needs assessments, motivational interviewing, and cognitive behavioral therapy.



Evidence-based practices and improvement in probation outcomes

The SB 678 program has been highly effective in increasing the use of evidence-based practices in probation departments throughout the state and has resulted in substantial reductions in the number of probationers going to state prison. Although the Judicial Council’s Annual Assessment was not designed to measure the relationship between implementation of specific EBPs and particular outcomes, Judicial Council researchers have begun to use data gathered through this survey to investigate the association between particular EBPs and improved outcomes for probationers.

⁴² See for example, the California Risk Assessment Pilot Project report: Judicial Council of Cal., *The California Risk Assessment Pilot Project: The Use of Risk and Needs Assessment Information in Adult Felony Probation Sentencing and Violation Proceedings* (Dec. 2015). (Accessed May 6, 2016.)

⁴³ P. Smith, P. Gendreau, and K. Swartz, “Validating the Principles of Effective Intervention: A Systematic Review of the Contributions of Meta-analysis in the Field of Corrections” (2009) 4(2) *Victims & Offenders* 148–169.

The relatively small sample size ($n=58$ probation departments) and the substantial variation in the range of revocation rates⁴⁴ resulted in few statistically significant findings. Based upon data reported for 2015, the following practices were found to be most strongly associated with reductions in departments' revocation rates.⁴⁵

- Regular sharing of data and outcome measures with justice partners;
- Linking departmental performance guidelines and practices to EBP skills;
- Department/supervisor support for EBPs through ongoing monitoring and feedback to officers;
- Training probation officers on how to use a validated risk/needs assessment (RNA);
- Creating supervision plans based on results from the needs portion of a validated RNA, and involving the offender in the creation of the supervision plan;
- Clearly articulating sanctions and incentives to probationers;
- Training probation officers to use responses to behavior that include information based on probationer risks and needs level, with regular supervisor review and feedback;
- Training staff to ensure that responses to offender behavior are proportionate to that behavior;
- Developing officers' intrinsic motivational skills such as the use of motivational interviewing; and
- Placing felony offenders assessed as medium/high risk in smaller (< 75) caseloads.

Counties reporting a higher degree of collaboration with their justice partners tended to be less likely to show an increase in revocation rates.

Lower revocation rates were associated with cooperation between probation and the courts to establish swift and certain responses to probationer behaviors.

Additional research with individual, probationer-level data should be conducted to more thoroughly investigate the strength and interaction of these relationships and to provide a clearer picture of the effects of changing caseload composition.

⁴⁴ The large variation in prison return rates is driven in part by small counties that, because of the limited number of probationers, may experience significant fluctuations in their RPR due to the outcomes of just one or two people. Small counties are disproportionately represented in both negative and positive changes to RPRs.

⁴⁵ Each Annual Assessment item was analyzed using Pearson product-moment correlation matrices for covariance with 2013 RPR, change in RPR from baseline to 2014, change from 2010 to 2014, and change from 2013 to 2014.

III. Recommendations for the SB 678 Program

Penal Code section 1232(e) requires the Judicial Council to report on the effectiveness of the SB 678 program and provide recommendations for resource allocation and additional collaboration to improve the program. As described above, the SB 678 program has generally achieved its primary objectives, and has provided an early foundation for subsequent criminal justice reforms. Statewide, county probation departments have significantly reduced the number of adult felony probationers who are returned to state prison and have expanded the use of EBPs. Crime data reported by the California Department of Justice during this time period further suggest that public safety has not been compromised during the period under review. The Judicial Council recommends, therefore, that the Legislature preserve the cornerstone of the SB 678 program—performance-incentive funding coupled with the use of EBPs. In addition, to measure the effectiveness of the program and develop recommendations for appropriate resource allocations, the requirements for county probation departments to report on the implementation of EBPs and provide other related data should be maintained. To further enhance and understand the effectiveness of SB 678, we make the following recommendations:

Maintain Stable and Predictable Funding for Probation Departments

Stable and predictable funding will continue to incentivize the ongoing use of Evidence-Based Supervision Practices. Criminal justice reforms resulted in the need to modify the SB 678 funding methodology, which created some uncertainty in funding. The current methodology continues to link performance with funding while maintaining a certain level of stability. This stability promotes consistency in practices and allows county probation departments to engage in long term planning that incorporates key EBP components. We recommend that this funding scheme be maintained.

Continued Emphasis on Implementing Evidence-Based Practices

Although all components of EBPs measured in the survey are substantially higher than they were at baseline, improvements have begun to level off. To improve the effectiveness of the program, probation departments should enhance the use of EBPs in specific areas, including (1) providing additional staff training on the overall effectiveness of specific aspects of EBPs. For example, the use of risk-based graduated rewards and sanctions grids have been shown to improve supervision outcomes when implemented with fidelity and adequate training⁴⁶; (2) using contracts to require and verify that existing treatment and other programs qualify as EBPs; and (3) continuing to use the funds to ensure that data collection and reporting can continue at high levels, providing an opportunity to evaluate the counties' performances.

⁴⁶ Judicial Council of Cal., *The California Risk Assessment Pilot Project: The Use of Risk and Needs Assessment Information in Adult Felony Probation Sentencing and Violation Proceedings* (Dec. 2015), <http://www.courts.ca.gov/documents/cj-CalRAPP-FinalReport-2015.pdf>. (Accessed May 6, 2016.)

Encourage Counties to Implement Local Performance-Incentive Funding

Given the effectiveness of the SB 678 program, the state should encourage counties to implement local performance-incentive funding programs. Just as SB 678 directly impacted the state prison population, a local performance-incentive program could reduce the number of offenders who serve time in county jail. The state has an interest in promoting effective supervision at the local level because local incarceration costs are also significant. The state could encourage counties to develop these local programs through matching funds or by requiring that specified realignment funds be provided to county probation departments to reduce the number of supervised offenders who are revoked to county jail.

Conclusion

The California Community Corrections Performance Incentives Act (SB 678) is an effective program that appears to be operating as the Legislature intended when it created this incentive program for county probation departments. The SB 678 program was designed to alleviate state prison overcrowding and save state General Fund monies by reducing the number of adult felony probationers sent to state prison for committing a new crime or violating the terms of county-supervised probation. With adequate resources, probation departments will be able to continue using evidence-based practices developed through the SB 678 program to save state funds by reducing the number of felony probationers and offenders on PRCS and mandatory supervision revoked to prison. With secure funding for the future, the program has the potential to continue to lower or maintain low prison return rates without a reduction in public safety.

Appendix A

To more easily allow for comparisons with past years, the PFR used in this table is calculated using the reported revocations of adult felony probationers to state prisons, and to state prison and county jails post public safety realignment.

Probation Failure Rate by County^a							
	Baseline (2006–2008)	2010	2011^b	2012^c	2013	2014	2015
Statewide	7.9%	6.1%	5.5%	5.5%	5.9%	5.6%	4.2%
Alameda	6.0%	5.5%	4.4%	4.9%	5.1%	5.8%	5.8%
Alpine	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Amador	4.6%	9.0%	5.3%	6.6%	7.7%	5.9%	3.7%
Butte	16.7%	15.9%	12.3%	16.1%	17.3%	17.5%	11.4%
Calaveras	11.3%	4.7%	6.4%	4.0%	4.7%	7.5%	7.9%
Colusa	12.3%	10.1%	2.0%	8.5%	11.6%	9.9%	10.8%
Contra Costa	1.1%	0.6%	0.6%	2.0%	2.5%	2.7%	2.4%
Del Norte	13.8%	6.4%	3.2%	9.7%	14.3%	9.5%	5.8%
El Dorado	5.7%	4.1%	3.9%	5.7%	4.9%	3.6%	5.2%
Fresno	10.6%	6.8%	7.1%	7.4%	7.3%	6.9%	5.7%
Glenn	3.6%	1.9%	0.7%	3.1%	4.2%	6.8%	1.9%
Humboldt	9.2%	7.7%	5.4%	7.8%	9.3%	8.5%	8.3%
Imperial	4.8%	5.0%	6.2%	4.5%	12.2%	38.6%	29.5%
Inyo	5.1%	4.5%	3.9%	3.2%	4.5%	7.6%	6.0%
Kern	7.0%	7.4%	5.0%	5.2%	5.1%	3.4%	2.4%
Kings	13.8%	6.3%	6.9%	6.0%*	12.0%	8.6%	4.2%
Lake	9.2%	5.0%	2.8%	6.5%	8.2%	8.7%	11.7%
Lassen	8.8%	2.1%	8.2%	26.0%	26.2%	11.0%	7.1%
Los Angeles	8.7%	6.2%	4.9%	5.0%	5.3%	4.0%	2.3%
Madera	6.2%	2.5%	3.3%	2.9%	3.8%	3.1%	2.1%
Marin	2.6%	2.7%	0.8%	2.5%	4.5%	5.0%	1.6%

Probation Failure Rate by County^a							
	Baseline (2006–2008)	2010	2011^b	2012^c	2013	2014	2015
Mariposa	7.5%	7.7%	2.7%	4.4%	2.6%	2.7%	6.5%
Mendocino	2.7%	2.0%	1.7%	4.8%	6.4%	9.1%	15.6%
Merced	4.5%	4.1%	3.0%	2.5%	1.4%	1.6%	0.9%
Modoc	2.2%	1.1%	7.0%	10.3%	19.2%	1.4%	7.3%
Mono	5.3%	1.7%	1.7%	0.0%	4.0%	2.5%	1.6%
Monterey	8.1%	8.7%	7.8%	7.7%	8.4%	7.9%	5.7%
Napa	3.4%	2.6%	3.6%	4.1%	3.5%	2.6%	2.0%
Nevada	1.8%	0.9%	2.3%	1.7%	2.3%	2.7%	1.8%
Orange	6.1%	4.2%	4.7%	4.4%	4.7%	5.7%	4.3%
Placer	6.0%	5.2%	4.2%	3.2%	4.5%	4.3%	3.8%
Plumas	17.5%	6.7%	6.7%	4.3%	4.3%	0.7%	0.7%
Riverside	6.5%	3.9%	4.1%	4.3%	5.7%	6.5%	3.3%
Sacramento	14.9%	10.6%	9.5%	5.6%	7.7%	8.5%	8.2%
San Benito	7.2%	10.1%	9.3%	5.3%	5.7%	5.0%	2.4%
San Bernardino	11.1%	9.8%	10.4%	8.6%	5.0%	1.9%	1.4%
San Diego	8.2%	7.2%	7.0%	8.3%	10.6%	11.3%	8.4%
San Francisco	4.4%	3.4%	2.9%	3.4%	2.6%	2.6%	2.2%
San Joaquin	5.6%	4.5%	3.0%	2.8%	3.0%	3.1%	2.2%
San Luis Obispo	3.5%	3.9%	2.8%	5.3%*	9.4%	8.2%	6.1%
San Mateo	7.9%	5.4%	5.5%	7.2%*	10.0%	7.8%	9.2%
Santa Barbara	5.8%	4.3%	4.6%	3.1%	3.2%	2.8%	1.9%
Santa Clara	7.4%	7.0%	7.7%	6.6%	6.5%	6.5%	5.4%
Santa Cruz	2.2%	2.7%	2.0%	2.2%	2.5%	2.5%	2.3%
Shasta	14.6%	13.4%	9.5%	6.9%	8.9%	6.7%	8.3%
Sierra	0.0%	3.0%	20.3%	17.4%*	12.5%	7.8%	4.0%
Siskiyou	5.6%	4.5%	1.4%	1.9%	2.5%	5.8%	6.6%

Probation Failure Rate by County^a							
	Baseline (2006–2008)	2010	2011^b	2012^c	2013	2014	2015
Solano	8.7%	7.8%	8.0%	8.7%	5.9%	8.4%	8.7%
Sonoma	5.7%	6.4%	5.6%	4.6%	4.9%	5.0%	6.4%
Stanislaus	6.3%	6.1%	4.9%	5.1%	8.0%	6.7%	3.7%
Sutter	19.3%	15.0%	11.8%	7.1%	9.8%	8.0%	11.0%
Tehama	10.9%	4.1%	7.4%	22.3%	8.5%	19.1%	12.1%
Trinity	6.2%	0.0%	0.8%	2.1%	1.8%	1.0%	5.2%
Tulare	6.0%	4.6%	3.8%	5.0%	4.6%	4.7%	3.1%
Tuolumne	4.4%	1.4%	2.7%	2.6%	3.3%	4.3%	4.8%
Ventura	6.0%	4.3%	5.2%	5.4%	11.8%	15.8%	12.5%
Yolo	8.0%	4.7%	4.8%	4.1%	3.3%	4.2%	3.7%
Yuba	10.4%	10.0%	10.3%	10.3%	8.0%	6.5%	15.2%

*County has missing data for one or more quarters of the year. A proxy measure was used to establish their PFR.

^a Counties with smaller probation populations will be more reactive to small changes in the actual number of revocations. For example, in a county with 1,000 probationers an increase of 5 revocations would increase their PFR slightly, from 5% to 5.5%, while in a county with only 100 probationers an increase of 5 revocations would *double* their PFR, from 5% to 10%.

^b To account for the impact of realignment, the 4th quarter revocations for 2011 were estimated using the average of quarters 1–3.

^c The PFR for 2012 onward is calculated using the combined reported revocations to state prisons and county jails. Please note that probation departments are allowed to go back and revise previously submitted data. As a result of several resubmissions, the 2012 PFR referenced in prior documents may be different than what is reported here.

Appendix B

Performance Outcome Measures for the SB 678 Program (Pen. Code, §§ 1231 and 1232)^a						
	2010	2011	2012	2013	2014	2015
% individuals on local supervision supervised with EBPs^b (1231(b)(1))	Data unavailable	32% (n=57)	52% (n=55)	64% (n=55)	61% (n=51)	64% (n=52)
% state moneys spent on evidence-based programs^c (1231(b)(2))	88.1%	93.7%	100%	100%	100%	Data unavailable
Probation supervision policies, procedures, programs, or practices that have been eliminated^d (1231(b)(3))	Replacement of a risk and needs assessment tool. No longer using a “one size fits all” supervision approach. Now using risk level to determine supervision approach. No longer organizing caseloads by offense type or subjective criteria. No longer actively supervising low-risk probationers. Now banking low-risk probationers. Elimination of “zero tolerance” violation policies. Now using graduated sanctions to respond to violations.					
Total probation completions (1231(b)(4))	Data unavailable	Data unavailable	82,544	85,254	70,693	63,733
Unsuccessful completions (1231(b)(4))	Data unavailable	Data unavailable	17,684	19,612	18,598	13,937
Felony filings^e (1231(d)(1))	248,424	241,117	243,320	260,461	272,610	Data unavailable
Felony convictions (1231(d)(2))	163,998	158,396 ^f	158,252 ^g	167,950 ^h	178,476	Data unavailable
Felony prison admissionsⁱ (1231(d)(3))	58,743	50,678	33,990	37,651	Data unavailable	Data unavailable
New felony probation grants (1231(d)(4))	75,095	81,892	79,711	85,863 ^j	83,608	59,144
Adult felony probation population (1231(d)(5))	329,767	324,382	316,478	309,442	305,483	280,098
Total probation revocations to state prison:	20,044	17,924	8,252	8,834	7,855	6,960
<i>Prison revocations for new felony offense (1231(d)(6) & 1231(d)(7))</i>	7,533	6,896	4,133	4,632	3,876	3,410
Total probation revocations to county jail:	----	----	9,048	9,853	9,284	4,794
<i>Jail revocations for new felony offense (1231(d)(8) & 1231(d)(9))</i>	----	----	2,691	3,002	2,971	1,285
Total revocations^k	20,044	17,924	17,296	18,687	17,139	11,754
% felony probationers convicted of a crime^l (1232(c))	Data unavailable	Data unavailable	10.8%	11.8%	10.6%	6.5% ⁿ
% felony probationers convicted of a felony^m (1232(c))	Data unavailable	Data unavailable	5.7%	7.3%	7.4%	3.3%

- ^a Except where indicated, all data was reported by 58 probation departments to the Judicial Council.
- ^b The data reported are statewide averages, including individuals on warrant status. For fiscal years 2010–2011 and 2011–2012, include felony probationers only. For fiscal years 2012–2013 and 2013–2104, this figure includes MS and PRCS.
- ^c Data are reported for fiscal years 2010–2011, 2011–2012, and 2012–2013. FY 2010–2011 and FY 2011–2012 totals reflect the proportion of the total allocation. The totals for fiscal years 2012–2013 and 2013–2014 reflect the total of funds *spent*. (See table 4.)
- ^d Probation departments were asked to list supervision policies, procedures, programs, and practices that were eliminated since the effective date of SB 678. Twenty-seven probation departments submitted data for this question. The information provided here is a summary of the open-ended responses.
- ^e These data were taken for the *2014 Court Statistics Report*: www.courts.ca.gov/documents/2014-Court-Statistics-Report.pdf. (Accessed May 6, 2016.) Data are reported for fiscal years 2009–2010, 2010–2011, 2011–2012, and 2012–2013. Data for fiscal year 2013–2014 are not yet available.
- ^f These data were taken from the *2012 Court Statistics Report*: www.courts.ca.gov/documents/2012-Court-Statistics-Report.pdf. (Accessed May 6, 2016.) Data are reported for fiscal years 2009–2010 and 2010–2011.
- ^g These data were taken from the *2013 Court Statistics Report*: www.courts.ca.gov/documents/2013-Court-Statistics-Report.pdf. (Accessed May 6, 2016.) Data are reported for fiscal year 2011–2012. Data for fiscal year 2012–2013 are not yet available.
- ^h These data were taken for the *2014 Court Statistics Report*: www.courts.ca.gov/documents/2014-Court-Statistics-Report.pdf. (Accessed May 6, 2016.) Data are reported for FY 2012–2013. Data for FY 2013–2014 are not yet available.
- ⁱ These data are taken from the California Department of Corrections and Rehabilitation’s *Characteristics of Felon New Admissions and Parole Violators Returned With a New Term* reports for calendar years 2010–2013. Reports for individual years are available at the CDCR archive: http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/Achar1Archive.html. (Accessed May 6, 2016.)
- ^j This figure represents data from 56 probation departments.
- ^k For 2012 and 2013, this figure is a sum of total revocations to both prison and county jail.
- ^l This figure represents probation departments able to report complete data for the year. In 2012, this includes 49 departments; in 2013 this includes 51 departments.
- ^m This figure represents probation departments able to report complete data for the year. In 2012, this includes 49 departments; in 2013 this includes 52 departments.
- ⁿ The substantial drop in felony probationers convicted of a crime in 2015 may be in part related to Prop. 47, which reduced felony probation population and reclassified many drug- and theft-related crimes from felonies to misdemeanors.

Appendix C

SB 678: Revised SB Funding Methodology, FY 2015–2016

Background

SB 678, the California Community Corrections Performance Incentives Act of 2009, established a system of performance-based funding that shares state General Fund savings with county probation departments that reduces their number of adult felony probationers who are revoked to state prison in a year as a percentage of the average probation population during the same period. At the center of SB 678 is the use of evidence-based practices to improve public safety and incentive-based funding.

Since its passage, the State of California has adopted significant changes in criminal justice policies that directly impacted SB 678—most notably the 2011 Public Safety Realignment, which reduced the number of probationers eligible for revocation to state prison and created two new groups of offenders subject to local supervision. In order to maintain effective incentives and account for the significant changes in criminal justice policy, SB 85, adopted as a trailer bill to the 2015–2016 State Budget, revises the SB 678 funding formula and creates a funding methodology that should serve as a long-term formula. Prior to the adoption of SB 85, the state adopted temporary measures.

Revised funding methodology

Below is a summary of the newly revised SB 678 funding formula, which includes three funding components:

Funding Component #1: Comparison of county to statewide return to prison rates

The first funding component measures each county's performance against statewide failure rates. Each county's return to prison rate (RPR)—which equals the number of individuals on felony probation, mandatory supervision, and PRCS sent to prison as a percentage of the total supervised population—is compared to statewide RPRs since the original SB 678 baseline period (2006–2008).

If a county's RPR is less than or equal to the original statewide baseline of 7.9%, the county will receive a percentage of its highest SB 678 payment from the period between program inception and FY 2014–2015. Depending on how a county's RPR compares to statewide RPRs, a county can receive between 40% and 100% of its highest payment. The statewide RPRs and percentages of savings are defined as follows:

- If a county's RPR is below 1.5%, the county will receive 100% of its highest prior payment.
- If a county's RPR is equal or greater to 1.5% but no higher than 3.2%, the county will receive 70% of its highest prior payment.
- If a county's RPR is above 3.2% but no higher than 5.5%, the county will receive 60% of its highest prior payment.

- If a county’s RPR is above 5.5% but no higher than 6.1%, the county will receive 50% of its highest prior payment.
- If a county’s RPR is above 6.1% but no higher than 7.9%, the county will receive 40% of its highest prior payment.

Tier Category Based on Statewide RPR	Percentage of Highest Prior SB 678 Payment
RPR <1.5%	100%
RPR ≥1.5% and ≤3.2%	70%
RPR >3.2% and ≤5.5%	60%
RPR >5.5% and ≤6.1%	50%
RPR >6.1% and ≤7.9%	40%

Funding Component #2: Comparison of each county’s return to prison rate and its failure rate in the previous year

The second funding component is based upon how each county performs in comparison to the previous year. Each year a county’s RPR from the previous year is applied to its current year’s felony supervised populations to calculate the *expected* number of prison revocations. If a county sends fewer individuals on felony supervision to prison than the expected number, the county will receive 35 percent of the state’s costs to incarcerate an individual in a contract bed* multiplied by the number of *avoided* prison stays. The number of avoided prison revocations are calculated separately for each felony-supervised population (i.e., felony probation, mandatory supervision, PRCS).

- For example, if a county had a 3.2% RPR for their felony probation population in 2013 and 10,000 people on felony probation in 2014, its expected number of felony probation prison revocations in 2014 would be 320. If only 300 felony probationers were actually sent to prison in 2014, the county avoided sending 20 individuals to prison and would receive 35% of the state’s cost to imprison these 20 individuals in a contract bed.

In order to continue to receive funds under this funding component, probation departments must continually reduce their return to prison rates year after year.

Funding Component #3: \$200,000 minimum payment

The third funding component guarantees a minimum payment of \$200,000 to each county to support ongoing implementation of evidence-based practices. If a county’s total payment (from funding components 1 and 2) is less than \$200,000, the Department of Finance will increase the final award amount so that it totals \$200,000.

* A “contract bed” is defined as: “The cost to incarcerate in a contract facility and supervise on parole an offender who fails local supervision and is sent to prison.” (Pen. Code, § 1233.1(a).)