

No. 24-1325

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

DION HORTON, et al.,

Plaintiffs–Appellants,

v.

ADMINISTRATIVE JUDGE JILL RANGOS, et al.,

Defendants–Appellees.

On Appeal from a Final Judgment of the
United States District Court for the Western District of Pennsylvania
Case No. 2:22-cv-1391, Hon. Nicholas Ranjan

**BRIEF OF THE PROBATION AND PAROLE PROJECT OF
THE JUSTICE LAB AS *AMICUS CURIAE*
SUPPORTING APPELLANT AND REVERSAL**

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CORPORATE DISCLOSURE STATEMENT

Amicus is a nonprofit organization. It has no parent corporation, and no publicly held corporation owns any portion of it.

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INTERESTS OF THE AMICI CURIAE¹

The Probation and Parole Project is housed within the Justice Lab, a research center at Columbia University. Through actionable research and policy development, convening system and community stakeholders, and site-specific engagement strategies, the Justice Lab's Probation and Parole Project aims to shift the way probation and parole systems operate in the United States. *Amicus* envisions a world where probation and parole are smaller, less punitive, and more hopeful, equitable, and helpful, and where resources are invested directly to communities in ways that advance collective efficacy, opportunity, and racial equity.

INTRODUCTION

In pressing their challenge on behalf of probationers, Appellants have cited to precedents and other authorities discussing the rights of people serving the parole portions of their sentences after already having served the portion requiring incarceration. This makes sense; some due process precedents discuss the two in similar ways, because both probationers and parolees have fewer due process protections than people never convicted at all. *See, e.g., Gagnon v. Scarpelli*, 411 U.S. 778 (1973); *Morrissey v. Brewer*, 408 U.S. 471 (1972). But as it considers this appeal, *Amicus* urges the Court to recognize that probation and parole differ in numerous important ways, that probationers have important liberty interests at stake beyond

¹ This brief has been authored entirely by *Amicus* and its counsel, and no Party or Party counsel, or any other person or entity, has contributed money or other financial support to fund the preparation or filing of this brief. *Amicus* files this brief with the consent of the Parties.

those contemplated by the District Court, and that those distinctions and the liberty interest counsel even more strongly in favor of reversal here. First, probation and parole apply to different groups of people—most notably, probation generally applies to people who have engaged in less serious underlying conduct. Second, *Amicus* notes that the history of probation demonstrates that we have strayed far afield from its original purpose and usage, including particularly Appellees’ practices at issue in this case. And finally, *Amicus* observes that the stakes here could not be higher. Probation, far more than parole, drives mass incarceration across the country.

ARGUMENT

I. Probation and parole both implicate liberty interests, but they have important differences in application and effect.

Both the District Court and the Parties cited and discussed precedents involving both probation and parole. But probation and parole differ in numerous important ways relevant to the liberty interests at stake and therefore to this case. Probation, unlike parole, often applies as a sentence in lieu of (initial) incarceration for low-level crimes, while parole necessarily follows periods of (often long) in-custody incarceration for more serious offenses. *See, e.g.*, Columbia University | The Justice Lab, Too big to succeed: The impact of the growth of community corrections and what should be done about it (Jan. 29, 2018) (describing probation as “an up-front diversion from incarceration” and parole as “a back-end release valve”).² Probation also

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Available at:
https://justicelab.columbia.edu/sites/default/files/content/Too_Big_to_Succeed_Report_FINAL.pdf

happens at a far greater scale than parole. *See* Section III, *infra*. In part because of those differences, probation, far more than parole, drives mass incarceration. It does so through intensive and ongoing supervision, with costs often imposed on the probationers themselves, and by imposing essentially a code governing conduct and character for people subjected to it—one that far exceeds what criminal laws can or do. All of this sets up probationers to fail, and to face incarceration for that failure. For the purposes of this case, *Amicus* would explain some of the important differences between probation and parole and the onerousness of probation in more detail.

First, even within the population of people on some form of community supervision, the people subject to probation and parole differ in important ways. Probation is often a suspended sentence for some criminal offense, imposed in lieu of a term of years in custody, although it is sometimes used in addition to some term in physical custody. Michael P. Jacobson, Vincent Schiraldi, Reagan Daly, and Emily Hotez, *Less is More: How Reducing Probation Populations Can Improve Outcomes*, Harvard Kennedy School (Aug. 2017), 2.³ Courts generally imposes such suspended sentences because the offenses are less serious; 35% of people of probation with known offense characteristics committed at most a misdemeanor, and only 25% total committed any offense involving violence. Danielle Kaebler, *Probation and Parole in the United States, 2022*, Bureau of Justice Statistics (May 2024).⁴ While some people

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https://www.hks.harvard.edu/sites/default/files/centers/wiener/programs/pcj/files/less_is_more_final.pdf.

⁴ *Available at:* <https://bjs.ojp.gov/document/ppus22.pdf>.

serve long probation sentences for some offenses, the average time someone spends on probation is about two years, and probation sentences typically range from one to five years long. *Less is More*, *supra*, at 3. Qualifying generally does not depend on someone's pre-probation conduct, in the sense that people do not apply and have an appointed or elected board pass judgment on their request.

Parole applies to a very different population. In contrast to probation, parole—in states that still offer parole, a number that has declined over time, *see* Jorge Renaud, Grading the parole release systems of all 50 states, Prison Policy Initiative (Feb. 26, 2019)⁵—is often only available toward the end of an in-custody sentence, often as an acknowledgement of substantial pre-parole rehabilitation while in custody. *Id.* In one study, the average amount of time prior to parole grants for people sentenced to life with the possibility of parole sentences has increased from 12 years in the 1980s to 25 years by the 2020s. Ashley Nellis, *No End In Sight: America's Enduring Reliance on Life Sentences*, The Sentencing Project (2021).⁶ By virtue of someone serving an in-custody sentence in the first place, parole, unlike probation, applies to people who committed felonies, not misdemeanors—and the pre-parole sentence length reflects the more serious underlying felonies often involved. People also must apply for parole, and have their requests considered at hearings where victims of the parole-seeker's crime often have a right to testify in opposition. *See, e.g.*, 61 Pa. C.S. § 6134.1(c)(1); *see also* 61 Pa. C.S. § 6140. Parole is therefore often refused.

⁵ *Available at:* https://www.prisonpolicy.org/reports/grading_parole.html.

⁶ *Available at:* <https://www.sentencingproject.org/reports/no-end-in-sight-americas-enduring-reliance-on-life-sentences/>.

Second, probation requires and imposes a lot of carceral surveillance and onerous costs on people subjected to it. As to the former, it often requires in-person reporting, though also often requires electronic monitoring, phone or mail check-ins, and other mechanisms of regular contact. Less is More, *supra*, at 3. As to the latter, most jurisdictions have dealt with an unwillingness to fund probation by simply passing the costs of probation on to the people subject to it. *See also* Section II, *infra*. Those costs can be substantial, and are ever expanding—“supervision fees, court costs, urinalysis fees, electronic monitoring fees, DWI/DUI education class fees, anger-management class fees, counseling fees, and fines” all often come directly out of the pockets of individual probationers. Less is More, *supra*, at 5 (quoting Ronald P. Corbett, Jr., *The Burdens of Leniency, the Changing Face of Probation*, 99 MINN. L. REV. 1697, 1712 (2015)). These numerous and substantial fees come with an inherent irony for many probationers—if they could afford these things, they would likely never have ended up on probation in the first place. Less is More, *supra*, at 5 (quoting *Burdens of Leniency*, *supra*, at 1713). Not all people on probation are poor, to be sure. “However, in most cases, if you’re on probation in the large urban areas, where most probationers reside, you’re often flat broke.” *Burdens of Leniency*, *supra*, at 1713.

Third, and relatedly, probation exerts an enormous amount of control over the lives of people subject to it. As a general matter, probation imposes requirements upon people, with the threat of revocation—and remand to physical custody to serve the initially suspended sentence—if the person does not or cannot meet those requirements. Because failing to meet them can result in physical in-custody incarceration, those requirements become essentially criminal law governing the

lives of people on probation. Fiona Doherty, *Obey All Laws and Be Good: Probation and the Meaning of Recidivism*, 104 *GEORGETOWN L.J.* 291, 295 (2016). But those requirements often far exceed the scope of conduct regulated by criminal law. Common requirements include prohibitions on interacting with certain individuals or groups (including, sometimes, particular family members); working at an occupation, including sometimes as directed by a probation officer; maintaining or fulfilling certain familial roles or obligations; not using certain drugs—including those otherwise legal in a jurisdiction, and including prescribed drugs to combat opioid addiction, like suboxone or naloxone—following particular curfews; attending certain kinds of treatment or therapy; or any number of other things. *Id.*, at 295; *Less is More, supra*, at 3; *see also* The National Sheriffs' Association and National Commission on Correctional Healthcare, *Jail-Based Medication-Assisted Treatment Promising Practices, Guidelines, and Resources for the Field* (Oct. 2018). Courts and probation officers imposing and overseeing these requirements may perceive such requirements to be pro-social, and as net positives for both communities and the individuals on probation themselves. But a probation officer's or judge's subjective judgment might lead them to impose controversial conditions such as a bar on becoming pregnant, or even prior restraints on speech. *Less is More, supra*, at 4 (describing pregnancy ban); Ramon Antonio Vargas, Rapper BG ordered to have all future songs approved by US government, *The Guardian* (July 2, 2024). And in any event, regardless of the specifics, for people on probation, that subjective judgment substitutes for criminal statutes passed by elected legislative bodies and upheld in the face of pre-enforcement and other challenges in courts.

The result is that probation “necessarily also broaden[s] the behavior that constitutes recidivism . . . that can result in a custodial sentence.” *Obey All Laws and Be Good*, *supra*, at 295. Someone on probation who commits murder-for-hire faces—at least on their underlying sentence of probation—the same potential consequences as someone who violates a probation requirement not to interact with a cousin in a gang by going to a family cookout. *See, e.g.*, Nancy LaVigne et al., Urban Institute, Justice Reinvestment Initiative State Assessment Report 8 (2014); *see also* Adult Prob. & Parole Dep’t, Montgomery Cnty., Pa., Probation/Parole and Intermediate Punishment Rights, Waiver, and Acknowledgment (“If the Court decides that I have violated one or more conditions of my probation . . . I may be committed to prison for such time as may be specified by the Court . . .”).

II. The history of probation in the United States.

Probation did not have to be this way. It has changed substantially since its origins. Probation pre-dates parole, and it traces all the way back to the early 1840s. Too big to succeed, *supra*, at 1; Less is More, *supra*, at 2. It originally focused on rehabilitation, recognizing that some people could safely exchange harsh in-custody punishment for rehabilitation, *id.*, in the form of “a plan of supervision and friendly personal guidance.” Charles Chute, The Extension of Probation in the Criminal Courts, 136 *Annals of the American Academy of Political and Social Science* 136, 136 (Mar. 1928).⁷ It may have lacked for formality, but it made up for that with individualized plans that focused on the specific needs of the person in question. Less

⁷ Available at: <https://journals.sagepub.com/doi/10.1177/000271622813600120>.

is More, *supra*, at 2. Indeed, in the late 1800s and early 1900s, prevailing political views of the era “put a more social scientific gloss on probation,” and people running probation systems turned to psychology, psychiatry, and social work for the help probationers—“seen as clients” by those in charge—needed the most. Burdens of Leniency, *supra*, at 1705. People on probation did not need to adhere to numerous complicated requirements; even into the early 20th Century, people “typically had to adhere to relatively few standard conditions of probation.” *Id.* at 1707 (internal quotation omitted). Probation originally intended to help people improve, offered targeted guidance in service of that, and aimed to have probationers thrive in their communities.

But over time, probation “developed very haphazardly and with no real thought.” Less is More, *supra*, at 2 (citation and internal quotation omitted). Without cohesive or intentional development, it departed substantially from its original intentions “as early as the 1960s.” Too big to succeed, *supra*, at 1; Corbett, *supra*, at 1705-06 (discussing the shift in emphasis from rehabilitation to “punishment, deterrence, and public safety as the new priorities”). That shift in emphasis manifested in both substantive differences in the very nature of probation, and through an enormous increase in the number of people on probation. As to substantive changes, some of the changes to probation tracked an overall increase in punitiveness throughout the criminal justice system in the latter half of the 20th Century—including the war on drugs, changes to criminal sentencing to reduce discretion and increase sentence length, and three strikes laws, among other things. *See* Burdens of Leniency, *supra*, at 1707. But for probation specifically, more punitiveness meant greatly increasing

the number and type of conditions on people, and increasingly imposing fines and fees on top of the term of probation itself. Too big to succeed, *supra*, at 5; *see also* Burdens of Leniency, *supra*; *see also* Less is More, *supra*, at 5. Other changes reflected the greater ability of the criminal justice system to monitor even people in the community because of increasingly sophisticated surveillance technology. Too big to succeed, *supra*, at 5 (collecting sources). Greater surveillance capacity—including through drug tests, payment collection and tracking, electronic curfew monitoring, and other tools—has ensured that when people do violate probation requirements, even in ways that in the past would not have risen to the level of the criminal justice system’s attention, the probation system now “[is] going to find problems” and revoke probation. Less is More, *supra*, at 6 (internal quotation omitted). Ultimately, “modern day probation systems focus heavily on enforcement and deterrence, not a mission of benevolence” reflecting the rehabilitative intentions of probation’s initial conception. Obey All Laws and Be Good, *supra*, at 297.

As to the number of people on probation, it increased substantially, straining the system far beyond the size that would accommodate careful individual rehabilitation planning for all probationers. Between 1980 and 2018, probation expanded nearly four-fold, increasing from a little more than a million as late as 1980 to a peak of nearly 4.3 million in the late 2000s (prior to modest declines over the last decade-plus). Too big to succeed, *supra*, at 2. Even with the enormous increase in the number of people on probation, however, there was no corresponding increase in resources for community supervision. *Id.* at 1, 3. Probation been funded neither based on its own absolute growth, nor based upon its comparative growth within the criminal justice

system. During the boom through the 1980s into the late 2000s, about twice as many people were added to the community corrections population than to the prison population. *Id.* at 4. Despite that difference, nine out of every ten new dollars added to correctional budgets over the same time got spent on prisons. And by the peak of the probation population in the late 2000s, even though there were more than twice the number of people on probation and parole as the number of people in physical custody, nearly 90% of all total money spent on corrections was still spent on prisons and physical custody. *Id.* at 3. Of the money spent on probation, the vast majority simply pays the salaries of probation officers—leaving no money for the types of rehabilitation and programs that people on probation often need. *Less is More, supra*, at 5. And for the officers the system does fund, caseloads exploded, which has both increased probation officers' incentive to violate probationers and has made it more difficult for them to supervise people. *Too big to succeed, supra*, at 5 (citing Michelle S. Phelps and Caitlin Curry, *Supervision in the Community: Probation and Parole, Oxford Research Encyclopedia of Criminology*, Oxford University Press (April 26, 2017)⁸). And sure enough, revocation of probation for technical violations—i.e., non-compliance with conditions of probation that did not independently amount to a criminal offense—increased by 50% just from 1990 to 2004. *Too big to succeed, supra*, at 6; *see also* *Burdens of Leniency, supra*.

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As those numbers imply, the departure of probation from its historical origins has only accelerated through the first two decades of this century. That acceleration has exacerbated probation’s problems for both individuals and communities. As alluded to in Section I, for example: because probation receives so comparatively little funding from correctional budgets, many jurisdictions choose to pass the costs of probation on to the people on probation themselves. *Too big to succeed, supra*, at 4. This happens via fines and fees, or through arrangements with private companies who oversee probation at no or low cost in exchange for being able to charge people on probation. *Less is More, supra*, at 5; Dave Lieber, *Watchdog: Pay-or-go-to-jail policy makes probation officers bill collectors*, *Dallas Morning News* (April 1, 2016).⁹ But regardless of the exact mechanism, the practice of imposing costs directly on probationers—people far more likely to be poor in the first place—directly undermines the original goal of rehabilitation, forcing people to scramble to make money however they can, including by potentially turning to criminal activity. *Less is More, supra* at 6. Even for people who simply must work even harder at above-board but low-wage jobs, that additional work comes at the expense of often time-consuming (or expensive) personal improvement activities. *Burdens of Leniency, supra*, at 1712. As another example, the increase in revocations for technical violations has meant that by the late 2010s, nearly a third of people in jail and a quarter of people in prison went there while on probation. *Too big to succeed, supra*, at 6; Michelle S. Phelps, “Mass Probation and Inequality: Race, Class, and Gender Disparities in Supervision,” published in Jeffery

⁹ *Available at:* <https://www.dallasnews.com/news/watchdog/2016/04/01/watchdog-pay-or-go-to-jail-policy-makes-probation-officers-bill-collectors/>.

T. Ulner and Mindy S. Bradley (eds.), *Handbook on Punishment Decisions: Locations of Disparity*, Routledge (2017)¹⁰).

Despite these enormous changes over time, probation's comparative reputation has only very lately caught up those changes. As recently as last decade, civil liberties organizations like the ACLU actively advocated for probation in at least some circumstances, because advocates still perceived probation as a useful or plausible alternative to physical incarceration. *See* American Civil Liberties Union, *Smart Reform is Possible: States Reducing Incarceration Rates and Costs While Protecting Communities* 11 (2011) (advocating probation as alternative to incarceration for low-level drug offenders). But for all the reasons discussed above, many advocates now view probation as a trap—likely to result in revocation for technical violations, and simply setting many people up to fail. That shift is because, by any accounting, probation now looks very little like it did in the mid-to-late 1800s, in ways that increasingly jeopardize people's liberty interests.

III. Despite its original premise of rehabilitation, probation now substantially drives mass incarceration.

Probation's departure from its original promise of rehabilitation now substantially drives mass incarceration. The differences between how probation works now versus its origins manifests clearly in the statistics that we have available. Those data show that probation—far more than parole—plays a key role in driving mass incarceration

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<https://books.google.com/books?hl=en&lr=&id=8yA6DwAAQBAJ&oi=fnd&pg=PT85&ots=ML0KaNr7Gd&sig=Ws8uaoA5bydYV4Jv7d7JfQkPhW0#v=onepage&q&f=false>.

in America today. Community supervision exceeds the total in-custody prison population at any given time, and it already plays a key role in the carceral state. But as relevant to this brief, within community supervision and revocations of it, probation and parole are contributing very differently to mass incarceration. Probation revocations dwarf parole revocations in absolute numbers, and have for years. They continue to do so even as modest reforms in some jurisdictions have reduced the number of people detained after probation revocations. This owes in part to the sheer scale by which probation revocations have always exceeded parole revocations, and in part to recent declines in use of parole in some states (and the corresponding decline in total parole population and subsequent revocation). Ultimately, as this case illustrates, the ease with which the justice system can shift people on probation into physical custody makes revocation one of the most direct contributors to mass incarceration, and it underscores the importance of reversal here.

First, people on probation and parole in general form a substantial share of people under some form of carceral control in America. At the end of 2022—the most recent year for which the Bureau of Justice Statistics has data—nearly 3.7 million people were under community supervision of some kind. Probation and Parole in the United States, *supra*, at 1. That 3.7 million far exceeds the number of people in physical custody—in the same data collection window, only about 1.7 million people were incarcerated in prisons and jails. Emily D. Buehler and Rich Kluckow, Correctional Populations of the United States, 2022 – Statistical Tables, Bureau of Justice Statistics (May 2024) (describing 5.4 million people combined in physical custody and

on community supervision).¹¹ Simply put, “more than two-thirds of people under correctional supervision were supervised in the community on probation or parole.” *Id.* at 1.

Of those people on community supervision, the vast majority of them were on probation rather than parole. Of the roughly 3.7 million, parole amounted to less than 700,000 of them—just 19%. Probation and Parole in the United States, *supra*, at 1. And while the probation population meaningfully declined in 2020 (reflecting prosecution and other trends at the outset of the COVID-19 pandemic), since then, probation and parole populations have headed in opposite directions. In 2022, “entries to probation increased 10.7%,” meaning nearly 1.6 million new people on probation in 2022. *Id.* Parole, by contrast, arrived at the roughly 700,000 number by declining 6.2% from 2021. *Id.* And to be clear, because of some of the differences discussed in Section I, *supra*, expanding probation and declining parole actually represent an expansion of carceral control in both ways. The alternative to probation is generally diversion or other less carceral options; declines in parole represent people continuing to serve sentences in physical custody instead of shifting to community supervision. *See* Parole Release Systems of All 50 States, *supra*. The trend of declining parole reflects deliberate efforts on the parts of some states to limit it, specifically in favor of keeping people in physical custody. Emmett Sanders, No Release: Parole Grant Rates have plummeted in most states since the pandemic started, Prison Policy Initiative (Oct. 16, 2023) (describing declining parole approval

¹¹ Available at: <https://bjs.ojp.gov/document/cpus22st.pdf>.

rates in numerous states, and increasing approval rates between 2019 and 2022 in just six states);¹² Ivana Hrynkiw, Alabama has stopped nearly all paroles: Explaining the Leigh Gwathney effect, Alabama Media Group (January 23, 2024) (describing a parole grant rate of just 8%, compared to a grant rate of more than 50% just five years ago).¹³

Keeping people on probation without good reason drives mass incarceration for several reasons. Community supervision and its associated conditions and surveillance exert carceral control, full stop. But beyond that, probation drives mass incarceration because it both sets people up to fail and simultaneously undermines their ability to thrive in their communities. As to the former, many people are detained in a jail once charged with a violation—and can wait there for months before that violation is adjudicated. Even if their probation is not revoked, they cannot get that time back. If their probation is revoked, they can end up going to prison. *See Less is More, supra*, at 4. Perhaps worst of all, they can fall into this jail-to-prison revocation trap for “technical violations,” or violations of probation requirements that do not independently amount to criminal conduct. *See Section I, supra* (discussing technical violations). In any situation involving revocation for a technical violation, the end result is a person that both a prosecutor and a judge agreed did not need to go to prison, who engaged in no further criminal conduct, nevertheless goes to

¹² Available at: <https://www.prisonpolicy.org/blog/2023/10/16/parole-grants/>.

¹³ Available at: <https://www.al.com/news/montgomery/2024/01/alabama-has-stopped-nearly-all-paroles-explaining-the-leigh-gwathney-effect.html>.

prison—unnecessary for public safety purposes, a waste of resources, and devastating to that individual.

As to the latter, supervision “can actually threaten public safety” for several reasons. *Less is More*, *supra*, at 2. One is because it can drive job loss and housing instability. Another is that for people who end up in the criminal justice system because they are struggling with opioid addiction, probation can pose a particular problem because many courts and probation officers substitute their own personal views of medication-assisted treatment to bar such people from using opioid agonists like suboxone or naloxone to fight and manage their chemical addictions, even if recommended by medical professionals. *See* National Sheriffs’ Association, *supra* (advising “law enforcement officers, probation and parole agents, judges, and correctional officer” not to substitute their own judgment on those medications);¹⁴ *see also* C. Brendan Clark, et al., *Methadone maintenance treatment may improve completion rates and delay opioid relapse for opioid dependent individuals under community corrections supervision*, 39 *Addict. Behav.* 1736, 1740 (2014). And especially in jurisdictions where people must pay onerous fines and fees while on probation, those costs can have enormous negative effects on people’s ability to thrive and drive probation revocations all on their own.

Worst, it does all of this without a corresponding increase in public safety. As 35 community corrections administrators, nearly 50 current and former lead prosecutors, and several associated organizations involving correctional and law

¹⁴ *Available at*: <https://www.sheriffs.org/publications/Jail-Based-MAT-PPG.pdf>.

enforcement leaders observed in 2017, “increasingly sophisticated research has shown that we can responsibly reduce probation and parole populations,” including that we can simultaneously “significantly reduce the footprint of probation and parole *and* improve outcomes and public safety.” Statement on the Future of Community Corrections, Harvard Kennedy School (Aug. 28, 2017) (emphasis in original).¹⁵ Numerous states and cities have tweaked probation rules—including by awarding people more time credits for compliance, making risk assessments before imposing potentially unnecessary onerous conditions, and otherwise using less intrusive surveillance techniques—and seen both enormous cost savings and no apparent negative effect on public safety. Too big to succeed, *supra*, at 7. Jurisdictions’ ability to put fewer people on probation while maintaining public safety reflects the growth of probation to include supervision of people who do not need it. And by contrast, declining to put people on needless probation also helps focus resources on the people on probation who actually need them the most, taking tentative steps back toward probation’s origins as a rehabilitative tool. *Id.* at 8. This is why community supervision and prosecution executives and leaders have recommended reducing the overall use of community corrections by putting fewer people under supervision, for less time, under fewer unnecessary conditions. Statement, *supra*.

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<https://www.hks.harvard.edu/centers/wiener/programs/criminaljustice/research-publications/executive-session-on-community-corrections/publications/less-is-more-how-reducing-probation-populations-can-improve-outcomes/statement-on-the-future-of-community-corrections> (listing signatories at the end).

CONCLUSION

For all of the foregoing reasons, in addition to the ones discussed in the Appellants' Brief, the judgment of the district court should be reversed.

Respectfully submitted,

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July 5, 2024

CERTIFICATE OF COMPLIANCE

In accordance with Federal Rule of Appellate Procedure 32(a)(7)(C), I certify that this brief:

(i) complies with the type-volume limitation of Rule 32(a)(7)(B) because it contains 4,453 words, including footnotes and excluding the parts of the brief exempted by Rule 32(a)(7)(B)(iii); and

(ii) complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared using Microsoft Office Word 16.66.1, set in Century Schoolbook 12-point type; and

(iii) was scanned for viruses prior to submission.

I further certify that I am a member in good standing of the bar of the Third Circuit.

/s/ Jim Davy

Jim Davy

CERTIFICATE OF SERVICE

I certify that on July 5, 2024, this brief was filed using the Court's CM/ECF system. All participants in the case are registered CM/ECF users and will be served electronically via that system.

I further certify that within the required time, I will serve 7 paper copies of this brief upon the Clerk of Court.

I further certify that those paper copies will be identical to the electronically-filed version of the brief.

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