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Contra Costa County: A Model for Managing Local Corrections

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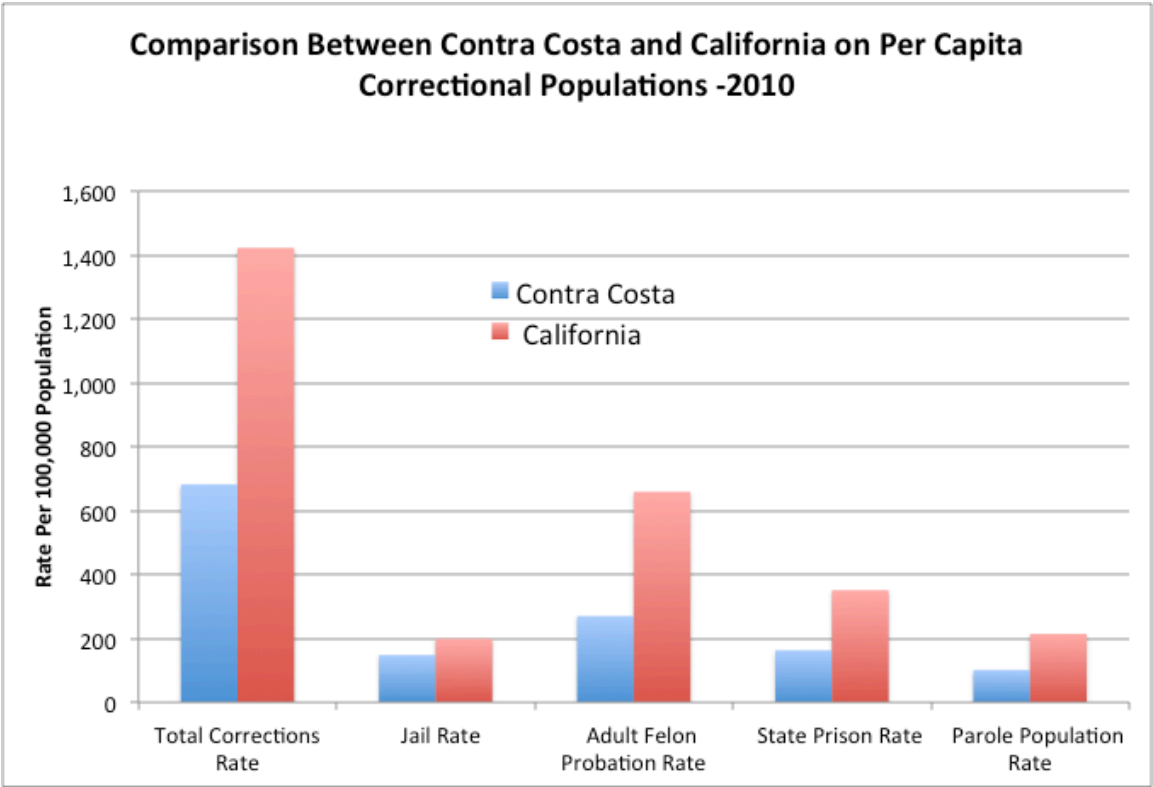
Major Findings

1. In Contra Costa County, individuals are incarcerated and placed on probation and parole at a rate that is one-half the rest of the state of California.
2. If other County criminal justice systems performed like Contra Costa County, there would be no prison overcrowding or intrusive federal court orders mandated to rectify an unconstitutional prison system.
3. This low rate of correctional supervision and incarceration is not related to crime rates as the County has a crime rate similar to the overall state crime rate.
4. The low use of incarceration, probation and parole is due to the following factors:
 - a. Close coordination among the key criminal justice agencies on adopting cost-effective policies;
 - b. A public defender's office that provides effective representation to defendants at all court proceedings;
 - c. A well-respected probation department that provides quality supervision, and
 - d. Reliance upon contracted medical, mental health and support treatment services to augment probation supervision.
5. The factors listed above work in concert to produce the following positive results:
 - a. A low felony prison disposition rate (13% versus a statewide rate of 20%);
 - b. A low three year felony probation recidivism rate of 20%;

c. A high rate of split sentencing (over 90%) that has neutralized the impact of AB109 on its jail population

The policy implications are clear. Jurisdictions can better manage their criminal justice resources by coordinating their activities and making sentencing decisions that are proportional to the crimes being committed.

Probation in particular, can be far more effective by relying on shorter, but more effective terms of supervision and targeted treatment services. Many of these proposed treatment services are readily available from existing agencies and organizations, and most importantly, such an effective model already exists in the Bay Area.



Introduction¹

The 2011 Public Safety Realignment has been named by the California Department of Corrections and Rehabilitation (CDCR) *the cornerstone of California's solution to reduce overcrowding, costs, and recidivism.*² Governor Brown signed part of the major legislation AB 109 which was implemented October 2011 to reduce the number of low level state prisoners cycling in and out of state prison for relatively short periods of imprisonment. This legislation was inspired by a federal mandate ordering California to reduce its prison population by approximately 30,000 offenders over a two year period.

Governor Brown and the state legislature decided the best way to handle the mandate was to shift the responsibility from itself to the counties. AB 109 allows non-violent, non-serious and non-sex (N3) offenders to serve their sentences in county jails. This legislation was designed to reallocate approximately 30,000 offenders from state prisons to their respective county jail systems.

Many counties around the state are being subjected to challenges such as overcrowding in jails, and rehabilitation and treatment of current and formerly incarcerated individuals who were previously under the jurisdiction of the CDCR. To assist the counties, AB 109 provides substantial funding to the counties to handle the influx of people formerly incarcerated. While many other counties seem to be struggling to manage the new influx of inmate population, Contra Costa County appears to be exceeding expectations with the newfound responsibility.

¹ The authors would like to thank Chief Probation Officer Phil Kader, Greg Kurlinski, Larry Lagano, and Jim Morphy for their substantial assistance in completing this study.

² *The Cornerstone of California's Solution to Reduce Overcrowding, Costs, and Recidivism*, CDCR, available at <http://www.cdcr.ca.gov/realignment/> (describing Realignment as "the cornerstone of California's solution for reducing the number of inmates in the state's 33 prison to 137.5 percent of design capacity by June 27, 2013, as ordered by the Three-Judge Court and affirmed by the U.S. Supreme Court").

This study examines in greater detail how Contra Costa County has been able to manage the challenges of AB109 with the resources that have been made available to it via the state funds allocated for the legislation. Part of the management can be linked to tradition within the County's criminal justice system of relying upon a cooperative relationship among the key criminal justice agencies (courts, public defender, probation department, district attorney, and sheriff), and relying upon local community corrections and alternatives to incarceration in order to produce the lowest rates of incarceration, probation and parole supervision in the state.

Minimal Correctional Footprint

This historic criminal justice culture within the Contra Costa County criminal justice community was already producing extremely low rates of correctional populations prior to the implementation of AB109. Table 1 shows the pre October 2011 correctional populations for Contra Costa County versus the state's rates. As the table shows, the Contra Costa County rates of incarceration and community supervision are more than one-half that of the state's rates (total correctional control rate of 682 per 100,000 population versus the state rate of 1,423 per 100,000). The most striking statistic is the low rate of probationers per 100,000 population. This is particularly compelling since the County has a low prison disposition rate which would suggest a higher probation per capita rate.

These remarkable rates have been achieved even though the County maintains a comparable crime rate (including violent crime rate) to other counties in the state of California. Further, the rate of adult felony arrests approximates the state rate, so the reasons for the County's low use of correctional resources cannot be linked to law enforcement practices. It is more likely that these low rates can be attributed to other practices or policies within the County's court and correctional system. Determining what those practices and policies are both pre and post Realignment is the subject of this report.

The potential policy implications of these statistics are apparent. If the rest of the counties in the state had a similar criminal justice system model to Contra Costa County's, prison, jail, and probation rates would be about half the rate they are today and there would have been no need for federal court intervention or even AB109 legislation to solve California's massive prison overcrowding problems.

**Table 1. Contra Costa Versus State of California
Crime and Corrections Per Capita Rates**

Attribute	Contra Costa	Statewide
County Population 2010	1,079,160	38,826,898
Crime Rate – 2010	3,262	2,970
Violent Crime Rate-2010	401	422
Felony Arrest Rate- 2011	916	970
Prison Disposition Rate-2009	13%	20%
Total Corrections Rate per 100,000 Population 2010	682	1,423
Jail Rate per 100,000	148	199
Adult Felon Probation Rate per 100,000	270	659
State Incarceration Rate per 100,000	163	351
Parole Population Rate per 100,000	101	214

Sources: California Attorney General, California Department of Corrections and Rehabilitation, and Board of State and Community Corrections

This study attempts to understand and identify the policies that have resulted in Contra Costa County's remarkable achievements. Interviews were conducted with key representatives of the Superior Court, District Attorney, Sheriff, Public Defender and Probation Department. Additionally, statistical data was gathered to assess the number and type of people being placed on probation and their three-year recidivism rates. Other existing data was assembled that permitted comparisons between Contra Costa County and other jurisdictions with much of the data collection beginning with the year 2010, one year prior to the passage of AB109.

Based on these interviews and statistical data, we found that the main reasons Contra Costa County boasts such a lower incarceration and community corrections rates are as follows:

1. Historically Strong Collaboration Among the Key Criminal Justice Agencies

While Contra Costa is not a small county with over one million residents, it is small enough that the local criminal agencies are able to maintain a close and collaborative relationship. The key agencies (Courts, DA, Public Defender, Sheriff's Department, and Probation Department) have traditionally convened on a regular basis to review current trends and outstanding issues.

As an example, soon after AB109 was passed, the agencies met to review what would be the best evidenced-based approach to managing the influx of inmates that would now be held in the local county jail. As part of AB109, each county was required by statute to form a Community Corrections Partnership (CCP). The function of the CCP was to submit spending plans to the state that would outline how the AB109 funds would be allocated. Within Contra Costa County, such a committee existed previously that facilitated the adoption of a plan of action on how to best implement AB109.

The Contra Costa CCP was formed as the executive voting committee that presented a formal plan and ultimately a budget to the Board of Supervisors. The Contra Costa CCP consisted of the following seven voting members:

1. Chair - Chief Probation Officer
2. Sheriff
3. Public Defender
4. District Attorney
5. Behavioral Health (includes mental health, homeless, alcohol and other drug services)

6. City Police Chief (currently the Richmond Police Chief)

7. Court Administration

Based on the decisions made in the early meetings of the key agencies, there was a consensus that maximizing the use of “split sentencing” and contracted treatment services would be the desired strategy for the following reasons:

- a. Split sentencing would allow the criminal justice system to better manage and service people sentenced under AB109 as it allowed for a period of supervision that otherwise would not have existed.
- b. Research showed that the length of time incarcerated was not related to recidivism, so shorter incarceration would not have an impact on crime rates particularly for the short sentences issued under AB109.
- c. The County has maintained a well-respected probation department that would provide credible services and supervision to its clients (described in greater detail below).
- d. The County has maintained a strong Public Defender’s Office that would provide a strong defense for its clients and argue for plea agreements that would favor a split sentence.
- e. The assessment of the individuals being sentenced to local jails under realignment showed that many required substance abuse treatment, medical care, residency and employment services.

For these reasons, the County allocated about 60% of its realignment funds to programs and services designed to assist people convicted of crimes (probation, public defender, health services, and contracted programs).

The Sheriff’s Department and Probation Department collaborate closely to facilitate the re-entry of AB109 inmates from incarceration to probation. A recent article highlighted how such cooperation takes place.

Probation Chief Phil Kader credits the relative success of the Probation Department in part to the access that the Sheriff’s Department has provided to “clients” while they are still incarcerated.

At West County Detention facility in Richmond, probation officers are able to meet privately with inmates in small rooms, which are otherwise used for attorney-client conversations. Officers then figure out which transitional programs are most appropriate for their clients: job training, drug treatment or help to find housing.

West County Detention facility is programs-based, Sheriff Department Lt. Brian Vanderlind, the facility commander says. Most of the inmates here take advantage of the various educational opportunities provided.

2. Well Respected and Effective Probation Department.

Over several administrations, the Contra Costa County Probation Department has received overwhelming support and respect from its other criminal justice partners. Interviews with staff from the courts, District Attorney, Sheriff's Department and Public Defender's Office revealed the shared belief that the Probation Department exhibits a solid level of professionalism in providing supervision and services to people placed on probation. This reputation helps facilitate the court's willingness to place people, that other jurisdictions might see as problematic, on probation rather than send them to state prison.

This level of confidence in probation supervision is evidenced in the following statistics:

1. Low Prison Disposition Rate.

As shown in Table 1, the felony court disposition rate which reflects the percentage of felony cases resulting in a prison term for those people convicted of a felony was 13% in 2010 as opposed to the 20% statewide rate. This is one of the lowest rates among the major California and Bay Area counties.

2. High Rate of Split Sentencing

The Probation Department's reputation is the County's collective decision to mitigate the impact of AB109 by using split sentences in virtually all cases. As of March 2013, the split sentencing rate for Contra Costa was 89% as opposed to the state rate of 28%. There are only two other counties with rates in the 80% plus range (Stanislaus and San Benito). That rate for Contra Costa has now increased to 94%.

3. Short Probation Terms.

Unlike other jurisdictions, the justice system in Contra Costa County issues probation terms that are significantly shorter. For example, neighboring Alameda County typically gives a five-year probation term for individuals convicted of a felony crime. In Contra Costa County, most probation terms are within the 24-36 month range.

Maximizing the Discretionary Authority and Funding of AB109

It is important to consider the explanations that may account for counties that have adapted reasonably well to realignment as opposed to counties who have not. Split sentencing is one such practice. Split sentencing permits a shortened jail time coupled with additional correctional measures such as probation, programs and/or community services, which are often times more rehabilitative for the non-serious, non-violent and non-sexual offender than jail time alone.

Split sentencing also allows for continued supervision and support upon an offender's release from incarceration whereas incarceration without split sentencing allows for the release from jail with no supervision. Depending on the terms of a split sentence and the resources available to provide post-release supervision, some form of post-release supervision could be beneficial.

In assessing the impact of AB109 legislation on the jail population, Contra Costa County's jail population has remained constant as compared to the overall state rate of 11% (Table 2). Pre-trial rates declined slightly in the County with the numbers decreasing by approximately 130 inmates that served to offset the increase in AB109 inmates.

Of the counties listed below in Table 2, the greatest differences can be seen in Los Angeles County, which had grown, by about 4,000 inmates after AB109 was implemented. Today, there are over 6,000 AB109 inmates in the Los Angeles County jail. And, not surprisingly, it also has one of the lowest rates of split sentencing in the state (6%) while Contra Costa has one of the highest rates (about 90%).

**Table 2. Contra Costa Versus State of California
Pre and Post AB109 Jail Populations**

County	July - September 2011			April – June 2013			% Change	% Split Sentences
	Non-Sentenced	Sentence	Total	Non-Sentenced	Sentenced	Total		
State	50,396	20,897	71,293	51,400	30,619	82,019	11%	36%
Contra Costa	1,231	209	1,440	1,138	327	1,465	0%	89%
Los Angeles	10,377	4,373	14,749	10,313	7,944	18,257	24%	6%
San Francisco	1,177	248	1,424	1,233	261	1,494	5%	50%
Santa Clara	2,498	1,045	3,543	2,749	1,236	3,985	12%	22%
Solano	608	152	760	664	288	952	25%	11%
Sonoma	499	452	951	489	611	1,100	16%	63%

Sources: Board of State and Community Corrections, Chief Probation Officers of California, and Contra Costa Probation Department.

**Table 3. Contra Costa Versus State of California
Split Sentence Rates – Through March 2013**

County	Number and Type of AB109 Sentences		
	Total Local Jail	Split Sentences	% Split Sentence
Statewide	31,994	11,610	36%
Contra Costa	335	298	89%
Los Angeles	12,310	718	6%
San Francisco	365	183	50%
Santa Clara	1,602	344	22%
Solano	466	49	11%
Sonoma	284	178	63%

Source: Chief Probation Officers of California

In Contra Costa County, the Public Defender, Sheriff , District Attorney and Courts are supporters of split sentences albeit for different reasons. The District Attorney supports it as it allows for a long period of community supervision under the watchful eyes of the Probation Department. The Public Defender supports it as it significantly reduces the amount of time incarcerated. It should be noted that the Public Defenders are well positioned to take cases to expensive trials and longer periods of pretrial confinement if the D.A. will not agree to split sentence disposition. Similarly, the split sentence significantly reduces the potential for jail crowding which concerns the Sheriff. Additionally, the Court supports it as it views the use of split sentencing not only as proportional to the crime, but also as a cost-effective correctional measure. Since virtually all of these sentences are plea negotiated, the cases are quickly disposed of by the courts. In most cases, the split sentence is the preferred option.

Low Recidivism Rates for Felony Probationers

To further assess the effects of Contra Costa's criminal justice policies, a three year recidivism study of felony level probationers was completed. In order to complete a three-year follow-up, we used the year 2009 as the basis to select cases to be evaluated. In 2009, there were 1,818 adults placed on probation. The Probation Department provided a computerized listing of the subjects including relevant background attributes. 487 subjects were randomly selected for purposes of manually tracking their post-probation arrest history. Each sampled subject's California criminal record was located and examined. All arrests and charges were then recorded. It should be noted that these arrests included all events that were recorded in the state of California and not just Contra Costa County.

To verify that the random sample was representative of the entire universe of people placed on probation, a comparison was done of the two groups (Table 4). In Table 4, one can see that the sample is virtually identical to the entire number of people placed on probation in 2009. In terms of key attributes, it is noteworthy that

Table 4. Comparison Between Study Sample and Total Felony Probation Placements - 2009

Sample			Entire Cohort		
Characteristic	N	%	Characteristic	N	%
Base	487	100.0%	Base	1,864	100.0%
Sex			Sex		
Female	85	17.5%	Female	382	20.5%
Male	390	80.1%	Male	1,407	75.5%
Unknown	12	2.5%	Unknown	75	4.0%
Race			Race		
Black	163	33.5%	Black	682	36.6%
White	192	39.4%	White	615	33.0%
Hispanic	84	17.2%	Hispanic	344	18.5%
Other	48	9.9%	Other	223	12.0%
Age at Probation End			Age at Probation End		
25 or younger	84	17.2%	25 or younger	307	16.5%
26-35	164	33.7%	26-35	627	33.6%
36-50	167	34.3%	36-50	634	34.0%
Over 50	69	14.2%	Over 50	295	15.8%
Unknown	3	0.6%	Unknown	1	0.1%
Primary Offense			Primary Offense		
Other violent	94	19.3%	Other violent	340	18.2%
Sex crime	35	7.2%	Sex crime	176	9.4%
Assault	37	7.6%	Assault	182	9.8%
Robbery	78	16.0%	Robbery	267	14.3%
Drug sale	101	20.7%	Drug sale	369	19.8%
Drug possession	62	12.7%	Drug possession	201	10.8%
Burglary	26	5.3%	Burglary	101	5.4%
Theft	10	2.1%	Theft	36	1.9%
Other property	25	5.1%	Other property	109	5.8%
Weapon	15	3.1%	Weapon	58	3.1%
DUI	4	0.8 %	DUI	25	1.3%

about 50% of the cohort's primary charge at sentencing was for a violent crime. The next largest category is drugs (either possession or sale). Like most probationer profiles in California, large proportions of the population are male, non-white and 35 years or younger (although a large number are in the 35-50 year range).

Although we do not have data for the entire 2009 probation placement cohort, the random sample did include other information that may be of interest. Specifically, the average fine imposed by the court was \$313 with the typical fine being \$200. In 89 cases (about 20% of the total sample), restitution was ordered with the average amount being \$2,451. Although part of the greater Bay Area, only 10% of the sample had addresses outside of Contra Costa County. The major cities of residence were Richmond (75), Antioch (60), Concord (60), Pittsburg (36) and San Pablo (25).

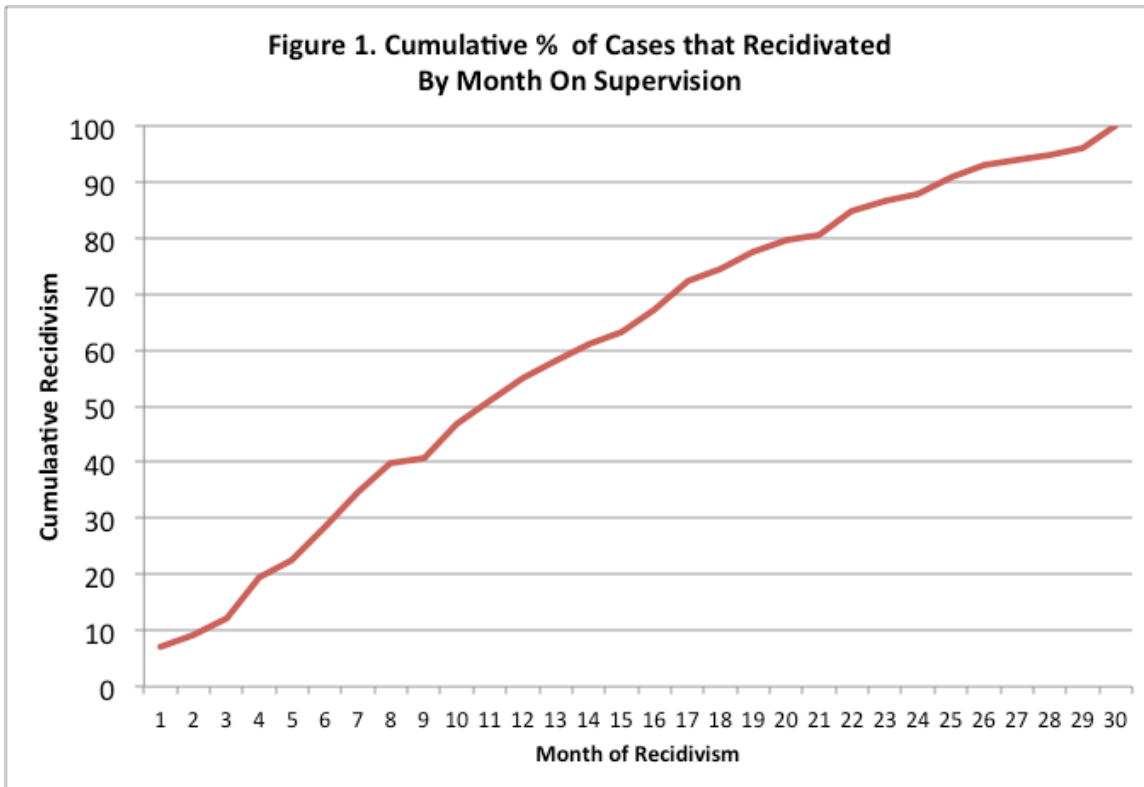
On the recidivism measure, only 21% of the random sample was re-arrested for a new crime during the three-year follow-up period. There are no national or state level recidivism studies of probationers. The last one that was completed in California was completed by RAND in the 1980s.³ That study found that 63% of the probationers were re-arrested at least once over a two-year follow-up period. Although this rate was below a matched sample of released prisoners (72%), it does give some indication of high felony probation recidivism rates in California.

Of the people who are re-arrested, the new arrest charges are mostly for non-violent and drug crimes (Table 5). A total of 167 charges were associated with the 103 probationers who were re-arrested. About 1/3rd were for misdemeanor crimes. About 1/3rd were for violent type crimes with the largest number being robbery and a variety of non-specific simple assault and interfering with law enforcement officers during the arrest. Most (over 60%) of these arrests occur within the first year of probation supervision (Figure 1).

³ Petersilia, Joan, Susan Turner and Joyce Peterson. July 1986. *Prison versus Probation in California: Implications for Crime and Offender Recidivism*. Santa Monica, CA: The Rand Corporation.

Table 5. Re-Arrest Charges

Re-arrest charges	Felony		Misdemeanor	
	N	%	N	%
Assault	8	6%	3	7%
Robbery	6	5%	0	0%
Other violent	24	19%	6	14%
Drug possession	17	14%	11	26%
Drug sale	7	6%	1	2%
Burglary	12	10%	0	0%
Theft	10	8%	0	0%
Other property	15	12%	0	0%
Weapon	9	7%	8	19%
DUI	5	4%	7	16%
Other non-violent	11	9%	7	16%
Total	124	100%	43	100%



Related to the time to arrest, is the probation term that is imposed by the County’s judges and the relationship between the length of the probation term and the recidivism rate. As shown in Table 6, Contra Costa’s judges issue a significant number of sentences that are in the 24 month or lower range. This number of shorter probation terms explains, in part, the low number of probationers per capita as was noted earlier. More interesting, is the relationship between length of probation and recidivism rates. As shown in the table, probationers with the shorter terms have lower recidivism rates. Coupled with the finding that most re-arrests occur within 12 months, the policy of shorter probation terms is well founded.⁴

Explaining why the re-arrest rate is so low is beyond the scope of this study. But, we do know that the Probation Department relies heavily on a risk/needs assessment system known as CAIS (Correctional Assessment and Intervention System) that has been developed and validated by the National Council on Crime and Delinquency (NCCD). Further, the Department relies upon contracted services to deliver needed treatment to those in the greatest need.

Table 6. Recidivism Rates By Length of Probation Term

Probation Sentence (Mos)	Number Recidivated	Total Cases	3 Year Recidivism Rate
12	3	20	15%
24	41	218	19%
36	50	204	25%
48	4	15	27%
60	5	29	17%
Total	103	486	21%

⁴ The small size of the recidivism sample does not allow for a robust assessment of why some probationers received 24 month and less versus 36 month and more probation terms. Preliminary analysis shows that a disproportionate number of males convicted of certain violent crimes receive longer probation terms. But on other key variables there was little association between shorter and longer probation terms.

High Probation Termination Rates

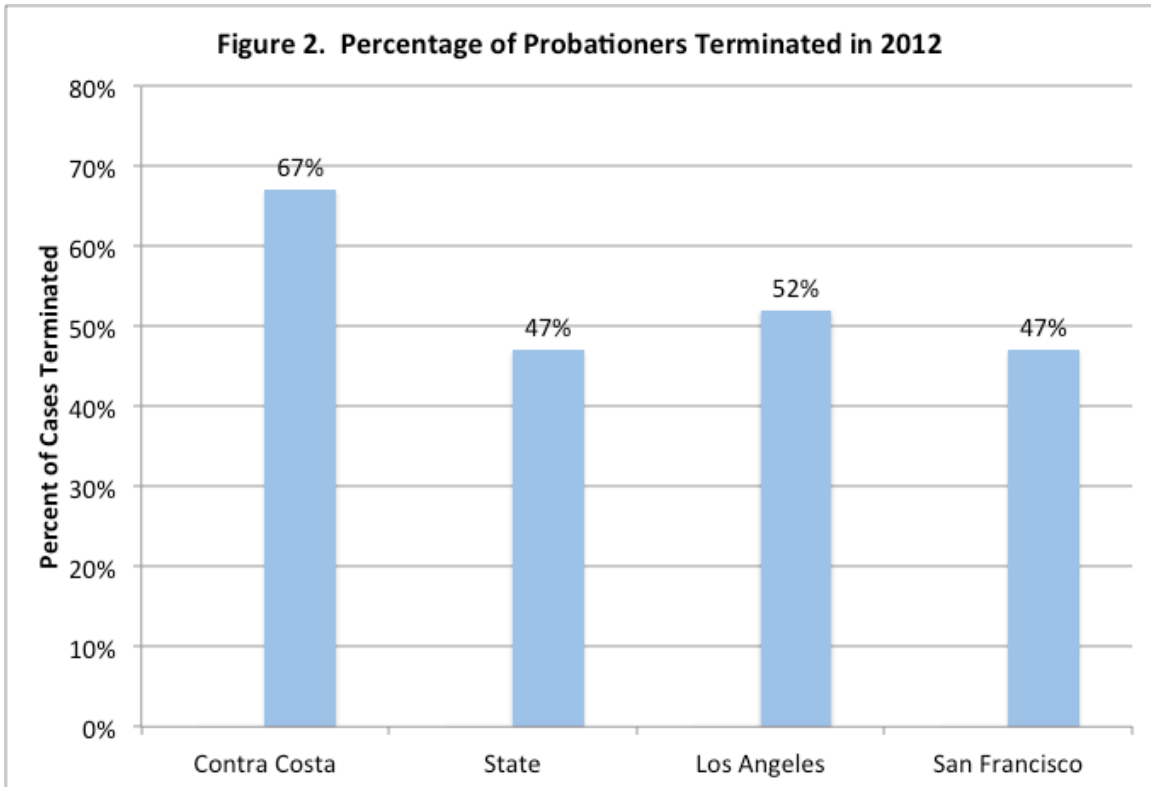
The final unique attribute of probation in Contra Costa County is its relatively high probation termination rate. This rate reflects the number of probationers who complete their probation terms and are not revoked. It may include people who have violated the terms of the probation in the past, but have managed to have no further obligations with the court.

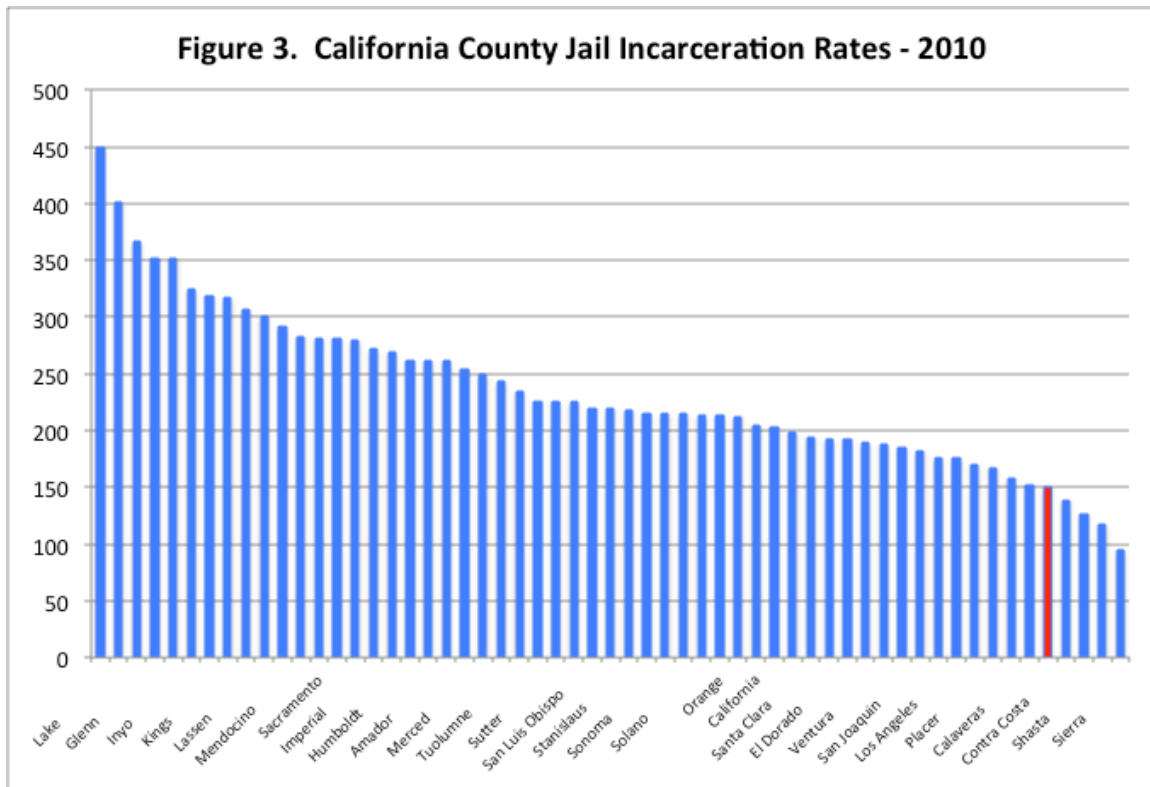
In Contra Costa County, there is an interesting practice where probationers who are nearing the end of the probation term, but have violated the terms of probation will still have their probation status terminated. In some instances, an individual is incarcerated in the County jail for a short period of time and then has their probation term ended. In essence, the court is conveying the message that it has tried to assist a probationer complete probation successfully, but has been unable to do so. Yet, the court is unwilling to extend probation any further and violations may not warrant further supervision and treatment costs on the part of the probation department.

Low Jail Incarceration Rate

The final indicator of the County's low correctional footprint is its low jail incarceration rate. As shown in Figure 3, the County's jail incarceration rate (highlighted in red) prior to AB109 was already among the lowest in the state. As noted above, since AB109's passage, that low rate has been maintained. A closer look at the jail population shows that prior to AB109 legislation, 85% of the Contra Costa jail population was in pretrial status as opposed to the statewide average of

71%. This disparity is partially attributed to the Sheriff's Custody Alternative facility that operates the following three programs:





- **Work Alternative Program:** A program where inmates provide labor in exchange for sentenced days.
- **Home Detention Program:** Inmates wear electronic home detention ankle bracelets to monitor their daily whereabouts. This permits an inmate to be a productive member of society by maintaining employment and family responsibilities while serving time.
- **County Parole:** Inmates are granted parole specifications in lieu of incarceration, and may be remanded to County detention facilities for violations as determined by a parole hearing board.

Currently, approximately 300 people are assigned to this facility which is not a traditional jail thus is not counted in the state jail statistics. Other noteworthy statistics are:

1. Jail bookings have declined by nearly 6,000 since 2002. This decline is similar to other California jail systems as the amount of crime and crime rates have declined.
2. The average length of stay (LOS) is now 25 days.

3. The current jail population holds less than 100 inmates who are either an AB109 commitment or a parole hold (3056 Hold). It should be noted that the number of 3056 parole holds is declining and will continue to decline as the number of cases being released from the CDCR declines.

Table 7. Key Contra Costa Jail Statistics

Jail Population – Sept 2013	1,572
% Pretrial	85%
Bookings	
2012	23,037
2002	28,810
Average LOS	25 days
Custody Alternative Population	300
AB109 Jail Inmate Population	
Parole Violators (3056)	41
Sentenced AB109	45

Source: Contra Costa Sheriff Office

Policy Implications

This case study of Contra Costa County has shown that a number of critical policy factors can be organized in such a manner as to have dramatic impact on the size of a jurisdiction’s correctional system. These “policy factors”, implemented over time, have produced some very significant results. Perhaps the most striking attribute of this County is the ability of the key criminal justice agencies to work together in a very productive manner. While recognizing that each agency has an important and independent role relative to public safety and justice, each agency seems to appreciate their independent functions that have consequently produced remarkable results in terms of incarceration and community supervision rates.

The following specific Contra Costa County criminal justice policies could be readily adopted by other counties:

1. Shorter probation terms (24 months versus 36 or 60 month terms);

2. Greater reliance on contracted services for mental health, medical, substance abuse, employment and housing services;
3. Defense counsel representation at each critical court decision point;
4. Effective risk assessment to determine what level of supervision and services is required; and,
5. Increased use of split sentencing of AB109 offenders consistent with risk assessment and effective community supervision and services.

If other counties followed these policies that Contra Costa County has implemented, the number of people incarcerated and under community supervision would be a far smaller number than it is today.