



## Too big to succeed: The impact of the growth of community corrections and what should be done about it<sup>1</sup>

January 29, 2018

### Introduction

The recent [sentencing](#) of Philadelphia rap artist Meek Mill to two to four years in prison for probation violations committed a decade after his original offense has brought the subject of America's expansive community supervision apparatus and its contribution to mass incarceration into the [public spotlight](#) (NBC News 2017; Jay-Z 2017).

Founded as either an up-front diversion from incarceration (probation) or a back-end release valve to prison crowding (parole), community corrections in America has grown far beyond what its founders could have imagined with a profound, unintended impact on incarceration. With nearly five million adults under community corrections supervision in America (more than double the number in prison and jail), probation and parole have become a substantial contributor to our nation's mass incarceration dilemma as well as a deprivation of liberty in their own right (Kaeble and Bonczar 2016; Kaeble and Glaze 2016). The almost four-fold expansion of community corrections since 1980 without a concomitant increase in resources has strained many of the nation's thousands of community supervision departments, rendering some of them too big to succeed, often unnecessarily depriving clients of their liberty without improving public safety (Bureau of Justice Statistics 1995; Kaeble and Bonczar 2016; Pew Center on the States 2009; Klingele 2013; Doherty 2016).

This paper offers a way out of "mass supervision." Authored by leading representatives of our nation's community corrections field, our conclusion is that the number of people on probation and parole nationally can be cut in half over the next decade and returns to incarceration curbed, with savings focused on providing services for those remaining under supervision. This would reduce unnecessary incarceration and supervision, increase the system's legitimacy, and enhance public safety by allowing probation, parole and community programming to be focused on those more in need of supervision and support.

### How we got here

When probation (1841) and parole (1876) were created in the U.S. in the 19<sup>th</sup> Century, they were more focused on rehabilitation, seeking to either steer individuals away from harsher punishments into community supervision, in the case of probation, or to shorten imprisonment in exchange for rehabilitative efforts, in the case of parole (Klingele 2013).

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<sup>1</sup> Appendix A contains a list of signatories and their affiliations.

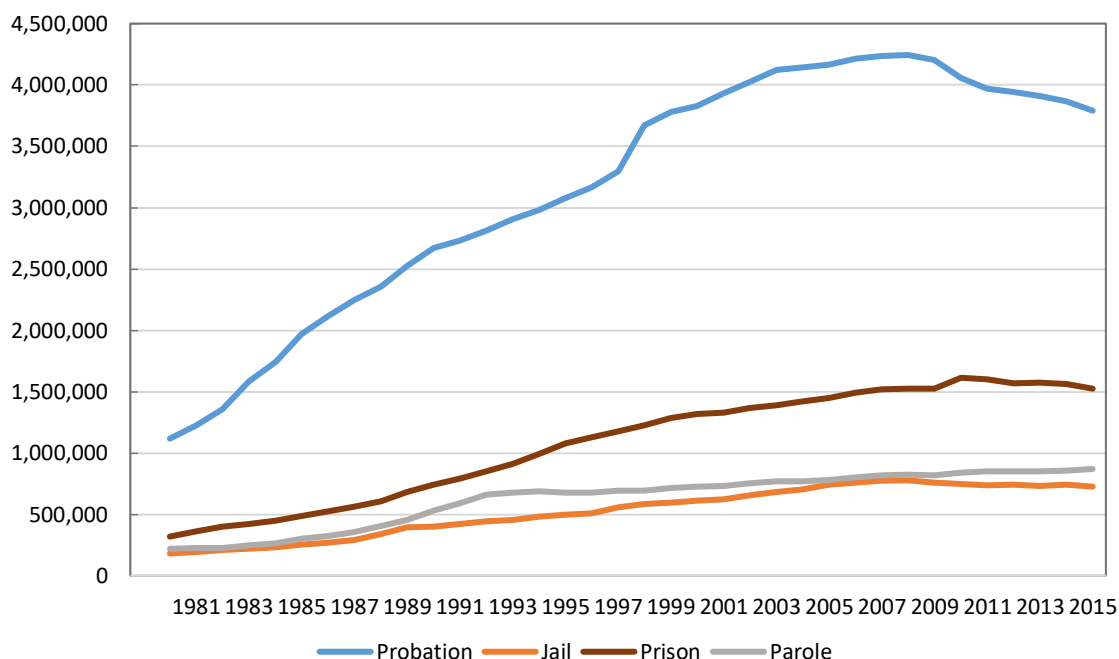
As early as the 1960s, researchers began to question whether community supervision was serving as a true alternative to incarceration or was widening the net of social control.

The advent of mass incarceration in the United States answered that question. Probation and parole populations mushroomed alongside prison and jail populations, signaling that, with some exceptions, community corrections was serving as an add-on, rather than an alternative to, incarceration. From 1980 to its peak in 2007, the number of people under probation (1.1 million to 4.3 million) and parole (220,400 to 826,100) grew almost four-fold (Bureau of Justice Statistics 1995; Kaeble and Bonczar 2016). At the same time, the number of people in prison and jail in the U.S. grew nearly five-fold, from 474,368 to 2.3 million (Kaeble and Glaze 2016).

The number of adults under community supervision has declined from its historic peak by 10% from 2007 to 2015, during which time there was a 14% decline in victimization nationally (Rand 2008; Truman and Morgan 2016). While we do not intend to imply causality in the complex relationship between community supervision and crime, this at least means that it is possible for crime to decline even as the number of those under supervision declines. Also, as arrests have dropped more precipitously (-24%) than the number of adults on probation and parole (-10%), it means that the “probationer-per-arrest” ratio has actually increased (FBI Crime Reports, 2007 and 2015). In the final analysis, an astonishing one out of every 53 adults in America was on probation or parole in 2015 (Kaeble and Bonczar 2016).

Figure 1 shows how prison and jail populations mushroomed alongside probation and parole and that, as probation and parole populations have declined, so have prison and jail populations.

**Figure 1: National trends in U.S. correctional populations (1980-2015)**



Source: Bureau of Justice Statistics. Correctional Populations in the United States Series (1980-2015). Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. Available online: [www.bjs.gov/index.cfm?ty=pbse&sid=5](http://www.bjs.gov/index.cfm?ty=pbse&sid=5).

Note: Data are not available for 2002.

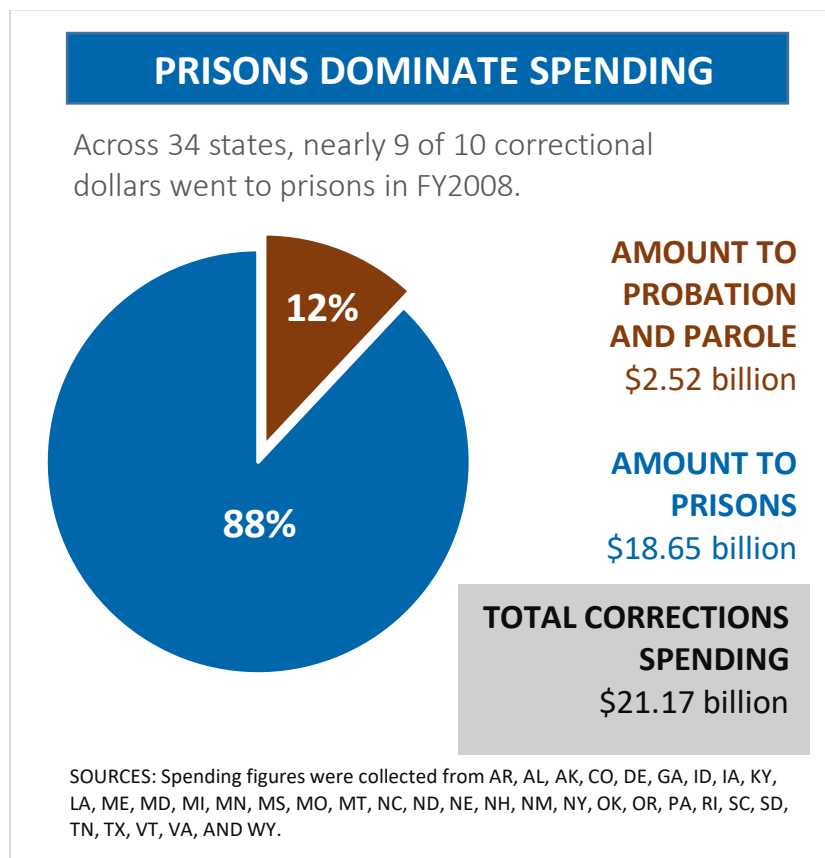
Data like these led University of Minnesota researcher Michelle Phelps (2017b) to [conclude](#), “Rather than choosing probation *or* prison, we have increasingly chosen all of the above, despite sustained declines in crime rates since the 1990s.” Rutgers’ Todd Clear [adds](#), “When we built this large prison system, we bracketed it with enormous...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% of the time” (Childress 2014).

## Workloads increase faster than resources

Despite the system’s enthusiasm for expanding supervision alongside incarceration, policy makers have been reticent to provide concomitant financial support for their community supervision agencies, further stretching already-underfunded parole and probation resources across a growing population.

In 2009, the Pew Charitable Trusts surveyed state corrections and community corrections agencies to discern spending on probation, parole and prisons. Pew found that the cost to incarcerate someone in prison in 2008 was \$79 per day, compared to \$7.47 for a person on parole and \$3.42 for an individual on probation. As Figure 2 shows, although there were more than twice as many people on probation and parole as in prison, prisons consumed nearly nine out of every 10 correctional dollars.

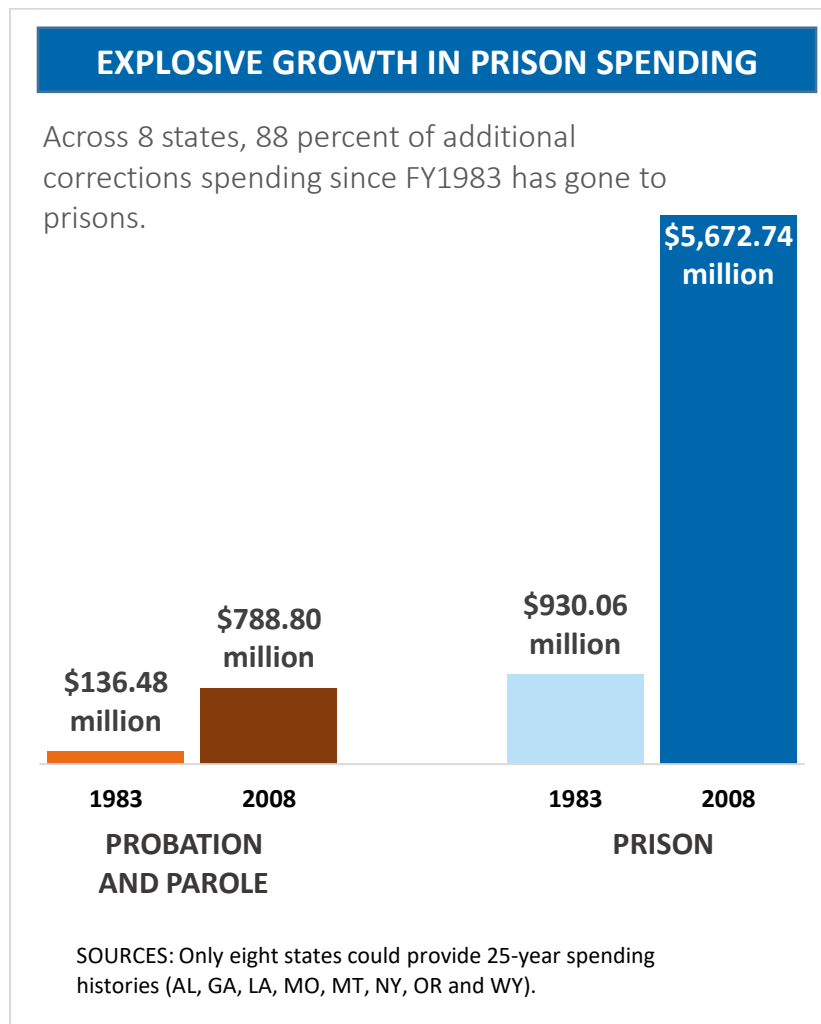
**Figure 2. State Correctional Spending, FY2008**



Source: The Pew Center on the States. 2009. “One in 31: The Long Reach of America Corrections.” Washington, D.C.: The Pew Charitable Trusts. Available: [www.pewtrusts.org/~media/assets/2009/03/02/pspp\\_1in31\\_report\\_final\\_web\\_32609.pdf](http://www.pewtrusts.org/~media/assets/2009/03/02/pspp_1in31_report_final_web_32609.pdf)

The eight states that provided Pew with fiscal data over 25 years showed that the gap between community corrections funding and prisons has dramatically grown over time, at least in those jurisdictions. While twice as many people were added to community corrections from 1983 to 2008, 88% of additional correctional dollars went to prisons compared to only 12% for probation and parole (See Figure 3).

**Figure 3. State correctional spending on prisons versus probation and parole, FY1983 and FY2008**



Source: Pew Center on the States. 2009. "One in 31: The Long Reach of America Corrections." Washington, D.C.: The Pew Charitable Trusts. Available: [www.pewtrusts.org/~media/assets/2009/03/02/pspp\\_1in31\\_report\\_final\\_web\\_32609.pdf](http://www.pewtrusts.org/~media/assets/2009/03/02/pspp_1in31_report_final_web_32609.pdf)

These fiscal realities have led policy makers from coast to coast to rely on fees paid by people on probation and parole to bail out shrinking community corrections budgets. The White House Council of Economic Advisers (2015, 4) has [cautioned](#) against such practices:

"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."

Ron Corbett (2015, 1712), former probation commissioner for Massachusetts, [notes](#):

“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.”

## **Get-tough policies impact community corrections**

These fiscal shifts occurred simultaneously with a more punitive approach to crime and justice. Probation and parole were swept up in the explosive national growth of imprisonment, the passage of mandatory sentencing and “three strikes” laws, and the increase in sentence lengths. As Corbett (2015, 1707) [describes](#), “...no probation administrator could afford to ignore the shifting political winds. Accordingly, probation departments around the country raced to take on the look and feel and accoutrements of a “get tough” agency.”

These accoutrements included increasing numbers of conditions of community supervision, which are estimated at between 10 to 20 conditions per person (Corbett 2015). These can range from fines, fees and restitution; to requirements to abstain from drugs and alcohol; to prohibitions from moving or associating with others with criminal convictions; to work and community service requirements (Doherty 2016). Violations can result in further restrictions, up to and including incarceration.

The growth in the number of conditions has been accompanied by improved technology to surveil people on probation and parole, from electronic monitoring to increased urinalysis testing to negatively impacting credit ratings for failure to pay fines and fees (Corbett 2015; Klingele 2013).

Dan Beto, former director of probation for four counties in Texas and former executive director of the Sam Houston State University Correctional Management Institute, [stated](#):

“When I became a probation officer in 1968, offenders placed on probation typically had to adhere to relatively few standard conditions of probation. Over the years we have witnessed the growth in the number of special conditions of probation, and now it is not uncommon for offenders to be saddled with up to a couple of dozen” (Corbett 2015, 1708).

## **Impact of the unfunded growth of community corrections – a perfect storm**

Shrinking funds. Mushrooming populations. Better surveillance technology. A more punitive national climate.

These conditions have created a perfect storm for the community corrections field.

Stretched to an average workload of 100 (but often much larger), and charged with improving the lot in life of a population that is frequently poor, homeless, substance abusing, mentally ill and/or unemployed, probation and parole officers are often faced with an impossible task (Phelps and Curry 2017). Charged with assuring public safety in a political environment with low risk tolerance, community corrections personnel have too often resorted to probation and parole revocations and incarceration.

Michael Jacobson, former commissioner of New York City Probation, and his colleagues (2017, 7) [wrote](#):

“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.”

From 1990 to 2004, the number of people on probation who were revoked for non-compliance grew by 50%, increasing from 220,000 to 330,000 (Corbett 2015).

According to research by Phelps (2017a), 33% of people in jail and 23% of people in prison in the mid-2000s were on probation at the time of their arrest, a quarter of whom were reincarcerated for nothing more than a technical violation (excluding new arrests). Likewise, 12% of the jail population is comprised of those who were on parole at the time of arrest, as is 18% of the prison population. About one in five of those are incarcerated for technical violations of parole.

Research published by the National Academies of Sciences reports that being under parole supervision may actually be causally related to reincarceration (Harding et al. 2017). Using the random assignment of judges as a natural experiment, the researchers found that post-prison parole supervision increases imprisonment through the detection and punishment of low-level offending or violation behavior.

These punishments fall more heavily on young African American men than on any other population. While one in 53 adults in America is under probation or parole supervision, one in 12 African American males is under community supervision as is nearly one in five young African American males without a high school education (19%) (Phelps 2017a; Phelps and Curry 2017).

In 2014, the Urban Institute researched probation violations by race in four diverse jurisdictions (Dallas County, Texas; Iowa’s Sixth Judicial District (Cedar Rapids); Multnomah County (Portland), Oregon; and New York City) (Jannetta et al. 2014). They found that revocation rates for African American people on probation were higher in all four jurisdictions, even when controlling for relevant characteristics of those on probation.

## What to do?

From 2013 to 2016, the Harvard Kennedy School Program in Criminal Justice Policy and Management convened 29 individuals from community corrections, prison and jail administration, prosecution, academia, advocacy, philanthropy, elected officials and formerly incarcerated communities to examine the state of community corrections in America. In an extremely unusual move due to the high degree of agreement among the participants, this [Executive Session on Community Corrections](#) issued a [consensus paper](#) on the future of community corrections, describing five principles that should guide the future of probation and parole:

1. To promote the well-being and safety of communities;
2. To use the capacity to arrest, discipline, and incarcerate parsimoniously;
3. To recognize the worth of justice-involved individuals;
4. To promote the rule of law, respecting the human dignity of people under supervision and treating them as citizens in a democratic society; and
5. To infuse justice and fairness into the system.

In August 2017, the release of another Executive Session paper, [Less is More: How Reducing Probation Populations Can Improve Outcomes](#) was accompanied by a [Statement on the Future of Community Corrections](#). That statement was signed on to by 35 current and former community corrections administrators as well as every major national community corrections organization – the American Probation and Parole Association, the Association of

Paroling Authorities International, the Association of State Correctional Administrators, the International Community Corrections Association, the National Association of Pretrial Services Agencies and the National Association of Probation Executives. The group emphasized that, as efforts are made to appropriately size the probation and parole populations, a concurrent effort should be made to match funding to the complexity of the populations that are remaining.

The Statement noted that “community corrections has become a significant contributor to mass incarceration” but that “increasingly sophisticated research has shown that we can responsibly reduce probation and parole populations” and that “it is possible to *both* significantly reduce the footprint of probation and parole *and* improve outcomes and public safety.”

Jurisdictions throughout the country have begun to experiment with shrinking the size and negative outcomes of probation and parole, reducing conditions, incentivizing good behavior and curbing revocations.

The Pew Charitable Trusts reports that in 18 of the states (AK, AR, AZ, DE, GA, ID, KS, KY, LA, MD, MO, MS, MT, NH, OR, SC, SD, UT) that have participated in the Justice Reinvestment Initiative (JRI)<sup>2</sup>, supervision periods can be shortened up to 30 days for 30 days of compliance, while eight JRI states have shortened probation terms (AK, AL, GA, HI, LA, MT, TX, VT) (Gelb and Utada 2017). Twenty-two JRI states require the use of graduated sanctions and incentives in lieu of revocation and incarceration (AK, AL, AR, DE, GA, ID, KS, KY, LA, MD, MS, MT, NC, ND, NE, NV, PA, SC, SD, TX, UT, WV), while 16 JRI states have put caps on how long individuals can serve for a technical violation of supervision conditions (AK, AL, AR, GA, HI, ID, KS, LA, MD, MO, MS, MT, NC, OK, PA, UT).

In 2012, policy makers in Missouri granted 30 days of earned compliance credit for every 30 days of compliance while under supervision for certain people on probation and parole. From 2012 to 2015, 36,000 people on community supervision were able to reduce their terms by 14 months, reducing caseloads from 70 to 59. There was a 20% reduction in the number of people under supervision, from 73,555 to 58,765, and reconviction rates for those released early were the same as those discharged from supervision before the policy went into effect.

Prior to Arizona policy makers passing the Safe Communities Act, a third of persons admitted to Arizona’s prisons had violated conditions of probation. The Act granted earned credits for success on probation, required that judges receive presentence reports using risk and needs assessments and led to evidence based training and hiring practices. From 2008 to 2016, there was a 29% decline in probation violations, a 21% decline in arrests of people on probation, and the state realized \$392 million in averted costs.

From 1996 to 2014, New York City reduced the number of people on probation by about two-thirds (69%) (Jacobson et al. 2017; New York State Division of Criminal Justice Services n.d.). Further, the Probation Department enrolled its low-risk clients – around two-thirds of those on probation – in less intrusive supervision that entailed reporting in to an electronic kiosk monthly (Wilson, Naro, and Austin 2007). Finally, city judges, at the department’s suggestion, granted early discharge to almost six times as many clients in 2013 as in 2007 (New York City Department of Probation 2013).

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<sup>2</sup> NB: this is not meant to be a comprehensive list of states with these provisions, but rather a list of *JRI states* with these provisions.



During this time period, both crime and incarceration plummeted in the city. Violent crime dropped in New York City by 57% from 1996 to 2014, and the city's jail and prison incarceration rate declined by an equally impressive 55% (New York State Division of Criminal Justice Services n.d.; Holloway and Weinstein 2013; Roche and Deacy 1997; U.S. Census Bureau 2000, 2014; see also Greene and Schiraldi 2016). The low-risk clients checking in at kiosks experienced lower re-arrest rates; so did the higher risk clients who were more closely supervised by probation officers with lower caseloads (Wilson, Naro, and Austin 2007). And those discharged early from probation were less likely to be arrested for a new felony in their first unsupervised year (3%) than those who were on probation for their full term (4.3%) (New York City Department of Probation 2013).

Further, while the Probation Department's budget declined from \$97 million in 2002 to \$73 million in 2016, its expenditures per person on probation actually doubled (controlling for inflation) because so many fewer people were under supervision. This has allowed the department to reduce caseload sizes, increase contracts with non-profit organizations to provide needed services for its clients, and open neighborhood offices to support and supervise people on probation throughout the city.

Michigan's Community Corrections Act has fiscally incentivized counties since 1988 to improve probation services through a local planning process and reduce the number of people convicted of felonies to state prison (Phelps and Curry 2017). From 1989 to 2010, the commitment rate to prison for new felony offenses in Michigan declined from 35% to 21%, even more remarkable considering the increase in the national commitment rates during that time period.

The California legislature passed and the governor signed into law AB 109 which went into effect on October 1, 2011 (California Department of Corrections and Rehabilitation 2013a). Known as Criminal Justice Realignment, AB 109 and other clean up legislation made the following three major changes in criminal justice practice in California:

- People in state prison on non-violent, non-serious, non-sex offense felonies, who would usually be released on state parole, would now be released under the supervision of the county probation department. That supervision could end as early as six months after release, must end after a year if there are no new offenses or violations, and can never be longer than three years.
- People convicted of new non-serious offenses can no longer go to state prison, but can be sent to county jail to serve their sentence.
- People on probation or parole who violate the terms of their supervision can no longer be sent to state prison for that violation but can only go to county jail for a maximum of 180 days which, with a mandatory day-for-day good time credit, normally results in a 90 day maximum stay (there is an exception for the small number of people released on parole who had an original life sentence, a violation of the their parole can result in a return to state prison).

The reforms enacted pursuant to AB 109 have resulted in fewer individuals in state prison and far fewer people under state parole supervision. Overall, according to the California Department of Corrections and Rehabilitation (CDCR) (2013b), realignment has reduced prison populations in California by 25,000. From the savings generated by this prison population reduction, more than \$1 billion was provided to California counties in 2013-2014.



CDCR found that there was very little difference between the one-year arrest and conviction rates of individuals released pre- and post-realignment, with a slightly lower arrest rate (59% compared to 62%) for the post-realignment group. However, the one-year return-to-prison rate was substantially less post-realignment (7% compared to 42%), which makes sense since realignment significantly limits the circumstances by which someone can be returned to prison on a parole violation.

In 2007, the National Institute of Corrections and the JEHT Foundation asked the Urban Institute to convene two meetings of national community corrections experts to articulate best practices in probation and parole, supervision and revocation (Solomon, Jannetta, et al. 2008; Solomon, Osborne, et al. 2008). The 13 recommendations those experts proffered ranged from frontloading resources and focusing them on the highest risk clients; to incentivizing good behavior through early discharge and using graduated sanctions in lieu of incarceration; to supervising clients in their home communities and engaging informal social controls; to individually tailoring client services.

Buoyed by examples such as these, *The Statement on the Future of Community Corrections* (Program in Criminal Justice Policy and Management 2017), concluded by recommending that the number of people on probation and parole supervision in America be significantly reduced by:

- **Reserving the use of community corrections for only those who truly require supervision;**
- **Reducing lengths of stay under community supervision to only as long as necessary to accomplish the goals of sentencing;**
- **Exercising parsimony in the use of supervision conditions to no more conditions than required to achieve the objectives of supervision;**
- **Incentivizing progress on probation and parole by granting early discharge for those who exhibit significant progress;**
- **Eliminating or significantly curtailing charging supervision fees; and**
- **Preserving most or all of the savings from reducing probation and parole populations and focusing those resources on improving community based services and supports for people under supervision.**

It is now mainstream thought – endorsed by the field’s leading practitioners – that an important aspect of improving community corrections, increasing public safety, and restoring legitimacy will be to substantially downsize the grasp of community corrections by at least half and reduce violations to incarceration so that it can retool itself to focus on helping those most in need of community supports to become the kinds of citizens we all want them to become.



## Appendix A: Signatories to “Too Big to Succeed”

**Ana Bermudez**, Commissioner, New York City Probation

**Dan Richard Beto**, retired founding Executive Director, Correctional Management Institute of Texas; former Chief Probation Officer for Brazos, Grimes, Madison and Walker Counties, TX; past-President, National Association of Probation Executives

**Barbara Broderick**, Chief Probation Officer, Maricopa County (Phoenix) Adult Probation, AZ; former state Director, Adult Probation Office, Arizona Supreme Court; former Director, New York State Department of Probation and Correctional Alternatives; past-President, American Probation and Parole Association

**Ronald Corbett**, former Commissioner, Massachusetts Probation Department; former Executive Director, Massachusetts Supreme Judicial Court; past-President, National Association of Probation Executives

**Jim Cosby**, CEO, JLC Executive Coaching & Consulting; former Director of the National Institute of Corrections; former Assistant Commissioner, Tennessee Department of Correction; former State Director, Tennessee Board of Probation & Parole

**Veronica Cunningham**, former Chief, Cook County (IL) Adult Probation; former Director, Texas Department of Corrections, Parole

**Edward Dolan**, Commissioner, Massachusetts Probation Department; former Commissioner, Massachusetts Department of Youth Services; former Executive Director, Massachusetts Parole Board

**Marcus M. Hodges**, Associate Director, Court Services and Offender Supervision Agency, Washington, DC; President, National Association of Probation Executives

**Michael Jacobson**, Director, Institute for State and Local Governance, City University of New York (CUNY); Professor, Sociology Department, CUNY Graduate Center; former New York City Probation Commissioner

**George M Keiser**, CEO, Keiser and Associates and former Chief, Community Corrections, National Institute of Corrections

**Terri McDonald**, Chief Probation Officer, Los Angeles County, CA; former Undersecretary, California Department of Corrections and Rehabilitation; former Assistant Sheriff, Los Angeles County

**Magdalena Morales-Alina**, Director, El Paso County (TX) Community Supervision and Corrections Department

**David Muhammad**, Executive Director, National Institute for Criminal Justice Reform; former Chief Probation Officer, Alameda County, CA; former Deputy Commissioner, New York City Probation; former Chief of Committed Services, Department of Youth Rehabilitation Services, Washington, DC

**Jeffrey L. Peterson**, Director of Hearings and Release, Minnesota Department of Corrections - Retired

**Vincent N. Schiraldi**, Adjunct Professor, Columbia University and Co-Director, Justice Lab; former Commissioner New York City Probation; former Director, Department of Youth Rehabilitation Services, Washington, DC

**Wendy Still**, Chief Probation Officer, Alameda County (Oakland), CA; former Chief Probation Officer, City and County of San Francisco, CA

**Scott Taylor**, Director, Multnomah County (OR) Department of Community Justice; former Mayor, Canby, OR; former Assistant Director of Community Corrections, OR Department of Corrections; past-President, American Probation and Parole Association

**Mary Visek**, Chief Probation Officer, Juvenile Probation Office, District 4J, Omaha, NE

**Kathy Waters**, Director, Adult Probation Services Division, Administrative Office of the Courts, Arizona Supreme Court

**Carl Wicklund**, Director, Community Justice Division, Volunteers of America – Minnesota; former Executive Director, American Probation and Parole Association; former Court Services Director, Dodge, Fillmore and Olmstead Counties, MN

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