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Probation for Adult and Juvenile Offenders: Options for Improved Accountability

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Council on Criminal Justice*

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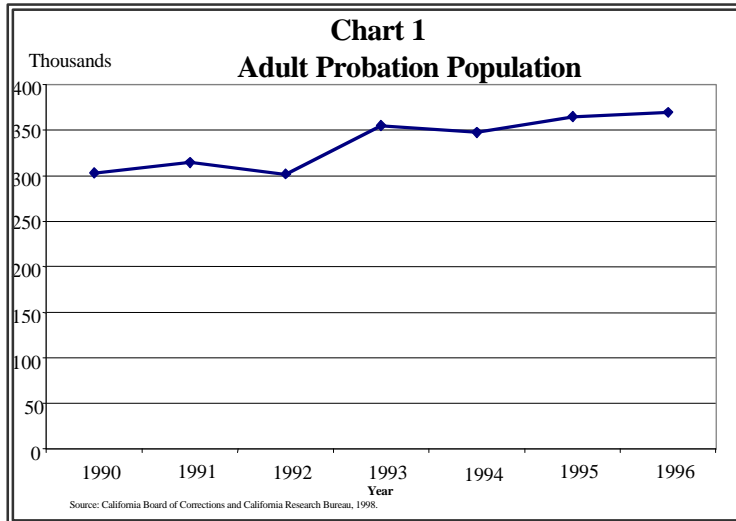
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STATEMENT OF PROBLEM

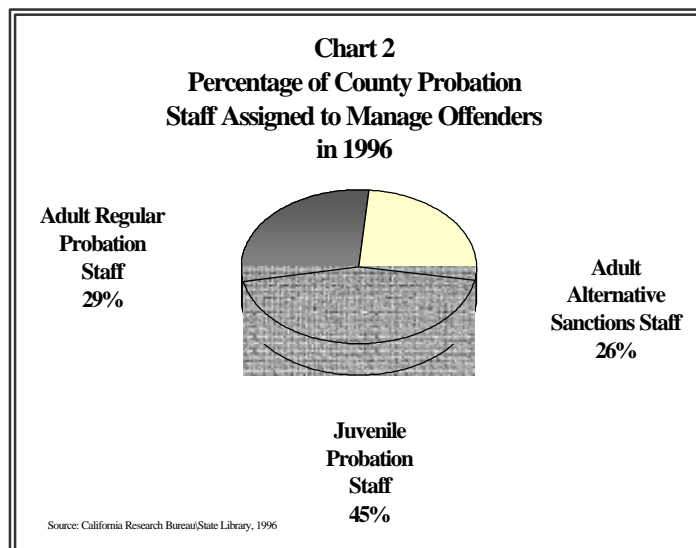
Incarceration, probation (supervised release in the community), or a combination of the two are the traditional local punishments for convicted offenders in California. However, according to a 1996 CRB survey of county probation departments, many California counties have reduced probation services in response to budgetary shortfalls. At the same time, a growing backlog of sentenced felons is placing pressure on local courts, overcrowded county jails and juvenile halls, steadily increasing probation referrals.



High-risk probationers require more resources. The result is that county probation officials are devoting more personnel resources to manage higher-risk adult (alternative sanctions) and juvenile offenders. Less serious offenders receive relatively fewer resources, often resulting in little or no supervision.¹

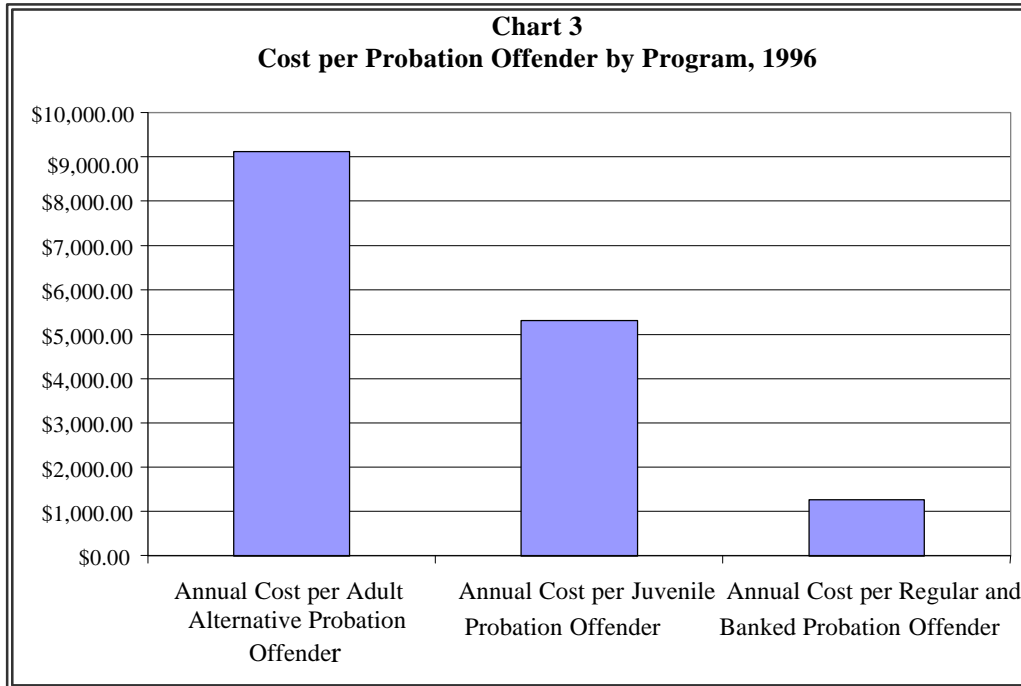
Chart 2 shows the relative county personnel allocations for each segment of the probation population. Adult regular probationers receive less than 1/3 of county probation staff time, although they are nearly 60 percent of the total caseload (see page 3 for discussion).

California's combined county probation operation expenses in FY 1996 (adjusted for inflation using the 1984 Consumer Price Index) totaled nearly \$410 million, the result of a yearly average funding increase of 4.2 percent since 1990. During that same time period, California's adult probation population increased from 303,000 offenders to 370,000 offenders, 44,000 of whom are serious offenders placed in resource-intensive alternative punishment programs. According to probation officials,



¹ Ibid, p. 23.

California's juvenile probation population has varied between 55,000 and 60,000 offenders.² However, the total number of juvenile arrests for violent felonies, misdemeanors and status offenses has increased 18 percent since 1990.³ Nearly all juvenile probationers require significant supervision and resources. As a result, there is a substantial difference in the average annual cost for juvenile and adult probationers in alternative punishment programs as compared to the vast majority of adult offenders placed on regular and banked probation. The bottom line is that an increasing number of adult probationers do not receive supervision.



Banked Probation

Currently as many as 200,000 (or 60 percent) of all adult offenders placed on probation in California go unsupervised or are otherwise held unaccountable during their term of probation.⁴ The term “banked probation” is often used by probation officials to describe this caseload.

An offender on banked probation will probably not see nor hear from authorities while on probation. Some large urban county probation departments occasionally send out letters to local probationers. One probation official acknowledges that banked probation is “like

² California Department of Justice, *Crime and Delinquency in California*, 1989-90. This was the last year in which California counties reported juvenile probation data to the state. The 1996 CRB survey results indicate that juvenile offenders receive 45 percent of all probation staff resources, yet juveniles are estimated to be only one-fifth of the overall probation caseload, totaling 55,000 offenders.

³ California Department of Justice, *Crime and Delinquency in California*, 1996, p. 125.

⁴ Marcus Nieto, *The Changing Role of Probation in California's Criminal Justice System*, California Research Bureau, CRB-96-006, p. 22, July 1996.

criminal triage: only the most serious offender will receive any structured supervision while the rest are just put on hold.” A county sheriff official contends: “These people see the local criminal justice system as the better part of a cycle in their lives. They go to jail for a short time to get their lives back on track, and are then released early and placed on probation.”⁵

The implications for public safety of the counties’ increasing reliance on banked probation are unclear, but there is reason for concern. Some researchers question whether adequate risk assessment tools have been created to identify “low-risk” offenders for banked probation caseloads. They point out that there is no way to determine if banked offenders are committing more crimes, and may be a threat to public safety. A probation official contends that, “lack of supervision makes it difficult with the public, especially when they get a complaint about a certain probationer making life miserable for his neighbors.”⁶

County probation officials questioned about these concerns during the 1996 CRB survey felt that banked offenders are neither a flight risk nor a danger to society. County probation officials are reasonably sure that their risk assessment systems for measuring offenders’ threats to public safety are reliable instruments for predicting behavior. However, because of limited resources, county probation departments do not monitor specific banked offender recidivism or revocation rates well enough to ensure that the risk assessment tools and selection process work.

When judges require that banked probationary offenders pay fines and fees, the money is frequently not collected by the completion of probation. Once the probationary period has expired and these adult offenders are released from supervision, this lack of accountability may demonstrate to them a systematic apathy and tolerance of their crimes.

Many misdemeanor juvenile offenders also go unsupervised during formal probation and are otherwise not held accountable. Some county probation officials estimate that up to 20 percent of all juvenile misdemeanors are referred to probation by police or sheriff’s departments, and do not ever appear before a court. Again, this lack of accountability may demonstrate to them a systematic apathy and tolerance of their crimes.

In contrast, a substantial number of juvenile misdemeanor offenders are diverted from the formal probation system by the courts (*Welfare and Institution Code 654.2*) and are placed under community-based program supervision for up to six months. Juveniles under community supervision may be more accountable for their behavior than they would be under formal probation (see discussion of Neighborhood Accountability Boards in Appendix A). The primary reason is that community volunteers spend more time with these low-risk offenders and provide constructive opportunities for accountability that are not available under formal probation.

⁵Ibid, p. 23.

⁶Marcus Nieto, California Probation Study, *Site Interview with County Probation and County Sheriffs Officials*, California Research Bureau, 1995.

Impact of Court-Ordered Population Caps on Probation

Court-ordered jail population caps have had a major impact on California judicial sentencing practices since 1988. In that year, 43 jails in California operated under a consent decree. Today, 27 county jails (representing about 73 percent of the statewide average jail population), including the state's 5 largest counties, are under court-ordered population caps that limit the number of inmates. Construction of new jails in California has relieved some of the overcrowding, but adequate staffing and operational costs continue to be a problem.

Many California counties are now using emergency release programs to ensure adequate jail space. California's "three strikes law" and the "10-20-Life law" are also impacting available jail space, especially in large urban counties. According to the California Board of Corrections, in 1997 over 275,000 inmates had their jail time eliminated or reduced in order to make room for more serious civil and criminal offenders. This resulted in a dramatic increase in the number of referrals of serious felony offenders to county probation departments.

Impact of Sentencing Enhancement on Probation

According to 1994 national court figures, judges sentenced convicted felons almost equally between prison and probation (46 percent to prison and 47 percent to probation).⁷ In many jurisdictions, including some in California, judges have only three sentencing choices: probation, incarceration, or a combination of the two. More than 90 percent of all convicted felons nationally received prison, jail, probation, or a combination of the last two as a sentence (10 percent received alternative sanction punishment).

Even with new sentencing enhancement laws, probation continues to be California's and the nation's most common correctional activity. Between 1989 and 1996, California's probation population grew over 29 percent, from 265,000 to an estimated 370,000. Between 1989 and 1996, the national probation population grew by 19 percent, from 2.35 million to 3 million.⁸

Since 1993, the daily average county jail population rate in California has increased from 21.5 per 10,000 population to an all-time high of 24.1 per 10,000 population in 1997. The statewide prison incarceration rate per 10,000 population for the same time period increased even more dramatically, from 26.4 to 48.1.

There was also a large increase in the number of non-sentenced (pretrial) offenders in jail compared to the sentenced population from 1993 to 1997. The non-sentenced population increased by nearly 20 percent compared to a 2 percent increase for the sentenced population. The non-sentenced population of probation and parole violators and other

⁷Patrick A. Langan, "Between Prison and Probation: Intermediate Sanction," *Science*, Vol. 264, May 6, 1994.

⁸California Board of Corrections, *A Survey of Municipal and Superior Court Sanctions in California*, Sacramento, 1993.

offenders awaiting trial accounted for 58 percent of the statewide jail population during that time period.

Caseload Management—The Impact of Information Systems on Probation

When crimes are committed by adult or juvenile probationers in another county, their previous record is often not available to local authorities. This is because an offender who has completed court sentencing requirements and is placed on probation is no longer actively listed in the county court or the sheriffs' database. If that offender re-offends in another county, the supervising probation department would not be notified. In addition, the offender might not receive the same level of punishment as required by an active criminal file.

The 1996 CRB probation survey found that nearly 32 percent of the responding counties stated that they needed either an automated communication system to link with the county sheriff and the juvenile hall, or major improvements to an existing system. Only 37 percent of the county survey respondents said that county probation's data integration with the court system is very good. Nearly 24 percent of the responding counties did not have an integrated data linkage with the local court system's database, and 21 percent had systems that required major improvement.

Communication problems are particularly severe in rural counties and in counties with populations of less than 100,000 where criminal justice resources are spread thin. However, communication problems can also occur in large counties with automated probation information systems. In a 1996 incident, a multiple offender on probation was set free due to jail overcrowding and a high courtroom caseload. If the judge had had access to the county computerized probation database, the judge probably would have found the offender to be dangerous and in need of incarceration. The unfortunate result was a random murder spree.

The limited range of automated and integrated county criminal justice data extends to the state as well. Over 44 percent of the county probation departments surveyed had no automated linkage with the state Department of Justice, and another 25 percent required major system improvements, according to survey respondents.

U.S. Department of Justice grants are available to states to create integrated criminal justice information networks. These connect computers across a state's juvenile and adult courts, law enforcement (including probation) and correctional agencies for rapid sharing of fingerprints, warrants, and other information. California has not yet applied for this type of funding.

ACCOUNTABILITY PROGRAMS FOR PROBATION

There are some meaningful community-based programs in operation across the state and in other parts of the country in which juvenile and some adult offenders are held accountable for their crimes during probation, including appropriate reparation to victims and the community. Some of these programs involve a return to the volunteer origins of probation. Probation in the United States started in the late 19th century with community volunteers who supervised offenders sentenced by the courts to work in the community.

Neighborhood Accountability Boards (NAB)

Restorative Justice programs are a growing alternative to the juvenile court and probation system. Neighborhood Accountability Boards (NAB) are a type of restorative justice program composed of volunteers. They are increasingly viewed as an effective and cost efficient mechanism to ensure juvenile probationer accountability, victim awareness, promote safe community reintegration and enhance public safety. Neighborhood Accountability Boards supervise first-time nonviolent juvenile misdemeanor offenders in their local communities. Offenders participate in local community projects in lieu of court-ordered probation or as a court-rendered sentence. If the offender is successful in completing the requirements imposed by the NAB, his or her offense is usually expunged from the probation record.

The concept of Neighborhood Accountability Boards began in 1994, in Boise, Idaho, and in Great Falls, Montana, when the local communities and governments formed a partnership to share responsibility for resolving minor crimes and imposing consequences for illegal behavior. The process allows members of a community affected by crime to participate in administering appropriate justice to a nonviolent offender.

The NAB concept was adopted for juveniles in San Bernardino County, California, in 1995 and more recently by other jurisdictions, including Sacramento County in 1996. Research evaluations of the Great Falls, Montana, NAB indicate that over 90 percent of the juvenile offenders successfully completed the program and did not reoffend during the first year after completion. Preliminary results from the California counties show similar program success. When compared to the revocation rate found in the 1996 CRB survey which showed that one out of seven offenders violate their conditions of probation, the NAB failure rate of one in ten offenders was more successful (see Appendix A, for detailed discussion of NABs).⁹

While there are no examples of community-based accountability programs for adult misdemeanor offenders in California, concerns over unsupervised adults on banked probation remain. Some law enforcement officials contend that adult misdemeanor offenders should be held accountable while on probation by using a NAB-oriented model or a similar mechanism on a pilot basis.

⁹ *Correctional Compendium Newsletter*, June 1996.

Day Reporting Centers

Day Reporting Centers (DRCs) are a rapidly growing and evolving intermediate sanction program in use across the country. They are highly structured, non-residential programs utilizing supervision, sanctions and services coordinated from a central location. DRCs are most often used to help offenders leaving prison or jail in their transition and adjustment to civilian life. Many states try to relieve prison and jail overcrowding by moving offenders who are in good standing and close to sentence completion or parole into these types of facilities.

DRCs combine high levels of supervision, including electronic monitoring surveillance, with intensive treatment and services. Offenders report frequently to the centers (once or even twice a day), and treatment and services are generally provided on-site by agency staff or by other human service agencies.

According to the 1996 CRB survey of California county sheriffs and probation departments, day reporting center programs are a highly regarded alternative option for probation, but only a few counties use them. In 1995, the California Correctional Peace Officers Association (CCPOA) endorsed the use of day reporting centers to manage state parolees as part of a state and local corrections partnership. This view is consistent with the stated goals of the California Community Corrections Act of 1994 that authorizes counties to develop a statewide framework for alternative punishment programs (see Appendix B for a detailed discussion of Day Reporting Centers).

Other Accountability/Sanction Programs

County probation departments are increasingly devoting a considerable portion of their resources to monitor and supervise a small, high-risk adult probation population group. Nearly half of all county adult probation resources are used to monitor and supervise this high-risk adult offender group. According to the 1996 CRB survey, at any given time there are approximately 34,400 high-risk adult offenders monitored and supervised by county probation officers. These high-risk probationers are assigned to one or more of the following county alternative sanction programs:

- *Early release and work release.* Most offenders, including some parole and probation violators, are placed under supervision in early release programs after an initial term in jail. Most programs are tied to emergency release plans that are implemented when jail overcrowding approaches judicially-established population caps.
- *Electronic monitoring.* A small but growing number of probationers are placed on electronic monitoring. Many offenders monitored by electronic surveillance are part of specialized or high-risk caseloads involving sexual-related offenses, driving under the influence, drug abuse and drug trafficking, gang-related crimes, and domestic violence. Many of the electronic surveillance systems used by county probation departments are old and have produced mixed results. New “second generation” electronic monitoring systems are presently being tested, and are expected to be in use by the year 2000.

- *House arrest.* Programs are usually run in conjunction with electronic monitoring and other sanctions. Some judges are likely to sentence domestic violent offenders or accused sex offenders to house arrest and electronic monitoring. In other counties, drug abusers are the most likely candidates.
- *Intensive supervision.* Offenders are supervised by probation officers who are often part of a county tactical violence suppression unit that conducts random and unannounced offender searches. Most participating offenders are considered high risk, including sex offenders, domestic violence offenders, drug dealers, and gang members. In many cases, they are also on some form of electronic monitoring.
- *Jail diversion.* Offenders are either released early from their sentence or are required to perform jail duties during the day while returning home at night.
- *Specialized counseling.* Counseling is required for a variety of offenders including thieves, serious drug offenders, domestic violence offenders, and sex offenders. They are usually given a high-risk assessment status and are monitored closely by counseling staff and specialized probation officers. Anger management is one of the primary techniques and generally includes both education and counseling.

Very few county probation departments in California have the resources to fully implement all alternative sanction programs. Many small counties operate very few alternative sanction programs.

While some probation departments lack resources to operate alternative sanction programs, new monitoring and surveillance technology is emerging across the country as an important tool for correctional agencies involved in probation and parole supervision. For example, correctional agencies in Texas, Florida, and Iowa are using wristbands and control units linked to global positioning satellites to track the location of parolees, a method more accurate than first generation electronic monitoring systems. These systems allow tracking of an offender over a much wider geographic range. Computer-controlled radio receivers instantly record every place the offender goes, even outside the range of the home or detention unit.

COMBINING PAROLE AND PROBATION FUNCTIONS WITHIN THE CONTEXT OF COMMUNITY CORRECTIONS

Probation and parole are similar in function but are linked to different segments of the criminal justice system. Parole is a conditional release from state prison, administered in California by the Department of Corrections. Probation is generally imposed in lieu of county jail and is increasingly being used in California as a tool to reduce jail overcrowding in a wide variety of situations. Nonetheless, parole and probation are responsible for supervising and monitoring large numbers of offenders in the community. The quality of that supervision is critical for public safety and offender rehabilitation.

According to a national correctional research organization, one in seven offenders in California (50,355 offenders or 14 percent of all adult probationers) had their probation revoked in 1994, compared to one in ten nationally.¹⁰ Two in three California State parolees (nearly 70 percent of the 100,000 adult offenders on parole) are likely to have their parole revoked before completing their term, compared to two in ten parolees nationally.

Many county probation and sheriffs officials contend that some form of criminal justice realignment between parole and probation ought to be explored. They assert that combining overlapping probation and parole functions would be a good use of resources, especially in rural counties where a combined caseload could be cost-effective given limited probation resources.

There is ample precedent for single-funded parole/probation agencies. At least 26 states currently combine parole and probation offender caseloads and management functions at the state level, and at least five other states fund locally-operated combination programs. California could consider the following options.

- The Legislature and the Governor could require a state agency, such as the Board of Corrections, to establish a transition team of state parole and county probation administrators as a necessary first step to merging these law enforcement systems. An immediate task of the transition team would be to identify the fiscal, operational, and personnel issues posed by such a merger, and to develop a 1 to 5 year master plan detailing how the merger could be implemented.
- The Legislature could centralize all adult probation/parole functions in one state department. The state could directly provide services or contract with counties. The adult probation/parole department could determine levels of supervision, maximize public resources by targeting services and set benchmark standards for funding alternative sanctions. Alternatively, the state could contract with county probation agencies to manage parolees, moving the entire post-confinement supervision function to the county level.

¹⁰ Ibid.

- One of the major concerns that counties have about community corrections programs is a potential shift of state prison costs to local government. Currently adult felony offenders can be punished by imprisonment in county jail for up to one year (*California Penal Code Section 18*). Extending the time frame of jail as a sentencing option might encourage increased local utilization of alternative sentencing programs for selected offenders. County probation departments might be responsible for managing the programs. Should the state decide to re-direct targeted groups, such as nonviolent first or second time offenders, it could reimburse local counties for each offender not sent to state prison (or charge for each offender that is sent to state prison).
- The state could pay counties for diverting offenders sentenced to state prison to community correction programs. In 1992, the Blue Ribbon Commission recommended that the state reimburse counties 85 percent of the present cost to maintain a state offender in prison for each deterred offender. An ad hoc committee of criminal justice officials representing California county governments recommended that the state's share of the cost should cover inmate days at "rated capacity" (\$19,000 per year).¹¹ In contrast, it costs \$28,000 to house an offender in state prison for a year.

¹¹ Richard Simpson. *Jailhouse Blues: Hard Time For County Taxpayers*, California Counties Foundation, and September, 1991.

APPENDIX A

NEIGHBORHOOD ACCOUNTABILITY BOARDS AND TEEN COURTS

Neighborhood Accountability Boards and the Role of Probation and Volunteers

Some scholars have noted that the most effective societies in controlling crime provide for a “shaming” process that is intended to make offenders aware of the harm caused by their behavior to the collective, and to affirm community values. In these “low crime” societies and communities, a denunciation process is followed by offender repentance and reparation, and finally by a community effort to support the offender’s reintegration into the community, reconciliation and (in most cases) forgiveness.

Neighborhood Accountability Boards (NABs) are used to supervise first-time nonviolent juvenile misdemeanor offenders in their local communities. Probation officers who are assigned to monitor large “banked” offender caseloads spend a great deal of their time processing offender paperwork.¹² In contrast, probation officers work with NABs, help schedule offender interviews, provide technical support, and serve as a liaison between the courts and the NAB. They also must coordinate with community organizations to ensure sufficient, high quality probation service work opportunities, and must manage community recruitment and training for NAB volunteers.

Members of a NAB operate in effect as field case managers for probation officers. A NAB allows an officer some time to focus on problem offenders and to exercise better case management of all probationers. The result is a much better supervised probation system where accountability has meaning.

According to probation officials from the two California pilot project counties (Sacramento and San Bernardino), it takes about one-fourth to one-third of a probation officer’s time to work with a NAB. The San Bernardino NAB system has 27 volunteer boards supported by three probation officers, while the Sacramento NAB system has nine volunteer boards supported by two probation officers. The San Bernardino NAB system has been operating for five years and has successfully supervised over 2,000 juvenile cases. The Sacramento NAB system has been operating for more than one year and has successfully supervised 200 juvenile cases. Current year projections show that Sacramento NABs will supervise 350 juvenile cases.

California counties have not yet applied the NAB concept to adult probationers, so the state may want to begin with a pilot project in several counties. In contrast, juvenile programs are already established and can be taken to statewide scale more reliably. Based on the number of juvenile cases completed in San Bernardino and Sacramento counties thus far, a projected statewide NAB could process up to 7,500 juvenile cases annually.¹³ This would require an estimated 80 probation officers, 273 NABs (at a ratio of 3.64 per officer) and 3,275 community volunteers statewide (average of 12 volunteers per NAB).

¹² “Banked” caseloads are large probation offender caseloads (up to a ratio of 3,000 offenders to 1 probation officer) which often go unsupervised during the probationary period.

¹³ The estimate of 7,500 juvenile NAB graduates is based on the combined population of Sacramento and San Bernardino counties as a percentage of the statewide population (7.8 percent).

Most of the time spent by probation officers assigned to the two pilot projects involved recruiting volunteers for the NABs. Once the initial volunteers have completed a security clearance, they are responsible for recruiting more members and setting up their own organizational structure. NAB members can determine their own case workloads.

Probation officers in Sacramento and San Bernardino counties have not begun to analyze variations in the workload and the accountability measures required by different NABs of juvenile offenders. Establishing continuity and parity in sentencing among NABs is essential to the long-term success of the program because of the potential for abuse and need for equity within the system. This monitoring should be an important task of the probation officers assigned to the NABs and a desired outcome in general. The OCJP or California Board of Corrections may want to establish guidelines and data elements to ensure comparable statewide evaluations.

How Neighborhood Accountability Boards Function

Once an adult or juvenile offender is screened and referred to a NAB by a probation officer, a volunteer NAB investigator is assigned to the case. This individual coordinates the actual case hearing, prepares the necessary paper work and completes the initial contact with the offender.

The offender comes before the NAB at a scheduled hearing. After carefully interviewing the offender, the NAB members develop a contract that specifies the restitution requirements the offender will complete for his/her crime. For example, the offender could be required to perform a variety of functions such as payment of fines and fees, writing letters of apology, or performing community service work in the local neighborhood (e.g., clean-up projects, school projects, major community events, or helping churches or local businesses). The contract has to be signed by the offender and/or the juvenile's parents and NAB members.

This process holds the offender accountable. The offender has six months to complete the contract. Once the contract is complete, the case is resolved and the probation officer can ask the court to expunge the crime from the offender's record, when appropriate. If the juvenile offender does not successfully complete the contract within six months, the probation officer can bring the offender before the court for hearing. Under *Welfare and Institution Code Section 654.2*, an alternative sanction program (diversion) cannot exceed six months.

Selection of Neighborhood Accountability Board Members

Community volunteers who participate as NAB board members are required to clear a criminal background check by the local county sheriff's department. Only successful candidates are selected to serve. Candidates participate in training sessions, attend orientations, and observe monthly NAB organizational meetings. Once selected, a community member must participate in panel hearings involving offenders and vote on appropriate sanction measures.

Community members can fulfill a variety of roles on a NAB including chief investigator (conducts background report and makes presentation on each offender), panel chairperson (presides over the hearing), member at large (poses questions to the offender), and community service coordinator (works with businesses, governmental agencies, nonprofit agencies, and school districts to coordinate work activities for probationers).

Selecting Participating Juvenile Offenders

Any juvenile entering the criminal justice system for the first time as a nonviolent misdemeanor offender is a likely NAB candidate. Once a juvenile offender is referred to a probation department for disposition, he or she could be offered the choice of participating in the NAB process, and possibly having their crime expunged from the probation record, or going before the juvenile court for sentencing. Experience in the NAB programs in San Bernardino and Sacramento counties suggests that most juveniles are likely to choose the NAB option because they do not want the offense to become part of a criminal record.

Options for Selecting Participating Adult Offenders

Any adult entering the criminal justice system for the first time as a nonviolent misdemeanor offender, or as a multiple offender, could be a likely NAB candidate. Many of the offenders currently placed on banked probation fall into this category. Offenders could be selected by a probation officer during the pre-sentence hearing process, usually within the 90 days required by law for completing and formulating pre-sentence reports to the court. Alternatively, the court could require that an offender participate in the NAB program in lieu of, or as part of, sentencing. Selected offenders could also be offered the option of participating in a NAB and having their crime expunged instead of being sentenced by the court. However, the implications of three strikes on adult felony offenders who reoffend after participating in a NAB program should be thoroughly addressed before this proposal moves forward.

County Review and Funding Options

County boards of supervisors or local criminal justice councils could review their banked probation offender caseloads to determine whether they are properly supervised and/or are adequately held accountable. After that review, the board might decide to undertake a NAB program either countywide or in selected areas. The supervisors or local criminal justice council could direct the county probation department to establish local NABs, using model criteria developed by the OCJP or another appropriate agency. This would include an evaluation component to inform the supervisors as to the program's success. Successful NABs could be recognized. For example, the supervisors might want to acknowledge and thank NAB members for their work.

The current Challenge Grant Program administered by the California Board of Corrections can fund community-oriented criminal justice programs. Individual counties must apply every three years. Approximately \$23 million could be available in fiscal year 1998-99. The Violent Crime Control And National Law Enforcement Act of 1994 is a potential source of federal seed funding for community-oriented crime prevention programs. In

particular, the Juvenile Accountability Incentive Block Grants Program recently made \$250 million available to states which are committed to developing a comprehensive juvenile justice system. California's share is approximately \$22 million.

Alternatively, the state could appropriate \$4 million to fund approximately 80 NAB probation officers in counties statewide as an initial step in the development of a comprehensive county juvenile justice system. This would not include administrative costs or costs associated with setting up a NAB. Funding 80 probation officer positions would save the state approximately \$12 million based on the two active NAB counties.

Benefits of Neighborhood Accountability Boards

- *Increased Accountability*
Many counties currently place adult probationers in "banked caseloads" with little or no supervision. In contrast, NABs require community-imposed accountability. Allowing the community to hold offenders accountable also helps the victims to heal and/or be reimbursed for financial losses. The same is true for first-time juvenile misdemeanor offenders. The community holds the juvenile offender accountable through the NAB and serves as a strong prevention measure against the juvenile's further involvement in the juvenile justice system.
- *Cost Benefit*
According to San Bernardino County probation officials, local NABs have saved the county approximately \$1 million annually, based on the salary savings that would have been paid to probation officers to do the same work. Sacramento County probation officials estimate that local NABs have saved the county about \$275,000 in the first year. However, Sacramento probation officials also believe that an additional savings of \$354,127 to \$844,511 occurs as a result of juvenile offenders going through the NAB process, as opposed to the informal probation process or the court hearing process.¹⁴ While both counties are similar in population, San Bernardino has many more towns spread out over a much greater area. Together, the two counties have saved about \$1.6 to \$2.3 million annually.
- *Better Case Management*
The volunteers serving on NABs contribute important resources to the criminal justice system. They significantly reduce probation officers' administrative workloads, allowing those resources to be redirected to more serious cases and improved case management. For example, one probation officer can coordinate the work of up to three NABs.
- *Judicial Alternative*
A NAB disposition serves as an alternative to either the informal probation hearing process or the judicial hearing process. Once an offender agrees to participate in a NAB in lieu of court arraignment, or as part of a court-ordered requirement, any of a

¹⁴Sacramento County Probation Department analysis of the saving occurring as the result of Nabs, 1998.

number of community service tasks could be required by the NAB. NABs could monitor requirements that certain offenders pay back fines and/or fees to compensate for loss of property or stolen goods. Mandated payment of fines and fees currently often goes unmonitored and uncollected during an offender's term of probation.

Program violators could be recommended by the NAB to the probation case manager for tougher sanctions, including more stringent community service requirements, an intermediate sanction program such as electronic monitoring and intensive supervision, paying additional fees or fines, being returned to court for arraignment before a judge, or being remanded to the custody of a misdemeanor jail.

The Office of Criminal Justice Planning (OCJP) or the California Board of Corrections could develop guidelines for appropriate community service tasks, and probation officers should monitor NAB-assigned contract conditions for quality assurance.

- *Offender Reintegration*

If an offender successfully completes the NAB program, his or her crime could be expunged. This might require legislation to define acceptable parameters.

- *Community Involvement*

The presence of a NAB demonstrates community commitment and organization in support of the criminal justice system. As a result, there might be less local ambiguity about the line between acceptable and unacceptable behavior and potential consequences. NABs promote pro-active problem solving and police-community partnerships to address crime, fear and other community issues. Communications, networking and problem solving are addressed within a context of interdependence.

The NAB concept allows grass root community members, service clubs, businesses, schools and/or other interested members of a community to be actively involved in helping probationers to become contributing members of their communities. According to one probation officer, "Once the word got out that a particular community had organized a NAB, other communities wanted to join in." It became a matter of community pride to help prevent a juvenile from going astray. A NAB can conduct offender hearings in schools, churches, community service districts, or anywhere in a local community setting. NAB-imposed community service could result in positive change for local communities while helping offenders repay their debts to their communities.

Arguments Against the Neighborhood Accountability Board Concept

- *Probationer Failure*

According to research literature, many offenders who are selected by the courts to participate in community-oriented correction programs in lieu of sentencing fail for a variety of reasons and are subsequently returned to court for sentencing. The term "net widening" is commonly used to describe this phenomenon, as offenders who fail community-imposed corrections programs end up in jail. The NAB is a community-

oriented corrections program and may experience this problem. Evaluations suggesting a good success rate in keeping offenders out of the judicial sentencing process are still relatively short term.

A NAB monitored offender who fails the conditions of probation is likely to be sent back before a judge for sentencing, which can lead to more severe sanctions and/or jail.

- *Displacement*
A remote consequence of placing a failed NAB monitored offender in jail or in a high risk probation caseload is that he or she might displace a more serious offender. This is because of the crowded conditions of many county jails and extremely large probation caseloads.
- *Resource Consumption*
Organizing a NAB program for selected juveniles and adult probationers could require local probation officers to undertake extensive organizational meetings with community groups and could take valuable time away from day-to-day probation supervisory and administrative functions. Community service activities will need to be developed and monitored for appropriateness.
- *Possible Failure*
Insufficient volunteers, short term commitment to a long term problem, and lack of community structure to support NABs and community service work are other potential problems.
- *Implication of Failure and the Three Strikes Law*
The possibility exists that adult felony offenders could successfully participate in a NAB-sponsored program, have their probation record expunged, and commit a subsequent felony. It is unclear under this scenario whether the subsequent felony counts as a second strike or not. Perhaps this is a question for the OCJP Legal Counsel or for Legislative Counsel to answer.

A Variation of Neighborhood Accountability Boards–Teen Courts

Another ADR program that operates like a NAB is “Teen Court” or “Peer Court.” Like NABs, teen courts have the broad goal of making youth accountable while reducing the involvement of local criminal justice agencies. Teen court programs began in 1983 in Texas and have since spread to twenty-six states, including California. Thirteen counties and twenty-one cities in California use teen courts as a way to hold youth accountable for misdemeanor crimes.

Youth courts often involve young people serving as judge, prosecutor, defender, and jury. Cases can be referred to a youth court by judges, police officers, probation officers and school officials. Traditionally only nonviolent crime cases such as shoplifting, vandalism, truancy, and illegal alcohol possession are referred to youth courts.

The program basically works as follows:

- An offender commits an offense which falls within the teen court's jurisdiction.
- The offender admits guilt and accepts the option of the teen court "constructive sentencing opportunity."
- The case is referred to the teen court administrator.
- The offender and his/her parents must come before the administrator for an interview prior to a teen court date.
- The offender appears before the teen court and a court trial begins under the guidance of an assigned teen volunteer court officer.
- The teen jury deliberates, returns a "non-punitive sentence," and gives the offender specific timeframes for completing the sentence. The offender notifies the court administrator when the sentence is completed.

Teen courts remain popular but are resource intensive. For example, a substantial amount of preparation time (upwards of sixteen hours) is required by court professionals to train, advise, and instruct students on the fine points of the judicial process. Professional workers include judges, bailiffs, district attorneys, public defenders, clerks, probation and sheriffs' officers, and school principals and teachers. At least one court official must be present during teen trials. Success rates (those offenders completing their sentenced tasks), based on national data compiled by the American Probation and Parole Association, range from 55 percent to 88 percent, depending on the resources available to monitor the sentenced teen offenders.

APPENDIX B

STATE AND COUNTY CORRECTIONAL PARTNERSHIPS

STATE AND COUNTY CORRECTIONAL PARTNERSHIPS

This section examines parole and probation in California to identify where services overlap and where functions might be merged across traditional case management boundaries. The two key elements are Day Reporting Centers (DRCs) and an Integrated State-Local Offender Database.

County teams of sheriffs, police, probation, and state parole agents currently join together in local “violence suppression units” to monitor the movement and activity of high risk probation and parole offenders. These violence suppression units are funded from federal formula grants (Edward Byrne Memorial Fund). Activities include intensive supervision, electronic monitoring and specialized counseling programs.

The state could provide statutory authority and money to jointly fund county and state supervision of regular parole and high-risk probation offenders. This would be the easiest administrative mechanism to facilitate county-state collaboration.

An alternative organizational structure could include Memoranda of Understanding (MOU) or even Joint Powers Agreements (JPA) between the state and counties. These types of agreements are commonly used for a wide variety of public services such as regional water use, employment programs, and transportation services. Monitoring offenders from different jurisdictions in need of similar services and of similar risk would be consistent with these uses.

Legal Framework for Day Reporting Centers

Day Reporting Centers (DRCs) offer a structured community sanctions program that could be used for both probationers and parolees.

California Penal Code Sections 6242-6250.5 authorize the Director of the Department of Corrections to establish and operate Community Corrections Centers. The Director may also contract for the establishment of community correction facilities that offer programs for the treatment of alcohol or drug addiction, employment skills enhancement (including literacy and computer training), victim awareness, and family responsibility.

California Penal Code Section 6029.1 (County Jail Capital Expenditure Fund) authorizes the California Board of Corrections to finance construction of local detention facilities, provided the county or city has utilized reasonable pre- and post-conviction incarceration alternative sanction programs. These programs include drug and alcohol treatment, intensive supervision, electronic monitoring, or other local sanctions. (While currently operational, all the funds will be expended shortly. The OCJP could recommend additional funding for local sanction programming.)

Current state law does not require formal collaboration between county and state correctional agencies to manage and/or cooperatively operate community correctional

facilities or other correctional programs. However, legislation would be needed to ensure that a collaborative restructuring process takes place.

Supervision and Services in Day Reporting Centers

DRC surveillance of probationers is conducted both on- and off-site. In a typical program, an offender might check in at a DRC early each day, talk briefly with a counselor, then go to work. After work, the offender might return to the DRC for an evening group counseling session. During the program's most intensive phase, on-site surveillance could require an offender to be at the center up to 18 hours per week.

Off-site surveillance may be accomplished by telephone calls to an offender's job site, home, or another location where the offender is supposed to be. Other supervision options include having offenders fill out daily itineraries for several days in advance to facilitate keeping track of their whereabouts. Off-site contacts can also be performed by designated supervisory staff at agencies where offenders perform community service, by electronic monitoring or by field visits from DRC staff.

Some DRCs provide a variety of one-stop services on site in addition to supervision and counseling. These can include employment counseling, cash assistance such as General Assistance or TANF, vocational rehabilitation, social security and social security insurance housing placement, drug counseling (Narcotics Anonymous), alcohol counseling (Alcoholic Anonymous), parenting, anger management and crisis intervention. A DRC could also provide aftercare services for offenders who complete drug treatment programs prior to release, provided they do not require mandatory residential treatment.

Cost

According to a 1994 national survey of day reporting centers in operation for over one year, the average cost per offender per day was \$35.04. Publicly run centers cost somewhat less per offender per day (\$16.75) than private programs.¹⁵ Based on that average figure, it would cost approximately \$1.8 million annually to operate a 300 offender capacity center. Programs with more intensive surveillance are more costly than programs with less intensive surveillance.

A major county concern is that a correctional program that involves state parolees might shift state correctional costs to local government. If state parolees are to be a significant part of a new DRC program, existing funding streams, such as for supervision or substance abuse treatment, should follow them.

If new grant money is secured for the DRC program and counties choose to participate, a "phased approach" to implementation would be realistic. This would immediately benefit the larger and more organized counties, which could gear up quickly to develop the

¹⁵ Dale G. Parent, "Day Reporting Centers: An Evolving Intermediate Sanction," *Federal Probation Journal*, December 1996.

structure necessary for the program. Smaller counties might take longer to organize their programs and would have access to funding under a phased approach.

Personnel Costs

Different state parole and county probation personnel costs may complicate any partnership. The educational requirements and salary structures for parole and probation are not currently compatible. The average entry level salary for state parole officers is about 10 percent more than that of the average county probation officer (\$41,450 compared to \$36,000). Entry level educational requirements for a county probation officer include a Bachelor's Degree or equivalent, whereas the educational requirement for a state parole officer is a high school diploma or equivalent.

One approach to bridge these disparities would be for the state and counties to each provide the necessary level of their own personnel to manage and supervise an agreed upon number or percentage of offenders. Overtime, the educational requirements could be raised for state parole officers and salaries adjusted upward for county probation officers.

The number of personnel required to operate a DRC program would vary with the level and intensity of the programming required for offenders. For example, high-risk offenders require intensive supervision, and offenders in need of treatment require more services. According to the 1996 CRB statewide probation survey, high-risk offender caseloads are a maximum of 28 offenders per probation officer, and include intensive supervision, house arrest, electronic monitoring, and early release programs.

Currently there are no statewide standards or guidelines for establishing probation and parole offender caseload ratios. The Office of Criminal Justice Planning (OCJP) may want to develop such standards.

As a necessary first step to realign county probation and state parole functions, a transition team of state parole and county probation officials could identify the fiscal, personnel, and operational issues that need to be resolved.

Case Management

High risk county probationers and state parolees selected by correctional officials to participate in DRC programs could be supervised by either parole or probation case managers, depending on treatment service needs and program requirements. The case manager would assist and monitor offender participation in drug treatment; counseling or other "one-stop" DRC activities such as job training. An interdisciplinary team of correctional and social service personnel could develop a menu of on-site services. For example, an offender might receive drug treatment or counseling services in the morning, behavioral management counseling in the mid-afternoon, and employment counseling or other necessary life skills training at the end of the day. Offenders in need of close

supervision or electronic monitoring could be closely supervised, based on a risk assessment ranking.

Day Reporting Center Offender Selection Process

Risk assessments and offender classification systems are effective management tools used to select offenders for certain kinds of community correction programs. A reliable risk/needs instrument could assess which offenders from eligible prison and jail populations might be released early for participation in a DRC program. Targeting offender characteristics to select who may participate in a Day Reporting Center program is critical. For example, an offender in state prison who was sentenced primarily for drug offenses and has committed other serious felonies might be disqualified from participation by a reliable risk/needs assessment tool.

The OCJP may need to work with the correctional research community to develop and/or identify a risk assessment tool for standardized implementation statewide.

Potential Target Offender Population

Participation requirements for the DRC program could specify that offenders be eligible for early release and be selected by correctional officials. For example, eligible state prison offenders might have been sentenced for nonviolent crimes and be within twelve months or less of their parole date. Eligible county offenders might have been sentenced for nonviolent crimes, or certain violent crimes, and be within six months of their jail release date.

Typical characteristics of these offender groups include a high risk for reoffending, need for daily structured programming and intensive supervision, and transitional service needs such as outpatient treatment for drug or alcohol addiction. County offenders might serve up to six months at the DRC facility while parole offenders could serve up to 12 months.

Consequence of Failure

Offenders who violate program requirements should experience graduated sanctions or return to incarceration, as determined by the probation and/or parole official who administers the program. For example, offenders who test positive for drugs could be required to undertake more treatment. Some form of electronic monitoring or intensive supervision could be imposed on offenders who do not follow through with daily program requirements. Return to custody, jail or prison would be the most serious consequence of failure to follow program requirements.

DRC Program Characteristics

The size of DRC programs varies according to offender needs and program resources. According to a 1994 national survey, the average daily census for DRC programs was 45

offenders. This included mostly private as well as public programs.¹⁶ Larger DRC programs, mostly government-operated, ranged from 300 to 1,000 offenders.

This proposal envisions a DRC program that could meet the treatment and intensive supervision needs of 300 to 600 offenders per site. A smaller program might serve 200 to 300 high-risk offenders per site.

The duration of a DRC program should be from six to 12 months, depending on the type of offender and whether he or she is an early release probationer or parolee. The longer program requirements would be for parolees and not probationers. The programs might be administered in phases, during which the frequency and intensity of supervision are reduced for offenders who adjust successfully.

DRC Site Selection

County correctional officials in consultation with state parole officials could recommend potential DRC sites. Existing county facilities might have the highest priority because of their relatively low operational costs and close proximity to other criminal justice resources. State-owned facilities could also be an alternative. Counties could be compensated financially by the state for the use of their facilities.

Site locations for new DRCs could involve active participation from the local communities and neighborhoods. Public participation might be required in facility planning meetings, construction, and employment opportunities. Public hearings involving site selection and choice of DRC programming options could be jointly organized and conducted by community organizers and criminal justice officials. This might involve coordination with local police departments that use Community Oriented Policing program (COP) police officers to patrol troubled neighborhoods.

Bus and transportation services are a key consideration when deciding where to locate a DRC facility. Many offenders leaving locked correctional facilities lack personal transportation and need reliable public transportation to ensure their participation.

Information Integration of Local and Statewide Offender Databases

The California Violent Criminal Information Network (VCIN) database currently includes parolees and will eventually also include active files on probation offenders. In addition, the California Department of Corrections, Parole Division maintains an active parolee database. Either one or both of these systems could be used to improve cross-jurisdictional data sharing in an integrated parole-probation program.

¹⁶ Ibid.