

III Cicero Institute

Performance Incentive Funding: Rewarding What Works in America's Probation and Parole Systems

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Too many Americans are trapped in a perpetual wheel of crime and punishment. Probation and parole departments seem to lack the will or ability to return individuals caught in the criminal justice system to peaceful lives in their communities.

Government failure on this scale impacts all of society. The penal system costs our nation \$80 billion annually and is a top expenditure for many local and state governments.¹ This is a crushing burden for most states, which are already struggling to afford necessities like infrastructure maintenance and K-12 education.

These costs continue to rise—by a staggering 7.5 percent *each year* since 1990.²

One of the primary drivers of incarceration are this country's broken probation and parole systems. But these systems *can* be fixed, and reformers are thinking creatively about how to approach the problem. The most promising approach is a model called “performance incentive funding.” The idea is simple: Rather than force probation and parole districts to adopt specific reforms, they are simply awarded additional funding for successfully reducing recidivism rates. And the program is self-sustaining—those funding incentives comes from savings from avoided corrections expenses.

Incentive funding gives practitioners at the ground level a stake in the success of the people they work with. Studies have shown that performance incentive funding fosters innovation, produces locally tailored solutions, and, ultimately, reduces the number of people who end up back in jails and prisons. If every state adopted a performance incentive funding model, over half a million Americans could be kept out of prison over the next ten years, saving taxpayers roughly \$18.6 billion.

A SNAPSHOT OF PROBATION AND PAROLE

Over the past decade, the United States has made historic strides in reducing its prison population.

The adult incarceration rate across the local, state, and federal levels has decreased every year since 2008. In 2018, the portion of the population under correctional supervision reached the lowest level since 1992.³ Despite these improvements, America still incarcerates more people than any other country in the world. High re-offense rates create a revolving door between prison and community supervision. A study by the Bureau of Justice Statistics found that more than two-thirds of people released from prisons were re-arrested within three years.⁴ Clearly, America's approach to corrections is not reaching the desired result.

Community supervision is supposed to be a path back to normal life. But people on community supervision face severe challenges as they attempt to re-enter society. For those on probation, run-ins with the law may have cost them their jobs, apartments, or family support. Individuals released from prison receive very little assistance—typically a bus ticket, a pair of used clothes, and a few dollars in “gate money.”⁵ Overall, the unemployment rate for formerly incarcerated people is 27 percent, which is higher than national unemployment rates during the Great Depression.⁶ People on probation and parole face tough odds. If they are to succeed, they need not only supervision, but also support.

Unfortunately, instead of helping individuals who committed crimes stay out of prison, probation and parole are often pathways back to prison. Each year, approximately 260,000 people on supervision are returned to prison, accounting for 45 percent of total prison admissions nationwide.⁷ Just under half of these revocations are for new crimes. The rest are for minor, technical violations, like missing a meeting, making a mistake on paperwork, or staying out past curfew. Studies by the Vera Institute for Justice suggest that in many cases involving technical violations, re-incarceration does not improve public safety.⁸

To effectively shepherd people back into society,

¹ <https://www.themarshallproject.org/2019/12/17/the-hidden-cost-of-incarceration>

² <https://www.governing.com/archive/corrections-cost-correction.html>

³ <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=7026>

⁴ <https://www.bjs.gov/index.cfm?ty=pbdetail&iid=6266>

⁵ <http://americanradioworks.publicradio.org/features/hardtme/gatemoney/>

⁶ <https://www.prisonpolicy.org/reports/outofwork.html>

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https://www.jstor.org/stable/pdf/10.1525/fsr.2013.26.2.128.pdf?ab_segmen ts=0%252Fdefault-2%252Fcontrol&refreqid=excelsior%3A85d3a60ad7410881bc356207c2d7a27

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the job of a probation or parole officer must extend beyond that of law enforcement. Rehabilitation and collaboration are as important to success as surveillance and discipline. State governments must transform probation and parole from pipelines to prison into pathways to a productive, law-abiding life. State legislators should embrace performance-based reward system, which have a well-established track record of the right outcomes

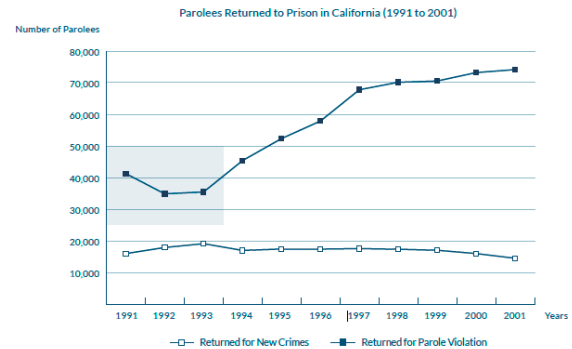
A TALE OF TWO REFORMS: INCENTIVES VERSUS MANDATES

Criminal justice experts often spend decades researching and evaluating government program performance from endless angles in the pursuit of perfect policy recommendations. Researchers get mired in expensive, lengthy randomized control trials to determine whether particular rehabilitative programs are effective. These studies aim to find the most rigorously defensible programs, which can then be rolled out across the country, ensuring a uniform criminal justice system that delivers consistent outcomes.

The reality is that top-down solutions are rarely optimal—regardless of how well supported they may be by the academic literature. A brief review of two approaches to reform in California illustrates how important incentives are to successful reforms.

In the early 1990s, California experimented with rewarding parole units if they were able to reduce the number of people they revoked to prison, and taxing parole units if they increased the number of people they revoked to prison. Savings were redistributed to successful parole units.⁹ The program resulted in approximately ten thousand fewer parole revocations in 1992 alone, and within two years the revocation rate had dropped from 58 percent to 35.5 percent.¹⁰ In addition, the disparity in return rates between parole offices and parole regions dropped significantly — by 48 percent and 67 percent respectively! That is, under a uniform set of incentives and with the freedom to adopt practices tailored to local needs, California parole units

converged on a strikingly similar set of results. The reform was hugely successful until its repeal in 1993, after which parole revocation rates once again skyrocketed.



In 2010 California piloted a very different kind parole reform called the “Parole Supervision and Reintegration Model” (CPSRM). Policymakers who started the program drew from leading academic research and cutting-edge practices to design what was, at the time, considered the gold standard in evidence-based rehabilitation. The Parole Reform Task Force was confident that these best-of-the-literature-review policies would dramatically improve rehabilitation and supervision. CPSRM mandated that parole agents implement particular rehabilitation strategies without allowing them to share in the upside of their success. Because CPSRM did

| | Violations by Group and Type of Release | | | | | | | |
|---------------------|---|------|-----------------|------|-----------------------|------|-----------------|------|
| | First released (N=1,625) | | | | Re-released (N=1,057) | | | |
| | CPSRM (N=1,625) | | Control (N=966) | | CPSRM (N=446) | | Control (N=608) | |
| | N | % | N | % | N | % | N | % |
| Any violation | 411 | 62.4 | 600 | 62.1 | 362 | 80.6 | 477 | 78.5 |
| Technical violation | 253 | 38.4 | 383 | 39.6 | 274 | 65.1 | 348 | 57.2 |
| New crime violation | 358 | 54.3 | 541 | 56 | 309 | 68.8 | 412 | 67.8 |

not financially incentivize parole departments to enact the reform, violation rates saw almost no improvement relative to departments that implemented no changes at all.

⁹Austin, James. “Regulating California’s Prison Population: The Use of Sticks and Carrots.” *Annals of the American Academy of Political and Social Science*, February 18, 2016. <https://journals.sagepub.com/doi/abs/10.1177/0002716215602700?journalCode=anna>.

¹⁰ California Department of Corrections and Rehabilitation “A

Roadmap for Effective Offender Programming in California.” Report to the California State Legislature, 2007. http://ucicorrections.seweb.uci.edu/files/2007/06/Expert_Panel_Report.pdf

INCENTIVIZING BETTER OUTCOMES WITH PERFORMANCE-BASED REFORMS

Performance incentive funding (PIF) accounts for the reality that there is no perfect set of rehabilitation programs. What works in one place doesn't always work in another. Rather than mandating a certain rehabilitative program that worked in location A be applied to locations B-Z, PIF creates a system that rewards any local program that achieves the measurable results. This incentive-based approach aligns practitioners—supervision officers, specialists, program coordinators—towards the correct ultimate metrics. In the case of probation and parole, the right metric is reducing revocation to prison rates.

Several states have demonstrated that PIF programs drive probation and parole departments to achieve measurable, positive outcomes. In Illinois, for instance, a PIF program in juvenile corrections reduced the number of juveniles admitted to youth corrections facilities by 51 percent.¹¹ A 2005 reform in Texas reduced technical revocations in participating probation departments by 13.4 percent. Probation departments that did not opt-in *increased* such revocations by 5.9 percent over the same period.¹² In 2007, Kansas adopted a performance-based grant system with the goal of dropping the statewide revocation rate by 20 percent. County community supervision departments exceeded that goal in the first year, and within three years, revocations were down 25 percent across the state.¹³ Ohio experimented with a similar grant program that kept 3,000 people out of prison between 2012–2016.¹⁴ In a recent meta-study, La Vigne et al. found that each of the 17 PIF programs studied reduced prison populations or slowed prison population growth.¹⁵

The effects of PIF are so profound that the programs see significant results even when states

fail to pay parole and probation offices the promised incentive funding.

Following the Safe Communities Act, which implemented a PIF program, Arizona's county probation departments dropped revocations by 31 percent at the same time that the state's crime rate fell by more than a quarter.¹⁶ Due to the budget crisis in the aftermath of the Great Recession, no reward funding was ever paid out. Even so, leaders in Adult Probation Services have suggested that the mere expectation of funding had a substantial impact on officer culture and contributed to the state's impressive reductions in supervision revocation rates.¹⁷

SB 678: A ROADMAP FOR SUCCESS

The best evidence in support of performance incentive funding comes from California, which has experienced unmatched success in its probation system since the legislature enacted Senate Bill 678. SB 678 was sponsored by Mark Leno, a San Francisco Democrat, and John Benoit, a Riverside Republican. Remarkably, the bill passed both houses without a single "No" vote and elicited broad support from interest groups of all stripes. Though little-known, SB 678 ("The California Community Corrections Performance Incentives Act") is one of the most impressive achievements in criminal justice policy in the last two decades.

A common problem in criminal justice is that county-funded probation departments tend to shift costs to state-funded prisons. Seventy-five percent of people charged with felonies in California are sent to probation, and probation officers are only too happy to lighten their caseloads and reduce county costs by sending these individuals to state prison — even though prisons are more expensive by an order of magnitude. SB 678 solved this problem by allocating performance-based funding to counties

¹¹ <http://www.icjia.state.il.us/redeploy/>

¹² Glod, Greg. "Incentivizing Results." Texas Public Policy Foundation, January 2017. <https://files.texaspolicy.com/uploads/2018/08/16103231/2016-11-PP27-IncentivizingResults-CEJ-GregGlod.pdf>

¹³ <https://www.doc.ks.gov/community-corrections/news/2010-risk-reduction-initiative-report-sb14/view>

¹⁴ <https://csgjusticecenter.org/projects/justice-reinvestment/past-states/ohio/>

¹⁵ LaVigne, Nancy. "Justice Reinvestment Initiative State Assessment Report." Urban Institute, 2014..

¹⁶ <https://csgjusticecenter.org/2017/03/16/probation-performance-how-arizonas-county-probation-departments-increased-public-safety-while-saving-taxpayers-millions/>

¹⁷ Programs in Arkansas and South Carolina also did not receive funding from their respective legislatures after showing early signs of success. For more details, see: <https://www.ciceroinstitute.org/performance-incentive-funding-programs>.

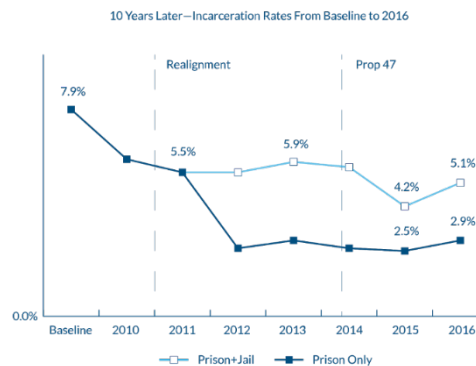
which reduced the percentage of felon probationers they returned to prison for technical violations of probation or for new crimes.¹⁸

SB 678 incentivizes counties to rehabilitate as many inmates as possible by giving them a percentage of the money the state saves in rehabilitation costs.¹⁹ The results are staggering. Between 2009 and 2017, probation officers successfully averted thousands of supervised felons from incarceration, resulting in a total allocation of \$703 million to California counties and over a billion dollars in estimated savings to California taxpayers.²⁰

Some of California’s success over the past decade is due to the statewide Public Safety Realignment (AB 109) that occurred in 2011 and limited the number of new convictions made across the state. But even in the first two years of the SB 678 program the results were obvious. Compared to an annualized return-to-prison rate of 7.9 percent in 2006-2008, the return-to-prison rate declined to 6.1 percent in 2010, and 5.4 percent in 2011, even while violent and property crimes decreased substantially.²¹²²²³ The Legislative Analyst’s Office estimates that SB 678 averted 27,000 people from prison between 2010 and 2013 and saved \$230 million for the state.²⁴

In addition, Realignment channeled more serious, high-risk individuals into California probation departments, which made it more difficult for probation departments to reduce the rates at which they returned people to prisons and jails. But surprisingly, probation failure rates (returns to either prisons or jails) have remained low and have even dropped since the passage of the Realignment. This success is attributable to the healthy incentive structure created by SB 678. Whereas only 12 percent of Realignment funding wound up in community-based rehabilitation programs, nearly half of SB 678 funding was deployed towards

rehabilitation.²⁵



In the last decade, California county probation departments developed risks-and-needs assessments to determine the level of supervision for probationers, adopted electronic monitoring, hired additional staff, and implemented a variety of evidence-based rehabilitation practices. Each county pursued a slightly different strategy according to the needs of their probation population. Whereas Marin County probation hired “recovery coaches” to work with people on substance abuse treatment, vocational training and more, San Diego County partnered with UC San Diego to identify the best evidence- based practices, and Fresno County created a Day Reporting Center with a variety of service offerings.²⁶

SB 678 freed California probation departments to create their own innovative solutions, tailored to the unique problems facing their caseloads. When a new strategy worked, departments reaped a share of the success. When a practice failed, departments were incentivized to stop using it immediately. As a result, the best ideas gained momentum and outcomes improved considerably.

In general, we know that certain extremely

¹⁸ The bill also required county probation departments to implement “evidence-based” rehabilitation practices and allocate shared savings towards “evidence-based” rehabilitation, but the term “evidence-based” has become so vague as to be meaningless, so the financial rewards structure is the much more interesting component of the law. See: http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_678_bill_20090625_amended_asm_v96.pdf.

¹⁹ See technical appendix I.

²⁰ <https://www.courts.ca.gov/documents/lr-2017-JC-SB-678-CCC-performance-incentives-act.pdf>

²¹ <https://openjustice.doj.ca.gov/crime-statistics/crimes-clearances>.

²² <https://www.courts.ca.gov/documents/SB678-Year-2-report.pdf>.

²³ The statewide return-to-prison rate has since stabilized around

3.3%. <https://www.courts.ca.gov/documents/lr-2017-JC-SB-678-CCC-performance-incentives-act.pdf>.

²⁴ <https://www.courts.ca.gov/documents/SB678-Year-2-report.pdf>

²⁵ Flynn, Kathleen. “Putting Teeth into A.B. 109.” Golden Gate University Law Review, 2013.

²⁶ Californians for Safety and Justice. “Strengthening Community Corrections: Increasing Public Safety and Reducing Costs in California.” https://www.cpoc.org/sites/main/files/file-attachments/sb_678_-_californians_for_safety_and_justice_o.pdf

successful rehabilitation programs — such as the Prison Entrepreneurship Program in Texas and The Last Mile program in California — have been able to get recidivism rates down to a mere 7 percent or lower.²⁷²⁸²⁹³⁰ We also know that educational, cognitive behavioral, and domestic violence programs can reduce recidivism by more modest but still significant margins.³¹³² What we need to do is make sure that probation and parole departments are incentivized to comb through a toolbox of rehabilitation techniques to find strategies that truly work, rather than “checking the box” and enrolling people into programs with low success rates.

POLICY PROPOSAL: PERFORMANCE INCENTIVE FUNDING FOR PROBATION AND PAROLE

If states are serious about reducing recidivism rates, they must implement some form of PIF. Such a policy would calculate the historic return-to-incarceration rate for each probation or parole district (inclusive of returns to jail and prison), estimate the number of people averted from having their probation or parole terms revoked and from committing new crimes, and reward successful districts with a percentage of the state’s savings.³³ The state would disburse the reward to the district supervisor, who would be empowered to spend the funding on rehabilitative programs, evidence-based practices, officer bonuses, technology and equipment upgrades, or whatever else the district needs to continue to succeed.

If properly motivated, probation and parole departments will experiment with different kinds of rehabilitative strategies. Chief among these are supplying additional housing to people on parole, locating the best possible rehabilitation programs for substance abuse, investing in educational programs such as college classes for people on parole, and

refining behavioral rehabilitation programs for anger management, sexual abuse, batterers, mental disability, etc. These strategies are an excellent alternative to the traditional “trail ‘em and nail ‘em” approach and will become central to successful rehabilitation efforts.

Some districts will locate such rehabilitation programs under the same roof — in a halfway house or navigational center, for instance — whereas others will perform them separately. We expect to see simple improvements, for instance daily, positive text messages from parole agents, and a relaxing of check-in requirements for low-risk individuals.

Some districts will hire additional staff. All districts will become more selective about the kinds of vendors they work with, and more carefully allocate resources to third-party programs based on their performance. They may pursue the use of social impact bonds in which third parties are paid only if they reduce recidivism by a predetermined amount.³⁴

We estimate that if every state adopted a performance incentive funding model, over half a million Americans could be kept out of prison over the next ten years, saving taxpayers roughly \$18.6 billion. Incentive-based reforms are proven to shift the culture of probation and parole departments and give people on supervision a real shot at starting new lives.

CONCLUSION

The evidence is clear: performance incentive funding works. Policymakers and reformers should mobilize a bipartisan consensus to deliver incentive-based reforms to probation and parole. Legislators must have the political courage to embrace a marketplace of ideas in corrections and create a new system that rewards rehabilitation strategies that succeed and phases out those that don’t. Only in a system with real accountability will the best ideas

²⁷ <https://www.pcp.org/pep-results/>

²⁸ Guynn, Jessica. “Silicon Valley turns prisoners into programmers at San Quentin.” USA Today, Nov 14., 2014.

²⁹ Alfaro, Lyanne. “Texas Program is Turning Thousands of Ex-Cons into Entrepreneurs.” CNBC, March 22, 2017.

³⁰ https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1494019

³¹ Nicholaichuk et al. “Outcome of an Institutional Sexual Offender Treatment Program: A Comparison Between Treated and Matched Untreated Offenders.” SEX ABUSE, 2000. /

³² Coulter, Martha and Carla VandeWeerd. “Reducing Domestic Violence and Other Criminal Recidivism: Effectiveness of a Multilevel Batterers Intervention Program.” Violence and Victims, Vol. 24.2, 2009..

³³ Whereas SB 678 initially rewarded probation departments on the basis of reduced “return-to-prison” rates, we propose rewarding parole departments on the basis of reduced “return-to-incarceration” rates, inclusive of returns to jail as well as returns to prison.

³⁴ Cullen et al. “Reinventing Community Corrections.” Crime and Justice, 2017.

and methods win. With the appropriate framework, we can restore our most fragile communities and improve public safety by reducing recidivism rates statewide. Performance-based funding would transform our criminal justice system into the humane, modern institution it should be.

TECHNICAL APPENDIX 1

The SB 678 funding structure has undergone two mutations. In 2013 the state began rewarding probation departments based on the combined return to prison-and-jail rate rather than just the return-to-prison rate, since the Realignment diverted about half of all failed felon probationers into county jails. In 2015, the California state legislature included the Post Release Community Supervision and Mandatory Supervision populations of felon probationers in the total county numbers, and updated SB 678 with a slightly modified funding structure. Today, a county probation department's reward is calculated in the following way:

1) If the felon probation population's rate of return to prison is greater than or equal to the original statewide baseline of 7.9 percent, county gets 40-100 percent of the highest payment accorded to it between 2009 and 2015 (when the rewards structure changed).³⁵³⁶

| Return-to-Prison Rate | % of Highest Prior Payment |
|-----------------------|----------------------------|
| <1.5% | 100% |
| 1.5-3.2% | 70% |
| 3.2%-5.5% | 60% |
| 5.5-6.1% | 50% |
| 6.1-7.9% | 40% |

2) Is the country sending fewer people to prison than would be expected from the return-to-prison rate from last year? If yes, county receives 35 percent of state's costs to incarcerate an individual * # of individuals kept out of prison.

3) If (1) and (2) don't add up to \$200,000 CA will guarantee the county the difference so the county is making at least \$200,000 for implementing evidence-based practices

We prefer the reimbursement schedule in the original SB 678 for a new parole reform bill. The original rewards model is simple: for each inmate that you keep out of prison relative to your historic county return-to-custody rate, keep 40-45 percent of the projected marginal cost of that individual. Although costs of operating prisons remain static,

³⁵ http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_678_bill_20090625_amended_asm_v96.pdf

³⁶ https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_

id=201520160SB85

counties save the state the “marginal cost” of putting an additional person through prison (in 2009 this number was estimated to be \$29,000 at a time when it cost about \$50,000 a year to incarcerate a person).³⁷³⁸

The 2015 amendment ties rewards to performance relative to the prior year and makes rewards partially a function of the highest prior payment, which is a more arbitrary metric.

As probation and parole districts become better at rehabilitating inmates, legislatures may want to adjust the original state and county return- to-prison baselines downwards, to stimulate departments to become more effective at rehabilitating the people they supervise. But the 2015 amendment is a very unusual and needlessly complicated approach. Instead, the statewide baseline should be adjusted from 7.9 percent to the average rate during some new period, say 2013-2015 (when the average rate was about 3.2 percent). Legislators could have retained the initial rewards structure of 40-45 percent for county probation departments.

We endorse rewarding probation and parole districts on a similar shared savings model to the original SB 678 proposal.

³⁷<https://www.courts.ca.gov/documents/SB678-Year-2-report.pdf>.

³⁸https://lao.ca.gov/PolicyAreas/CJ/6_cj_inmatecost.