



Lehigh County
Pennsylvania

Mark Pinsley, MBA
COUNTY CONTROLLER

Nanton John, CFE
DEPUTY CONTROLLER

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ESSAY

CONCERNING

Adult Probation Services

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MARK PINSLEY, MBA

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State of Probation:

Probation or the state of supervised release from jail in the United States has increased in use over the decades tracking directly with the rates of incarcerated individuals. According to the Vera Institute of Justice, from 1977 to its peak in 2007 grew by 816,525 to 4,293,000 which constituted a 426% increase. While the number has slightly diminished in the years that followed, a significant number of people remain under supervised release. In 2019, the reported number of people on probation was 3,492,900.¹

In 2019, one in 73 adults in the United States was on probation, representing more than 55 percent of people under any form of correctional control, and there were almost 1.5 million more people on probation than in jails and prisons combined according to the Vera Justice Institute.²

Furthermore, probation rates in the United States have historically averaged between five to ten times higher than the European average, and on balance the U.S. has a higher number of conditions, a greater emphasis on enforcement and control, less supportive assistance and higher rates of incarceration to punish failure to comply with the provisions as reported by the Vera Institute of Justice.³

Pennsylvania, is one of the leading states in the country for individuals under supervised release, including probation and parole. A 2018 report from the Pennsylvania Board of Probation and Parole found that approximately 246,995 individuals supervised by county parole boards, accounting for 86.3% of all supervised individuals. The remaining 13.7% of individuals are supervised by the Pennsylvania Board of Probation and Parole.⁴

These probation departments are primarily funded through grants and the imposition of fines and fees on those subjected to parole and probation to compensate the staff who administer each program. For example, in the 2017-2018 budget, grant-in aid money designated for Pennsylvania counties totaled \$16,222,000 for the improvement of adult probation and parole services. The majority of these funds were directed towards paying for 1,014 adult probation staff. These case workers on average manage 143 offenders.

¹ <https://www.vera.org/downloads/publications/the-perils-of-probation.pdf>

² See above

³ See footnote 1

⁴ <https://www.parole.pa.gov/Information/Documents/CAPP%20Reports/2018%20CAPP%20Report.pdf>



According to the state report, Lehigh County is among the top five counties for offender supervision fee revenue, collecting approximately \$1,611,770 in fees in 2018. For reference, this is just slightly less than the amount of fees collected by Montgomery County, Pennsylvania's third largest county which collected \$1,652,864.⁵

Non-Audit Service Goal:

Given the role that county government plays in probation and the expressed goal of reducing recidivism, the Controller has a compelling interest in evaluating the efficacy of our approach to supervised release. Law and order, as it's often defined in the county budgeting process, accounts for roughly 64% of our local tax spending according to the 2022 budget.⁶

More precisely, Corrections constitute over \$28 million in spending and Courts costs an additional \$27 million. These two costs alone account for 70% of the county's total spending on law and order. Therefore, reducing the total number of people under surveillance and the duration of time their under surveillance would significantly reduce county costs.

Furthermore, our probation office is funded through grants and the collection of fees imposed on those under our supervision. This further amplifies the need for oversight and efforts to optimize and most efficiently utilize our resources.

Adult probation services are funded from five main sources: county funds, supervision fees, grant-in-aid, Pennsylvania Commission on Crime and Delinquency, and other grants and revenues. A 2015 report from the Legislative Budget and Finance Committee found that on average county funds accounted for 57% of total funding with supervision fees accounting for another 18%.⁷

In 2015, Lehigh County's County fund portion was \$2,355,558 and supervision fees were, \$1,388,487, grant-in-aid accounted for \$637,205 and other income accounted for slightly more than \$1 million dollars.⁸

In 2022, the county received \$1,467,571 in grants and reimbursements and collected \$1,784,851 in fines and costs. The total expenditure was \$5,174,672 in 2022.⁹

⁵ <https://www.parole.pa.gov/Information/Documents/CAPP%20Reports/2018%20CAPP%20Report.pdf>

⁶ https://www.lehighcounty.org/Portals/0/PDF/Fiscal/2022%20Adopted%20Budget%20Info.pdf?ver=Qiuco-OvDnufwIIAB_SZhA%3d%3d

⁷ <http://lbfc.legis.state.pa.us/Resources/Documents/Reports/509.pdf>

⁸ <http://lbfc.legis.state.pa.us/Resources/Documents/Reports/509.pdf>



Therefore, the Controller is looking to evaluate best practices and innovative probation strategies that have the potential to reduce costs in the future. The Controller is also looking at the racial and ethnic composition of those under supervised release to determine if there is a disproportionate impact on certain racial or ethnic groups.

The Non-Audit Service will provide context as to where Lehigh County stands in terms of case load, racial and ethnic composition while looking at strategies to reduce recidivism and make probation less punitive.

Who's on Probation and Parole in Lehigh County?

In the 2019, there were 4,576 individuals on supervised release with Lehigh County; in 2020 there were 3,511 individuals on supervised release. That was approximately a 23% decline from the year before, resulting primarily from Covid. (Table A)

Caseload Supervision Statistics

Of those under supervision in 2020, the majority, 57% are the result of drug law violations and DUI alcohol related offenses. For example, in 2019 and 2020, drug law violations accounted for 20% of all cases. DUI, alcohol and other drug related offenses accounted for 35% of all offenses in 2019 and 37% in 2020. (Table A)

The majority of those on supervised release were for misdemeanors, 79% of offenders in 2019 and 80% in 2020 had a misdemeanor offense. (Table B)

Race/Origin and Ethnicity Offender Statistics

In 2019, White offenders comprised 3,641 of the total population under supervision, Black or African Americans were 882 and Hispanics were 1,568. In 2020, White offenders represented 2,728 of the total population under surveillance, Black or African Americans were 714 and Latinos were 1,190. (Table D)

A further evaluation of these numbers shows that as an overall percentage of the population Black or African-Americans and Hispanic are disproportionately represented among the population of supervised individuals.

⁹https://www.lehighcounty.org/Portals/0/PDF/Fiscal/2022%20Adopted%20Budget.pdf?ver=ziBmKGZ_ts5AYD2sQH08zQ%3d%3d



For example, in 2019 Black or African-Americans were 19% of the total supervised population. However, they comprised just 9% of the county's population based on 2020 census data. If the total percentage of the supervised population was equal to the census rate of Black or African-Americans, would be 412. The actual number was 882, which is a full 470 people higher than the expected amount based on the census. This means that in 2020, there were 398 more Black or African Americans under supervision than would be expected based on population numbers. (Table D)

The same is true for the Hispanic population under supervision. Hispanics comprise approximately 26% of the county's total population, but 34% of the population that is under supervision. In 2019, there were 369 more Hispanics under supervision than would be expected, based on the population mix, and in 2020 there were 270. (Table D)

This systemic overrepresentation tracks with national statistics. The National Institute of Corrections finds that despite Black or African Americans representing just 13% of the total national population, 30% of adult probationers are Black or African-American and 40% of parolees are Black or African Americans.¹⁰

The evidence seems to suggest a significant issue with disproportionate impact on Black or African American and Hispanic populations. There could be a series of factors contributing to this, but the statistics suggests a degree of racial bias in Lehigh County's criminal justice system.

Probation Success Rates:

People are discharged from probation for a number of circumstances, ranging from everything from successful completion to revocation, which results from repeated violations of the conditions of release. This results in the suspension of one's probation and their return to prison sometimes with a harsher penalty. Overall, at Lehigh County, in 2019 there were 6,471 discharges and in 2020 there were 5,334. (Table E)

Out of these, the rate of successful completion was 43.7% of total discharges in 2019 and 46.8% in 2020 (Table E)

¹⁰ <https://www.urban.org/sites/default/files/publication/22746/413174-Examining-Racial-and-Ethnic-Disparities-in-Probation-Revocation.PDF>



One of the most prominent forms of probation and supervised release is Accelerated Rehabilitative Disposition (ARD). The program, intended for first-time offenders, allows the dismissal of charges and subsequent expungement of a criminal record upon successful completion. About 90% of those who participate do so for driving under the influence or drug related use. The program lasts about two years and involves drug and alcohol testing and community service among other requirements.

In Lehigh County, 539 or 8.3% of total discharges failed to complete ARD in 2019, and 415 or 7.8% failed to complete it in 2020. This is often because of a re-offense or failure to comply with the program's requirements. (Table E)

According to the U.S. Department of Justice, in 2019, among probationers with known reasons for exiting the program, 69% were able to exit for successful reasons.¹¹ This would suggest that Lehigh County lags in successful completion rates. Higher rates of completion reduce the overall spending on court costs and incarceration as fewer people are going through the criminal justice process and spend less time behind bars. The 2018 report by the Pennsylvania Board of Probation and Parole found that on average, 73.3% of people successfully completed probation.¹²

Furthermore, there is a significant volume of technical revocations in Lehigh County. In 2019, 483 had their probation revoked as a result of a technical violation and in 2020, 216 people had their probation revoked. Technical violations are failures which are not defined as illegal, such as not communicating with probation officers, failure to take a urinalysis test or drinking alcohol. These violations can result in revocation and future jail time. (Table E)

Recommendations:

One of the primary goals should be to reduce the number of people who fail to successfully complete their supervised release and reduce recidivism. Perhaps one of the worst examples of a revolving door of punishment and criminal justice is the system of revocation and punishment for technical violations.

¹¹ <https://bjs.ojp.gov/content/pub/pdf/ppus19.pdf>

¹² <https://www.parole.pa.gov/Information/Documents/CAPP%20Reports/2018%20CAPP%20Report.pdf>



Recommendation 1: Eliminate Detainers for Any Technical Violations of Parole

In Pennsylvania, those who violate the parameters of their supervised release can be faced with a detainer. A detainer or hold is a requirement that parole or probation violator be held in jail awaiting a hearing. The detainer must be lifted by a judge or the probation officer. This detainer can result in a highly disruptive and unpredictable period of confinement which impacts everything from childcare to a person's employment.

Parole violators held in jail make up a significant portion of those behind bars in Pennsylvania jurisdictions. For example, in Allegheny County and Philadelphia, probation and parole violators made up at least 50% of the people held in jail. In Allegheny County, approximately 7% of those were for exclusively technical violations.¹³

Lehigh County should review its practices and inmate census and prevent the practice of detaining probation or parole violators for technical violations.¹⁴ This could reduce a percentage of the inmate population and prevent needless hardship. In the 2018 Probation and Parole Board report, Lehigh County was listed as "don't know" as to how many people were relocated for technical violations. This means that the data wasn't available or could not be ascertained.

This recommendation would require collaboration between the District Attorney's Office, Judges and Probation Officers. The outcome could be achieved without needing any additional alterations in state regulations. This practice could reduce the total number of incarcerated individuals and reduce overall workload.

Despite the fact that covid reduced the total number of revocations, if the numbers returned to 2019 levels, that would be 483 people who face revocation for technical violations of their parole. They accounted for 7.5% of the total population of probation discharges in 2019.

Based on data from a study of parole and probation violations at the state level, technical violations cost the state \$101 million annually in prison costs. The report estimated that 7,000 people a day are confined to jail for parole violations in Pennsylvania. The study only examined state prisons and not county prisons.¹⁵

¹³ <https://www.vera.org/downloads/publications/the-perils-of-probation.pdf>

¹⁴ <https://aclupa.org/en/smart-justice-probation-and-parole-reform>

¹⁵ <https://www.witf.org/2019/06/18/technical-parole-violations-cost-pa-about-100-million-a-year-report/>



Recommendation 2: Reduce Time on Probation to Reduce Violations and Hardship

Research is beginning to show that there is little tangible value in creating elongated supervision periods. Longer probation sentences are not connected to increased public safety, but do increase the likelihood that someone will have a technical violation. According to an analysis from Oregon and South Carolina, among those who were on probation for a year without being arrested, more than 90% could have spent less time on supervision without an impact on recidivism. If their probation lengths had been shortened to the smallest possible sentence, it would have reduced the average daily prison population by 32% in South Carolina and 44% in Oregon.¹⁶ Furthermore, states with the largest amount of people on probation tend to have the longest probation periods meaning that many more people are being caught in the system. This increases the amount of people being supervised, and reduces the number of resources that can be concentrated on the most vulnerable or those who need more assistance.¹⁷

Research indicates that people who reoffend and violate the terms of their probation often do so early into their terms meaning that longer sentences serve little practical value. For example, in Oregon, of those on felony probation who were rearrested within three years, 69% were arrested in the first year of their probation.¹⁸ Therefore, shorter sentences would permit probation offices to focus more resources on crucial counseling and mental support services as well as assistance finding housing and employment which would reduce the chances of reoffending.

The ACLU of Pennsylvania recommends that District Attorneys request shorter periods of probation including never more than 1 year for a misdemeanor and 3 years for a felony.¹⁹ The Controller's Office affirms this recommendation and believes that probation sentences should be only as long as is needed to rectify the scale of the offense committed and receive the proper treatment and assistance.

¹⁶ <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety>

¹⁷ <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety>

¹⁸ <https://www.pewtrusts.org/en/research-and-analysis/reports/2020/12/states-can-shorten-probation-and-protect-public-safety>

¹⁹ <https://aclupa.org/en/smart-justice-probation-and-parole-reform>



The primary goal of probation should be to reduce the number of people caught in the criminal justice system and prevent constant violations through unnecessary hardship.

Recommendation 3: Reduce Costs of Fines, Fees and Electronic Surveillance

At present the county spends a total of \$5,174,672 on adult probation. 37% of that spend comes from local real estate tax dollars or approximately \$1,922,250 a year in local tax share. \$1,784,851 of the total budget comes from costs and fines. These fees represent a significant cost constraint for many of those under surveillance.

There is significant evidence that these fees contribute to recidivism and economic hardship. Interrogating Justice reports that a four-month long study of Brenton County, Washington found that 25% of the people in jail were there because of failure to pay. In addition, a 2015 study by Barrack Obama's Council of Economic Advisors found that 20% of jail inmates were incarcerated for failure to pay criminal justice debts."²⁰

The 2018 report by the Pennsylvania Parole and Probation Board shows that Lehigh County charged \$15.00 a day for electronic surveillance of those under its supervision. That amounts to \$5,400 a year in supervision fees for the electronic bracelet. A significant cost for many passing through the criminal justice system and may already have limited financial capacity.

Fortunately, some jurisdictions are leading the way in reducing the use of harmful and counterproductive fees. The 2020 Los Angeles County Board of Supervisors voted to eliminate certain local criminal fees.²¹ Ramsey County, Minnesota has reduced their reliance on criminal justice fees by \$1 million dollars.²²

²⁰ <https://interrogatingjustice.org/excessive-fines/justice-fees-poverty-recidivism/>

²¹ <https://www.nbclosangeles.com/news/local/la-county-board-votes-to-eliminate-many-criminal-justice-fees-forgive-debt/2311885/>

²² <https://www.startribune.com/ramsey-county-eliminates-nearly-700-000-in-criminal-fines-and-fees/569640712/?refresh=true>



Ramsey County is the second largest county in Minnesota with over 550,000 people. Los Angeles County is one of the most populous counties in the country. Large jurisdictions are finding ways to reduce the financial burden on those passing through the criminal justice system looking to prioritize successful rehabilitation not constant punishment.

This recommendation is consistent with the findings of the Fines and Fees Justice Center that jurisdictions should take steps to eliminate supervision fees and stop adding probation conditions which cost money. Furthermore, probation officers and offices should not seek to arrest or incarcerate people for failure to pay. As the report earlier indicated, Lehigh County is among the top five counties for supervision fees in Pennsylvania.

Recommendation 4: Invest in Diversion and Pre-Carceral Solutions

Many people in the criminal justice system have an underlying substance abuse or mental health challenge that makes supervision even more challenging and increases the likelihood that they will fail or face incarceration. Lehigh County could do more by working with local law enforcement, judges and prosecutors to steer low-level offenders away from the courts and corrections system avoiding the costs and penalties that come with it.

This would significantly reduce costs for the criminal justice system by reducing the number of people under the system of supervision and the total number of people behind bars. For example, the Buck County District Attorney has utilized the local Magisterial District Courts to reduce the workload on county staff by prioritizing treatment. They have reduced county cases by 25% and put more first-time drug offenders through treatment.²³

In Lehigh County, in 2019 there were 768 possession misdemeanors that were not diverted adding costs to the courts and corrections departments.²⁴ Another option is empowering law enforcement to intervene before individuals arrive at court by connecting more individuals with support services and treatment. In Philadelphia, the Police-Assisted Diversion program has helped steer men and women away from the court systems and towards treatment services which prevents the long-standing disruption of a criminal record and incarceration.

²³ <https://www.inquirer.com/news/bucks-county-district-court-diversionary-program-drugs-20200217.html>

²⁴ <https://www.mcall.com/opinion/mc-opi-early-intervention-court-system-reform-angelo-20211016-lkdywo3n3rdnjis56idwkwpa-story.html>





Diversion has been shown to improve public safety by ensuring that people receive the help they need and do not recidivate. According to Commonwealth, “New York University, dug into more than 15 years of data in Suffolk County and concluded that Rollins was right. Defendants not prosecuted for lower-level nonviolent misdemeanors faced 65 percent fewer misdemeanor arrests over the next two years and 75 percent fewer felony arrests than those who were prosecuted for similar charges.”²⁵

In addition, there are many in the criminal justice system with mental health issues that are not served well by confinement or supervision and need more sophisticated treatment. The Bucks County, co-responder model and the Eugene Oregon, CAHOOTs model are both designed to prevent people with mental illnesses from being trapped in the corrections system.²⁶

The Controller recommends that Lehigh County re-orient its criminal justice system around prevention and diversion. Supervised release can help some individuals who don’t have significant barriers to participation. For some the structure and community service, constitute fair and just punishment for the offense. However, that supervision could be made significantly less cumbersome and cruel as well as costly.

The most effective way to save costs, is simply prevent many from entering the system that don’t warrant that form of punishment. Supervised release can also contribute to a revolving door of prisoners that adds costs and reduces the ability of the courts to focus on the most serious public safety threats. Diverting people with low level offenses away from court and towards treatment or other forms of restitution can reduce costs and keep the community safe.

Lehigh County can improve public safety by keeping people out of the court system. Evidence-based programs can drive better outcomes, save money and keep our neighborhoods safe. The Controller believes that Lehigh County should seriously consider an emphasis on diversion programs and preventative measures.

²⁵ <https://commonwealthmagazine.org/criminal-justice/rachael-rollins-on-vindication-of-her-decline-to-prosecute-policy/>

²⁶ <https://www.mcall.com/opinion/mc-opi-early-intervention-court-system-reform-angelo-20211016-lkdywo3n3rdnjis56idwkpwaza-story.html>



(Table A)

Lehigh County Offenses Under Supervision Types 2020 vs. 2019						
Offense	2019	2020	% of total Case Types 2019	Drug & DUI Total	% of total Case Types 2020	Drug & DUI Total
Sexual Offense	83	49	2%		1%	
Other Violent Crime	616	501	13%		14%	
Property Offense	945	620	21%		18%	
Drug Law Violations	906	702	20%	55%	20%	57%
DUI alcohol and/or Drugs	1,580	1,288	35%		37%	
Other Offenses	446	351	10%		10%	
Offense under Supervision (All)	4,576	3,511	100%		100%	

(Table B)

Lehigh County Offence Grade 2019-2020						
Offense Grade	2019	% of Total 2019 Cases	2020	% of Total 2020 Cases	# Change 2019 to 2020	% Change 2019 to 2020
Felony	789	17%	605	17%	(184)	-23%
Misdemeanor	3,612	79%	2,804	80%	(808)	-22%
Other	175	4%	102	3%	(73)	-42%
Total Case Load	4,576		3,511		(1,065)	-23%





(Table C

Lehigh County Supervision Year-to-Year Comparison 2019 vs. 2020 by Race/Origin				
Race/Origin	2019	2020	# Change 2019 to 2020	% Change 2019 to 2020
White under supervision	3,641	2,728	(913)	-25%
Black or African American under supervision	882	714	(168)	-19%
Asian or Pacific Islander	39	27	(12)	-31%
American Indian Alaska Native	10	7	(3)	-30%
Other	1	1	-	0%
Not Known	3	34	31	1033%
Total Offenders	4,576	3,511	(1,065)	-23%





(Table D)

Racial Composition of Supervised Population compare to Lehigh County Population						
Calendar Year 2020	Population Under Supervision	% of Total Under Supervision	2020 Census Data Lehigh County %	% Difference Actual vs. Population	Number Expected Based on Census	Number above/below Expected
White	2,728	78%	84.0%	-6.3%	2,949	(221)
Black or African American	714	20%	9.0%	11.3%	316	398
Asian or Pacific Islander	27	1%	4.0%	-3.2%	140	(113)
Total Under Supervision	3,511	100%				
Calendar Year 2019						
White	3,641	80%				
Black or African American	882	19%	9.0%	10.3%	412	470
Asian or Pacific Islander	39	1%	4.0%	-3.1%	183	(144)
Total Under Supervision	4,576	100%				
Ethnicity Composition of Supervised Population compare to Lehigh County Population						
Calendar Year 2020	Population Under Supervision	% of Total Under Supervision	2020 Census Data Lehigh County %	% Difference Actual vs. Population	Number Expected Based on Census	Number above/below Expected
Hispanic Latino	1,190	34%	26%	7.7%	920	270
Total Hispanic Latino Under Supervision	3,511					
Calendar Year 2019						
Hispanic Latino	1,568	34%	26%	8.1%	1,199	369
Total Hispanic Latino Under Supervision	4,576					





(Table E)

Lehigh County Discharges 2019 vs. 2020 by Type							
Discharge Type	2019	2020	# Change 2019 to 2020	% Change 2019 to 2020	% of Total Discharges 2019	% of Total Discharges 2020	Change 2019 to 2020
ARD - Unsuccessful C/F/R Owed	539	415	(124)	-23%	8.3%	7.8%	-1%
ARD - Expired - Conditions Not Met	4	12	8	200%	0.1%	0.2%	0%
ARD - DA Inaction	-	-	-		0.0%	0.0%	0%
Automatic Expungement	45	15	(30)	-67%	0.7%	0.3%	0%
Case Returned	360	231	(129)	-36%	5.6%	4.3%	-1%
Death	39	53	14	36%	0.6%	1.0%	0%
Early Termination	30	42	12	40%	0.5%	0.8%	0%
Other	71	84	13	18%	1.1%	1.6%	0%
PV Pending	857	700	(157)	-18%	13.2%	13.1%	0%
Revocation - Both	200	110	(90)	-45%	3.1%	2.1%	-1%
Revocation - New Arrest	318	169	(149)	-47%	4.9%	3.2%	-2%
Revocation - Tech	483	216	(267)	-55%	7.5%	4.0%	-3%
Revocation - Whereabouts Unknown	67	33	(34)	-51%	1.0%	0.6%	0%
Successful	2,831	2,496	(335)	-12%	43.7%	46.8%	3%
Transfer PBPP	21	20	(1)	-5%	0.3%	0.4%	0%
Unsuccessful	606	738	132	22%	9.4%	13.8%	4%
Total Discharges	6,471	5,334	(1,137)	-18%	100%	100%	0%

