



**Judicial Council of California**  
ADMINISTRATIVE OFFICE OF THE COURTS

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

STEVEN JAHR  
*Administrative Director of the Courts*

April 30, 2013

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

Mr. Gregory P. Schmidt  
Secretary of the Senate  
California State 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  
April 30, 2013  
Page 2

If you have any questions about this report, please contact Shelley Curran, Senior Manager, Administrative Office of the Courts (AOC) Criminal Justice Court Services Office, at 415-865-4013 or Shelley.Curran@jud.ca.gov.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Steven Jahr', with a long horizontal flourish extending to the right.

Steven Jahr  
Administrative Director of the Courts

SJ/SC/eh

Attachment

cc: Members of the Judicial Council  
Darby Kernan, Policy Consultant, Office of Senate President pro Tempore Darrell Steinberg  
Gabrielle Zeps, Special Assistant to Assembly Speaker John A. Pérez  
Alison Anderson, Chief Counsel, Senate Public Safety Committee  
Eric Csizmar, Consultant, Senate Republican Policy and Fiscal Office  
Gregory Pagan, Chief Consultant, Assembly Public Safety Committee  
Gary Olson, Consultant, Assembly Republican Policy and Fiscal Office  
Joseph Stephenshaw, Consultant, Senate Budget and Fiscal Review Committee  
Matt Osterli, Consultant, Senate Republican Policy and Fiscal Office  
Marvin Deon II, Consultant, Assembly Budget Committee  
Allan Cooper, Consultant, Assembly Republican Policy and Fiscal Office  
Debbie Meador, Chief Consultant, Joint Committee on Legislative Audit  
Mac Taylor, Legislative Analyst, Legislative Analyst's Office  
Brian Brown, Managing Principal Analyst, Legislative Analyst's Office  
Drew Soderborg, Analyst, Legislative Analyst's Office  
Jody Patel, Administrative office of the Courts (AOC) Chief of Staff  
Curtis L. Child, AOC Chief Operating Officer  
Curt Soderlund, AOC Chief Administrative Officer  
Cory Jasperson, Director, AOC Office of Governmental Affairs  
Shelley Curran, Senior Manager, AOC Criminal Justice Court Services Office



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**Report Summary**

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

Statutory citation: Penal Code section 1232

Date of report: April 29, 2013

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 for committing a new crime or violating the terms of county-supervised probation. The SB 678 program shares state savings from lower prison costs 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 2012, the probation failure rate was 5.3%, a 33% reduction from the baseline rate of 7.9% in fiscal year 2006–2008. The effectiveness of California's counties in reducing the number of probationers sent to state prison resulted in statewide savings of approximately \$536.6 million over three years, \$223.7 million of which has been distributed to successful counties. At the same time as the number of probationers revoked to prison fell and probation departments expanded their implementation of

evidence-based supervision practices (EBP), California's arrest and violent crime rates continued to drop. Given these positive outcomes, the state and the 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 EBP—and explore other ways to expand the use of performance-incentive funding. 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 EBP and other related data.

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

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

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As of March 21, 2013

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**Hon. Steven Jahr**

Administrative Director of the Courts  
and Secretary of the Judicial Council

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ADMINISTRATIVE OFFICE OF THE COURTS**

**Hon. Tani Cantil-Sakauye**  
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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**



# **REPORT ON THE CALIFORNIA COMMUNITY CORRECTIONS PERFORMANCE INCENTIVES ACT OF 2009**

**FINDINGS FROM THE SB 678 PROGRAM**

**APRIL 2013**



**ADMINISTRATIVE OFFICE  
OF THE COURTS**

JUDICIAL AND COURT OPERATIONS  
SERVICES DIVISION

CRIMINAL JUSTICE COURT SERVICES OFFICE

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**JUDICIAL AND COURT OPERATIONS SERVICES DIVISION**

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## **ACKNOWLEDGMENTS**

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

We would like to thank the following individuals for providing information, insight, feedback, and support: Judge J. Richard Couzens (Ret.), Superior Court of California, County of Placer; and Judge Roger K. Warren (Ret.), former Scholar-in-Residence, Administrative Office of the Courts.

We would like to acknowledge staff in the Criminal Justice Court Services Office, Judicial and Court Operations Services Division whose work contributed to the Senate Bill 678 program and report: Shelley Curran, Senior Manager; Tara Agnese, Francine Byrne, Arturo Castro, Jay Fraser, Eve Hershcopf, Arley Lindberg, Susan Reeves, and Barbara Whiteoak; and former staff Josie Halpern-Finnerty, Kevin O'Connell, and Felicity Rose.

## 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 for committing a new crime or violating the terms of county-supervised probation. The SB 678 program shares state savings from lower prison costs with county probation departments that use evidence-based supervision practices and achieve a reduction in the number of felony probationer commitments to state prison.

The SB 678 program and its performance-based funding mechanism has created significant state savings by lowering the number of probationers sent to state prison over the past three years. In 2010, the first calendar year county probation departments implemented the SB 678 program, the average daily population in state prison dropped by 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, dropped from the 2006–2008 baseline rate of 7.9% to 6.1% in 2010, a 23% reduction. In both 2011 and 2012, the probation failure rate continued to decline. In 2012, the probation failure rate was 5.3%, a 33% reduction from the baseline.

The effectiveness of California's counties in reducing the number of probationers sent to state prison resulted in statewide savings of approximately \$536.6 million over three years—\$181.4 million for fiscal year (FY) 2011–2012, an estimated \$284.6 million for FY 2012–2013, and an estimated \$70.6 million for FY 2013–2014. 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.

A fundamental component of SB 678 is the implementation of evidence-based practices (EBP) 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 have expanded their use of EBP elements, including actuarial risk and needs assessments, collaboration among local justice system partners, more effective supervision of offenders, more effective treatment programs for offenders, and more effective management practices.

At the same time the number of probationers revoked to prison fell and probation departments expanded their implementation of evidence-based supervision practices,

California's arrest and violent crime rates continued to drop. 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 the 2011 Realignment legislation (Assem. Bill 109), 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, while also greatly reducing the number of felony offenses that are punishable by state prison sentences. Nevertheless, the SB 678 program can continue to help reduce state prison costs through enhanced supervision of probationers who remain eligible to be incarcerated in state prison. Data from 2012, after realignment had already gone into effect, confirm that, of the felony probationers who failed on probation, half were revoked to state prison rather than to county jail.

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 and also lower their counties' costs by reducing the number of probationers who would otherwise be revoked to county jail. The effectiveness of probation departments in continuing to lower incarceration costs without prompting an increase in the state's crime rate demonstrates that the counties' faithful implementation of SB 678's careful design is meeting the legislation's objectives. Although the SB 678 program is scheduled to sunset on January 1, 2015, the program's effectiveness to date provides a solid basis for the Legislature to extend the program. With secure funding for the future, the SB 678 program has the potential to more fully achieve the Legislature's goals.

# Introduction

The California Community Corrections Performance Incentives Act of 2009<sup>1</sup> (Sen. Bill 678; Stats. 2009, ch. 608, implementation of which is hereafter referred to as the “SB 678 program”), was enacted in 2009. The Legislature designed the SB 678 program with two purposes: to alleviate state prison overcrowding and save state General Fund monies. These purposes are to be accomplished without compromising public safety by reducing the number of adult felony probationers who are sent to state prison for committing a new crime or violating the terms of county-supervised probation. The program is also designed to encourage county probation departments to use evidence-based supervision practices to accomplish these goals. The SB 678 program shares state savings from lower prison costs with county probation departments that reduce the number of felony probationers who are revoked to state prison. The Administrative Office of the Courts (AOC) has been charged by the Legislature to report on the outcomes and implementation of the SB 678 program.

This report:

- Presents background on the SB 678 program;
- Provides results from the first three years of the program, including the impact of the SB 678 program on probation failure rates and public safety, the state savings and allocation of funding to the counties, and the implementation of evidence-based practices and use of funds by county probation departments; and
- Provides recommendations for consideration by the Governor and Legislature for improvement of the SB 678 program.<sup>2</sup>

## I. SB 678 Background

### A. Legislative Enactment of SB 678

California’s prison costs have increased exponentially over the past 20 years. The state budget for corrections was \$9.8 billion (approximately 11.2% of the state’s General Fund<sup>3</sup>) in 2011, an increase of nearly 300% from 1991.<sup>4</sup> The Legislative Analyst’s Office (LAO) issued a report in 2009 confirming that the state’s adult felony probation

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<sup>1</sup> SB 678; Stats. 2009, ch. 608, <http://www.courts.ca.gov/documents/sb678.pdf>.

<sup>2</sup> Pen. Code, § 1232(e).

<sup>3</sup> California Department of Finance, *California State Budget 2011–12*, Summary Charts (2011), [http://www.documents.dgs.ca.gov/osp/GovernorsBudget/pdf/Governors\\_Budget\\_2011-2012.pdf](http://www.documents.dgs.ca.gov/osp/GovernorsBudget/pdf/Governors_Budget_2011-2012.pdf).

<sup>4</sup> California Department of Finance, *California State Budget 2011–12*, Summary Charts (2011), [http://www.documents.dgs.ca.gov/osp/GovernorsBudget/pdf/Governors\\_Budget\\_2011-2012.pdf](http://www.documents.dgs.ca.gov/osp/GovernorsBudget/pdf/Governors_Budget_2011-2012.pdf); Legislative Analyst’s Office, *Corrections Spending and Impact of Possible Inmate Population Reduction* (2009), [http://www.lao.ca.gov/handouts/crimjust/2009/02\\_24\\_09\\_Corrections\\_Spending\\_Population\\_Reduction.pdf](http://www.lao.ca.gov/handouts/crimjust/2009/02_24_09_Corrections_Spending_Population_Reduction.pdf).

system and its inability to significantly reduce offender recidivism and revocations was a major, though often overlooked, contributor to California's incarceration costs. Probation is a judicially imposed suspension of sentence and a form of community supervision that courts order in place of a long-term jail or prison sentence.<sup>5</sup> Each of California's 58 counties administers its own probation system, which includes adult felony probation.<sup>6</sup> If an offender successfully completes probation without a violation or a new charge, the probationer will avoid a lengthy sentence to prison or jail. Traditionally, when an adult felony probationer committed a new offense or technical violation of the terms of supervision, probation was "revoked" and the offender would be sent to state prison rather than county jail. Revocation to prison relieved the county of the duty to supervise the offender and transferred the incarceration costs to the state.<sup>7</sup>

In its 2009 report, the LAO estimated that 40% of new prison admissions from the courts were due to revocations from probation.<sup>8</sup> The LAO found that county probation departments had little incentive to improve their methods of supervision and avoid revoking probationers to prison. The report also acknowledged that in many cases county probation departments had insufficient resources to implement evidence-based probation supervision practices<sup>9</sup> that could help reduce probation failures. The LAO recommended creation of a financial incentive to counties to improve their community corrections practices and programs and to lower their probation failure rates.

In response, the California Legislature enacted Senate Bill 678 with bipartisan support.<sup>10</sup> This legislation created an incentive program designed to improve public safety and reduce prison costs by supporting effective probation supervision practices and better outcomes for adult felony probationers. SB 678 established a system of performance-based funding for county probation departments. The counties that achieve the desired outcome—reducing the number of offenders who are sent to prison after failing on probation—receive a share of the state's savings from lower

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<sup>5</sup>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."

<sup>6</sup> Probation differs from parole, which takes place upon release from prison and is administered by the California Department of Corrections and Rehabilitation (CDCR).

<sup>7</sup> This process changed significantly with the enactment of Public Safety Realignment in 2011, as discussed in section I.D of this report.

<sup>8</sup> Legislative Analyst's Office, *Achieving Better Outcomes for Adult Probation* (2009), [http://www.lao.ca.gov/2009/crim/Probation/probation\\_052909.pdf](http://www.lao.ca.gov/2009/crim/Probation/probation_052909.pdf).

In their findings for SB 678, the Legislature noted that "[i]n 2007, out of 46,987 new admissions to state prison, nearly 20,000 were felony offenders who were committed to state prison after failing probation supervision." (Pen. Code, § 1228 (b).)

<sup>9</sup> 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." (Pen. Code, § 1229(d).)

<sup>10</sup> SB 678; Stats. 2009, ch. 608, <http://www.courts.ca.gov/documents/sb678.pdf>.

costs for a smaller prison population.<sup>11</sup> Critical to the effectiveness of the SB 678 program is the requirement for county probation departments to reinvest their share of the savings in further implementation of evidence-based probation programs and practices.<sup>12</sup> The legislation requires county probation departments to implement their SB 678 community corrections programs by working in collaboration with other justice system partners in their local Community Corrections Partnerships.<sup>13</sup>

## **B. The SB 678 Framework**

Implementation of SB 678 began in FY 2009–2010. The Legislature appropriated \$45 million in federal American Recovery and Reinvestment Act (ARRA) stimulus funds<sup>14</sup> as seed money for county probation departments to begin implementing or expanding their use of evidence-based practices with adult felony probationers. The seed money was used for the first year of the program; the SB 678 state funding mechanism was in place for the second and third years.

SB 678’s funding formula emphasizes county performance. Probation departments receive a portion of the state’s savings in prison costs from reduction in the probation failure rate (PFR). The state’s PFR is defined in statute as the 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.<sup>15</sup> The probation departments’ share of savings is determined by each county’s improvement in the PFR in comparison to their 2006–2008 baseline rate<sup>16</sup> (see Appendix A).

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<sup>11</sup> In FY 2011–2012 and 2012–2013, the remaining few unsuccessful counties were provided a small amount of state funds in an attempt to further their efforts to implement evidence-based practices and reduce recidivism.

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

<sup>13</sup> Pen. Code, §§ 1230(b)(1)–(3), 1230.1. The local Community Corrections Partnership is chaired by the county’s Chief Probation Officer and is comprised of the following membership: (A) The presiding judge of the superior court, or his or her designee; (B) A county supervisor or the chief administrative officer for the county or a designee of the board of supervisors; (C) The district attorney; (D) The public defender; (E) The sheriff; (F) A chief of police; (G) The head of the county department of social services; (H) The head of the county department of mental health; (I) The head of the county department of employment; (J) The head of the county alcohol and substance abuse programs; (K) The head of the county office of education; (L) A representative from a community-based organization with experience in successfully providing rehabilitative services to persons who have been convicted of a criminal offense; (M) An individual who represents the interests of victims.

<sup>14</sup> This was based on a one-time expansion of the Edward Byrne Memorial Justice Assistance Grant program.

<sup>15</sup> Pen. Code, § 1233.1(b).

<sup>16</sup> The baseline probation failure rate is a weighted average of the PFR in 2006, 2007, and 2008. After the conclusion of each calendar year following the enactment of this section, the state 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 Administrative Office of the Courts, calculates for that calendar year an estimate of the number of adult felony probationers each county successfully prevented from being sent to prison based on the reduction in the county’s probation failure (to prison) rate. In making this estimate, the Director of Finance is required to adjust

The calculation of state savings uses the marginal cost of incarceration and supervision on parole, estimated as approximately \$30,000 per inmate in 2010 and 2011.<sup>17</sup> This figure changed dramatically in 2012 as the state implemented ‘standardized staffing’ in state prisons, resulting in a drop in the marginal cost of incarceration to less than \$10,000. The state shares with the counties either 40% or 45% in prison savings from reduced incarceration costs,<sup>18</sup> depending on each probation department’s level of success, as demonstrated by comparing the county’s PFR with the state’s average PFR.<sup>19</sup> SB 678 also provides high performance grant 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 and are funded with 5% of the overall savings to the state.<sup>20</sup>

### **C. SB 678 Monitoring and Reporting**

The SB 678 legislation mandates consistent monitoring and reporting of program implementation and requires county probation departments to share their information on the use of evidence-based practices and probationer outcomes to ensure the program is having its intended effect.<sup>21</sup> The Administrative Office of the Courts (AOC) collects data quarterly from the county probation departments 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 these data.<sup>22</sup>

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the calculations to account for changes in each county’s adult felony probation caseload in the most recent completed calendar year as compared to the county’s adult felony probation population during the baseline period. (Pen. Code, § 1233.1(d).)

<sup>17</sup> Pen. Code, § 1233.1(a). California Department of Finance, *2010 and 2011 Payment Report to Counties*. The report uses only 12 months of savings although the average length of incarceration is 15 months; the savings for the additional 3 months are added to the next year’s payments. The marginal cost for 2012 has been reduced to \$9,888, largely due to realignment-related reductions in the prison population, revised approaches to prison staffing, and other prison reduction initiatives, including SB 678.

<sup>18</sup> A Tier 1 county has a PFR up to 25% above the statewide PFR. Tier 1 counties receive 45% of the savings they generate for the state. A Tier 2 county has a PFR of 25% or more above the statewide PFR. Tier 2 counties receive 40% of the savings they generate for the state.

<sup>19</sup> In FY 2011–2012 and 2012–2013, the remaining few unsuccessful counties were also provided with a small amount of state funds to bolster their efforts to implement evidence-based practices and reduce recidivism.

<sup>20</sup> 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).)

<sup>21</sup> 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 funding pursuant to Sections 1233 to 1233.6, inclusive, shall provide an annual written report to the Administrative Office of the Courts and the Department of Corrections and Rehabilitation evaluating the effectiveness of the community corrections program, including, but not limited to, the data described in subdivision (b).”

<sup>22</sup> Pen. Code, § 1231(b).

County probation departments have limited resources; therefore, statewide data collection efforts have focused on the most crucial, mandated information. Probation departments have been required to invest time and funds to provide quarterly data on their programs in support of SB 678 evaluation efforts.

Data collected from county probation departments focuses on quantitative outcomes, including the number of felony offenders placed on probation and the number who were revoked to prison or convicted of a new felony offense during the reporting period (see Appendix B). 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.<sup>23</sup> The AOC reports program data to the Department of Finance (DOF), which uses it annually to determine the appropriate level of performance-based funding for each county probation department.<sup>24</sup>

Probation department record-keeping practices differ widely across the state: some counties continue to rely on paper files, while others use electronic databases. The AOC's data collection methods obtain the most critical data, balancing county resource constraints with the Legislature's interest in accurate, detailed information. In some instances, these constraints have limited the conclusions that can be drawn. This lack of probation department resources and disparity in data quality makes the AOC's charge of assuring accuracy and reliability of SB 678 data particularly challenging.

In addition to collecting quarterly outcome-focused data, the AOC uses an Annual Assessment survey to gather information on program implementation. The AOC developed the Annual Assessment to assist probation departments in fulfilling the legislative mandate for evaluation of the effectiveness of the SB 678 program.<sup>25</sup> This survey focuses on five identified areas that are critical to the implementation of evidence-based practices: (1) use of validated risk and needs assessments; (2) effective probationer supervision practices, including training on evidence-based practices; (3) effective treatment and targeted intervention; (4) effective management practices; and (5) collaboration among justice system partners. The Annual Assessment is designed to measure EBP implementation changes over time and to identify program spending priorities.

Since the start of the SB 678 program the AOC has conducted site visits with 18 probation departments and held in-depth conference calls with 12 others to better understand their data systems, provide technical assistance on data collection practices, ensure data validation, and gather qualitative information on program

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<sup>23</sup> At the time of this report, revocation records were matched in 29 counties.

<sup>24</sup> Pen. Code, § 1231(d).

<sup>25</sup> Pen. Code, §§ 1231(c), 1232.

implementation. During most of these site visits AOC staff held informational interviews with chief probation officers, supervisors, probation line-staff, and probationers to collect data on how the program has been implemented across the state. AOC staff gathered detailed information on the types of evidence-based practices used, challenges faced, and lessons learned. In some counties, the AOC met with judicial officers, district attorneys, public defenders, and social services staff to more fully assess SB 678 implementation and broader county decision-making.<sup>26</sup>

#### **D. California's 2011 Public Safety Realignment and the Impact on the SB 678 Program**

Nearly two years after the SB 678 program went into effect, the California Legislature enacted the 2011 Public Safety Realignment Act,<sup>27</sup> the most far-reaching change to California's criminal justice system in more than 30 years. California counties received over \$850 million in state funds in FY 2012–2013 and will receive more than \$1 billion in FY 2013–2014 for their significant new responsibilities under the Realignment legislation.

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. Realignment has limited incarceration in state prison to offenders convicted of serious, violent, or sex felonies, or who have a history of such convictions. Therefore, offenders who are placed on felony probation for a low level offense that is ineligible for incarceration in state prison may only be revoked to county jail.

In 2012, as a result of realignment, approximately half of all revoked probationers served their time in county jail as opposed to state prison, which significantly reduced the amount of SB 678–related state savings. The SB 678 program continues to help reduce state prison costs through enhanced supervision of those probationers who remain eligible to be incarcerated in state prison. Revocation reductions now also provide increased savings for *counties* since many probationers would have served their terms in county jail. There are no longer *state* savings associated with lowering the PFR for these offenders who, due to realignment, are ineligible for revocation to state prison.

In addition to the direct impact of Realignment legislation on the SB 678 programs, there are additional effects that are the result of the significant new responsibilities

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<sup>26</sup> The AOC conducted in-depth site visits to Alpine, Amador, Calaveras, Contra Costa, Fresno, Humboldt, Kings, Los Angeles, Napa, Orange, Riverside, San Bernardino, San Diego, San Francisco, Santa Barbara, Shasta, Sutter and Tuolumne Counties. These counties span the state geographically and in size. The amount of SB 678 funds received ranged from \$260,000 to \$9 million; their probation failure rates ranged from 0.27% to 8.8%.

<sup>27</sup> 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).

placed on probation departments. These responsibilities include the supervision of two new populations of offenders: (1) formerly incarcerated offenders on postrelease community supervision (PRCS), and (2) supervision of offenders placed on mandatory supervision (MS). PRCS offenders are individuals who committed lower level felonies (non-violent, non-serious, and non-sex offenses) and are released from state prison after serving their sentences. Prior to realignment these offenders would have been supervised by state parole; now they are placed under the authority of county probation departments. When they fail on PRCS they are *not eligible* for incarceration in state prison.<sup>28</sup> Probation departments have also been given responsibility for offenders placed on mandatory supervision.<sup>29</sup> These lower-level offenders serve a portion of their sentence incarcerated in county jail, with the remaining portion served in the community under supervision by the probation department.

To better understand the impact of Realignment legislation on revocation practices, the AOC began collecting additional statistics in January 2012. The AOC gathered and analyzed 2012 data on felony probation revocations to prison *and* to county jails. The new data includes the number of felony probationers who would have been sent to state prison for a revocation of probation or for a conviction on a new felony offense prior to realignment but who are now revoked to county jail when they fail on probation.<sup>30</sup>

## II. Program Results

In the findings and declarations section of SB 678, the Legislature states:

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.<sup>[31]</sup>

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<sup>28</sup> 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.”

<sup>29</sup> Pen. Code, § 3455(a)(1), (2).

<sup>30</sup> Pen. Code, § 1170(h)(5)(A) and (B).

<sup>31</sup> Pen. Code, § 1228(d).

The analysis of SB 678's effectiveness is guided by this stated intent and is 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 Under the SB 678 Program**

The Legislature measures improved felony probation performance as a reduction in the number of offenders who are sent to state prison for the commission of a new felony offense or for a violation of a term or condition of probation. Therefore, this report focuses on reductions in probation failures rather than other measures such as the achievements of adult felony probationers.

In reviewing the outcome measures set out in statute, by all objective standards the SB 678 program and its performance-based funding mechanism has been effective. The program has created significant state savings by lowering the number of adult felony probationers county probation departments and their courts have sent to state prison (and starting in 2012, to county jail) over the past three years.

The SB 678 program's effectiveness is measured by comparing each 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).<sup>32</sup> Over the three years of the SB 678 program, the state's overall PFR to state prison dropped from the baseline rate of 7.9% to 5.3%, a 33% reduction (see figure 1).<sup>33</sup>

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<sup>32</sup> The statewide probation failure to prison rate is 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).) Each county's probation failure to prison rate is 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).) The total size of the probation population has consistently declined by a range of 0.6% to 2.2% in each year of the program. This slight decline reflects national trends of declining probation populations.

<sup>33</sup> The 2011 Public Safety Realignment legislation was taken into account in calculating the 2012 PFR; see section I.D of this report.

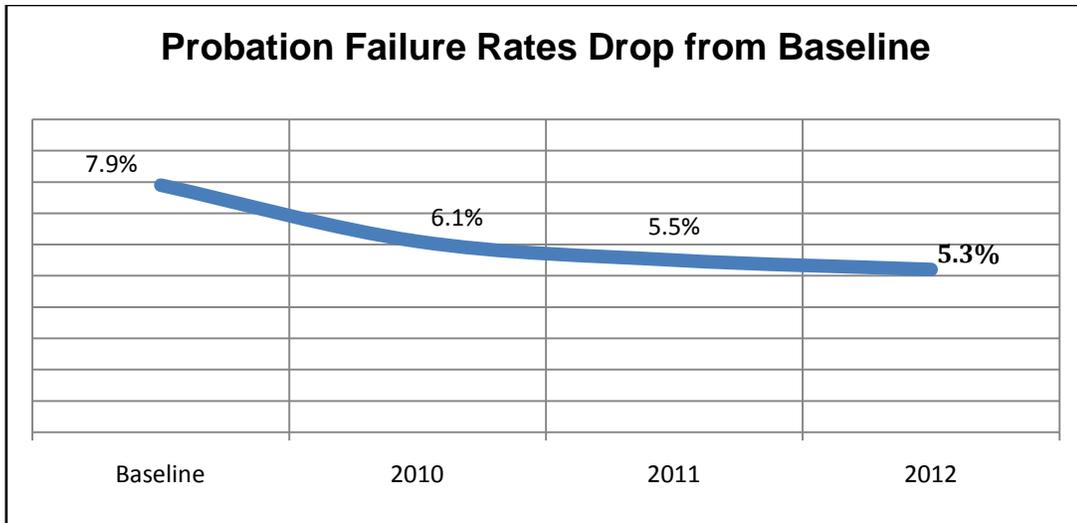


Figure 1. Probation failure rate data collected from probation departments by the Administrative Office of the Courts

The baseline PFR of 7.9% is applied to the 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 if counties had continued using the same supervision practices as those in place during the baseline period (see figure 2). The dark bars in figure 2 show the projected number of revocations to state prison; that is, the number of revocations one would expect to see if there had been no change in probation supervision practices. The light bars represent the actual number of felony probationers revoked to state prison (and, in 2012, to county jail) each year under the SB 678 program.

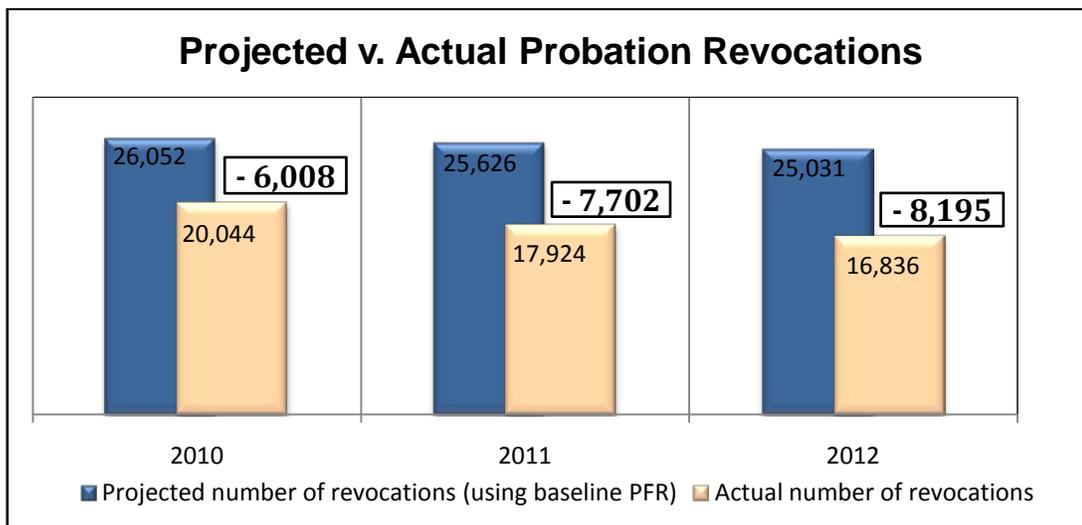


Figure 2. Probationer revocation data collected from probation departments by the Administrative Office of the Courts

As reported by probation departments, 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 average daily population of 6,008 offenders.<sup>34</sup> In 2011, the state’s probation failure rate declined to approximately 5.5% as improved supervision practices by county probation departments led to approximately 7,702 fewer offenders having their probation revoked.<sup>35</sup> 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. Probation departments reduced the PFR even further to 5.3% by revoking approximately 8,195 fewer felony probationers to either state prison or county jail. Of the probationers who were revoked in 2012, approximately 50.7% were revoked to state prison, and the rest were revoked to county jail.

In 2010, 40% of felony probationers who were sent to state prison were convicted of a new felony offense; the remaining 60% of probationers were sent to state prison for revocations based on other violations of probation.<sup>36</sup> In 2011,<sup>37</sup> of the felony probationers whose probation was revoked, 38% were sent to prison on a new felony offense. In 2012, 40% of felony probationers whose probation was revoked were sent to prison or county jail on a new felony offense while 60% were revoked based on other violations of probation.

### **SB 678 Program Impact on Public Safety**

The Legislature designed the SB 678 program to save state funds and improve the effectiveness of community supervision practices without compromising public safety.<sup>38</sup> Results suggest that the implementation of the SB 678 program did not adversely affect public safety as measured by arrest and crime rates.<sup>39</sup> While the number of probationers revoked to prison fell and probation departments expanded their implementation of evidence-based practices, California’s arrest rates have

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<sup>34</sup> Data collected from the counties’ community corrections programs by the Administrative Office of the Courts pursuant to the SB 678 mandate; Pen. Code, § 1231(a), (d).

<sup>35</sup> The average daily prison population in 2011 was reduced by approximately 9,536. This figure varies from the number of probationers diverted in 2011 due to the fact that the average length of stay for those revoked to prison in 2010 was 15 months, and thus the calculation of the reduction in the average daily prison population includes a portion of the probationers diverted in 2010.

<sup>36</sup> Probationers revoked for violations of probation other than felony convictions may also have engaged in criminal activity, including, for example, misdemeanor convictions or revocations in lieu of formal charges.

<sup>37</sup> An average of the first three quarters of 2011 was used to estimate the number of revocations in quarter 4 to account for the effect of legislative changes implemented in the fourth quarter of 2011.

<sup>38</sup> Pen. Code, §§ 1228(c), 1229(c)(1).

<sup>39</sup> Arrest and crime rates represented in this report were obtained from the California Department of Justice, Office of the Attorney General. A crime rate describes the number of crimes reported to law enforcement agencies for every 100,000 persons within a population. The reports of crime track both violent crime (murder, forcible rape, robbery, and aggravated assault), and property crime (burglary, larceny-theft, motor vehicle theft, and arson). These data only include crimes reported to law enforcement agencies. Arrest rates are calculated based on the number of arrests reported by law enforcement agencies for every 100,000 persons within a population. Arrest reports are categorized into three types: violent, property, or drug.

continued to drop (see figure 3). From 2008 (the year baseline data were collected for SB 678) to 2011 the overall arrest rate decreased by 20.7%.<sup>40</sup>

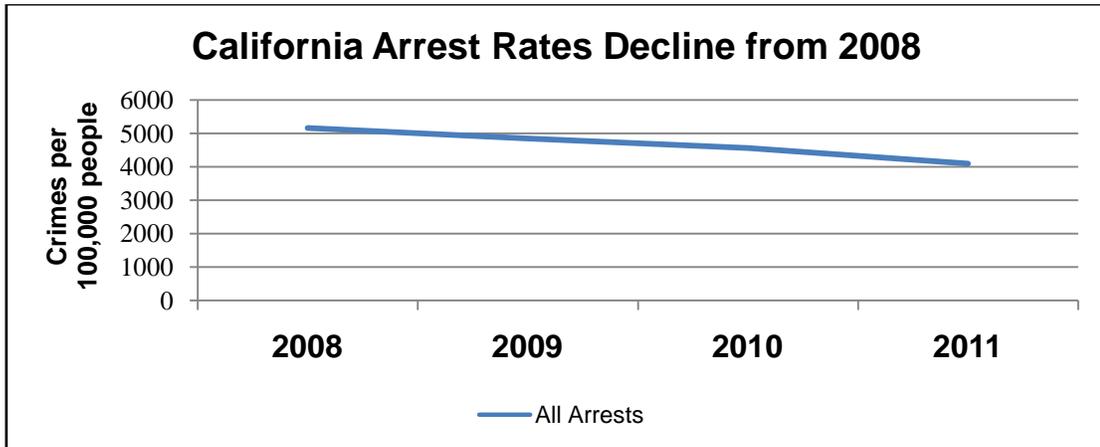


Figure 3. Arrest data from the California Department of Justice, Office of the Attorney General, *Crime in California, 2011* report

From 2008 to 2011 the violent crime rate decreased 14.9% (from 485.6 to 413.3 per 100,000 people), reaching its lowest level since 1968 (411.1).<sup>41</sup> Although the property crime rate slightly increased from 2010 to 2011 (by 2.6%), it has remained below the 2008 baseline rate.

The property crime rate in 2011 (2,593.7) was 8.5% lower than the rate in 2008 (see figure 4).<sup>42</sup> Crime and arrest data from the California Department of Justice, Office of the Attorney General are not yet available for 2012.

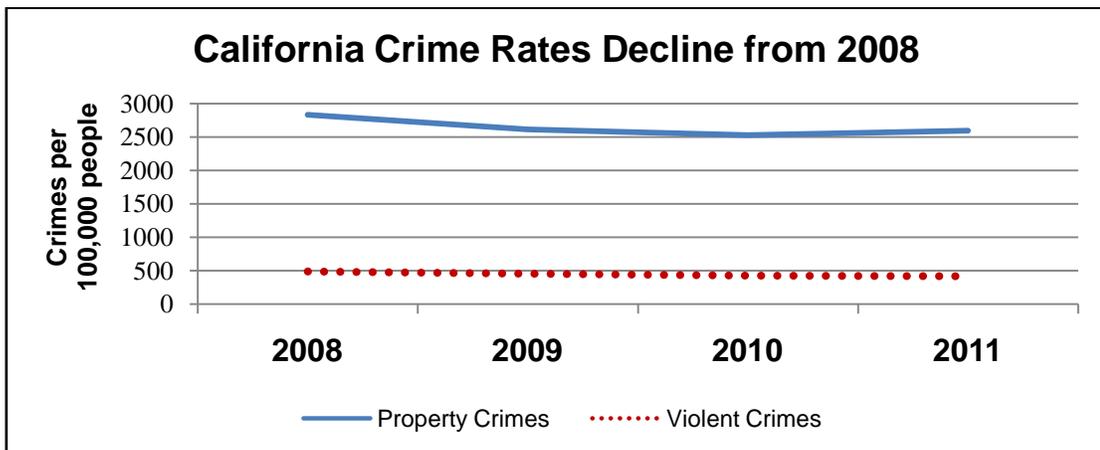


Figure 4. Property and violent crime data from the California Department of Justice, Office of the Attorney General, *Crime in California, 2011* report

<sup>40</sup> California Department of Justice, Division of California Justice Information Services, Bureau of Criminal Information and Analysis, Criminal Justice Statistics Center, *Crime in California, 2011*, <http://oag.ca.gov/sites/all/files/pdfs/cjsc/publications/candd/cd11/cd11.pdf>

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

In 2011, the AOC began to collect data on crimes committed by felony probationers. Data reported under the SB678 program show that approximately 14.5% of felony probationers were convicted of a new crime in 2012;<sup>43</sup> 5.8% of felony probationers were convicted of a new felony during the same period.<sup>44</sup> Additional research on felony probationer recidivism is necessary to better understand the impact of the SB 678 program. A recent study by the Council of State Governments of arrests in four California cities (Los Angeles, Redlands, Sacramento, and San Francisco), however, suggests that effective probation supervision has contributed to the downward trend in the arrest rate in those jurisdictions. From January 2008 to June 2011, the number of arrests made in those four cities declined by 18 percent, while the number of arrests involving people under probation supervision declined by 26 percent.<sup>45</sup>

## **B. State Savings, Allocation to County Probation Departments, 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 (approximately 48%) of these savings to further their use 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 (approximately 48%) was distributed in FY 2012–2013 for local probation departments to reinvest in effective supervision practices.<sup>46</sup>

County probation departments achieved a 33% reduction in 2012 in felony probation revocations from the baseline years.<sup>47</sup> Due to the impact of the Realignment legislation and a significantly lower marginal state prison, the level of payment to county probation departments under the SB 678 program in 2013–2014 will be significantly less than in previous years. The Department of Finance calculated that the improvements in 2012's PFR resulted in state savings of approximately \$70.6 million. While counties will receive significant state dollars under the Realignment legislation, the Governor's proposed FY 2013–2014 budget included an estimated

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<sup>43</sup> This figure includes data from 51 counties (excludes Los Angeles).

<sup>44</sup> This figure includes data from 52 counties (includes Los Angeles).

<sup>45</sup> Council of State Governments Justice Center, *The Impact of Probation and Parole Populations on Arrests in Four California Cities* (2013), p. 6.

<sup>46</sup> 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.

<sup>47</sup> This reduction includes revocations to both prison and jail.

\$34.8 million as the county probation departments' share of the SB 678 program savings, a drop of over \$100 million from the amount allocated to the departments in 2011.

In 2012, as a result of realignment, *approximately half* of all felony probationers who were revoked or committed new crimes served their time in county jail as opposed to state prison. SB 678 funding allocations to county probation departments are calculated based on *savings to the state* resulting from reductions in felony probationer prison commitments. The state shares funds with probation departments only for those reductions in the state prison population that can be attributed to the counties' diversion of probationers who would have gone to state prison. Under realignment, most non-serious, non-violent, non-sex offenders are mandated to serve their time in county jail rather than state prison when probation is revoked.

There is a second factor in the decreased FY 2013–2014 funding to probation departments: a reduction in the marginal cost for incarcerating an offender in state prison, a critical component of the DOF formula for determining state savings. In 2012, CDCR changed its staffing design to a more cost-effective standardized staffing pattern that allows for a range of inmate density within a prison housing unit without the need to adjust the number of correctional officers.<sup>48</sup> As a result, the annual marginal state prison incarceration cost was reduced from almost \$30,000 per inmate (cost of prison and parole supervision) in 2010 and 2011<sup>49</sup> to less than \$10,000 (cost of prison alone) in 2012.<sup>50</sup>

### **Use of Funds for Evidence-Based Practices and Evaluation**

County probation departments across California have used SB 678 program funds to implement a variety of evidence-based practices (detailed in table 1 below). In the first year of the SB 678 program probation departments reported spending a significant portion of their funding on hiring, retention, and training of officers for handling caseloads of medium and high-risk probationers.<sup>51</sup> Typically, counties reported that they hired new officers to fill vacancies within the probation department rather than creating new positions. The same emphasis on hiring and training field officers was

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<sup>48</sup> “The CDCR has changed from using a ratio-based staffing system where decreases in the inmate population directly resulted in staffing reductions to a new standardized staffing model. Under this new model, each prison’s staffing levels remain mostly fixed unless there are significant enough changes in the inmate population to justify opening or closing new housing units. Accordingly, under this new model, reductions in the state’s prison population—such as those that occur due to SB 678—result in less savings for the state.” Legislative Analyst’s Office, *The 2013-14 Budget: Governor’s Criminal Justice Proposals*, p. 33, [http://www.lao.ca.gov/analysis/2013/crim\\_justice/criminal-justice-proposals/criminal-justice-proposals-021513.pdf](http://www.lao.ca.gov/analysis/2013/crim_justice/criminal-justice-proposals/criminal-justice-proposals-021513.pdf).

<sup>49</sup> California Department of Finance (2010 and 2011), *2010 and 2011 Payment Report to Counties*.

<sup>50</sup> Legislative Analyst’s Office, *The 2013-14 Budget: Governor’s Criminal Justice Proposals*, p. 33.

<sup>51</sup> This data is derived from the AOC’s Annual Assessment; see discussion in section II.C of this report.

true for FY 2011–2012. A high proportion of the ARRA seed money was also spent providing evidence-based treatment and services to probationers.

In the third year of the SB 678 program, evidence-based treatment and services remained a significant segment of spending. However, 2011’s Public Safety Realignment legislation appears to have had an impact on the hiring and retention of probation officers. Anecdotally, it seems that many probation departments struggled to fill the vacancies that occurred when probation officers who were responsible for adult felony supervision were moved to realignment-related caseloads (postrelease community supervision or mandatory supervision). Because many of these seasoned officers had been the first to receive training in evidence-based practices, the overall result was a net loss of EBP expertise for the traditional adult felony probation population. These personnel moves did result in a better trained and more experienced pool of officers to supervise the new realignment-related populations.

<b>Table 1</b>		
<b>Use of Funds for Evidence-Based Practices<sup>a</sup></b>		
<b>Spending Category</b>	<b>% Spent – FY 2010 (n=50)</b>	<b>% Spent – FY 2011 (n=48)</b>
Hiring, support, and/or retention of case-carrying officers/supervisors	28%	48%
Evidence-based treatment and services	28%	27%
Risk and needs assessment	12%	5%
Data collection and use	4%	3%
Training on motivational interviewing (MI)	3%	2%
Training on graduated responses to behavior	2%	4%
Training on cognitive behavioral therapy (CBT)	2%	2%
Other EBP-related expenditures <sup>b</sup>	10%	3%
<b>Total</b>	<b>88%</b>	<b>94%</b>
<sup>a</sup> These counties did not provide quantitative responses to these questions and were not included in this analysis: <b>FY2010</b> - Colusa, Kings, San Diego, San Luis Obispo, Santa Clara, Sierra, Tehama, Tulare <b>FY2011</b> - Alpine, Amador, Butte, El Dorado, Imperial, Kings, Napa, Plumas, Sierra, Tehama		
<sup>b</sup> These expenditures include operational costs, administration and clerical support, materials, incentives and associated start-up costs. A number of counties placed some funds in a reserve account to provide for program maintenance, as well as to fund additional positions and services related to the SB 678 program.		

The third highest category of reported spending (for both FY 2010–2011 and 2011–2012) was in the use of risk and needs assessment tools to assess offenders. Other categories of significant spending were for enhancement of data collection and use of data, training for probation officers, and for the expansion and use of intermediate sanctions such as electronic monitoring of probationers.

In both FY 2010–2011 and FY 2011–2012, counties funded five major categories of evidence-based treatment and services with SB 678 program monies: (1) cognitive

behavioral therapy, (2) outpatient treatment for substance abuse, (3) vocational training, (4) GED/literacy programs, and (5) day reporting centers.

SB 678 requires counties to invest a minimum of 5 percent of their funds to evaluate the effectiveness of the programs and practices implemented with SB 678 program funds.<sup>52</sup> Counties have engaged in a variety of evaluation activities, including evaluating the effectiveness of the treatment programs offered to probationers (21% of the counties) and evaluating their supervision practices (18% of the counties).<sup>53</sup>

Many probation departments have also used evaluation funds to implement new or upgrade existing data systems, including the creation of new staff positions in data collection/research or the training of current staff to utilize these systems effectively. These system enhancements will enable departments to better track and report probationer outcomes. Several departments have also recently entered into contracts with outside vendors/consultants for independent evaluations, and these will be implemented in the upcoming fiscal year.

In 2012, 30 counties chose to defer spending funds designated for evaluation and carried them over to the next fiscal year. These probation departments have outlined evaluation plans that include examining probation outcomes, undertaking risk and needs tool validation, and assessing program fidelity.

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

### **Implementation of Evidence-Based Practices**

SB 678 was designed to improve the effectiveness of probation departments' supervision through increased use of evidence-based practices, defined in the statute as "supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or postrelease supervision."<sup>54</sup> The term denotes a wide range of systematic supervision practices that research has demonstrated to be instrumental in promoting and supporting positive individual behavioral change in people with criminal

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<sup>52</sup> Pen. Code, § 1230(b)(4).

<sup>53</sup> 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.

A program must meet conditions 1–3 above and either condition 4 or 5 to be considered evidence based.

<sup>54</sup> Pen. Code, § 1229(d).

convictions.<sup>55</sup> The following section of this report identifies key categories of EBP and program implementation activities in county probation departments. The information has been gathered from the AOC's Annual Assessment of the probation departments as well as interviews conducted during site visits to the counties.

SB 678 provides support to probation departments in their efforts to implement necessary programmatic and systemic changes, and to improve practices that directly target probationer behavior. There are five areas of evidence-based practices that the SB 678 program recognizes as critical for improvement. These crucial components include the appropriate and effective use of:

- Validated risk and needs assessments
- Supervision practices
- Treatment and targeted intervention
- Collaboration among justice system partners
- Management/administrative practices

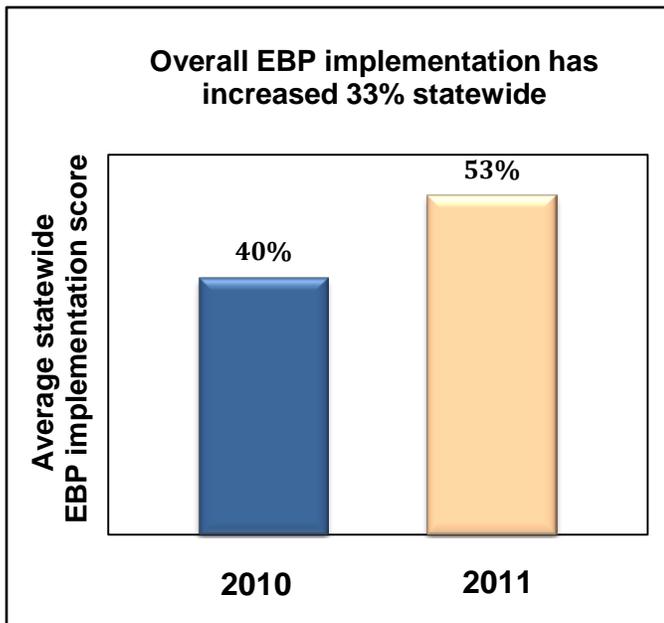


Figure 5. AOC Annual Assessment of Evidence-Based Practices (2011, 2012)

County probation departments are required by SB 678 to provide an annual report to the AOC evaluating the effectiveness of their programs.<sup>56</sup> To promote consistency in their reporting, the AOC developed an Annual Assessment survey that examines each probation department's implementation of EBP and focuses on the five components noted above.<sup>57</sup> This survey was pilot-tested and the questions were validated in eight counties prior to its statewide launch.

It was designed to be administered annually and to measure changes over time. The results of these assessments are self-reported by each county.

<sup>55</sup> Pen. Code, § 1230(b)(3)(A-E).

<sup>56</sup> Pen. Code, § 1231(c).

<sup>57</sup> The Annual Assessment consists of 41 scaled items, some of which are quantitative/caseload-focused and some of which are qualitative. A probation department's EBP implementation level is calculated by adding up a department's responses to questions in a particular section (such as risk and needs assessment) and dividing by the total possible points for that section. The total score for each probation department is an average of the department's scores across the five categories.

Results from the Annual Assessment suggest that SB 678 has been highly successful in increasing the use of EBP in probation departments throughout the state (see figure 5). Between 2010 and 2011, departments reported a 33% increase in the *overall implementation* of evidence-based practices statewide.<sup>58</sup>

This encouraging trend (detailed in figure 6 below) was largely driven by the use of validated risk and needs assessments, and the influence of those assessment outcomes on supervision practices. The use of validated risk and needs assessments (RNA) rose from an average of 57% implementation to 76%, and the use of evidence-based probation supervision practices rose from an average of 50% to 64%. In the area of evidence-based treatment and targeted interventions, probation department use was reported to be 18% in 2010. Although this category showed a large degree of growth, nevertheless, it only rose to 26% in 2011.

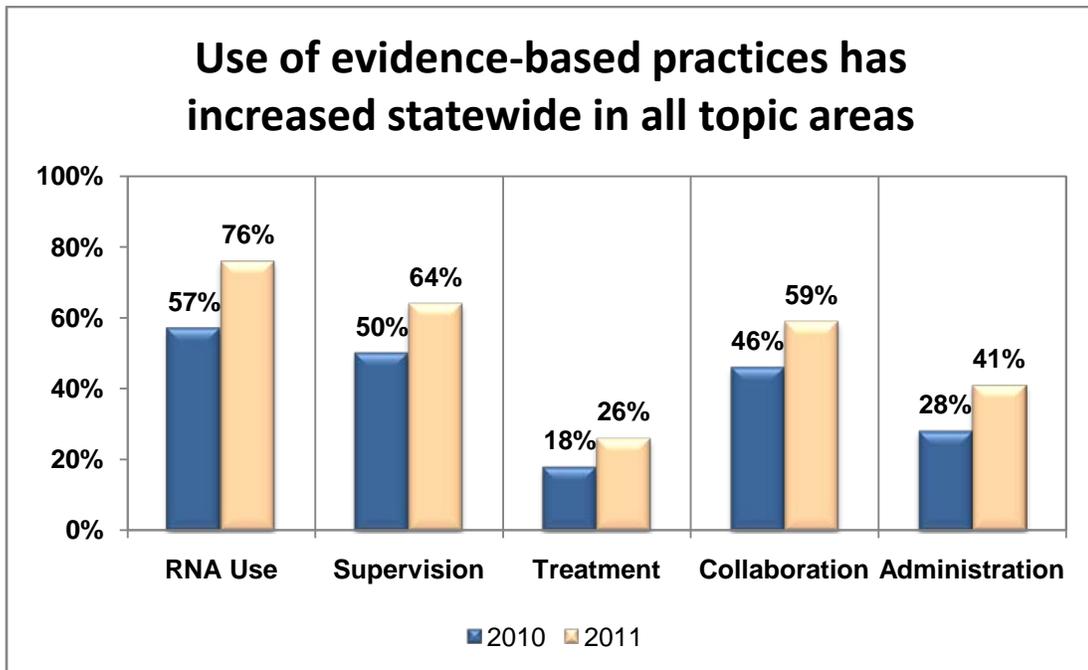


Figure 6. AOC Annual Assessment of Evidence-Based Practices (2011, 2012)

***Use of Validated Risk and Needs Assessment (RNA)***

The use of validated risk and needs assessment tools has been substantiated as one of the most valuable components of evidence-based practices.<sup>59</sup> Probation departments are able to target their resources and interventions with probationers more efficiently and effectively based on the information obtained from assessments of each offender,

<sup>58</sup> The size of the increase was determined by averaging the Annual Assessment scores for all counties across all EBP categories.

<sup>59</sup> 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).

including an accurate assessment of the probationer's risk of reoffending. Adopting an evidence-based approach to offender assessment is defined as using a validated, actuarial risk assessment tool that has been tested through research studies on offender populations and found to be more predictive of offender recidivism than subjective judgments or "hunches." Such an approach ensures that a probation department is using a sound instrument that demonstrates the ability to measure offender risk level and predict the likelihood of re-offending.

The use of a validated, actuarial risk and needs assessment is important because it can allow for the objective identification of an individual probationer's risk and needs, help focus intervention strategies, and garner increased support for treatment and services from other justice system partners. After a probation department chooses a recognized risk and needs assessment instrument, it should validate that instrument on its local offender population to ensure that the instrument is as predictive on the department's local population as it is on other offender populations. Consistency in outcomes increases the confidence of justice system partners in the use of the risk and needs assessment tool.

Validated risk and needs assessment tools are standardized instruments that typically measure static risk factors (those that do not change, e.g., criminal history) and dynamic risk factors (those that may potentially change). By identifying the dynamic risk factors for each individual, the assessments enable probation officers to address these critical factors and provide appropriate levels of supervision. Probation officers can also refer probationers to services that target these dynamic factors to support probationers in reducing their risk of re-offending.

The use of validated risk and needs assessment (RNA) tools has grown throughout the state. Probation departments attribute their use of RNA tools directly to SB 678 funding and the "culture change" enabled by the legislation and the funding it provided. Overall implementation and use of validated risk and needs assessment tools increased statewide by 33% between 2010 and 2011. With SB 678 funding, some probation departments implemented the use of RNA for the first time, while others switched to newer tools that better fit their department's needs.

Some probation departments have been using the risk portion of a validated assessment tool<sup>60</sup> to determine caseload assignment and supervision level, though they may also consider other factors such as geography, mental health needs, and offense type.<sup>61</sup> The use of validated RNA tools has enabled departments to more efficiently and effectively allocate supervision, treatment, and services resources by moving low risk probationers to a “banked” caseload with no or minimal supervision, and increasing supervision of medium and high risk probationers.<sup>62</sup>

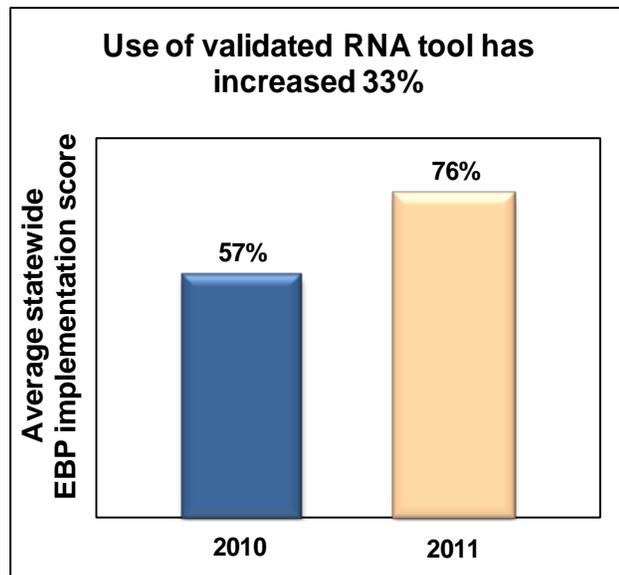


Figure 7. AOC Annual Assessment of Evidence-Based Practices (2011, 2012)

Probation departments use staff in a variety of roles—from supervisors to field officers—to conduct the initial risk assessment. In 89% of the departments, the staff with responsibility for assessing probationers were reported to have received training of one to two days on administering assessments. Probation departments expressed interest in ensuring the validity of the tool for their local population. The increase in the use of the needs assessment portion of the validated RNA tool has been more limited. Some departments use the needs portion with all medium and high risk probationers and update the full RNA every six months, while others use the needs portion for a select group of probationers and update less frequently, or not at all. Some validated RNA tools automatically generate a case plan for the probation officer to use in working with the probationer. Some departments use the case plan with few modifications while officers in other counties more actively develop the case plan with each probationer.

The use of supervision plans based on probationers’ assessed needs has likewise increased. In 2012, nearly half of California’s probation departments reported using a needs-based supervision plan for at least half of their medium and high risk probationers, up from only nine departments in 2010. Counties also reported that they

<sup>60</sup> COMPAS, Strong, and CASE are three commonly used validated risk and needs assessment tools.

<sup>61</sup> This qualitative information is derived from the eighteen SB 678 site visits conducted by the AOC.

<sup>62</sup> All probation departments have some type of “banked” or administrative caseload. This usually includes only low or low-medium risk probationers (depending on tool and definition), but in some departments banked caseloads can include medium to medium-high risk probationers with some exceptions based on offense type or violations.

used SB 678 funds to increase the training levels of probation department staff administering the risk and needs assessments, and to review completed RNAs to ensure that these tools were administered correctly.

In 2011, 80% of counties that responded to the Annual Assessment survey reported they assessed 75 to 100% of their adult felony probation population for risk level using a validated assessment tool (not shown). In addition, 68% of counties (n=39) reported that they assess the “dynamic risk factors”<sup>63</sup> of at least half of their medium and high risk probationers, a 63% increase from 2010 (see figure 8).

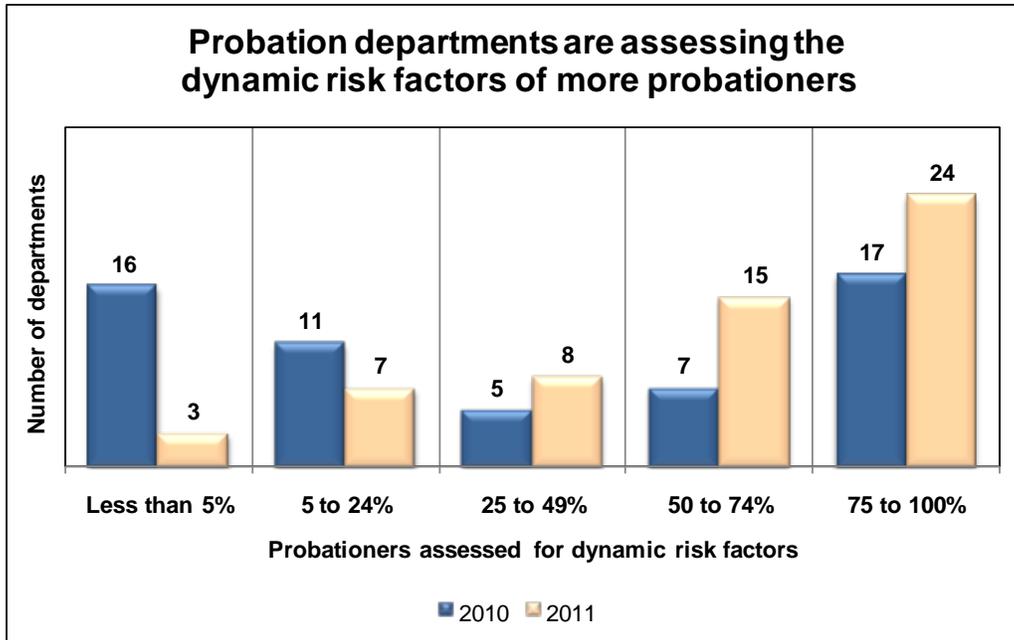


Figure 8. AOC Annual Assessment of Evidence-Based Practices (2011, 2012)

### ***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. Probation officers can support probationers’ behavior changes by forming appropriate, positive, and motivating relationships with those they supervise.<sup>64</sup> Providing swift, certain, and proportionate responses to probationers’ behavior is also an important element in increasing the likelihood of success on probation.<sup>65</sup>

<sup>63</sup> Dynamic risk factors are attributes of offenders, such as substance abuse, that are directly linked to criminal behavior. Effective correctional treatment should target these risk factors in the development of a comprehensive case plan.

<sup>64</sup> 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).

<sup>65</sup> 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.

Probation department management can assist their officers in using effective supervision practices by developing clear protocols for supervision, offering training and tools, and requiring individual case planning. Evidence-based practices confirm that intensive supervision is required for offenders with a high risk of re-offense. For those offenders who also have high needs, intensive treatment programs may also be required. A different approach is appropriate for offenders who are at low risk of re-offending. Research suggests that intensely supervising low risk probationers may actually increase their likelihood of probation failure by interrupting their positive behavior and placing them in contact with higher risk individuals.<sup>66</sup>

The percentage of probationers supervised in accordance with EBP has changed dramatically statewide. In 2010, only 29% of California counties supervised at least half of their felony probationer caseload using EBP. By 2011, this number had doubled to 60% of counties (see figure 9).

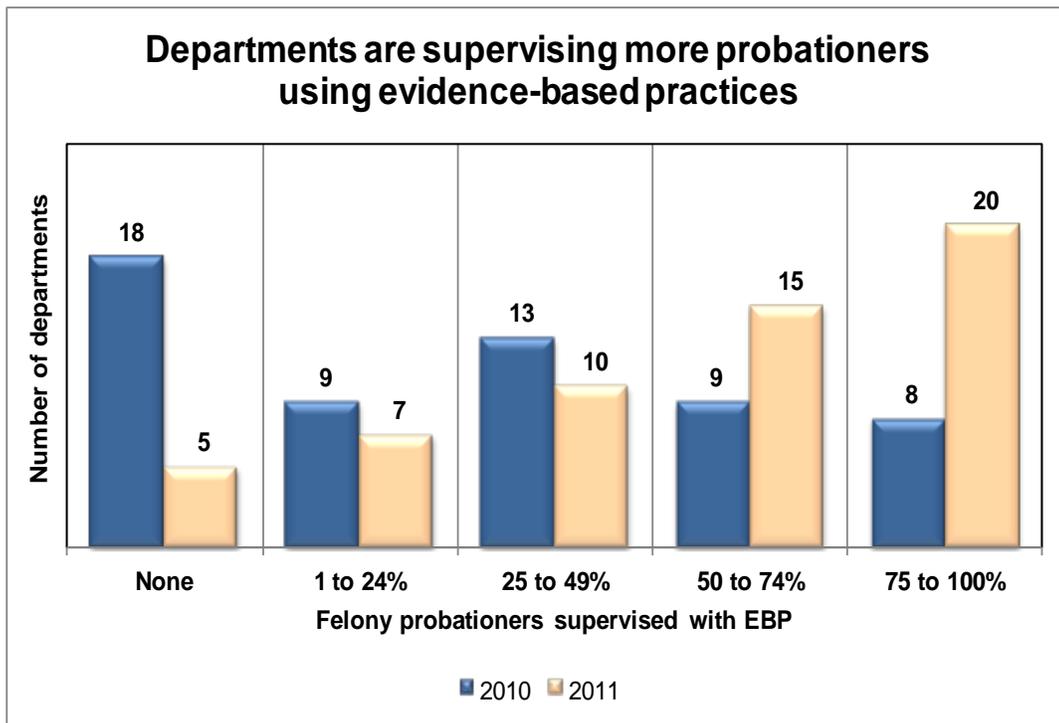


Figure 9. AOC Annual Assessment of Evidence-Based Practices (2011, 2012)

<sup>66</sup> There is an increasing amount of research on risk assessment and improved outcomes. See E. Latessa, A. Holsinger, and C. Lowenkamp, “The Risk Principle in Action: What Have We Learned From 13,676 Offenders and 97 Correctional Programs?” (2006) 52 *Crime & Delinquency* 1, 77–93.; D. A. Andrews and J. Bonta, *The Psychology of Criminal Conduct* (Newark, N.J.: Anderson Publishing, 2006); D. A. Andrews and C. Dowden, “Risk Principle of Case Classification in Correctional Treatment: A Meta-analytic Investigation” (2006) 50(1) *International Journal of Offender Therapy and Comparative Criminology* 88–100; 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.

In 2011, nearly half of the counties (47%) supervised 75 to 100% of their *high risk* probationers using EBP, nearly three times the number of high risk probationers that were supervised with evidence-based practices in 2010.

There has also been a significant decrease in caseload size for probation officers, a critical evidence-based supervision practice. In 2011, 33 counties were supervising at least half of their medium and high risk probationers in caseloads of 75 or less, a 74% increase in the number of counties using this EBP.

The SB 678 program has led some departments to change their sanctions and revocation policies. Most departments now require a supervisor review of petitions to revoke; many also require some type of accompanying report. These changes have encouraged probation officers to try alternative sanctions before moving for revocation. Some departments previously revoked probationers for many or all technical violations. Since the implementation of the SB 678 program, however, departments have been sending fewer probationers to prison or jail for technical violations. Some judicial officers will not review cases for technical violations unless probation officers can demonstrate that they tried multiple interventions that were unsuccessful before initiating a revocation proceeding.<sup>67</sup>

The **Riverside County Probation Department** has taken multiple steps to ensure that probationers are supervised in accordance with evidence-based practices:

- All probation officers supervising high risk caseloads receive at least 90 hours of training over a six-month period on evidence-based supervision, including training on motivational interviewing (MI) and the “Courage to Change” cognitive behavioral therapy curriculum.
- A case plan is created for every high risk probationer based on the results of a needs assessment. Probationers participate in the creation of their case plans. Probationers’ risks and needs are re-assessed every six months and case plans are adjusted accordingly.
- Probation officers use an incentives and sanctions matrix to help ensure that responses to probationer behavior are consistently proportionate. Probation officers explain potential sanctions and incentives to probationers at the start of supervision and provide them with written documentation of possible responses authorized by the matrix.
- The department has a written policy outlining when probationers should be revoked; supervisors must sign off on all petitions to revoke. A probationer’s risk and need levels, behavior and motivation to change, as well as the severity of the violation are considered in decisions regarding revocation.

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<sup>67</sup> This approach appears to be more pronounced in counties where jail space is limited; some departments found it nonsensical to revoke for minor technical violations when the sheriff was releasing people from jail to make room for more serious offenders; this has been particularly true post-realignment.

Probation departments have been using a wider range of intermediate sanctions, including more frequent drug testing, community service, and electronic monitoring. Several probation departments are now using some type of sanctions matrix or grid to guide officer decisions about revocations; some use an incentives matrix as well. Probation officers respond to positive probationer behavior with incentives including praise, bus passes, and gift cards. In some counties, probationers' positive behavior can lead to a lower level of supervision or early termination of probation, particularly when the positive behavior is combined with a lower assessed risk level.

## A CASE STUDY

# Napa County Probation Department

**N**ews from Napa: The Napa County Probation Department (NCPD) implemented an evidence-based approach to supervision prior to the passage of SB 678 and has continued to use and expand these practices to help address issues facing its local justice system. For example, in 2005, faced with an overcrowded jail, the NCPD reached out to its justice system partners, including the county administration office and the board of supervisors, in an attempt to resolve this problem without building another jail. As a result, the county board of supervisors adopted the goal of having an evidence-based criminal justice *system* and to this day, Napa County has effectively managed its offender population without building another jail.

Under the direction of Chief Probation Officer Mary Butler, the NCPD has prioritized the implementation of evidence-based practices with the help of SB 678 funds. A summary of the NCPD's progress in each of the five categories of EBP implementation, as measured by the AOC's Annual Assessment survey, shows the department's success.

**Risk and Needs Assessment:** In 2005, the NCPD implemented the use of a validated risk and needs assessment (RNA). Information from these assessments, which are currently administered to all offenders, is used to develop supervision plans that are based on offenders' top risk and need factors, the attributes that are directly linked to their criminal behavior. The department also added the Spousal Assault Risk Assessment, an instrument designed to predict the likelihood of domestic violence.

The NCPD also participates in the California Risk Assessment Pilot Project (CalRAPP) and has integrated RNA information into their pre-sentence investigation reports so that judges can review that critical information when making sentencing decisions. The NCPD has instituted quality assurance practices to verify that the RNA is administered and scored appropriately.

“Research makes a big difference.”

- Mary Butler, CPO

**Effective Supervision:** The NCPD has implemented policy changes to incorporate an evidence-based approach to supervision practices. The department introduced a matrix which probation officers use in responding to probationers positive and negative behaviors.

In May of 2012, the NCPD launched a new policy on caseload standards that addressed the composition and size of officers' caseloads. Now, probation officers carry either a medium or a high risk caseload. The average caseload size for high risk cases decreased from 120 cases in 2008–2009 to 60 cases, which will enable officers to engage in more effective supervision.

**Management and Administration:** The NCPD emphasizes documentation of program outcomes and the use of data to inform policy changes. When asked about “lessons learned” in implementing EBPs, Chief Butler stated that “research makes a big difference. When we can show results, people buy in and we can do even more.” For example, in addressing the county's jail overcrowding issue, the NCPD and its justice system partners researched the composition of the jail population to understand which offenders were going to jail. Through this process they learned that 90% of the offenders were in jail for violations of probation that were filed by law enforcement or prosecutors rather than by the probation department. NCPD also learned that probationers were re-offending at high rates, though the majority of the offenses were misdemeanors. This data helped the justice system partners to develop an informed, comprehensive approach to addressing the underlying reasons for jail overcrowding.

**Collaboration:** For the last several years, the NCPD has made efforts to rally its justice system partners around EBP so that the community’s criminal justice issues could be tackled in an informed way. The NCPD’s willingness to embrace EBPs, including the use of a validated RNA, changed the way the department supervised cases, and encouraged its justice system partners to participate in EBP training and evaluate their own practices. After meeting for over a year to discuss resources, needs, and public safety matters, NCPD and its partners agreed upon the goals and structure for a new program, the Community Corrections Service Center (CCSC). In describing this process, Chief Butler noted that all of the justice system partners have been “working collaboratively from the get-go. We all agreed that we had to do something ... and instead of NCPD saying ‘this is how it’s going to be,’ everyone was part of the decision-making process.” She also stressed that “there has to be continual communication” and “you have to share successes, and also share when something doesn’t work ... because we want to be able to stand together and say we would have still taken this road.”

**Treatment and Targeted Intervention:** In 2009, the NCPD partnered with BI, Inc., to implement the Community Corrections Service Center, a cognitive-behavioral treatment program that functions as a day reporting center. The CCSC provides intensive supervision and referrals for mental health, substance abuse treatment, batterers intervention programs and sex offender treatment, with programs that begin when offenders are in jail and continue upon release for offenders referred by the probation department. The NCPD has authority to require CCSC programs to be completed as a condition of probation.

When the NCPD and its justice system partners structured the CCSC, they decided to include a quality assurance and performance evaluation component so that the department could monitor and report on the program’s outcomes to its partners. To date, graduates of the program have a 70 to 80% employment rate and a 24% recidivism rate (as reported by the NCPD). As NCPD has shared program results with justice system partners, trust has increased and the probation department has been able to expand the CCSC and other programs, including a pretrial release program and a home detention program.



Napa County Probation Department

Training is an important component of evidence-based supervision. Nearly every county (91%, 51 counties) has provided training on motivational interviewing techniques<sup>68</sup> to 75% or more of probation department officers and supervisors. Some departments report training all of their officers in motivational interviewing; other counties focused their training on officers supervising high risk probationers (see figure 10).

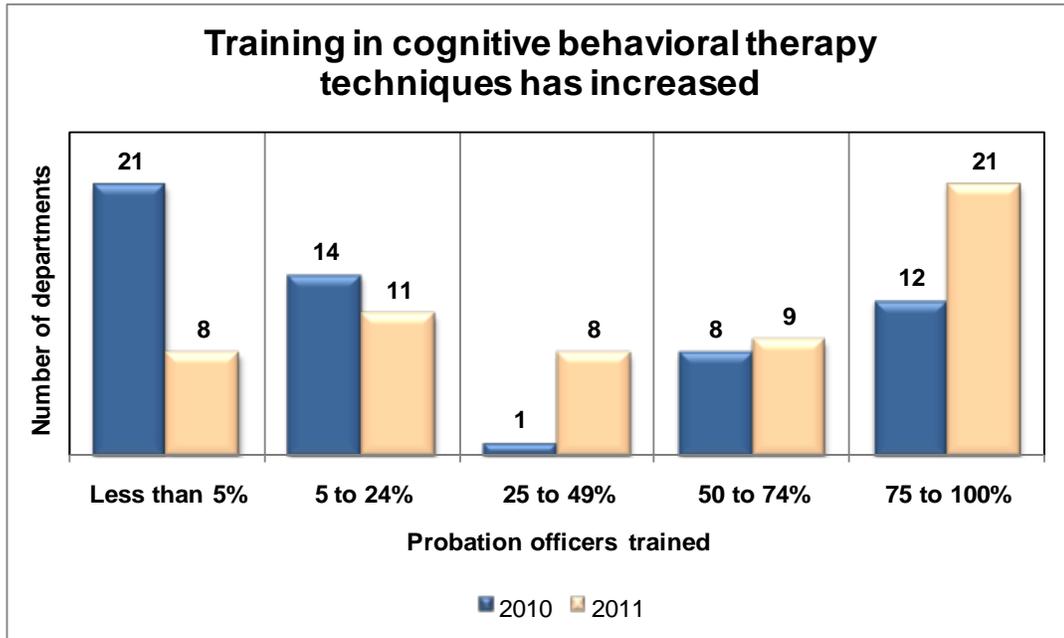


Figure 10. AOC Annual Assessment of Evidence-Based Practices (2011, 2012)

Many probation departments have used SB 678 funds to provide training to their officers in cognitive behavior therapy (CBT). In some counties, CBT classes for offenders are conducted by trained probation officers.

More than half of counties (54%) trained staff to ensure that responses to probationers are consistently proportionate to offender behavior, and then followed up with informal supervisor reviews of staff. In 2011, only 13% of counties performed formal, data-driven reviews of staff following this training. Although this is an improvement over the previous year's 9%, this is an area where resources for increased training and formal review could lead to improved supervision results.

### ***Treatment and Targeted Intervention***

Research suggests that each probationer should be provided with treatment programs that address the individual's assessed risk and needs, with a primary focus on the dynamic risk factors. Cognitive behavioral therapy that addresses probationers' antisocial thinking patterns has been demonstrated to be an effective technique for

<sup>68</sup> Motivational interviewing refers to an approach to talking with offenders in a way that builds up their internal motivation to change. (See [National Institute of Corrections, \*Motivating Offenders to Change: A Guide for Probation and Parole\* \(2007\), http://nicic.gov/Library/022253.](http://www.nicic.gov/Library/022253))

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.<sup>69</sup> A number of departments report making in-house cognitive behavioral therapy (CBT) groups available to adult felony probationers; other departments contract with an outside agency for CBT services.<sup>70</sup> Probation department staff members generally have positive regard for the skills-based aspect of CBT programming and view it as working well in combination with community-based treatment.

Through a partnership between the **Humboldt County Probation Department** and the Department of Health and Human Services, “Thinking for a Change” classes are co-facilitated by a probation officer and a mental health clinician. “Thinking for a Change” (T4C) is an integrated, cognitive behavioral therapy program for offenders that includes cognitive restructuring, social skills development, and development of problem-solving skills. Probationers in the program commented that they found the classes supportive and felt they were learning useful skills.

Statewide scores for the use of evidence-based treatment practices increased 44% between 2010 and 2011, but still remains the area of greatest need (see figure 11). Since the implementation of the SB 678 program, a larger percentage of probationers are referred to treatment programs based on their assessed needs, but the availability of *evaluated* treatment programs remains a significant obstacle. Probation departments frequently lack direct influence over the availability of evaluated treatment programs and the affordability of program slots.

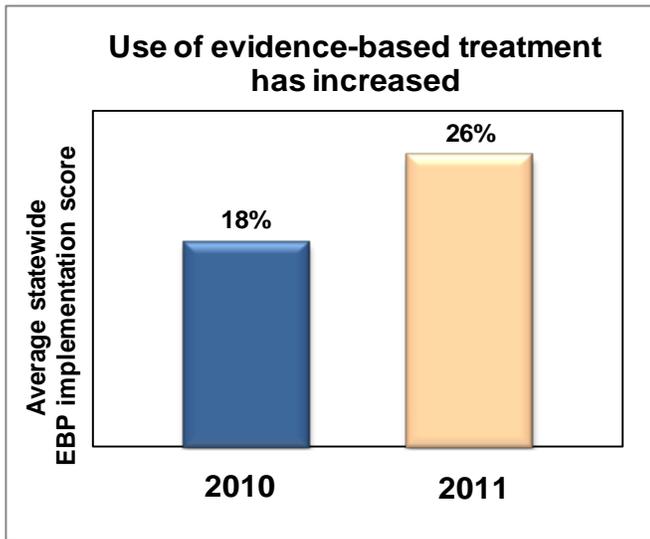


Figure 11. AOC Annual Assessment of Evidence-Based Practices (2011, 2012)

Lack of community treatment options has been a major issue in nearly all counties. Even when treatment programs are available, probation departments are often uncertain about their quality and whether the programs are evidence-based. Community-based organizations, particularly those that provide substance abuse treatment, have been negatively affected by the recent economic recession. Several counties have no available residential treatment

<sup>69</sup> 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.

<sup>70</sup> Two commonly used CBT curricula are “Thinking for a Change” and “Courage to Change.”

programs for male probationers. Rural areas are especially lacking in treatment and substance abuse program options.

Urban counties have more programs available but experience problems with long waiting lists and expensive programs. In some counties, the lack of treatment programs influences decisions by judges and other justice system partners regarding probationer case plans.

Many probation departments have found that housing, job training, and transportation are crucial probationer needs and critical to the effectiveness of other types of treatment. Probation officers in some departments have limited knowledge of available community resources or ways to assist probationers in accessing those services. Structured information sharing between probation departments, social services, and treatment providers is quite limited in many counties.

Several counties are developing day reporting centers, however, to provide supervision and treatment options for probationers and facilitate closer relationships with county service providers.

### ***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 enables probation departments to put new procedures and protocols into place and the entire system to provide a consistent focus on probationer behavior change and reduction in recidivism.<sup>71</sup>

Probation department scores for collaboration between justice system stakeholders increased 28% statewide between 2010 and 2011, from 46% to 59%. This was due to:

- An increase in the sharing of data and probation outcomes with justice partners;
- Growth in justice partners’ support and engagement with EBP; and
- An increase in justice partners’ involvement in Community Corrections Partnerships (CCP).

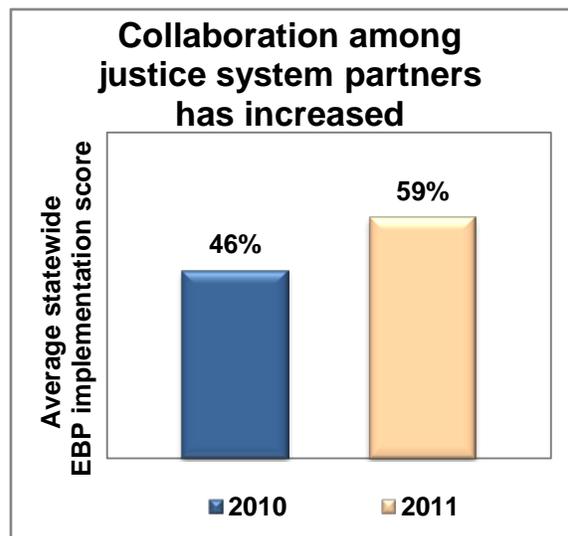


Figure 12. AOC Annual Assessment of Evidence-Based Practices (2011, 2012)

<sup>71</sup> 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).

The Community Corrections Partnerships were instrumental in undertaking implementation of the SB 678 program in 2010, and these county collaborations were similarly crucial to the efforts to create county strategic plans for 2011's Public Safety Realignment.

Most probation departments reported good relationships among members of the CCP; chairing the CCP has generally enhanced the relationships between chief probation officers and justice partners. In most counties, probation departments have provided training for partners on various components of evidence-based practices, which has increased confidence in probation and buy-in for EBP.<sup>72</sup> There is a general sense that justice partners' remaining skepticism can be overcome in time, with data that demonstrates the effectiveness of their probation department's use of EBP.

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<sup>72</sup> For example, in some counties where probation departments had provided EBP training to their justice partners, the courts recently agreed to lower standard probation terms from five years to three years.

## A CASE STUDY

# San Francisco Adult Probation Department

**S**potlight on San Francisco: The San Francisco Adult Probation Department (SFAPD) has continued to expand their implementation of evidence-based practices. A snapshot of the SFAPD's progress in each of these areas is highlighted below.

**Use of a Validated Risk and Needs Assessment:** The SFAPD uses a validated risk and needs assessment tool, the Correctional Offender Management Profile for Alternative Sanctions (COMPAS), which, according to a recent study by the Council of State Governments Justice Center, appears to be highly predictive of re-offense by San Francisco probationers. Of the individuals on probation supervision who were arrested, 73% had been categorized as high risk by the department.

The department uses RNA information to create individualized treatment and rehabilitative plans that are tailored to individuals' strengths and needs. The SFAPD also participates in the California Risk Assessment Pilot Project (CalRAPP) and has integrated the RNA information into their pre-sentence investigation (PSI) reports.

“ We all have different roles but we have the shared value of trying to save lives ... and break the intergenerational cycle of crime. ”

– Wendy Still, CPO

The SFAPD is one of the few jurisdictions in the nation that includes a family impact statement in their PSI reports. Chief Probation Officer Wendy Still stressed that family is an important part of the rehabilitative process and acknowledged that including family impact statements was a major step to creating a family-focused supervision model. The comprehensive nature of the PSI reports helps the court to look beyond the individual offender's criminal actions to the risk, needs, and family situation and incorporate these factors into the decision-making process.

**Effective Supervision and Management Practices:** The SFAPD has worked to weave EBPs throughout the department, moving from a punitive supervision model to a strength-based supervision model. The SFAPD has developed an EBP plan that covers every aspect of their agency, from hiring to information technology, in order to take a “comprehensive approach to changing [their] policies and practices.”

The SFAPD has launched and pilot-tested two new case management policies: one that establishes standards such as timeliness of intake and another that establishes a structured decision-making tool for rewards and sanctions.

The SFAPD has incorporated EBP principles into the “knowledge, skills, and abilities” necessary for staffing positions and restructured their performance review system to measure staff performance based on these elements. The department has established a quality control policy that requires supervisors to conduct case audits to determine officers' understanding of EBP and to identify training needs. SFAPD staff receives training on EBP, including use of the COMPAS assessment, motivational interviewing, and the “Thinking for a Change” cognitive behavioral therapy program.

**Collaboration:** Chief Still has prioritized collaboration, noting that “you have to respect your partners and where they're coming from. It's very important to be inclusive ... at the front end of the process.” She met individually with justice system partners in order to understand and incorporate their needs into the department's changes and to identify shared values among the partners. Chief Still recognizes that “we all have different roles but we have the shared value of trying to save lives ... and break the intergenerational cycle of crime. You can't accomplish a goal unless everyone has a shared focus.”

The SFAPD has received significant support from the mayor and the courts, and worked with the district attorney and the public defender to create an evidence-based system. The district attorney offered that “SB 678 has prompted probation to be more thoughtful in their approach” and noted that the collaborative relationships are “filtering down to [staff at] the working level.”

The department has used their Community Corrections Partnership (CCP) to strengthen existing relationships with justice system partners and to develop formalized relationships with other county agencies and community-based organizations. Case workers from the child welfare office conduct joint case management with probation officers on cases where the child’s parent is being supervised by SFAPD, and the department has developed partnerships with the San Francisco Public Health Department and the Human Services Agency of San Francisco to address probationers’ needs for treatment, housing, and supportive services. The SFADP is also working with CDCR and the sheriff’s department on reentry plans for individuals on postrelease community supervision.

**Treatment and Targeted Intervention:** The SFAPD has worked to improve and increase treatment options for probationers. Three examples of their work in this area are described below.

*Learning Center*

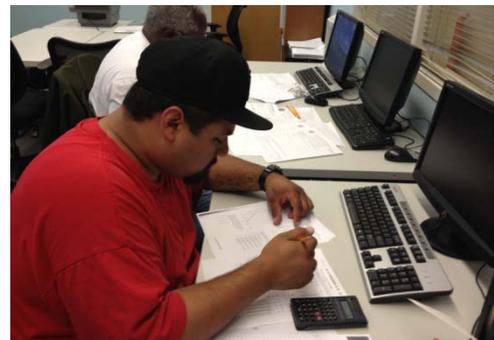
The SFAPD created a partnership with 5 Keys Charter School that enabled the department to open up a learning center inside of the probation department. The learning center offers high school programming and GED services on site and provides incentives to probationers who complete their education.

*Probation Alternatives Court*

The SFAPD has developed a Probation Alternatives Court, a voluntary court-based supervision program designed to serve high risk/high need probationers who face probation revocation and reincarceration in prison. Since January 2011 the program has served approximately 85 high risk individuals with extensive criminal justice histories and has had a 58% success rate.

*Community Assessment and Services Center*

The Community Assessment and Services Center (CASC) is scheduled to open in April 2013 and will be San Francisco’s first large-scale community corrections multiservice center for probationers. The CASC, modeled after day reporting centers, will emphasize collaborative case management and provide comprehensive supervision, mental health services, substance abuse treatment, education, employment and vocational training, and benefits assessment.



SFAPD Learning Center

### **Management/Administrative Practices**

The management and administrative practices category incorporates probation departments' support for EBP. Probation departments improved 46% statewide from 2010 to 2011 in increasing their support for EBP and reported progress in linking EBP skills to performance reviews and hiring.

Probation departments vary in the extent to which hiring and performance guidelines are linked to EBP knowledge and skills and the extent to which managers directly observe and evaluate the EBP skills of line officers. 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.<sup>73</sup>

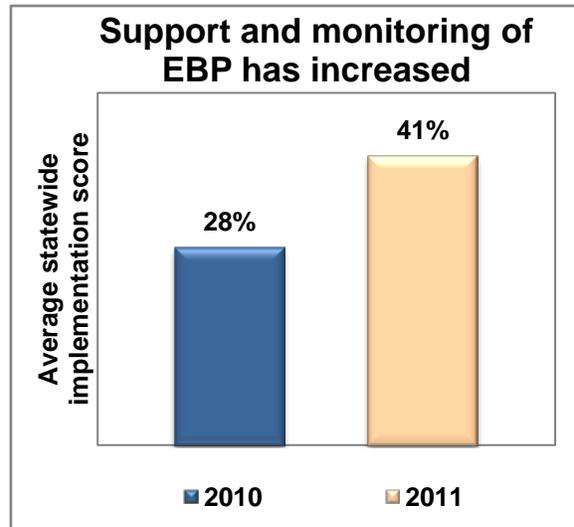


Figure 13. AOC Annual Assessment of Evidence-Based Practices (2011, 2012)

The **Calaveras County Probation Department** has included evidence-based practices skills in their hiring guidelines and applicants are formally evaluated on their readiness to use EBP through testing and observation. Once hired, ongoing performance reviews evaluate an officer's effectiveness at carrying out evidence-based practices.

Many probation departments used SB 678 program funds to hire or retain officers who would otherwise have been laid off; these funds also enabled counties to reduce the size of their officers' caseloads.<sup>74</sup> Several departments have experienced high officer turnover and difficulty in hiring qualified officers (especially those with EBP skills or aptitude); the time required to hire and train a new officer can set back EBP goals significantly. Departments have had positive experiences when new officers are brought in, and some have found that having a cohort of younger officers has helped build momentum for EBP in the department. Leadership by probation department management is a crucial component for effective EBP implementation.

Two other components of the management/administrative practices section of the Annual Assessment address data: (1) the availability of data within a probation

<sup>73</sup> 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.

<sup>74</sup> One county noted that with SB 678 funds caseload size was reduced from "astronomical" to "merely bad."

department, and (2) how the data are used by management and line staff. Probation departments have faced numerous challenges related to collecting and providing easy access to individual and aggregate probationer data. In 2011, counties reported some improvement in their ability to share data throughout the entire probation department.

Nearly all probation departments have some type of case management system; those departments without a case management system have found this to be a major barrier to efficient caseload management, data collection and reporting, grant applications, and EBP implementation. The capability of probation department data systems varies widely. Across the state, some counties, particularly smaller counties or those with recently acquired case management systems, have relied on manual counting for mandated SB 678 program data collection efforts. Some probation departments depend heavily on county IT departments to develop their reports; others handle data collection and reporting in house. Counties with research or quality assurance units are more likely to have quality control efforts in place; departments where management has taken a strong interest in data collection also have a focus on quality control.

Probation departments vary in their ability to access and share data with justice system partners. Most counties are able to access some parts of the court's data system or to receive data files from the court, but others depend solely on paper files from the court that may include hand-written minute orders. Even when they can access their court's system, many probation departments depend on daily hard copy minute orders to open and process cases and court requests. Some departments have access to the jail's data system. Probation departments across the state are generally interested in greater integration of data systems, particularly with social service providers.

### **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 significant reductions in the number of probationers going to state prison. The AOC's Annual Assessment focuses on EBP implementation and was not specifically designed to measure the relationship between individual practices and particular outcomes. However, AOC researchers have used data gathered through the Annual Assessment to begin to investigate the association between particular procedures and improved outcomes for probationers. The relatively small sample size (n=58 probation departments) and the substantial variation in the range of PFRs<sup>75</sup> resulted in few statistically significant findings. Nevertheless, the following practices were found to be significantly correlated or to have a strong relationship with reductions in departments' probation failure rates:

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<sup>75</sup> The large variation in probation failure rates is driven 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 terms of both negative and positive changes to probation failure rates.

- Assessing a probationer’s risk level, particularly within 30 days of first contact with the probation department;
- Placing lower risk probationers on banked, administrative, or low supervision caseloads;
- Conducting the needs portion of a validated 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 on how to use a validated RNA;
- 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.

Additional research with individual, probationer-level data should be conducted to investigate the strength of these relationships more thoroughly.

### 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 broadly 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 evidence-based practices, with no evidence to suggest that public safety was compromised during the period under review. We recommend, therefore, that the Legislature preserve the fundamental formula of the SB 678 program—performance-incentive funding coupled with the use of EBP—and explore other ways to expand the use of performance-incentive funding. 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 EBP and other related data. Additional recommendations are provided below.

#### **Continued Emphasis on Implementing Evidence-Based Practices**

Although county probation departments expanded the use of EBP from 2010 to 2011, no department has *fully* implemented EBP. To improve the effectiveness of the program, probation departments should enhance the use of EBP in specific areas noted in the Annual Assessment and revealed during site visits, including (1) additional staff

training regarding the overall effectiveness of specific aspects of EBP, including the use of intermediate sanctions; (2) verifying that existing probation programs qualify as EBP; and (3) continued evaluation of the program as is required by statute.

### **Study Offender Recidivism**

Although reported crime and arrest rates have decreased during the period under review, and one report included data that indicates that felony probationer crime rates have decreased in certain jurisdictions during this time period, the Legislature should consider requiring a more robust study of crime committed by felony *probationers*. Because a broad reduction in crime rates could result from factors unrelated to the SB 678 program, that reduction does not necessarily indicate a decline in crime rates by felony probationers. Thus, to fully understand the effectiveness of the SB 678 program, probationer recidivism and revocation rates should be studied, preferably via individual-level data.

### **Provide Sufficient Incentives for Effective Implementation of the Program**

To continue to incentivize effective supervision practices, the Legislature should consider adjusting the amount that counties receive for each adult felony probationer who is appropriately supervised, reducing recidivism and revocations to state prison. Providing probation departments with sufficient financial resources is critical to maintaining effective supervision practices; inadequate incentives may lead probation department to return to the pre-SB 678 practice of shifting serious offenders to state prison to preserve as many local resources as possible.

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 the implementation of EBP in counties with low probation failure rates before the passage of SB 678. These grants are reassessed every year. As the statewide probation failure rate continues to decline, 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 probation failure rates. In order to continue to provide an incentive for these counties to fully implement the SB 678 program, the Legislature should consider providing a grant to any county that qualified for a high performance grant in a prior year as long as its probation failure rate remains the same or is lower than the baseline years.

Furthermore, as noted in the body of the report, the amount of state savings used to calculate the county allocation dropped from nearly \$30,000 per offender to less than \$10,000. In addition to the reduction in the number of prison-eligible felony probationers due to Public Safety Realignment, the state savings associated with the

SB 678 program dropped significantly in FY 2012–2013 due to standardized staffing by CDCR. This approach to staffing was made possible, at least in part, because of the reduced prison population. Without the SB 678 program’s impact on the prison average daily population, thousands of additional offenders would currently be in state prison, likely resulting in a need for additional CDCR staff and a greater marginal cost to incarcerate. In other words, the effectiveness of county probation departments under the SB 678 program allowed the state to reduce the marginal cost of incarceration, which in turn resulted in *less* funding for county probation departments. In order to account for this, the Governor and Legislature might consider using an adjusted marginal cost of incarceration (and supervision) to calculate state savings,<sup>76</sup> provide a larger percentage of state savings to county probation departments, or use another method to create sufficient incentive for county probation departments to continue to implement the SB 678 program.

### **Expand Performance-Incentive Funding for All Probation-Supervised Felony Populations**

Because SB 678 has had such a dramatic impact on reducing the number of felony probationers sent to state prison, the state might consider expanding the program to include mandatory supervision and postrelease community supervision populations. While Public Safety Realignment legislation included funding for counties supervising these populations, expanding the SB 678 program to MS and PRCS populations would likely reduce the number of supervised persons who commit prison-eligible new crimes, thereby reducing state prison commitments and increasing state savings.

To accomplish this, a baseline of offenders currently under MS and PRCS who commit prison-eligible offenses could be developed. That baseline could then be used to measure the future effectiveness of probation departments in supervising these offenders. Because criminal justice realignment was in effect all of 2012, that year could be used as a baseline for the MS and PRCS populations while the baseline currently in effect for felony probationers (weighted 2006–2008) would remain in effect for the adult felony probation population.

As with the SB 678 program, developing the baseline would be a collaborative effort among the DOF, AOC, CDCR, and CPOC. Collaboration would ensure that the baseline is as accurate as the baseline under the SB 678 program. In addition, DOF should be provided sufficient latitude to adjust the baseline to account for changes that occur as realignment is implemented. DOF currently has this authority under the SB 678 program.

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<sup>76</sup> Applying the 2010 marginal cost of \$29,353 to the 2012 ADP avoidance would result in state savings of approximately \$122 million. Approximately 50% or \$61 million of these funds would be provided to county probation departments. Application of the 2008 marginal cost to the 2012 ADP avoidance would result in approximately \$105.9 million in state savings with approximately \$53 million allocated to counties.

### **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. Going forward, it will be important to ensure that the components of this program, including adequate funding, remain in place.

California's crime rate continued to drop over the course of the SB 678 program as counties were reducing the number of probationers revoked to prison. Probation departments demonstrated they could improve their supervision of probationers in the community without increasing the risk to public safety. SB 678 also required the development of structured partnerships among county criminal justice stakeholders, the Community Corrections Partnerships. These local partnerships are now formally responsible for implementing the state's Public Safety Realignment legislation. SB 678 provided a foundation of community collaboration and support for the use of evidence-based practices in supervision of offenders and has effectively reduced counties' reliance on incarceration as the primary means of managing offenders.

The state's justice system must continue to improve its management of the criminal population to better protect public safety. Given the positive outcomes of this innovative legislation, the state and the counties have an interest in sustaining and expanding the SB 678 program. Although the SB 678 program is scheduled to sunset on January 1, 2015, the program's effectiveness to date provides a solid basis for the Legislature to extend the program. 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 and also lower their counties' jail costs. The counties' faithful implementation of the SB 678 program's careful design is meeting the legislation's objectives. With secure funding for the future, the program has the potential to continue lower incarceration rates without a reduction in public safety.

## Appendix A

<b>Probation Failure Rate by County<sup>i</sup></b>				
	<b>Baseline (2006-08)</b>	<b>2010</b>	<b>2011<sup>ii</sup></b>	<b>2012<sup>iii</sup></b>
<b>Statewide Average</b>	<b>7.9%</b>	<b>6.1%</b>	<b>5.5%</b>	<b>5.3%</b>
<b>Alameda</b>	6.0%	5.5%	4.4%	4.9%
<b>Alpine</b>	0.0%	0.0%	0.0%	0.0%
<b>Amador</b>	4.6%	9.0%	5.2%	6.6%
<b>Butte</b>	16.7%	15.9%	12.1%	16.1%
<b>Calaveras</b>	11.3%	4.7%	6.3%	4.0%
<b>Colusa</b>	12.3%	10.1%	1.0%	8.5%
<b>Contra Costa</b>	1.1%	0.6%	2.3%	2.0%
<b>Del Norte</b>	13.8%	6.4%	3.3%	9.7%
<b>El Dorado</b>	5.7%	4.1%	3.8%	5.7%
<b>Fresno</b>	10.6%	6.8%	7.1%	7.4%
<b>Glenn</b>	3.6%	1.9%	0.7%	3.1%
<b>Humboldt</b>	9.2%	7.7%	5.4%	7.8%
<b>Imperial</b>	4.8%	5.0%	6.2%	4.5%
<b>Inyo</b>	5.1%	4.5%	3.8%	3.2%
<b>Kern</b>	7.0%	7.4%	5.0%	5.2%
<b>Kings</b>	13.8%	6.3%	7.1%	6.0%*
<b>Lake</b>	9.2%	5.0%	2.8%	6.5%
<b>Lassen</b>	8.8%	2.1%	8.0%	26.0%
<b>Los Angeles</b>	8.7%	6.2%	4.9%	5.0%
<b>Madera</b>	6.2%	2.5%	3.3%	2.9%

<b>Probation Failure Rate by County<sup>i</sup></b>				
	<b>Baseline (2006-08)</b>	<b>2010</b>	<b>2011<sup>ii</sup></b>	<b>2012<sup>iii</sup></b>
<b>Marin</b>	2.6%	2.7%	0.8%	2.5%
<b>Mariposa</b>	7.5%	7.7%	2.8%	4.4%
<b>Mendocino</b>	2.7%	2.0%	1.7%	4.8%
<b>Merced</b>	4.5%	4.1%	2.9%	2.5%
<b>Modoc</b>	2.2%	1.1%	6.9%	10.3%
<b>Mono</b>	5.3%	1.7%	1.8%	0.0%
<b>Monterey</b>	8.1%	8.7%	7.4%	7.7%
<b>Napa</b>	3.4%	2.6%	3.5%	4.1%
<b>Nevada</b>	1.8%	0.9%	2.3%	1.7%
<b>Orange</b>	6.1%	4.2%	4.7%	4.4%
<b>Placer</b>	6.0%	5.2%	4.1%	3.0%
<b>Plumas</b>	17.5%	6.7%	6.5%	4.3%
<b>Riverside</b>	6.5%	3.9%	4.0%	4.3%
<b>Sacramento</b>	14.9%	10.6%	9.6%	5.7%
<b>San Benito</b>	7.2%	10.1%	10.3%	5.3%
<b>San Bernardino</b>	11.1%	9.8%	10.3%	8.6%
<b>San Diego</b>	8.2%	7.2%	4.6%	4.7%
<b>San Francisco</b>	4.4%	3.4%	2.8%	3.4%
<b>San Joaquin</b>	5.6%	4.5%	3.0%	2.8%
<b>San Luis Obispo</b>	3.5%	3.9%	2.6%	5.6%
<b>San Mateo</b>	7.9%	5.4%	5.6%	11.8%*
<b>Santa Barbara</b>	5.8%	4.3%	4.6%	3.1%
<b>Santa Clara</b>	7.4%	7.0%	7.7%	6.6%

<b>Probation Failure Rate by County<sup>i</sup></b>				
	<b>Baseline (2006-08)</b>	<b>2010</b>	<b>2011<sup>ii</sup></b>	<b>2012<sup>iii</sup></b>
<b>Santa Cruz</b>	2.2%	2.7%	2.0%	2.2%
<b>Shasta</b>	14.6%	13.4%	9.3%	6.9%
<b>Sierra</b>	0.0%	3.0%	20.8%	17.4%*
<b>Siskiyou</b>	5.6%	4.5%	1.5%	1.9%
<b>Solano</b>	8.7%	7.8%	7.8%	8.7%
<b>Sonoma</b>	5.7%	6.4%	5.5%	4.6%
<b>Stanislaus</b>	6.3%	6.1%	5.0%	5.1%
<b>Sutter</b>	19.3%	15.0%	11.7%	6.8%
<b>Tehama</b>	10.9%	4.1%	7.5%	22.3%
<b>Trinity</b>	6.2%	0.0%	0.8%	2.1%
<b>Tulare</b>	6.0%	4.6%	3.8%	5.0%
<b>Tuolumne</b>	4.4%	1.4%	2.7%	2.6%
<b>Ventura</b>	6.0%	4.3%	5.1%	2.6%
<b>Yolo</b>	8.0%	4.7%	4.7%	3.3%
<b>Yuba</b>	10.4%	10.0%	10.3%	10.3%

\* Projected value using incomplete data.

<sup>i</sup> 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%.

<sup>ii</sup> To account for the impact of realignment, the fourth quarter revocations for 2011 were estimated using the average of quarters 1–3.

<sup>iii</sup> The 2012 PFR is calculated using the reported revocations to state prisons *and* county jails.

## Appendix B

<b>Performance Outcome Measures for the SB 678 Program (Pen. Code, §§ 1231 and 1232)<sup>i</sup></b>				
	<b>Penal Code §</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
<b>% felony probationers supervised with EBPs</b>	1231(b)(1)	Data unavailable	37.3%	47.2%
<b>% state moneys spent on evidence-based programs<sup>ii</sup></b>	1231(b)(2)	88.1%	93.7%	Data unavailable
<b>Eliminated probation supervision policies, procedures, programs, or practices<sup>iii</sup></b>	1231(b)(3)	<ul style="list-style-type: none"> <li>• Replacement of a risk and needs assessment tool.</li> <li>• No longer using a “one size fits all” supervision approach. Now use risk level to determine supervision approach.</li> <li>• No longer organizing caseloads by offense type or subjective criteria.</li> <li>• No longer actively supervising low risk probationers. Now banking low risk probationers.</li> <li>• Elimination of “zero-tolerance” violation policies. Now use graduated sanctions to respond to violations.</li> </ul>		
<b>Total probation completions</b>	1231(b)(4)	Data unavailable	Data unavailable	82,544 <sup>iv</sup>
<b>Unsuccessful completions</b>	1231(b)(4)	Data unavailable	Data unavailable	17,684 <sup>v</sup>
<b>Felony filings<sup>vi</sup></b>	1231(d)(1)	248,420	241,069	Data unavailable
<b>Felony convictions<sup>vii</sup></b>	1231(d)(2)	163,998	158,396	Data unavailable
<b>Felony prison admissions<sup>viii</sup></b>	1231(d)(3)	58,737	50,678	Data unavailable
<b>New felony probation grants</b>	1231(d)(4)	75,095	81,892	79,711
<b>Adult felony probation population</b>	1231(d)(5)	329,767	324,382	316,846
<b>Total prison revocations</b>	1231(d)(6)	20,044	17,924 <sup>ix</sup>	8,543
<b>Prison revocations for new felony offense</b>	1231(d)(7)	7,533 <sup>x</sup>	6,896	4,210 <sup>xi</sup>
<b>Total jail revocations</b>	1231(d)(8)	-----	-----	8,293

**Performance Outcome Measures for the SB 678 Program  
(Pen. Code, §§ 1231 and 1232)<sup>i</sup>**

	<b>Penal Code §</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>
<b>Jail revocations for new felony offense</b>	1231(d)(9)	-----	-----	2,572 <sup>xii</sup>
<b>Total revocations</b>	-----	20,044	17,924	16,836 <sup>xiii</sup>
<b>% felony probationers convicted of a crime</b>	1232(c)	Data unavailable	Data unavailable	14.5% <sup>xiv</sup>
<b>% felony probationers convicted of a felony</b>	1232(c)	Data unavailable	Data unavailable	5.8% <sup>xv</sup>

<sup>i</sup> Except where indicated, all data were collected from probation departments by the Administrative Office of the Courts.

<sup>ii</sup> These data are reported for fiscal years 2010–2011 and 2011–2012.

<sup>iii</sup> 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.

<sup>iv</sup> This figure represents data from 57 probation departments.

<sup>v</sup> This figure represents data from 57 probation departments.

<sup>vi</sup> These data were taken from the *2012 Court Statistics Report*: <http://www.courts.ca.gov/documents/2012-Court-Statistics-Report.pdf>. Data are reported for fiscal years 2009–2010 and 2010–2011. Data for fiscal year 2011–2012 are not yet available.

<sup>vii</sup> These data were taken from the *2012 Court Statistics Report*: <http://www.courts.ca.gov/documents/2012-Court-Statistics-Report.pdf>. Data are reported for fiscal years 2009–2010 and 2010–2011. Data for fiscal year 2011–2012 are not yet available.

<sup>viii</sup> These data were 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 2011*: [http://www.cdcr.ca.gov/Reports\\_Research/Offender\\_Information\\_Services\\_Branch/Annual/ACHAR1/ACHAR1d2011.pdf](http://www.cdcr.ca.gov/Reports_Research/Offender_Information_Services_Branch/Annual/ACHAR1/ACHAR1d2011.pdf)

<sup>ix</sup> An average of the first three quarters of 2011 was used to estimate the number of revocations in quarter 4 to account for the effect of legislative changes implemented in the fourth quarter of 2011.

<sup>x</sup> This figure represents data from 56 probation departments.

<sup>xi</sup> This figure represents data from 57 probation departments.

<sup>xii</sup> This figure represents data from 57 probation departments.

<sup>xiii</sup> This figure is a sum of total revocations to both prison and county jail.

<sup>xiv</sup> This figure represents data from 51 probation departments and excludes Los Angeles.

<sup>xv</sup> This figure represents data from 52 probation departments and includes Los Angeles.



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