



Research Brief

More Work to Do:

Analysis of Probation and Parole in the United States, 2017-2018

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Introduction

This research brief offers an initial analysis of newly-released data from the Bureau of Justice Statistics (BJS), which report on the number of people under probation and parole supervision in 2017 and 2018. This brief seeks to put the data into the context of historical and international community supervision trends and to examine supervision rates through a racial equity lens.

Key findings from the BJS report include that the number and percentage of people under community supervision has declined for the 10th year in a row (Kaeble and Alper 2020). This amounts to a 2% decrease between 2017 and 2018 and a 14% decrease from 2008 to 2018.

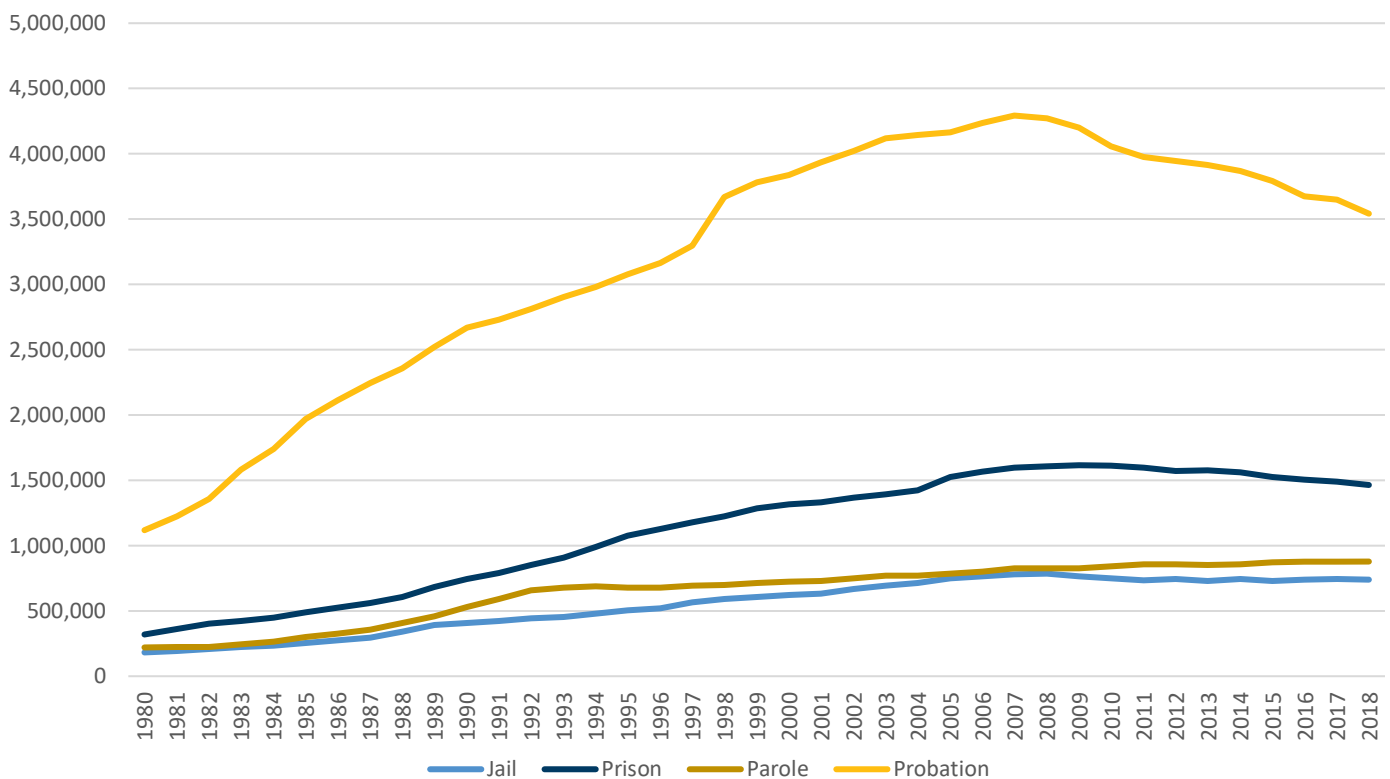
Our analysis reveals that, while this does mark an observable decline in the number of people under community supervision, the United States continues to maintain high rates of community supervision compared to historic rates, as well as compared to European rates. Further, community supervision is still marked by significant racial disparities and “mass supervision” continues to be a major contributor to mass incarceration. Finally, from 2008 to 2018, the decline in the number of people on probation has failed to keep pace with the decline in arrests, resulting in an *increase* in the rate of probation, per arrest.

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Supervision Rates Remain High Compared to Historical and International Rates

Although the number of people under community supervision declined for a 10th consecutive year in 2018, probation and parole continue to loom large by historical standards (Figure 1). In terms of absolute numbers, there were 3.3 times as many people under supervision in 2018 as there were in 1980, the first year that comparable data were collected on probation and parole (Maxwell 1982). When adjusted for population growth, the percent of U.S. adults under community supervision in 2018 is still more than double what it was in 1980 (Kaeble and Alper 2020; Maxwell 1982). Further, community supervision remains the largest segment of U.S. correctional control – the 4.4 million people under community supervision in 2018 was double the number of people incarcerated in the United States that year (Carson 2020; Kaeble and Alper 2020; Zeng 2020).

Figure 1: Number of people under U.S. correctional supervision (1980-2018)



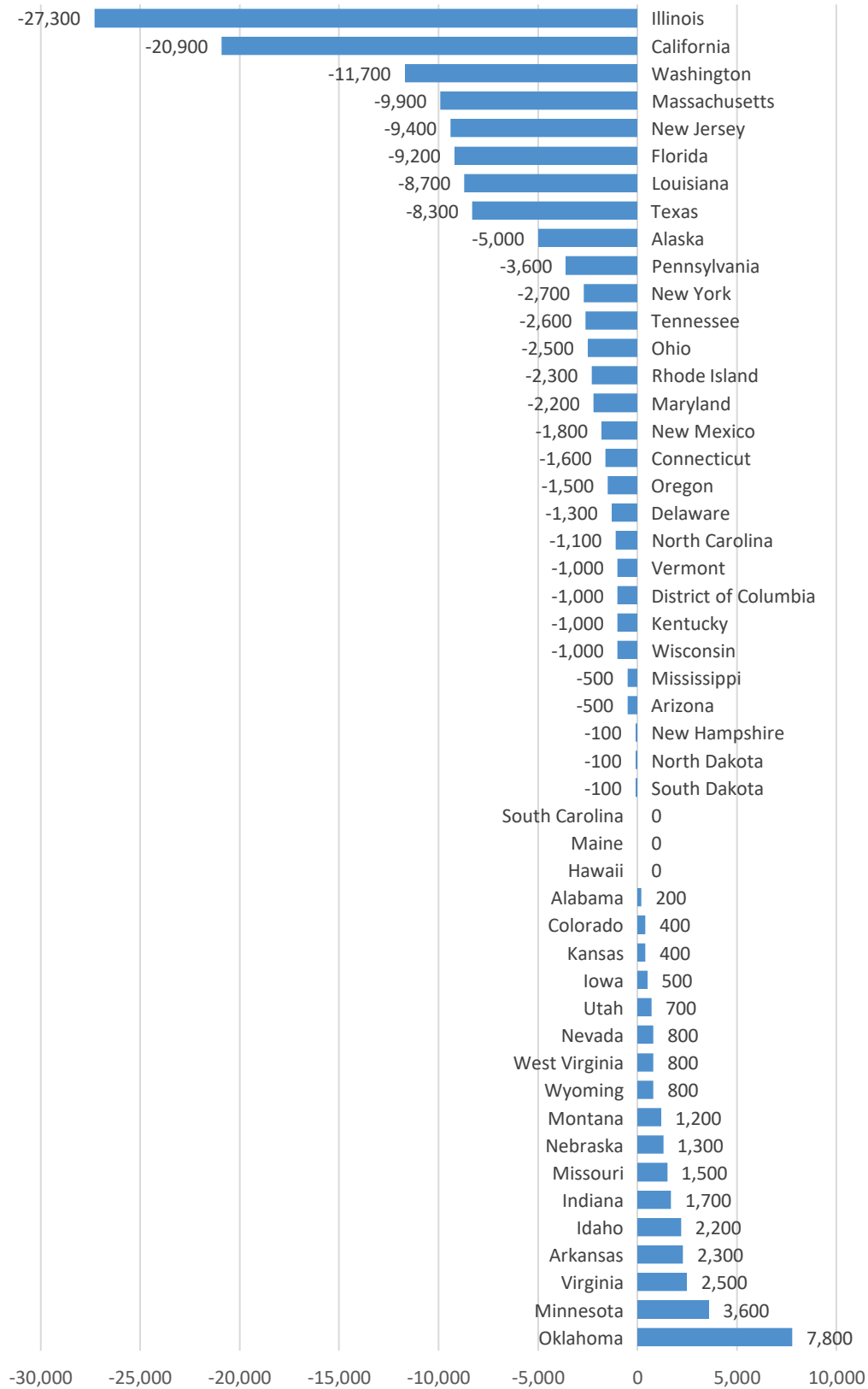
Sources: 1980-2004: Maguire, n.d., Table 6.1.11; 2005-2014: Kaeble and Glaze 2016, Table 1; 2015-2016: Kaeble and Cowhig 2018, Table 1; 2017-2018: Kaeble and Alper 2020, Table 1; Carson 2020, Table 1; Zeng 2020, Table 1.

In addition, the reductions between 2016² and 2018 were largely driven by a handful of states (Figure 2). The four states with the largest declines in the number of people under community supervision (IL, CA, WA, and MA) account for more than half (54%) of the total decline in state community supervision over that time (129,200 fewer people from December 31, 2016 to December 31, 2018).³ Seventeen states experienced an *increase* in the number of people under community supervision in the same time period.

² 2016 is the last year for which BJS released a similar report.

³ BJS notes that reporting methods changed for MA from 2017-2018 – for more detail, see Kaeble and Alper 2020, p.11

Figure 2: Absolute Change, Number of People Under Community Supervision, 2016-2018



Source: Justice Lab analysis of Kaeble 2018, Appendix Table 1, and Kaeble and Alper 2020, Appendix Table 1. Differences were calculated between the December 31 population in each year. GA and MI are excluded, as those states did not report year-end populations in 2016.

As the BJS report mentions, declines in the number of people under community supervision have been driven entirely by changes in probation, and have occurred in spite of overall increases in the number of people on parole.⁴ The number of people under probation supervision in the U.S. has declined 17.5% since its peak in 2007, whereas the number of people under parole supervision has mostly increased during that time (Figure 1; Glaze and Bonczar 2009; Kaeble and Alper 2020). There were 6% more people under parole supervision in 2018 than in 2007, and nearly four times as many people as were under parole supervision in 1980 (Glaze and Bonczar 2009; Kaeble and Alper 2020; Maxwell 1982).

Examining the previous decade of BJS data, the 17% reduction in probation from 2008 to 2018, while meaningful, still lags behind the 26% reduction in arrests during this time period (Table 1). As such, when comparing probation rates to arrest rates, we find that the rate of probation-per-arrest for U.S. adults was 12.6% *higher* in 2018 than it was in 2008.⁵

Table 1: U.S. population, arrests, and people under probation supervision, 2008-2018

	U.S. Resident Population	Persons Arrested	Per 100K U.S. Residents	Probation Population	Per 100K U.S. Residents
2008	304,093,966	14,005,615	4,606	4,271,200	1,405
2009	306,771,529	13,687,241	4,462	4,199,800	1,369
2010	309,321,666	13,120,947	4,242	4,055,900	1,311
2011	311,556,874	12,408,899	3,983	3,973,800	1,275
2012	313,830,990	12,196,959	3,886	3,944,900	1,257
2013	315,993,715	11,302,102	3,577	3,912,900	1,238
2014	318,301,008	11,205,833	3,521	3,868,400	1,215
2015	320,635,163	10,797,088	3,367	3,789,800	1,182
2016	322,941,311	10,662,252	3,302	3,673,100	1,137
2017	324,985,539	10,554,985	3,248	3,647,200	1,122
2018	326,687,501	10,310,960	3,156	3,540,000	1,084
Percent Change, 2008-2018	7.43%	-26.38%	-31.47%	-17.12%	-22.85%

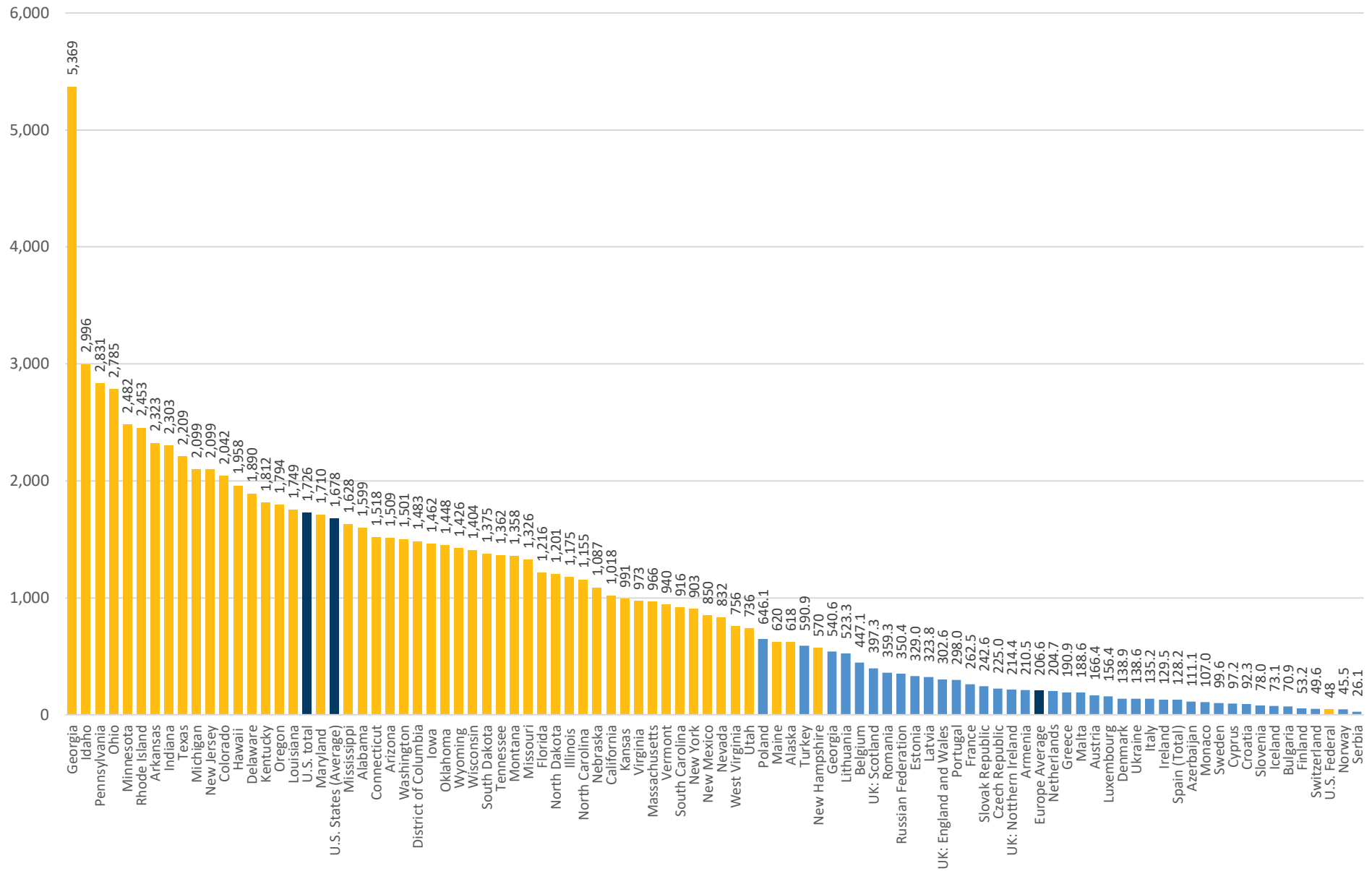
Sources: Federal Bureau of Investigation 2008-2018, Table 29; Kaeble and Alper 2020, Table 1; U.S. Census Bureau 2011; U.S. Census Bureau 2020.
Note: In all columns, "U.S. residents" reflects people of all ages.

In addition to our finding that rates of community supervision remain high in the historical context of the United States, the U.S. also continues to have unusually high rates of community supervision as compared to our European counterparts. Across the U.S., 1,726 people are under community supervision for every 100,000 adults in the general population. This is 8.5 times the European average of 202 people per 100,000 adults

⁴ Probation is a term of community supervision imposed at sentencing by a judge, typically in lieu of incarceration. Parole is a term of community supervision served after a period of incarceration. Throughout this paper, we will follow the Bureau of Statistics' convention of including both people with indeterminate sentences who were released from incarceration by a parole board, as well as people serving determinate sentences of post-release supervision set by a judge at sentencing, in our definition of parole.

⁵ We limited this analysis to probation, since probation is given as a sentence relatively close to the time of arrest as compared to parole, which is experienced only after a period of incarceration.

Figure 3: Rates of community supervision in the United States and Europe, per 100,000 adult residents



Sources: Aebi et al. 2020, Figure 2; Kaeble and Alper 2020, Appendix Table 1. Rates of U.S. supervision are as of December 31, 2018; Rates of European supervision are as of January 1, 2019.

(Figure 3).⁶ No U.S. states come close to Europe’s average rate of supervision, and only three (AK, ME, NH) have rates lower than *any* European country.

Significant Racial Inequities Still Exist

Between 2008 and 2018, racial disparities in rates of supervision decreased slightly, but remained significant. Figure 4 shows the racial and ethnic makeup of the U.S. resident population in comparison to the populations of people under probation and parole supervision for 2008 and 2018. For both probation and parole, white people were underrepresented in comparison to their proportion of the general population in 2018, while Black, Latinx, and American Indian and Alaska Native people were overrepresented in at least one form of community supervision.⁷

Figure 5 shows the Relative Rate Index by race and ethnicity for both probation and parole supervision in 2008 and 2018. The Relative Rate Index (RRI) is a tool used to compare rates of system involvement across groups, often used in assessing disparities in the juvenile justice system – it is the method of reporting used by the U.S. Office of Juvenile Justice and Delinquency Prevention (OJJDP). An RRI of 2 indicates that a group is twice as likely to be impacted as the baseline group – in this case, white people. An RRI of 0.5 indicates that a group is half as likely to be impacted as the control group (Hartney and Vuong 2009).⁸

Inequities in supervision rates between Black people and white people declined between 2008 and 2018, but Black people were still 2.6 times as likely to be on probation, and nearly 4 times as likely to be on parole, as white people in 2018. Accordingly, although Black people made up roughly 12% of the general population in both 2008 and 2018, they comprised approximately 30% of people on probation, and approximately 38% of people on parole, in both years.

Disparities in supervision rates between indigenous people and white people also declined, though less significantly, between 2008 and 2018. In 2018, people identifying as Native American or Alaska Native were 48% more likely to be on probation, and 77% more likely to be on parole, than their white counterparts.

Though the data indicate that Latinx people were on parole at roughly the same rates as white people in 2018, and experienced probation at lower rates than white people in both years, Latinx people are systematically undercounted in correctional statistics, as many states do not report data on ethnicity even when they do report data on race (Eppler-Epstein et al. 2016). Therefore, we expect that the BJS data likely underestimates supervision disparities for Latinx people.

⁶ The SPACE II survey from which the European data are drawn does not include rates for six countries: Albania, Germany, Hungary, Liechtenstein, Republic of Moldova, and San Marino. The survey reports on the number of people supervised by probation agencies, which in Europe includes forms of supervision equivalent to U.S. probation and parole. The SPACE II estimates also include some forms of pre-trial supervision which are likely not captured in the BJS analysis of community supervision – this means that Figure 3 may *overstate* rates of supervision in some European countries compared to rates as reported in the U.S.

⁷ BJS reports exclude Latinx people from counts of people across other racial identities – e.g., “Black” refers to Black people who do not also identify as Latinx. We have followed that convention in calculations for both Figure 4 and Figure 5.

⁸ Following the example and methodology of Hartney and Vuong (2009, at 8), we adopted this method to highlight inequities in supervision for Black and brown adults in comparison to white adults. To calculate the RRI, rates for each racial/ethnic group were first calculated as the number of people under supervision per 100,000 of the same racial/ethnic group in the general population. Then, the rates for other groups were divided by the rate for the white population. Values over 1 indicate that a group is overrepresented compared to white people, while values less than 1 indicate that a group is underrepresented.

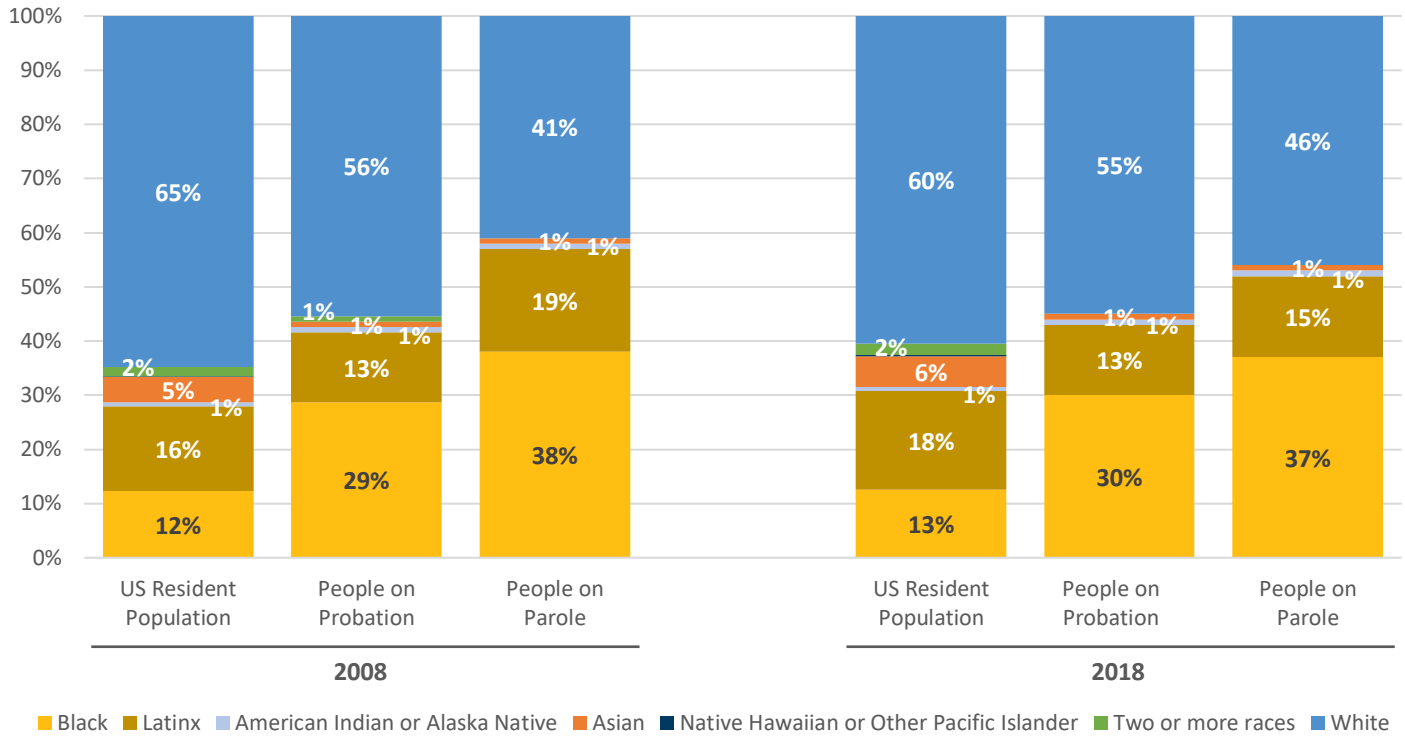
People identifying as Asian experienced probation and parole supervision at lower rates than white people in both 2008 and 2018. And finally, the reported data did not include enough specificity to calculate an RRI for people who identified as Native Hawaiian or Pacific Islander or as multiracial in either year.

There is only a small body of research examining racial disparities in supervision violation charges and outcomes, but available studies suggest that disparities exist at these points, as well, further exacerbating the racial inequities that the BJS data reveal in supervision rates. Research on disparities in parole violation charges have found that Black people are between 50% and over 100% more likely to be charged with parole violations, even when controlling for relevant demographic and legal factors (Grattet et al. 2009; Steen and Opsal 2007; Steen et al. 2012). Research on probation practices found similar disparities in probation violation charges for Black people as compared to white people, as well as higher rates of revocation for both Black and Latinx people (Jannetta et al. 2014; Olson and Lurigio 2000; Steinmetz and Henderson 2016). Black people are also more likely to be returned to prison for a parole violation, which contributes to racial disparities in prison overall (Curry 2016; Vito et al. 2012). Finally, a report by the Brennan Center for Justice found that Black and Latinx people remain on probation and parole longer than similarly situated white people, which other research suggests may hold increasing disadvantages for people of color over time (Eaglin and Solomon 2015; Steen and Opsal 2007).

Research has also shown that the effects of structural racism⁹ are evident in that Black, Latinx, Indigenous, and other people of color disproportionately live in communities experiencing concentrated disadvantage in the form of elevated poverty rates, poor public service provision for things like education, health care, and transportation, and concentrated policing activities (Bullard et al. 2004; Pager 2009; Shannon et al. 2017). Each of these dimensions of disadvantage can impact a person's ability to successfully complete a term of supervision.

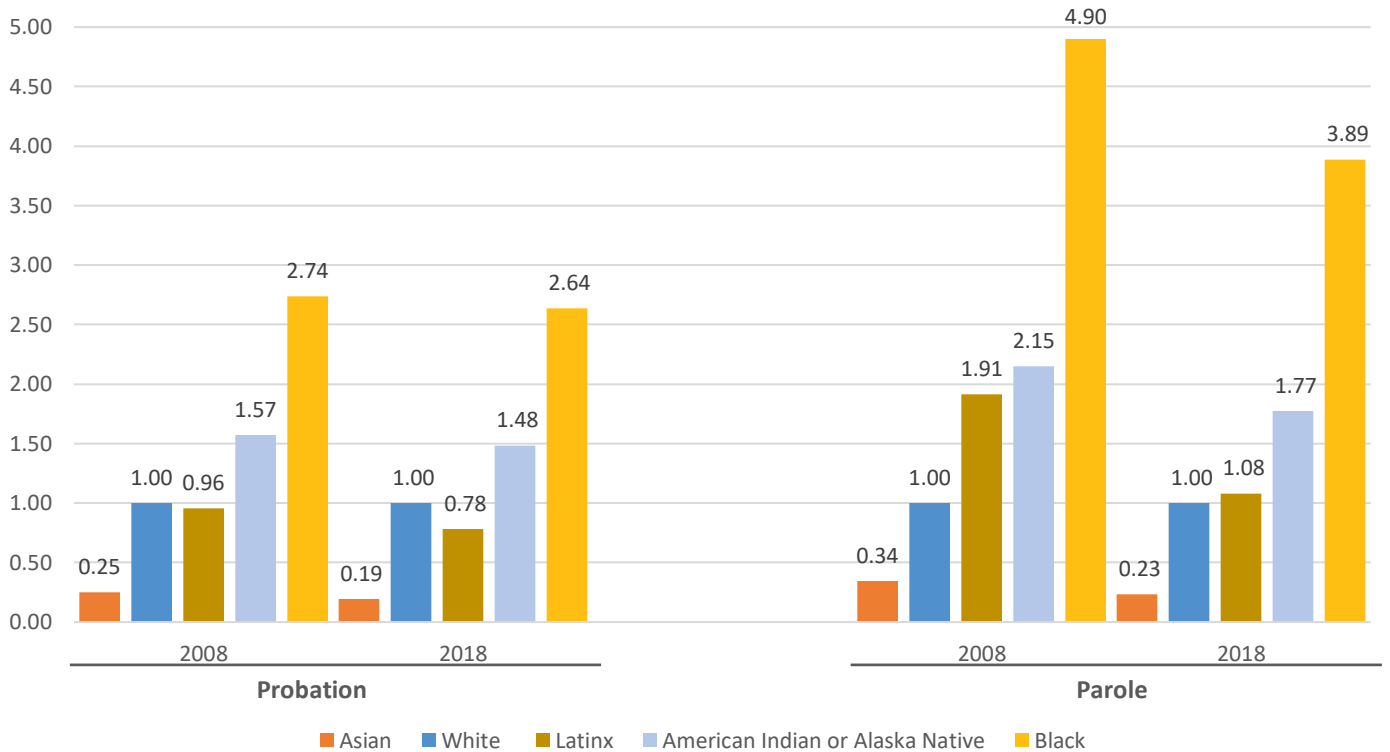
⁹ The term *structural racism* “emphasizes the interaction of multiple institutions in an ongoing process of producing racialized outcomes...A systems approach helps illuminate the ways in which individual and institutional behavior interact across domains and over time to produce unintended consequences with clear racialized effects” (Powell 2008, 791). In other words, it does not require racist actions or intent of individual people, and “even if interpersonal discrimination were completely eliminated, racial inequities would likely remain unchanged due to the persistence of structural racism” (Gee and Ford 2001, 3; Bonilla-Silva 1997; Jones 2000).

Figure 4: U.S. populations, disaggregated by race and ethnicity, 2008 and 2018



Sources: Kaeble and Alper 2020, Appendix Tables 4 and 8; U.S. Census Bureau 2011; U.S. Census Bureau 2020.

Figure 5: Relative Rate Index (RRI) for probation and parole supervision, 2008 and 2018



Sources: Kaeble and Alper 2020, Table 1, Appendix Tables 4 and 8; U.S. Census Bureau 2011; U.S. Census Bureau 2020.

Incarceration for Technical Violations Remains Stubbornly High

Research by the Council of State Governments found that, in 2017, a quarter of admissions to state prisons were for non-criminal, technical violations of probation and parole, costing taxpayers \$2.8 billion (The Council of State Governments Justice Center 2019). The actual costs of incarceration for technical violations is undoubtedly much higher than \$2.8 billion, as this figure does not include the impact or cost of incarcerating people for technical supervision violations in local jails. For example, a 2019 estimate of the costs of incarcerating people for technical parole violations in New York State reveal local jail costs (\$300 million) nearly equaling state prison costs (\$359 million) (See, *A Closer Look at New York Parole*, below; New York State Bar Association 2019).

Though it is the most authoritative and comprehensive analysis of the scope and impact of technical probation and parole violations to date, the Council of State Governments report did note that, “Whether an incarceration is the result of a new offense or technical violation is often difficult and problematic to delineate, even in states with available data. Most states do not consider a supervision violation to be the result of a new offense unless a new felony conviction is present, meaning technical violations may include misdemeanor convictions or new arrests.”

The Bureau of Justice Statistics reports suffer from these same limitations, and yet they represent the best available regular dissemination of national data on U.S. supervision violations. The *Probation and Parole in the United States* series reports the number of people who “exited” probation and parole in each year, and the reason for exit as reported by the state or local jurisdictions responding to the survey. With all the above caveats, we interpret the “under current sentence” category of probation exits and the “with revocation” category of parole exits to be the closest available proxies for technical violations within the BJS data. As such, in the below we will refer to people who exited supervision “under current sentence” or “with revocation” to have been incarcerated for technical violations, and to people exiting supervision “with new sentence” to have been incarcerated for a new criminal conviction.

Using these definitions, the 2017-2018 report indicates that rates of incarceration for technical, non-criminal violations of probation and parole remain stubbornly high. Roughly twice as many people “exited” probation and parole to incarceration for technical violations as for new convictions in 2018 (Kaeble and Alper 2020).

Probation

Across all reporting states¹⁰, roughly twice as many people ended their probation supervision in 2018 by being incarcerated for a technical violation as were incarcerated for a new criminal conviction.

States reported varying levels of detail about the reasons that people exited their probation supervision in 2018. Appendix A analyses the available 2018 data on a number of different dimensions, including the absolute number of people incarcerated, the number of people incarcerated for technical violations, and the proportion of total probation exits represented by each of those numbers. Table 2 presents the five states with the largest absolute number or percentage in each column of Appendix A.

¹⁰ Fifteen states did not report information on the number of people exiting probation to incarceration in 2018, and an additional two provided no data on the number of people incarcerated for technical violations. 82,055 people were reported as exiting probation supervision to incarceration for an “Other/Unknown” reason in 2018. The majority of these people were supervised in Texas (42,951) or Virginia (7,206) – these states did not provide data for the other possible categories of reincarceration.

Table 2: States with high rates of people exiting probation supervision to incarceration, 2018

Total exits to incarceration		Incarceration, % of all exits		Incarceration "under current sentence" (technical violation)		Technical violations, % of all exits	
CA	64,761	WV	50%	CA	46,479	CA	34%
TX	42,951	AK	50%	FL	21,559	AR	31%
FL	35,617	CA	47%	IN	10,545	AZ	24%
IN	20,249	AR	43%	OH	8,174	KY	22%
OH	16,026	TX	32%	AZ	5,608	WY	22%

Source: Justice Lab analysis of Kaeble and Alper 2020, Appendix Table 3. See Appendix A of this report for a full list of states.

A few states stand out as having high numbers and/or percentages across multiple columns. California¹¹ reincarcerated the largest absolute number of people (64,761) from probation in 2018, making up 47% of all exits from probation across the state. California also had the largest number of people incarcerated for technical violations – 46,479 people, or one-third (34%) of all Californians exiting probation for any reason in 2018.

Texas returned the second highest absolute number of people to incarceration (42,951) in 2018, but did not report data that distinguishes between people returning to incarceration for technical violations as opposed to a new conviction. However, based on 2017 data compiled by the Center for State Governments Justice Center, 18% of all people admitted to Texas prisons (roughly 11,470 people) were incarcerated for a technical probation violation (The Council of State Governments Justice Center 2019).

Arizona, Arkansas, Florida, Indiana, and Ohio are the other states that stand out on the high end of the spectrum across at least two categories.

Parole

Across all reporting states¹², more than twice as many people ended their parole supervision in 2018 by being incarcerated for a technical violations as were incarcerated for a new crime.

Though data were more complete for parole exits than for probation exits, states still reported varying levels of detail about the reasons that people exited their parole supervision in 2018. Appendix B of this report analyses the available 2018 data on a number of different dimensions, including the absolute number of people incarcerated, the number of people incarcerated for technical violations, and the proportion of total probation exits represented by each of those numbers. Table 3 presents the five states with the largest absolute number or percentage in each column of Appendix B.

¹¹ In California, Assembly Bill 109 (2011) and Proposition 47 (2014), shifted tens of thousands of people from parole supervision to county probation supervision. See Austin 2016.

¹² Five states did not report information on the number of people exiting parole to incarceration in 2018, and Connecticut additionally provided no data on the number of people incarcerated for technical violations.

Table 3: States with high rates of people exiting parole supervision to incarceration, 2018

Total exits to incarceration		Incarceration, % of all exits		Incarceration "with revocation" (technical violation)		Technical violations, % of all exits	
PA	9,892	UT	71%	IL	7,110	NM	59%
NY	8,758	NM	63%	NY	5,783	UT	53%
IL	8,357	AR	54%	AR	4,736	NH	51%
TX	6,873	NH	51%	PA	4,497	AR	48%
MO	6,413	MO	48%	MO	3,112	HI	40%

Source: Justice Lab analysis of Kaeble and Alper 2020, Appendix Table 7. See Appendix B of this report for a full list of states.

As with probation, there are a few states that stand out as having high numbers and/or percentages across multiple columns. Pennsylvania reincarcerated the highest absolute number of people on parole (9,892) in 2018, nearly half of whom (4,497 people) were incarcerated for a technical violation.

Illinois reincarcerated the highest number of people for technical violations (7,110) and returned the third-largest number of people to incarceration overall (8,357).

New York reincarcerated the second-highest number of people overall (8,758), as well as the second-highest number of people incarcerated for a technical violation (5,783).

Arkansas, Hawaii, Missouri, New Hampshire, New Mexico, and Utah complete the list of states that stand out as having large numbers and/or percentages across multiple categories.

A Closer Look at New York Parole

Because the Justice Lab has released multiple reports focused on parole supervision in New York¹³, we also examined implications of the BJS *Probation and Parole in the United States 2017-2018* report within that context.

In 2018, New York State continued to return the second highest number of people to prison for technical parole violations (5,783) of any state, behind only Illinois (see Table 3). Combining the number of people returning to prisons for technical violations with those incarcerated “to receive treatment” (1,648), New York returns more people to prison for these combined categories of non-criminal behavior than any state (7,431) (Kaeble and Alper 2020, Appendix Table 11). In fact, the “to receive treatment” category is seldom-used across other states, and New York reports imprisoning more people for that reason than all other U.S. states *combined* (1,648 vs. 378).¹⁴

¹³ See Schiraldi and Arzu 2018, Bradner and Schiraldi 2020, and Schiraldi 2020.

¹⁴ It is possible that in other states, people imprisoned for treatment programs in carceral settings are reported in one of the other BJS categories, or that they are not considered to have exited supervision and so are not counted in statistics reported to BJS for this purpose.

A 2019 report estimated that New York State spends approximately \$359 million a year to incarcerate people for technical parole violations and that local communities, including New York City, spend nearly \$300 million annually incarcerating individuals accused of alleged parole violations while they await disposition of their cases (New York State Bar Association 2019).

Earlier this year, research by the Columbia Justice Lab found that:

- Black and Latinx people are supervised by New York State Parole at 6.8 and 2.5 times the rate of white people, respectively – significantly larger disparities than are observed in national parole supervision rates (Bradner and Schiraldi 2020).¹⁵
- Black people are detained for parole violations in New York City jails at 12 times the rate of white people, and Latinx people are detained for parole violations at roughly 4 times the rate of white people.
- Black people are incarcerated for technical violations in New York State prisons at 5 times the rate of white people, and Latinx people are 30% more likely than white people to be in state prison for a technical parole violation.

There are existing policy proposals that aim to reform New York’s parole practices. In 2019, a New York State Bar Association taskforce recommended that people accused of technical violations not be automatically detained pretrial, that technical violations be significantly reduced in number and duration, that people be able to earn time off parole supervision terms, and that savings be reinvested in services and supports for people reentering the community from prison. Similarly, the Less Is More Act ([S.1343C Benjamin/A.5493B Mosley](#)) would limit the offenses for which people can be imprisoned on technical parole violations and the length of their confinement, eliminate automatic detention for people accused of technical violations, and provide “earned time” credits off of parole supervision terms for compliance with parole conditions. Organizing for the Less Is More bill is led by several non-profit advocacy organizations run in whole or in part by people with direct experience on parole¹⁶ and has been endorsed by more than 150 organizations, including seven elected District Attorneys (Katal Center for Health, Equity, and Justice n.d.).

Recommendations

In order to address the continued high rates of community supervision, racial inequities, and incarceration for technical violations, we recommend that state and local policymakers take action in the following ways:¹⁷

Revise policies and laws that produce inequitable outcomes

In their review of racially disparate impacts in the criminal justice system, The Sentencing Project’s first recommendation is to revise policies and laws that have shown disparate impact on Black and brown communities (Ghandnoosh 2015). Given that significant racial and ethnic disparities in supervision rates remain, that previous research indicates that being on supervision longer increasingly disadvantages Black and brown people, and that people of color are disproportionately likely to be charged with violations and to

¹⁵ Nationally, Black people are supervised at 3.9 times the rate of white people, and Latinx people are supervised at 1.1 times the rate of white people – see Figure 5.

¹⁶ A Little Piece of Light, the Katal Center for Health, Equity, and Justice, and Unchained.

¹⁷ These recommendations borrow from previous work by the authors, including Bradner and Schiraldi 2020 and Williams et al. 2019.

experience harsher punishment for violations, policy changes in these areas are likely to carry positive effects for these communities (Curry 2016; Grattet et al. 2009; Jannetta et al. 2014; Olson and Lurigio 2000; Steen and Opsal 2007; Steen et al. 2012; Steinmetz and Henderson 2016; Vito et al. 2012).

Reduce the number of people under supervision

The U.S. continues to experience rates of community supervision that are several times higher than historical and international comparisons. As probation and parole are leading drivers of mass incarceration, carry extensive collateral consequences for people under supervision, are not associated with reduced crime, and deepen existing racial inequities in correctional control, reducing the scope of supervision is imperative by both practical and moral standards (Bonta et al. 2008; Bradner and Schiraldi 2020; Frankel 2020; Loeffler 2013; Pew Public Safety Performance Project 2020; Phelps 2018).

Limit time on supervision to no more than 1-2 years

Probation and parole terms should be only as long as is necessary to achieve the rehabilitative and accountability purposes of community supervision, and no longer. Most re-offenses under community supervision occur within the first year or two of supervision, after which the impact and utility of supervision wanes (Austin 2010; Klingele 2013). Lengthy probation and parole terms not only stretch out already-strained supervision resources, but they serve as unnecessary trip wires to technical revocations (Pew Public Safety Performance Project 2020).

Reducing probation and parole terms is a policy choice that is gaining momentum nationally. At least nine states (AK, AL, GA, HI, LA, MT, NY, TX, and VT) have shortened probation terms over the last decade (Gelb and Utada 2017; New York Consolidated Laws n.d.), and Governor Gavin Newsom and Assemblymember Sydney Kamlager in California are further proposing to short parole and probation terms, respectively, to two years or less ([AB-1182 Carrillo](#)/[AB-1950 Kamlager](#)). The Harvard Kennedy School Executive Session on Community Corrections (2017) recommended combining shortened supervision terms with the ability to earn time off supervision for compliant behavior (see next recommendation). In a consensus document, that group wrote, “Supervision periods should have a relatively short maximum term limit — generally not exceeding two years — but should be able to terminate short of that cap when people under supervision have achieved the specific goals mapped out in their individualized case plans, a milestone often marked by a special ceremony to highlight the significance of the event” (Executive Session on Community Corrections 2017, 4). Executives Transforming Probation and Parole, an organization of 85 probation and parole executives, has similarly recommended to, “Establish reasonable probation and parole terms that are not unnecessarily long (generally no longer than 18 months), and are measured by a balance of safety concerns and an individual’s goals” (EXiT 2019). The American Law Institute’s Model Penal Code: Sentencing (MPCS) likewise recommends, “For a felony conviction, the term of probation shall not exceed three years. For a misdemeanor conviction, the term shall not exceed one year. Consecutive sentences of probation may not be imposed.”

Allow people to reduce their supervision periods through compliant behavior

In at least 18 states (AK, AR, AZ, DE, GA, ID, KS, KY, LA, MD, MO, MS, MT, NH, OR, SC, SD, UT) people can shorten their supervision periods by up to 30 days for 30 days of compliance (Gelb and Utada 2017). “Earned compliance credits” both provide an incentive for people on probation and parole to perform well under supervision, and help focus scarce community supervision resources on those most in need of them.

In 2012, policymakers in Missouri granted 30 days of earned credit for every 30 days of compliance while under supervision for certain people on probation and parole. As a result, 36,000 people under community corrections supervision were able to reduce their terms by 14 months, there was an overall 20% reduction in the number of people under supervision, and reconviction rates for those released early were the same as or lower than those discharged from supervision before the policy went into effect. When New York City Probation increased early discharges nearly six-fold from 2007 to 2013, only 3% of people discharged early were reconvicted of a felony within a year of discharge, compared to 4.3% of those who were on probation for their full term (New York City Department of Probation 2013).

For prison sentences, the majority of U.S. states allow incarcerated people to earn time off their sentence, either through compliance with rules and/or through participation in specific activities such as education or work programs (National Conference of State Legislatures 2016). Research by Stanford economist Mitchell Polinsky (2015) has shown that such programs decrease costs to society without increasing crime.

Earned time credits have been recommended for the probation and parole field by multiple consensus-led publications, including the Harvard Executive Session on Community Corrections (2017), the American Law Institute's Model Penal Code (2017), the Executives Transforming Probation and Parole (EXiT) Statement (2019), and a Framework from the Pew Public Safety Performance Project (2020), and numerous politically and geographically diverse states have experimented successfully with such earned credits for both community corrections supervision and terms of incarceration.

Eliminate incarceration as a response to non-criminal, technical supervision violations

Whether in the form of “holds” while a suspected violation is investigated or revocation of a person's supervision, incarceration is an outsized and highly disruptive response to behavior that is not criminal. As research on pretrial detention has shown, even short periods of incarceration can be highly disruptive to housing, employment, and family ties (Andersen 2016; Apel 2016; Freudenberg et al. 2005; Kling 2006). Moreover, research suggests that charging and incarceration for technical violations is highly racially disparate (Curry 2016; Grattet et al. 2009; Jannetta et al. 2014; Olson and Lurigio 2000; Steen and Opsal 2007; Steen et al. 2012; Steinmetz and Henderson 2016; Vito et al. 2012).

People under community supervision should not be incarcerated, even for short-term holds, unless they are accused of having engaged in criminal activity. In cases where criminal activity is suspected, policymakers should require judicial review *before* a person is incarcerated, with the same level of due process proceedings that would be expected for a member of the public who is not on probation or parole. Policymakers should also require that revocation proceedings only follow *after*, not in place of, full criminal proceedings and conviction. This ensures appropriate due process, and avoids unnecessary incarceration.

The COVID-19 pandemic has revealed that even dramatic policy changes in this area are possible. Over two-thirds of respondents to a survey administered by the American Probation and Parole Association (2020) indicated that their agency had suspended arrest procedures for technical violations since the pandemic.

Invest cost savings in services, supports, and opportunities co-designed by communities highly impacted by mass supervision

If the above policies are enacted, the considerable savings from reducing the number of people incarcerated and under parole and probation supervision should be funneled back into community supports like community development, micro-loans, housing, drug treatment, education and employment services and focused on the

remaining population of those under community corrections supervision. Special attention should be placed on supports that can alleviate racialized harm and reduce racially inequitable outcomes in criminal legal system involvement, education, workforce participation, and other domains.

Communities with the largest criminal legal system footprint are often most in need of these resources (Petteruti et al. 2015). The cycles of supervision and incarceration are particularly disruptive to the processes that are necessary to produce healthy, stable communities – e.g., community engagement, ability to work toward shared goals, and ability to access health, housing, and employment resources (Thomson et al. 2018). Therefore, as mass supervision and its contribution to mass incarceration are reduced, the most effective reinvestments would directly target these harms in communities most impacted.

One particularly promising example of such reinvestment is the Work and Gain Education and Employment Skills (WAGEES) program in Colorado, which is built on the understanding that “local, community-based organizations play a key role in providing services and facilitating engagement that strengthens neighborhoods” (Thomson et al. 2018, 1). Yet, these same local organizations are “often under-resourced and excluded from public safety funding” (Thomson et al. 2018, 1). WAGEES targets this gap, by reallocating state correctional dollars to make “grants to community-led organizations that provide direct services to a local client base of formerly incarcerated people” who are returning to the community following a period of incarceration (Thomson et al. 2018, 2). This represents a direct vehicle for investment in and partnership with community providers, many of which are led by people directly impacted by the justice system.

Similar community-led organizations could use the money currently spent on the oversupervision and overincarceration of U.S. residents to make communities stronger and more equitable.

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Appendix A

Appendix Table A: People exiting probation supervision to incarceration, 2018

Jurisdiction	Total exits to incarceration	Incarceration, % of all exits	Incarceration "under current sentence" (technical violation)	Technical violations, % of all exits
U.S. total	294,355	16%	135,565	7%
Federal	772	9%	772	9%
State	293,583	16%	134,793	7%
Alabama	2,350	15%	581	4%
Alaska	650	50%	~	~
Arizona	6,175	26%	5,608	24%
Arkansas	4,414	43%	3,118	31%
California	64,761	47%	46,479	34%
Colorado	9,598	17%	887	2%
Connecticut	..	..	..	..
Delaware	1,156	10%	848	7%
District of Columbia	794	18%	0	0%
Florida	35,617	25%	21,559	15%
Georgia	4,222	2%	1,377	1%
Hawaii	1,162	29%	638	16%
Idaho	4,141	29%	..	..
Illinois	517	1%	~	~
Indiana	20,249	23%	10,545	12%
Iowa	1,843	12%	395	3%
Kansas	156	1%	156	1%
Kentucky	4,888	30%	3,571	22%
Louisiana	3,936	23%	2,474	14%
Maine	245	8%	..	..
Maryland	4,925	15%	2,127	6%
Massachusetts	..	..	..	..
Michigan	3,477	4%	2,209	2%
Minnesota	..	..	..	..
Mississippi	2,946	30%	1,715	18%
Missouri	5,164	21%	3,403	14%
Montana	970	24%	583	15%
Nebraska	2,213	20%	101	1%
Nevada	..	..	..	..
New Hampshire	137	6%	137	6%
New Jersey	..	..	..	..
New Mexico	..	..	..	..
New York	..	..	..	..
North Carolina	4,977	10%	1,889	4%
North Dakota	1,036	26%	519	13%
Ohio	16,026	12%	8,174	6%

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Jurisdiction	Total exits to incarceration	Incarceration, % of all exits	Incarceration "under current sentence" (technical violation)	Technical violations, % of all exits
Oklahoma	1,770	15%	1,047	9%
Oregon	4,253	16%	3,692	14%
Pennsylvania	13,217	15%	3,110	3%
Rhode Island	..	..	..	..
South Carolina	2,166	15%	1,753	12%
South Dakota	761	23%	..	..
Tennessee	6,490	30%	3,885	18%
Texas	42,951	32%	..	..
Utah	1,020	16%	473	7%
Vermont	..	..	..	..
Virginia	7,206	23%	..	..
Washington	1,693	5%	582	2%
West Virginia	2,616	50%	611	12%
Wisconsin	..	..	..	..
Wyoming	695	28%	547	22%

Source: Justice Lab analysis of Kaeble and Alper 2020, Appendix Table 3. Note: Following BJS convention, “..” indicates an unknown; “~” indicates not applicable.

Appendix B

Appendix Table B: People exiting parole supervision to incarceration, 2018

Jurisdiction	Total exits to incarceration	Incarceration, % of all exits	Incarceration "under current sentence" (technical violation)	Technical violations, % of all exits
U.S. total	111,651	25%	70,224	16%
Federal	12,070	24%	12,069	24%
State	99,581	25%	58,155	15%
Alabama	837	26%	120	4%
Alaska	..	..	..	..
Arizona	2,554	22%	2,535	22%
Arkansas	5,303	54%	4,736	48%
California	..	..	..	..
Colorado	3,758	47%	2,558	32%
Connecticut	915	36%	..	..
Delaware	2	1%	1	1%
District of Columbia	565	39%	0	0%
Florida	1,066	17%	735	12%
Georgia	2,583	24%	30	0%
Hawaii	354	40%	352	40%
Idaho	1,080	41%	682	26%
Illinois	8,357	36%	7,110	30%
Indiana	2,141	36%	1,778	30%
Iowa	1,713	45%	998	26%
Kansas	1,145	26%	961	22%
Kentucky	1,619	14%	1,172	10%
Louisiana	3,961	21%	777	4%
Maine	0	0%	0	0%
Maryland	653	16%	240	6%
Massachusetts	517	23%	453	20%
Michigan	2,581	25%	1,596	15%
Minnesota	2,972	45%	2,591	40%
Mississippi	1,917	32%	1,208	20%
Missouri	6,413	48%	3,112	23%
Montana	275	38%	3	0%
Nebraska	393	33%	393	33%
Nevada	1,037	27%	356	9%
New Hampshire	649	51%	649	51%
New Jersey	1,597	33%	1,492	31%
New Mexico	1,234	63%	1,160	59%
New York	8,758	44%	5,783	29%
North Carolina	1,473	10%	312	2%
North Dakota	248	22%	106	9%
Ohio	4,693	43%	2,451	23%

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Jurisdiction	Total exits to incarceration	Incarceration, % of all exits	Incarceration "under current sentence" (technical violation)	Technical violations, % of all exits
Oklahoma	~	~	~	~
Oregon	2,642	29%	1,695	18%
Pennsylvania	9,892	19%	4,497	9%
Rhode Island	51	26%	36	18%
South Carolina	183	7%	159	6%
South Dakota	957	46%	721	34%
Tennessee	1,405	39%	686	19%
Texas	6,873	19%	1,216	3%
Utah	1,964	71%	1,464	53%
Vermont	..	..	..	..
Virginia	164	28%	40	7%
Washington	1,658	30%	805	15%
West Virginia	245	13%	232	13%
Wisconsin	..	..	..	..
Wyoming	184	30%	154	25%

Source: Justice Lab analysis of Kaeble and Alper 2020, Appendix Table 11. Note: Following BJS convention, “..” indicates an unknown; “~” indicates not applicable.