

**A**s the consequences of mass incarceration became evident in the 1980s, reformers looked to probation as an alternative to incarceration. Community supervision seemed to present a low-cost method to maintain public safety while infringing individual liberties to the minimal extent possible. It is increasingly clear that this perception was incorrect.

Instead of ameliorating mass incarceration, probation and parole numbers have ballooned: Since 1980, the number of Americans under supervision more than [doubled](#). Today, there are 6.8 million people involved in the U.S. criminal justice system, and [two-thirds](#) are on probation, parole or both. And while often thought of as an alternative to incarceration, our probation system is regularly [a contributor to incarceration](#).

Community supervision typically imposes an onerous list of conditions, neglecting evidence-based practices and harming those on probation as well as society at large. But there is hope. States around the country have found ways to improve supervision through policy changes to address (1) the overuse of probation, (2) conditions overly focused on surveillance and (3) responses to violations.

## OVERUSE OF PROBATION

Individuals on probation are often low-risk, low-level offenders, with [eight in 10](#) probationers under community supervision for committing nonviolent crimes. Research [suggests](#) that placing these low-risk individuals on standard probation does not benefit public safety compared to less intensive alternatives like diversion from the system. Instead, when too many individuals are on probation, it depletes resources that would be better used for high-risk offenders.

Additionally, probationary sentences tend to be very long. Some states order probation sentences as long as [25 years](#). Research shows that violations and revocations typically occur during the first [few years](#) of community supervision, after which there is little benefit to having a person remain on probation or parole. Caps on probation terms as well as compliance credits are two methods states have used to reduce overly long probation sentences. For example, Minnesota allows people to slowly earn their way off of probation with compliance credits. This has encouraged probationers to exhibit good behavior while decreasing the probation population so that resources are [freed up](#) to address high-risk offenders.

## CONDITIONS FOCUSED ON REHABILITATION, NOT JUST SURVEILLANCE

Being on probation typically includes supervision by an agent, reporting requirements and a long list of conditions to which individuals must adhere. [Conditions](#) can include drug, alcohol or mental-health treatment; employment; a curfew; community service; and the payment of fines, fees and restitution. Conditions can also be moralistic in nature, including broad [instructions](#) to “avoid injurious and vicious habits,” “avoid persons and places of disreputable or harmful character” and “work diligently at a lawful occupation as directed by your probation officers.” These rules create a scenario where individuals have difficulty complying due to the sheer quantity and lack of clarity of conditions. Additionally, people on probation are often subject to requirements that are not related to their offense. For example, programs often impose drug-testing conditions on probationers who don’t have histories of substance abuse. These conditions often interfere with parts of everyday life that make people less likely to commit crimes—things like meaningful employment and healthy relationships. Ultimately, over-supervision of individuals has the potential to cause more harm than good.

Conditions should set individuals up for success instead of failure. Carl Wickland, former Executive Director of the American Probation and Parole Association, suggests testing conditions with three R's: Are they realistic, relevant and research-supported? Conditions that pass this test are more likely to have individuals' goals in mind.

## REVOCATIONS

Violation of any of the conditions listed above can lead to revocation of probation and incarceration. Revocations can happen for even slight violations that do not indicate new criminal behavior, including missing a curfew or a meeting with a probation officer. [25 percent](#) of those in state prisons are there as a result of technical probation or parole violations. Even a short period of incarceration has a significant effect on an individual. It separates people from their families, interrupts education and puts them at risk of losing their jobs. Revoking probation should rarely be our response to a violation of probation. Jurisdictions should change the way they respond to violations, asking three questions to evaluate each violation's severity:

- Why did the violation occur?
- How can we hold the individual accountable in a way that addresses his or her demonstrated need while preserving public safety?
- Is the proposed response the most limited, effective one possible?

As an alternative to incarceration, a good way to respond to technical violations is to use a graduated response system. Pierce County, Washington's "[Opportunity-Based Probation](#)" is an example of a graduated response system that includes positive responses, like decreased reporting requirements and earned compliance credits to complete supervision goals. Graduated response systems also provide a range of possible negative responses to issues based on their severity. Individuals may have to perform additional [community service](#), lose a privilege (like a later [curfew](#)) or participate in activities that address their needs. The goal is to reduce the use of revocations, which is ultimately better for public safety and more fiscally prudent.

## CONCLUSION

Community supervision has the potential to be a worthwhile, cost-effective intervention, but it fails to meet this goal when it too often leads to incarceration. Conservatives should work to guarantee that our probation systems are rooted in a commitment to individual liberties, stable families, safe communities and an efficient government. To do this we need to decrease the amount of people on supervision, decrease the length of terms, engineer conditions to support success and better respond to violations of conditions. Through these reforms, probation can become a tool for improving outcomes and lowering costs in our criminal justice system.

## CONTACT US

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