

WIC 236

"Pre-Probation" Supervision of Youth of Color With No Prior Court or Probation Involvement

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I. Introduction

The overall numbers of young people under the supervision of the Los Angeles County Probation Department has declined sharply over the last ten years – yet the department has spent tens of millions in state funds on programs that now increasingly supervise youth under “voluntary probation.” The majority of these state funds provided through the Juvenile Justice Crime Prevention Act (JJCPA) have paid for probation officers, with considerable funding also transferred to other law enforcement agencies, including the Los Angeles County District Attorney’s Office, the Los Angeles Police Department and the Los Angeles County Sheriff’s Department. The youth under “voluntary probation” have no history of court or probation system contact, but are labeled “at-risk” by Probation.

California’s Welfare and Institutions Code section 236 (WIC 236) is the statute that grants probation departments across the state the authority to intervene, through direct or indirect services, in the lives of young people who have not even been accused of violating the law. In Los Angeles, “at-risk” youth are supervised voluntarily under WIC 236 authority in over 100 schools in 85 neighborhoods labeled as the “most crime-affected” neighborhoods.¹ One snapshot of WIC 236 programming from April 2016 showed that the vast majority (over 85 percent) of “at-risk” youth were targeted for school-related concerns including “low motivation” (4.3 percent) or school performance (81 percent for poor school attendance, low grades, or “poor school behavior”). Only 2.7 percent were referred for substance abuse problems, 1.5 percent for anger issues, and another 1.5 percent for being “beyond parental control.” In sum, all but a tiny percentage of “at-risk” youth were referred for probation supervision primarily or exclusively for school performance issues. Yes, these youth may face educational challenges that beset many young people. However, that LA County has chosen to respond to education needs with agents of law enforcement is concerning in terms of impact, appropriateness and resource allocation.

The number of youth under WIC 236 supervision has significantly increased over the past ten years while the number of youth arrested, detained, charged, incarcerated and placed court or probation-mandated supervision have all dramatically decreased. In LA County in 2014—2015, upwards of 17,000 “at-risk” youth participated in JJCPA-funded programs (including 4,517 youth under “voluntary supervision” by probation officers in schools, and another 10,892 under supervision by a combination of probation- and district attorney-run programs) – the prior year there were 13,314 youth. There were nearly 12,000 WIC 236 youth participants on a given day in April 2016 in JJCPA-funded programs.² The overwhelming majority of these youth (over 80 percent in the school-based voluntary supervision program) are Black or Latino.

When considered in the context of historic policy and program changes that have occurred in Los Angeles, California and across the nation over the past decade, the dramatic increase in system contact with youth allowed by WIC 236 is even more distressing. The changes have focused on minimizing system contact—typically triggered by overcriminalization of typical adolescent behavior, harsh school discipline, ticketing, suspensions, expulsions and arrests—and expanding community-based programs with expertise in youth development and educational enrichment. To its credit, the Los Angeles Probation Department has been part of these positive changes, working with community-based organizations, for instance, to reduce police referrals to juvenile hall, divert youth from court and find alternatives to camp disposition. Yet WIC 236

¹ Rand Corporation, “Los Angeles County Juvenile Justice Crime Prevention Act Fiscal Year 2014–2015 Report,” pg. 36, available at http://www.rand.org/pubs/research_reports/RR1458.html.

² Children’s Commission of Los Angeles County, “236 WIC Information Survey Analysis End of March 2016” from Los Angeles Probation Department, April 2016.

supervision has neither minimized system contact nor expanded community-based programs and alternatives. Quite the opposite, it represents an overall increase in Probation's contact with youth. Simultaneously, there has been a dramatic expansion in the budget and roles of the Probation Department and other law enforcement agencies. Over the past ten years, LA Probation's budget has increased \$300 million from \$550 million to over \$870 million in fiscal year 2015–2016, with little concurrent investment in community-based interventions. The majority of Probation's 2015–2016 budget was for its juvenile division – \$490 million alone was for juvenile probation supervision and facilities, including about \$361 million for juvenile halls and camps).³

In light of the foregoing information, the Children's-Defense Fund-California, Youth Justice Coalition, Urban Peace Institute and Anti-Recidivism Coalition convened in early 2016 to raise critical questions about Probation's intervention in the lives of its WIC 236 population. These questions include:

- 1) Who are "at-risk youth?" How are they defined? How many are there, and why are they referred?
- 2) What are the Probation Department and other law enforcement agencies and community-based organizations with which they contract, providing for "at-risk youth"?
- 3) Why should we be concerned about a dramatic expansion of Probation into work traditionally led by schools and community providers?

Ultimately, our report concludes that WIC 236 supervision of youth who have no prior court or probation involvement falls outside of the mission, expertise and role of a probation officer. The practice runs counter to research, and risks widening the net of youth involved in the justice system. It also erodes opportunities to invest in education and community-based infrastructure to advance youth and community development in the long run, and deepens a historical disparity between resources for law enforcement and other county and community-based agencies whose lenses are human services, health and education. The report concludes with recommendations for county- and state-level changes to facilitate more effective and equitable resource allocation, as well as to increase transparency and accountability for spending on youth development and crime reduction.

II. California Welfare and Institutions Code Section 236 – Statute Enabling Probation Officers to Work with Youth with No Prior Court or Probation Involvement

California's Welfare and Institutions Code (WIC) Section 236 gives probation departments unlimited authority to "provide services" to any youth in the community in order to "prevent juvenile delinquency."⁴ Prior to 1973, probation departments in California were not statutorily authorized to render such services until legislation was enacted to expressly grant that authority.

³ "County of Los Angeles: Final 2015-2016 Budget", available at <http://ceo.lacounty.gov/pdf/budget/2015-16/LA%20County%202015-16%20Final%20Budget%20Book.pdf>

⁴ WIC 236 provides that "probation departments may engage in activities designed to prevent juvenile delinquency. These activities include rendering direct and indirect services to persons in the community. Probation departments shall not be limited to providing services only to those persons on probation being supervised under Section 330 or 654, but may provide services to any juveniles in the community." (WIC 236 was originally chaptered as WIC 536.5 and renumbered in 1976.)

WIC 236 emerged out of a specific political context in the 1970s when extreme change was taking place in California's court and prison systems. In part responding to widespread student and Black and Brown social justice movements, President Richard Nixon (who grew up and came into political power in Los Angeles County) first enacted a "law and order" platform and subsequently declared a "War on Drugs" that was ostensibly meant to further public safety, but that disproportionately and primarily affected communities of color.

Then Governor Ronald Reagan, who also rose to political power out of Los Angeles County, enacted similar tough-on-crime measures in California. These policies began a decades-long build-up of the punishment system that led to the most massive youth and adult prison, jail and immigrant detention centers expansion in state history. Between 1982 and 2000, the state's prison population grew by 500 percent, and between 1984 and 2005 alone, California built 23 state prisons.⁵ By 2007, California's state prison population was over 173,000 people,⁶ and LA County had more than 40,000 youth a year in custody or supervision. Simultaneous to the increased punishment of communities of color was a dramatic divestment from public education and social services. Notably, the investment, construction and growth of suppression, incarceration and deportation systems occurred even as crime rates in California had decreased to their lowest levels since the 1950s.⁷

Probation statuses under California Welfare and Institutions Code defined

WIC 236 – allows services by probation "to any juveniles in the community."

WIC 654.2 – allows a court to impose "informal supervision" for up to six months by probation over a youth – where a prosecutor has filed a petition alleging the commission of an offense and the court pauses the proceedings on that petition

WIC 654 – allows probation to impose "informal supervision" for up to six months over a youth, instead of filing or requesting the District Attorney to file, a petition alleging a commission of an offense against that youth

WIC 725 – allows a court to impose probation supervision for up to six months over a youth who has been found to have committed an offense, without adjusting the youth to be a ward of the court

WIC 790 – allows a court to impose probation supervision for one to three years over a youth who admits to a petition alleging the commission of an offense; the successful completion of the probation terms results in a dismissal of the charges against the youth

WIC 602 – allows a court to declare a youth a ward and impose "formal" home-on-probation supervision, or remove the youth to an out-of-home placement

III. Definition of "At-Risk" Youth

WIC 236 gives broad discretion to county probation departments to determine which youth should be targeted for juvenile justice programs. Under this statutory authority, the Los Angeles County Probation Department has adopted the term "at-risk youth" to describe their target service population—youth "who have not entered the probation system but who live or attend school in areas of high crime or who have

⁵ Wikipedia, "Prisons in California," available at https://en.wikipedia.org/wiki/Prisons_in_California.

⁶ Joan Petersilia, "California Prison Downsizing and Its Impact on Local Criminal Justice Systems," Harvard Law and Policy Review, Volume 8, 2014, pg. 327.)

⁷ See, e.g. Patrick Range McDonald, "Bratton: L.A. Is as Safe as 1956," L.A. Weekly (April 29, 2009), available at www.laweekly.com/news/bratton-la-is-as-safe-as-1956-2159521.

other factors that potentially predispose them to participating in criminal activities.”⁸ The definition is sweeping, giving the Probation Department wide latitude to label many youth as “at-risk.” The Probation Department further defines a youth as “at-risk” if they demonstrate two or more problems in the following areas: family dysfunction (problems of parental monitoring of child behavior or high conflict between youth and parent), school problems (truancy, misbehavior, or poor academic performance), and delinquent behavior (gang involvement, substance abuse, or involvement in fights).”⁹

Once identified as “at-risk”, youth may be referred to probation for supervision. Voluntary probation requires three conditions for their participation: “1) voluntary participation, 2) no prior legal classification, and 3) no current or prior probation.”¹⁰

IV. State Funding for “At-Risk Youth” Under the Juvenile Justice Crime Prevention Act

Los Angeles funds its “voluntary probation supervision” of youth through monies provided by the state through the Juvenile Justice Crime Prevention Act (JJCPA). JJCPA, originally called the Schiff-Cardenas Crime Prevention Act, was passed in 2000 by the California Legislature to provide a “stable funding source for juvenile programs that have *proven* effective in curbing crime among at-risk and young offenders.”¹¹ The next year in 2001, the funding was extended and renamed. At the same time that it devoted resources to counties for preventing youth delinquency, the Schiff-Cardenas Crime Prevention Act also re-committed an equal amount of funding to the Citizens Option for Public Safety (COPS) program, established in 1996 to resource front-line law enforcement, including police, prosecutors and jails. Both streams of funding emerged in the broader context of pervasive – but ultimately unfounded – fear throughout the 1990s and 2000s that crime committed by youth of color was hitting crisis levels in the United States. The legislation thus reflected a two-part response to crime and fear of crime – an investment in law enforcement agencies and strategies through COPS, and a separate investment in intervention and prevention efforts through JJCPA.

Each year for the last 16 years, counties across the state have received roughly \$100 million in JJCPA funds. The demographic reach of JJCPA is broad – targeting “juvenile probationers identified with higher needs for special services than those identified for routine probationers, at-risk youth who have not entered the probation system but who live or attend school in areas of high crime or who have other factors that potentially predispose them to criminal activities, and youth in juvenile halls and camps.”¹² Statewide, the funds have been allocated for a range of programs – from policing and probation supervision in schools, public housing and parks, to mental health screening and services provided by community-based

⁸ Rand Corporation, “Los Angeles County Juvenile Justice Crime Prevention Act Fiscal Year 2014–2015 Report,” Footnote 2, page xiii, available at http://www.rand.org/pubs/research_reports/RR1458.html.

⁹ RAND Corporation, Los Angeles County JJCPA Fiscal Report 2013-2014, pg 9.

¹⁰ Sample flyers for WIC 236 program from LA County Probation Department

¹¹ Board of State and Community Corrections, “Juvenile Justice Crime Prevention Act – March 2016 Annual Report,” pg. 1, available at <http://www.bscc.ca.gov/downloads/2016-3-30%20JJCPA%20Final%20Draft%20Report%20for%20DOF.pdf>.

¹² Rand Corporation website, “Los Angeles County Juvenile Justice Crime Prevention Act Fiscal Year 2014–2015 Report,” http://www.rand.org/pubs/research_reports/RR1458.html

organizations. In 2014-2015, California counties administered 150 JJCPA programs serving 84,450 “at-risk” and probation youth.¹³

Both the legislative history and statute codifying JJCPA are explicit in calling for cross-agency collaboration and proven effectiveness in programming. Under Government Code section 30061, each county applying for JJCPA funds must submit to the Board of State and Community Corrections (BSCC) a “comprehensive multiagency juvenile justice plan” that is “based on programs and approaches that have been demonstrated to be effective.” Welfare and Institutions Code section 749.22 establishes Juvenile Justice Coordinating Councils (JJCC), local county bodies to be chaired by the Chief Probation Officer to develop the comprehensive plan. Prior to 2017, those plans needed to be approved by both the County Board of Supervisors and BSCC, but as a result of new legislation passed in 2016 and effective 2017, approval by either the Board of Supervisors or BSCC is no longer required.

Los Angeles County has received the lion’s share of JJCPA funding at around \$28 million each year since 2001—roughly 33 percent of the state’s total. Yet the importance of JJCPA in Los Angeles County goes beyond the sheer amount of money at stake. The administration of JJCPA funds provides one window into this county’s philosophy and approach to making communities safe and improving young people’s well-being. In that respect, it is critical to examine the strategies and impact of JJCPA programs in light of new research, wisdom and trends since their inception. For years, many government and community stakeholders have expressed repeated and serious concern about the process for developing and monitoring the impacts of JJCPA programming, including whether multi-agency partnerships (especially with community-based service providers) have been actualized and maximized.

V. The Dramatic Rise in Numbers of LA County Youth “Supervised” Under WIC 236

In Los Angeles, JJCPA funds focus on two primary populations of youth – youth on probation (through court or probation mandates) and youth under WIC 236 supervision (referred and placed on voluntary contracts). The number of young people under voluntary WIC 236 probation supervision has increased over time – both absolutely and as a percentage of young people under any form of probation supervision. Meanwhile, the number of youth on probation through court orders and enforceable contracts has dropped dramatically. In 2003–2004, there were approximately 23,000 youth served through JJCPA-funded programs, of which WIC 236 youth comprised 31.4% (10,528) of these youth. By 2009–2010, the total number of youth supervised under WIC 236 probation supervision rose to 41.7% (16,013) of all youth served by JJCPA funds. Five years later in 2014–2015, the number of “at-risk” youth” served by Probation under WIC 236 for the first time surpassed the number of youth on probation. WIC 236 youth rose to 55.7 percent (17,529) of all youth served by JJCPA funds, while youth on probation comprised 44.3 percent (14,000). On one given day in April 2016, there were 11,798 youth under WIC 236 status, according to data provided by the Probation Department to the Los Angeles County Children’s Commission.

¹³ Rand Corporation, “Los Angeles County Juvenile Justice Crime Prevention Act Fiscal Year 2014–2015 Report,” pg. 2.

Total Youth Served Under JJCPA							
	2003-2004	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014	2014-2015
Total "At-Risk" Youth	10,528 (31.4%)	16,013 (41.7%)	15,103 (41.1%)	12,916 (40.6%)	10,973 (39.8%)	13,315 (45.6%)	17,529 (55.7%)
Total Youth on Probation	22,968 (68.6%)	22,362 (58.3%)	21,646 (58.9%)	18,865 (59.4%)	16,573 (60.2%)	15,892 (54.4%)	13,954 (44.3%)
Total Youth	33,496	38,375	36,749	31,781	27,546	29,207	31,483

The Rand Corporation – which has been contracted by LA County Probation to evaluate its JJCPA programs since its inception in 2000 – explains that the rise in numbers of youth under WIC 236 supervision “appears to be the result of two trends: (1) a steady decline in juvenile arrest rates since 2007 and (2) the Los Angeles County Probation Department’s deliberate strategy of devoting an increasing number of resources to at-risk youths.”¹⁴ The trends beg at least two questions: Why are youth being referred to voluntary supervision? And what does that supervision provide and how effectively?

VI. Services and Reasons for Referral

Most WIC 236 “at-risk” youth are part of one of two programs – school-based probation supervision, or the Abolish Chronic Truancy (ACT) program, which is also school-based but administered by the Los Angeles District Attorney’s office. In 2014–2015, 15,409 of the 17,529 “at-risk” youth served under JJCPA programming were part of school-based supervision or ACT.

At-risk youth are also targeted through three other initiatives of JJCPA: 1) housing-based day supervision (which staffs probation officers in public housing developments); 2) park-based probation (assigning probation officers to public parks); and, 3) Enhanced Services to High-Risk/High-Need Youths. In at least the last year, one probation officer has related that the Department has expanded WIC 236 supervision over “at-risk” youth to field offices as well.¹⁵

School-Based Probation Supervision of Youth								
	2003–2004	2009–2010	2010–2011	2011–2012	2012–2013	2013–2014	2014–2015	2015–2016
High School Youth on Probation	6,520	6,443	5,518	4,685	4,021	3,561	2,650	1,905
Middle School Youth on Probation	731	213	180	129	85	112	80	85
Total School Supervised Probation	7,251	6,656	5,698	4,814	4,106	3,673	2,730	1,990
High School “At-Risk” Youth on Voluntary Probation	1,533	1,316	1,282	1,237	1,741	2,755	3,136	3,511
Middle School “At-Risk” Youth on Voluntary Probation	2,006	1,285	1,196	962	985	1,252	1,381	1,241

¹⁴ Rand Corporation, “Los Angeles County Juvenile Justice Crime Prevention Act Fiscal Year 2014–2015 Report,” pg. xxvii.

¹⁵ For his caseload, the probation officer admitted that supervision of WIC 236 youth “looks pretty much the same” as any probation youth, with the only difference being that the contracts with youth were not enforceable in court. He also reported not receiving any specific training for working with “at-risk youth.”

Total "At-Risk" Youth on Voluntary Probation	3,539	2,601	2,478	2,199	2,726	4,007	4,517	4,752
TOTAL School-Based Supervision	10,790	9,257	8,176	7,013	6,832	7,680	7,247	6,742
Abolish Chronic Truancy (A partnership between the District Attorney's Office and Probation)								
Total ACT youth	4,911	11,764	11,240	8,532	6,726	8,136	10,892	N/A

i. School-based Probation Supervision of Youth

Flyers from the Probation Department describe its school-based supervision program as “a delinquency prevention program which provides direct and indirect services, such as counseling or involvement in positive activities, for children who may be at risk and/or exposed to pre-delinquent behavior.”¹⁶ The program is advertised on some school websites as well. For instance, Beach High School in Long Beach describes the program online as a “pre-probation program.”¹⁷ Torch Middle School advertises on its website that “voluntary probation” is “a great program for children who are ‘at-risk.’”¹⁸

The school-based probation officers supervise mixed caseloads – including “at-risk youth” under WIC 236 as well as youth with more formal probation statuses under WIC sections 602, 790, 725 and 654. The average length of time for at-risk youth supervision on school-based supervision is over seven months.¹⁹ Several probation officers have reported that referrals for school-based supervision largely come from parents or guardians and school personnel.

ii. Abolish Chronic Truancy (ACT) Program

The ACT program is also school-based and targets elementary and middle school students. ACT involves district attorneys working directly with school personnel, teachers, parents and students – and sometimes probation officers – to develop contracts for youth and parents to comply with school attendance laws.²⁰ It also aims to “direct families to community resources to assist in overcoming the obstacles to their child/children’s school attendance.” The program’s first step involves a meeting with school personnel and the District Attorney’s office. If truancy persists, the student and family are referred to a “School Attendance Review Team” to further intervene. The final level of intervention before resorting to prosecution is a referral to the district-level “School Attendance Review Board.” In a manual about ACT, the District Attorney’s office is described as seeking to “redefine the school’s culture to zero tolerance for school truancy.” The Memorandum of Understanding between the Probation Department and District Attorney’s Office for ACT allows school-based probation officers to participate in the School Attendance Review Board “when escalation becomes necessary due to a failure of a minor to meet goals and objectives.”

¹⁶ Sample flyers for WIC 236 program from LA County Probation Department.

¹⁷ https://ilp-lbusd-ca.schoolloop.com/cms/page_view?d=x&piid=&vpid=1302596238550

¹⁸ <http://www.bassettusd.org/domain/405>

¹⁹ Board of State and Community Corrections, 2015-2016 program data for “at-risk youth” school-based supervision

²⁰ District Attorney’s Office, *Abolish Chronic Truancy* brochure, available at <http://da.co.la.ca.us/sites/default/files/pamphlet/Truancy-0716.pdf>.

iii. Reasons for Referral to the WIC 236 Voluntary Probation Program

According to the April 2016 snapshot, the vast majority – nearly 85 percent – of “at-risk” youth on voluntary school-based probation supervision was referred for general school-related behavioral or academic issues. Specifically, 80.5 percent were placed under supervision because of poor attendance, grades, behavior, or overall performance at school. Another 4.3 percent were referred for general lack of motivation. Only 2.7% were referred for suspected substance abuse problems, 1.5% for anger issues, and 1.5% for parental conflict. None were referred for gang involvement or fighting.

Marbella Munoz' Experience with “Voluntary WIC 236 Probation”

I have been in foster care for most of my life. By high school - as with most older youth in the foster care system - I was moved a lot to different placements and group homes. Each time, I had to change schools. Although I was an "A" student, I was referred to a Probation Officer at my high school who told me I would have to "be on their caseload," because I was changing schools too much. I explained that the school changes were outside my control, but I was told I had no option.

I refused to report to Probation, and after that I didn't feel comfortable at school anymore. I left school and never went back to a regular high school. Because I turned 18 soon after that, to finish school, I had to attend a continuation high school. That's how I got to Chuco's (Youth Justice Coalition).

Marbella Munoz is a high school student at the Youth Justice Coalition's FREE LA High School.

Reason for Referral	Number of Youth	Percentage of Total Youth	
Poor School Attendance	795	22.1%	80.5%
Poor School Grades	683	19.0%	
Poor School Behavior	451	12.6%	
Overall Poor School Performance	961	26.8%	
Unmotivated	155	4.3%	4.3%
Substance Abuse Problem	96	2.7%	15.2%
Beyond Parental Control	55	1.5%	
Anger Issues	54	1.5%	
Other	295	8.2%	
Data Not Provided	45	1.3%	
TOTAL	3590	100%	100%

Given the overwhelming numbers of youth referred for academic reasons, the primary service provided to school-based “at-risk youth” is, not surprisingly, tutoring. It is unclear, though, whether Probation contracts with a community-based service provider to tutor youth or provides tutoring services itself. Regardless, Probation is not equipped to directly render services like tutoring; nor should students have to access or be referred for tutoring services through probation in the first place.

Programs/Services Delivered	Number of Youth	Percentage of Total Youth
Tutoring	1106	30.8%
Gang Intervention Program	656	18.3%
Gender Specific Program	527	14.7%
Family Counseling	394	11.0%
Substance Abuse Counseling	119	3.3%
HRHN Employment	67	1.9%

Anger Management Counseling	41	1.1%
Multi-Systemic Therapy	12	0.3%
Other	292	8.1%
None	376	10.5%
TOTAL	3,590	100%

VII. Race Disparities of WIC 236 Youth

The racial make-up of WIC 236 youth is overwhelmingly Black and Latino (designated by the LA County Probation Department on the charts below as Hispanic). In the last seven years, Black and Latino students consistently comprised over 80 percent of youth labeled “at-risk” in the school-based probation supervision program. Black youth were over-represented every year in the middle and high-school “at-risk” program between 2008 and 2015. For example, they comprised 11.2 percent of overall students in Los Angeles Unified School District in 2009–2010, but 17.2 percent of high school youth and 27.2 percent of middle school youth labeled “at-risk.” From 2011 and on, black youth comprised approximately 10 percent of the overall student population in the district, but routinely exceeded that percentage of youth labeled “at-risk” at both the middle and high school levels. In contrast, White youth were systematically under-represented each year in both middle and high school “at-risk” populations (around 8.8 or 8.9 percent of the student population was White during these years). Latino youth were represented roughly at percentages proportionate to their make-up within the school district.

	2008–2009	2009–2010	2010–2011	2011–2012	2012–2013	2013–2014	2014–2015
Black	15.9	17.2	12.8	12.4	10.9	13.4	13.1
White	6.1	5.4	4.9	4.6	5.5	3.3	5.2
Hispanics	66.4	67.1	72.5	75.0	70.3	71.6	68.4
Other	11.1	8.3	8.8	7.2	13.3	11.7	13.3

	2008–2009	2009–2010	2010– 2011	2011- 2012	2012–2013	2013–2014	2014–2015
Black	27.3	27.2	19.3	21.3	15.0	16.9	14.0
White	1.8	3.5	3.3	3.1	3.6	2.1	2.1
Hispanics	64.9	64.2	72.4	72.0	76.6	73.9	76.0
Other	6.0	4.8	4.6	3.6	4.8	7.2	7.9

VIII. Concerns Regarding Lack of Accountability, Evaluation and Effectiveness

There are many concerns about authorizing probation officers and district attorneys to supervise youth who have no prior court or probation involvement – especially when the primary reasons for referral are school-related. These concerns include the following:

- 1) Probation, with its law enforcement identity and powers, is not the most appropriate agency to address the primarily school performance issues for which youth are referred to WIC 236 supervision. The increase in system contact with these youth is inconsistent with a growing and compelling body of research demonstrating that system contact (via probation, law enforcement, prosecutors and other court officials) with youth who have not been arrested should be minimized and may be ineffective, net-widening and even *harmful*.
- 2) Resource allocations and access to JJCPA resources favor probation supervision, do not reflect the dramatic decline in court and custody populations, and continue to underresource school and community-based interventions that are more appropriate ways to address the needs of WIC 236 youth. The disproportionate targeting of young people of color for “voluntary supervision” continues a legacy of divesting from communities of color and undermining their health and life chances.
- 3) Data collected on JJCPA broadly since 2001 does little to demonstrate the effectiveness of JJCPA programming—including the supervision of WIC 236 youth—in reducing recidivism or improving other measures of youth well-being.

Jocelyn Mateo’s Experience with “Voluntary WIC 236 Probation”

On my first day in the tenth grade at my new continuation school, I was pulled out of class and brought to the probation officer’s (PO) office. I was worried that something had happened to my family because there was no other reason I should be seeing a PO. I had never been arrested before, had never gone to court. I asked the PO what had happened, and he told me that my name was on some list, so I had to see him. I asked him why my name was on the list and he refused to tell me. I repeatedly asked to see the list and for an explanation, but he refused to show me the list or tell me why I was on it.

He then started telling me a list of things I had to do: I had to get good grades, have a good attendance record, have everything in order. I left his office, went home, and told my mom. My mom knew nothing about the PO and didn’t understand why I had to see one. I didn’t understand either. It made me feel like I had been labeled a monster child, a future criminal, a future delinquent. I felt like the school, the PO, was just waiting for me to mess up. I felt like I was being set up for failure. So, a few days later, I stopped going to school.

Why would you want kids to feel the way I did? Kids go to school to learn. Kids come to school as an escape from home and the streets. But when you put POs in school like this, kids can’t run away anymore, they have no escape. Life was really hard for me back then, and I had no support. What would have helped me was to have a teacher, a counselor, or maybe a mentor who could tell me, and have me believe, that they were there to help me out, to help me stay on track. Making me report to a PO just made me feel like I was already in the (criminal justice) system.

Jocelyn Mateo is a youth leader with the Youth Justice Coalition and a student at the YJC’s FREE LA High School.

1. Inappropriate, Ineffective and Potentially Harmful Intervention by a Law Enforcement Entity

Intervention and supervision by probation officers of “at-risk youth” who have not yet had any probation or court involvement is inappropriate and alarming. First, probation systems across California – including in Los Angeles – have engaged primarily in supervision and suppression strategies traditionally held by law enforcement. In Los Angeles, 90 percent of the Probation Department’s 6,500 employees are sworn peace officers.²¹ The scope of powers and duties afforded probation officers under California law are now far-reaching and include the ability to:

²¹ Los Angeles County Probation Department, “Probation News Room,” available at http://probation.lacounty.gov/wps/portal/probation!/ut/p/b0/04_Sj9CPykssy0xPLMnMz0vMAfGjzOLdDAwM3P2dgo38g12MDTzd3J2cDf1NDB2NDPULsh0VAfcS50E!

- Arrest, search and interrogate youth
- File petitions alleging charges in court
- Impose fines and fees
- Make recommendations on detention and length of supervision to which courts often defer
- Run and oversee juvenile halls and prisons
- Enforce compliance with court-ordered conditions – from regular meetings with a probation officer, electronic monitoring and drug treatment to passing grades and community service, and
- Detain youth upon failures to comply with probation terms.

Second, WIC 236 supervision is incompatible with Probation’s hiring, staffing, training and activities. Typically, probation officers have neither the training nor expertise in education supports, youth development, mental health and other fields to effectively work with youth struggling with academic or behavioral issues. In short, Probation’s identity as law enforcement is inherently at odds with its attempts to serve as a youth service provider. Its expansion into youth development and education work also reflects a broad dismissal, and perhaps even distrust of, people specially trained to do that work.

Moreover, there is a growing and compelling body of research showing that generally system contact (with probation, law enforcement, prosecutors and courts) by youth can be ineffective at best, and *harmful* at worst. For instance, “[b]eing put on probation, which involves more contact with misbehaving peers, in counseling groups or even in waiting rooms at probation offices, raised teens’ odds of adult arrest by a factor of 14.”²² Another study concluded that both diverted and formally processed youth were more likely than no-contact youth to be arrested, regardless of similar “antisocial and illegal” behavior, and that the default policy should be to divert low-level first-time offenders, and keep justice system involvement to a minimum.²³ System contact can also have a negative impact on educational outcomes.²⁴ It was in keeping with this expanding research that the Los Angeles Probation Workgroup (created by the County Board of Supervisors and convened by California State University-Los Angeles to establish a local, comprehensive juvenile justice strategy) included among its goals to “whenever possible, reduce contact between youth and the juvenile justice system (i.e., law enforcement, Probation, and the delinquency court) through the use of evidence-based juvenile justice system diversion programs and other community-based resources.”

The trend to expand probation contact to WIC 236 youth also goes against a well-established “risk principle” in effective intervention work.²⁵ The risk principle provides that individuals should be supervised and treated at levels commensurate with their risk levels – higher-risk individuals should receive more intensive treatment and supervision while lower-risk individuals should receive lower levels of supervision

²² Maia Szalavitz, “Why Juvenile Detention Makes Teens Worse,” Time Magazine (Friday, Aug. 07, 2009), citing Gattit, Tremblay & Vitaro, “Iatrogenic Effect of Juvenile Justice” (Journal of Child Psychology and Psychiatry, 2009).

²³ Jordan Bechtold Beardslee, “Under the Radar or Under Arrest: How Does Contact with the Juvenile Justice System Affect Delinquency and Academic Outcomes?”, (University of California-Irvine, Dissertation, December 2014), available at <https://www.ncjrs.gov/pdffiles1/nij/grants/248533.pdf>

²⁴ Soraya Shockley, “Meant to Keep Youths Out of Detention, Probation Often Leads Them There,” Youth Radio, available at http://www.npr.org/2015/07/29/427263478/some-youths-find-probation-more-challenging-than-juvenile-detention?utm_content=bufferba4fb&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer

²⁵ Latessa, E.J., “Evaluation of the Effective Practices in Community Supervision Model (EPICS) in Ohio, pg. 9 (2013). The two other “principles of effective intervention” are the *need principle* and the *responsivity principle*. The *need principle* asserts that interventions should target an individual’s dynamic risk factors that contribute to one’s likelihood of future criminal behavior. The *responsivity principle* states that interventions should be tailored to the learning style, motivational level abilities and strengths of an individual.

and treatment.²⁶ Strong empirical evidence demonstrates that programs that target higher risk individuals are more effective in reducing recidivism than those that do not.²⁷ A recent, comprehensive meta-analysis of 548 studies about delinquency interventions concluded: “In practical terms, juvenile justice systems will generally get more delinquency reduction benefits from their intervention dollars by focusing their most effective and costly interventions on higher risk juveniles and providing less intensive and costly interventions to the lower risk cases.”²⁸

Youth who have not had any probation or court involvement, and who present primarily school performance issues, are not “high risk.” Accordingly, research counsels against expanding probation’s role to have contact with “at-risk youth” as not only ineffective, but also as potentially increasing their risk for future system involvement.²⁹ “For lower risk youth, the higher ‘dose’ they receive, the greater likelihood exists of recidivating.”³⁰ In fact, research indicates that even some programming for “low-risk” youth can increase recidivism when compared no programming intervention at all.

Probation contact with low-risk youth can thus prove to “widen the net” – increasing rather than preventing eventual youth involvement with the juvenile and/or criminal court, detention and incarceration. Poor grades, truancy and other school performance issues have been correlated with higher risk of justice system involvement, but help can, and should, be provided by more appropriate actors like schools and community-based service providers, not law enforcement. Moreover, to adhere to the *risk principle*, only validated assessments that focus on risk as well as needs and strengths should be used, and resources should focus on individuals deemed at moderate or high risks of future system contact.³¹

2. Inequitable Allocation and Access to Funding for Community-Based Providers

In spite of the implied intent of JJCPA to support community-based efforts to prevent youth crime, the bulk of spending has been on Probation itself. Over the last 15 years, total JJCPA funding for community-based organizations to provide prevention services to youth in schools and neighborhoods has lagged far behind the amount spent on Probation’s own personnel. For instance, only 1.2 to 1.8 percent of JJCPA expenditures for school-based probation supervision was for community-based service provision between 2012 and 2015; over 90 percent was spent on probation salaries and benefits.

	2012–2013	2013–2014	2014–2015
Middle School At-Risk Youth Supervision			
Probation salaries and benefits	\$1,342,794	\$1,562,597	\$1,945,927

²⁶ Lowenkamp, C.T. & Latessa, E.J., “Understanding the risk principle: How and why correctional interventions can harm low-risk offenders,” pp. 3-8 (Washington, DC: U.S. Department of Justice, National Institute of Corrections, 2004).

²⁷ Lowenkamp, C.T, Latessa, E.J., & Holsinger, A.M., “The risk principle in action: What have we learned from 13,767 offenders and 97 correctional programs?,” pg. 5 (*Crime and Delinquency* 52(1), 2006).

²⁸ Mark W. Lipsey, James C. Howell, Marion R. Kelly, Gabrielle Chapman, Darin Carver, “Improving the Effectiveness of Juvenile Justice Programs: A New Perspective on Evidence-Based Practice,” pg. 23 (Center for Juvenile Justice Reform, Georgetown Public Policy Institute, Georgetown University, December 2010).

²⁹ Latessa, E.J. et al., “Evaluation of Ohio’s Reclaim Programs,” pg. 63 (April 2014), available at <http://www.dys.ohio.gov/DNN/LinkClick.aspx?fileticket=JtVZ6JcbUc4%3D&tabid=131&mid=764>.

³⁰ Latessa (2014), at pg. 65.

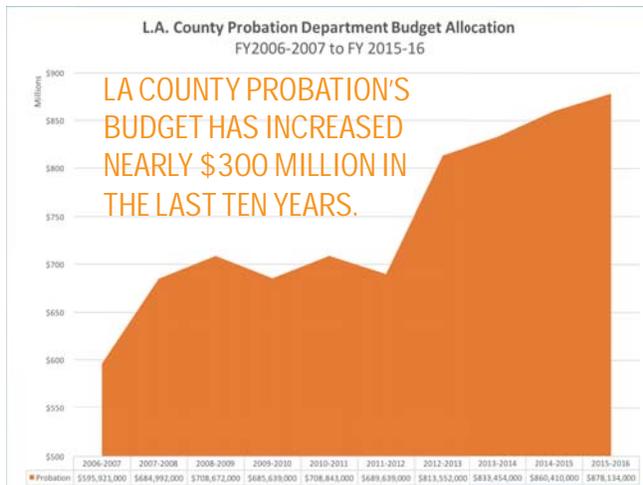
³¹ See Latessa (2013), at pg. 13. At the same time, there should be overall caution in administering such assessments for all youth, because criminogenic factors can be culturally biased against poor youth and youth of color; tools that are strength and needs-based are more appropriate in light of research on youth development.

Community-based organizations	\$23,959	\$20,366	\$37,416
Total	\$1,430,839	\$1,681,179	\$2,094,769
Percentage to CBO funding	1.7	1.2	1.8
Percentage to Probation salaries	93.8	92.9	92.9
High School At-Risk Youth Supervision			
Probation salaries and benefits	\$2,126,636	\$3,431,337	\$5,040,267
Community-based organizations	\$37,945	\$44,722	\$96,913
Total	\$2,266,077	\$3,691,731	\$5,425,792
Percentage to CBO funding	1.7	1.2	1.8
Percentage to Probation salaries	93.8	92.9	92.9
High School Probation Youth Supervision			
Probation salaries and benefits	\$6,025,732	\$4,916,659	\$451,038
Community-based organizations	\$107,517	\$64,081	\$87,314
Total	\$6,420,831	\$5,289,769	\$4,888,377
Percentage to CBO funding	1.7	1.2	1.8
Percentage to Probation salaries	93.8	92.9	92.3
Middle School Probation Youth Supervision			
Probation salaries and benefits	\$105,326	\$110,423	\$117,275
Community-based organizations	\$1,879	\$1,439	\$2,255
Total	\$112,233	\$118,802	\$125,245
Percentage to CBO funding	1.7	1.2	1.8
Percentage to Probation salaries	93.8	92.9	93.6
TOTAL School-based Supervision	\$10,229,980	\$10,781,481	\$12,534,183

As the population of WIC 236 youth served under JJCPA surpasses the number of youth on probation, or in juvenile halls or camps, a corresponding shift in dollars into community-based resources might be expected. But such a shift has yet to occur to meet the largely school-based needs of the WIC 236 population. Additionally, there has been little public discussion about the funding or contracting processes for JJCPA funding that appear to disadvantage community-based services and privilege county agencies (mainly Probation). For instance, programs run by community-based organizations are required to submit detailed applications that include program goals, activities, outcomes and budgets; are required to abide by performance-based contracts; are reimbursed *after* clients are referred by Probation and target outcomes are proven; and, must submit detailed final reports with further evidence as to their effectiveness. By contrast, county agencies like Probation, the Police Department and Sheriff's Department have few

application or reporting requirements, and are paid upfront before performing or demonstrating the effectiveness of their work.

The imbalance in budgeting and spending on probation supervision over community-based services has significant consequences for the larger community. Especially as system populations have declined, opportunities are missed to invest in essential infrastructure that builds and maintains safe communities – such as schools, jobs and economic development, parks, playgrounds, housing, after-school programs and youth centers, and drug treatment and mental health services.



3. Historical Disinvestment in Education and Community-Based Interventions

The funding disparity between county agencies and community providers, and expansion of Probation to supervise “at-risk youth,” are also concerning because of a historic reliance on law enforcement interventions to address many of the social concerns of already resource-poor communities in Los Angeles County and statewide. Continuing to invest disproportionately in law enforcement action over education and community-based supports continues to isolate

LA’s poor and working-class youth and families – especially those of color – in communities that are historically resource-poor. Those same communities have typically experienced heavy investments instead in law enforcement supervision, custody and control, even when crime and violence have declined.

Indeed, in just the past 50 years, Los Angeles has built and maintained the world’s largest corrections system comprised of juvenile halls, county jails, juvenile camps (youth prisons), Sheriff’s Department and Probation Department. (Tellingly, LA County has as many youth lock-ups as community colleges.) During the 1970s, 80s and 90s, LA’s law enforcement and elected officials also helped to write and finance tougher sentencing laws that hastened prison population growth, including indeterminate life sentences and life without parole sentences; Three Strikes penalties; Proposition 21, which expanded the ways that youth could be charged and sentenced more severely as adults; and Proposition 9, the nation’s harshest parole law.

Simultaneously, California dramatically divested resources from K-12 public education, higher education and community supports. Among the most detrimental measures was Proposition 13, which reduced certain property taxes considerably in 1978 and quickly eroded the state’s public school funding and social service net; in LA, one result was the elimination of youth employment programs. This history should be instructive – that expansions of punishment institutions have often paralleled disinvestments in education and basic support systems. Thus, the expansion of and spending on probation supervision of youth who have had no court or probation contact is particularly troubling as an extension of this history of disinvestment. That no downsizing of Probation field supervision staff, juvenile halls, camps or secure placements considering a 50 percent decline in the number of youth in custodial and court ordered supervision is similarly troubling.

Diwaine Smith's Experience with "Voluntary WIC 236 Probation"

My high school had a police bungalow on campus right next to the courtyard where most students ate lunch every day. If you went to the police bungalow, you went in handcuffs, and everyone could see you. Only kids in real trouble went to the police bungalow.

The Probation Office was put inside the police bungalow. Since I was on formal probation, every day during my 45-minute lunch break, I had to walk to the police building, sign my name on a sign-in sheet, and leave. Some days I saw my probation officer as I signed my name, some days I saw a police officer instead. We didn't talk; I just signed my name and left.

During my daily trips to the police building, I noticed students there who had never been in trouble before, who weren't on probation. When I asked them why they were there, they just told me that they had to check in and sign their names, so they did. Making these kids report to the police office sent a wrong message to them, and to the rest of the students who saw them go there every day. It sent a message that they could go to jail. It would have been better to have them see teachers or therapists who knew them, could maybe see changes in their behavior and do more to help them.

Diwaine Smith is a community leader with the Youth Justice Coalition, and a co-founder of Long Beach's Men Making a Change program

4. Lack of Meaningful Data and Oversight

The data available on Probation or Probation sub-contracted programs intended to serve WIC 236 youth is problematic in at least two ways. First, the approach to assessing JJCPA program outcomes has been limited and primarily focused on traditional indices of criminal behavior or desistance. Since 2001, the data reported by Probation has been limited to the traditional "Big 6" outcomes as required by the Board of State and Community Corrections under the state statute governing JJCPA funding: 1) arrest rate; 2) incarceration rate; 3) probation violation rate; 4) probation completion rate; 5) restitution completion rate, and; 6) community service completion rate. Not only are outcomes such as "arrest rate" and "incarceration rate" inapplicable to WIC 236 youth, and therefore meaningless data points, but they also reveal a criminalizing frame for youth who have had no system contact and who have almost entirely been referred for school-based needs. Other measures related to improved educational attainment, increased pro-social skills, improved relationships and connection to positive peers, family and community, and increased access to and use of services are important to know, but are not collected. In fact, in addition to the "Big 6," counties can choose to track other outcomes, but are not required to. For example, Los Angeles County currently collects supplemental data on the rate of school attendance, suspensions, and expulsions for some – but not all - of its JJCPA programs, and this data is not collected consistently.

Second, even when relying on reported outcomes such as the "Big 6", the evaluations and data collected to-date in Los Angeles County tell little about whether any of the JJCPA interventions (including for WIC 236 youth) are better than no intervention at all, or a different intervention. Comparison groups are not included as part of the evaluations to determine whether youth without the programs would have demonstrated similar or better outcomes. Changes to the law, effective in 2017, have essentially stripped JJCPA county reporting requirements on outcomes to the state, and made oversight and accountability even more challenging.

Ultimately, the data that has been reported thus far gives only a general overview of how Probation is supervising, serving or sub-contracting with other agencies to serve “at-risk youth.” Much more information is needed to fully understand youth supervision and service delivery, including:

- The recruitment and referral process;
- The role of youth and families in “volunteering” to participate;
- The frequency of contacts that Probation and other law enforcement agencies have with WIC 236 youth;
- The activities or services that youth are engaged in or receiving;
- Program delivery, including how assessments of youth needs are made, how youth “success” is eventually declared in order to close out a case, or the consequences of not completing a WIC 236 program;
- Program effectiveness and outcomes for youth and families; and,
- Budget or accounting for specific expenses incurred.

IX. Conclusion and Recommendations

After decades of disinvestment from educational and community-based supports in LA’s poor and working class communities—particularly communities of color—there is a need for meaningful investment in youth and community development. The Probation system is not designed or equipped to address the prevailing challenges – like poor grades and attendance – for which “at-risk youth” are being referred for voluntary supervision. Instead, probation intervention with youth who have no prior court or probation involvement runs counter to well-established, research-driven principles and practices, and risks “widening the net” and creating yet another track of youth into the juvenile court and custody system. Even as the County proceeds to audit and evaluate JJCPA overall, including its WIC 236 programs, we recommend as a starting point that the following changes be considered at the county and state level:

County-level

- 1) All the JJCPA funding should be directed to community-based, owned and operated organizations and other non-law enforcement public agencies to work with youth and families, including those who have no current or prior contact with Probation or court
- 2) Address truancy through school-based, research-informed strategies, like Positive Behavior Intervention and Supports, restorative practices and socio-emotional learning over punitive-based approaches
- 3) Establish independent evaluation mechanisms (outside Probation or other agencies that either run programs or benefit from JJCPA funding) to collect data on and assess the impact of JJCPA funding, as well as of WIC 236 supervision, on youth and families
- 4) Modify contracting procedures to be more effective, transparent and equitable in facilitating service delivery by both county agencies and community-based providers
- 5) Increase meaningful youth and family engagement in funding allocation and program evaluation

State-level Changes

- 1) Ensure that counties make data on JJCPA funding activities, outcomes and evaluation easily and regularly accessible to the public – including those related to the contact with WIC 236 youth
- 2) Change state law to require that JJCPA funding is distributed through non-law enforcement agencies and Boards – both at the state and county level - to community-based, owned and operated organizations and/or public agencies with a focus on human services, health or education
- 3) Decriminalize truancy and instead direct resources towards research-driven strategies that promote school attendance in addition to improving overall positive school climates

