



PolicyPerspective

Ten Tips for Policymakers for Improving Probation

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Key Points

- Probation can be an alternative or gateway to incarceration.
- Probation should be right-sized to serve only those individuals who require supervision for only the limited time period that their assessment and conduct indicate a continued need for supervision.
- Incentives should drive probation policy, both for agencies and those they supervise.

Introduction and Concept of Probation

More than 3.6 million Americans are on adult probation, triple the figure in 1980 ([Horowitz et al., 4](#)). Like many features of the U.S. justice system, probation can be traced back to England and was intended to serve as an alternative to incarceration for holding people accountable and promoting rehabilitation and public safety. However, just as with prisons, the U.S. is an outlier in the size of its probation system among other advanced nations. Compared to surveyed European countries, a Robina Institute paper found that the U.S. has more than five times as many people per capita on probation ([Alper et al.](#)).

Probation was created with the goal of providing a “lighter touch” option than incarceration that entails less government control and taxpayer expense. However, in 2018, many respected leaders of probation agencies signed on to a document from the Columbia University Justice Lab asking whether probation had grown “too big to succeed” ([CUJL](#)). This question relates to both whether probation case-loads are too large in some places to provide meaningful supervision and whether, relatedly, some people are on probation for a longer period than necessary. The Justice Lab framework also explores the issue of net widening. If probation did not exist, many people on probation would be incarcerated, but perhaps some people now on probation might be fined or diverted into some other alternative program that did not involve formal adjudication. Accordingly, as an initial disposition, probation can reduce the degree of government control over some individuals while increasing it over others.

Probation offers an initial off-ramp from incarceration but in some cases ends up leading to incarceration through revocation, often for new conduct that is either not a crime or would not have led to incarceration for someone not on supervision. A Bureau of Justice Statistics report found that, in 2015, 40.9 percent of those on probation who were incarcerated were locked up on their original sentence, not on a new sentence ([Kaeble and Bonczar, 18](#))¹. In some of those cases, there may have been an allegation of a new offense, but the choice was made for various reasons—such as limited evidence or the resources involved in bringing a new case—to pursue only revocation. Texas data is more granular and indicates that in fiscal year 2018 of the 23,026 total probation revocations, 12,489 were for technical violations—which includes absconding ([TDCJ, 8-9](#)). Of course, even new offenses may be minor misdemeanors, such as low-level marijuana possession in some states.

¹ Of a total 233,325 adults exiting probation and being incarcerated for any reason in 2015, 95,541 of them were sent to prison under their current sentence. Only 28 percent had gone to prison as a result of a new sentence.

The criminal justice system faces an incentive problem similar to the health care and welfare systems. An agency that maintains someone on welfare or a hospital that fails to cure someone can continue justifying the need for their services. Similarly, the longer someone stays on probation, the more money the probation department receives; whereas a decision to grant early termination reduces the need for the probation department's services. Looking at the criminal justice system more broadly, to the extent people fail on probation and are revoked, that means the prison system must grow its footprint. While many individuals working on the frontlines of these systems exhibit admirable personal dedication, the structural incentives often mean "too much success" translates to less need for a government program.

Limited data suggests probation has a mixed record of success. Nationally, 50 percent of people complete their probation term successfully (with 29 percent failing and 21 percent unaccounted for) ([Horowitz et al., 9](#)). In some states, probation revocations alone account for more than

half of prison admissions. For example, in Georgia 55 percent of prison admissions in 2015 came from probation revocations, and that figure was 61 percent in Rhode Island ([Horowitz et al, 10](#)). Many of these probation revocations involve technical violations, which do not include an allegation of a new offense, but rather failure to comply with all the terms of supervision. Examples include drinking alcohol or using drugs, leaving the county without permission, and missing one or more appointments with a probation officer. A survey of people in jails and prisons found that, among those who were on probation at the time of their arrest, 75 percent of those in jail and 30 percent of those in prison had not been convicted of a new crime ([Phelps, 134](#)).

Inevitably, not everyone will complete their probation term, just like not every student can or should get a passing mark, but probation can be designed to advance its core mission of promoting accountability and public safety in the community while serving as a gateway to success rather than a tripwire for failure.

Ten Recommendations for Improving Probation

Many jurisdictions have undertaken successful reforms that adjust probation policies and practices to better align with research and create incentives for positive outcomes, rather than growing the size of the system. By following these 10 recommendations, policymakers can increase the effectiveness, fairness, and efficiency of probation.

1. Reduce criminalization and incentivize and expand use of police and pretrial diversion.

The threshold challenge with any government program is ensuring that it is no more expansive than necessary to fulfill its core mission. Formal probation follows an arrest and adjudication. Policymakers must initially identify the scope of conduct that is against the law that should not be criminalized and, further, the properly criminalized conduct that should not be subject to arrest. For example, in 2014 Minnesota held an "unsession" in which for a few days lawmakers only repealed laws, including offenses such as packing fruit in an incorrectly sized container ([Salisbury](#)).

To be sure, not many people are likely on probation for obscure offenses, but alternatives to arrest can create a much larger impact. For example, the LEAD police diversion program targeted at homeless people in Seattle has diverted thousands of individuals involved in low-level drug and prostitution cases from jail and probation, resulting in significant savings and a 60 percent reduction in

recidivism ([Collins et al 2017, 52](#)). A 2018 paper published by the Foundation discussed LEAD and other pre-arrest and pre-booking diversion programs ([Petersen](#)). Similarly, a recent study by the Center for Court Innovation evaluated 16 prosecutor-led diversion programs and found "significant reductions in the probability of a conviction, jail sentence, and future re-arrest, along with sizable savings in costs and resources" ([Rempel et al.](#)).

In many instances, police and prosecutors have existing authority to divert people from arrest and formal adjudication. In some states, statutory tweaks may be needed in this regard. However, the more common challenge involves budgetary incentives and the "wrong pocket" problem. If a state funds probation based on how many people are on probation but does not fund police- or prosecutor-led diversion, a local jurisdiction will likely be disincentivized from using diversion. Additionally, LEAD required an investment in police time, case managers, and services, but this more than paid for itself in savings on lower jail and emergency room costs, as total costs for participants were about \$8,000 less than for similar individuals who did not participate ([Collins et al 2015, 20](#)). However, illustrating the "wrong pocket" problem, the savings largely came from different government entities than those that incurred the expenses. These challenges illustrate the importance of revising funding strategies that avoid incentivizing the channeling

of individuals deeper into the criminal justice system with more government control while promoting collaboration among a diverse array of government agencies.

In 2011, the probation department in Harris County, Texas, began an initiative called Responsive Interventions for Change (RIC) Docket. Many first-time state jail felony defendants charged with possession of less than a gram of drugs were quickly identified upon coming into jail and diverted into a single court under the leadership of Judge Brock Thomas. The initiative was started in part because many of these individuals were previously spending months in jail without being able to make bail prior to their case being adjudicated. As a result, they accumulated jail time without any treatment that then incentivized them to plea to several months of additional jail time to fully satisfy their sentence as opposed to up to five years on probation. Harris County realized that pretrial diversion, while similar to probation in that it would be provided by the probation department, could flip the script on the incentive to choose jail because of 1) early identification which would quickly route defendants into treatment rather than waiting for adjudication; 2) the opportunity to avoid a permanent criminal record; and 3) the knowledge that a technical violation would lead to adjudication, but not straight to revocation. Utilizing supervision conditions tailored to the defendant based on a risk and needs assessment, the RIC docket dramatically reduced the number of sentences to state or county jail and recidivism ([Harris County Community Supervision and Corrections Department](#)). Comparing individuals at similar risk levels, felony re-arrest rates were reduced by between 37 and 62 percent compared to those released from state or county jail for these offenses. ([Harris County Community Supervision and Corrections Department](#)). These findings led the Texas Conservative Coalition to call for extending a similar approach statewide ([Texas Conservative Coalition Research Institute](#)).

2. Assess risk and criminogenic needs of each person placed on probation, tie conditions to the assessment, regularly reevaluate based on progress, and account for special populations.

Use of a validated risk-needs assessment provides important guidance on what probation conditions are most appropriate for the individual. Research has found such assessments lead to better decisions on questions such as how often the person should report to a probation officer and what programs and interventions would address their criminogenic needs, such as drug treatment and cognitive behavioral therapy ([Casey et al., 6](#)). Some factors in these assessments are static, such as criminal history and prior instances of the person absconding from supervision, while others are

dynamic, such as anti-social attitudes and mental illness. For this reason, it is important to regularly assess people on probation to help determine whether a different level of supervision is warranted.

Using assessments to drive supervision strategies not only helps ensure that people on probation receive effective interventions, but also helps avoid the mistake of over-supervising low-risk individuals. An evaluation of the federal probation system found that, after a shift to reduce supervision of low-risk people on probation, re-arrest rates of low-risk individuals declined as did those of high-risk individuals who now could be more closely monitored ([Cohen et al., 8](#)). Similarly, after New York City switched low-risk people on probation to checking in at kiosks while providing closer supervision of high-risk individuals, re-arrest rates dropped ([Wilson et al.](#)).

Probation agencies should also screen for mental illness, trauma, exposure to violence, and traumatic brain injury (TBI). While most systems have long screened for mental illness, providing adequate treatment and specialized case-loads with officers trained in mental health has been shown to reduce recidivism. An emerging area is TBI, as research suggests as many as 60 percent of adults in the criminal justice system have TBI ([Brown et al., 1](#)). While there is no cure for brain injury, a guide for probation officers highlights how compensatory techniques can be helpful in tailoring and promoting compliance with conditions, such as helping a person to set up text or other types of reminders for appointments. For another special population—emerging adults between ages 18 and 25—research is suggesting that developmentally oriented approaches to probation can improve outcomes given that revocation rates are much higher among this group than their older counterparts ([Schiraldi et al., 6](#)).

3. Ensure probation conditions are the least restrictive necessary to protect public safety.

There is a philosophical question as to whether the goal of probation should simply be to ensure the person does not re-offend or whether the government should use the leverage of probation to require the person to engage in activities that are designed to promote positive outcomes, such as employment and family preservation. Given the relationship between pro-social activities such as employment and re-offending, the two missions are inseparable to some degree. However, the line must be drawn when it comes to revoking people from supervision merely for not obtaining employment. At any time, some 9,000 Americans on probation and parole are locked up because they failed to get a job ([Zatz et al., 2](#)).

Mission creep is recognized as a problem by many in the field. The Robina Institute surveyed probation and other criminal justice officials and found a common complaint was that they were asking people on probation to follow too many conditions that had no connection to their case, assessment, or public safety ([Ruhland](#)). One probation officer said, “Piling on more programs [can lead to a] set up for failure. Everyone shouldn’t have cookie cutter conditions” ([Ruhland](#)). Another official surveyed said that over the last 20 years the number of conditions had grown so much that he could not even list them all, whereas at one time they could fit on a single page ([Alper and Ruhland, 5](#)). For example, if someone’s offense had nothing to do with alcohol and they are not alcoholic, abstaining from alcohol should not be a condition of probation.

The number and scope of probation conditions accentuates the challenge of high caseloads. When a probation officer is asked to enforce myriad conditions on caseloads that typically average more than 100, it is inevitable that enforcement will be uneven. Also, excessive conditions, such as frequent reporting, can interfere with employment and other pro-social activities that reduce the risk of recidivism. In other cases, conditions can simply be overly burdensome given the person’s circumstances, such as an instance where the court initially required 300 hours of community service by a person on probation who was disabled and awaiting a kidney transplant ([Alper and Ruhland, 6](#)).

4. Adopt performance-based probation terms that allow individuals to earn their way off probation.

Not too many people have a job in which they are guaranteed to be paid at the same level for five to ten years, so long as they are not fired. However, the traditional approach to probation has largely been to determine up front how long someone must serve, even if they demonstrate through exemplary conduct that they no longer require supervision. The American Legislative Exchange Council has adopted the Earned Compliance Credit Act, a model policy for earned time for people on probation ([ALEC](#)). Many jurisdictions have moved away from the traditional model through early termination and earned time provisions, and the results are promising. Some 18 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) since 2007 have changed policies to allow supervision periods to be reduced by up to 30 days for every 30 days in compliance ([Gelb and Utada](#)). Similarly, eight JRI states have shortened probation terms ([Gelb and Utada](#)).

For example, the Arizona Safe Communities Act of 2008 gave judges the authority to adjust a probationer’s term of supervision based on earned time credit. It allowed a significant reduction of 20 days for each month the person on probation makes progress on their treatment plan, avoids new arrests, and is current on restitution and fines. In the first two years, the number of people on probation convicted of new crimes substantially declined and overall probation revocations fell 29 percent ([PCS, 3](#)). Similarly, Missouri’s earned-time law resulted in those who qualified serving an average of 14 fewer months on probation, but they were no more likely to commit a new offense during the time they otherwise would have been monitored ([PEW 2016, 1](#)). Similarly, after New York City early terminated low-risk people on probation, they were less likely to be re-arrested in their first year following supervision for a new felony than similar individuals who had remained on supervision ([Schiraldi and Jacobson](#)).

5. Change probation funding to frontload resources, avoid incentivizing higher volumes, and consider risk-needs level of caseload.

In some states, probation is a statewide function, while in others it is operated by local departments, which typically receive state funding, at least for felony cases. Perhaps the most common way to fund probation is simply based on how many people are on probation at any given time. However, this incentivizes using probation for people who could be diverted and keeping people on probation longer than necessary. For example, a 2013 revocation analysis in Minnesota found a 7 percent revocation rate among people on probation in their first year, 5 percent in the second year, 3 percent in the third year, and only 1 percent in each subsequent year ([MSGC, 4](#)). Under current Minnesota law, probation terms can stretch up to 40 years, although legislation is now being considered to change that ([Faircloth](#)). In funding probation, policymakers should frontload funds to incentivize more effective supervision in the first few years when it is most needed along with shorter probation terms for most individuals.

Additionally, when factoring in volume, funding formulas should consider factors such as the population of the jurisdiction, number of felony arrests, and number of people referred to probation, rather than how many people are on probation at any given time. The risk and needs level of a probation department’s caseload should also be accounted for, which would avoid discouraging jurisdictions from putting people on probation who can be successful but have significant supervision and treatment needs.

6. Tie probation funding to performance and outcomes.

Traditional approaches to probation funding often fail to consider the degree to which successful outcomes are achieved, such as fewer new convictions for serious crimes and payment of restitution for crimes where there was a victim. Funding formulas should incentivize early terminations for exemplary individuals on probation, particularly in states where the loss of fees from these individuals makes such terminations costly for probation departments. The funding formula should also incentivize fewer technical revocations, so long as serious new offenses remain the same or decline. States should review their probation funding formulas to reconsider those that are simply being based on how many people are on probation to instead take into account outcomes such as early terminations and technical revocations. States should examine whether their funding methods disincentivize pretrial diversion by funding supervision only if it occurs following a formal adjudication, even if performed by probation departments ([Haugen](#)).

In 2011, Texas adopted Senate Bill 1055, which provides a framework for counties to enter into agreements with the state to sentence and revoke fewer people to state prisons for nonviolent offenses in exchange for receiving a share of the savings, some of which would be tied to reducing recidivism of people on probation, increasing restitution collections, and increasing employment ([8-10](#)). Due to a lack of seed funding, Senate Bill 1055 has not been implemented but a provision in the current proposed budget would direct leftover funds to piloting this program in some counties.

There are many examples of states achieving positive results from performance-based funding approaches to juvenile probation. For example, in Ohio and Illinois, the local jurisdictions participating in Ohio RECLAIM and Redeploy Illinois have achieved the desired goals of reducing recidivism and utilization of state youth lockups ([Butts, et al. 13, 17](#)). Several years ago, Illinois expanded Redeploy to the adult system in some counties.

One of the benefits of approaches such as SB 1055 is that they encompass both sentencing and probation commitments to incarceration. It is difficult to determine whether a county might have a higher technical or overall revocation rate because they are initially sending more challenging people to probation who might have been initially sentenced to prison. This is particularly important to account for in states like Texas and Georgia that have wide discretion in who can receive probation or prison for virtually any offense. Similarly, if a person receives graduated sanctions and stays on probation instead of being revoked, this

is another person on probation at any given time, who is counted in the same total as a person who has been exemplary and remains on probation longer than necessary.

7. Curtail probation fees and related fines and court costs, and require ability-to-pay determination up front.

In Texas, probation fees are up to \$60 per month, which taken alone for many people is not overly burdensome, but in Texas only 28 percent of the people on probation who are revoked for technical violations were employed full-time ([Johnson, 5](#)). Individuals placed on probation often face thousands of dollars total in fines, fees, and court costs. In some states like Texas, much if not all of this total does not apply if the person is sentenced to incarceration, which contributes to individuals choosing incarceration over probation in some cases. Indeed, probation officers in Texas surveyed by the Robina Institute expressed frustration that some people on probation who are behind on their fees either abscond or opt for incarceration rather than continuing on probation ([Ruhland et al., 7-8](#)). One such case in 2018 was that of Channaron Soern, who cited costs as the primary reason he opted to go back to state jail rather than continue on probation ([Collins](#)).

Texas acted a decade ago to prohibit technical revocations solely for failure to pay fees. However, if there is at least one other violation, failure to pay fees can be an additional reason for a technical revocation, and it is cited in 55 percent of such motions ([Johnson, 11](#)). Moreover, probation officers surveyed report that individuals on probation often skip meetings with probation officers when they don't have the money, which creates another technical violation ([Ruhland et al., 8](#)). One question that further research is needed in order to answer is whether those who are in arrears on their fees, while not subject to revocation in Texas solely on that basis, are effectively on a "shorter leash" when it comes to other probation violations.

A related problem is that the reliance of probation departments on fees can distort their priorities. In Texas, more than half of probation departments' budgets come from such fees. In a Robina Institute examination of four departments in Texas, one probation officer said:

"Probably 50% or more of the time that they spend with [probationers] are toward collecting fees. Because ultimately [probationers] have to pay these fees in order to successfully complete this probation. And not focusing on that is, in a sense, setting them up for failure and unsuccessful completion if we don't concentrate on that ([Ruhland et al., 5](#)).

Therefore, time that could be spent on practices such as motivational interviewing that have been shown to reduce recidivism is instead devoted to collecting money ([Alexander et al., 2](#)).

To address this, jurisdictions should move away from fees such as probation fees and court costs. Fines are different because they can be justified, not primarily for the purpose of raising revenue, but as a punishment and a deterrent, though they should not be disabling. Additionally, restitution to victims, which government fees compete with, should be prioritized. In 2017, Louisiana took a major step in alleviating its notoriously burdensome fines and fees through passage of House Bill 249, which tied fines and fees, including probation fees, to ability to pay ([PEW 2018a, 2](#)).

8. Implement a system of graduated sanctions and incentives.

When disciplining a child, few parents wait until the child touches a hot stove several times before intervening and then grounding the child for several years. However, traditionally some probation departments have ignored supervision violations only to revoke the person to prison for many years after the “final straw,” because typically the revocation is for the amount of time left on the person’s sentence, assuming they get credit for time spent in compliance on probation, which is not always the case. In some jurisdictions, prosecutors and judges play a role initiating the revocation process, including requiring probation to inform them of even the most minor violations. Accordingly, the impetus for technical revocations may not necessarily come from the probation agency, and, in some instances, a district attorney may pursue revocation against the recommendation of the probation department.

A mountain of evidence has found swift, certain, and commensurate sanctions are much more effective in promoting compliance, and positive incentives are even more powerful ([Taxman et al., 1](#)). Examples of graduated sanctions include increased reporting requirements, a curfew, electronic monitoring, enhanced treatment and programming requirements, extending the probation term, and even a weekend in jail. When administering graduated sanctions, probation agencies should ensure they are commensurate. By adopting a graduated sanctions matrix that matches the sanction with the severity of the violation, more uniform application of such sanctions can be achieved. A study of the Ohio graduated sanctions grid found its adoption reduced the number of revocations ([Martin and Van Dine, 32](#)). In responding to technical probation violations, the probation officer should also give the person an opportunity to be heard. For example, someone may have extenuating factors, such as illness, that led to a missed appointment.

Twenty-two states that have participated in JRI since 2007 require that graduated sanctions and incentives be used prior to or 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) ([Gelb and Utada](#)).

Studies have shown that systems that emphasize positive incentives at least as much as sanctions have better results ([Lowe et al.](#)). Utah has implemented a statewide graduated response matrix that not only incorporates sanctions, but also incentives ([UDOJ](#)). Among the incentives in a grid used by the Harris County Adult Probation Department (Houston, Texas) are double time toward the completion of the probation term, reduced reporting, bus tokens, and written commendations ([LBB, 57](#)). Expanding state laws that allow for record sealing in many cases upon successful completion of probation also provide a compelling incentive. Given research showing that only 5 percent of eligible individuals apply for record sealing and the requirement in many states that a separate civil action be brought, states should ensure sealing can occur automatically through a Clean Slate law, as Utah and Pennsylvania enacted, or, in cases where it is discretionary, through an order by the criminal court judge upon discharging the person from probation ([CRI](#)).

9. Cap or end technical revocations in most cases.

Taking revocation off the table for most technical violations does not constitute a radical step. It is important to note that county jail stays, such as weekend jail time, as well as placement in intermediate sanctions and residential treatment facilities can occur as conditions of probation. In these cases, a person returns to probation supervision upon discharge while living at home, thereby providing continuity in their supervision and treatment plan.

Indeed, capping probation revocations can have a similar effect in terms of the duration of incarceration. Between 2007 and 2017, according to the Pew Trusts, some 17 states have capped time served for probation revocations ([PEW 2018b, 2](#)). In 2007, Louisiana capped first-time probation revocations at 90 days. A Pew analysis of state data found that in fiscal year 2013, five years after this went into effect, Louisiana had reduced time served by an average of 9.2 months, experienced 22 percent fewer new crime revocations, and saved \$17.6 million in corrections costs ([PEW 2014](#)).

The often-overlooked reality is that there is a dearth of evidence linking technical violations with new crimes. That is, simply because someone on probation misses a meeting or leaves the county without permission is not an indicator

that they are on the verge of committing a crime, let alone a serious one. Indeed, a Washington State Institute of Public Policy study found that technical revocations do not reduce recidivism, and indeed similar individuals revoked were more likely to re-offend (though a causal connection could not be established) ([WSIPP, 16](#)).

Given that revocation will not make it less likely that the individual will re-offend, the purpose of incarceration as a sanction for technical violation should be to promote compliance with the terms of supervision. This can best be accomplished initially through sanctions short of incarceration and, after that, with flash incarceration. In 2012, North Carolina enacted a graduated sanctions policy that included “quick dips” whereby the court can order up to six days of jail confinement during any three separate months of a period of probation, for a total confinement time of up to 18 days. A study found that this policy reduced revocations by one-third and increased the probation completion rate from 52 to 66 percent ([CSG](#)).

While technical revocations can be dramatically reduced and even ended in most cases, some violations are particularly serious. For example, there are instances of individuals on probation convicted of serious sex offenses who violate a no contact order with a victim. Whether or not there is research showing this, logic would suggest that this creates a danger, and it certainly creates fear on the part of the victim.

Absconding also presents a challenge because it threatens the integrity of the accountability function of probation and prevents the agency from carrying out strategies designed to reduce recidivism. However, people may be less likely to abscond if they know that they will face graduated sanctions rather than revocation if they report and are found in violation, such as a positive drug test. A more nuanced issue involves people on probation declining a graduated sanction as a modification of probation, such as placement in residential drug treatment, in favor of revocation, perhaps because revocation would result in less total time because the person would not be released to probation upon completing the prison term. Texas data indicates 25 percent of revocations followed such a refusal of an offer to modify conditions ([Johnson, 8](#)). A solution is to permit revocations only where such modifications are rejected, which could incentivize acceptance of treatment-oriented interventions.

10. Engage community rather than “fortress probation,” including leveraging nonprofits, employers, and peer mentors.

“Fortress” probation can literally connote one centralized office in a large metropolis, which creates logistical challenges that led Travis County, Texas, to move to a

geographically assigned caseloads model to increase officer familiarity with neighborhoods and reduce driving time ([Fabelo and Nagy, 16](#)). However, more broadly it signifies a common shortcoming of many government programs to harness the contributions that community organizations and members can make to achieving their missions. In the case of probation, nonprofits such as churches and social service organizations like Goodwill can be invaluable partners in providing services that increase the odds of success. Additionally, probation departments can identify employers who are willing and even eager to hire people under supervision.

Probation officers are important messengers and former Harris County Probation Deputy Director Brian Lovins aptly defined their role as a coach, not an umpire ([Lovins et al.](#)). However, they are not the only messengers, and in some cases not the most persuasive ones, who can shape behavior. One challenge is that people on probation may be reluctant to be fully candid with their probation officer regarding struggles they are having, including a drug relapse or personal disputes that could involve association with individuals whom they are not permitted to have contact with. Involving mentors and nonprofit providers may encourage those on probation to seek needed help and services to the extent they can come forward without fear of revocation or other punishment. Furthermore, research suggests the use of peer mentors, including people who are formerly incarcerated, is particularly effective since the mentor brings the credibility of someone who has overcome similar obstacles. The Arches Transformative Mentoring Program in New York City serving those on probation ages 16 to 24 is a powerful example of this, as it was found in a 2018 evaluation to reduce one-year felony re-conviction rates by two-thirds and two-year rates by one-half ([Lynch et al., vi](#)). The program features mentors with similar backgrounds as the participants, and many themselves have criminal records.

Conclusion

Probation may have grown exponentially in part because it offered an alternative to prison systems that traditionally have delivered high costs and poor results. However, probation should not merely be a less costly, less ineffective alternative to incarceration, but an agent for changing behavior and a gateway out of further involvement in the justice system. By acting on these 10 strategies, policymakers can promote better outcomes for public safety, taxpayers, and people on supervision through a smaller, focused, and results-oriented probation system. ★

References

- ALEC (American Legislative Exchange Council). 2014. "[Earned Compliance Credit Act](#)." Accessed April 22, 2019.
- Alexander, Melissa, Scott W. VanBenschoten, and Scott T. Walters. 2008. "[Motivational Interviewing Training in Criminal Justice: Development of a Model Plan](#)." *Federal Probation* 72(2).
- Alper, Mariel, Alessandro Corda, and Kevin Reitz. 2016. "[Data Brief: American Exceptionalism in Probation Supervision](#)." University of Minnesota. Accessed April 22, 2019.
- Alper, Mariel, and Ebony Ruhland. 2016. *Probation Revocation and its Causes: Profiles of State and Local Jurisdictions*. Robina Institute of Criminal Law and Criminal Justice, University of Minnesota.
- Brown, Jerrod, Brooke Luckhardt, Diane Harr, Thomas Poser, and Amanda Fenrich. 2018. "[Traumatic Brain Injury \(TBI\): A Guide for Probation Officers](#)." *Journal of Trauma and Treatment* 7(1):1-9.
- Butts, Jeffrey, and Douglas Evans. 2011. [Resolution, Reinvestment, and Realignment: Three Strategies for Changing Juvenile Justice](#). John Jay College Research and Evaluation Center.
- Casey, Pamela M., Roger K. Warren, and Jennifer K. Elek. 2011. *Using Offender Risk and Needs Assessment Information at Sentencing: Guidance for Courts from a National Working Group*. National Center for State Courts.
- Cohen, Thomas H., David Cook and Christopher T. Lowenkamp. 2016. "[The Supervision of Low-Risk Federal Offenders: How the Low-Risk Policy Has Changed Federal Supervision Practices without Compromising Community Safety](#)." *Federal Probation* 80(1):3-11.
- Collins, Courtney. 2018. "[Probation Costs Too Much, So He Chose to Go Back to Jail](#)." *KERA News*, December 4.
- Collins, Susan E., Heather S. Lonczak, Seema L. Clifasefi. 2017. "[Seattle's Law Enforcement Assisted Diversion \(LEAD\): Program effects on recidivism outcomes](#)." *Evaluation and Program Planning* 64: 49-56.
- Collins, Susan E., Heather S. Lonczak, Seema L. Clifasefi. 2015. University of Washington Harborview Medical Center. "[LEAD Program Evaluation: Criminal Justice and Legal System Utilization and Associated Costs](#)."
- CRJ (Community Resources for Justice). 2019. "[Utah Governor Signs Landmark Clean Slate Legislation](#)." Accessed April 22, 2019.
- CSG (Council of State Governments). 2017. "[North Carolina Reduces Probation Revocations with Short, Swift Sanctions](#)." Accessed April 22, 2019.
- CUJL (Columbia University Justice Lab). 2018. *Too big to succeed: The impact of the growth of community corrections and what should be done about it*. Columbia University.
- Fabelo, Tony, and Geraldine Nagy. 2006. *Travis Community Impact Supervision - Better Diagnosis: The First Step to Improve Probation Supervision Strategies*. The JFA Institute.
- Faircloth, Ryan. 2019. "[Minnesota lawmakers want to limit probation sentences to five years](#)." *Twin Cities Pioneer Press*, February 12.
- Gelb, Adam and Connie Utada. 2017. "[For Better Results, Cut Correctional Populations](#)." Pew Charitable Trusts, August 25.
- Haugen, Michael. 2019. *Results-Oriented Solutions for Probation Funding*. Texas Public Policy Foundation.
- [HB 4044](#). 2019. Introduced. 86th Texas Legislature (R).
- [Harris County Community Supervision and Corrections Department](#).
- Horowitz, Jake, Connie Utada, and Monica Fuhrmann. 2018. *Probation and Parole Systems Marked by High Stakes, Missed Opportunities*. Pew Charitable Trusts.

- Johnson, Dustin. 2019. [*Technical Revocations Among Felons: Unraveling the Process*](#). Texas Department of Criminal Justice.
- Kaeble, Danielle, and Thomas Bonczar. 2017. [*Probation and Parole in the United States, 2015*](#). Department of Justice, Bureau of Justice Statistics.
- LBB (Legislative Budget Board). 2007. [*Texas Community Supervision Revocation Project: Fiscal Year 2006 Follow-Up Study*](#). LBB.
- Lovins, Brian K., Francis T. Cullen, Edward J. Latessa, and Cheryl Lero Jonson. 2018. "[Probation Officer as a Coach: Building a New Professional Identity](#)." *Federal Probation* 82(1): 13-19.
- Lowe, Nathan, Brett Garland, and Eric Wodahl. 2013. "[Use of Incentives and Sanctions to Promote Compliance with Supervision Conditions during Reentry: An Implementation Strategy](#)." *The National Reentry Resource Center*, May 15.
- Lynch, Matthew, Nan Marie Astone, Juan Collazos, Micaela Lipman and Sino Esthappan. 2018. [*Arches Transformative Mentoring Program: An Implementation and Impact Evaluation in New York City*](#). Urban Institute.
- Martin, Brian, and Steve Van Dine. 2008. [*Examining the Impact of Ohio's Progressive Sanction Grid*](#). Ohio Department of Rehabilitation and Correction.
- MSGC (Minnesota Sentencing Guidelines Commission). 2019. "[2017 Probation Revocations](#)." Accessed April 22, 2019.
- NYC Department of Probation. 2013. [*Do More Good: A Progress Report from the NYC Department of Probation*](#). NYC Department of Probation.
- PCS (Pew Center on the States). 2011. [*The Impact of Arizona's Probation Reforms*](#). Pew Center on the States.
- Petersen, Randy. 2018. [*Pre-arrest and Pre-booking Diversion and Mental Health in Policing*](#). Texas Public Policy Foundation.
- PEW (The Pew Charitable Trusts). 2014. [*Reducing Incarceration for Technical Violations in Louisiana*](#). The Pew Charitable Trusts.
- PEW (The Pew Charitable Trusts). 2016. [*Missouri Policy Shortens Probation and Parole Terms, Protects Public Safety*](#). The Pew Charitable Trusts.
- PEW (The Pew Charitable Trusts). 2018a. [*Louisiana's 2017 Criminal Justice Reforms*](#). The Pew Charitable Trusts.
- PEW (The Pew Charitable Trusts). 2018b. [*35 States Reform Criminal Justice Policies Through Justice Reinvestment*](#). The Pew Charitable Trusts.
- Phelps, Michelle. 2018. "[Ending Mass Probation: Sentencing, Supervision, and Revocation](#)." *Future of Children* 28(1):125-146.
- Rempel, Michael, Melissa Labriola, Priscella Hunt, Robert C. Davis, Warren A. Reich, and Samantha Cherney. 2017. [*Multisite Evaluation of Prosecutor-Led Diversion Programs*](#). Center for Court Innovation.
- Ruhland, Ebony L., Jason P. Robey, Ronald P. Corbett Jr., and Kevin R. Reitz. 2017. [*Exploring Supervision Fees in Four Probation Jurisdictions in Texas*](#). Robina Institute of Criminal Law and Criminal Justice.
- Ruhland, Ebony. 2018. "[What Purpose Should Probation Serve? Looking to Other Alternatives](#)." *Robina Institute of Criminal Law and Criminal Justice*, January 31.
- Salisbury, Bill. 2014. "[Minnesota 'unsession' dumps 1,175 obsolete, silly laws](#)." *Twin Cities Pioneer Express*, May 26.
- [SB 1055](#). Enrolled Version. 82nd Texas Legislature (R).
- Schiraldi, Vincent and Jacobson, Michael. 2017. "[When Less Is More](#)." *The Marshall Project*, August 28.
- Schiraldi, Vincent, Bruce Western and Kendra Bradner. 2015. [*Community-Based Responses to Justice-Involved Young Adults*](#). Department of Justice, National Institute for Justice.

- Taxman, Faye S., David Soule and Adam Gelb. 1999. "[Graduated Sanctions: Stepping Into Accountable Systems And Offenders.](#)" *Prison Journal* 79(2): 182-205.
- TDCJ (Texas Department of Criminal Justice). 2018. [Report to the Governor and Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds.](#) Texas Department of Criminal Justice.
- Texas Conservative Coalition Research Institute. 2018. "[Reforming Texas's Approach to State Jail Felonies.](#)" September 2018.
- UDOJ (Utah Department of Justice). 2019. "[Response and Incentive Matrix.](#)" Accessed April 22, 2019.
- Wilson, James A., Wendy Naro, and James F. Austin. 2007. [Innovations in probation: Assessing New York City's automated reporting system.](#) JFA Institute.
- WSIPP (Washington State Institute for Public Policy). 2012. [Confinement for Technical Violations of Community Supervision: Is There an Effect on Felony Recidivism?](#) Washington State Institute for Public Policy.
- Zatz, Noah, Tia Koonse, Theresa Zhen, Lucero Herrera, Han Lu, Steven Shafer, and Blake Valenta. 2016. [Get to Work or Go to Jail: Workplace Rights Under Threat.](#) UCLA Institute for Research on Labor and Employment, UCLA Labor Center.

ABOUT THE AUTHOR



Marc A. Levin is the vice president of criminal justice at the Texas Public Policy Foundation and Right on Crime.

An attorney and accomplished author on legal and public policy issues, Marc began the Foundation's criminal justice program in 2005. This work contributed to nationally praised policy changes that have been followed by dramatic declines in crime and incarceration in Texas. Building on this success, in 2010, Levin developed the concept for the Right on Crime initiative, a Foundation project in partnership with Prison Fellowship and the American Conservative Union Foundation. Right on Crime has become the national clearinghouse for conservative criminal justice reforms and has contributed to the adoption of policies in dozens of states that fight crime, support victims, and protect taxpayers.

In 2014, Levin was named one of the *Politico 50* in the magazine's annual "list of thinkers, doers, and dreamers who really matter in this age of gridlock and dysfunction."

Marc has testified on criminal justice policy on four occasions before Congress and has testified before legislatures in states including Texas, Nevada, Kansas, Wisconsin, and California. He also has met personally with leaders such as U.S. Presidents, Speakers of the House, and the Justice Committee of the United Kingdom Parliament to share his ideas on criminal justice reform. In 2007, he was honored in a resolution unanimously passed by the Texas House of Representatives that stated, "Mr. Levin's intellect is unparalleled and his research is impeccable."

Since 2005, Marc has published dozens of policy papers on topics such as sentencing, probation, parole, reentry, and overcriminalization which are available on the TPPF website. Levin's articles on law and public policy have been featured in publications such as the *Wall Street Journal*, *USA Today*, *Texas Review of Law & Politics*, *National Law Journal*, *New York Daily News*, *Jerusalem Post*, *Toronto Star*, *Atlanta Journal-Constitution*, *Philadelphia Inquirer*, *San Francisco Chronicle*, *Washington Times*, *Los Angeles Daily Journal*, *Charlotte Observer*, *Dallas Morning News*, *Houston Chronicle*, *Austin American-Statesman*, *San Antonio Express-News* and *Reason Magazine*.

In 1999, Marc graduated with honors from the University of Texas with a B.A. in Plan II Honors and Government. In 2002, Marc received his J.D. with honors from the University of Texas School of Law. Marc was a Charles G. Koch summer fellow in 1996. He served as a law clerk to Judge Will Garwood on the U.S. Court of Appeals for the Fifth Circuit and staff attorney at the Texas Supreme Court.

About Right on Crime

Right on Crime is a national campaign of the Texas Public Policy Foundation, in partnership with the American Conservative Union Foundation and Prison Fellowship, which supports conservative solutions for reducing crime, restoring victims, reforming offenders, and lowering taxpayer costs. The movement was born in Texas in 2007, and in recent years, dozens of states such as Georgia, Ohio, Kentucky, Mississippi, Oklahoma, and Louisiana, have led the way in implementing conservative criminal justice reforms.

About Texas Public Policy Foundation

The Texas Public Policy Foundation is a 501(c)3 non-profit, non-partisan research institute. The Foundation promotes and defends liberty, personal responsibility, and free enterprise in Texas and the nation by educating and affecting policymakers and the Texas public policy debate with academically sound research and outreach.

Funded by thousands of individuals, foundations, and corporations, the Foundation does not accept government funds or contributions to influence the outcomes of its research.

The public is demanding a different direction for their government, and the Texas Public Policy Foundation is providing the ideas that enable policymakers to chart that new course.

