Probation Departments Are Fueling the Largest Growth of Mass Incarceration in U.S. History

Care First California Coalition
Probation already had massive reach.

One in every 100 California adults was on probation at the end of 2014.¹ Even as the Legislature has sought to reduce probation terms (AB 1950 of 2020), Probation Departments found new lines of business, expanding their reach to include pretrial services, court diversion, collaborative court programs, electronic monitoring, and youth supervision.

Probation is Law Enforcement

Despite presenting a perception of rehabilitation, the majority of staff within probation departments are sworn peace officers per penal code section 830.5.² With the powers of search, arrest, and seizure, probation departments therefore constitute a law enforcement agency. Their harmful practices are rooted in control and punishment, resulting in mass re-incarceration with extreme racial disparities and family and neighborhood economic devastation.

¹ https://www.ppic.org/publication/probation-in-california/
² california.public.law/codes/ca_penal_code_section_830.5
Probation is now tasked with “Pretrial Services.”

Through last-minute maneuvering, the 2021-22 budget created a new, permanent statewide program of Probation-led pretrial “services.” Under this program, hundreds of thousands of additional Californians are subject to law enforcement supervision.  

Pretrial: policies and procedures occurring, presented, or engaged in after a person is accused of, arrested, or charged with an illegal act but before a court trial actually begins.

Probation is Eroding Californians' Constitutional Rights

The judiciary, district attorneys, and sheriff and probation departments are building a new pipeline to incarcerate people in the name of public safety through the largest growth in the electronic monitoring industry in US history.

Taken together, these trends are leading to dramatic increases in surveillance and intrusive monitoring of Californians, ensnaring an ever-increasing number of people that are legally presumed innocent in the carceral system.

3 https://www.ppic.org/blog/pretrial-reform-in-california/
California’s Expansion of Probation — A Giant, Harmful Misstep

In his 2021 May Revision, Gov. Newsom added a major new program to put tens of thousands more Californians under probation supervision.

The program institutionalized a small pilot of probation-led pretrial “services” that:

- Had no evaluation or analysis of pilot outcomes, and
- From early data, was revealed to be ineffective, wasting $89 million and harming communities, and yet
- Was expanded and made permanent statewide with no meaningful accountability structure.

Community experts worked with Legislative leaders to stop/redirect the funding, and both houses rejected the Governor’s proposal.

Legislators followed the evidence that shows higher levels of probation supervision and surveillance actually harm public safety and siphon general fund money away from community-based pretrial programs — based on health and social service provision instead of surveillance — that show better outcomes in public safety and economic restoration. ⁴

Ignoring the Legislature and all evidence, the Governor bowed to pressure from the Judicial Council and special interest groups (law enforcement labor) and pushed his proposal through Conference Committee.

The 2021-22 budget included $140 million in new funding for probation pretrial “services” programs in that year and $70 million ongoing.

Pretrial probation supervision violates the Presumption of Innocence.

By requiring people accused of crimes to engage with law enforcement officers in the pretrial phase, we remove the benefit of the doubt to which they are entitled.

“... the primary focus of probation officers remains on compliance monitoring and other law enforcement aspects of supervision”
-Bonta et al. 2008

Probation-led pretrial “services” are expensive and ineffective.

Sacramento County provides a clear comparison: Probation’s Pretrial Services costs 94% more than the Public Defenders’ service-oriented Pretrial Support Program. Similarly, Probation-led Pretrial is 30% to 35% more expensive than San Francisco's community-based model.

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5 County of Sacramento (2020). MEMORANDUM OF UNDERSTANDING PRETRIAL PILOT PROGRAM (Sacramento County Probation Department).
Probation-led pretrial services can compel self-incrimination.

Even when contracted out, Probation departments can effectively force individuals (or their service providers) to share information that would incriminate them, eroding U.S. Constitutional rights.

Pretrial should be distinct from post-conviction.

While pretrial services addressing mental health, substance use disorders, and other environmental factors have been shown to improve public safety among other outcomes. However, probation departments do not and should not provide these types of services.

Research shows that probation contributes to over incarceration. Annually, nearly 350,000 people are shifted from community supervision (probation) back to prison or jail.

www.prisonpolicy.org/reports/correctionalcontrol2018.html
Get Involved!

Join Care First California in standing up to probation and special interests!

Reverse the growth of the surveillance economy that harms our communities and takes away our rights. Support the growth of a care economy that addresses the root causes of criminalization.

Support Care First California’s alternative vision for pretrial services, and get involved with local coalitions such as JusticeLA, Justice2Jobs, DecarcerateSac and many more. Stand with us for true public safety and equity!

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