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HON. DAVID M. RUBIN
*Chair, Judicial Branch Budget Committee
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MR. MARTIN HOSHINO
*Administrative Director,
Judicial Council*

October 28, 2019

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

Ms. Erika Contreras
Secretary of the Senate
State Capitol, Room 400
Sacramento, California 95814

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

*Re: 2019 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, Ms. Contreras, and Mr. Wilson:

Please find attached the Judicial Council report required under Penal Code 1232 on the California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678).

If there are any questions related to this report, please contact Mr. Robert Lower, Senior Analyst, Judicial Council Criminal Justice Services, at 415-865-7703.

Sincerely,

Martin Hoshino
Administrative Director
Judicial Council

October 28, 2019

Page 2

MH/SC/ts

Attachment

cc:

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MR. MARTIN HOSHINO
Administrative Director,
Judicial Council

Report title: *2019 Report on the California Community Corrections Performance Incentives Act of 2009: Findings from the SB 678 Program*

Statutory citation: Penal Code Code section: 1232

Date of report: October 28, 2019

The Judicial Council has submitted a report to the Legislature in accordance with Penal Code 1232.

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

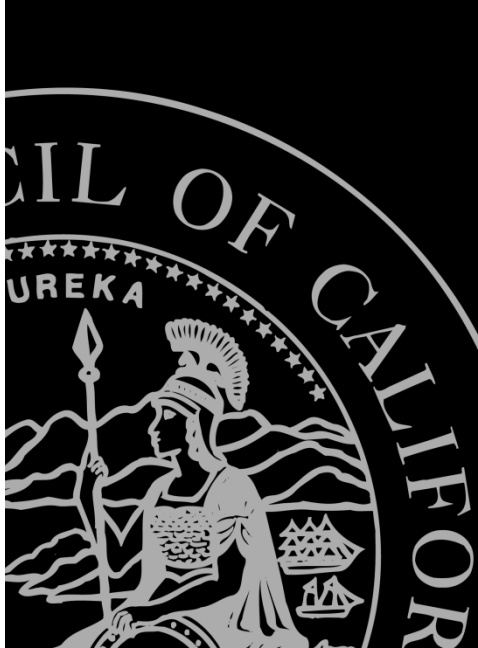
The Judicial Council is required to submit a comprehensive report to the Legislature and Governor on the implementation of SB 678, including information on the effectiveness of the SB 678 program and specific recommendations regarding resource allocations and additional collaboration. This year's report provides background on the SB 678 program, summarizes program results, and provides specific recommendations designed to improve future implementation of the SB 678 program. The report also describes the Judicial Council's role in the collection, monitoring, and reporting of program outcome and implementation data.

The report includes two recommendations for the Governor and Legislature to consider for improvements under the act:

- 1) Continually reexamine the SB 678 funding formula and data elements to reflect changes in public policy or other best practices.
- 2) Build upon technological advancements to improve data exchanges and data quality.

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

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



Report on the California Community Corrections Performance Incentives Act of 2009

FINDINGS FROM THE SB 678 PROGRAM
(2019)



**JUDICIAL COUNCIL
OF CALIFORNIA**

OPERATIONS AND PROGRAMS DIVISION
CRIMINAL JUSTICE SERVICES

JUDICIAL COUNCIL OF CALIFORNIA

Hon. Tani G. Cantil-Sakauye

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Executive Summary

The California Community Corrections Performance Incentives Act of 2009 (Sen. Bill 678)¹ 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—and to meet these objectives without compromising public safety. The SB 678 program allocates a portion of state savings from reduced prison costs to county probation departments that implement evidence-based supervision practices and achieve a reduction in the number of locally supervised felony offenders revoked to state prison. The program has been successful in supporting probation departments' increased use of evidence-based practices and lowering the percentage of individuals returned to custody without evident negative impact to public safety.

By lowering the number of supervised offenders sent to state prison through the SB 678 performance-based funding mechanism, the program has resulted in allocations to county probation departments ranging from \$88.6 million to \$138.3 million per fiscal year, for a total of \$838 million—including \$109.3 million in fiscal year (FY) 2018–19 alone. In addition, in each of the years since the start of the SB 678 program, the state's overall revocation rate has been lower than the original baseline rate of 7.9 percent. And while the number of offenders revoked has decreased, California's crime rates have remained below the 2008 baseline levels, with no evidence to suggest that public safety has been negatively affected by the SB 678 program.

A fundamental component of SB 678 is the implementation of evidence-based practices (EBPs) by county probation departments. SB 678 defines evidence-based practices as “supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under probation, parole, or postrelease supervision.” Although no probation department in the state has fully implemented EBPs in all facets of supervision, findings from an annual survey indicate that the SB 678 program has been highly successful in increasing the levels of EBP implementation throughout the state. All components of EBPs measured in the survey are substantially higher than they were at baseline. The most significant advancements in EBP implementation occurred in the earliest stages of the program and have stabilized over time. Given these positive outcomes, the state and the counties have an interest in sustaining and expanding on the effectiveness of the SB 678 program.

California has made significant changes in criminal justice policies since SB 678 was passed in 2009. Notably, the 2011 Realignment legislation addressing public safety reduced the number of probationers “eligible” for revocation to state prison and created two new supervision classifications, mandatory supervision and postrelease community supervision. The funding methodology for SB 678 was modified as a result of these changes. More recently, a trailer bill to the FY 2015–16 State Budget revised the SB 678 funding formula and created a funding methodology that should serve as a long-term formula.

¹ Stats. 2009, ch. 608, www.courts.ca.gov/documents/sb678.pdf.

Since its inception in 2009, SB 678 has matured from a program that focused on implementing EBPs to one that focuses on their sustainability and expansion. Many of the recommendations made by the Judicial Council in previous years, including the implementation of a stable funding formula, have been realized. The Judicial Council continues to support the adoption of additional recommendations through continued or expanded research and will work with probation departments and the Chief Probation Officers of California to update the annual assessment and evaluation process. Finally, the Judicial Council recommends that the state build on the success of this carefully designed program by considering opportunities for replication of the SB 678 model to address other challenges facing the criminal justice system.

Introduction

The California Community Corrections Performance Incentives Act of 2009 (implementation of which is hereafter referred to as the “SB 678 program”) is designed to alleviate state prison overcrowding and save state General Fund monies by reducing the number of county-supervised adult felony offenders sent to state prison for committing new crimes or violating the terms of their supervision, and to meet these objectives without compromising public safety. The SB 678 program allocates a portion of reduced incarceration costs to county probation departments to support the use of evidence-based supervision practices and achieve a reduction in the number of supervised felony offenders who are revoked to state prison or sent to state prison on a new charge.

Through the SB 678 performance-based funding mechanism, county probation departments have received over \$838 million since program inception, including allocations totaling \$109.3 million in FY 2018–19. Allocations to county probation departments have ranged from \$88.6 million to \$138.3 million per fiscal year.

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

This report:

- Presents a brief background on the SB 678 program and documents changes made to the program as a result of public safety realignment and the enactment of Proposition 47;
- Provides results from the first nine years of the program, including the impact of the SB 678 program on revocation rates, the amount of state savings from the reduction in revocations to prison, and funding allocations to the counties;
- Provides information on trends in public safety, county probation departments’ reported use of funds, and implementation of evidence-based practices; and
- Describes progress in implementing past recommendations, and presents additional recommendations for the enhancement and improvement of the program.

I. SB 678 Background

A. Origin and Evolution of the SB 678 Program

Courts have the authority to order defendants to be placed on probation (a judicially imposed suspension of sentence and a form of community supervision) in lieu of a long-term jail or prison sentence.² The typical adult felony probation term is approximately three years. If an individual successfully completes probation without a violation or a new charge, the probationer will not be required to serve any further custody time in jail or prison. If the individual violates the conditions of supervision or commits a new offense, supervision may be “revoked” and the individual sent to state prison or county jail, resulting in incarceration costs to the state or county.

Each of California’s 58 counties administers its own adult felony probation system.³ In a 2009 report, the Legislative Analyst’s Office (LAO) estimated that 40 percent of new prison admissions from the courts were the result of probation revocations.⁴ The report also noted that, in the preceding years, many county probation departments had insufficient resources to implement evidence-based probation supervision practices that could help reduce probation failures.⁵ The LAO recommended creation of a program to provide counties with a financial incentive to improve their community corrections practices and lower their probation failure rates.

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

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

Implementation of the SB 678 program began in FY 2009–10 when the state Legislature appropriated \$45 million in federal American Recovery and Reinvestment Act of 2009 (ARRA) stimulus funds as seed money for county probation departments to begin expanding the use of

² 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.”

³ Probation differs from parole, which is a form of supervision that takes place upon release from prison for specified offenders and is administered by the California Department of Corrections and Rehabilitation (CDCR).

⁴ Legislative Analyst’s Office, *Achieving Better Outcomes for Adult Probation* (May 2009), www.lao.ca.gov/2009/crim/Probation/probation_052909.pdf.

⁵ Evidence-based practices are defined as “supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under local supervision.” (Pen. Code, § 1229(d).)

evidence-based practices with adult felony probationers.⁶ After the first year of the program, the SB 678 state funding mechanism was activated. As originally designed, probation departments received a portion of the state’s savings attributed to avoided incarceration costs resulting from a reduction in the probation failure rate (PFR) compared to a baseline PFR.⁷ The PFR was initially defined in statute as the number of adult felony probationers revoked to state prison in a year as a percentage of the average probation population during the same year.

The amount of savings the state shared with probation departments each year was *originally* determined by each county’s improvement in its PFR, as compared to its 2006–08 baseline rate.⁸ A county that sent fewer individuals to prison than would be expected (applying their baseline rate to the current year’s felony probation population) to receive a share of the state savings from reduced incarceration costs. Depending on how a county’s PFR compared to the statewide average, a county received either 40 or 45 percent of the state savings.⁹ Counties that were unsuccessful in reducing their PFR were also provided with a small amount of funding to bolster their efforts to implement evidence-based practices and reduce recidivism. The SB 678 program also included a provision for high-performance awards to counties with very low probation failure rates. These awards supported the ongoing use of evidence-based practices in counties with probation failure rates more than 50 percent below the statewide average.¹⁰

2011 Realignment and the SB 678 program

Two years after the SB 678 program went into effect, the California Legislature enacted the 2011 Realignment legislation addressing public safety, which shifted certain responsibilities and funds from the state to the counties.¹¹ Realignment affected the SB 678 program by significantly reducing the number of probationers “eligible” for incarceration in state prison when they fail on probation, and mandated that they be revoked to county jail instead. Public safety realignment

⁶ The ARRA appropriation was based on a one-time expansion of the Edward Byrne Memorial Justice Assistance Grant Program (34 U.S.C. § 10151 et seq.).

⁷ Pen. Code, § 1233.1(a).

⁸ The baseline probation failure rate is a weighted average of the PFR in 2006, 2007, and 2008. After the conclusion of each calendar year, the Director of Finance (DOF)—in consultation with the CDCR, the Joint Legislative Budget Committee, the Chief Probation Officers of California, and the Judicial Council—calculates for that calendar year an estimate of the number of adult felony offenders supervised by probation that each county successfully prevented from being sent to prison (or to jail, following Realignment) based on the reduction in the county’s return-to-prison rate. In making this estimate, the DOF is required to adjust the calculations to account for changes in each county’s adult felony caseload in the most recently completed calendar year as compared to the county’s adult felony population during the baseline period. (Pen. Code, § 1233.1(c), (d).)

⁹ Counties with a PFR no more than 25 percent above the statewide PFR received 45 percent of the state savings. Counties with a PFR greater than 25 percent above the statewide PFR received 40 percent of the state savings.

¹⁰ From FY 2010–11 to FY 2014–15, these awards were funded with 5 percent of the overall savings to the state. A county could receive an award based on state incarceration cost savings *or* a high-performance grant payment but not both; the county could choose which award to receive in a year when it qualified for both.

¹¹ Realignment legislation from 2011 addressing public safety, also known as the 2011 Realignment (Assem. Bill 109; Stats. 2011, ch. 15; and Assem. Bill 117; Stats. 2011, ch. 39). Details of the major provisions of the act are available at www.courts.ca.gov/partners/894.htm.

also created new categories of offenders who are supervised by probation departments—postrelease community supervision¹² and mandatory supervision¹³—and similarly limited these offenders’ eligibility for incarceration in state prison when they fail under supervision.

Following the implementation of realignment legislation, approximately half of all revoked probationers served their time in county jail instead of state prison, which resulted in the need to modify the SB 678 funding formula. A transitional funding formula was used during FY 2014–15.¹⁴

The FY 2015–16 State Budget updated the SB 678 funding formula to include all types of local felony supervision—felony probation, mandatory supervision, and postrelease community supervision. It also omitted county jail revocations from the formula, refocusing the grant on local supervision admissions to prison. To reflect this new focus, the term *probation failure rate* was changed to *return-to-prison rate* (RPR).¹⁵ Return-to-prison rates from 2014 to 2018 are reported in Appendix A. The formula now measures each county’s performance against statewide returns to prison. These changes are summarized in Section II.B, and a more detailed explanation of the current funding formula is included as Appendix B.

B. Impact of Proposition 47 on the SB 678 Program

On November 4, 2014, California voters enacted Proposition 47, the Safe Neighborhoods and Schools Act (Prop. 47), which made three broad changes to felony sentencing laws. First, it reclassified certain theft and drug possession offenses from potential felonies to misdemeanors. Second, it authorized defendants already serving sentences for specified felony offenses to petition courts for resentencing under the new misdemeanor provisions. Third, it authorized defendants who had completed their sentences for specified felony convictions to apply for reclassification of the convictions to misdemeanors. These changes resulted in a decrease in new felony probation grants (figure 1), leading to an overall decrease in the size of the felony supervised population.

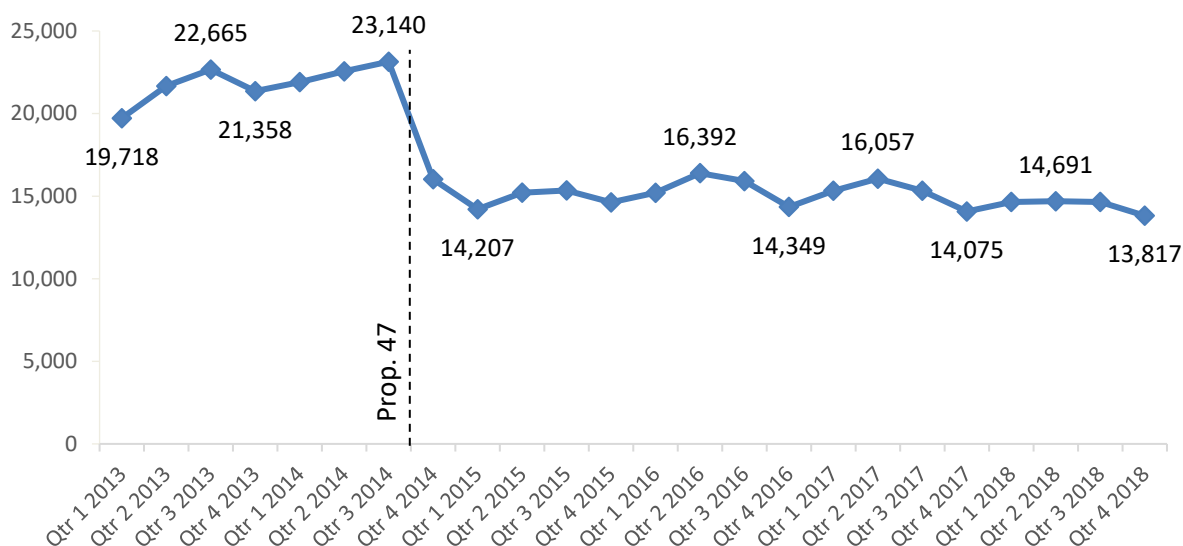
¹² Offenders exiting state prison are now released to postrelease community supervision except for those who have been sent to prison for a serious or violent felony (any “strike”) for a crime punished as a third-strike offense, persons classified as “high risk” sex offenders, and persons who require treatment by the California Department of State Hospitals. After serving their sentences, postrelease community supervision offenders are placed under the authority of county probation departments rather than being supervised by state parole.

¹³ For the new county jail–eligible felony offenses, under Penal Code section 1170(h)(5) courts are authorized to impose either a straight term of custody in the county jail or a “split” sentence, a portion of which is served in county jail and the remainder in the community on “mandatory supervision.”

¹⁴ Sen. Bill 75 (Stats. 2013, ch. 31), http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB75.

¹⁵ Although the term “return to prison” implies that the offender has previously been incarcerated in the state prison system, many individuals supervised by probation departments have never been in prison custody.

FIGURE 1. NEW FELONY PROBATION GRANTS DECLINE AFTER PROP. 47



Source: New felony probation grants reported by probation departments to the Judicial Council.

Note: New felony probation grants expressed as statewide quarterly totals.

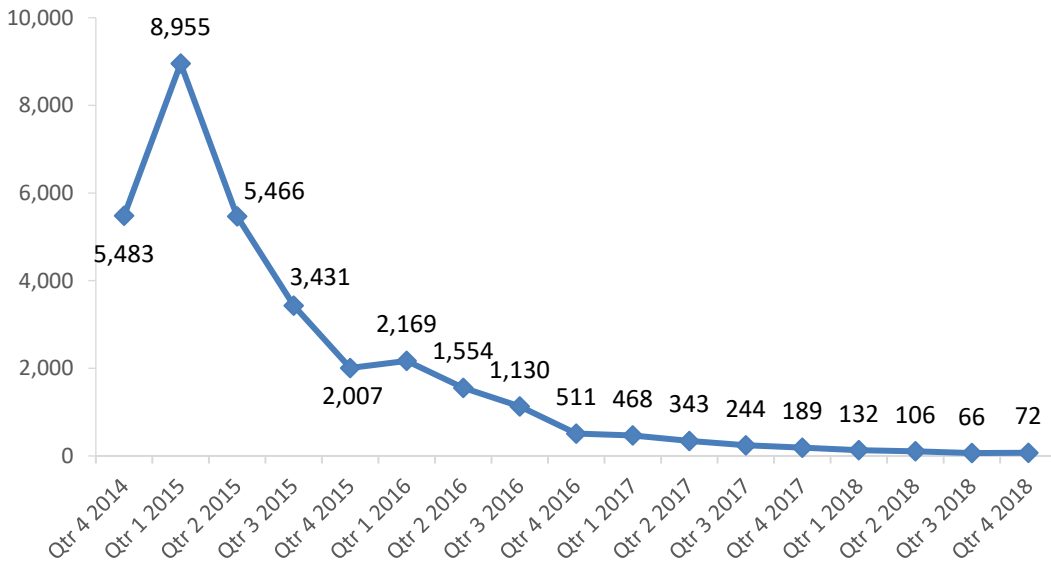
Whereas new probation grants averaged approximately 80,000 annually before Prop. 47 (2010 through 2014), they dropped to approximately 60,000 in 2015, 2016, and 2017, a decrease of 25 percent (figure 2).¹⁶ In 2018 the total new felony probation grants figure was down further, to 57,805.

When Prop. 47 was implemented in the fourth quarter of 2014, the Judicial Council also began collecting data on terminations from supervision and reductions in supervision level due to Prop. 47 resentencing.¹⁷ Figure 2 shows the trend in Prop. 47 terminations over time since the ballot measure was enacted. Statewide, 32,326 terminations resulting from Prop. 47 have been reported since it was enacted in 2014 (figure 1). These terminations became increasingly rare in the past two years as there are fewer individuals left on supervision who are eligible for these types of terminations, but they do persist in relatively small numbers.

¹⁶ New mandatory supervision and PRCS cases have also decreased since Prop 47.

¹⁷ The two additional quarterly data points are “Prop. 47 Terminations,” defined as a count of all supervised individuals who have been resentenced under Prop. 47 during the quarter and, as a result of the resentencing, have been completely terminated from all forms of felony supervision (jurisdictions are instructed to count individuals only if they are no longer under any form of felony supervision by the probation department); and “Prop. 47 Reductions,” defined as a count of all supervised individuals who have been resentenced under Prop. 47 during the quarter but remain on misdemeanor supervision by the probation department.

FIGURE 2. TERMINATIONS FROM FELONY SUPERVISION DUE TO PROP. 47 RESENTENCING



Source: Terminations from felony supervision reported by probation departments to the Judicial Council.

Note: Terminations expressed as quarterly statewide totals.

The terminations resulting from Prop. 47 resentencing as well as reduced numbers of new felony probationers have contributed to an overall reduction in the adult felony probation population, from 308,784 in the third quarter of 2014 to 267,758 in the fourth quarter of 2018 (a decrease of 13 percent).¹⁸

These decreases have not been experienced by every jurisdiction; seven counties have seen either no reduction or an increase in their supervised felony population since the passage of Prop. 47.¹⁹ For those jurisdictions where decreases have occurred, probation departments have been able to reduce and maintain lower felony caseload ratios.

¹⁸ The average mandatory supervision population decreased by 7 percent, from 11,598 to 10,800 during this time. The average PRCS population continued the upward trend it has seen over the past several years, up from 35,349 in the third quarter 2014 to 37,940 in the fourth quarter of 2018, an increase of 7 percent.

¹⁹ Comparison based on total population at the end of 2013 and at the end of 2018.

II. Program Results

The analysis of SB 678's effectiveness is guided by the Legislature's stated intent and summarized in three overarching questions:²⁰

- How did the SB 678 program affect revocation rates, and what was the effect on public safety?
- Did the state save money as a result of reductions in locally supervised populations sent to state prison, and was a portion of these savings directed to county probation departments to implement evidence-based practices?
- Did county probation departments implement evidence-based practices, and how did these practices affect the outcomes of locally supervised populations?

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

Revocation rates during the SB 678 program

The SB 678 program's effectiveness was originally measured annually by comparing each probation department's probation failure rate (the percentage of felony probationers sent to prison) to a baseline period before the program was implemented (a weighted average of the PFR in 2006, 2007, and 2008).²¹ As stated previously, the SB 678 program and funding formula have seen a number of changes, thereby altering the way in which effectiveness is measured. The following analysis focuses mainly on the adult felony probation population because data on this group have been tracked since the project inception; however, some data on the supervised populations created post-Realignment are also displayed.

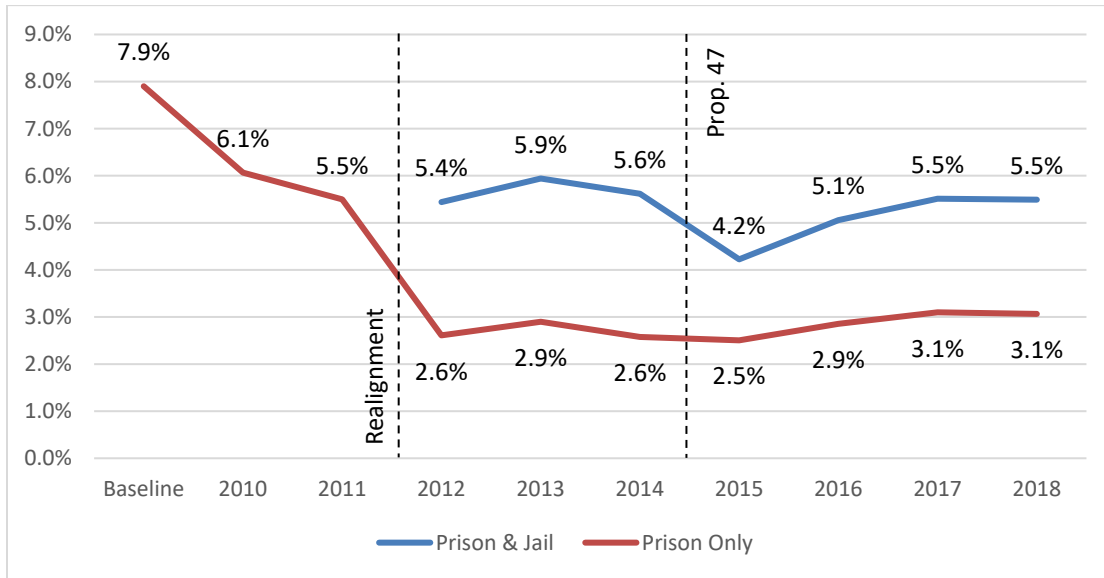
The statewide rates of revocation to prison and revocation to jail remained the same in 2018 as compared to the 2017 figures (figure 3). The recorded revocation-to-prison rate was lowest in

²⁰ "Providing sustainable funding for improved, evidence-based probation supervision practices and capacities will improve public safety outcomes among adult felons who are on probation. Improving felony probation performance, measured by a reduction in felony probationers who are sent to prison because they were revoked on probation or convicted of another crime while on probation, will reduce the number of new admissions to state prison, saving taxpayer dollars and allowing a portion of those state savings to be redirected to probation for investing in community corrections programs." (Pen. Code, § 1228(d).)

²¹ The return-to-prison rate was initially calculated as the total number of adult felony probationers sent to prison in the year as a percentage of the average statewide adult felony probation population for that year. (Pen. Code, § 1233.1(b)(1).) Penal Code section 1233.1(b) was revised by Senate Bill 105 (Stats. 2013, ch. 310) to include subdivision (b)(2), adding commitments to county jail under section 1170(h). Section 1233.1(b) was further amended by SB 105 to place this formula in effect each year, beginning with calendar year 2013. Section 1233.1(c) was also revised by SB 105 to include felony probationers sent to state prison or county jail, and to place this revised county probation failure rate formula in effect each year, beginning with calendar year 2013.

2015, then rose for two consecutive years before leveling off. It remains well below the rates recorded prior to Realignment, even when including revocation to jail.

FIGURE 3. FELONY PROBATION INCARCERATION RATES

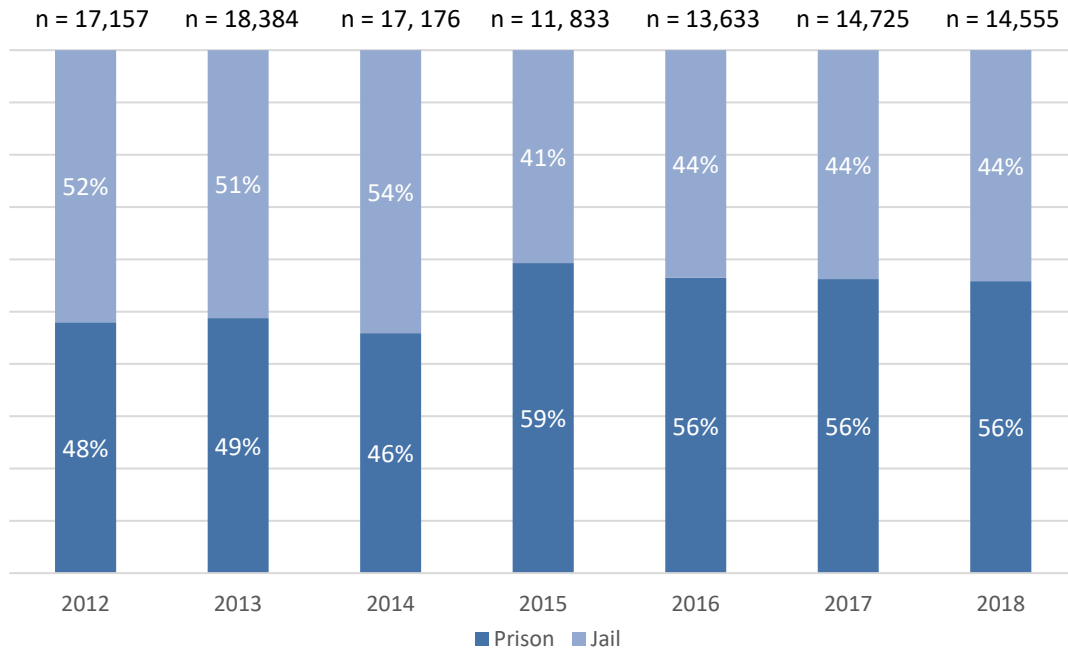


Source: Probation revocation data reported by probation departments to the Judicial Council.

Note: Incarceration rate includes only those supervised under adult felony probation.

Until 2015, slightly over half of probationers who were revoked were sent to county jail. That percentage changed in 2015 likely because of Prop. 47 (figure 4). Some of the increase in the proportion of felony offenders revoked to prison may be related to the impact of Prop. 47 on both the population size and the nature of the offenses of the felony probationers. Most lower-level drug possession and theft-related offenses are now charged as misdemeanors; thus, the felony offender population is largely made up of individuals with more serious criminal histories. This figure has not changed in the past two years of collecting these data.

FIGURE 4. PERCENTAGE OF FELONY PROBATION FAILURES TO JAIL AND PRISON



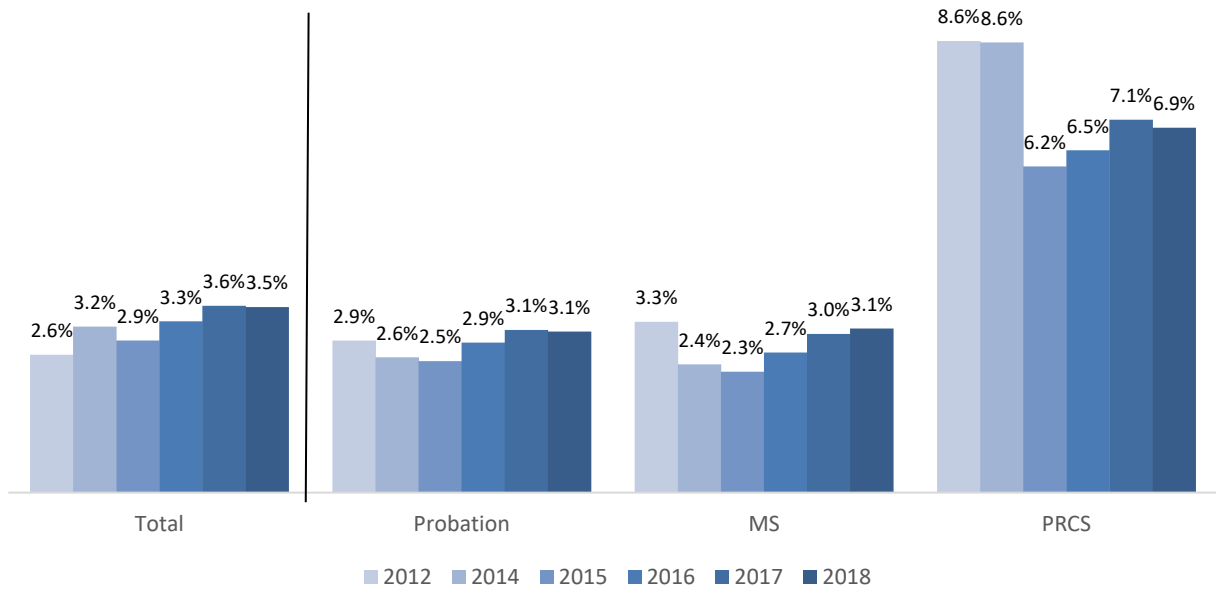
Source: Revocation data reported by probation departments to the Judicial Council.

Note: Chart includes only those supervised under adult felony probation.

Following Realignment, Senate Bill 85 (Stats. 2015, ch. 26) revised the SB 678 program to include all supervised felony populations—felony probation, postrelease community supervision, and mandatory supervision—and to focus exclusively on revocations to state prison. These additional supervision categories were added to the quarterly data reported by probation departments. Return-to-prison rates for all supervision types are shown in figure 5.

When reporting on all felony supervision types began in 2013, the combined return-to-prison rate (including all supervision types) averaged 3.2 percent. Since 2015, the low point for return-to-prison rates, there has been an uptick in return-to-prison rates across all supervision types, although this trend seems to have leveled off in the 2018 data, with the overall rate decreasing slightly compared to the previous year for the first time since 2015.

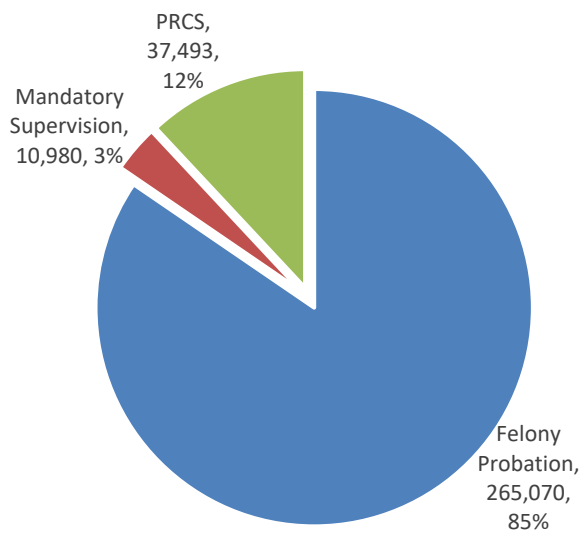
FIGURE 5. FELONY SUPERVISION PRISON RETURN RATES



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

Return-to-prison rates for felony probationers remained the same in 2018 as in 2017 at 3.1 percent. The rate for mandatory supervision (MS) probationers was also 3.1 percent, having followed the same trend of increasing since the low point of 2015 and then leveling off.

FIGURE 6. AVERAGE POPULATION DISTRIBUTION BY SUPERVISION TYPE, 2018



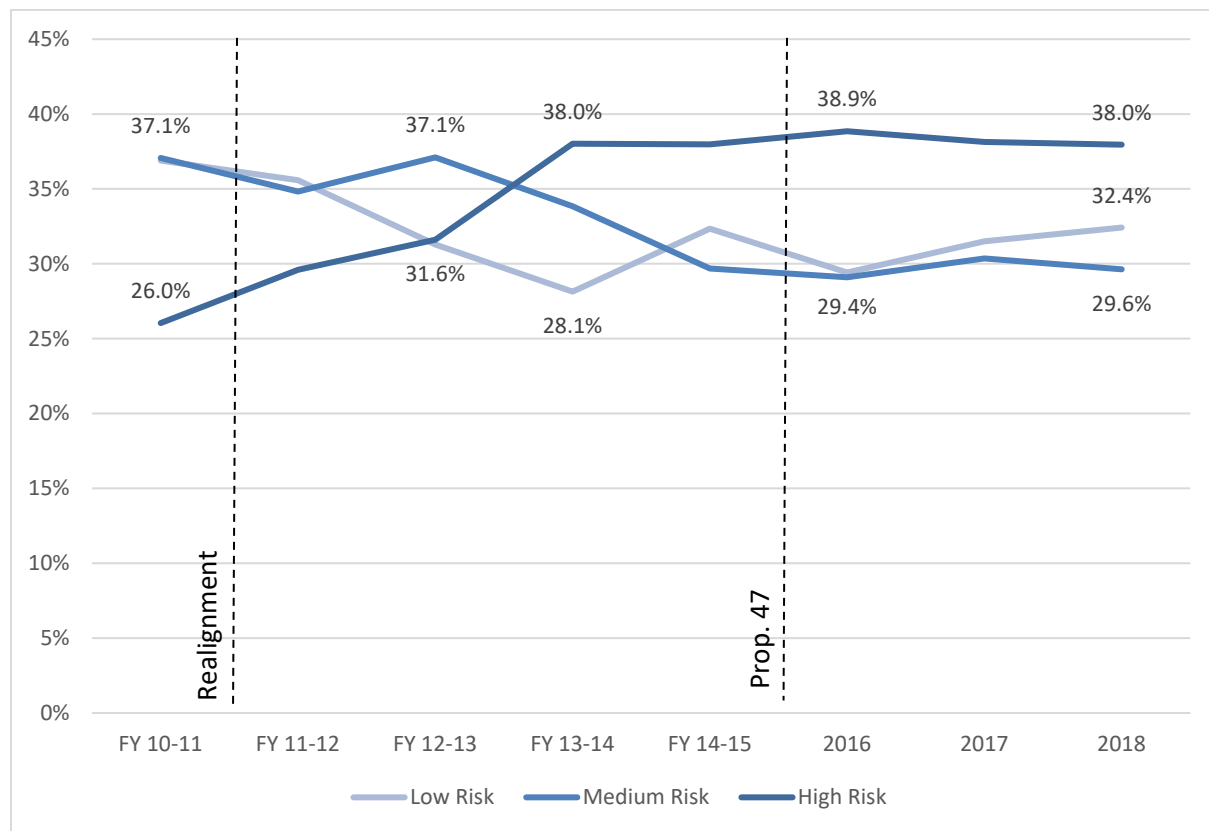
The return-to-prison rate for postrelease community supervision (PRCS) dropped noticeably following the enactment of Prop. 47, then rose for two straight years, but now has again decreased slightly from 7.1 percent in 2017 to 6.9 percent in 2018. The rate for this group continues to be significantly higher than those of the other two groups tracked.

These outcomes should be viewed with the relative sizes of each supervision type in mind. Although, PRCS return-to-prison rates in 2018 were high (6.9 percent) relative to felony probationers (3.1 percent), the total return-to-prison rate is driven primarily by felony probationers who made up 85 percent of those under supervision in 2018, as shown in figure 6.

Risk level of locally supervised populations

The recent rise in return-to-prison rates should also be considered in the context of statewide data indicating that the proportion of high-risk individuals on felony supervision increased (as a percentage of the total assessed supervised population), while the percentage of low-risk individuals declined (figure 7). Over the program, of all individuals on community supervision assessed, the reported percentage of low-risk individuals decreased from 37 to 32 percent, while the percentage of high-risk individuals increased from 26 to 38 percent. This trend seems to have mostly leveled off, however, as the proportions reported for 2018 match those reported in 2017.

FIGURE 7. PERCENTAGE OF SUPERVISED CASELOAD BY RISK LEVEL



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

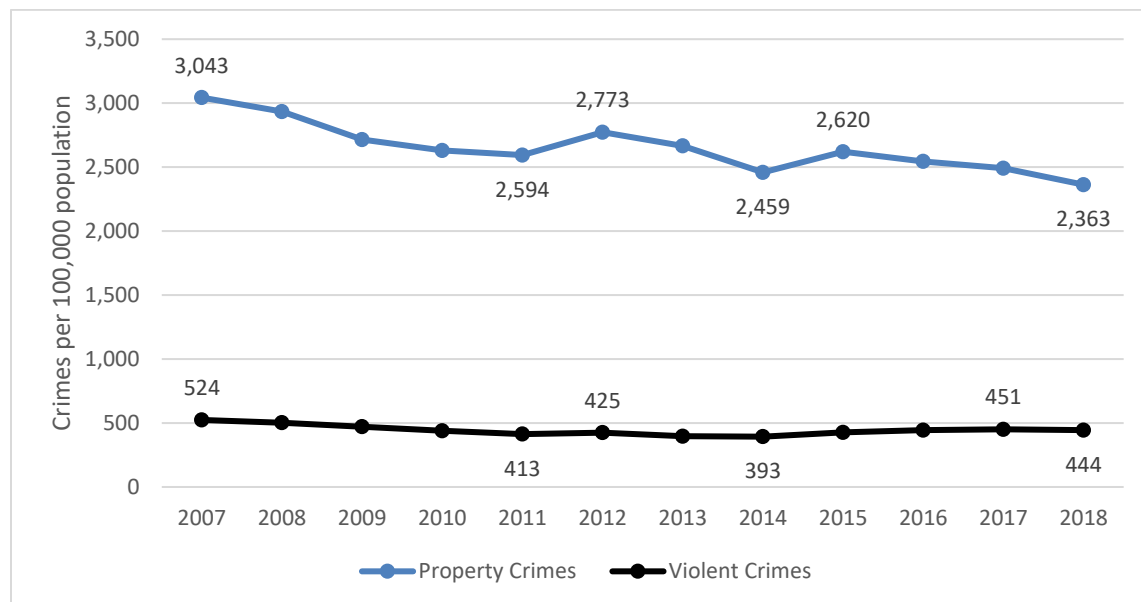
Notes: Percentages represent statewide averages. Caseload includes those supervised under felony probation, mandatory supervision, and postrelease community supervision.

SB 678 program and public safety outcomes

The Legislature designed the SB 678 program to save state funds and improve the effectiveness of community supervision practices without compromising public safety.²² Although no causal claims are made about the impact of the SB 678 program on crime, these data suggest that public safety has not been compromised as a result of the program.

Still at their lowest levels in decades, both property and crime rates have remained relatively flat; the property crime rate decreased by 5.1 percent between 2017 and 2018, while the violent crime rate decreased by 1.5 percent (figure 8). The sweeping changes to the criminal justice system that resulted from Realignment and Prop. 47 make isolating and measuring the SB 678 program's impact on public safety difficult. In the first years following the implementation of SB 678, crime rates in California generally continued the downward trend of the past decade, and have remained relatively flat with slight fluctuations up and down since 2012.

FIGURE 8. PROPERTY AND VIOLENT CRIME RATES IN CALIFORNIA



Source: California Department of Justice, Office of the Attorney General, *Crime in California, 2019* (Table 1).

²² Pen. Code, §§ 1228(c), 1229(c)(1).

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

State savings and allocation to county probation departments

The SB 678 program has been effective in saving state General Fund monies. Criminal justice reforms such as the 2011 public safety realignment legislation and Prop. 47 have necessitated a number of adjustments to how state savings and incentive payments were calculated. The evolution of the funding formula to its current methodology has been outlined in detail in previous reports to the Legislature.²³ The current SB 678 funding formula now has three funding components and is discussed in greater detail in Appendix B.

Since its inception, the SB 678 program has:

- Generated an estimated \$1 billion in state savings; and
- Allocated \$838 million to county probation departments (through FY 2018–19).²⁴

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

Although not charged with conducting a formal accounting of funds received through the SB 678 program, the Judicial Council incorporates a limited number of funding questions in the Annual Assessment.²⁵ County probation departments across California reported using SB 678 program funds to implement a variety of evidence-based practices (table 1).²⁶ The Judicial Council uses the probation departments' self-reported information to provide context for the ways in which resources are allocated.

²³ Previous reports are available at the “Community Corrections” webpage on the California Courts website, www.courts.ca.gov/programs-communitycorrections.htm.

²⁴ Statewide and county-by-county allocations are reported in Appendix C.

²⁵ The SB 678 Annual Assessment is an annual survey of each probation department to measure its current level of implementation of evidence-based practices (EBPs), as well as the programs and practices used or funded during the previous fiscal year. The Annual Assessment is used to satisfy the outcome-based reporting requirements outlined in SB 678. (See Pen. Code, § 1231(b).) This survey also fulfills the requirement in Penal Code section 1231(c) that counties provide an annual written report to the Judicial Council. The Annual Assessment has been administered each year beginning in FY 2010–11. In 2016, the report time frame was revised to the calendar year, rather than fiscal year.

²⁶ Caution is advised when interpreting these results. Spending categories are not mutually exclusive nor exhaustive. For example, funds for support of officers may be used for training or for the improvement of data collection because case-carrying officers often perform these data collection functions. Reported proportions are representative of the SB 678 funds *spent* on the implementation of EBPs, not the amount of funds received.

TABLE 1. REPORTED USE OF FUNDS FOR EVIDENCE-BASED PRACTICES

Spending Category	Average % Spent FY 2010–11 (N = 50)	Average % Spent FY 2011–12 (N = 48)	Average % Spent FY 2012–13 (N = 48)	Average % Spent FY 2013–14 (N = 50)	Average % Spent FY 2014–15 (N = 53)	Average % Spent CY 2016 (N = 54)	Average % Spent CY 2017 (N = 55)	Average % Spent CY 2018 (N = 52)
	Hiring, support, and/or retention of case-carrying officers/supervisors	28	48	60	60	58	63	63
Evidence-based treatment programs	28	27	20	18	19	19	18	18
Improvement of data collection and use	4	3	7	2	6	8	3	4
Use of risk and needs assessment	12	5	5	4	6	3	4	6
Use/implementation of intermediate sanctions	NA	NA	3	7	3	3	2	3
EBP training for officers/supervisors	7	8	<3	3	3	3	4	3
Other evidence-based practices*	10	3	3	5	5	1	5	7

Source: *Implementation of Evidence-Based Practices: Annual Assessment Survey* (Annual Assessment) data reported by probation departments to the Judicial Council.

Note: The following counties provided incomplete or invalid responses to these questions and were excluded from these analyses:

FY 2010–11 — Colusa, Kings, San Diego, San Luis Obispo, Santa Clara, Sierra, Tehama, Tulare

FY 2011–12 — Alpine, Amador, Butte, El Dorado, Imperial, Kings, Napa, Plumas, Sierra, Tehama

FY 2012–13 — Butte, Del Norte, Imperial, Madera, Modoc, San Benito, Santa Clara, Shasta, Sierra, Tulare

FY 2013–14 — Alpine, Amador, Contra Costa, Del Norte, Lake, Modoc, Nevada, Yolo

FY 2014–15 — Amador, Del Norte, Mariposa, Santa Clara, Tehama

CY 2016 — Amador, Del Norte, Santa Clara, Tehama

CY 2017 — Alameda, Del Norte, Mendocino

CY 2018 — El Dorado, Glenn, Los Angeles, Mendocino, Stanislaus, Tehama

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

Probation departments have consistently reported using the majority of their SB 678 funds on the hiring, retention, and training of probation officers to supervise medium- and high-risk probationers consistent with evidence-based practices. Probation departments also report using a sizable proportion of their SB 678 funds on evidence-based treatment programs and services. The departments reported spending funds on five major categories of treatment programs and services: (1) cognitive behavioral therapy, (2) outpatient substance abuse treatment programs, (3) day reporting centers, (4) vocational training/job readiness programs, and (5) other treatment programs/services.

C. Implementation of Evidence-Based Practices

The SB 678 program was designed specifically to improve the effectiveness of probation departments' supervision practices through increased use of evidence-based practices. The SB 678 program recognizes five areas of EBP as most critical for implementation for county probation departments. These areas include:

1. Use of risk and needs assessment;
2. Effective supervision practices;
3. Collaboration with justice partners;
4. Effective management and supervision; and
5. Effective treatment and intervention.

To measure probation departments' self-reported EBP implementation levels²⁷ and changes in EBP implementation over time,²⁸ the Judicial Council created the *Implementation of Evidence-Based Practices: Annual Assessment Survey*.²⁹ Each probation department is required to provide assessment results annually to the Judicial Council. Findings from the Annual Assessment indicate that the SB 678 program has been highly successful in increasing the levels of EBP implementation throughout the state (see Appendix D). All components of EBP measured in the

²⁷ The Annual Assessment includes 41 scaled items designed to measure the level in which specific EBP focus areas have been implemented by probation departments. Scaled items are scored on a four-point scale from 0 to 3, with 3 as a gold standard rating for a given aspect of EBP. Implementation levels for the five EBP categories are calculated by summing a department's responses in a particular category and dividing that sum by the total possible points for that category. Overall EBP implementation levels for each probation department are calculated by taking the average of a department's scores across the five EBP categories.

²⁸ Increases in the self-reported levels of EBP implementation may gradually flatten over time given the structure of the Annual Assessment's scoring scheme. For counties to achieve the highest/gold standard rating across multiple items and multiple categories may be challenging. As a result, increases in the percentage change in EBP implementation in the future may be less than that reported in the current or previous years.

²⁹ Because the survey was developed before Realignment, it initially focused solely on the felony probation supervision population. Beginning in 2014, probation departments were asked about their use of evidence-based practices in supervising all felony populations, including individuals on mandatory supervision and PRCS.

survey are indicative of substantially higher rates of implementation of EBPs than at baseline and the most recent years' data show more incremental gains. The Judicial Council continues to evaluate whether a revised Annual Assessment is necessary to more fully capture continued EBP adoption by probation departments.

III. Recommendations for the SB 678 Program

Penal Code section 1232(e) requires the Judicial Council to report on the effectiveness of the SB 678 program and provide recommendations for resource allocation and additional collaboration to improve the program. The Judicial Council made 10 recommendations regarding SB 678 in these annual reports since it began reporting in 2013. The 2018 report provides a summary of the recommendations and an update on their implementation status.³⁰

The previous recommendations focused on three general areas: program sustainability and stabilization; program evaluation and research; and program improvement, expansion, and replication. Program sustainability recommendations have largely been implemented. Program evaluation and research recommendations focused on isolating the impact of the SB 678 program divorced from other criminal justice policy changes, including Proposition 47. The number and scope of changes to the criminal justice system in the decade since SB 678 passed indicate that such research would be inefficient and no longer particularly relevant. For these reasons, the recommendations included in this report focus on establishing a system of continuous reexamination of the program and building on technological advancements and the foundation laid by the SB 678 program to promote data exchanges and data quality improvements.

The Judicial Council recommends the following:

1. Continually reexamine the SB 678 funding formula and data elements in order to reflect changes in public policy or other best practices.
2. Build on technological advancements to improve data exchanges and data quality.

³⁰ Judicial Council of Cal., *Report on the California Community Corrections Performance Incentives Act of 2009* (2018), pp. 23–25, www.courts.ca.gov/documents/lr-2018-JC-ca-comm-corrections-performance-incentives-act-sb678.pdf.

Conclusion

It has been 10 years since the California Community Corrections Performance Incentives Act (SB 678) passed. A decade of data has shown this to be an effective program that is 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;
- Save state General Fund monies by reducing the number of individuals supervised by probation who are sent to state prison for committing a new crime or violating the terms of supervision;
- Increase the use of evidence-based supervision practices; and
- Achieve these goals without compromising public safety.

SB 678 has been successful in each of these areas. Even as higher-risk individuals constitute an increasing proportion of felony supervision caseloads (increasing from 25 percent to 38 percent of supervised individuals), county probation departments have maintained lower rates of prison returns. Probation departments around the state have implemented and continue to support important evidence-based practices.

Since its inception in 2009, SB 678 has matured from a program that focused on implementing evidence-based practices to one that focuses on their sustainability and expansion. The state can build on the success of and lessons learned from this carefully designed program by considering opportunities to replicate the SB 678 model and advancements in technology to address other challenges facing the criminal justice system.

Appendix A: Percentage Failure/Return-to-Prison Rates by County 2014–2018

The return-to-prison rate used in this table is calculated using the reported number of individuals who were sent to state prison for either a supervision violation or a new offense, across all types of local felony supervision—felony probation, mandatory supervision (MS), and postrelease community supervision (PRCS). Failures to state prisons were not reported for MS and PRCS prior to 2013.

The term “return to prison” implies that the offender has previously been incarcerated in the state prison system; however, many individuals supervised by probation departments have never been in prison custody.

Table A. Percentage Failure/Return-to-Prison Rates by County: 2014–2018*

	2014	2015	2016	2017	2018
Statewide Total	3.2%	2.9%	3.3%	3.6%	3.5%
Alameda	3.1	3.7	3.2	3.4	3.4
Alpine	6.2	0	0	0	0
Amador	2.6	1.6	7.1	3.4	7
Butte	6.6	5.5	6.4	6.8	7.7
Calaveras	4.6	4.7	0.3	3.3	2.8
Colusa	3.5	5.3	6.9	12.1	7.8
Contra Costa	1.5	1.4	1.7	1.5	2.3
Del Norte	4.7	2.4	5.9	9.8	9.4
El Dorado	2.6	2.9	3.4	3	3.2
Fresno	4.4	4.4	5.6	6.3	6.1
Glenn	2.5	1.7	3.6	3.4	2.8
Humboldt	4.3	6.1	5	5.8	7.3
Imperial	3.9	3.7	3.1	4	4.1
Inyo	3	1.2	2.5	3.3	3.4
Kern	3.6	3.2	3.3	3.7	3.9
Kings	4.7	3.2	5.5	5.2	6.6
Lake	4.1	7.3	4.3	6.9	5.9
Lassen	3.9	2.8	7.2	11.2	2.9
Los Angeles	2.7	1.8	1.9	2.2	2.2
Madera	2.2	2	2.6	2.8	2.5
Marin	2.9	1.2	1.5	2.4	2.8
Mariposa	0.8	5.4	4.3	3.8	2.8
Mendocino	4.9	7.1	5.1	7.3	4.7
Merced	1.4	0.7	0.8	2.9	3.7
Modoc	1.3	3.2	0	1.5	1.3

	2014	2015	2016	2017	2018
Mono	0.4	0.8	0.5	0.6	2.8
Monterey	4.6	4.6	5	4.7	4.7
Napa	1.4	1.4	2.4	3.5	3.7
Nevada	1.4	1	2	2.3	1.2
Orange	1.9	2.1	2.1	2	2.3
Placer	2.7	2.5	1.8	2.4	3
Plumas	0.6	1.3	0	0	0.8
Riverside	3.2	3	3.7	4.3	4.5
Sacramento	5.9	6.3	4.3	4.2	4
San Benito	1.9	1.1	2.8	5.5	2.7
San Bernardino	1.7	2.1	5.3	5.8	4.8
San Diego	6.2	4.7	6.4	7.3	6.2
San Francisco	1.1	1.4	1.5	1	1.2
San Joaquin	2.1	1.8	2.3	2.3	2.4
San Luis Obispo	3.4	3.3	3.6	4.5	4.4
San Mateo	2.7	4.7	2.8	3.9	3.4
Santa Barbara	1.7	1.6	2.1	2.2	2.1
Santa Clara	2.6	2.8	3.1	3.6	3.1
Santa Cruz	0.7	1.3	1.2	1.3	2.8
Shasta	6.4	7.9	6.8	6.9	9.8
Sierra	3.8	4	0	0	3.8
Siskiyou	4.4	6.7	5.8	7.9	6.4
Solano	3	3.6	3.3	3.7	4.5
Sonoma	2.7	3.3	3.7	2.6	3.3
Stanislaus	3.8	3.6	4.4	4.3	5.3
Sutter	3.1	6.5	7.3	6.5	7.4
Tehama	8.9	4.1	1.9	1.9	5.7
Trinity	0.9	2.9	2.5	8.8	8.1
Tulare	3.1	2.9	2.8	3.2	3.1
Tuolumne	2.3	2.4	4	2.6	3.1
Ventura	6	6	8.2	7.2	8
Yolo	2.1	1.9	2.7	4.5	3.2
Yuba	6.5	9.5	10.2	10.3	9.1

* Counties with smaller felony offender populations will be more reactive to small changes in the actual number of revocations. For example, in a county with 1,000 felony offenders, an increase of five revocations would increase the RTP slightly, from 5 percent to 5.5 percent, whereas in a county with only 100 felony offenders, an increase of five revocations would *double* the return-to-prison rate, from 5 percent to 10 percent.

This appendix previously reported the felony offender failure rate using combined failures to state prison and county jail for individuals on probation only. These reports are available at www.courts.ca.gov/7466.htm.

Appendix B: SB 678 Funding Methodology

Background

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

Since passage of the act, the State of California has adopted significant changes in criminal justice policies that directly impacted SB 678—most notably the 2011 public safety realignment legislation, which reduced the number of probationers eligible for revocation to state prison and created two new groups of offenders subject to local supervision. To maintain effective incentives and account for the significant changes in criminal justice policy, SB 85, adopted as a trailer bill to the FY 2015–16 State Budget, revised the SB 678 funding formula and created a funding methodology that should serve as a long-term formula. Before the adoption of SB 85, the state adopted temporary measures.

Revised funding methodology, FY 2015–16

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

Funding component 1: Comparison of county to statewide return-to-prison rates. The first funding component measures each county’s performance against statewide failure rates. Each county’s return-to-prison rate (RPR)—which equals the number of individuals on felony probation, mandatory supervision, or postrelease community supervision sent to prison as a percentage of the total supervised population—is compared to statewide RPRs since the original SB 678 baseline period (2006 through 2008).

If a county’s RPR is less than or equal to the original statewide baseline of 7.9 percent, the county will receive a percentage of its highest SB 678 payment from the period between program inception and FY 2014–15. Depending on how a county’s RPR compares to statewide RPRs, a county can receive between 40 and 100 percent of its highest payment. The statewide RPRs and percentages of savings are defined in table B.

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

- If a county’s RPR is above 3.2 percent but no higher than 5.5 percent, the county will receive 60 percent of its highest prior payment.
- If a county’s RPR is above 5.5 percent but no higher than 6.1 percent, the county will receive 50 percent of its highest prior payment.
- If a county’s RPR is above 6.1 percent but no higher than 7.9 percent, the county will receive 40 percent of its highest prior payment.

Table B. Tier Categories Based on Return-to-Prison Rates

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

Funding component 2: Comparison of each county’s return-to-prison rate and its failure rate in the previous year. The second funding component is based on how each county performs in comparison to its performance the previous year. Each year, a county’s RPR from the previous year is applied to its current year’s felony supervised populations to calculate the expected number of prison revocations (see the explanation in the paragraph that follows). If a county sends fewer individuals on felony supervision to prison than the expected number, the county will receive 35 percent of the state’s costs to incarcerate an individual in a contract bed multiplied by the number of avoided prison stays.³¹ The number of avoided prison revocations is calculated separately for each felony supervised population (i.e., felony probation, mandatory supervision, postrelease community supervision).

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

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

Funding component 3: \$200,000 minimum payment. The third funding component guarantees a minimum payment of \$200,000 to each county to support ongoing implementation of evidence-

³¹ A “contract bed” is defined as “[t]he cost to the state to incarcerate in a contract facility and supervise on parole an offender who fails local supervision and is sent to prison.” (Pen. Code, § 1233.1(a).)

based practices. If a county's total payment (from funding components 1 and 2) is less than \$200,000, the Department of Finance will increase the final award amount so that it totals \$200,000.

Appendix C: SB 678 Allocation Payments

Table C. SB 678 Allocation Payments (in dollars)

	FY 2013–14	FY 2014–15	FY 2015–16	FY 2016–17	FY 2017–18	FY 2018–19
Statewide	101,042,863	124,771,913	125,096,592	125,312,835	114,567,882	109,317,411
Alameda	1,791,585	1,790,312	2,243,488	1,922,990	2,537,336	2,026,887
Alpine	77,339	200,000	200,000	391,028	200,000	200,000
Amador	77,339	200,000	200,000	200,325	200,000	218,645
Butte	200,000	200,000	370,116	746,201	370,116	416,404
Calaveras	291,065	407,392	244,435	264,543	548,390	329,034
Colusa	200,000	200,000	200,000	200,000	200,000	200,000
Contra Costa	5,449,662	3,868,228	4,647,293	6,674,147	4,573,373	6,643,176
Del Norte	200,000	200,000	211,197	253,626	200,000	200,000
El Dorado	200,000	200,000	352,966	300,213	240,090	348,495
Fresno	2,840,658	4,679,736	3,370,959	3,628,503	2,370,236	1,896,189
Glenn	200,000	261,896	202,647	214,973	200,000	200,000
Humboldt	259,125	200,000	474,030	359,283	562,066	359,283
Imperial	200,000	200,000	200,000	300,974	220,570	200,000
Inyo	200,000	231,912	200,000	282,183	200,000	200,000
Kern	1,531,693	2,119,224	2,715,301	1,845,404	1,533,387	1,470,557
Kings	1,643,303	608,548	1,206,112	1,300,163	832,117	1,105,869
Lake	238,229	200,000	408,995	301,675	603,684	261,458
Lassen	77,339	200,000	229,826	200,000	200,000	200,000
Los Angeles	35,093,572	43,838,601	43,306,893	45,133,491	36,557,344	36,557,344
Madera	1,097,358	1,191,068	1,080,042	1,170,529	1,110,255	1,154,285
Marin	1,115,222	596,404	946,388	1,447,592	945,969	935,898
Mariposa	200,000	200,000	221,920	200,000	200,000	200,000
Mendocino	200,000	200,000	437,401	238,926	539,671	238,926
Merced	1,675,043	1,300,128	1,675,043	1,866,071	1,675,043	1,005,026
Modoc	77,339	200,000	273,053	200,000	220,143	220,143
Mono	200,000	227,576	249,006	227,576	237,647	237,647
Monterey	200,000	200,000	200,000	200,000	200,000	300,463
Napa	200,000	498,032	567,979	573,809	410,767	326,188
Nevada	489,968	277,500	597,278	607,512	411,183	411,183
Orange	4,600,729	5,593,080	4,584,067	4,956,069	4,594,139	4,973,540

	FY 2013–14	FY 2014–15	FY 2015–16	FY 2016–17	FY 2017–18	FY 2018–19
Placer	767,337	639,456	537,136	667,839	738,561	537,136
Plumas	269,031	329,368	463,088	442,681	452,752	452,752
Riverside	5,775,282	3,113,620	7,157,600	8,525,846	6,567,046	6,454,147
Sacramento	14,957,581	19,827,592	10,158,000	7,951,145	15,532,276	12,300,413
San Benito	200,000	200,000	200,000	250,271	200,000	200,000
San Bernardino	3,487,558	10,587,596	12,327,550	7,411,317	7,017,260	5,293,798
San Diego	77,339	200,000	1,152,636	4,077,606	982,396	982,396
San Francisco	632,779	2,757,568	2,795,325	2,757,568	2,828,067	3,131,050
San Joaquin	2,146,757	3,046,544	2,381,676	2,336,619	2,276,534	2,224,202
San Luis Obispo	77,339	200,000	1,312,985	1,314,981	1,355,335	1,274,765
San Mateo	541,986	200,000	1,228,228	856,138	1,571,231	942,738
Santa Barbara	1,208,682	1,826,316	1,453,253	1,368,908	1,308,635	1,283,179
Santa Clara	954,483	1,716,820	1,201,774	1,252,045	1,211,845	1,030,092
Santa Cruz	1,456,083	1,269,796	1,896,183	1,745,642	1,785,927	1,786,928
Shasta	1,178,260	861,384	504,851	200,000	746,561	512,037
Sierra	77,339	200,000	200,000	200,000	210,071	210,071
Siskiyou	250,933	301,200	213,337	200,000	236,425	200,000
Solano	200,000	821,600	590,030	492,960	553,388	514,317
Sonoma	808,007	1,054,396	758,887	672,854	682,994	1,050,711
Stanislaus	803,111	200,000	1,174,045	957,128	675,613	825,171
Sutter	872,008	828,500	863,787	348,803	348,803	517,754
Tehama	77,339	200,000	200,000	532,284	334,747	242,065
Trinity	200,000	200,000	305,975	210,746	220,817	200,000
Tulare	885,545	1,375,288	1,635,534	1,866,778	1,877,244	1,651,855
Tuolumne	303,770	295,976	301,270	320,820	279,349	382,373
Ventura	600,965	200,000	733,122	593,192	200,000	783,267
Yolo	1,206,781	1,829,256	1,333,885	1,350,858	1,280,479	1,097,554
Yuba	200,000	200,000	200,000	200,000	200,000	200,000

Appendix D: SB 678 Monitoring, Reporting, and EBP Implementation

SB 678 requires county probation departments to report on their implementation of evidence-based practices and outcomes to enable the Legislature to monitor whether the program is having its intended effect.³² The Judicial Council collects quarterly statewide outcome data reported by the counties.³³ Since the start of the SB 678 program, the Judicial Council has provided technical assistance in data quality assurance to probation departments through site visits, multicounty conference calls, and contacts with individual counties.³⁴

The Judicial Council's data collection methods obtain the most critical data, balancing county resource constraints with the Legislature's interest in program evaluation based on accurate and detailed information, as mandated by statute. Data reported by county probation departments focus on quantitative outcomes, including the number of felony offenders placed on local supervision, revoked to prison or jail, and convicted of a new felony offense during the reporting period (see Appendix E). The Judicial Council reports program data to the Department of Finance), which uses the data to determine the appropriate annual level of performance-based funding for each county probation department.³⁵

In addition to collecting quarterly outcome-focused data, the Judicial Council developed an annual survey, *Implementation of Evidence-Based Practices: Annual Assessment Survey* (Annual Assessment), to gather information on probation departments' implementation of evidence-based practices (EBPs) and assist them in fulfilling the legislative mandate for evaluating the effectiveness of the SB 678 program.³⁶ The Annual Assessment focuses on five critical evidence-based practices: (1) use of validated risk and needs assessments; (2) effective supervision practices, including training on EBPs; (3) effective treatment and targeted intervention; (4) effective management practices; and (5) collaboration among justice system partners.³⁷

³² Pen. Code, § 1231(a): "Community corrections programs funded pursuant to this chapter shall identify and track specific outcome-based measures consistent with the goals of this act." *Id.*, § 1231(c): "Each CPO receiving funding pursuant to Sections 1233 to 1233.6, inclusive, shall provide an annual written report to the Judicial Council, evaluating the effectiveness of the community corrections program, including, but not limited to, the data described in subdivision (b)."

³³ Pen. Code, § 1231(b).

³⁴ The Judicial Council's Criminal Justice Services office has developed uniform data definitions, created and administered surveys, checked data submissions, matched revocation records submitted by probation departments with CDCR records, and investigated record inconsistencies.

³⁵ Pen. Code, §§ 1231(d), 1233.1.

³⁶ *Id.*, §§ 1231(c), 1232.

³⁷ The importance of each of these areas has been supported in a number of reports; see, for example, Crime and Justice Institute at Community Resources for Justice, *Implementing Evidence-Based Policy and Practice in Community Corrections* (National Institute of Corrections, 2d ed. Oct. 2009), <https://nicic.gov/implementing-evidence-based-policy-and-practice-community-corrections-second-edition>.

The survey is designed to measure probation departments' reported EBP implementation changes over time and to identify program spending priorities.

The SB 678 program was designed to improve the effectiveness of probation departments' supervision practices through increased use of evidence-based practices, defined in statute as "supervision policies, procedures, programs, and practices demonstrated by scientific research to reduce recidivism among individuals under local supervision."³⁸ The term denotes a wide range of systematic supervision practices that research has demonstrated to be effective in promoting and supporting positive individual behavioral change in people with criminal convictions. The SB 678 program provides support to probation departments in their efforts to implement necessary programmatic and systemic changes, and to improve practices that directly target adult felony offender behavior.³⁹

The SB 678 program recognizes five areas of EBP as most critical for improvement for county probation departments. Each department is required to provide a yearly report (Annual Assessment)⁴⁰ to the Judicial Council evaluating the effectiveness of its programs focusing on these five areas.⁴¹ This survey is designed to measure probation departments' self-reported EBP implementation levels⁴² and changes in EBP implementation over time.⁴³

Findings from the Annual Assessment indicate that the SB 678 program has been highly successful in increasing the levels of EBP implementation throughout the state (figure D.1). All components of EBP measured in the survey are indicative of substantially higher implementation of EBPs than at baseline, and in 2016 and 2017 appear to be continuing this upward trend more

³⁸ Pen. Code, § 1229(d).

³⁹ *Id.*, § 1230(b)(3)(A)–(E).

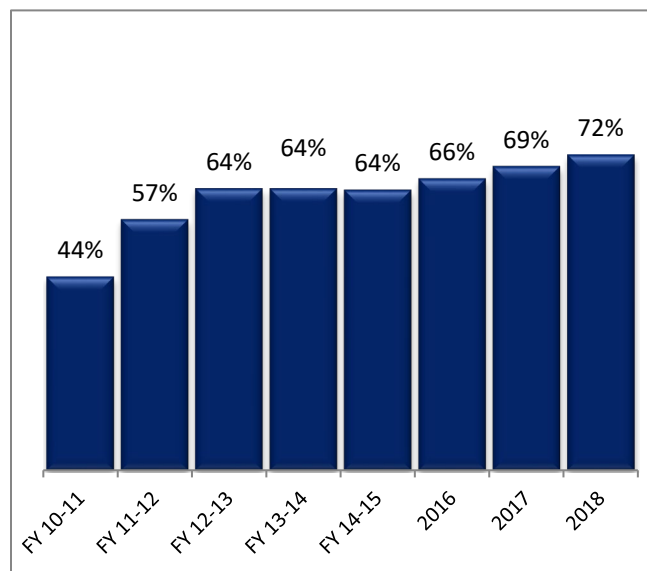
⁴⁰ Because the survey was developed before Realignment, it initially focused solely on the felony probation supervision population. Beginning in 2014, probation departments were asked about their use of evidence-based practices in supervising all felony populations, including individuals on mandatory supervision and postrelease community supervision (PRCS).

⁴¹ Pen. Code, § 1231(c).

⁴² The Annual Assessment includes 41 scaled items designed to measure the level in which specific EBP focus areas have been implemented by the probation departments. Scaled items are scored on a four-point scale from 0 to 3, with 3 as a gold standard rating for a given aspect of EBP. Implementation levels for the five EBP categories are calculated by summing a department's responses in a particular category and dividing that sum by the total possible points for that category. Overall EBP implementation levels for each probation department are calculated by taking the average of a department's scores across the five EBP categories.

⁴³ Increases in the self-reported levels of EBP implementation may gradually flatten over time given the structure of the Annual Assessment's scoring scheme. To achieve the highest/gold standard rating across multiple items and multiple categories may be challenging for counties. As a result, increases in the percentage change in EBP implementation in the future may be less than that reported in the current or previous years.

Figure D.1. Gains in the Reported Use of All Evidence-Based Practices Over Time



gradually.⁴⁴ The leveling reported between FY 2012–13 and 2018 may be due in part to the natural stabilization of practices and policies.

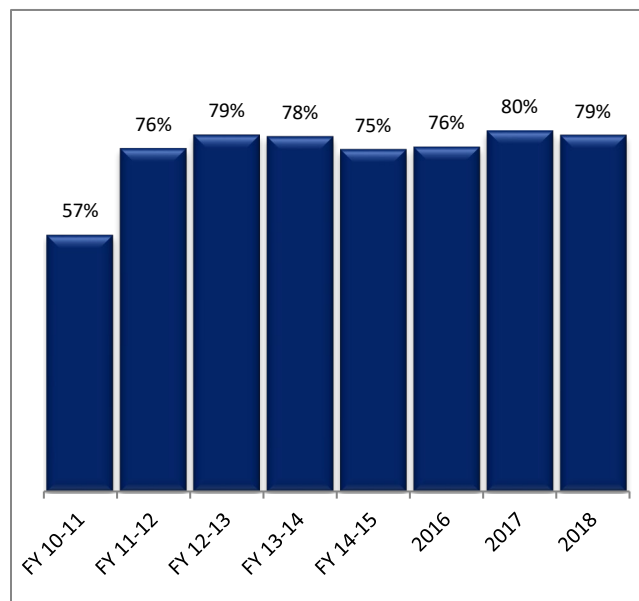
Another factor that might influence the measured level of implementation is related to changes in criminal justice policy, including criminal justice realignment, and how, for example, probation departments have adapted their policies to accommodate the supervision of populations they did not previously supervise, such as individuals on PRCS.

assessments

Validated tools for risk and needs assessment (RNA) are standardized instruments that typically measure both static risk factors (those that do not change, e.g., criminal history) and dynamic risk factors (those that potentially may change, e.g., education level). The use of validated risk and needs assessment tools has been substantiated as one of the most valuable components of evidence-based practices for supervision of adult felony offenders.⁴⁵ The tools can be used to provide caseload information to probation departments, helping officers to identify and focus on higher-risk populations while investing fewer resources in low-risk adult felony offenders. Using validated risk and needs assessments to focus resources on higher-risk offenders, and to structure caseloads so that low-risk offenders are supervised separately from higher-risk offenders, has proven to be an effective EBP. The Annual Assessment category of RNA information implementation is based on six questions covering the use and validation of risk and

Validated risk and needs

Figure D.2. Implementation of RNA Information



information implementation is based on six questions covering the use and validation of risk and

⁴⁴ Overall reported levels of EBP implementation are calculated by taking the average of a department’s scores across the five EBP categories.

⁴⁵ Crime and Justice Institute, *supra*, note 38.

needs assessment tools and how thoroughly the department trains and oversees users of assessments.

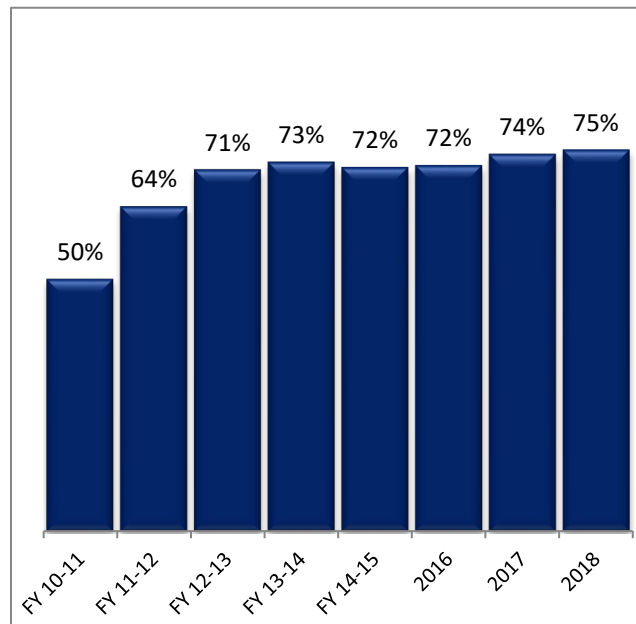
Since the implementation of SB 678, probation departments have made significant improvements in incorporating the use of validated risk and needs assessments in their supervision practices. Every department in the state now uses an assessment tool, and the majority of individuals on supervision undergo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

Evidence-based supervision practices

The relationship between a probation officer and an adult felony offender plays an important role in increasing the probability of an individual's success on probation. Officers can support offenders' positive behavior changes by forming appropriate, motivating relationships with those they supervise.⁴⁶ Providing swift, certain, and proportionate responses to offenders' negative

behavior is also an important element in supervision that can increase the likelihood of success on supervision.⁴⁷ The Annual Assessment category of evidence-based supervision practices is based on 15 questions focused on the relationship between the probation officer and the offender. Probation departments have substantially increased the use of evidence-based practices since SB 678 began. For example, in 2010 only 21 percent of departments reported that most of their officers (i.e., 75 percent or more) were trained in cognitive behavioral therapy techniques. In 2018, this number had risen to 75 percent.

Figure D.3. EBP Supervision



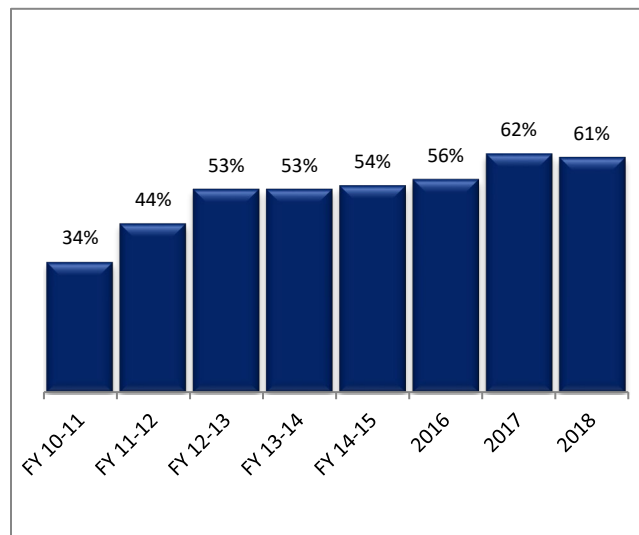
⁴⁶ M. L. Thigpen, T. J. Beauclair, G. M. Keiser, and M. Guevara, *Motivating Offenders to Change: A Guide for Probation and Parole* (National Institute of Corrections, U.S. Department of Justice, 2007).

⁴⁷ 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.

Programs/treatment/services and targeted intervention

Research suggests that treatment programs should address the individual offender’s assessed risk and needs, with a primary focus on dynamic risk factors. Cognitive behavioral therapy that

Figure D.4. Programs/Treatment/Services



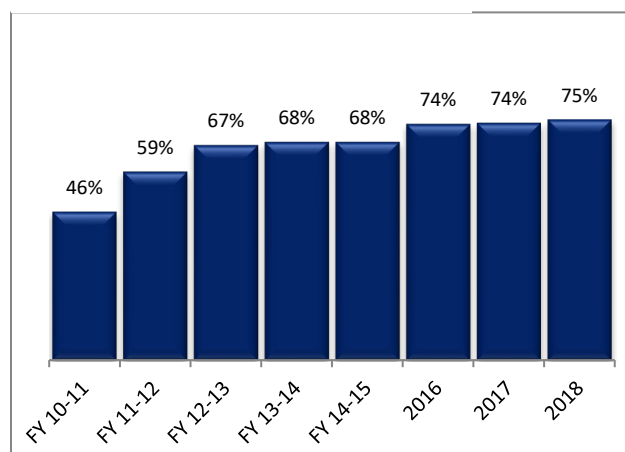
addresses offenders’ antisocial thinking patterns has been demonstrated to be an effective technique for high-risk offenders. Research has also confirmed that the effectiveness of treatment programs increases when the programs are tailored to characteristics such as gender and culture.⁴⁸ The Annual Assessment category of treatment and targeted intervention implementation is based on five questions about how referrals are made and the existence of treatment programs that have been evaluated for effectiveness, weighted by the amount of unmet need among medium- and high-risk offenders.

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

Collaboration among justice system partners

Effective implementation of evidence-based supervision practices requires buy-in from criminal justice partners. The collaboration of judges, district attorneys, public defenders, sheriffs, service providers, and others facilitates efforts by probation departments to put new procedures and protocols into place. Collaboration enables the entire justice system to provide a consistent focus on adult felony offender

Figure D.5. Collaboration



⁴⁸ 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.

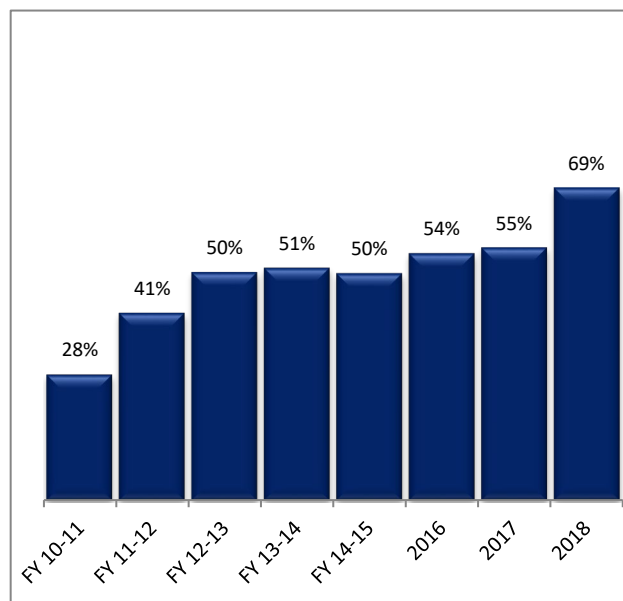
behavior change and recidivism reduction.⁴⁹ The Annual Assessment measures the level of collaboration implementation based on six questions about the ways in which the department works with its justice partners, including but not limited to courts and treatment providers. Nearly all probation departments have increased the level of collaboration within their counties. Those that have shown the highest degree of collaboration have generally shown improved outcomes and are able to implement EBPs that may involve additional justice partner buy-in.⁵⁰

Management and administrative practices

Clear direction, support, and oversight from probation department management are necessary to ensure that officers understand the department’s evidence-based practices and protocols and are motivated to work toward full implementation.⁵¹ To assess how probation departments’ management and administrative practices align with EBPs, the Annual Assessment includes nine questions that explore how hiring and performance review guidelines and practices are linked to EBP skills and whether:

- Supervisors monitor evidence-based adult felony offender supervision practices by observing offender contacts;
- The department collects service and offender outcome data and data are used internally to improve services and practices;
- There has been a formal evaluation of supervision practices; and
- Supervisors support and monitor the use of risk and needs assessments, motivational interviewing, and cognitive behavioral therapy.

Figure D.6. Management and Administration



The SB 678 program has been highly effective in increasing the use of evidence-based practices in probation departments throughout the state and has resulted in substantial reductions in the number of adult felony offenders going to state prison. Although the

⁴⁹ Crime and Justice Institute, *supra*, note 38.

⁵⁰ See, e.g., Judicial Council of Cal., *The California Risk Assessment Pilot Project: The Use of Risk and Needs Assessment Information in Adult Felony Probation Sentencing and Violation Proceedings* (Dec. 2015), www.courts.ca.gov/documents/cj-CalRAPP-FinalReport-2015.pdf.

⁵¹ 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.

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

Appendix E: Performance Outcome Measures for the SB 678 Program

Table E. Performance Outcome Measures for the SB 678 Program (Pen. Code, §§ 1231 and 1232)^a

	2011	2012	2013	2014	2015	2016	2017	2018
% Individuals under local supervision supervised with EBPs^b (1231(b)(1))	32% (n = 57)	52% (n = 55)	64% (n = 55)	61% (n = 51)	64% (n = 52)	74% (n = 54)	77% (n = 55)	81% (n = 52)
% State monies spent on evidence-based programs^c (1231(b)(2))	93.70%	100%	100%	100%	100%	100%	100%	100%
Supervision policies, procedures, programs, or practices that have been eliminated^d (1231(b)(3))	Replacement of a risk and needs assessment tool No longer using a “one size fits all” supervision approach Now using risk level to determine supervision approach No longer organizing caseloads by offense type or subjective criteria No longer actively supervising low-risk felony offenders; now banking low-risk felony offenders Elimination of “zero tolerance” violation policies; now using graduated sanctions to respond to violations							
Total probation completions (1231(b)(4))	Data not available	82,544	85,254	70,689	63,773	53,153	49,530	47,076
Unsuccessful completions (1231(b)(4))	Data not available	17,684	19,612	18,601	13,937	13,686	14,377	14,140
Felony filings^e (1231(d)(1))	241,222	243,962	261,268	272,484	216,084	192,612	189,013	Data not available
Felony convictions (1231(d)(2))	158,396 ^f	158,252 ^g	167,950 ^h	178,476	139,927	118,215	112,377	Data not available
Felony prison admissionsⁱ (1231(d)(3))	50,678	33,990	36,526	38,103	34,376	35,629	37,138	35,355
New felony probation grants (1231(d)(4))	81,892	79,711	85,863 ^j	83,628	59,389	61,858	60,788	57,805

Adult felony probation population (1231(d)(5))	324,158	316,478	309,442	305,811	280,098	269,555	267,221	265,070
Total Supervised Felony Population	324,158	358,881	352,887	351,341	325,870	316,132	314,592	313,544
Total probation revocations to state prison	17,924	8,252	8,834	7,881	7,015	7,698	8,279	8,128
Prison revocations for new felony offense (1231(d)(6) & (d)(7))	6,896	4,133	4,632	3,885	3,427	3,384	3,249	2,944
Total probation revocations to county jail	----	9,048	9,420	9,295	4,818	5,935	6,446	6,427
Jail revocations for new felony offense (1231(d)(8) & (d)(9))	----	2,691	3,002	2,973	1,289	1,396	1,617	1,416
Total revocations^k	17,924	17,300	18,687	18,601	13,937	13,686	14,377	14,140
% Felony probationers convicted of a crime^l (1232(c))	Data not available	10.80%	11.80%	10.66%	6.48%	6.50%	6.32%	6.25%
% Felony probationers convicted of a felony^{m,n} (1232(c))	Data not available	5.70%	7.30%	7.39%	3.34%	3.30%	3.33%	3.27%

^a Except where indicated, all data were reported to the Judicial Council by 58 probation departments.

^b The data reported are statewide averages, including individuals on warrant status. The figures for FY 2010–11 and FY 2011–12 include felony probationers only. For FY 2012–13 onward, this figure includes MS and PRCS.

^c Data are reported for FY 2010–11, FY 2011–12, and FY 2012–13. FY 2010–11 and FY 2011–12 totals reflect the proportion of the total allocation. The totals for FY 2012–13 and FY 2013–14 reflect the total of funds *spent*. (Table 1.)

^d Probation departments were asked to list supervision policies, procedures, programs, and practices that were eliminated since the effective date of SB 678. Twenty-seven probation departments submitted data for this question. The information provided here is a summary of the open-ended responses.

^e These data were taken from the 2018 Court Statistics Report, www.courts.ca.gov/documents/2018-Court-Statistics-Report.pdf.

^f These data were taken from the 2012 Court Statistics Report, www.courts.ca.gov/documents/2012-Court-Statistics-Report.pdf. Data are reported for FY 2009–10 and FY 2010–11.

^g These data were taken from the 2013 Court Statistics Report, www.courts.ca.gov/documents/2013-Court-Statistics-Report.pdf. Data are reported for FY 2011–12. Data for FY 2012–13 were not yet available.

^h These data were taken from the 2018 Court Statistics Report, www.courts.ca.gov/documents/2014-Court-Statistics-Report.pdf. Data are reported for FY 2012–13. Data for FY 2013–14 were not yet available.

ⁱ These data are taken from the reports of the California Department of Corrections and Rehabilitation's *Characteristics of Felon New Admissions and Parole Violators Returned With a New Term* for calendar years 2010 through 2013. Reports for individual years are available at the CDCR archive at www.cdcr.ca.gov/research/adult-characteristics-historical/.

For calendar years 2015 through 2017, the data are from the CDCR's *Offender Data Points* (Dec. 2017), available at www.cdcr.ca.gov/research/wp-content/uploads/sites/174/2019/08/DataPoints_122017.pdf. Calendar year 2018 data were provided by the CDCR Office of Research by request.

^j This figure represents data from 56 probation departments.

^k For 2012 and 2013, this figure is a sum of total revocations to both prison and county jail.

^l This figure represents probation departments able to report complete data for the year. In 2012, this figure represents 49 departments; in 2013, 51; in 2014, 56; in 2015, 58; in 2016, 56; in 2017, 57; and in 2018, 55.

^m This figure represents probation departments able to report complete data for the year. In 2012, this figure represents 49 departments; in 2013, 52; in 2014, 56; in 2015, 58; in 2016, 56; in 2017, 57; and in 2018, 55.

ⁿ The substantial drop in felony probationers convicted of a crime in 2015 may be in part related to Prop. 47, which reduced the felony probation population and reclassified many drug- and theft-related crimes from felonies to misdemeanors.