Senate Committee on Michigan Competitiveness
May 26, 2016

Criminal Justice Reform Bills
SB 936

Good morning Chairman Shirkey and members of the committee. I'm still Barbara Levine, the associate director of CAPPS, and I appreciate the opportunity to speak with you again.

Last week I talked a bit about SB 935, which provides financial incentives to MDOC Field Operations Administration regions that reduce their probation and parole revocations by 10 percent. I expressed some confusion about the Department entering into incentive agreements with its own subdivisions.

Since then we found a Nov. 2012 report from the VERA Institute of Justice called *Performance Incentive Funding: Aligning Fiscal and Operational Responsibility to Produce More Safety at Less Cost*. We brought this to the attention of Sens. Shirkey and Proos yesterday but I'd like to briefly share it with all the members of the committee because I think it has relevance for both SB 935 and SB 936. The full report can be found at: http://www.vera.org/pubs/performance-incentive-funding. The two-page summary is attached to my testimony.

Performance Incentive Funding (PIF) programs are designed to persuade local decision-makers to keep more offenders under community supervision instead of sending them to prison. VERA discussed the misaligned incentives that occur because the state bears the cost of incarcerating people in prison while local agencies bear the responsibility for deciding whether to send someone to prison and the cost of keeping them in the community. This actually encourages local authorities to revoke the probation of supervision violators and place them in state custody, contributing substantially to prison population growth and prison costs.

Researchers examined the PIF legislation enacted in eight states (Arkansas, California, Illinois, Kansas, Kentucky, Ohio, South Carolina and Texas) and found the results encouraging. The concept has three components:

1. Persuade community agencies to adopt the evidence-based practices known to improve offender success.

2. Measure the outcomes in terms of both reduced revocations and increased public safety.
3. Reward the participating agencies with a percentage of prison costs saved.

Michigan has long used financial incentives to persuade communities to keep prisoners in local jails rather than sending them to prison. In FY 2016, $13,597,100 was appropriated for the County Jail Reimbursement Act and $1,440,100 was appropriated for the Felony Drunk Driver and Community Treatment Program. These programs are not tied in any way to offender success. They are simply diversion programs with reimbursement for the cost of jail beds.

Both SB 936 and SB 935 have aspects of PIF but differ from the model in major ways.

As I just mentioned, SB 935, provides incentives for success but the rewards do not go to local agencies. They go to the MDOC's own Field Operations regions. That is, increased state funding would be allocated within the MDOC budget in order to promote revocation-reduction programs. Because in Michigan, unlike many states, the salaries of both probation and parole officers are in the MDOC budget, this funding could affect probation supervision as well as parole. But it would not supplement or replace any current local expenditures.

SB 936 requires both the MDOC and any local agencies that receive state funding to implement evidence-based practices exclusively within four years. It requires the use of risk assessment instruments, the development of individual case plans for offenders, the use of evidence-based programs, intensive staff training, the adoption of evaluation protocols and extensive reporting, all of which would require substantial resources. However it provides no funding for implementation and no reward for success. The only incentive is the threat of losing funding for non-compliance.

The bills are also not keyed to the amount of prison costs saved as PIF legislation is.

We strongly support efforts to reduce probation and parole revocations by increasing offender success. And we think that appropriately managed financial incentives are a promising way to go. When local jurisdictions take the responsibility for helping people avoid prison sentences, it's only fair that they should share in the savings.

SB 936 presents very desirable goals. But Michigan has a complex funding structure that mixes both resources and decision-making responsibility at the state and local levels. With the range of agencies and programs all around the state that receive state funding, the logistics and costs of implementation and oversight would be enormously complicated. And there are no positive financial incentives.

We would strongly advocate delaying any implementation of this ambitious plan until stakeholders can systematically map out who would be affected, what resources would be required, how compliance would be monitored, what the costs would be and to what extent we can learn from the experience of other states with performance incentive funding.

Thank you for considering these remarks.

Performance Incentive Funding

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

NOVEMBER 2012

Report Summary

States with Performance Incentive Funding Legislation

ARKANSAS
Public Safety Improvement Act
SB 750 (2011)

CALIFORNIA
California Community Corrections Performance Incentive Act
SB 678 (2009)

ILLINOIS
Illinois Crime Reduction Act of 2009
SB 1289 (2009)

KANSAS
Risk Reduction Initiative
SB 14 (2008)

KENTUCKY
Public Safety and Offender Accountability Act
HB 463 (2011)

OHIO
Probation Improvement and Incentive Grants
HB 86 (2011)

SOUTH CAROLINA
Omnibus Crime Reduction and Sentencing Reform Act
S. 1154 (2010)

TEXAS
SB 1055 (2011)

BACKGROUND

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 rests 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.

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VERA INSTITUTE OF JUSTICE
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For More Information

The Vera Institute of Justice is an independent nonprofit organization that combines research, demonstration projects, and technical assistance to help leaders in government and civil society improve the systems people rely on for justice and safety.

Vera's Center on Sentencing and Corrections works with government leaders to advance criminal justice policies that promote fairness, protect public safety, and ensure that resources are used efficiently. The center draws on the skills and expertise of its staff, as well as the practical knowledge of working criminal justice professionals who face similar justice challenges.

For more information about the Center on Sentencing and Corrections, please contact Peggy McGarry at (212) 376-3131 or pmcgarry@vera.org.

HIGHLIGHTS

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.

CONCLUSION

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. At a time when states across the country continue to grapple with high offender recidivism and revocation rates, tight state corrections budgets, and underfunded 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.

Read the complete report at www.vera.org/performance-incentive-funding

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THE PEW CENTER ON THE STATES

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