

Reprint

FROM *THE ANALYSIS OF THE 1994-95 BUDGET BILL*

THE STATE OF CALIFORNIA'S PROBATION SYSTEM

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THE STATE OF CALIFORNIA'S PROBATION SYSTEM

What is the role of California's probation system and how is it faring?

Summary

The services provided by county probation departments are an integral part of California's criminal justice system. The probation system touches virtually every person convicted of a felony and almost all juveniles arrested for any offense. County probation departments provide services to the courts, supervise probationers in the community, incarcerate offenders (primarily juveniles), and provide a host of other services. Despite its importance in the criminal justice system, the role of probation is not well known.

In this analysis, we examine the state of California's probation system. We found that:

- Probation departments provide a diverse array of services including court services, community supervision, and incarceration.*
- Probation resources have not kept pace with burgeoning caseloads, and that probation departments have a difficult time competing for limited county resources.*
- Probation services have declined as a consequence of growing caseloads, for the courts and in the level of supervision of probationers in the community.*
- Limited resources have spurred innovation despite growing demands for probation services.*

We recommend a series of steps to the Legislature to improve probation, including increasing access to statewide data, establishing a statewide "clearinghouse" for information and ideas, and enacting legislation to provide more local funding flexibility.

THE STATE OF CALIFORNIA'S PROBATION SYSTEM

Probation departments play one of the largest, most complex, and least understood roles in California's criminal justice system. Seven out of every ten convicted felons become the responsibility of probation departments. Because of county fiscal constraints, resources for probation departments have shrunk at the same time their responsibilities have grown. As a result, probation departments have reduced services to the courts, they do not actively supervise a significant number of probationers, and they have had to limit incarceration and services options.

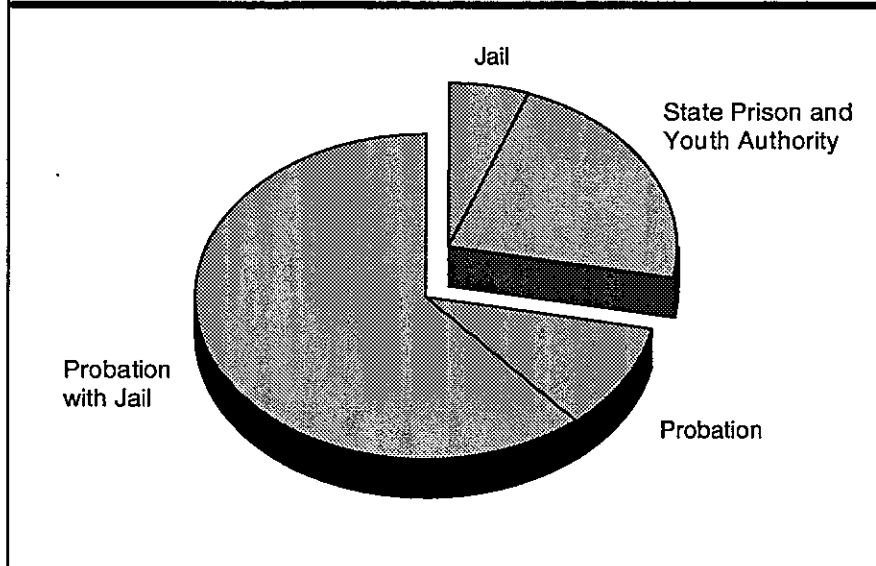
The county probation system is an important element of California's criminal justice system. The system touches virtually every person convicted of a felony, either through services to courts or through supervision of the offender after conviction. As Figure 4 shows, more than 70 percent of persons convicted of felonies in California end up on some form of probation. In fact, 53 percent of all adults who are under supervision by the state or local criminal justice system are on probation.

Although probation is operated by counties, it is particularly important to the state because thousands of offenders in the state prison and Youth Authority system have, at one time or another, been part of the probation system. For example, data indicate that 82 percent of the persons in state prison for a nonviolent offense had been on probation at least once before they were sent to prison. In fact, a preliminary review of case files suggests that more than 60 percent were on probation at the time they committed the offense that resulted in their prison incarceration.

Equally important, probation departments are responsible for most aspects of the juvenile justice system. Probation departments recommend placements for juveniles, are responsible for supervising most juveniles in the community, and detain most incarcerated juveniles in probation facilities. Less than 3 percent of juvenile offenders are sent to the state's Youth Authority, while all other offenders remain the responsibility of probation departments. Despite its importance in the criminal justice system, the role of probation is not well known.

Figure 4

**Probation Departments Supervise Seven of Ten Felons
1992**



In this piece, we review the state of California's probation system, describe the services provided, analyze how and why services have declined, and put in perspective what the declines in service mean for the rest of California's criminal justice system and for public safety generally. Our findings are based on a review of available data, site visits, and discussions over a number of years with probation officials and other state and local criminal justice officials.

WHAT IS PROBATION?

Probation is an alternative to incarceration. When the courts grant probation they are ordering that the offender be supervised in the community and required to adhere to specified conditions. The court can grant probation or probation that commences after a short jail sentence. Probation is not a right to which a convicted person is entitled, but is considered an "act of grace and clemency" on the part of the court. In essence, probation is a bargain made by the people with the offender that if the offender complies with the conditions of probation he or she will be rewarded by not having to go to jail or state prison.

Probation benefits the community, as well as the offender. When an offender is allowed to remain in the community, the costs of incarceration are avoided, creating a savings because the costs of providing probation supervision are much less than incarceration. In addition, the offender is frequently allowed to maintain his or her job in order to support the offender's family, pay taxes, and make restitution payments.

There are 59 probation departments in California, one in each county, except for San Francisco, which has separate adult and juvenile probation departments. Probation departments spent more than \$770 million in 1991-92 to provide court services, field supervision, and for the operation of detention facilities. Each department is headed by a chief probation officer who, in most counties, is selected by the presiding judge of the court. Generally, the county municipal and superior courts determine what services the probation department provides. Probation departments are generally treated as county departments, competing for county resources alongside the county's district attorney, sheriff, and other county departments. Consequently, the chief probation officer reports to the presiding judge who mandates what services will be provided, the county board of supervisors who allocate funding, and the county's chief administrative officer who oversees all county budgets.

Parole Versus Probation. Parole and probation are frequently mistaken for being the same thing. Although much of their overall mission—supervising offenders in the community—is similar, parole and probation are quite different. Parole is generally a state function while probation is administered by counties. Individuals on parole have completed all or a part of a sentence in a state correctional facility. Probation is given to an offender in lieu of a state prison term. Probationers frequently serve little or no period of incarceration, and if they do, it would normally be in a county facility.

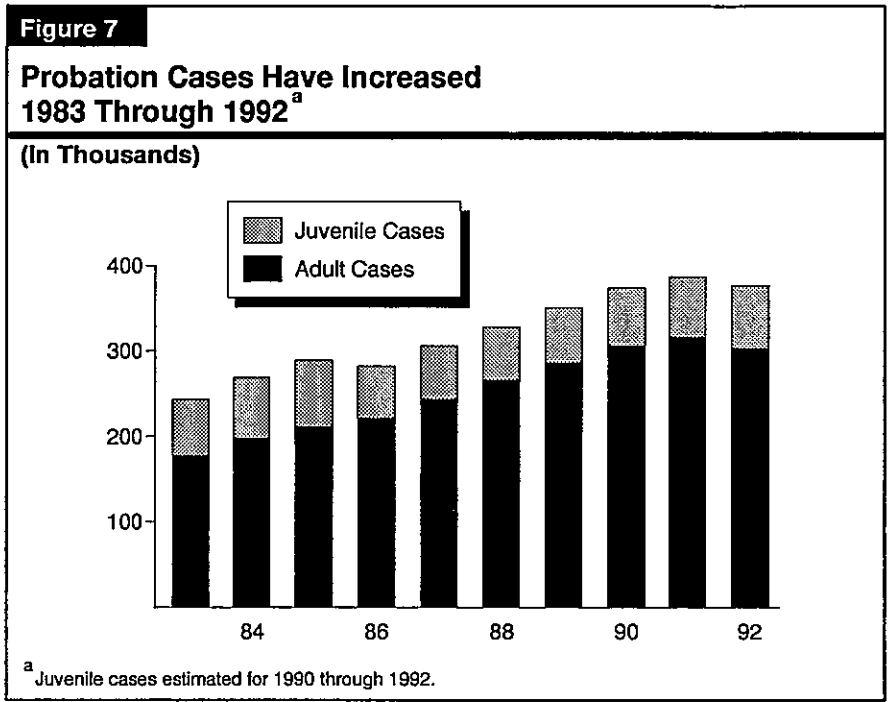
PROBATION PROVIDES A DIVERSE ARRAY OF SERVICES

Figures 5 and 6 show the types of services provided by probation departments. As both figures show, probation services fall into three broad categories: court services, probation supervision, and incarceration. It should be noted that not every probation department provides all of the services, primarily because the role of probation is different in each county.

Figure 5	
Overview of Probation Services—Court Services	
Type of Service	Description
Court Services	
Pre-Sentencing Reports	<ul style="list-style-type: none"> • Provide the court with information on the offender's criminal history, family relationships, and ability to pay fines and restitution. • Make recommendations to the court regarding sentencing. • Make recommendations on suitability for probation. • Make recommendations on fines and restitution.
Pre-Trial Evaluations	<ul style="list-style-type: none"> • Advise court on defendants' suitability for release from custody on "own recognizance."
Pre-Trial Supervision	<ul style="list-style-type: none"> • Supervise defendants released on their "own recognizance" in the community to ensure attendance at trial and other court proceedings.
Juvenile Placement Reports	<ul style="list-style-type: none"> • Provide the court information on the circumstances surrounding the neglect or abuse of a child and other relevant information. • Make recommendations on placement of the minor child, such as keeping the minor in the family, or placing in a group home.
Juvenile Petitions	<ul style="list-style-type: none"> • Provide the court with information on the juvenile offender, the juvenile's family and social situation, the circumstances surrounding the offense, and other criminal history. • Make recommendations to the court on placement, such as probation, juvenile hall or ranch, or placement in the Youth Authority.
Probation Revocation Reports	<ul style="list-style-type: none"> • Provide the court with information showing why probation should be revoked, such as violating a condition or committing a new offense. • Make sentencing or placement recommendation.

Figure 6	
Overview of Probation Services—Supervision/Incarceration	
Type of Service	Description
Probation Supervision	
Adult Supervision	<ul style="list-style-type: none"> • Make regular contacts with adult offenders on probation to ensure that they are meeting conditions of probation. • Provide or obtain specialized services for offenders, such as substance abuse treatment or sex offender therapy.
Juvenile Placement Supervision	<ul style="list-style-type: none"> • Monitor abused or neglected minors in out-of-home placements.
Juvenile Supervision	<ul style="list-style-type: none"> • Make regular contacts with juveniles on probation to ensure that they are meeting the conditions of probation. • Make regular contacts with family and school officials regarding offender. • Provide or obtain needed specialized services.
Jail Parolee Supervision	<ul style="list-style-type: none"> • Supervise inmates released early from county jail. • Advise the county sheriff on which inmates should be eligible for early release.
Diversion Programs	<ul style="list-style-type: none"> • Supervise the performance and attendance of offenders that have been diverted into DUI, domestic violence, or drug diversion programs.
Community Service	<ul style="list-style-type: none"> • Supervise and monitor probationers that have to complete community service as part of their sentence.
Fines and Restitution Collection	<ul style="list-style-type: none"> • Ensure that court ordered fines and restitution are collected from probationers.
Incarceration	
Juvenile Hall	<ul style="list-style-type: none"> • House juveniles for short periods, either awaiting court hearings or after sentencing.
County Ranches and Camps	<ul style="list-style-type: none"> • House juvenile offenders for periods ranging from 4 to 8 months.
Work Furlough	<ul style="list-style-type: none"> • House and supervise inmates sentenced to work furlough in the community.

Figure 7 shows the number of adults and juveniles on probation from 1983 through 1992. As the figure shows, in 1992, over 300,000 adults were on probation, and we estimate juvenile cases totaled over 70,000. We estimated the juvenile caseloads for 1990 through 1992 because in 1990, the Department of Justice, which maintains criminal justice statistics for the state, stopped compiling information on the disposition of juvenile arrests because of budgetary constraints. As a result, there are no statewide statistics after 1989 on the number of juvenile arrests that result in incarceration or community probation placements.



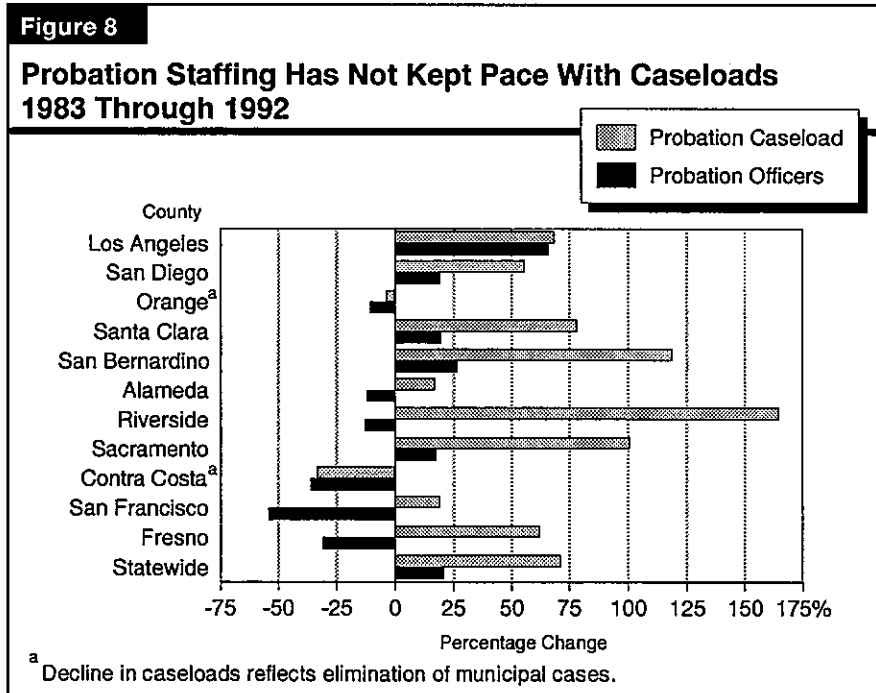
The lack of this information should be of concern to policymakers given the significant increase in juvenile violent crime and the changing composition of juvenile offender caseloads. (The mix of offenders reflected in the caseloads in the first three years in Figure 7 are substantially different than the last seven years.) For example, since 1987, the rate of juvenile arrests for violent offenses increased almost 64 percent. Yet, there are no statistics on how the state or counties are dealing with this increase in juvenile violent crime. Because probation departments are responsible for the supervision and placement of virtually all juvenile offenders, knowledge on statewide trends is necessary in order to understand how effective the state and counties are in dealing with juvenile crime.

PROBATION CASELOADS AND RESOURCES HAVE CHANGED IN RECENT YEARS

Probation department staffing and resources have not kept pace with either burgeoning caseloads or competition for resources from other county departments. As a consequence, probation services have generally declined throughout the state.

Between 1983 and 1992, probation caseloads increased by 73 percent, and generally became more violent. In 1983, 59 percent of those convicted of a violent felony were placed on probation or probation with jail. In contrast, in 1992, almost 71 percent of felons convicted of violent offenses were placed on probation. Many counties have seen a large growth in their caseloads. For example, the caseload in Los Angeles County grew by 69 percent between 1983 and 1992.

While county caseloads have increased and generally became more violent, staffing and resources generally have not kept pace. For example, from 1983 to 1992, the number of probation officers statewide increased 24 percent, while caseloads grew by 73 percent. Some counties have experienced an actual decline in the number of probation officers. For example, in 1982 Alameda County had 284 probation officers for a caseload of 10,262 adult felons (not including juvenile probationers); in 1992 there were 250 officers for 12,007 felons. Staffing decreased 12 percent, while caseloads of adult felons increased 17 percent. Figure 8 compares changes in probation caseloads and staffing over the past ten years in counties with populations of over 700,000 persons. As the figure shows, only in Los Angeles has staffing come close to keeping up with caseload growth. Although caseloads have increased and resources have declined, counties have adopted methods and



programs to become more efficient (we discuss some of these methods below).

Competition for Limited Resources

A factor that affects probation departments in obtaining necessary resources, is their "organizational place" in the county and their relationship to other parts of the county criminal justice system. As noted above, chief probation officers generally report to the county's judges, but must compete for funding with other county departments before the county boards of supervisors. The probation department competes for resources with other county departments, such as libraries and public works. The departments also compete with other criminal justice programs—the courts, prosecutors, law enforcement, and jails—even after the passage of Proposition 172, that provides additional sales tax revenue for county criminal justice agencies.

In general, probation departments have seen their share of county general purpose revenues decline, especially in comparison to sheriffs and district attorneys. For example, from 1984-85 to 1990-91 (the last year for which we have data), probation departments' share of general purpose funds declined over 9 percent statewide. In contrast, the state's sheriffs and district attorneys saw their shares increase by 1 percent and 3 percent, respectively.

Some county probation departments experienced even greater decreases. For example, between 1984-85 and 1990-91, Fresno County's probation department's share of county general purpose funds decreased over 24 percent, while the district attorney's share increased 8 percent. During this same time period, Fresno County's adult probation caseload increased almost 6 percent and the county's probation officers staffing decreased 27 percent, from 115 officers in 1985, to 83 officers in 1991.

In Stanislaus County, from 1984-85 to 1990-91, the probation department's share of general purpose funds decreased 28 percent. However, over the same period, the county's adult probation caseload increased 203 percent. The county sheriff also saw his share decrease, but to a much lesser extent (a decrease of 9 percent). The district attorney, however, saw his share of county funds increase almost 17 percent.

Probation Must Also Compete for Specialized Services

Competition for county resources also occurs when probation departments try to arrange the delivery of specialized services to probationers in order to meet the conditions of probation, or just to be able to remain in the community. For example, a majority of probationers have substance abuse problems and their criminal activity can be directly related to such abuse. In most counties, however, probation departments do not operate their own substance abuse programs. Generally, when an offender must compete for limited resources, such as substance abuse treatment programs, they do not always receive first preference if non-offenders require the same services. Consequently, the probation department must act as an advocate for the offender in obtaining specialized services, in addition to ensuring that the probationer does not commit new crimes.

PROBATION SERVICES HAVE DECLINED

Most probation departments in California have reduced their services as a result of increasing caseloads and decreasing resources. In general, probation departments are reducing services to adult offenders in an attempt to maintain services for juvenile offenders. Some probationers have fewer incentives to refrain from criminal activity because of the limiting of these services.

Reductions in Court Services

Our review found that probation departments have generally tried to ensure that they maintain full services to juvenile courts, even with the increase of juvenile offenders. However, for adult offenders, most probation departments no longer provide court services to the lower courts and are having greater difficulty providing services to the superior courts.

Municipal Courts. These courts are responsible for adjudicating misdemeanors and some felonies. There were over 1 million misdemeanor arrests in 1992, for offenses ranging from assault, weapons possession, prostitution, driving-under-the-influence, and public drunkenness. These offenses are adjudicated in municipal courts. The judge can sentence the convicted offender to jail, jail with probation, probation, or require a fine/restitution/or community service be performed.

Few of California's probation departments still provide sentencing recommendations for municipal courts. As a result, judges make

decisions about the advisability of placing these offenders in the community or the ability of the offender to pay fines or restitution without any review by probation staff.

Furthermore, most probation departments no longer supervise misdemeanor probationers. This may occur even though under certain circumstances individuals convicted of misdemeanors should be supervised, given that some misdemeanors have the potential to lead to a more violent offense (for example, carrying a concealed weapon is a misdemeanor). As a result, placing a convicted misdemeanant on probation is essentially a "clerical" exercise with no attempt made to ensure that the probationer does not reoffend.

Superior Courts. These courts adjudicate most felonies and have also seen probation services decline. Yet, 129,000 individuals, 72 percent of all felons convicted in 1992, were placed on probation or given jail sentences (for an average of 4 months) in combination with probation.

Most probation departments have had to limit the amount of investigation of convicted felons when preparing pre-sentencing reports for superior courts. Under generally accepted standards, complete reports should advise and recommend sentences to judges and should include all relevant information on the offender, including the offender's prior criminal history, family and community relations, and the offender's feelings of or lack of remorse. Because of the increasing caseloads, some probation departments complete the reports by relying on the court case file for all information, rather than meeting the offender, police investigators, or victims.

The lack of resources has resulted in probation departments no longer advising judges on defendants before trial. Previously, some probation departments had identified for judges, defendants that might be eligible for release on their "own recognizance," and then supervised these defendants to ensure they appeared for trial. Most departments have discontinued these activities.

Supervision of Probationers Has Declined

The goal of probation is to supervise offenders in the community to protect the public. This entails probation staff ensuring that probationers are meeting the conditions of probation and that they are not engaging in new criminal activity. While there is no statewide data available on probation caseloads, our discussions with individual probation departments suggests that most probation departments have tried to ensure that they maintain high levels of supervision over juvenile offenders. As a result, caseloads for adult offenders in many

counties, have grown to a level that makes it difficult for probation staff to adequately supervise them.

Probation staff often classify an offender as high, medium, or low risk in order to handle the workload. Low risk offenders often do not need direct supervision and are often "banked" in caseloads where one probation officer carries 1,000 or more cases. However, high-risk probationers are considered violent and require close supervision. Even when one of these offenders is defined as high risk, he or she will probably be assigned to a probation officer with a relatively large caseload of 175 probationers. Some counties have high-risk caseloads of up to 300 cases per probation officer.

Because there is no comprehensive definition of what constitutes "supervision," a probationer might be treated differently depending on the county where he or she completes probation. For example:

- In one county, an offender might be visited periodically in his home or place of work by his probation officer, thus giving a reasonable assurance that the offender is adhering to probation conditions.
- In another county, the probationer convicted of the same offense would be required to report to the probation office. As a result, the probation department would have assurance that the offender was still maintaining contact with the probation officer.
- In another, the same type of offender might be required to mail in a postcard to the probation office on a monthly or semi-annual basis. In this case, an offender is at best monitored, but not supervised.
- In some counties, the offender might not be supervised at all.

Given shrinking financial resources, counties have set priorities and targeted probation services to juveniles and the most violent offenders. As a practical matter, however, providing little or no supervision to a large block of offenders may provide little incentive for some offenders to refrain from criminal activity in the community.

LIMITED RESOURCES HAVE SPURRED INNOVATION

Probation departments have developed pilot projects and special programs designed to maximize limited resources. Some departments have developed programs to meet the specialized needs of adult caseloads, but most departments have concentrated on developing programs to reduce and prevent juvenile crime.

Working to Improve Adult Probation Services

Increasing caseloads and shrinking resources have proved to be both a problem and an opportunity for probation departments. Although there are often greater demands placed on smaller staffs, we identified several innovative efforts during our field visits and conversations with probation officials.

Yolo County, for example, has completely redesigned how its probation department works. It has moved away from the "caseload" model of supervision where the probationer had only one probation officer, to a model where the probationer deals with several different officers. For example, one officer will supervise a probationer's community service, another will monitor the collection of fines and restitution, and another will supervise the offender in the community. Using this model, Yolo County supervises 100 percent of its caseload, a level of supervision rarely matched in other counties.

San Diego County has taken several steps to improve supervision of adult offenders. For example, the department assigns some probation officers to regions. These officers work in offices located in the area they serve, instead of a headquarters office. As a result, the officers get to know the probationers and the community in which the probationer lives. The San Diego probation department has also developed a special probation unit that works with police and sheriff's deputies in investigations. Probation officers can frequently assist these agencies with their power to make "warrantless" searches of an offender, not only ensuring that the offender meets the condition of probation, but also ensuring the continuation of criminal investigations. This program leads to more cooperation between the probation department and local law enforcement. This integrated approach helps each agency maximize its resources.

The Solano County probation department hired a certified substance abuse counselor as part of its department because there are a large number of offenders in its caseload with substance abuse problems, and there is difficulty in finding sufficient treatment programs. The counselor holds group and individual substance abuse counseling sessions with probationers, thus ensuring treatment for offenders. But the counselor is also training other probation officers to act as substance abuse group counselors, further increasing the resources available to the department.

Working to Improve Juvenile Probation Services

Maximizing Treatment for Juvenile Offenders. Most counties have attempted to maintain adequate staffing in order to supervise juvenile offenders. For most counties, juvenile probation caseload ratios are much lower than those for adults. Many counties also have developed programs to help juvenile offenders avoid future delinquent behavior. Los Angeles County operates a "boot camp" shock incarceration program at two of its juvenile camps. San Francisco has implemented camp-based and community-based programs for finding employment for youthful offenders. One program pays the probationer's wages for the first month of employment, so the employer can "test" the offender before actually hiring him or her.

Delinquency Prevention. Many counties have recognized that preventing juvenile crime is more effective than probation supervision or incarceration. Research from the Orange and Los Angeles County probation departments has shown that up to 70 percent of juvenile offenders commit one offense, but never commit another, as a juvenile or an adult. Conversely, as few as 10 percent of juvenile offenders account for up to 80 percent of all future offenses, both juvenile and adult. These juveniles often have identifiable behavioral and family problems. The research, along with the practical observations of juvenile probation staff, underline the need to deal with this small group of offenders before they embark upon a lifetime of criminal activity.

Several county probation departments have identified factors that are necessary for a successful prevention/intervention effort:

- *Early Identification.* The earlier a youth "at-risk" is identified, the greater the chance that probation, school, social services, and community services will address the behavioral and family problems that contribute to delinquent behavior.
 - *Integrated Services.* The probation department alone cannot provide the services needed to help delinquent youths. Schools, child welfare services, county mental health, county drug and alcohol programs, and local law enforcement must all participate in the provision of services.
 - *Community Involvement.* Community-based organizations, such as churches, boy's clubs, neighborhood organizations, need to participate in the provision of services to at-risk youths. Examples of this support include mentoring, recreational activities, supervision, and counseling.
 - *Governmental Support.* Local and regional governments have to support these programs with not just financial support, but also
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by allowing jurisdictional boundaries to be crossed and alternative solutions tried. For example, one county probation department is recommending to city planning commissions that they consider delinquency mitigation at the same time they consider other types of environmental mitigation in a city's general plan.

Some Innovative Preventative Programs Have Been Implemented. Several of the approaches outlined above are already being implemented with success in several counties. The following are some examples of innovative programs. In Humboldt County, the probation department brought together community leaders in each jurisdiction in the county to develop prevention plans. The implementation of the plans, such as creating teen centers and other programs, have been completed using mostly volunteer community resources.

In Solano County, the probation department in conjunction with local law enforcement, county agencies, and community-based organizations has established a diversion program for delinquent youths in the City of Vallejo. Youthful offenders, many of them gang members, are identified by the probation department, as needing special services to prevent future delinquency. Local reserve police officers monitor the offender's attendance in school on a daily basis. County agencies have made a variety of family and other support programs available to the offenders. For example, community organizations provide mentors and, a recreation program staffed by former gang members who provide role models for the offenders. County data show that the project has decreased recidivism from 80 to 20 percent.

Orange County is beginning an integrated services pilot project in two cities. The probation department plans to work with local schools, county social services, and community based organizations to provide a variety of services to young, first-time offenders who exhibit specific indications of future delinquency. The goal of the pilot project is to help these offenders and to provide valid research data on what works and what does not.

What are the Implications for the Legislature?

The Legislature should consider a number of steps to improve probation, including improving access to statewide data, establishing a statewide "clearinghouse" for information and ideas, and enacting legislation to provide more local funding flexibility in order to encourage innovation.

As we have indicated, probation services have not kept up with increasing caseloads and the service needs of probationers. Most

probation departments lack sufficient resources to provide pre-sentencing reports to the courts or supervise probationers in the community. While many county probation departments have made laudable efforts to develop pilot and special program services for adults and juveniles, continued growth in caseloads and decreases in available county revenues could erode whatever benefit comes from these efforts. Given that seven out of ten felons are supervised by probation departments, the lack of resources could result in limited incentives for unsupervised felons to refrain from criminal activity.

As we have pointed out previously, the state has an interest in the success of local governments in delivering services, including probation services. This is, in part, because so many probationers end up being incarcerated in a state facility at state expense. However, we believe that diversity and flexibility in delivery of local services by counties—including probation services—is a good thing. This is because probation, like other services, is driven in large part by the public preferences of local communities. Given the diversity of California's population and communities, we believe that mandating uniform delivery of probation services is counterproductive.

Keeping these factors in mind, we believe that the Legislature should consider the following steps to improve probation in California:

- ***Improve Access to Statewide Criminal Justice Information.*** As we pointed out, there is little data available on a statewide basis on probation caseloads and outcomes, especially in the area of juvenile probation. Improvement in collection, analysis, and dissemination of data could help policymakers in allocating resources for probation and all other criminal justice services. While funding would be needed for improving information collection, there is a potential for future savings as the information is used to promote efficiency in service delivery and to reduce crime.
 - ***Establish A Statewide "Clearinghouse" for Probation Information and Ideas.*** While local jails are a county responsibility, the state, through the Board of Corrections, provides a forum for the statewide establishment of minimum standards for building, operating, and training staff that work in jails. The board also establishes minimum training standards for probation staff. The Board of Corrections could also provide some statewide oversight of probation service needs and gather data that are currently unavailable. In addition, it could provide a forum for sharing ideas on innovative programs.
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- ***Encourage Innovative Probation Programs.*** The Legislature should encourage, with both appropriate funding and legislation, innovative probation programs. Programs that make use of integrated services should be especially encouraged. One of the barriers to better coordination of service delivery is the restriction on the use of funds imposed by categorical program funding. Integration of services can be better achieved by providing funds in a way that allows local governments discretion in setting priorities for the use of available funds. For example, one of the difficulties faced by Orange County in setting up its pilot projects was getting agreement among social service agencies for sharing costs and providing services. Consequently, the Legislature could enact legislation to (1) allocate a portion of existing categorical funds as block grants to local agencies and (2) establish outcome-based performance measures. This would allow for program accountability, while allowing local agencies flexibility in structuring their collaborative efforts.
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