



# Performance Incentive Funding

Aligning Fiscal and Operational Responsibility  
to Produce More Safety at Less Cost

NOVEMBER 2012

# Executive Summary

America's tough-on-crime sentencing policies are often cited as the primary reason the United States has the highest incarceration rate in the world. Yet there is another contributing factor that is often overlooked: a structural flaw in the way most states fund their criminal justice systems that discourages local decision makers from supervising offenders in the community and makes it easier to send them to prison.

It is the state corrections agency that bears the cost of incarcerating people in prison. However, both the decision to send an offender to prison and the cost of keeping an offender in the community almost always rest with a different state agency or a local jurisdiction. This is true for either a new conviction or a revocation from probation or parole. In the eyes of local decision makers and in cases involving low-level offenders, sending someone to prison is all too often the preferred option because it saves the actual expense of supervision and avoids the political cost should an offender commit a serious crime while in the community.

Because of ongoing state budget deficits and decades of prison population growth, state policymakers have recently begun to focus attention on this misalignment of fiscal and operational responsibility by devising solutions that make system actors more accountable and collaborative. Since 2003, eight states have enacted legislation creating performance incentive funding (PIF) programs that aim to align the interests of the state corrections agency and local decision makers.

PIF programs are premised on the idea that if the supervision agency or locality sends fewer low-level offenders to prison—thereby causing the state to incur fewer costs—some portion of the state savings should be shared with the agency or locality. With PIF, agencies or localities receive a financial reward for delivering fewer prison commitments through reduced recidivism and revocations that, in turn, must be reinvested into evidence-based programs in the community.

In September 2011, the Vera Institute of Justice, the Pew Center on the States, and Metropolis Strategies brought together more than 50 practitioners from the states that have enacted or were considering PIF legislation. In addition to outlining how PIF programs can lead to better offender outcomes while reducing overall corrections costs, this report discusses seven key challenges and tasks, identified by summit participants, that a state must address when designing and implementing a PIF program: (1) choosing an administrative structure, (2) selecting a funding mechanism, (3) deciding whether to provide seed funding, (4) selecting outcome measures, (5) determining baseline measures, (6) estimating savings, and (7) engaging stakeholders.

The report suggests that including multiple measures to evaluate performance and determine eligibility for incentive funding, rather than focusing on just the single outcome of reduced prison commitments, will ensure that public safety is protected while positive outcomes are still achieved. This report also highlights the importance of incorporating evidence-based practices into the incentive funding structure and providing agencies and localities with the resources and support they need to pursue the program's goals.

A successful PIF program can significantly curb prison population growth and costs while increasing public safety: in the first year of its PIF program, California experienced a 23-percent drop in prison commitments of felony probationers, and \$88 million of the savings was distributed to county probation agencies. Most important, PIF can transform public safety by contributing to a reduction in recidivism, crime, and revocation rates.

## FROM THE CENTER DIRECTOR

Vera's Center on Sentencing and Corrections has partnered with many states and counties engaged in the difficult work of systems change. While many of these projects resulted successfully in the creation of new sentencing commissions, the passage of new sentencing laws, or the implementation of evidence-based practices, the work's full impact has often been diminished by the lack of collaboration among and between state agencies and localities.

With performance incentive funding programs, collaboration among these players is assured through the framework of a performance-based contract. PIF programs provide the participants with a clear set of shared objectives, an articulated requirement to report outcomes, and a tangible reward based on performance.

Decades of research tell us what works to produce better outcomes with people supervised in the community. However, without sufficient funding, community corrections agencies cannot implement these practices. If successful, PIF programs solve this funding conundrum. We hope this report raises awareness of this promising approach and helps states to develop successful programs.



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# Introduction

Policymakers and scholars cite a wide range of reasons why the United States is the world's leading incarcerator. Two decades of high violent crime rates until the mid-1990s, the shuttering of mental health facilities in the 1980s and continuing today, and federal subsidy of state prison construction in the 1990s are often prime suspects. The chief culprit, however, is generally acknowledged to be the cumulative impact of hundreds of policy decisions by state and federal leaders that increased criminal sentences and restricted release from prison.

There is another driver fueling prison growth that has been largely overlooked: a structural flaw in the U.S. criminal justice system that incentivizes probation and parole agencies and courts to put struggling low-level offenders behind bars.

Prisons and community corrections are typically administered by two distinct entities. In most cases, a state-level department is responsible for incarcerating offenders in prison while a different state agency or local jurisdiction is responsible for supervising offenders in the community.<sup>1</sup> When offenders break the rules of their supervision, officials and courts typically have two choices: intensify the offenders' supervision and services in the community or revoke their supervision and send them to prison. Supervision agencies often opt for the latter because revoking probation or parole allows them to thin caseloads, trim costs, and reduce the political risk of offenders committing new crimes, while shifting the problem—and financial burden—to another entity.

In corrections, such shifting of fiscal and operational responsibility can have perverse and expensive consequences. In many states, one of several prison drivers is the number of offenders coming into prison after being revoked from probation or parole; in some instances, that number is equal to the number entering by virtue of a conviction in court for committing a new crime. In Kansas, in 2006, nearly two out of three prison admissions were those who had been revoked from supervision.<sup>2</sup> In South Carolina, in 2009, more than 3,000 offenders were sent to prison on a revocation, accounting for 24 percent of all prison admissions.<sup>3</sup>

The good news is that states and local jurisdictions are figuring out ways to work together to provide lower-level offenders with programs in the community. In the past several years, eight states (Arkansas, California, Illinois, Kansas, Kentucky, Ohio, South Carolina, and Texas) have enacted legislation creating performance incentive funding (PIF) programs through which community corrections agencies receive part of the state savings achieved when they improve their outcomes and send fewer offenders to prison.<sup>4</sup> Two of the states, Ohio and Illinois, started their programs in the juvenile justice system and subsequently expanded them to adult corrections.<sup>5</sup>

## CALIFORNIA'S PIF STORY

For decades, California's state government provided no dependable appropriations for adult probation services, which are managed by the executive branch of the state's 58 counties. Instead, probation agencies were funded by local dollars, probationer fees, and sporadic federal grants. In 2008, average annual spending to supervise an adult offender on probation was \$1,250.<sup>a</sup> Meanwhile the state was spending roughly \$50,000 per year—40 times more—to incarcerate each offender sent to state prison for violating terms of their community supervision.<sup>b</sup> With insufficient funding for adult probation, more than half of California's adult probationers were not actively supervised,<sup>c</sup> which may partly explain why California probationers failed to complete probation at a rate 10 percent higher than the national average.<sup>d</sup> The California State Legislature and its Legislative Analyst's Office found that nearly 20,000 felony probationers were revoked to state prison annually, costing the state more than \$1 billion a year.<sup>e</sup>

This fiscal and operational misalignment was addressed in 2009 when lawmakers unanimously passed the California Community Corrections Performance Incentive Act, commonly referred to by its bill number, SB 678. Citing a critical lack of resources as the reason for California's high probation failure rate, SB 678 sought to reduce recidivism and revocations among felony probationers by sharing up to 50 percent of resulting state prison savings with probation agencies that reduced probation failure rates below baseline levels. To ensure that the incentive

funds were put to the best possible use, the law required that the money be reinvested into evidence-based programs proven to hold offenders accountable and reduce recidivism. SB 678 also established performance measures and agency reporting responsibilities to improve accountability.

According to the California Administrative Office of the Courts, the number of prison commitments of felony probationers in 2011 dropped by 32 percent from the baseline period, saving the state approximately \$278 million. More than \$136 million of these savings will be distributed to the local probation departments in fiscal year 2012–2013.<sup>f</sup>

a California Legislative Analyst's Office, *Achieving Better Outcomes for Adult Probation* (Sacramento: Legislative Analyst's Office, 2009), 23.

b Ibid.

c Michael Machado and Roger K. Warren, "Fixing California's Prison System," *California Courts Review* (Fall 2008), 12.

d California Legislative Analyst's Office, 2009, p. 20. While insufficient supervision may partly explain California's poor probation results, research has also demonstrated that not all probationers require active supervision: low risk probationers can be effectively managed – and succeed – on administrative supervision. Indeed, actively supervising lower-risk offenders may produce negative results. See James Bonta and D.A. Andrews, *Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation* (Ottawa: Public Safety Canada, 2007), 9-10.

e California Senate Bill 678 (2009). See California Legislative Analyst's Office, 2009, p. 20.

f California Administrative Office of the Courts, *SB 678 Year 2 Report: Implementation of the California Community Corrections Performance Incentives Act of 2009* (San Francisco: Administrative Office of the Courts, 2012), 1.

The results are encouraging. In the first year of its PIF program, California experienced a 23-percent drop in prison commitments of felony probationers and a savings of almost \$180 million.<sup>6</sup> Nearly \$88 million of the savings was distributed to county probation agencies to fund new or expanded supervision programs.<sup>7</sup>

In September 2011, the Vera Institute of Justice, the Pew Center on the States, and Metropolis Strategies hosted a summit on performance incentive funding. More than 50 practitioners, including representatives of the eight states that have enacted PIF legislation, met to discuss the successes and challenges of developing and implementing PIF programs.

This report summarizes that discussion and outlines how PIF programs can lead to better offender outcomes while reducing overall corrections

costs. It describes the problem of misaligned incentives, lays out key objectives of PIF programs, offers lessons learned by the pioneering states, and highlights important decision points to help policymakers design their own PIF approach.

## The Problem: Misaligned Incentives

Incentives can powerfully encourage behavior and influence actions. Although all community supervision agencies strive to achieve successful results, there are few, if any, incentives to do so; in fact, disincentives abound. Given the costs (in terms of time and money) of supervision and the negative political consequences should an offender commit a high-profile crime while under supervision, it is all too easy to send an offender to prison.<sup>8</sup> With those realities, financially strapped states are reluctant to allocate scarce resources to community-based supervision, especially if officials believe that they will only pay again when a supervisee is later returned to prison. Compounding the problem, the high failure rates of those on supervision and the absence of successful programs regularly lead prosecutors and judges to favor imprisonment over community-based sentences.

Serious, violent, and chronic offenders have earned their place in prison but an ever-expanding body of evidence shows that many lower-level offenders can be safely and less expensively sanctioned in the community. Instead, they are occupying costly prison beds, overwhelming corrections budgets, and undermining the state's ability to invest in proven, community-based supervision strategies. The outcomes are predictable: stubbornly high recidivism rates and rising costs. In California, the Legislative Analyst's Office summed it up this way: "The consequence of these fiscal incentives is that some offenders who could be safely and successfully supervised at the local level, if more resources were available for this purpose, are instead sent to state prison at an even greater cost to taxpayers."<sup>9</sup>

The impact of misaligned incentives is reflected in some basic features of state sentencing and corrections systems. Despite the difference in the size of the respective correctional populations—there are nearly three times more people on probation and parole than in prison—nearly nine out of 10 correctional dollars go to prisons.<sup>10</sup> While the cost of incarceration is certainly more than the cost of community supervision, the actual disparity is huge—states spend about \$79 per day on each prison inmate compared to less than \$3.50 per day on each probationer and less than \$7.50 for each parolee.<sup>11</sup> The relative lack of resources for community supervision may be partly responsible for the high rates of failure. More than 40 percent of those on probation fail to complete probation successfully,

*"Improving felony probation performance... will reduce the number of new admissions to state prison, saving taxpayer dollars and allowing a portion of those state savings to be redirected to probation for investing in community corrections programs."*

—CALIFORNIA COMMUNITY CORRECTIONS PERFORMANCE INCENTIVE ACT (SB 678)

and roughly 40 percent of people released from prison are reincarcerated within three years.<sup>12</sup>

## A Solution: Performance Incentive Funding Programs

Performance incentive funding programs address the structural disconnection within correctional systems by adding logical fiscal incentives to the mix. PIF programs can produce positive benefits for key stakeholders: states reduce the costs of building and operating prisons; agencies receive funding to fortify their community supervision programs; and public safety improves through reductions in recidivism, crime, and revocation rates.

PIF programs are founded on two basic principles. First, community corrections agencies should adopt evidence-based practices because these practices are proven to reduce recidivism and achieve successful offender outcomes. (See “Improving Outcomes” on page 13.) Second, states should return some of the state savings to local agencies when those practices reduce recidivism and prison commitments.<sup>13</sup> With PIF programs, agencies or localities receive a financial reward when they achieve certain performance-based measures, and they are required to invest that money back into evidence-based programs. While the PIF programs now operating in eight states differ in structure and administration, all aim to improve

*“By providing financial incentives to counties or judicial circuits to create effective local-level evidence-based services, it is possible to reduce crime and recidivism at a lower cost to taxpayers.”*

—ILLINOIS CRIME REDUCTION ACT OF 2009 (SB 1289)

### PIF PROGRAM GOALS

- 1. Improve public safety outcomes.** Improvement in public safety outcomes is commonly measured by lower crime and recidivism rates, lower probation or parole revocation rates, and higher successful probation or parole completion rates.
- 2. Report and monitor performance measures.** Supervision agencies must report offender outcome data to the state agency responsible for monitoring or administering the PIF program to demonstrate progress toward achieving public safety outcomes.
- 3. Fiscally reward agencies for positive performance.** Based on performance and according to the program’s funding mechanism, the state awards financial payments or grants to the agencies achieving desired outcomes, and these funds are used for evidence-based programs.

## PERFORMANCE INCENTIVE FUNDING PROGRAM FOR ADULT OFFENDERS

	ADMINISTRATIVE STRUCTURE	FUNDING MECHANISM	OUTCOME MEASURES	FUNDS AWARDED/ ALLOCATED
<p>ARKANSAS</p> <p><b>Public Safety Improvement Act</b></p> <p>SB 750 (2011)</p>	<ul style="list-style-type: none"> <li>&gt; Board of Corrections oversees competitive grant process to award funds to five pilot jurisdictions to reduce prison commitments.</li> <li>&gt; Separate grant to Department of Community Correction to reduce probation revocations.</li> </ul>	<ul style="list-style-type: none"> <li>&gt; Pilot jurisdictions will receive 50 percent of the averted state costs.</li> <li>&gt; Department of Community Correction will receive additional funding to be determined by Board of Corrections.</li> </ul>	<ul style="list-style-type: none"> <li>&gt; Reduce probation revocations.</li> <li>&gt; Reduce commitments to prison.</li> <li>&gt; Maintain stable or decreased felony conviction rate.</li> </ul>	<p>No funding allocated as of October 2012.</p>
<p>CALIFORNIA</p> <p><b>California Community Corrections Performance Incentive Act</b></p> <p>SB 678 (2009)</p>	<p>Administrative Office of the Courts administers the program and the Department of Finance calculates incentive payments and grants annually.</p>	<ul style="list-style-type: none"> <li>&gt; Counties receive 40-45 percent of state savings.</li> <li>&gt; High performance grants are available to counties with revocation rates more than 50 percent below statewide average.</li> </ul>	<p>Reduce probation revocations.</p>	<ul style="list-style-type: none"> <li>&gt; FY2010 - \$45 million (seed funding)</li> <li>&gt; FY2011 - \$87.5 million (incentive payments and grants)</li> <li>&gt; FY2012 - \$136.4 million (incentive payments and grants)</li> </ul>
<p>ILLINOIS</p> <p><b>Illinois Crime Reduction Act of 2009</b></p> <p>SB 1289 (2009)</p>	<p>Adult Redeploy Illinois Oversight Board (co-chaired by the directors of Corrections and Human Services) oversees the awarding of grants to pilot sites after submission of standard plan.</p>	<ul style="list-style-type: none"> <li>&gt; Planning grants up to \$30,000 available to local jurisdictions.</li> <li>&gt; Up to \$1 million in implementation funds per jurisdiction based on population and budget in standard plan.</li> <li>&gt; Penalty assessed if reduction goal not met.</li> </ul>	<p>Reduce prison commitments of non-violent offenders by 25 percent.</p>	<ul style="list-style-type: none"> <li>&gt; FY2010 - \$2 million in Governor's Discretionary Funds allocated</li> <li>&gt; FY2010-2012 - \$4 million (seed and implementation funding)</li> </ul>
<p>KANSAS</p> <p><b>Risk Reduction Initiative</b></p> <p>SB 14 (2008)</p>	<p>The Department of Corrections, Community Corrections Division, administers the awarding of annual grants to local community corrections agencies based on submission of a comprehensive plan.</p>	<p>Grant amount based on request and budget included in comprehensive plan.</p>	<ul style="list-style-type: none"> <li>&gt; Initial goal: reduce revocation rates by 20 percent from 2006 rates.</li> <li>&gt; Revised goal: For FY12, successful supervision completion rate of 75 percent.</li> </ul>	<ul style="list-style-type: none"> <li>&gt; FY2008 - \$3.99 million (seed funding)</li> <li>&gt; FY 2009 - \$4 million</li> <li>&gt; FY2010 - \$4 million*</li> </ul>

\* After 2010, state general funds were combined with PIF funding; therefore, the specific PIF amount is not available after 2010.



	ADMINISTRATIVE STRUCTURE	FUNDING MECHANISM	OUTCOME MEASURES	FUNDS AWARDED/ ALLOCATED
KENTUCKY <i>Public Safety and Offender Accountability Act</i> HB 463 (2011)	State Corrections Commission may approve up to five pilot sites with high revocation rates.	50 percent of state savings is returned to the pilot site.	Reduce probation and parole revocations.	No funding allocated as of October 2012.
OHIO <i>Probation Improvement and Incentive Grants</i> HB 86 (2011)	Department of Rehabilitation and Correction administers the program and determines which probation departments are eligible for incentive funds.	<ul style="list-style-type: none"> <li>&gt; Probation improvement grants based on application request.</li> <li>&gt; Probation incentive grants calculated at \$1,800 for each reduced prison commitment.</li> </ul>	Reduce probation revocations.	<ul style="list-style-type: none"> <li>&gt; \$5 million committed for each of fiscal years 2012, 2013, 2014, and 2015 (\$20 million total)</li> <li>&gt; FY 2012 and FY 2013 – \$6.5 million for probation improvement; \$1.7 for technology and training; \$1.8 for incentive funding.</li> </ul>
SOUTH CAROLINA <i>Omnibus Crime Reduction and Sentencing Reform Act</i> S. 1154 (2010)	Sentencing Reform Oversight Committee determines whether to return funds to Department of Probation, Parole and Pardon Services.	State supervision agency will receive up to 35 percent of state savings produced by reduction in probation revocations.	Reduce probation revocations.	No funding allocated as of October 2012.
TEXAS SB 1055 (2011)	A department or regional partnership may submit a commitment reduction plan to the Community Justice Assistance Division of the Department of Criminal Justice.	<ul style="list-style-type: none"> <li>&gt; Local agency receives an initial lump sum equal to 35 percent of state savings described in plan.</li> <li>&gt; Incentive payments out of the remaining 65 percent of savings for achieving certain goals.</li> <li>&gt; Penalty assessed if commitment reduction goal not met.</li> </ul>	Reduce direct prison commitments and probation revocations.	No commitment reduction plans submitted and no funding allocated as of October 2012.

public safety outcomes, require reporting and monitoring of performance measures, and provide financial rewards to agencies or localities for positive results.

Of the eight states that currently have laws creating PIF programs for adult offenders, five have passed PIF enabling legislation within the last three years.<sup>14</sup> As the chart on pages 8-9 demonstrates, there is similarity among the programs but also many differences. There is no one-size-fits-all approach to designing or implementing a PIF program. The next section of this report discusses seven key issues that state and local policy-makers should consider when designing and implementing PIF programs.

## Key Considerations in Designing and Implementing a PIF Program

The summit on performance incentive funding, held in September 2011, brought together more than 50 practitioners from states that have enacted or were considering PIF legislation. Discussions among participants identified a number of common challenges that must be confronted and tasks that must be achieved by states that seek to establish a successful program. This section discusses seven key challenges and tasks.

### 1. CHOOSE AN ADMINISTRATIVE STRUCTURE

An initial consideration when designing a PIF program is selecting the state-level entity responsible for administering the program. This entity is more than just an administrator—it will be responsible for holding the agencies or localities accountable in meeting the outcome measures, reviewing their performance reports, and determining the amount of the fiscal reward.

In five of the eight states that have passed PIF legislation, the programs are administered by the state corrections departments or criminal justice commissions that oversee prisons or community corrections. In California, where there is no existing state-level oversight body for local probation departments, the program is administered by the California Administrative Office of the Courts. In Illinois and South Carolina, newly created state-level entities are charged with administering the programs: the Adult Redeploy Illinois Oversight Board and the South Carolina Sentencing Reform Oversight Committee.

### 2. SELECT A FUNDING MECHANISM

The existing PIF programs use either a grant-based, outcome-based, or hybrid model to determine how much funding a supervision agency or local

entity will receive once it achieves the specified positive outcomes.

**Grant-Based Model.** Two of the eight states (Illinois and Kansas) employ a grant-based model in which the community corrections entities submit to the state administrative entity grant applications that set forth the activities they propose to undertake to achieve specified outcomes. The amount of funding received is based on these applications. A state choosing to adopt the grant-based model needs to:

1. Develop an application template.
2. Decide whether the program will operate statewide or in selected pilot sites; if the latter, then a selection process is also needed.
3. Determine whether the amount of incentive funding will be determined by a formula, negotiated separately with each participating jurisdiction, or some other mechanism.

**Application template.** The states that operate under this model require community corrections entities to submit a plan to receive any grant funds. Illinois and Kansas have standard application templates.<sup>15</sup>

**Selection.** In Kansas, the PIF program operates statewide, subject to the submission and approval of a comprehensive plan by each local jurisdiction. Illinois uses a competitive grant process and operates only in select pilot sites. If a state limits the number of sites, it will be important to choose sites strategically to engage crucial stakeholders, demonstrate success, and have an immediate impact on incarceration numbers. The Adult Redeploy Illinois Oversight Board has targeted counties that commit the highest number of non-violent offenders to prison for inclusion in its PIF program.

**Funding.** Under the grant-based model, the amount of funding awarded depends upon the jurisdiction's plan or grant application and its ultimate success in achieving proposed or mandated outcomes. In Illinois, upon submission of a local plan, the site is eligible for a grant of up to \$1 million (based on population) to fund a 15-18 month program.

A state must decide whether to distribute some or all of the grant proceeds to the grantee upfront in order to assist the grantee in meeting those outcomes, and, if so, whether to establish a mechanism to recoup such funds should the grantee fail to achieve the agreed upon outcomes. In Illinois, for example, the oversight board develops a reimbursement provision that will be levied against a local jurisdiction that fails to reach the reduced number of prison commitments stipulated in its plan.<sup>16</sup>

**Outcome-Based Model.** California, Arkansas, Kentucky, and South Carolina employ an outcome-based model in which supervision agencies

## OUTCOME-BASED PAYMENTS IN CALIFORNIA

In California, each county's incentive payment is calculated using a formula set out in the Community Corrections Performance Incentive Act. Depending on the county's probation failure rate, it receives 40 or 45 percent of the state savings that result from reducing revocations. Savings are calculated by the Department of Finance and based on the average length of stay in prison of revoked probationers (15 months) and the marginal cost per inmate.<sup>a</sup> In 2010, the state saved \$36,000 per inmate per 15-month period, or \$28,800 per 12-month period. The incentive payment for each county in 2011 equaled the number of probationers not revoked to prison in 2010 compared to the baseline year multiplied by 40 or 45 percent of \$28,800. Counties received the remaining payment (tied to the additional three months of savings of \$7,200) in the following year.<sup>b</sup>

a In California, the marginal cost includes both variable costs, such as food, clothing, and medical care, as well as staffing costs.

b California Administrative Office of the Courts, *SB 678 Year 1 Report: Implementation of the California Community Corrections Performance Incentives Act* (San Francisco: Administrative Office of the Courts, 2011).

receive payments to the extent they achieve the results mandated in the PIF legislation.<sup>17</sup> The incentive payment is both a reward for past performance and an investment in continued improvement.

The payment calculation or formula is set out in the enabling legislation and consists of a percentage of the state savings resulting from the agency's performance. In California, payments to local jurisdictions are automatically built into the state's annual budget process. In South Carolina, the state oversight agency must make a recommendation to the legislature whether to appropriate up to 35 percent of the state savings to the community corrections agency. Arkansas mandates that pilot jurisdictions will receive 50 percent of any averted state costs.

While a state choosing to adopt the outcome-based model has fewer decisions to make in terms of the funding mechanism, it may still engage in a selection process to determine which agencies will participate. For instance, the legislation in Kentucky and Arkansas authorizes a limited number of pilot sites, and selection of such sites may take place through a competitive application process. However, after selection, eligibility for funding depends solely on the extent to which the locality or supervision agency achieves the prescribed performance measures and outcomes, with the amount awarded determined by a formula based on reduced prison commitments and the resulting state savings.

**Hybrid Model.** Texas and Ohio employ a hybrid of the grant-based and outcome-based models. Local supervision agencies in these states are eligible for some upfront funding as well as funding based on achieving certain outcomes. They are also required to submit applications or plans.

In Ohio, local agencies submit applications and receive probation improvement grants, which are used to enhance services. They are also eligible for incentive funding, which is awarded if they achieve agreed-upon performance measures. In Texas, local community supervision and corrections departments submit to the administering agency Commitment Reduction Plans, which set forth a target number by which the counties propose to reduce the number of people committed to state prison or the number of community supervision revocations. The PIF program provides grantees with initial lump sum payments in the amount of 35 percent of their plan's estimated state savings. However, should they fall short of their targets, grantees pledge to repay a portion of their grants.

### 3. PROVIDE SEED FUNDING

Some programs provide seed funding to help supervision agencies or local jurisdictions begin implementing or enhancing the evidence-based practices shown to produce improved outcomes. For example:

- > Illinois provided planning grants of up to \$30,000 to the 10 pilot sites to convene stakeholders, analyze data, and complete a local plan.

## IMPROVING OUTCOMES

While PIF programs differ from state to state, practitioners at the summit were in unanimous agreement that in order to achieve better public safety outcomes, jurisdictions must develop specific strategies for reducing recidivism and revocation rates. This generally means developing and implementing supervision and treatment programs that embrace basic principles of evidence-based practices in community corrections.

### EIGHT EVIDENCE-BASED PRINCIPLES FOR EFFECTIVE INTERVENTIONS<sup>a</sup>

Research over the past two decades demonstrates that jurisdictions that implement policies and programs that are consistent with the following principles are more likely to reduce recidivism and improve public safety:<sup>b</sup>

1. Assess the risks and needs of each offender with an actuarial, validated tool.
2. Enhance an offender's internal motivation through positive interactions with corrections professionals.
3. Target interventions:
  - a. Provide more intensive supervision and direct more intensive services toward offenders identified as having a higher risk of reoffending; allocate caseloads based on risk level.
  - b. Create case plans for offenders based on the assessment of needs; match programming and services to the identified needs.
  - c. Be responsive to temperament, learning style, motivation, culture, and gender when assigning offenders to programs.
  - d. Structure 40-70 percent of high-risk offenders' time for 3-9 months.
  - e. Integrate treatment into sentence and sanction requirements.
4. Train staff in skills that can influence behavior change (e.g., motivational interviewing and social learning theory).

5. Increase positive reinforcement. Medium and high risk offenders respond better to carrots than sticks. Positive reinforcement in response to pro-social offender behaviors can be used without undermining the administration of swift and certain sanctions in response to negative and unacceptable behavior.
6. Engage an offender's significant others in the case plan and connect the plan to the offender's community.
7. Measure relevant processes, practices, and outcomes.
8. Provide measurement feedback to offenders, corrections staff, and treatment providers.

Every state that has passed PIF legislation explicitly or implicitly requires agencies that receive incentive funds to invest in and adopt evidence-based practices. Ohio counties must "give priority to supporting evidence-based policies and practices" and grants are available only to probation departments that utilize the Ohio Risk Assessment System.<sup>c</sup> Legislation passed in California, Illinois, South Carolina, Arkansas, and Kentucky all dictate that PIF funds be used for evidence-based supervision practices. Both Illinois and California report on the ways in which the PIF funds are supporting evidence-based practices. In Illinois, pilot sites are using their Adult Redeploy Illinois funds to, among other things, support risk and needs assessments, provide more intensive supervision to high-risk offenders, and train staff on motivational interviewing.<sup>d</sup> California reports similar use of funds, according to the results of the Evidence-Based Practices Annual Assessment conducted by the California Administrative Office of Courts.<sup>e</sup>

In addition to providing interventions that are successful in reducing the risk of recidivism and revocation, effective community corrections programs should also incorporate the use of sanctions that are appropriate for the range of violations committed by those on community supervision. All eight existing PIF programs specifically authorize the use of PIF funds to develop and implement appropriate intermediate sanctions short of revocation.

a Adapted from Brad Bogue and others, *Implementing Evidence-Based Practice in Community Corrections: The Principles of Effective Intervention* (Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2004). See also Frank Domurad and Mark Carey, *Implementing Evidence-Based Practices* (Washington, DC: Center for Effective Public Policy, 2009), 10-16.

b To read more about evidence-based community supervision practices, see Council of State Governments Justice Center, *A Ten Step Guide to Transforming Probation Departments to Reduce Recidivism* (New York: Council of State Governments Justice Center, 2011); and The Urban Institute, *Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes* (Washington, DC: The Urban Institute, 2008).

c Ohio House Bill 86 (2011-12).

d Adult Redeploy Illinois Oversight Board, *Annual Report to the Governor and General Assembly on the Implementation and Projected Impact of Adult Redeploy Illinois* (2012), 15-17.

e California Administrative Office of the Courts, *SB 678 Year 2 Report: Implementation of the California Community Corrections Performance Incentives Act of 2009* (San Francisco: Administrative Office of the Courts, 2012), 3-4.

## USING SEED FUNDING IN SAN FRANCISCO

The City and County of San Francisco received \$475,000 in seed funding to implement SB 678. Chief Adult Probation Officer Wendy Still focused on three areas: (1) organizational change that would support an evidence-based culture, rather than one based on surveillance; (2) reducing officer caseload; and (3) automating the department's assessment tool.<sup>a</sup> Chief Still hired additional officers to ensure reasonably-sized caseloads based on the risk level of offenders. To advance organizational change, the department reviewed and restated its vision, mission, and core values; changed the job criteria for officers to include case management experience and a social work or case work background; and developed training in evidence-based practices, motivational interviewing, and case planning. Chief Still attributes her success—by the end of 2011, the county had reduced the number of probation revocations sent to state prison by more than 40 percent from 2009—to these measures.<sup>b</sup>

a Wendy Still, Interview by Vera Institute of Justice, November 2011.

b The annual number of revocations sent to state prison dropped from 256 in 2009 to 152 in 2011. San Francisco Adult Probation Department, SB 678 Status Report: Fiscal Year 2010/2011 (2012).

- > Ohio is distributing more than \$8.2 million to 25 counties for probation improvement, technology, and training grants that will enhance the availability of mental health and substance abuse programming, improve counties' data collection capabilities or create probation case management systems, and allow counties to train their staff in critical evidence-based supervision skills.
- > California used \$45 million of its federal stimulus (American Recovery and Reinvestment Act) funds to provide seed funding to the state's 58 county probation departments. These agencies used the funding to purchase and provide training on risk/needs assessment tools, to restructure caseloads to focus on higher-risk offenders, and to train probation staff on case planning and evidence-based practices.

While the availability of seed funding may contribute to the success of a state's PIF program, some practitioners suggest that the existence of a fiscal incentive (that is, a promise of future funding if certain outcomes are achieved) alone can have a powerful influence on leaders to achieve better results. Roger Warren, former Judge-in-Residence at the California Administrative Office of the Courts, attributes much of California's first-year success to the motivational effect of the fiscal incentives outlined in SB 678.<sup>18</sup> Even before California's seed money had any demonstrated impact on the implementation of evidence-based supervision practices, many probation departments instituted more thorough revocation review processes and greater use of intermediate sanctions in order to significantly reduce revocations.<sup>19</sup>

## 4. SELECT OUTCOME MEASURES

Like a performance-based contract, the measures used in a PIF program to evaluate agency performance and determine eligibility for state funding are key. In order to ensure that the practices a PIF program intends to incentivize are the practices that are in fact pursued, it is critical that outcome measures be carefully and specifically tailored to the desired program outcomes.

All current PIF programs employ multiple measures, including reductions in prison commitments, recidivism, and crime rates; other public safety outcomes; and the use of funds. Using multiple measures ensures that PIF programs do not focus solely on the number of reduced prison commitments and lose sight of the overall public safety goals. This is what distinguishes PIF programs from earlier probation subsidy efforts and, together with training, quality assurance, and monitoring activities, help to mitigate the risk that an overly narrow focus on any one measure will result in agencies minimizing broader public safety outcomes.

**Prison Commitments.** For all states with PIF legislation, the goal of the program is to reduce the number of prison commitments. For those states

using an outcome-based model, eligibility to receive, and the amount of, funding is determined by the agency's success in reducing that number. States focus on different populations: California, for example, examines felony probation revocations on account of either administrative violations or new felony convictions. Kentucky includes both probation and parole populations. Texas measures prison commitments stemming from direct sentences as well as probation revocations.

**Recidivism and New Crimes.** With the focus on reducing prison commitments, states must be careful that their PIF programs do not encourage community corrections agencies and courts to keep an offender in the community under circumstances in which the interests of public safety warrant imprisonment. For this reason, programs typically measure recidivism and crime rates in participating jurisdictions and compare them to historic or baseline rates. Many states specifically restrict or limit the award of incentive funds if the reduction in prison commitments is associated with any increase in local recidivism or crime rates. Legislation in Arkansas, Kentucky, and South Carolina includes provisions that restrict the award of funding if there is an increase in the percentage of supervised individuals who are convicted of a new felony offense. Although California does not condition the receipt of funding on a reduction in the number of probationers convicted of a felony offense, it monitors state and local crime rates for evidence of the impact of its PIF program.<sup>20</sup> California also uses a blended measure of reduced prison commitments in which any increase in recidivism offsets the amount of funds the local jurisdiction would otherwise receive because of a decrease in revocations.

**Other Public Safety Outcomes.** Current PIF programs promote and measure a range of outcomes related to criminal behavior. For example, although the Kansas PIF program initially tied funding exclusively to the lowering of revocation rates by 20 percent, in 2010 the state expanded its outcomes to include a goal of a 75 percent probation success rate. According to community corrections leaders, this shift encouraged supervising officers to focus on achieving success rather than avoiding failure.<sup>21</sup> In Illinois, although pilot sites must achieve a 25-percent reduction in prison commitments in order to be eligible for future funding, success is also measured by the extent to which programs supported by incentive funding improve education, employment, and drug and alcohol treatment program completion rates. In Texas, state savings are allocated to counties based not only on a reduction in the number of nonviolent offenders sent to prison, but also on the increase in victim restitution payments and the percentage of employed probationers.

**Use of Funds.** PIF programs focus on improving outcomes by enhancing the availability, quality, and effectiveness of evidence-based interventions and intermediate sanctions in the community. Measuring the extent to which PIF funds are being used for those purposes, therefore, provides

“There have to be consequences, both positive and negative, for offender behavior. Offenders are now revoked when they need to be, but not under circumstances where there is a probability of success with appropriate treatment and supervision.”

—ROGER WARREN, FORMER  
JUDGE-IN-RESIDENCE,  
CALIFORNIA ADMINISTRATIVE  
OFFICE OF THE COURTS

Interview by Vera Institute of Justice,  
January 2012

an important indicator of whether the PIF program is working as intended and is likely to result in favorable outcomes. The California legislation, for example, requires probation departments to “maintain a complete and accurate accounting” of all PIF funds, and it requires the Administrative Office of Courts to report annually on the percentage of state monies expended for programs that are evidence-based and the percentage of felony probationers who are supervised in accord with evidence-based practices, as well as to identify supervision policies and programs that have been eliminated as ineffective. Although measuring the extent of evidence-based practices implementation is challenging and not as straightforward as population counts, it can nonetheless be helpful to ensuring that funds are being used in ways that are proven to achieve better outcomes.

**Quality Assurance and Monitoring.** Training, quality assurance, and monitoring can further lessen the risk that narrow outcome measures will result in agencies minimizing broader public safety objectives. For example, if funding is tied to reducing the number of probation revocations, there is concern that in borderline cases supervising officers will be discouraged from initiating revocation proceedings under circumstances in which the interests of public safety warrant such a proceeding. To mitigate this risk, states can require that supervising officers document their responses to violations and the resulting outcomes. If evidence-based practices are being implemented, officers are trained to respond to violations in ways that do not necessarily involve revocation but provide swift, certain, and proportionate sanctions and identify factors contributing to the violation. Supervision departments can develop more effective ways of responding to lower-level violations that reduce the risk to public safety while still holding offenders accountable for violations. Agencies can adopt, for example, formal policies and guidelines regarding the proper use of incentives and sanctions. These evidence-based responses to violations should be documented and reported by the agency to reassure stakeholders that violations are not being ignored.

Monitoring programs are also useful in this regard. In the juvenile Redeploy Illinois program, because the desired statutory outcome was to reduce the number of youth sent to state facilities by 25 percent, there was concern that local jurisdictions might avoid a state commitment by incarcerating youth in local facilities for longer periods of time. To address this concern, university-based evaluators and the Illinois Criminal Justice Information Authority monitor variations in the detention populations in the pilot sites. Additionally, members of the oversight board go into the field to discuss these issues with local stakeholders.<sup>22</sup>

## 5. DETERMINE BASELINE MEASURES

In addition to determining what outcomes to measure, a state must consider how to measure those outcomes. A key challenge is constructing an appropriate baseline against which to compare post-PIF outcomes. The



number of probation and parole revocations, for example, can go up and down as a result of having more or fewer offenders under supervision. The influence of such year-to-year variations can be avoided by using a baseline rate consisting of the percentage of offenders under supervision during the preceding three to five years who were revoked to state prison. In addition, using a baseline rate reduces the pressure on agencies to dramatically improve their performance year to year and can measure their success in comparison with an average over several years.

The risk of using a rolling rather than stationary baseline can lead to a program becoming a victim of its own success. The juvenile Redeploy Illinois program measures the reduction in direct commitments to state facilities in comparison to “the average number of commitments for the past three years of eligible non-violent offenders.” In the first three years of the program, four pilot sites each reduced the number of youth sent to the Department of Juvenile Justice by more than 50 percent. More specifically, in its third year of operation, St. Clair County sent only 11 youth to state facilities—an 85 percent reduction from its baseline.<sup>23</sup> It would be all but impossible for St. Clair County to continue such dramatic reductions from year to year. To address this challenge, St. Clair negotiated with the state oversight board to adjust its goals and indicators to take into account its prior success.<sup>24</sup>

The need to make adjustments to earlier baseline rates becomes necessary whenever significant changes in law, policy, or crime rates affect the number and rate of subsequent prison commitments or probation revocations—irrespective of the success of a particular reform strategy. In California, for example, new realignment legislation went into effect in October 2011. Among other changes to the state’s sentencing and corrections system, the legislation made certain lower-level felony probationers no longer eligible for revocation to prison upon a violation. Instead, those probationers, constituting about half of the felony probation population, are subject to revocation to local jails. Use of the existing PIF baseline rate to compare to post-realignment revocation rates thus became irrelevant. Accordingly, the realignment legislation contained a provision directing that a revised baseline formula be developed “that takes into consideration the significant changes to the eligibility of some felony probationers for revocation to the state prison resulting from the implementation of the 2011 public safety realignment.”<sup>25</sup>

Finally, in addition to determining how best to measure selected outcomes, policymakers need to consider the availability of relevant data, upon whom the data reporting responsibilities should be placed, and the timing and frequency of reporting. States should examine what information is currently being collected and ask whether those data are sufficient for measuring success in achieving the desired outcomes. States must balance the need and desire for data with time and resource constraints at both the state and local level. In Illinois, a customized database was

designed to collect performance measures noted in the PIF legislation as well as measures specific to each jurisdiction. If PIF outcomes require collection of new data, policymakers might consider discontinuing some current data collection activities in order to reduce administrative burdens on staff.

## 6. ESTIMATE SAVINGS

In most cases, the PIF incentive payments are drawn from and calculated as a percentage of the state corrections savings resulting from the positive outcomes achieved by the agencies.<sup>26</sup> For instance, the PIF legislation in Arkansas dictates that pilot sites will receive 50 percent of averted state costs; and in South Carolina, the community supervision agency may receive up to 35 percent of state savings. In Ohio, while the incentive payment of \$1,800 for each reduced prison commitment (compared to the previous year) was based in part on a percentage of the state's cost of housing an offender, it was also tied to the cost of keeping someone in the community as well as available funds. In all cases, PIF programs must accurately estimate the state budgetary savings that result from successful operation of the PIF program.

It is important that the state consider which agency should be responsible for calculating state savings, how to measure the savings, and whether to specify the manner of calculation of savings in the legislation. California is the only state in which the legislation defines the manner of calculation of state savings. All other states assign the responsibility to an oversight committee, board (or department) of corrections, legislative budget board, or director of finance. In South Carolina, for example, the Sentencing Reform Oversight Committee calculates the amount of state expenditures avoided by reductions in the revocation and new felony offense conviction rates, and recommends to the state legislature and governor whether to appropriate any such savings to the state supervision agency.

Generally, savings are based only on variable costs (such as food, clothing, and medical care) and not fixed costs (such as staff salaries and benefits) because the state does not anticipate closing a prison or parts of a prison.<sup>27</sup> California, however, includes staffing costs due to the larger number of prisoners involved (and appears to be the only state to include avoided parole cost).<sup>28</sup> South Carolina explicitly recognizes the possibility of including avoided fixed expenditures (such as staffing and housing) "if larger numbers of potential inmates are avoided."<sup>29</sup> The total variable cost is then multiplied by the number of people not sent to prison (that is, the difference between the current year commitments and the baseline number) and the average prison time avoided.

## 7. ENGAGE STAKEHOLDERS

Improving public safety outcomes is not a goal that the legislature, gov-

error, or any single state or local entity can achieve alone. From the first step to the last, successful performance incentive funding programs require the active participation of many stakeholders. To get PIF legislation enacted, leaders from state government and local corrections agencies must come together. After the legislation is passed, collaboration is required at both the state and local level in order to implement the program effectively. Finally, the state-level entity assigned administrative responsibility must coordinate with other state agencies and report to the legislature and governor.

Key local stakeholders usually include probation leaders, judges, prosecutors, defense attorneys, victim representatives, and community services providers. Often, these stakeholders are organized as part of a local community corrections board or oversight committee. The California legislation, for example, created local Community Corrections Partnerships consisting of representatives of fourteen county criminal justice and services agencies to advise the county's chief probation officer in developing and implementing the local PIF program.<sup>30</sup> In Illinois, although the PIF legislation does not require the creation of local steering committees, each participating local jurisdiction brought together key stakeholders from the local criminal justice system to plan and implement the program. The administering agency in Ohio, the Department of Rehabilitation and Correction, strongly encourages applicants to demonstrate local collaboration in their applications.

The initial task of a local oversight committee is often to engage its members in a training process through which they come to understand and support

## MAINTAINING SUPPORT FOR YOUR PIF PROGRAM

No matter how well designed and managed a PIF program, its survival depends on nurturing, developing, and maintaining support from legislators, policymakers, and other stakeholders.

- > **Be sure those who support the program understand it well, are supplied with regular updates on its progress, and receive credit for its success.** An effective way to explain the program is to agree on and articulate a set of principles that define the purpose of the program. To keep supporters up-to-date, sound descriptions and well-written materials must be created and circulated on a regular basis. Finally, it is important to celebrate successes and share credit with all who contributed.
- > **Put a human face on the program.** Judges, prosecutors, offenders, and those responsible for local budgets will have compelling success stories that can be shared with policymakers and the public. Encourage them to share their personal stories with the media, in small and large local groups, and with policymakers and to explain how they (or the local system) benefitted from the program.
- > **Name the program wisely.** It may seem obvious, and perhaps trivial, but the success of any program or product is enhanced by a name that captures its essence and is memorable to the people who can influence its success. For example, "Redeploy Illinois" and "Reclaim Ohio" are catchy names that also convey positive meaning.
- > **Admit the program's failures or weaknesses.** Every program has weaknesses in design, budget, implementation, or evaluation. Be vigilant about looking for the weaknesses and, once identified, address them. Include the description of this process in the reports to policymakers. Review the changes made on a regular basis and make sure they are working.
- > **Take one step at a time.** Don't be overly ambitious. Design a program with a realistic schedule—perhaps, start with pilot sites—and calibrate the program to build on successes over time. Don't be afraid to scale back if the program becomes unwieldy.
- > **One size does not fit all.** Within the program design and the requirements for outcomes and evaluation, there should be sufficient flexibility to encourage those at the local level to develop and implement a program that works in their jurisdiction with their offenders.

the PIF program. Stakeholders need to reach consensus not only on the PIF program's goals and objectives (e.g., reduce recidivism and prison commitments), but also on the basic strategies to be employed. Local oversight committee members can also help to identify, collect, and analyze data that are needed to measure performance, a particularly challenging undertaking in jurisdictions without integrated criminal justice information systems.<sup>31</sup>

Engaged and supportive stakeholders can help bring credibility to the PIF program and ensure its continued existence. They can inform legislators and others of the importance of the program, thereby building additional support for the PIF legislation at both the policymaking and appropriation levels. As respected local leaders, they can also build public support for the program by touting the program's success in improving public safety while reducing corrections costs.

At first, Illinois faced difficulties gaining the support and participation of local stakeholders, in part because the legislation mandated penalties for failure to meet prison commitment reduction goals. County officials understandably viewed any potential penalty as a fiscal and public relations liability.<sup>32</sup> The Adult Redeploy Illinois Oversight Board garnered support for the program in a deliberate and strategic way: first, it identified pilot sites considered receptive to expanding the use of community-based sanctions and recruited local leaders to create a PIF plan. Second, the oversight board required the formation of a local committee to oversee the implementation of the plan and become its champion. Third, once local leaders became champions of the program, the oversight board invited some to mentor other jurisdictions that remained skeptical. Finally, retired judges were hired to provide technical assistance to local jurisdictions and help build support among sitting judges. In this role, the judges conducted site visits and spoke with members of the judiciary and prosecutors about the benefits of evidence-based practices and the PIF program model.

## Conclusion

The failure of existing policies to align fiscal resources with operational responsibilities creates perverse incentives for corrections officials and courts to imprison many lower-level offenders who could be supervised safely in the community. This structural flaw has helped to escalate America's prison population and create a vicious cycle of recidivism.

Performance incentive funding programs address this critical challenge by providing payments to agencies or local jurisdictions that improve public safety outcomes. The first few states to enact PIF programs, including Kansas, Illinois, and California, all report significant improvements, including reductions in probation revocations, offender recidivism, and prison commitments.

The existing PIF programs are in various stages of implementation, and each state has followed its own path in light of the unique features of its governmental structure and processes. However, all of the existing PIF programs share common goals and objectives, are based on the same fundamental framework, rely on the same principles of performance and accountability, mandate the use of evidence-based practices, and utilize an innovative, incentive-based funding mechanism.

At a time when states across the country continue to grapple with high offender recidivism and revocation rates, tight state corrections budgets, and under-funded community corrections programs, PIF programs hold great promise as a method to ensure that community corrections agencies or local jurisdictions receive much needed funding, states trim prison costs, and the public enjoys safer communities.

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## ENDNOTES

All sources cited here can be accessed online at [www.vera.org/pif/bibliography](http://www.vera.org/pif/bibliography)

- 1 The structure of community supervision varies widely across states; while most states have centralized probation or parole agencies, at least 15 states operate probation on a local or judiciary level. For purposes of this report, we refer to the provider of community supervision as either an agency or local jurisdiction. See Ram Subramanian and Rebecca Tublitz, *Realigning Justice Resources: A Review of Population and Spending Shifts in Prison and Community Corrections* (New York: Vera Institute of Justice, 2012), 27-28.
- 2 Council of State Governments Justice Center, *Justice Reinvestment State Brief: Kansas* (New York: Council of State Governments Justice Center, 2007), 3.
- 3 Pew Center on the States, *South Carolina's Public Safety Reform* (Washington, DC: The Pew Charitable Trusts, 2010).
- 4 A ninth state, Arizona, passed performance incentive funding legislation in 2008. Since the program was never funded and the enacting legislation was repealed in 2011, the Arizona program is not discussed in detail in this report. However, since the state achieved significant reductions in recidivism and revocations among its felony probationers during the three years the program existed on the books, observations about the Arizona program are included in this report. At the time this report was going to print, the Pennsylvania General Assembly, by unanimous votes in both chambers, had approved PIF legislation that Governor Tom Corbett is expected to sign. That bill, HB 135, provides counties with the opportunity to partner with the state and, to the extent the county sends fewer lower-level offenders to prison, receive a portion of the costs that the state otherwise would have borne by incarcerating such offenders. The reimbursements can be used to develop local offender management strategies, such as electronic monitoring, day reporting, intensive probation supervision, jail confinement, and more.
- 5 Reclaim Ohio was launched in 1994 and Redeploy Illinois was created in 2004.
- 6 California Administrative Office of the Courts, *SB 678 Year 1 Report: Implementation of the California Community Corrections Performance Incentives Act* (San Francisco: Administrative Office of the Courts, 2011).
- 7 Ibid. In October 2011, new public safety realignment legislation went into effect in California. Among other major changes to the state's sentencing and corrections system, the legislation made certain lower-level felony probationers no longer eligible for revocation to prison upon a violation. Instead, those lower-level felony probationers, constituting about half of the felony probation population, are subject to revocation to local jails. As a result, the PIF outcomes achieved in 2010 and 2011 in California are unlikely to be repeated. While California's experience with PIF is nevertheless a helpful example, its usefulness as a guide moving forward may be less so.
- 8 Todd R. Clear, "A Private-Sector, Incentives-Based Model for Justice Reinvestment," *Criminology & Public Policy* 10, no. 3 (2011): 585, 597-98.
- 9 California Legislative Analyst's Office, *Achieving Better Outcomes for Adult Probation* (Sacramento: Legislative Analyst's Office, 2009), 19.
- 10 Pew Center on the States, *One in 31: The Long Reach of American*

- Corrections (Washington, DC: The Pew Charitable Trusts, 2009), 11; and Roger K. Warren, "Arming the Courts with Research: 10 Evidence-Based Sentencing Initiatives to Control Crime and Reduce Costs," *Public Safety Policy Brief* (Washington, DC: Pew Center on the States, 2009).
- 11 Pew Center on the States, 2009, p. 12.
  - 12 Lauren E. Glaze and Thomas P. Bonczar, *Bureau of Justice Statistics, Probation and Parole in the United States, 2007* (Washington, DC: U.S. Department of Justice, 2008); and Pew Center on the States, *State of Recidivism: The Revolving Door of America's Prisons* (Washington, DC: The Pew Charitable Trusts, 2011).
  - 13 State savings are variously described as "state savings," "avoided expenditures," or "costs averted." For this report, they are described as state savings.
  - 14 In many instances, including in Arkansas, Kentucky, South Carolina, and Ohio, the PIF legislation was included as part of an overall criminal justice reform strategy and package, often known as justice reinvestment. As part of the justice reinvestment initiative, each of these states analyzed its corrections population, developed policy options to reduce the corrections populations and generate savings, and agreed on a reinvestment strategy to use the savings to create or enhance justice initiatives. PIF programs not only help to reduce the prison population, but they also ensure that part of the state savings are reinvested into community supervision services or other local initiatives. See also Clear, 2011.
  - 15 Kansas, for example, uses a Comprehensive Plan Grant Application and Illinois provides a Standard Plan Template.
  - 16 The reimbursement provision is a last resort after corrective action has been negotiated between the local jurisdiction and the oversight board.
  - 17 The outcome-based model was pioneered in Arizona in 2009. Although the Arizona program was never funded and eventually repealed in 2011, Arizona had, by 2011, reduced its probation revocation to prison rate by more than 39 percent compared to its fiscal year 2008 rate. The number of new felony convictions among its felony probationers had also decreased by more than 41 percent. See Arizona Supreme Court, Adult Probation Services Division, *Arizona Adult Probation: Probation Works in Arizona Fiscal Year 2011* (Phoenix: Administrative Office of the Courts, 2012).
  - 18 Roger Warren, Interview by Vera Institute of Justice, January 2012.
  - 19 Similarly, Arizona court officials report that enactment of the state's PIF legislation, although never funded and subsequently repealed, provided impetus to probation leaders to implement evidence-based supervision practices that contributed to the state's success in reducing recidivism and revocation rates. See Pew Center on the States, *The Impact of Arizona's Probation Reforms* (Washington, DC: The Pew Charitable Trusts, 2011).
  - 20 In 2011, the California Administrative Office of the Courts found that violent and property crime rates in California had continued to fall in 2010, despite the 23-percent reduction in probation revocations that occurred during the first year of implementation of the state's PIF program. California Administrative Office of the Courts, 2011.
  - 21 Annie Grevas, director, Saline County Community Corrections, Interview by Vera Institute of Justice, December, 2011.
  - 22 Paula Wolff, senior executive, Metropolis Strategies, Interview by Vera Institute of Justice, January, 2012.
  - 23 *Redeploy Illinois Annual Report: Implementation and Impact* (2008).
  - 24 The oversight board considers a modification of the metrics only after a jurisdiction achieves such dramatic reductions.
  - 25 California Assembly Bill 117 (2011-12). County probation data reported to the California Administrative Office of the Courts for the first quarter of 2012 indicate that 49 percent of felony probationers revoked to incarceration were revoked to prison (51 percent were revoked to jail). If that percentage holds for the rest of 2012, the size of state savings and resulting 2013 incentive payments to county probation departments will be reduced accordingly. Absent further legislative or administrative change, however, it is anticipated that the size of future financial payments will continue to provide a strong incentive to local probation agencies to maintain and further reduce revocation rates among felony probationers subject to revocation to prison.
  - 26 The exceptions are Kansas and Illinois, which determine the grant amounts based on the county's request included in its comprehensive plan.
  - 27 Variable costs include expenses such as food, clothing, and medical care. Step-fixed costs include staff salaries and benefits when prison capacity is reduced enough to reduce staffing (for example, if a housing unit closes). When states close prisons or parts of prisons, only the marginal cost can be eliminated. The marginal cost is composed of variable costs, and, if prison capacity is reduced sufficiently, step-fixed costs. The marginal cost is lower than the average cost, which also includes the fixed costs of operating prisons (such as debt service and central administration). See Christian Henrichson and Ruth Delaney, *The Price of Prisons: What Incarceration Costs Taxpayers* (New York: Vera Institute of Justice, 2012).
  - 28 CA Penal Code Section 1233.1(a).
  - 29 South Carolina SB 1154, section 24-28-30(3)(b).
  - 30 CA Penal Code Section 1230(b).
  - 31 In Illinois, the Illinois Criminal Justice Information Authority compiled relevant data for local jurisdictions and made it available to planning committees through the program's website.
  - 32 While this was a liability at the county or judicial circuit level, the penalty was an asset at the state level in passing the legislation. Policymakers were eager to have leverage to ensure that local jurisdictions performed as they were mandated.

# Acknowledgements

Many individuals contributed to the writing of this report. The primary authors are Alison Shames and Lise Rahdert from the Vera Institute of Justice; and Paula Wolff and Esther Franco-Payne from Metropolis Strategies. This report benefitted greatly from the careful reviews and substantive feedback from those working in the field implementing PIF programs: Roger Warren, former Judge-in-Residence, California Administrative Office of the Courts, and Mary Ann Dyar, Program Administrator, Adult Redeploy Illinois. The authors also thank practitioners from California, Kansas, Ohio, and Texas who took the time to review drafts of the report and share their implementation experiences. Thanks also to those who edited and commented on drafts of the report: Dan Wilhelm and Peggy McGarry from the Vera Institute of Justice; Nora Daley from Metropolis Strategies; and Jason Newman and Jake Horowitz from the Public Safety Performance Project of the Pew Center on the States. Finally, thank you to Jenifer Warren for assistance in drafting the report and to the team at the Vera Institute of Justice for turning this report into a publication: Patricia Connelly, Melissa Cipollone, Elias Isquith, and Kaitlin Kall.

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#### Suggested Citation

Vera Institute of Justice, *Performance Incentive Funding: Aligning Fiscal and Operational Responsibility to Produce More Safety at Less Cost*. New York: Vera Institute of Justice, 2012.



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