



## Less Is More: How Reducing Probation Populations Can Improve Outcomes

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### Executive Session on Community Corrections

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### Introduction

This paper will argue that, similar to the growth in prisons that has resulted in our current state of mass incarceration, the tremendous growth in probation supervision in the United States over the past several decades should be reversed, and the entire system of probation significantly downsized. Specifically, we argue here that while the number of people on probation supervision in the U.S. has declined over the past several years (as have the number of people incarcerated and crime rates), that decline should not only be sustained but significantly increased, with a goal of reducing the number of people under probation supervision by 50 percent over 10 years. We then discuss New York City as an example of a jurisdiction that has successfully done this.

In many respects, the rationale for this argument mirrors the argument against mass incarceration. In most jurisdictions, probation is a punitive system that attempts to elicit compliance from individuals primarily through the imposition of conditions, fines, and fees that in many cases cannot be met (Corbett, 2015; Klingele, 2013). This is not only a poor use of scarce resources; it contributes to a revolving door in which

individuals who cannot meet those obligations cycle back and forth between probation and incarceration without necessarily improving public safety. In fact, the cycle of incarceration and supervision can actually threaten public safety, and it certainly has harmful and far-reaching consequences for those who are caught up in it, including job loss, disconnection from family, and housing instability (Council of Economic Advisers, 2015). Given this, along with national and local data and examples that clearly demonstrate that reducing “mass probation” can go hand in hand with a reduction in the number of people incarcerated and ongoing declines in national and local crime, it begs the question of why so many jurisdictions continue to promulgate this punitive approach.

Because probation is the most severely underfunded and the least politically powerful of all criminal justice agencies, there is no likelihood of any massive infusion of new resources into the field. Thus, the limited resources saved from this downsizing may be used to invest in community-based programs that provide employment, substance abuse, and mental health treatment to the remaining population — those that pose the highest public safety risk — as a way to significantly reduce that risk and avoid unnecessary monitoring and supervision. A portion of these savings should also substitute for the rampant use of probation fees used throughout the U.S. as a way to pay for

a structurally underfunded system. These fees are unjust, counter-productive, and antithetical to the legitimacy of any system of justice (Martin, Smith, and Still, 2017).

## A Brief History

Over the past decade, America’s experience with mass incarceration has become well known in both academic and popular literature and media, and has led to a number of social movements and political efforts to reverse what most now consider an unfair, unjust, and ineffective policy (Clear and Frost, 2013; Subramanian et al., 2015). Much less recognized is that America is also exceptional in terms of the numbers and rates of people under probation supervision.

From its inception at the hands of Boston shoemaker John Augustus in 1841, probation was conceived as an informal, individualized system that was heavily focused on rehabilitation (Klinge, 2013). In other words, it was established to provide “a plan of supervision and friendly personal guidance” (Chute, 1928:136). Despite these intentions, probation in the U.S. developed “very haphazardly and with no real thought” (Petersilia, 1997:156-157). Indeed, the structure looks very different across jurisdictions, with the more than 2,000 probation agencies varying in funding sources, services offered, and even the branch of government within which they are housed (Klinge, 2013). One consistency across jurisdictions, however, is that funding for probation has always been “woefully inadequate” (Petersilia, 1997:171-172). As criminal justice

system costs have increased in the past few decades, so too has the probation system's need for resources (Corbett, 2015).

Currently, a sentence to probation in which a person is supervised in the community in lieu of a prison or jail sentence is by far the most common formal punishment meted out in the American justice system. In 2014, 1.5 million people were in prison in the U.S. but almost three times as many (4 million) were serving probation sentences and another 850,000 were under parole supervision. Slightly more than half (56 percent) were on probation for a felony conviction and 42 percent were on probation for a misdemeanor conviction; the remaining 2 percent were on probation for other infractions (Kaeble et al., 2015; Kaeble, Maruschak, and Bonczar, 2015).

Thus, the overall rate for everyone on any form of probation is 1,500 per 100,000 persons. That rate is not only three times larger than our prison incarceration rate; it has increased substantially as our system of punishment has expanded geometrically over the past several decades. It is also about five times the European rate of approximately 300 per 100,000 persons.

Like incarceration, the use of probation varies widely by state. For example, Ohio's probation rate in 2014 was approximately 2,000 per 100,000, compared to New Hampshire's rate of 300 per 100,000 (Alper, Corda, and Reitz, 2016). Probation sentences also vary. The average time spent on probation is about two years (Kaeble, Maruschak, and Bonczar, 2015), but it reflects a

mix of individuals on short probation sentences and others serving many years (sentences of 10 years on probation are not uncommon, with some states carrying lifetime probationary sentences for certain serious offenses). Probation sentences typically range from one to five years.

## Probation Conditions

A sentence of probation requires the person under supervision to report (in person, electronically, or by mail) on a regular schedule and adhere to a number of conditions (e.g., being drug-free, being home by a certain hour, attending counselling sessions) that can differ greatly by jurisdiction. The average number of conditions is about 15 for a person on probation (Corbett, 2015). Violating any of these conditions can result in prison or jail time. Of course, the more conditions there are, the greater the likelihood that some will be violated. According to Dan Beto, a former Texas probation director (Corbett, 2015:1709):

*It is [also] my sense that the imposition and enforcement of probation conditions has become more punitive in nature, and I think much of that may be attributed to the type of persons we are attracting to the probation profession. And, to a degree, to those occupying the bench. I'm afraid that many judges impose conditions of probation because of personal biases and because they want to be in vogue, and not because they are necessary or relate to offender risk factors or needs.*

Cecelia Klingele (2013:1034) also comments on the current state of community supervision in the U.S.:

*...courts have been known to impose a wide range of [special] conditions, ranging from the bizarre ([y]ou may never even sit in the front seat (of a car)) to the controversial (don't get pregnant) to the downright dangerous (put a bumper sticker on your car announcing you are a sex offender). Even when the conditions imposed are reasonable in themselves, the lack of robust legal limits on release conditions often results in a laundry list of conditions to which any given offender is bound.*

The rise in the number of standard and special conditions of probation, as well as increasing requirements for people on probation to pay for their own supervision through mandatory fees, not surprisingly mirrors the punitive turn of punishment in the U.S. (Clear and Frost, 2013) over the past several decades. As more and more conditions are layered on a population that is very poor, with high levels of substance abuse and mental illness and low levels of formal education (Mumola and Bonczar, 1998; Rhodes et al., 2013), it is hardly surprising that technical violations of probation are common and failure rates are stubbornly high. As one public defender who participated in a recent study of community corrections describes it (Ruhland and Alper, 2016:4):

*Our clients, they have so many obstacles in so many ways that too many requirements, they just get overwhelmed...I had a client recently that just said, "fine whatever send me to prison, come get me on a warrant." He was just too overwhelmed to even think about complying with the conditions of probation.*

## Probation Success Rates

Nationally, about 60 percent of those who exit probation complete it successfully. The 40 percent who fail are made up of those whose probation is revoked for either a technical violation of probation, the commission of a new crime, or absconding (Glaze, Bonczar, and Zhang, 2010; Kaeble, Maruschak, and Bonczar, 2015); the majority are composed of technical violations and/or the commission of new crimes (Austin, 2010; Burke, Gelb, and Horowitz, 2007). According to the Pew Center on the States, along with the large growth in the number of people on probation, the number of people on probation who are revoked and sent to jail (or prison) increased by 50 percent (220,000 to 330,000) from 1990 to 2004 (Burke, Gelb, and Horowitz, 2007). Such numbers show that probation is not simply an alternative to incarceration but a key driver of incarceration in the United States.

## Probation Underfunding and the Use of Fees

Ironically, despite having such large numbers of people under supervision, probation has been and continues to be the most poorly funded of all the agencies in our criminal justice system. According to the Pew Center for the States (2009), the average cost per day for a person under probation supervision is \$3.42, compared to \$79 a day for a person in prison. Putting aside that disparity, it is illustrative to focus on the \$3.42 a day, or \$1,250 a year. For a population that is overwhelmingly poor, with high levels of substance abuse, low levels of employment, and —especially in urban areas — chronic homelessness, \$1,250 a year is next to nothing.

This is especially true considering that most of that money is spent on probation officer salaries, with very little funding left to deal directly with any of those deep-seated problems. In fact, so many probation agencies are so poorly funded that many resort to the imposition of fees, paid by the person on probation, to fund the basic costs of probation, which include drug testing, monthly programming fees, and court costs (Lieber, 2016). As Dan Beto notes (Corbett, 2015:1712):

*In most jurisdictions, in addition to restitution in appropriate instances, probationers are now required to pay probation supervision fees, court costs, urinalysis fees, electronic monitoring fees, DWI/DUI education class fees, anger-management class fees, counseling fees, and fines. For persons marginally employed or unemployed who are barely [eking] out an existence, all these financial obligations can seem quite onerous and create a sense of hopelessness. And with [the] introduction of these financial conditions of probation, the role of the probation officer changed; no longer are they agents of change, but rather they have assumed the job of collection agent.*

Ron Corbett, a former Massachusetts probation director, puts a finer point on this from the point of view of those on probation (Corbett, 2015:1713):

*As the financial penalties incurred by probationers grow, one wonders what those who impose them imagine the financial standing of probationers to be. If it were the case that the average probationer could afford to pay all the costs, fines, and fees that are imposed, there would not have been a crime in the first place, quite possibly. Of course, there are*

*exceptions to this. Bernie Madoff didn't need the money, as one example, and a number of drunk drivers are financially comfortable. However, in most cases, if you're on probation in the large urban areas, where most probationers reside, you're often flat broke.*

In a recent brief, the White House Council of Economic Advisers (2015:4) said of criminal fines and fees generally (of which probation fees are a large part):

*Fines and fees create large financial and human costs, all of which are disproportionately borne by the poor. High fines and fee payments may force the indigent formerly incarcerated to make difficult trade-offs between paying court debt and other necessary purchases. Unsustainable debt coupled with the threat of incarceration may even encourage some formerly incarcerated individuals to return to criminal activity to pay off their debts, perversely increasing recidivism. Time spent in pre-trial detention as a punishment for failure to pay debts entails large costs in the form of personal freedom and sacrificed income, as well as increasing the likelihood of job loss.*

The imposition of probation fees on a population that is already largely in poverty is terrible public policy, unjust, and — we would argue, almost by definition — completely ineffective (Albin-Lackey, 2014; Council of Economic Advisers, 2015). Many probation agencies find themselves in a structural position of relying on these fees, counterproductive as they are, simply to support their baseline annual expenditures, and there is an entire industry of private probation companies

whose main function is the enforcement and collection of probation fees (Albin-Lackey, 2014).

### The Structural Results of Underfunding and Increasing Conditions of Probation

As the use of probation has grown over the past several decades and the numbers of conditions, both standard and special, have increased, so too have the numbers of people who violate the conditions of probation and are sent back to jail and prison (Durose, Cooper, and Snyder, 2014; Pew Center on the States, 2009). There are a number of reasons why this happens, but none more important than probation's slow move away from a "helping" or rehabilitation-focused profession to one that is far more oriented to monitoring, supervision, and the detection of violations. As Todd Clear notes (Childress, 2014):

*When we built this large prison system, we bracketed it with enormous surveillance, community surveillance activities on each end. On the probation side, we built a surveillance and rule structure that almost really nobody could abide by satisfactorily 100 percent of the time. If I have 100 percent surveillance capacity, I'm going to find problems, and then I'm going to have to respond to them.*

Even while being starved for meaningful resources, it has become easier to detect probation violations and respond punitively. The technological ability to test for drugs, nonpayment of fines and fees, and curfew checks is now widespread and inexpensive. Combined with the increasing number of conditions, a probation population that has both high levels

of poverty and drug use, and the increasingly punitive turn among probation agencies, the trend of increasing technical probation violations should come as no surprise.<sup>1</sup> Also not surprising is that probation agencies are so severely underfunded that they simply do not have the resources to respond to technical violations in a graduated or nuanced way. Few probation agencies have the ability to "step up" people on probation who technically violate (or are at risk of violating) to drug treatment, cognitive behavioral therapy, or employment programs. As a result, probation officers with little to no resources, eager to manage risk and their large caseloads, default to the most available option they have — the most expensive and punitive option — the formal violation process which often results in jail or prison (Jacobson, 2005).

The result is that 15 percent of all persons who exit probation ultimately go to jail or prison (Herberman and Bonczar, 2014). This translates to 319,695 individuals of the roughly 2.1 million who left supervision in 2014, and almost 15 percent of the 2.2 million people in jail and prison.<sup>2</sup> Perhaps ironically then, the largest alternative to incarceration in the United States is simultaneously one of the most significant drivers of mass incarceration.

### Downsizing Probation

#### The national picture

Figure 1 shows the national trends in U.S. probation, prison, and jail populations since 1980. As noted earlier, the country's probation system has decreased. From 2007 to 2014, the

number of people on probation declined by 10 percent (Kaeble et al., 2015). Simultaneously, there was a 25-percent decline in the U.S. rate of violent victimization (from 27.2 per 1,000 households in 2007 to 20.1 per 1,000 households in 2014) (Truman and Langton, 2015). While the dynamics regarding the probation population and the violent crime rate are complicated and no causality is being argued here, it is clear from these two aggregate measures that it is possible to achieve significant reductions in crime as the total numbers of people under probation supervision decline. At a minimum, it disproves the notion that more people have to be under criminal justice control for crime to decline. Also, as crime is dropping much more precipitously than probation populations, it means that the “probationer-per-offense” rate is actually rising.

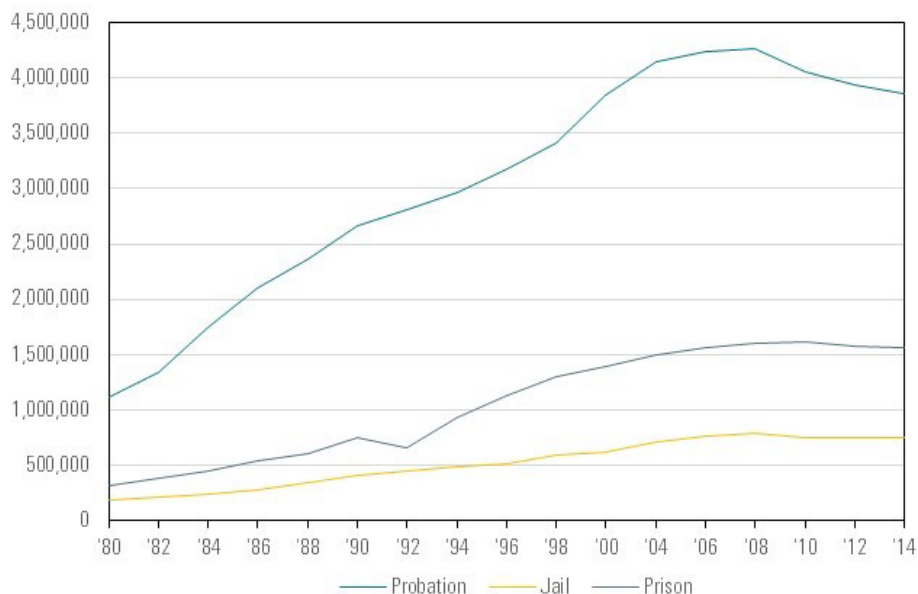
Simultaneous with the overall decline in those

under probation supervision has been a decline in the total number and rate of people incarcerated in the United States. From 2007 to 2014, the total prison population declined by 2.2 percent while the overall incarceration rate actually declined by 7 percent (the rate is a larger decline because the total population in the United States continues to increase) (Carson, 2015). Again, this aggregate national trend runs counter to the argument that more people have to be placed on probation in order for the prison population to decrease. Both can decrease at the same time, as the past seven years have shown.

### A local example of downsizing probation — the case of New York City

Perhaps more instructive than national probation and prison trends is a local example of a tremendous decline in the probation population, what has happened in terms of

**Figure 1. National trends in U.S. correctional populations (1980-2014)**



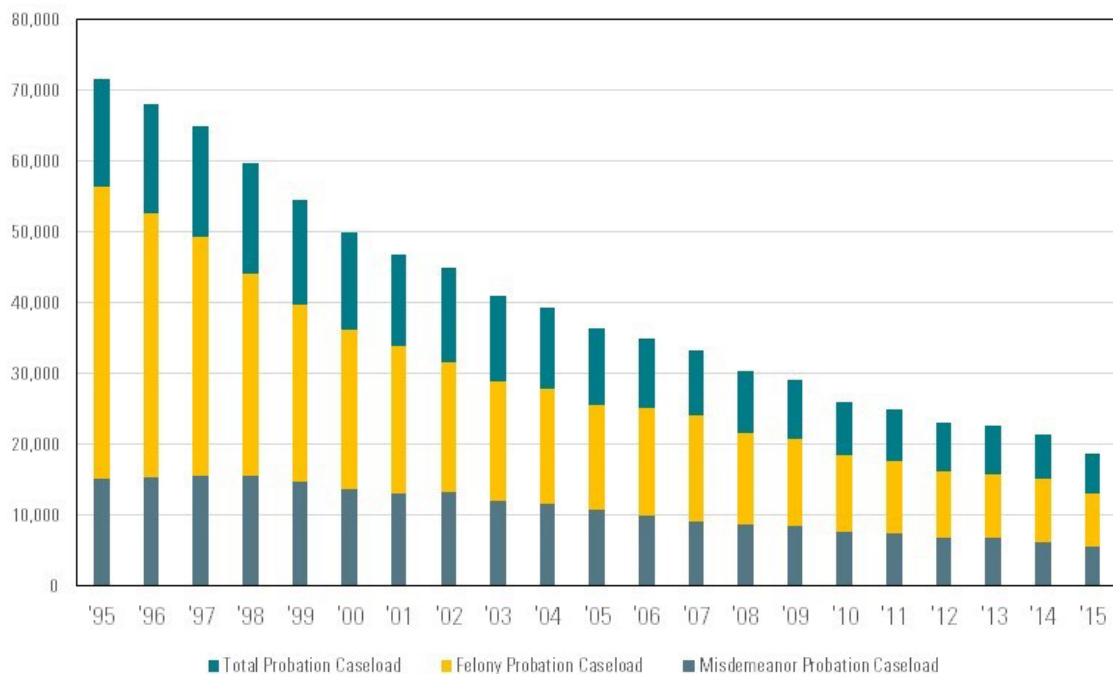
Source: Bureau of Justice Statistics. Correctional Populations in the U.S. Series (1980-2014). Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics. Available online: <https://www.bjs.gov/index.cfm?ty=pbse&sid=5>. Note: Data are not available for 2002.

crime and incarceration during the same time period, and how it was achieved. Between 1996 and 2014, probation sentences for felony arrests in New York City declined by a staggering 60 percent (from 9,203 to 3,652) (New York State Division of Criminal Justice Services, n.d.). By 2014, only 4.3 percent of felony arrestees in New York City were sentenced to probation, compared to 25.8 percent who received conditional or unconditional discharges, fines, or other less formal sanctions.<sup>3</sup> As shown in figure 2, because of this steady decline, the adult probation population in New York City decreased from a total of more than 68,000 in 1996 to 34,982 in 2006 and to 21,379 in 2014 (New York State Division of Criminal Justice Services, Computerized Criminal History System, personal communication, September 20, 2016). These data indicate a nearly 50-percent decline

over 10 years and as far as we can determine, the 69-percent decline over 18 years in the number of people under probation supervision is the largest local-level probation decline in the United States.<sup>4</sup>

While this decline was happening, did crime increase in New York City? Did the city's jail population increase? Did the state's prison population skyrocket under the assumption that if the use of probation as an alternative declines, the prison population will increase? The answer to all three of these questions is an emphatic no. From 1996 to 2014, the city's violent crime rate declined by 57 percent (New York State Division of Criminal Justice Services, n.d.), and its jail and prison incarceration rate declined by 55 percent (Holloway and Weinstein, 2013; Roche

**Figure 2. Trends in New York City probation caseload (1995-2015)**



Source: New York State Division of Criminal Justice Services Criminal History System, personal communication, September 20, 2016. Note: Caseloads were calculated based on the number and average length of court-imposed sentences. Convictions include both adults and youthful offender adjudications.



and Deacy, 1997; U.S. Census Bureau, 2000, 2014; see also Greene and Schiraldi, 2016).<sup>5</sup> At a high level then, we see the same trend in New York City (although longer lasting and steeper) that is occurring nationally — simultaneous and significant declines in probation population, crime, jail, and prison.

In addition, the nature of probation changed dramatically during this time. Beginning in 1996, New York City began to use electronic kiosk reporting in lieu of face-to-face reporting for low-risk probation clients. By 2003, approximately 70 percent of the probation population was reporting to a kiosk instead of a probation officer (Wilson, Naro, and Austin, 2007). The kiosk asks a number of questions about the individual's current activities and generates new appointments automatically (the New York City Department of Probation can regulate the frequency of kiosk reporting, depending on the current status and the person's behavior). Perhaps counter-intuitively, even with this lighter touch for low-risk individuals, the rearrest rate actually declined once the kiosks became operational — from a rate of 31 percent to 28 percent, according to an evaluation by the JFA Institute (Wilson, Naro, and Austin, 2007).

Additionally, since the savings from implementing the kiosks were used for a variety of cognitive behavioral interventions and greater levels of supervision for high-risk probation clients, the rearrest rate for this group declined as well — from 52 percent to 47 percent. The evaluation concludes by saying (Wilson, Naro, and Austin, 2007:17):

*If kiosk reporting were a form of no supervision as some critics allege, one might speculate that increasing the use of the system to include a greater proportion of probationers would decrease the deterrent function of probation and lead to increased criminal behavior. Our analysis of the data indicates that expanding the kiosk system to include all probationers identified as low-risk was associated with a small reduction in subsequent criminal behavior. More importantly, the more intensive supervision provided to higher-risk probation tracks was associated with a significant decrease in two-year rearrest rates.*

In a further effort to minimize unnecessarily long probation terms for many of those who had demonstrated years of compliance (until last year, all felony probation sentences in New York City were five years), in 2010 the New York City Department of Probation started to aggressively recommend early discharge for those who met the criteria the department had developed. Whereas only 3 percent of all people discharged from probation were recipients of early releases in 2007, by 2012 this proportion had risen to 17 percent (New York City Department of Probation, 2013). Moreover, the early release of individuals who met the compliance criteria did not compromise public safety — in fact, the one-year felony rearrest rate for those discharged early from probation in 2010 was lower than the comparable rate for individuals who continued on probation until their maximum expiration date (3 percent vs. 4.3 percent) (New York City Department of Probation, 2013).

Further, in 2014, New York State law was amended to allow judges to sentence most persons receiving felony probation to three, four, or five years of probation (instead of five years only) and persons convicted of the highest level misdemeanors to two or three years (instead of three years only) (Porter, 2015). During the first year the law was implemented, 16 percent of persons sentenced to probation for felonies in New York City received a sentence of less than five years, compared to only 3 percent in the rest of the state; for misdemeanors, these numbers were 11 percent and 4 percent, respectively (New York State Division of Criminal Justice Services, Office of Justice Research and Performance, 2015).

Finally, despite focusing its supervisory resources on higher-risk clients by supervising more than two-thirds of people on probation via kiosks, and supervising clients for shorter time periods through shorter terms imposed by judges and the increasing use of early discharge, the New York City Department of Probation has made far lower use of violations than its counterparts in the rest of New York State. In 2012, only 3.1 percent of those on probation in New York City were violated, compared to an average of 11 percent in the rest of New York State. This represented a 45-percent reduction in violations from 2009 (New York City Department of Probation, 2013).

On a macro-level, several large-scale changes happened over two decades in the New York City Department of Probation. First, the number of individuals on probation decreased dramatically since the mid-1990s (by about two-thirds) and simultaneously there were large declines in

the use of jail and prison and in the city's crime rate. Second, among those on supervision, all individuals assessed as low-risk were moved to electronic kiosk reporting — effectively ending traditional face-to-face supervision for this group — and there was a successful push to recommend early discharge for those on probation who had met the department's criteria for successful compliance for at least 18 months. Third, and most recently, persons placed on probation in New York City began receiving probation sentences lower than the maximum at rates several times higher than persons sentenced to probation in the rest of the state. Fourth, the violation rate for those on probation in the city fell to 3.1 percent, a fraction of the state average. Finally, probation resources that became available because of the use of kiosks, early discharge, and shorter probation terms were diverted to supervising and providing supports for higher risk individuals.

The final part of this story is that the per capita budget for those remaining on probation increased dramatically despite a significant overall decrease to the budget for the New York City Department of Probation. In 2002, the total budget was \$96.8 million for a total caseload of 75,000 clients, or a bottom line average of \$1,290 per person on probation.<sup>6</sup> By 2016, the total budget for probation had declined significantly, to \$73 million, due to the declining numbers of those on probation. However, for the remaining 21,000 probation clients, the per capita spending was \$3,476 — almost three times the level in 2002. Even if we discount for inflation over that time period, the cost per person on probation is

now \$2,642 — twice what it was in 2002.<sup>7</sup> This has allowed the department to fund a variety of programmatic initiatives, including the NeON (Neighborhood Opportunity Network) Centers, a series of decentralized neighborhood probation offices that offer a variety of employment and education programs. From 2010 to 2014, the department increased the number of contracts for community-based nonprofit services (from two to 54) while reducing its staffing by 19 percent (from 1,215 to 979).

## Conclusion

Clearly, the most recent national numbers, as well as the example of one of the largest probation departments in the U.S., demonstrate that it is possible to downsize probation while simultaneously decreasing incarceration and increasing public safety. New York City provides an example of how this can be done and how other jurisdictions can achieve similarly substantial decreases in the range of 50 percent over 10 years.

As discussed in this paper, there are a number of ways to accomplish this downsizing — from police departments doing more street-level diversion, to courts making more use of “light-touch” alternatives to formal probation, to legislatures passing laws to reduce probation terms and/or allow for early discharge from probation. Any mix of these strategies can greatly reduce the number of people under active probation supervision.

Additionally, given the amount of research that shows the great majority of failures on

community supervision occur within the first year of supervision (Austin, 2010; Klingele, 2013), there is rarely a reason to continue keeping an individual on supervision for five to 10 years, as many probation departments do. For some groups, such as high-risk sex offenders, longer terms in fact make sense (Petersilia, 2007). In general, though, probation terms should be eliminated for certain low-risk individuals in favor of conditional discharges or informal, unsupervised probation, an option that already exists in many states and should be created where it does not exist. For those who are sentenced to active probation, terms should be significantly shortened or, at a minimum, courts should have the option of a range instead of prescribed terms.

Finally, similar to what New York City has done over the past several years, probation departments should (1) place lower-risk clients onto banked caseloads monitored by light-touch mechanisms such as kiosks or computerized reporting, and (2) aggressively pursue early discharge for clients with a demonstrated record of success and compliance. These efforts are currently underway across the country. For example, 38 states have some form of “earned discharge” that allows people on probation or parole to shorten their sentences. In Missouri, three years of data demonstrate that a policy of earned compliance credits has successfully reduced the state’s supervised population without jeopardizing public safety (The Crime Report Staff, 2016; Zafft et al., 2016).

One incentive that might mitigate against these reforms is that some departments “make a living”

off the fines and fees they charge probationers. Thus, the fewer people under supervision and/or the more people whose length of stay on probation is shortened, the less money these departments will collect. Indeed, there is a double disincentive to discharging people from probation who are performing well early because, ironically, they are often the most likely to both pay their fees and inflate the department's success rate. As we have argued, these fees constitute terrible public policy and work against the public safety interests of communities, but we understand the fiscal stress that makes these policies attractive to local departments and counties in general. This is why we argue that probation departments should be allowed to reinvest the savings from downsizing back into the delivery of services to those who are, in fact, the highest-risk population under supervision. It would also allow for an end to the system of probation fines and fees because these departments would essentially have a revenue source from downsizing.

There is no extant scenario, other than decreasing the probation population, that will adequately fund the important work probation is charged to do with those under supervision who pose the highest public safety risk. Probation directors have argued for decades that, given large and growing caseloads and a segment of a truly high-risk population, probation as a field needs a massive infusion of funding. Those arguments have never been successful. The substance of that argument aside, probation agencies and directors simply do not have the public and political support that their colleagues in corrections,

policing, and the judiciary have — and that is not going to change in the near future. It is foolhardy, then, to keep reaching for that political and fiscal moment when new resources will pour into the field. It will not happen.

The way for probation to be better resourced is to downsize — as in the case of New York City, which reaped financial benefits from downsizing, as did its probation department. Probation can now spend twice as much per client as it could 14 years ago — the equivalent of doubling the department's budget — something that could not have happened under any other circumstances. Also, we do not see any other way for this to happen in other probation agencies.

In addition to the financial benefits of downsizing, this kind of significant reduction can remove the lowest-risk population from probation and divert them into other, more appropriate light-touch alternatives. More than that, it can push those with demonstrated success and compliance into mainstream society more quickly, eliminate unfair and unjust fines and fees, greatly reduce the numbers of those who are violated and sent back to prison, and allow probation departments to focus programs and services on those who most need them and pose the greatest public safety risk. Finally, and most important, if evidence shows that depriving millions of people, even partially, of their liberty by placing them on probation is not effective at promoting public safety or reducing incarceration, it is contrary to the basic American principle that abhors unwarranted government intrusion into individual liberty to continue to do so.

Unlike (for the most part, failed) strategies that revolve around convincing legislatures, county managers and mayors, budget directors, and governors to pour massive new funding into the field, probation directors can actually take the lead in downsizing and retaining the savings. They will need the assistance of some of these stakeholders and will need to forge key partnerships with them, but they are now being presented with a much more attractive public safety and fiscal strategy that does not require any large-scale investment but produces large-scale results in terms of public safety and reduced incarceration. The strategy and implementation will look different in every county and state but the benefits will be the same — a smaller, more just and efficient probation system that will be integral to both delivering better public safety and reducing mass incarceration.

## Endnotes

1. We are not saying that there have been no attempts to reduce technical violations or the use of long jail and prison sentences as a response to those violations.
2. Note that 15 percent is not the actual percentage of the jail and prison population composed of probation violators on a given day — this number is intended to illustrate the magnitude of the problem. The number of people who exit probation each year and who are eventually incarcerated is almost one-fifth of the nation's incarcerated population.
3. For misdemeanors in New York City in 2014, the comparable percentages were as follows: 0.3 percent of those arrested for misdemeanors were sentenced to probation, compared to 27.6 percent who received conditional/unconditional discharges, fines, and other informal sanctions (New York State Division of Criminal Justice Services, n.d.).
4. The reasons for this decline are complicated and multifaceted; for the purposes of this paper, the most important factor is that it happened. For a longer discussion of the decline in crime and incarceration in New York City during this time period, see Greene and Schiraldi (2016).
5. This incarceration rate is the number of New York City residents in prison and jail divided by the city's population.
6. This does not mean that \$1,290 was actually spent on each person under supervision. The number includes all fixed costs (along with other expenses such as funding for pre-sentence investigations) and funding is not distributed equally among all those on probation, but it gives a sense of the resources available to the department.
7. The National Consumer Price Index inflation rate from 2002 to 2016 was 34 percent (U.S. Department of Labor, Bureau of Labor Statistics, 2016).

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This paper was prepared with support from the National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, under contract number 2012-R2-CX-0048. The opinions, findings, and conclusions or recommendations expressed in this publication are those of the authors and do not necessarily represent those of the Department of Justice.

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