



# POLICY BRIEF

# PROBATION &

# PAROLE

---

## Value

JustLeadershipUSA was founded on the belief that *those closest to the problem are closest to the solution*. We work to ensure directly impacted leaders have the resources and tools that enable them to drive policy reforms that will cut the United States correctional population in #halfby2030. Punitive and oppressive supervision practices, namely parole and probation, have been increasingly utilized either as an addendum or as a replacement to incarceration as local, state, and federal leaders advocate for justice reform. We adamantly oppose this apposition because of our lived experience, values, and knowledge that probation and parole only entrench and exacerbate the racial and economic harm that the criminal legal system inflicts on black, brown, native and poor communities while also driving or enabling mass incarceration.

## Problem

The correctional population in the United States consists of nearly 7 million people: 2.3 million people are incarcerated in jail, prison, or other facilities, and **4.5 million people - 1 in 55 adults - are on probation or parole**,<sup>1</sup> systems that are collectively referred to as “community supervision”.

Probation and parole were originally intended to serve as rehabilitation-focused options that could take the place of incarceration (probation) or help people transition from incarceration back into their community (parole).<sup>2</sup> However, over the past few decades, both probation and parole populations have skyrocketed<sup>3</sup>. Supervision became an over-utilized tool that, like mass incarceration, was defined by a *tough-on-crime* mindset amongst policymakers and agency officials. Not only did probation and parole populations grow, but also those populations grew *alongside* incarcerated populations across the U.S., disproving the idea that supervision can serve, or is serving as an alternative to incarceration.

Supervision is not just over-utilized; it is also immensely devastating and harmful. Probation and parole are correctly viewed not as separate and apart from the criminal legal system, but rather as tools within that system that replicate, entrench, and expand the system’s core harms. This happens in five key ways:

- **Conditions:** People under community supervision must continuously, ceaselessly comply with an average of 10 to 20 conditions, many of which are arbitrary, counterproductive, and void of any policy or public safety justifications. Moreover, many conditions intentionally criminalize the

---

<sup>1</sup> Mass Incarceration: The Whole Pie 2019: <https://www.prisonpolicy.org/reports/pie2019.html>; Correctional Control 2018: Incarceration and Supervision by State: <https://www.prisonpolicy.org/reports/correctionalcontrol2018.html>; Too big to succeed: The Impact of the Growth of Community Corrections and What Should be Done About It: [https://justicelab.columbia.edu/sites/default/files/content/Too\\_Big\\_to\\_Succeed\\_Report\\_FINAL.pdf](https://justicelab.columbia.edu/sites/default/files/content/Too_Big_to_Succeed_Report_FINAL.pdf).

<sup>2</sup> Rethinking the Use of Community Supervision: <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=7463&context=jclc>.

<sup>3</sup> Over the past four decades, probation and parole populations have grown significantly. From 1980 to its peak in 2007, the probation population grew from 1.1 million people to 4.3 million people; the parole population grew from 220,400 people to 826,100 people. As of 2016, those numbers are: 3,673,120 people on probation and 874,777 people on parole. (see: <https://www.bjs.gov/content/pub/pdf/ppus16.pdf>.)

basic human needs that people struggling with underlying issues (health, addiction, education, employment, healthcare, housing, etc.) are forced to confront.<sup>4</sup>

- **Reincarceration and ‘failure’:** ‘Failure’ on probation or parole - defined as even momentary noncompliance with supervision conditions - is a highly likely,<sup>5</sup> almost predictable outcome given how onerous, confusing, and punitive supervision conditions tend to be. The punishment for such ‘failure’ is severe: in many cases, people go into - or back to - incarceration and can be imprisoned for weeks or months even before a single hearing takes place to evaluate their alleged actions. Additionally, people on probation and parole must often pay fees for their own supervision, and nonpayment of fees can be deemed ‘failure.’ In that way, supervision criminalizes poverty.
- **Carceral Expansion:** Probation and parole often rely on tools such as electronic monitors that serve only to extend the carceral state into people’s homes, schools, jobs, and places of worship. Also, people on supervision are often forbidden from being associated with other people who are directly impacted by the legal system. This net-widening makes entire communities either suspect or susceptible to police action, and/or off-limits to people who are on community supervision. This reality compounds, and is compounded by the fact that Black, brown, and low-income communities have, for generations, been over-policed, over-prosecuted, and under-resourced, all of which contributes to glaring inequities and disparities across the criminal legal system. By extending and entrenching the carceral system, probation and parole fuel these disparities.
- **Systemic Consequences:** Even in their most ideal form, as ‘alternatives’ to incarceration, probation and parole still result in the countless collateral consequences of incarceration, since each is the product of a conviction on a person’s record. This is particularly egregious when you consider that compliance with some conditions (ex: maintain housing) is made impossible by the fact that a person has a conviction on their record.
- **Racial Harm:** Like every other aspect of the criminal legal system, Black and brown people are uniquely and disproportionately harmed by community supervision. Despite making up just 30% of the national population, Black and Latinx people make up 42% of the probation population. It has been found that 1-in-12 Black males is under supervision. That number skyrockets to 1-in-5 for Black children without a high school diploma. All of this is exacerbated by the reality that Black and brown people are also more likely to have their supervision revoked and to be subject to punitive and incarceration-based consequences of that revocation.<sup>6</sup>

## Solution

Given the over-utilization of probation and parole, the devastation they inflict on whole communities, and the lack of any meaningful connection between those systems and community safety, **supervision should be completely eliminated from the U.S. criminal legal system.** The need for probation should be curtailed by front-end, community-based reforms to policing and prosecution. Parole should be replaced with community-based solutions focused on bottom-up support instead of top-down supervision. Eliminating the use of supervision will require significant advocacy on the part of directly impacted communities and other supporters. To achieve this goal, JLUSA advocates for policy reforms that adhere to these principles:

- **Length:** Limit the length of supervision to 1 year for a misdemeanor conviction and 2 years for a felony, prohibit consecutive supervision sentences or supervision as an automatic result of release

---

<sup>4</sup> Too big to succeed: The Impact of the Growth of Community Corrections and What Should be Done About It: [https://justicelab.columbia.edu/sites/default/files/content/Too\\_Big\\_to\\_Succeed\\_Report\\_FINAL.pdf](https://justicelab.columbia.edu/sites/default/files/content/Too_Big_to_Succeed_Report_FINAL.pdf).

<sup>5</sup> Probation and Parole in the United States, 2016: <https://www.bjs.gov/content/pub/pdf/ppus16.pdf>.

<sup>6</sup> One in 31: The Long Reach of American Corrections: [https://www.pewtrusts.org/-/media/assets/2009/03/02/pspp\\_1in31\\_report\\_final\\_web\\_32609.pdf](https://www.pewtrusts.org/-/media/assets/2009/03/02/pspp_1in31_report_final_web_32609.pdf). (See also *Handbook on Punishment Decisions: Locations of Disparity* (2018), edited by J.T. Ulmer and M.S. Bradley.)

from incarceration, and allow for good-time/compliance credits and automatic judicial review - with a presumption of termination - to further shorten the length of a person's supervision.

- **Conditions:** Drastically limit and ultimately eliminate supervision conditions, ensure that every single condition is the least restrictive necessary to achieve reentry and is justified by evidence on the record, and ensure that no conditions interfere with a person's ability to get or maintain basic human needs.
- **Due Process:** If an alleged violation of conditions does occur, ensure robust due process that gives every person a real, meaningful, counsel-supported opportunity to contest allegations of the violation, and that completely precludes anyone's being incarcerated prior to that hearing.
- **Revocations:** If supervision is revoked, ensure that incarceration is the option of absolute last resort and is only available, to begin with, for exceedingly egregious or severe violations.

### Action

JustLeadershipUSA is participating in several community supervision reform efforts including in New York State, Pennsylvania, Los Angeles and Wisconsin. Demands advanced in each of those efforts are centered on the experiences of - and advanced by - directly impacted advocates, are focused on the goal of eventually eradicating community supervision, and include provisions ensuring that reform-generated cost-savings are invested directly back into the communities that have been most harmed by probation and parole.

To learn more about community supervision reforms taking place in your state please contact JLUSA staff at [darren@justleadershipusa.org](mailto:darren@justleadershipusa.org). We also encourage you to contact us to learn more about how you can participate in ongoing community supervision reform efforts.

The following resources provide additional information about the state of community supervision, the harms that it causes, and examples of reform legislation that may serve as a starting point for overhauling community supervision practices. JLUSA does not necessarily endorse these legislative bills but is sharing them as examples of reform that may serve as a starting point for legislation or policy change in other cities and states.

### Legislation:

- New York: [#LessIsMoreNY](#)
- Pennsylvania: [SB14](#) (Sen. Anthony Williams), [HB1555](#) (Rep. Jordan Harris)

### Resources:

General Research and Feedback on Probation and Parole

- [Toward An Approach to Community Corrections for the 21st Century](#)
- [Less Is More: How Reducing Probation Populations Can Improve Outcomes](#)
- [Too Big to Succeed](#)
- [Rethinking the Use of Community Supervision](#)
- [Examining Racial and Ethnic Disparities in Probation Revocation](#)
- [Correctional Control 2018: Incarceration and Supervision by State](#)

State-specific Research and the Impact of Supervision Revocations

- [Confined and Costly: How Supervision Violations Are Filling Prisons and Burdening Budgets](#)
- [The Pennsylvania Community Corrections Story](#)
- [The Wisconsin Community Corrections Story](#)

Articles and Powerful Op-Eds

- [Decades later, electronic monitoring of offenders is still prone to failure](#)
- [The Newest Jim Crow](#)
- [Ankle Monitors Aren't Humane. They're Another Kind of Jail.](#)