



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

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

STEVEN JAHR
Administrative Director of the Courts

June 27, 2014

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

Mr. Gregory P. Schmidt
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*, as required under Penal Code section 1232

Dear Ms. Boyer-Vine, Mr. Schmidt, 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).

Ms. Diane F. Boyer-Vine
Mr. Gregory P. Schmidt
Mr. E. Dotson Wilson
June 27, 2014
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If you have any questions about this report, please contact Shelley Curran, Senior Manager, Administrative Office of the Courts' Criminal Justice Court Services Office, at 415-865-4013 or shelley.curran@jud.ca.gov.

Very truly yours,



Steven Jahr
Administrative Director of the Courts

SJ/SC/eh

Attachment

cc: Members of the Judicial Council

Margie Estrada, Policy Consultant, Office of Senate President pro Tempore Darrell Steinberg
Fredericka McGee, Deputy Chief of Staff, Office of Assembly Speaker Toni G. Atkins
Anita Lee, Fiscal and Policy Analyst, Legislative Analyst's Office
Tina McGee, Executive Secretary, Legislative Analyst's Office
Debbie Meador, Consultant, Joint Legislative Audit Committee
Madelynn McClain, Program Budget Analyst, Department of Finance
Peggy Collins, Principal Consultant, Joint Legislative Budget Committee
Julie Salley-Gray, Consultant, Senate Budget and Fiscal Review Committee
Matt Osterli, Consultant, Senate Republican Fiscal Office
Marvin Deon, Consultant, Assembly Budget Committee
Allan Cooper, Consultant, Assembly Republican Fiscal Office
Jolie Onodera, Consultant, Senate Appropriations Committee
Chuck Nicol, Principal Consultant, Assembly Appropriations Committee
Benjamin Palmer, Chief Counsel, Senate Judiciary Committee
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Mike Petersen, Consultant, Senate Republican Policy Office
Eric Czismar, Consultant, Senate Republican Policy Office
Drew Liebert, Chief Counsel, Assembly Judiciary Committee
Gregory Pagan, Consultant, Assembly Committee on Public Safety
Paul Dress, Consultant, Assembly Republican Policy Office
Gary Olson, Consultant, Assembly Republican Policy Office
Jody Patel, Administrative Office of the Courts (AOC) Chief of Staff
Curtis L. Child, AOC Chief Operating Officer

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Curt Soderlund, AOC Chief Administrative Officer
Cory T. Jaspersen, Director, AOC Office of Governmental Affairs
Shelley Curran, Senior Manager, AOC Criminal Justice Court Services Office
Peter Allen, Senior Manager, AOC Office of Communications
Yvette Casillas-Sarcos, Administrative Coordinator, AOC Office of Governmental Affairs



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Administrative Director of the Courts

Report Summary

Report title: *Report on the California Community Corrections Performance Incentives Act of 2009: Findings from the SB 678 Program (2014)*

Statutory citation: Penal Code section 1232

Date of report: June 27, 2014

The Administrative Office of the Courts has submitted a report to the Legislature in accordance with Penal Code section 1232.

The following summary of the report is provided under the requirements of Government Code section 9795.

The California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678) is designed to alleviate state prison overcrowding and save General Fund monies by reducing the number of adult felony probationers who are sent to state prison or county jail for committing a new crime or violating the terms of county-supervised probation. The SB 678 program shares state savings with county probation departments that use evidence-based supervision practices and achieve a reduction in the number of probationer commitments to state prison.

The SB 678 program and its performance-based funding mechanism have created significant state savings by lowering the number of probationers sent to state prison. In 2013, the probation failure rate was 6.1%, a 23% reduction from the baseline rate of 7.9% in 2006–2008. The effectiveness of California's counties in reducing the number of probationers sent to state prison has resulted in statewide savings of approximately \$919.6 million over four years, \$449.5 million of which has been distributed to successful counties. At the same time that county probation departments effectively reduced the number of probationers revoked to prison (and to jail, following public safety realignment) and expanded their implementation of evidence-based supervision practices, California's arrest and violent crime rates have remained below the 2008 baseline, demonstrating that the counties' implementation of SB 678's careful design is meeting

the legislation's objectives. Given these positive outcomes, the state and counties have an interest in sustaining and expanding upon the effectiveness of the SB 678 program.

The report recommends that the Legislature preserve the fundamental formula of the SB 678 program—performance-incentive funding coupled with the use of EBPs—and explore other ways to expand the use of performance-incentive funding. In addition to the aggregate crime data that probation departments are currently collecting, the Legislature should also consider whether to require a more robust study of felony probationer recidivism using individual-level data. In addition, to continue to measure the effectiveness of the program and develop appropriate resource allocations, county probation departments should maintain their reporting on the use of EBPs and other related data.

The full report can be accessed here: www.courts.ca.gov/7466.htm

A printed copy of the report may be obtained by calling 415-865-8994.

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REPORT ON THE CALIFORNIA COMMUNITY CORRECTIONS PERFORMANCE INCENTIVES ACT OF 2009

FINDINGS FROM THE SB 678 PROGRAM

JUNE 2014



**ADMINISTRATIVE OFFICE
OF THE COURTS**

JUDICIAL AND COURT OPERATIONS
SERVICES DIVISION

CRIMINAL JUSTICE COURT SERVICES OFFICE

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

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

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Administrative Director of the Courts

Curtis L. Child
Chief Operating Officer

JUDICIAL AND COURT OPERATIONS SERVICES DIVISION

CRIMINAL JUSTICE COURT SERVICES OFFICE

Acknowledgments

Pursuant to Penal Code section 1232, this report was written in consultation with the Department of Corrections and Rehabilitation, the Department of Finance, and the Chief Probation Officers of California.

We would like to thank the following for providing information, insight, feedback, and support: Judge J. Richard Couzens (ret.), Superior Court of California, County of Placer; Judge Morris D. Jacobson, Superior Court of California, County of Alameda; and James P. Fox (ret.), District Attorney, San Mateo County. We would like to acknowledge staff in the AOC Criminal Justice Court Services Office whose work contributed to the SB 678 program and report: Shelley Curran, Senior Manager; Tara Agnese, Francine Byrne, Arturo Castro, Jay Fraser, Eve Herschopf, Arley Lindberg, Susan Reeves, and Barbara Whiteoak.

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Executive Summary

The California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678) is 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 and, following public safety realignment, to jail, for committing a new crime or violating the terms of probation. The SB 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 felony probationer commitments.

The SB 678 program and its performance-based funding mechanism has created significant state savings by lowering the number of probation offenders sent to state prison over the past four years. In 2010, the first calendar year county probation departments implemented the SB 678 program, the average daily population in state prison dropped by approximately 6,008 offenders. The state's overall probation failure rate, defined in statute as the percentage of adult felony probationers who are sent to state prison in a calendar year, dropped from the 2006–2008 baseline rate of 7.9% to 6.1%, a 23% reduction. In 2011, the probation failure rate continued to decline to 5.5%. To take the impact of realignment into account, county jail and prison revocations were summed to calculate the total number of revocations in 2012 and 2013. In 2012, the probation failure rate was maintained at 5.5%, and increased in 2013 to 6.1%, with approximately half of the revocations to state prison and half to county jail.

The effectiveness of California's counties in reducing the number of probationers sent to state prison resulted in statewide savings of approximately \$919.6 million over four years—\$181.4 million for fiscal year (FY) 2011–2012, \$284.6 million for FY 2012–2013, \$203.2 million in FY 2013–2014, and \$250.4 million for FY 2014–2015. Using SB 678's performance-based funding formula, the state distributed \$87.4 million to the successful counties in FY 2011–2012 to reinvest in local probation departments' effective supervision practices; \$136.3 million was distributed to the departments in FY 2012–2013; \$101.0 million was distributed in FY 2013–2014, and an estimated \$124.8 million will be distributed in FY 2014–2015.

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 postrelease supervision.” While no probation department in the state has fully implemented evidence-based practices in all facets of supervision, all counties report expanded use of some EBP elements, including application of actuarial risk and needs assessments, increased collaboration among local justice system partners, more effective supervision of offenders, more effective treatment programs for offenders, and more effective management practices.

While the number of probationers revoked to prison and jail has decreased since the SB 678 program's inception and probation departments have expanded their implementation of evidence-based supervision practices, California's arrest and violent crime rates have also remained below the 2008 baseline levels. Given these positive outcomes, the state and the counties have an interest in sustaining and expanding upon the effectiveness of the SB 678 program.

In enacting California's 2011 Public Safety Realignment Act,¹ the Legislature expressly encouraged counties to expand the use of evidence-based practices, highlighting their role in improving public safety outcomes and facilitating the reintegration of adult felons into society. Realignment, also greatly reduced the number of felony offenses that are punishable by state prison sentences. Nevertheless, the SB 678 program continues to help reduce state costs through enhanced supervision of the substantial number of felony probationers who remain eligible to be incarcerated in state prison.

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 revoked to prison or jail. The effectiveness of probation departments in continuing to lower incarceration costs and increase their use of evidence-based practices demonstrates that the counties' ongoing efforts to implement SB 678's careful design are meeting the legislation's objectives. With secure funding for the future, the SB 678 program has the potential to more fully achieve the Legislature's goals.

¹ 2011 realignment legislation addressing public safety, also known as the 2011 Public Safety Realignment Act (AB 109; Stats. 2011, ch. 15 and AB 117; Stats. 2011, ch. 39).

Introduction

The California Community Corrections Performance Incentives Act of 2009² (Sen. Bill 678; Stats. 2009, ch. 608, 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 shares state savings from lower prison costs with county probation departments to increase use of evidence-based supervision practices and achieve a reduction in the number of felony probationers who are revoked to state prison. The 2011 Public Safety Realignment Act,³ the most far-reaching transformation of California’s criminal justice system in more than 30 years, had a significant impact on the SB 678 program. In FY 2013–2014, changes were made in both the funding formula and data collection processes of the SB 678 program to account for the effects of public safety realignment. The Administrative Office of the Courts (AOC) 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;
- Provides results from the first four years of the program, including the impact of the SB 678 program on probation failure rates and public safety, the amount of state savings from the reduction in probation failures, and funding allocations to the counties; and
- Provides information on county probation departments’ reported use of funds and implementation of evidence-based practices.

² SB 678; Stats. 2009, ch. 608, www.courts.ca.gov/documents/sb678.pdf.

³ 2011 realignment legislation addressing public safety, also known as the 2011 Public Safety Realignment Act (AB 109; Stats. 2011, ch. 15 and AB 117; Stats. 2011, ch. 39).

I. SB 678 Background

A. Legislative Enactment of SB 678

The Legislature enacted the California Community Corrections Performance Incentives Act of 2009 (SB 678) with bipartisan support.⁴ 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.⁵ The typical adult felony probation term is for a period of three years. If an offender successfully completes probation without a violation or a new charge, the probationer will not be required to serve the suspended sentence in prison or jail. If the probationer violates the conditions of probation or commits a new offense, probation may be “revoked” and the offender 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.⁶ Historically, the probation departments’ inability to significantly reduce offender recidivism and revocations had been a major contributor to California’s incarceration costs.⁷ 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.⁸ The report also acknowledged that, in the preceding years, many county probation departments had insufficient resources to implement evidence-based probation supervision practices⁹ 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.

The SB 678 program established a performance-based funding system for county probation departments that shares state savings from lower prison costs with probation departments that implement evidence-based supervision practices and achieve a reduction in the number of felony probationer commitments to state prison. Following California’s 2011 Public Safety

⁴ SB 678, *supra*.

⁵ 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.”

⁶ Probation differs from parole, which is a form of supervision that takes place upon release from prison and is administered by the California Department of Corrections and Rehabilitation (CDCR).

⁷ Legislative Analyst’s Office, *Achieving Better Outcomes for Adult Probation* (2009), http://www.lao.ca.gov/2009/crim/Probation/probation_052909.pdf.

⁸ Legislative Analyst’s Office, *Achieving Better Outcomes for Adult Probation* (2009), http://www.lao.ca.gov/2009/crim/Probation/probation_052909.pdf.

⁹ Pen. Code, § 1229(d); evidence-based practices are defined as “supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under local supervision.”

Realignment Act¹⁰ (discussed in section D, below), legislation enacted in 2013 expanded the SB 678 program to include reductions in felony probationer commitments to county jail.¹¹ Critical to the effectiveness of the SB 678 program is the requirement for county probation departments to reinvest their share of the savings in enhanced implementation of evidence-based probation programs and practices.¹²

B. The SB 678 Framework

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 funds¹³ as seed money for county probation departments to begin expanding the use of evidence-based practices with adult felony probationers. After the first year of the program, the SB 678 state funding mechanism was activated, although the precise formula has been modified each year.

The SB 678 funding formula emphasizes county performance.¹⁴ Probation departments receive a portion of the state’s savings in prison costs¹⁵ resulting from reduction in the probation failure rate (PFR). The state’s PFR was initially defined in statute as a percentage based on the number of adult felony probationers revoked to state prison in a year compared with the average probation population during the same period.¹⁶

The amount of savings the state shares with probation departments each year is determined by the counties’ collective improvement in the PFR in comparison to their 2006–2008 baseline rate¹⁷

¹⁰ 2011 realignment legislation addressing public safety, also known as the 2011 Public Safety Realignment Act (AB 109; Stats. 2011, ch. 15 and AB 117; Stats. 2011, ch. 39).

¹¹ SB 75; Stats. 2013, ch. 31,

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB75&search_keywords

¹² “Funds allocated to probation pursuant to this act shall be used to provide supervision and rehabilitative services for adult felony offenders subject to local supervision, and shall be spent on evidence-based community corrections practices and programs... ” (Pen. Code, § 1230(b)(3).)

¹³ This was based on a one-time expansion of the Edward Byrne Memorial Justice Assistance Grant Program.

¹⁴ Pen. Code, § 1233.1(d).

¹⁵ Pen. Code, § 1233.1(a).

¹⁶ Pen. Code, § 1233.1(b)(1). In response to California’s 2011 Public Safety Realignment Act (discussed in section I.D of the body 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. For reporting purposes, the Administrative Office of the Courts defines “average probation population” as an average of the number of all probationers on felony probation (including those on warrant status) on the last day of each quarter.

¹⁷ Pen. Code, § 1233(a). 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 AOC, 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 probation failure 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

(see Appendix A). The state provides each county with a share of the state savings from reduced incarceration costs;¹⁸ the amount varies depending on the individual probation department's level of success¹⁹ as calculated by comparing the county's PFR with the state's average PFR. The SB 678 program also provides high performance awards to counties with very low probation failure rates. These awards support the ongoing use of evidence-based practices in counties with probation failure rates more than 50 percent below the statewide average.²⁰

The SB 678 program and its funding formula were affected by California's 2011 Public Safety Realignment Act²¹ (discussed in section D, below). Following realignment, a substantial number of felony probationers are no longer eligible for incarceration in state prison when they violate conditions of probation or commit a new offense and instead may be revoked and sentenced to county jail. Following this realignment-driven change, the funding formula for FY 2013–2014 (which shared savings for counties' performance in calendar year 2012) was revised. The PFR used in the revised formula was calculated as the total number of adult felony probationers statewide who were revoked to prison or to jail²² as a percentage of the average statewide adult felony probation population for that year. In the FY 2014–2015 May Budget Revise the Governor proposed using the same methodology, and increasing the allocation to counties with a PFR between 50% and 25% below the statewide average. The latitude provided to the Department of Finance (DOF) to make adjustments that take the impact of realignment into account has been critical to the success of the SB 678 program.

Legislation enacted in 2013 made other minor adjustments to the SB 678 program funding formula: beginning in FY 2013–2014, the calculation of savings in incarceration costs is now based on the state's cost to imprison an offender *in a contract facility* and to supervise on parole an offender who fails local supervision and is sent to prison.²³

C. SB 678 Monitoring and Reporting

The SB 678 legislation 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.²⁴ The Administrative Office of the Courts

to the county's adult felony probation population during the baseline period. (Pen. Code, §§ 1233.1(c),(d).)

¹⁸ Pen. Code, § 1233.1(a), 1233.2.

¹⁹ Pen. Code, § 1233.2. In each year, the remaining few unsuccessful counties are also provided with a small amount of state funds to bolster their efforts to implement evidence-based practices and reduce recidivism.

²⁰ These awards are funded with 5% of the overall savings to the state. A county may receive an award based on state incarceration cost savings or a high performance grant payment but not both; the county may choose which award to receive in a year when it qualifies for both. (Pen. Code, § 1233.4(e).)

²¹ 2011 realignment legislation addressing public safety, also known as the 2011 Public Safety Realignment Act (AB 109; Stats. 2011, ch. 15 and AB 117; Stats. 2011, ch. 39).

²² Pen. Code, § 1233.1(b)(2). These felony probationers were revoked to county jail pursuant to Penal Code section 1170(h)(5).

²³ 1233.1(a). This cost is estimated to be approximately \$27,000 for FY 2014–2015. SB 105; Stats. 2013, ch. 310, http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB105&search_keywords

²⁴ Pen. Code, § 1231(a): "Community corrections programs funded pursuant to this act shall identify and track specific outcome-based measures consistent with the goals of this act." Pen. Code, § 1231(c): "Each CPO receiving

(AOC) collects quarterly statewide outcome data reported by the counties, and works with the California Department of Corrections and Rehabilitation (CDCR) and the Chief Probation Officers of California (CPOC) to ensure the accuracy and reliability of this data.²⁵ Since the start of the SB 678 program, the AOC has provided technical assistance in data quality assurance to probation departments through site visits, multicounty conference calls, and contacts with individual counties.²⁶

The AOC's data collection methods obtain the most critical data, balancing county resource constraints with the Legislature's interest in mandated accurate and detailed information. 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 AOC reports program data to the DOF, which uses it to determine the appropriate annual level of performance-based funding for each county probation department.²⁷

In addition to collecting quarterly outcome-focused data, the AOC 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 evaluation of the effectiveness of the SB 678 program.²⁸ The Annual Assessment focuses on five critical evidence-based practices: (1) use of validated risk and needs assessments; (2) effective probationer supervision practices, including training on EBPs; (3) effective treatment and targeted intervention; (4) effective management practices; and (5) collaboration among justice system partners.²⁹ The survey is designed to measure probation departments' reported EBP implementation changes over time and to identify program spending priorities.

D. California's 2011 Public Safety Realignment 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,³⁰ the most far-reaching transformation of California's criminal

funding pursuant to Sections 1233 to 1233.6, inclusive, shall provide an annual written report to the Administrative Office of the Courts evaluating the effectiveness of the community corrections program, including, but not limited to, the data described in subdivision (b)."

²⁵ Pen. Code, § 1231(b).

²⁶ The AOC 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. The lack of probation department resources, variances in practices and disparity in data quality make the AOC's charge of assuring accuracy and reliability of SB 678 data particularly challenging.

²⁷ Pen. Code, §§ 1231(d), 1233.

²⁸ Pen. Code, §§ 1231(c), 1232.

²⁹ 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, 2009) available at www.crj.org/cji/entry/publication_integratedmodel.

³⁰ 2011 realignment legislation addressing public safety, also known as the 2011 Public Safety Realignment Act (AB

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 and similarly limited these offenders' eligibility for incarceration in state prison when they fail on supervision.

Prior to the enactment of the realignment legislation, a person convicted of a felony and denied probation was generally sentenced to state prison. After realignment, however, except for approximately 80 felonies, the general rule is that the court must commit these persons to county jail. Certain offenders must still be punished in state prison: (1) persons who have committed a current or past crime constituting a serious or violent felony (commonly known as a "strike"); (2) persons who are required to register as a sex offender under the provisions of Penal Code section 290; and (3) persons who have been convicted of aggravated theft under the provisions of Penal Code section 186.11.³¹ But hundreds of felony offenses previously punishable by a term in state prison (commonly called "1170(h) crimes" in reference to Penal Code section 1170(h)) are now punished by the same term in county jail.

Due to this change in the sentencing structure, offenders granted felony probation for 1170(h) offenses who violate probation or commit a new 1170(h) offense may only be revoked to county jail rather than state prison. In both 2012 and 2013, 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. The SB 678 program continues to reduce state prison costs through enhanced supervision of those probationers who remain eligible to be incarcerated in state prison if probation is revoked. The program also provides savings for counties (and, potentially, for the state) by reducing the number of revoked probationers who would serve their terms in county jail, though there are no direct state savings associated with lowering the PFR for offenders who are not eligible for revocation to state prison.

In addition to the immediate impact of realignment legislation on the SB 678 program, significant additional responsibilities have been placed on probation departments, including supervision of two new populations of offenders: (1) offenders released from state prison on a new form of supervision, called postrelease community supervision (PRCS), and (2) offenders placed on mandatory supervision under Penal Code section 1170(h)(5).

All offenders exiting state prison are now released to PRCS except for those who have been sent to prison for a serious or violent felony (any "strike"), for a crime punished as a third-strike offense, persons classified as a "high risk" sex offender, and those persons who require treatment by the California Department of State Hospitals. Following realignment, PRCS offenders are

109; Stats. 2011, ch. 15 and AB 117; Stats. 2011, ch. 39).

³¹ Pen. Code, § 1170(h)(3).

placed under the authority of county probation departments after serving their sentences rather than being supervised by state parole. If a PRCS offender violates supervision conditions, the court may impose up to 180 days in county jail for each violation. The PRCS offender may not be returned to prison unless convicted of a new prison-eligible felony and sentenced to state prison.³²

Probation departments have also been given responsibility for offenders placed on mandatory supervision.³³ For the new county jail-eligible felony offenses, under Penal Code section 1170(h)(5) courts are authorized to impose either a straight term of custody in the county jail or a “split” sentence, a portion of which is served in county jail custody and the remainder served in the community on “mandatory supervision.” The terms, conditions, and procedures of mandatory supervision are similar to those for grants of probation. The defendant is supervised by the probation department and can be returned to custody in county jail for violations of supervision conditions for the remainder of the term that the court had imposed, or for any lesser amount of time the court determines is appropriate. The offender may not be sent to prison unless convicted and sentenced on a new felony that qualifies for a state prison sentence.

The AOC began collecting additional data on felony probation revocations to county jail in January 2012 to account for the impact of realignment legislation on revocation practices. The data include the number of felony probationers who would have been sent to state prison for a revocation of probation or for a conviction of a new felony offense prior to realignment but who are now revoked to county jail when they fail on probation.³⁴ Then, in 2013, the AOC began to collect additional data to determine the size of the mandatory supervision and PRCS populations and to assess whether there are differences in probation departments’ supervision of these new populations as compared with traditional adult felony probationers.³⁵

³² Pen. Code, § 3458: “No person subject to this title shall be returned to prison for a violation of any condition of the person’s postrelease supervision agreement.”

³³ Pen. Code, § 3455(a)(1), (2).

³⁴ Pen. Code, § 1231(d)(8) and (9).

³⁵ Pen. Code, § 1231(d)(10–19).

II. Program Results

The analysis of SB 678's effectiveness is guided by the Legislature's stated intent³⁶ and summarized in three overarching questions:

- A. How did the SB 678 program impact the probation failure rate, 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 Probation Failure Rate and Public Safety Outcomes

Probation Failure Rate for SB 678 Program: Analysis

The SB 678 program's effectiveness is measured by comparing each calendar year's probation failure rates (PFR) to a baseline period before the program was implemented (a weighted average of the PFR in 2006, 2007, and 2008).³⁷ While the statewide PFR has varied from year to year, including an increase from 2012 to 2013, in each of the four years since the start of the SB 678 program the state's overall PFR has been lower than the baseline PFR rate of 7.9% (see figure 1).³⁸

³⁶ "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).

³⁷ The statewide probation failure-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 in the body 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 probation failure-to-prison 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, Section 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.

³⁸ Probation departments are allowed to revise previously submitted data. As a result of several re-submissions, the 2012 PFR referenced in prior documents may be different from what is reported here.

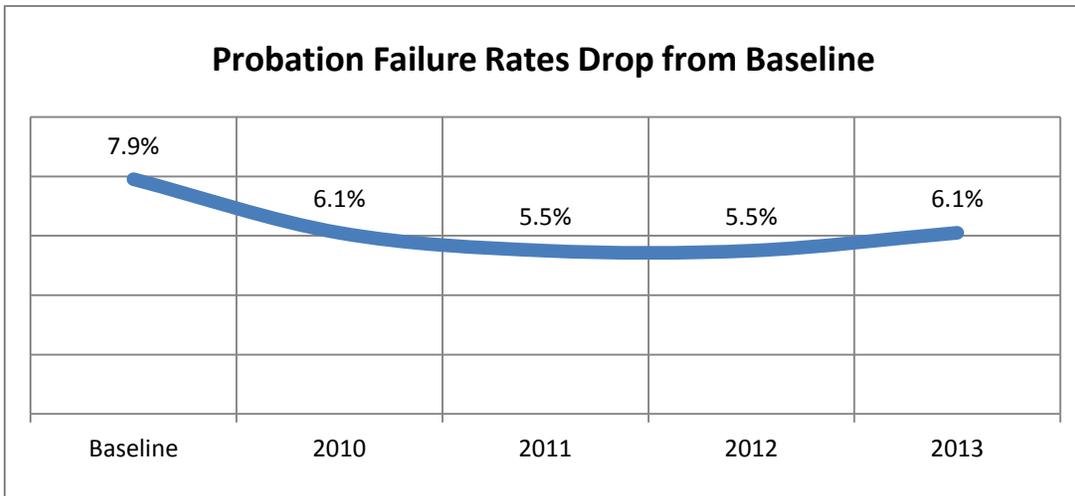


Figure 1. Probation failure rate data collected from probation departments by the Administrative Office of the Courts

In order to determine whether probation departments statewide have reduced the number of felony probation failures, a calculation involving the baseline PFR is required. First, the baseline PFR of 7.9% is applied to the statewide probation population in each year of the program. This provides an estimate of the number of felony probationers that probation departments would have sent to prison (and to jail, postrealignment) if counties had continued using the same supervision practices as those in place during the baseline period (see figure 2, below). The dark bars in figure 2 show the *projected* number of revocations to state prison (and to county jails in 2012 and 2013 following realignment); that is, the number of revocations one would expect to see if there had been no change in probation supervision practices. The number of projected revocations is then compared with the actual number of felony probationers revoked to state prison each year under the SB 678 program (represented by the light bars) and revoked to county jails in 2012 and 2013 (represented by the textured bars). In each year of the program, the actual number of revoked felony probationers is lower than the projected number of revocations.

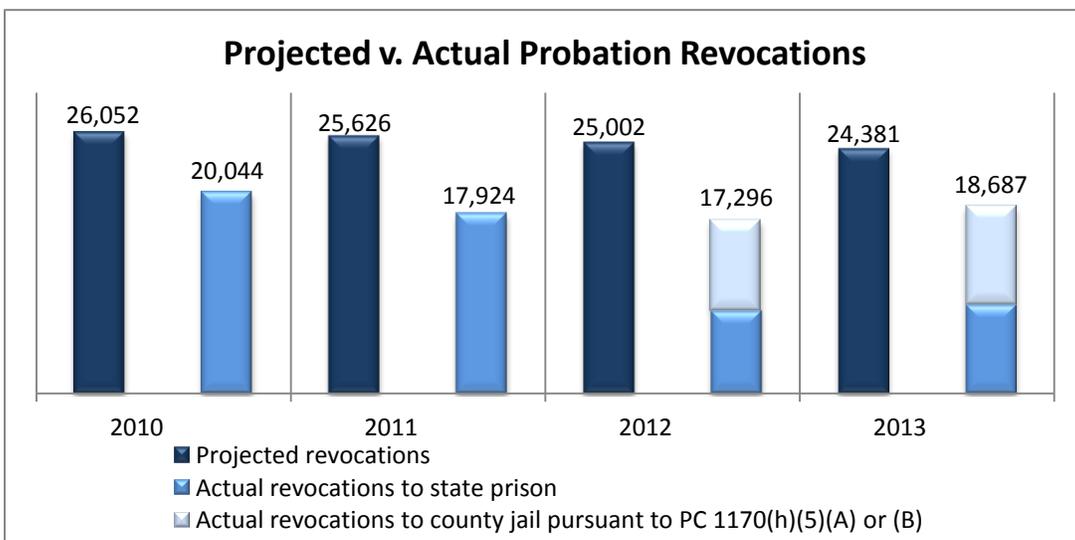


Figure 2. Probationer revocation data collected from probation departments by the Administrative Office of the Courts

As reported by probation departments and indicated in table 1, below, in 2010, the first calendar year of SB 678 implementation, the probation failure rate declined to 6.1%, with 20,044 actual revocations—a reduction in the expected average daily prison population of 6,008 offenders. In 2011, the state’s probation failure rate declined to approximately 5.5% with 7,702 fewer offenders than expected having their probation revoked.³⁹

To take the impact of realignment into account, county jail and prison revocations were summed to calculate the total number of felony probation revocations in 2012 and 2013. In 2012, probation departments maintained their PFR at 5.5% and revoked approximately 7,706 fewer felony probationers to either state prison or county jail. Of the probationers who were revoked in 2012, 48% were revoked to state prison, 52% to county jail. In 2013, the statewide PFR increased to 6.1%. Even with this rise in the PFR, approximately 5,694 fewer felony probationers were revoked to state prison or county jail as compared to the number of projected revocations. Of those revoked in 2013, 47% were revoked to state prison and 53% to county jail.

It is important to note that the size of the adult felony probationer population has declined steadily since the baseline period. This population decline reduces the denominator used to calculate the probation failure rate. Although the 2013 *rate* of probation failures is the same as the rate in 2010 (6.1%), the actual number of revocations to prison or jail avoided in 2013 is approximately 7% lower.

Table 1: Summary of Probation Revocations Since Program Inception

	Baseline	2010	2011	2012	2013
Probation Failure Rate (PFR)	7.9%	6.1%	5.5%	5.5%	6.1%
Average daily felony probation population	331,617	329,767	324,382	316,478	308,622
Expected revocations (based on baseline PFR)	N/A	26,052	25,626	25,002	24,381
Actual revocations	N/A	20,044	17,924	17,296	18,687
% revocations sent to prison vs. jail (pursuant to PC 1170(h))	N/A	N/A	N/A	48%	47%
Avoided revocations	N/A	6,008	7,702	7,706	5,694

Source: Probationer revocation data collected from probation departments by the Administrative Office of the Courts

Further analyses are necessary to explore factors that may have contributed to the PFR increase from 2012 to 2013, including crime data analyses and changing caseload risk levels (see figure 5 on page 22 for data on caseload composition changes over time).

³⁹ The estimated reduction in the average daily prison population calculated by the Department of Finance each year is based on the average length of stay in prison, which fluctuates from year to year and may or may not equal 12 months.

Post-Release Community Supervision and Mandatory Supervision

In June 2013, the Legislature enacted legislation that included amendments to the SB 678 program.⁴⁰ SB 75 added a requirement for probation departments to collect and report performance data on their supervision of the public safety realignment populations—postrelease community supervision (PRCS) and mandatory supervision—in addition to felony probationers. Individuals on PRCS and mandatory supervision are revoked to state prison only if they are sentenced on a new prison-eligible felony offense. All other revocations of PRCS and mandatory supervision that include a period of incarceration are served in county jail.

The AOC was charged with collecting performance data on these new realignment populations for 2012 and 2013. While failure rates for these populations appear to have increased from 2012 to 2013, it is not yet possible to draw conclusions about the PFR for mandatory supervision and PRCS offenders due to initial volatility in these new populations, and variances in the implementation of uniform revocation procedures and data collection protocols. In 2012 counties were still in the process of establishing procedures and determining how to deal with the new populations. In addition, several counties reported that they needed to reprogram their case management systems in order to track PRCS or MS offenders and were unable to provide data for the full year. Given these limitations, 2013 will be the first year that may provide reliable data on the PFR for offenders on mandatory supervision and PRCS.

Crime Rates in California, Realignment, and the SB 678 Program Impact on Public Safety

Data are beginning to become available to examine the overall impact of public safety realignment on crime rates in the state, but there is still a dearth of research that specifically examines the postrealignment relationship between crime and the felony probation population that is the focus of the SB 678 program.

California crime rates rose in 2012 as in most other states. Between 2011 and 2012, California's violent crime rate rose 2.8% and the property crime rate increased by 6.5%.⁴¹ Nevertheless, the state's 2012 crime rates remained lower than the rates from the 2008 baseline (12.5% lower for violent crime; 2.2% lower for property crime).⁴²

⁴⁰ SB 75; Stats. 2013, ch. 31,

http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB75&search_keywords.

⁴¹ California Department of Justice, Division of California Justice Information Services, Bureau of Criminal Information and Analysis Criminal Justice Statistics Center, *Crime in California 2012*,

<http://oag.ca.gov/sites/all/files/agweb/pdfs/cjsc/publications/candd/cd12/cd12.pdf>.

⁴² *Ibid.*

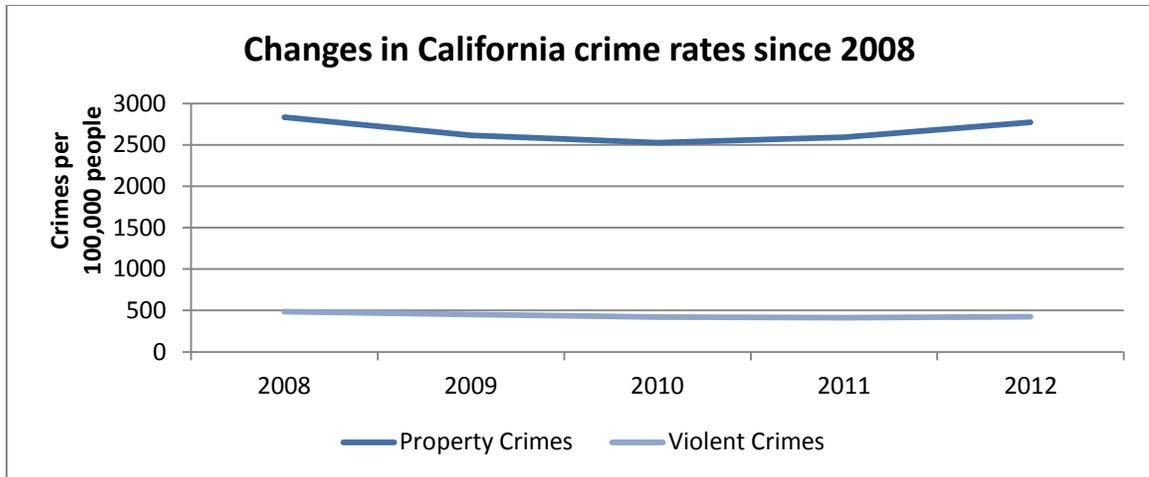


Figure 3. Property and violent crime data from the California Department of Justice, Office of the Attorney General, *Crime in California*, 2011 report

A preliminary analysis of FBI crime data for the first six months of 2013 suggests that the increase in the California crime rate reported in 2012 may not be an ongoing trend.⁴³ In the first six months of 2013, the property crime rate remained essentially unchanged from 2012, increasing by approximately 0.5%, and the violent crime rate decreased by 3.5%; see table 2, below.

Table 2: Crimes per 100,000 Residents in California

	Property	Violent
Jan – June 2012	2,856	474
Jan – June 2013	2,870	458
Percent change	≈ 0.5%	-3.5%

*Annualized number based on Jan–June 2012–2013 data for California cities of 100,000 persons or more (does not include arson).

Source: Federal Bureau of Investigation, Preliminary Semiannual Uniform Crime Report (January–June 2013)

The Legislature designed the SB 678 program to save state funds and improve the effectiveness of community supervision practices without compromising public safety.⁴⁴ The sweeping changes to the criminal justice system that resulted from public safety realignment and other recent criminal justice initiatives make it difficult to isolate and measure the SB 678 program’s impact on crime at this time. Additional research on felony probationer recidivism using individual-level data will be necessary to better understand the effect of the SB 678 program on crime in California.

⁴³ Federal Bureau of Investigation, Preliminary Semiannual Uniform Crime Report (January–June 2013), retrieved from www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2013/preliminary-semiannual-uniform-crime-report-january-june-2013.

⁴⁴ Pen. Code, §§ 1228(c), 1229(c)(1).

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 state savings of approximately \$181.4 million in FY 2011–2012. County probation departments received \$87.4 million of these savings to further their implementation of evidence-based supervision practices. In calendar year 2011, the probation departments further reduced the probation failure rate, resulting in state savings of approximately \$284.6 million, of which \$136.3 million was distributed in FY 2012–2013 for local probation departments to reinvest in effective supervision practices.⁴⁵ In 2012, county probation departments achieved a 31% reduction in felony probation revocations from the baseline years; in 2013, the reduction in felony probation revocations was 23%.⁴⁶

Prior to FY 2013–2014, SB 678 funding allocations to county probation departments were calculated based on savings to the state resulting from reductions in felony probationer prison commitments. The state shared funds with probation departments for those reductions in the state prison population that could be attributed to the counties' diversion of probationers who would have gone to state prison. As noted in section I.D, under the 2011 public safety realignment, hundreds of felony offenses previously punishable by a term in state prison may now only be punished by the same term in county jail.⁴⁷ As a result of realignment, approximately half (47–48%) of all felony probationers who were revoked or committed new crimes in 2012 and 2013 served their time in county jail instead of state prison.

Given this effect of realignment, 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 determined that the improvements in 2012's PFR resulted in savings of \$203.2 million, and county probation departments received \$101.0 million as their share of the SB 678 program savings. For 2014–2015, DOF calculated the total 2013 SB 678 program savings as approximately \$250.4 million, with an estimated \$124.8 million as the county probation departments' share, an increase of \$23.8 million from FY 2013–2014.

Probation Departments' Reported Use of Funds for Evidence-Based Practices and Evaluation

While not charged with conducting a formal accounting of funds received through the SB 678 program, the AOC does incorporate a limited number of funding questions in the Annual

⁴⁵ 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.

⁴⁶ These 2012 and 2013 figures include revocations to both prison and jail.

⁴⁷ Pen. Code, § 1170(h).

Assessment. County probation departments across California reported using SB 678 program funds to implement a variety of evidence-based practices (detailed in table 3, below).⁴⁸ The AOC uses the probation departments' self-reported information to provide context for the ways in which resources are allocated within the program.

In FY 2012–2013, probation departments reported using the majority of their SB 678 funds on the hiring, retention, and training of probation officers to supervise medium- or high-risk probationers. Probation departments also reported 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. In addition, probation departments reported using more than twice as many SB 678 funds on the improvement of data collection and use in FY 2012–2013 compared to the previous fiscal year; see table 3, below. 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 include funds used for training or for the improvement of data collection and use because it is often case-carrying officers that perform these functions.

⁴⁸ 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 3.

Table 3: Reported Use of Funds for Evidence-Based Practices^a

Spending Category	Average % Spent FY 2010-11 (N=50)	Average % Spent FY 2011-12 (N=48)	Average % Spent FY 2012-13 (N=48)
Hiring, support, and/or retention of case-carrying officers/supervisors	28%	48%	60%
Evidence-based treatment programs	28%	27%	20%
Improvement of data collection and use	4%	3%	7%
Use of risk and needs assessment	12%	5%	5%
Training: intrinsic motivational skills	3%	2%	1%
Training: cognitive behavioral techniques	2%	2%	1%
Training: use of appropriate responses to probationer behavior	2%	4%	<1%
Other evidence-based practices ^b	10%	3%	3%
Total^c	88%	94%	100%

^a The 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

^b Includes 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.

^c Total column may not sum to 100% due to incomplete information and the possibility that reported proportions are likely representative of SB 678 funds *spent* on the implementation of EBPs separate and apart from the amount of SB 678 funds *received* for EBP implementation.

Source: Annual Assessment data collected from probation departments by the Administrative Office of the Courts

The statutory framework for the SB 678 program requires that probation departments invest a minimum of 5% of their allocation evaluating the effectiveness of the programs and practices implemented with SB 678 funds.⁴⁹ In FY 2012–2013, county probation departments reported having engaged in a variety of evaluation activities: assessing the effectiveness of supervision practices and programs (23% of the counties), measuring the fidelity of local treatment programs or supervision practices to evidence-based programs and practices (23% of counties), and evaluating the effectiveness of the treatment programs offered to probationers (39% of counties).⁵⁰

⁴⁹ Pen. Code, § 1230(b)(4).

⁵⁰ Pursuant to AOC guidelines, a treatment program is evidence based if:

1. It serves medium or high risk offenders;
2. It targets offenders' most significant criminogenic needs;
3. It uses proven behavioral techniques such as skill development, role-playing, positive reinforcement, and modeling and reinforcing of pro-social behaviors; **AND**
4. It is based on a validated curriculum and follows that curriculum with fidelity; **OR**
5. It has been evaluated and found to be effective in reducing recidivism.

Probation departments also reported using evaluation funds to implement new or upgrade existing data systems, including the creation of new staff positions in data collection and research, and training staff to utilize these systems effectively. The data system enhancements are designed to improve probation departments' ability to track and report probationer outcomes, and to provide feedback that can be used to further improve their programs.

In FY 2012–2013, probation departments in 17 counties reported that they were deferring spending the SB 678 funds designated for evaluation and carrying the funds over to the next fiscal year. These departments reported that the funds will be used in the future to evaluate treatment and supervision program outcomes, assess the inter-rater reliability of risk and needs assessments, and measure the fidelity of supervision programs.

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.”⁵¹

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.⁵² There are five areas of EBPs that the SB 678 program recognizes as critical for improvement. These crucial components include the appropriate and effective use of the practices listed below.

Validated risk and needs assessments

Validated tools for risk and needs assessment 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 used in supervision of felony probationers.⁵³ 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 (“banking”) in the cases of low-risk probationers. Using validated risk and needs assessments to focus resources on

⁵¹ Pen. Code, § 1229(d).

⁵² Pen. Code, § 1230(b)(3)(A–E).

⁵³ 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, 2009).

higher-risk offenders and to structure caseloads so low-risk offenders are separated from higher-risk offenders has been demonstrated to be an effective EBP.

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.⁵⁴ 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.⁵⁵

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 they are tailored to characteristics such as gender and culture.⁵⁶

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.⁵⁷

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.⁵⁸

⁵⁴ 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).

⁵⁵ 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.

⁵⁶ 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.

⁵⁷ 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, 2009).

⁵⁸ 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.

County probation departments are required to provide an annual report to the AOC evaluating the effectiveness of their programs.⁵⁹ To facilitate this requirement and promote reporting consistency, the AOC created the Annual Assessment. This survey, which was pilot-tested in eight counties, is designed to measure probation departments' self-reported EBP implementation levels in the five categories described above,⁶⁰ and changes in EBP implementation over time.⁶¹ The survey is also used to gather information on departments' reported use of SB 678 funding. Statewide levels of EBP implementation are shown in figure 4, below.

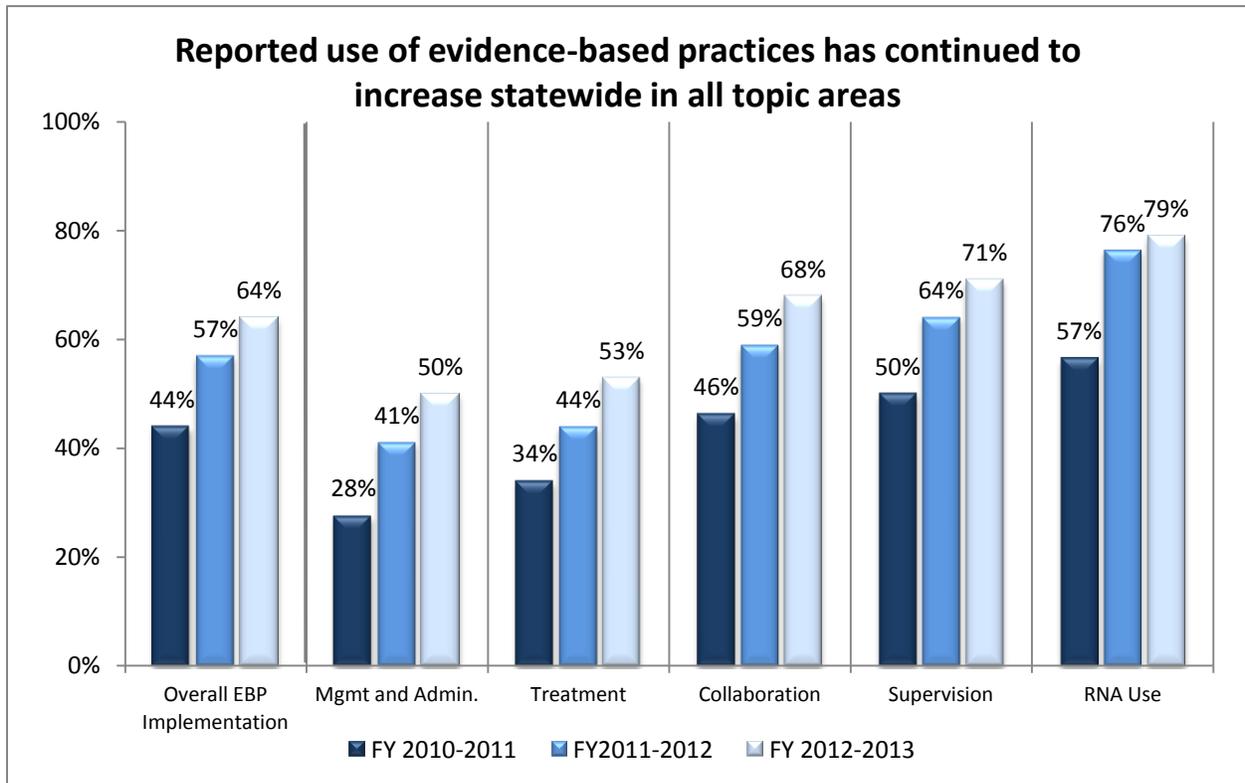


Figure 4. Reported levels of EBPs implementation collected from probation departments by the Administrative Office of the Courts

Results from the Annual Assessment suggest that the SB 678 program continues to be highly successful in increasing the levels of EBP implementation throughout the state (see figure 4, above). In FY 2012–2013, the overall level of EBP implementation reported by probation

⁵⁹ Pen. Code, § 1231(c).

⁶⁰ The Annual Assessment consists of 51 scaled and non-scaled items. 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.

⁶¹ 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.

departments increased by an additional 12% statewide, to 64%, and rose in each of the five EBP categories.⁶²

Since the start of the SB 678 program, reported levels of EBP implementation have increased by 45% statewide. This encouraging trend is largely driven by reported increases in EBP implementation levels in the Management and Administration category, which has increased by 79% since FY 2010–2011. However, it is worth noting that the four other EBP categories—Treatment/Intervention Practices, Collaboration, Effective Supervision, and Risk and Needs assessment—also reported increases in EBP implementation levels during this time frame. These categories show increases of 56%, 48%, 42%, and 39%, respectively from FY 2010–2011 to FY 2012–013.⁶³

According to the Annual Assessment, probation departments have continued to implement evidence-based supervision practices as the reported composition of their overall caseloads has changed to include an increasing percentage of high-risk offenders. Statewide data indicate that the reported number of high-risk probationers is increasing as a percentage of the total assessed probation population, and the percentage of low-risk probationers is decreasing. During the past three years of the program, of all probationers assessed, the reported percentage of low-risk probationers decreased from 37% to 33%, while the percentage of high-risk probationers increased from 25% to 31% (see figure 5, below).⁶⁴ This change in the composition of probation department caseloads to include an increased proportion of high-risk offenders is fully consistent with evidence-based practices which have demonstrated the benefit of investing supervision resources in moderate and high-risk offenders.

⁶² Overall reported levels of EBP implementation are calculated by taking the average of a department's scores across the five EBP categories. This year, the scoring methodology used to calculate the treatment category score was modified to more closely reflect the progress counties have made in implementing evidence-based treatment/targeted intervention programs. In addition, the treatment category scores for FYs 2010–2011 and 2011–2012 were adjusted based on this new scoring criterion and the treatment category and overall EBP implementation scores presented in this report reflect these revised figures.

⁶³ Examples of practices employed in each of these areas can be found in the 2013 report on the SB 678 program, California Administrative Office of the Courts, *Report on the California Community Corrections Performance Incentives Act of 2009: Findings from the SB 678 Program* (April 2013).

⁶⁴ $n = 31$ counties that assessed more than 75% of their probation population.

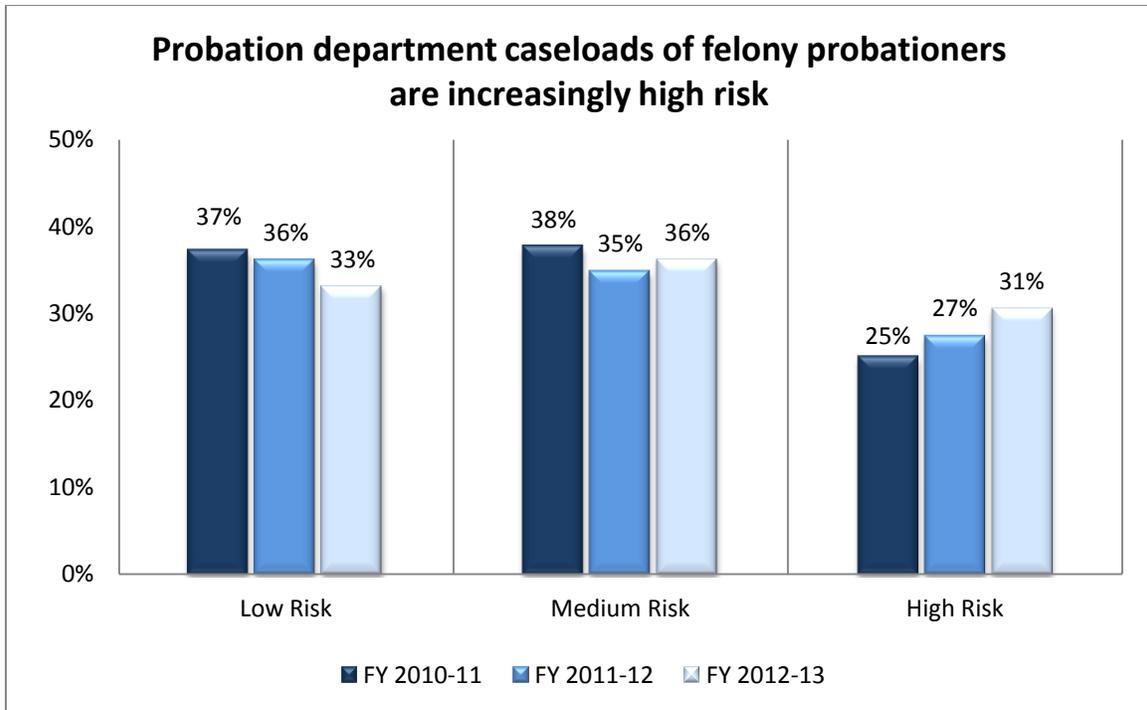


Figure 5. Annual Assessment data collected from probation departments by the Administrative Office of the Courts

Impact on 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 AOC’s Annual Assessment was not designed to measure the relationship between implementation of specific EBPs and particular outcomes, AOC researchers have begun to use data gathered through this survey to investigate the association between particular EBPs and improved outcomes for probationers.

The relatively small sample size ($N=58$ probation departments) and the substantial variation in the range of PFRs⁶⁵ resulted in few statistically significant findings. However, based on correlation analyses, the following practices were found to be significantly correlated or to have a strong relationship with reductions in departments’ probation failure rates⁶⁶.

- Regular sharing of data and outcome measures with justice partners;
- Placing lower-risk probationers on banked, administrative, or low-supervision caseloads;

⁶⁵ The large variation in probation failure rates is driven in part by small counties that, because of the limited number of probationers, may experience significant fluctuations in their PFR due to the outcomes of just one or two probationers. Small counties are disproportionately represented in both negative and positive changes to PFRs.

⁶⁶ Each item from the Annual Assessment was analyzed using Pearson product-moment correlation matrices for covariance with 2013 PFR, change in PFR from baseline to 2013, change from 2010 to 2013, and change from 2012 to 2013.

- 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;
- 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 probation officers who supervise medium- and high-risk felony probationers in cognitive behavioral therapy techniques;
- Developing officers’ intrinsic motivational skills such as motivational interviewing; and
- Using internal data on probation supervision practices and outcomes to improve services and practices.

Counties reporting a higher degree of collaboration with their justice partners were less likely to show an increase in probation failure rates.

Lower PFRs 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.

CalRAPP Pilot Project and the Use of Evidence-Based Practices

One ongoing study that will provide individual-level outcomes data on the use of EBPs with felony probationers is the California Risk Assessment Pilot Project (CalRAPP), a research and technical assistance project jointly funded by the National Institute of Corrections and the State Justice Institute. This pilot project is designed to evaluate probation departments’ implementation and use of EBPs, with a particular focus on the use of offender risk and needs assessments in adult felony sentencing and probation violation proceedings, and the effect on recidivism and offender accountability. The results to date indicate the value of sufficient funding and support for ongoing implementation of evidence-based practices.

CalRAPP was initiated in 2009, a year before the SB 678 program was enacted, and comprises four pilot counties: Napa, San Francisco, Santa Cruz, and Yolo. These “early adopter” counties have had both a “head start” and sustained technical assistance in support of their implementation of EBPs. The four CalRAPP counties have overall EBP implementation scores at or above the statewide average. As indicated in table 4, below, when the SB 678 program was initiated these four counties had a baseline probation failure rate below the statewide average. They have continued to reduce their PFR during the four years that both the CalRAPP project and the SB 678 program have been in effect.

Table 4: Probation Failure Rate Comparison of CalRAPP and Non-CalRAPP Counties

	Statewide	CalRAPP	Non-CalRAPP
Baseline	7.9%	4.7%	8.0%
2010	6.1%	3.5%	6.2%
2011	5.5%	3.2%	5.6%
2012	5.5%	3.3%	5.5%
2013	6.1%	2.9%	6.2%

Source: PFR data collected from probation departments by the Administrative Office of the Courts

The CalRAPP counties reduced their combined PFR to 2.9% in 2013, which is considerably lower than both the statewide PFR average and the average for non-CalRAPP counties. Two of the CalRAPP counties (Napa and San Francisco) were highlighted in the 2013 report to the Legislature on the SB 678 program for their highly effective evidence-based programs and practices.

III. Recommendations for the SB 678 Program

Penal Code section 1232(e) requires the AOC 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. 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. Given the major changes to the criminal justice system from public safety realignment that occurred in the midst of SB 678 implementation, it is not possible to completely isolate and measure the SB 678 program's impact on crime. Crime data reported by the Department of Justice and FBI suggest that public safety has not been substantially 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—and explore other ways to expand the use of performance-incentive funding. In addition, in order to measure the effectiveness of the program and develop recommendations for appropriate resource allocation, the requirements for county probation departments to report on the implementation of EBPs and provide other related data should be maintained. Recommendations, some that were also included in last year's report, are set forth below.

Provide Sufficient Incentives for Effective Implementation of the Program

To continue to incentivize effective supervision practices, the Legislature should maintain compensation to probation departments in recognition of the improvements made since the SB 678 program was initiated and that have continued even as public safety realignment has significantly impacted the criminal justice system and placed extra responsibilities on county probation departments. Providing probation departments with sufficient financial resources is critical to maintaining effective supervision practices; inadequate incentives may result in departments returning to less expensive practices that were in place before the SB 678 program (e.g., shifting serious offenders to state prison to preserve as many local resources as possible). It will be essential for the Legislature to maintain flexibility in the funding formula to account for the variations across counties and the impact of new legislative mandates.

To maintain effective incentives and fair compensation for the SB 678 program in light of the changes effected by realignment, the Legislature should consider the following:

Pre- & Post-Realignment Hybrid Funding Formula

The Legislature should consider developing a hybrid funding formula that rewards probation departments for their performance before and after realignment. For example, a portion of funding could be based upon an average probation failure rate from 2010 through 2011 (the time the SB 678 program operated before realignment) compared to the original baseline, with the remaining funding based upon PFRs as compared to a new post-realignment baseline. This proposal rewards

counties for their successes before realignment, preserves performance-based incentives, and provides county probation departments with a level of predictable funding.⁶⁷

Include Felons Under All Forms of Probation Department Supervision

The funding formula should provide compensation to probation departments for their effective supervision of offenders placed on postrelease community supervision (PRCS) and on mandatory supervision (MS) in addition to felony probationers. Achieving reduced recidivism by all offenders under probation supervision will result in fewer prison-eligible crimes being committed and avoidance of increased costs to the state prison system.⁶⁸

Adjust High Performance Grants

When the SB 678 program was initially passed, the Legislature included high performance grants for counties with probation failure rates more than 50 percent below the statewide average. High performance grants were included in order to provide funding for further development of EBPs in counties that had begun to implement evidence-based practices prior to the passage of SB 678 and had already started to reduce their PFRs. These grants are reassessed every year. As more counties increase their implementation of EBPs in the context of a relatively low statewide PFR and a shrinking felony probation population, achieving a probation failure rate more than 50% below the statewide average becomes increasingly difficult. As a result, several high performing counties are no longer eligible for funding under the formula even though these counties continue to effectively supervise their felony probation populations and have low PFRs.

In order to provide an incentive for these counties to enhance their efforts to fully implement the SB 678 program, the Legislature should consider providing funding to support the ongoing effectiveness of these probation departments. One possible approach would be to provide a grant to any county that qualified for a high performance grant in a prior year as long as its PFR remains the same or is lower than the baseline years; another approach would be to adjust the percentage below the statewide average required to qualify for a high performance grant.

Study Individual Offender Recidivism

The Legislature should consider requiring a rigorous study of crime committed by felony probationers as insufficient research using *individual-level* data to study offender recidivism has been conducted. Although overall crime rates have declined since the inception of the SB 678 program, the reduction does not necessarily indicate a decline in crime rates by the felony probationers who are the focus of the program. It is possible that probation department efforts

⁶⁷ Probation departments have noted that the unpredictable nature of this funding is a challenge in planning for future years.

⁶⁸ In the April 2013 report, the AOC recommended that a baseline be developed using data collected during 2012 on PRCS and MS populations. Once that data became available, it became apparent that calendar year 2012 is not an appropriate year to use as a baseline as the populations of both MS and PRCS were changing in a manner that would likely result in artificially low baseline failure rates. In addition, many counties were unable to accurately count PRCS and MS populations for the entire 2012 year.

related to the implementation of EBP reduced felony probationer recidivism, but it is also possible that the reduction in crime rates resulted from factors unrelated to the SB 678 program. Starting in 2011, the SB 678 program began to collect *aggregate* data on crimes committed by felony probationers. There are limitations on conducting analyses with aggregate data, however, and the quality of the crime commission data provided by probation departments has been inconsistent. Thus, to fully understand the effectiveness of the SB 678 program and its impact on crime rates, a more robust study of crime committed by felony probationers that includes individual-level data is needed.

Continued Emphasis on Implementing Evidence-Based Practices

Although county probation departments have expanded the use of EBPs, all departments should continue to make improvements in their EBP implementation. Many departments, however, will need to strengthen their infrastructures in order to improve EBP implementation, and additional resources will be required to make that possible. To improve the effectiveness of the program, probation departments should enhance the use of EBPs in specific areas noted in the Annual Assessment, including (1) additional staff training on the overall effectiveness of specific aspects of EBPs, including the use of intermediate sanctions; (2) using contracts to require and verify that existing treatment and other programs qualify as EBPs, including those that the counties require their probation departments to use for treatment of local offenders; and (3) continued evaluation of the program as is required by statute.

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, and also lower their counties' jail costs. With secure funding for the future, the program has the potential to continue to lower incarceration rates without a reduction in public safety.

Appendix A

Probation Failure Rate by County^a					
	Baseline (2006–08)	2010	2011^b	2012^c	2013^d
Statewide	7.9%	6.1%	5.5%	5.5%	6.1%
Alameda	6.0%	5.5%	4.4%	4.9%	5.1%
Alpine	0.0%	0.0%	0.0%	0.0%	0.0%
Amador	4.6%	9.0%	5.2%	6.6%	7.7%
Butte	16.7%	15.9%	12.1%	16.1%	17.3%
Calaveras	11.3%	4.7%	6.3%	4.0%	4.7%
Colusa	12.3%	10.1%	1.0%	8.5%	11.6%
Contra Costa	1.1%	0.6%	2.3%	2.0%	2.5%
Del Norte	13.8%	6.4%	3.3%	9.7%	14.3%
El Dorado	5.7%	4.1%	3.8%	5.7%	4.9%
Fresno	10.6%	6.8%	7.1%	7.4%	7.3%
Glenn	3.6%	1.9%	0.7%	3.1%	4.2%
Humboldt	9.2%	7.7%	5.4%	7.8%	9.1%
Imperial	4.8%	5.0%	6.2%	7.6%	12.2%
Inyo	5.1%	4.5%	3.8%	3.2%	4.5%
Kern	7.0%	7.4%	5.0%	5.2%	5.1%
Kings	13.8%	6.3%	7.1%	6.0%*	12.0%
Lake	9.2%	5.0%	2.8%	6.5%	8.2%
Lassen	8.8%	2.1%	8.0%	26.0%	26.2%
Los Angeles	8.7%	6.2%	4.9%	5.0%	5.3%
Madera	6.2%	2.5%	3.3%	2.9%	3.8%
Marin	2.6%	2.7%	0.8%	2.5%	4.1%
Mariposa	7.5%	7.7%	2.8%	4.4%	2.6%

Mendocino	2.7%	2.0%	1.7%	4.8%	6.4%
Merced	4.5%	4.1%	2.9%	2.5%	1.4%
Modoc	2.2%	1.1%	6.9%	10.3%	19.2%
Mono	5.3%	1.7%	1.8%	0.0%	4.0%
Monterey	8.1%	8.7%	7.4%	7.7%	8.4%
Napa	3.4%	2.6%	3.5%	4.1%	3.5%
Nevada	1.8%	0.9%	2.3%	1.7%	2.3%
Orange	6.1%	4.2%	4.7%	4.4%	4.7%
Placer	6.0%	5.2%	4.1%	3.2%	4.5%
Plumas	17.5%	6.7%	6.5%	4.3%	4.3%
Riverside	6.5%	3.9%	4.0%	4.3%	5.9%
Sacramento	14.9%	10.6%	9.6%	5.6%	7.0%
San Benito	7.2%	10.1%	10.3%	5.3%	5.7%
San Bernardino	11.1%	9.8%	10.3%	8.6%	7.3%
San Diego	8.2%	7.2%	4.6%	8.3%	10.6%
San Francisco	4.4%	3.4%	2.8%	3.4%	2.6%
San Joaquin	5.6%	4.5%	3.0%	2.8%	3.0%
San Luis Obispo	3.5%	3.9%	2.6%	5.3%*	9.4%
San Mateo	7.9%	5.4%	5.6%	7.2%*	10.0%
Santa Barbara	5.8%	4.3%	4.6%	3.1%	3.2%
Santa Clara	7.4%	7.0%	7.7%	6.6%	6.5%
Santa Cruz	2.2%	2.7%	2.0%	2.2%	2.5%
Shasta	14.6%	13.4%	9.3%	6.9%	8.9%
Sierra	0.0%	3.0%	20.8%	17.4%*	0.0%*
Siskiyou	5.6%	4.5%	1.5%	1.9%	2.5%
Solano	8.7%	7.8%	7.8%	8.7%	5.9%
Sonoma	5.7%	6.4%	5.5%	4.6%	4.9%

Stanislaus	6.3%	6.1%	5.0%	5.1%	8.0%
Sutter	19.3%	15.0%	11.7%	7.1%	9.8%
Tehama	10.9%	4.1%	7.5%	22.3%	8.5%
Trinity	6.2%	0.0%	0.8%	2.1%	1.8%
Tulare	6.0%	4.6%	3.8%	5.0%	4.6%
Tuolumne	4.4%	1.4%	2.7%	2.6%	3.3%
Ventura	6.0%	4.3%	5.1%	5.4%	11.8%
Yolo	8.0%	4.7%	4.7%	4.1%	3.3%
Yuba	10.4%	10.0%	10.3%	10.3%	8.0%

^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 2012 PFR is calculated using the 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.

^d The 2013 PFR is calculated using the reported revocations to state prisons and county jails.

Appendix B

Performance Outcome Measures for the SB 678 Program (Pen. Code, §§ 1231 and 1232)^a					
	Penal Code §	2010	2011	2012	2013
% individuals on local supervision supervised with EBPs^b	1231(b)(1)	Data unavailable	37.3%	47.2%	64.7%
% state moneys spent on evidence-based programs^c	1231(b)(2)	88.1%	93.7%	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 use 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 use graduated sanctions to respond to violations.			
Total probation completions	1231(b)(4)	Data unavailable	Data unavailable	82,544	85,254
Unsuccessful completions	1231(b)(4)	Data unavailable	Data unavailable	17,684	19,612
Felony filings^e	1231(d)(1)	248,424	241,025	243,270	Data unavailable
Felony convictions	1231(d)(2)	163,998	158,396 ^f	158,252 ^g	Data unavailable
Felony prison admissions^h	1231(d)(3)	58,737	50,678	33,990	Data unavailable
New felony probation grants	1231(d)(4)	75,095	81,892	79,711	85,863 ⁱ
Adult felony probation population	1231(d)(5)	329,767	324,382	316,478	308,622
Total prison revocations	1231(d)(6)	20,044	17,924	8,252	8,834
<i>Prison revocations for new felony offense</i>	1231(d)(7)	7,533	6,896	4,133	4,632
Total jail revocations	1231(d)(8)	----	----	9,048	9,853
<i>Jail revocations for new felony offense</i>	1231(d)(9)	----	----	2,691	3,002
Total revocations^j	----	20,044	17,924	17,296	18,687
% felony probationers convicted of a crime^k	1232(c)	Data unavailable	Data unavailable	10.8%	11.8%
% felony probationers convicted of a felony^l	1232(c)	Data unavailable	Data unavailable	5.7%	7.3%

- ^a Except where indicated, all data collected from 57 probation departments by the Administrative Office of the Courts.
- ^b The data reported for fiscal years 2010–2011 and 2011–2012 include felony probationers only. For FY 2012–2013, 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 total for FY 2012–2013 reflects the total of funds *spent*. (See table 3.)
- ^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 from the *2013 Court Statistics Report*: www.courts.ca.gov/documents/2013-Court-Statistics-Report.pdf. Data are reported for fiscal years 2009–2010, 2010–2011, and 2011–2012. Data for fiscal year 2012–2013 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. 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. Data are reported for fiscal year 2011–2012. Data for fiscal year 2012–2013 are not yet available.
- ^h These data are taken from the California Department of Corrections and Rehabilitation’s report *Characteristics of Felon New Admissions and Parole Violators Returned With a New Term, Calendar Year 2012*: www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/ACHAR1/ACHAR1d2012.pdf.
- ⁱ This figure represents data from 56 probation departments.
- ^j For 2012 and 2013, this figure is a sum of total revocations to both prison and county jail.
- ^k 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.
- ^l 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.



Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688
www.courts.ca.gov