



Responding to Racial Disparities in Multnomah County's Probation Revocation Outcomes

JUSTIN BREAUX, THE URBAN INSTITUTE
KIMBERLY BERNARD, MULTNOMAH COUNTY DEPARTMENT OF COMMUNITY JUSTICE
HELEN HO & JESSE JANNETTA, THE URBAN INSTITUTE

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Summary

The Urban Institute examined racial disparities in the probation revocation rates in Multnomah County, Oregon. Urban found that black probationers in our sample were more than twice as likely to be revoked to prison or jail as white and Hispanic probationers. Our analyses found that disparities in revocation outcomes between black and white probationers persisted after controlling for available legal and demographic factors. More than half of the observed disparity between these two groups was attributable to group differences in factors other than race. The number of revocations was low, minimizing the impact of disparity at this decision point. In response to these findings, the Department of Community Justice in Multnomah County has committed to pinpointing the causes of disparity and discussing the implications of these findings for disproportionate minority contact in the county's criminal justice system.

Introduction

Disproportionate minority representation and racial and ethnic disparities are ubiquitous in the American justice system. While the extent of disproportionate minority representation varies at different stages of the criminal justice system, it is consistently present, particularly for blacks, who make up more than 30 percent of all adult correctional populations but account for only 13 percent of the general population.¹

Probation practice and outcomes affect the lives of more people than any other criminal justice sanction; there are more probationers than parolees, prison, and jail inmates combined.² Further, probation supervision is an important fork in the road for justice-involved individuals as failure on probation sets a path to more severe sanctioning. In 2012, 15 percent of probation exits (over 313,000 individuals) were terminations to incarceration.³

With funding from the Public Welfare Foundation, the Urban Institute (Urban) conducted a multisite study of racial and ethnic disparities in probation revocations. This brief discusses the findings for Multnomah County, Oregon.⁴ We find evidence of disparity between white and black probationers, which persist after controlling for available legal and demographic factors. We discuss Multnomah County's efforts to reduce racial disparities in probation revocation before the study and new strategies based on the findings.

Site Context

Multnomah County is the most populous county in Oregon and includes the city of Portland. The Department of Community Justice (DCJ) is responsible for both adult and juvenile community supervision in the county. The department employs over 500 regular employees, including 116 parole and probation officers (PPOs). The typical caseload size is around 45 individuals per officer and includes those on probation and those under post-prison supervision. The department supervises about 8,000 probationers and parolees across 466 square miles. As of 2014, a majority of individuals on probation are non-Hispanic white (69 percent), followed by non-Hispanic black (22 percent), Hispanic (5 percent), and other (5 percent). The general population of Multnomah County is 72 percent non-Hispanic white, 6 percent black, and 11 percent Hispanic.⁵

Over the past decade, the DCJ has been involved in several initiatives to reduce racial disparities for minority populations in Multnomah County. These efforts began in the department's juvenile division in 1994, which, in partnership with the Annie E. Casey Foundation, implemented objective risk-based assessment tools and expanded community-based detention alternatives. This led to a decrease in the number of minority youth sent to juvenile detention. Eventually, Multnomah County became a national model site for this work and hundreds of jurisdictions have sought to replicate their success.

The use of risk-based actuarial tools was then adopted by the adult services division. One of the benefits of using a standardized assessment tool is that it guides decisionmaking through the use of objective data, potentially minimizing the opportunity for differential treatment of racial groups. At the time of the study, DCJ used the Offender Case Management System. The tool was eventually replaced by the Public Safety Checklist,⁶ in 2012, by the entire adult community corrections system in Oregon.

The department also developed the African American Program to promote culturally responsive supervision and reentry programming for African American parolees. This program identifies 20 to 30 offenders being released from prison and provides services and a support network to promote a successful transition. The DCJ is also a partner in a local gang violence prevention, intervention, and suppression collaborative. Of its many goals, this network seeks to build resiliency and self-sufficiency in economically disadvantaged communities that have a disproportionate minority population.

The department also invested in a series of trainings designed to increase the cultural sensitivity and responsiveness at all levels of staff. This includes a five-day intensive workshop called Building Partnerships Across Differences. The DCJ has supported eight cohorts of employees through this program. The department also has an employee cultural competence steering committee that was active before, during, and after this study.

The DCJ participated in the study for several reasons. Its involvement was a natural outgrowth of the ongoing diversity and equity work already occurring in the department and in the county. There also was speculation within the DCJ that the highly structured administrative sanctions process meant that disparate impact on racial groups would be unlikely. The department viewed this study as an opportunity to check the validity of those assumptions. Lastly, the DCJ had a long-lasting commitment to evidence-based practices and leadership valued the opportunity to have the department's operations rigorously examined by third-party evaluators.

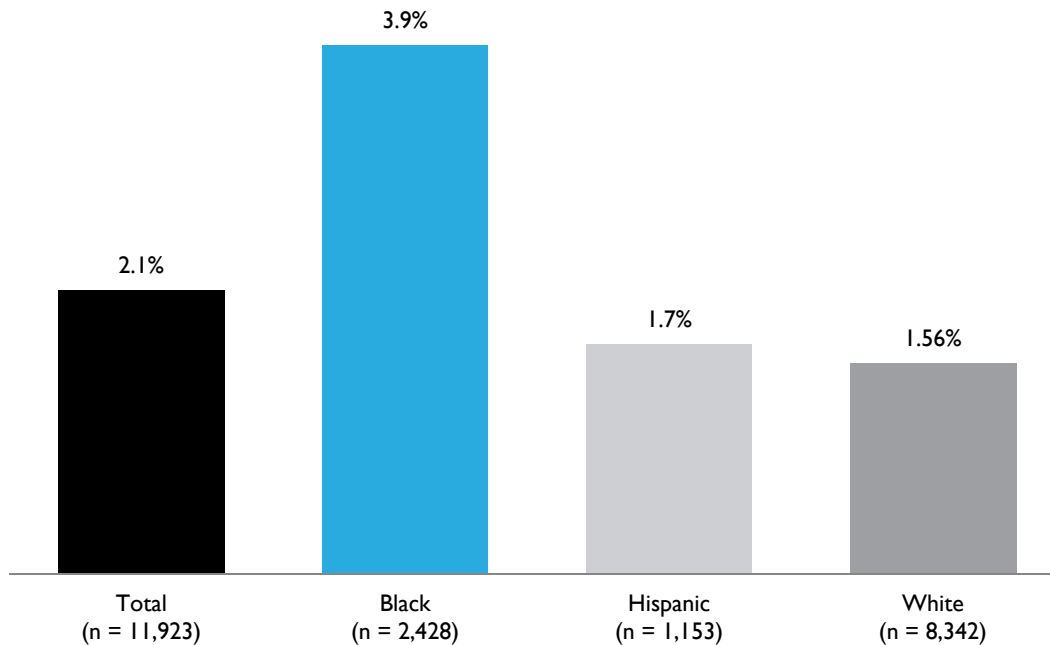
Sample

The study examined individuals under formal probation in Multnomah County between January 1, 2006 and December 31, 2010. Formal probationers are those who report to a supervision officer, have routine office and field contact with probation officers, and are subject to graduated sanctions. We did not include individuals placed on bench probation, who constitute the majority of offenders convicted of a misdemeanor. Bench probationers are not administered risk assessments, have sentences that do not necessarily involve graduated sanctions, and are not assigned to a probation officer. In some instances, misdemeanor offenders may be placed on formal probation, particularly when they are convicted of certain types of crimes, including person-to-person domestic violence, a sexual offense, or driving under the influence.

DCJ provided individual-level data on instances of probation revocation, demographic information, criminal history severity (a 9-point scale), sentencing charge severity (an 11-point scale), and other sentencing charge information related to the sentence that resulted in the probation term, the actual and suggested level of supervision, and probation outcomes. One limitation to the study is that the department was unable to provide data on the type of violation behavior that was alleged (e.g., technical violation versus new arrest). The final sample for analyses included only black, Hispanic, and white probationers for whom relevant data was available ($n = 11,923$).⁷

The racial and ethnic make-up of the sample was 70.0 percent white, 20.4 percent black, and 9.7 percent Hispanic probationers.⁸ The total revocation rate for the sample was 2.1 percent, which was low relative to other study sites.⁹ There were a total of 250 revocations over the four-year study period. Although all racial and ethnic groups were revoked at relatively low rates, 3.9 percent of black probationers were revoked, a rate that was over twice as high as white (1.6 percent) and Hispanic (1.7 percent) probationers.

Figure 1. Revocation Rates by Race and Ethnicity



Bivariate tests indicated that the revocation rate differences between black and both groups of nonblack probationers were statistically significant ($p < .01$). There was no statistically significant difference in revocation rates between white and Hispanic probationers. Black clients had significantly higher criminal history scores and served more past probation terms relative to Hispanic and white counterparts. The assessed risk and accompanying suggested level of supervision was at the highest level for 44.1 percent of black probationers, which was significantly higher than both white (29.7 percent) and Hispanic (16.0 percent) probationers.

Findings

The research team used logistic regression and the Blinder-Oaxaca decomposition method (B-O method) to examine the impact of race and ethnicity on probation outcomes. Both models included a host of control variables.¹⁰

Findings from the logistic regression model indicated that, controlling for other variables, the odds of revocation were 36 percent lower for white probationers than for black probationers ($p < .01$). The difference between black and Hispanic probationers was not statistically significant after controlling for other variables. Other statistically significant predictors of revocation included age, crime severity, criminal history, felony charge, gender, number of past probation terms, and suggested level of supervision.¹¹ Each additional year of age, for example, was associated with a 5 percent decline in the odds of having one's probation revoked. The odds of revocation were 84 percent lower for female probationers than males. Increases of one level on the criminal history and crime severity scales increased the odds of revocation by 16 and 15 percent, respectively. The odds of revocation were 51 percent higher for misdemeanor probationers relative to felony probationers. This may be because misdemeanants in Multnomah County are generally sentenced to self-supervision. Those misdemeanants sentenced to formal probation and included in our sample were likely to have been determined to be higher risk than the average misdemeanor. Suggested supervision level was found to be a statistically significant predictor of revocation, with an additional level associated with 60 percent higher odds of revocation.

The B-O method offers an alternative approach to examining bias and the contributors to disparity. While the logistic regression estimated whether the odds of revocation were different for the racial and ethnic groups after accounting for other factors, the B-O method estimates the sources of disparity. It breaks down the difference in revocation rates for each group pairing (e.g., black and white probationers) into a portion that can and cannot be explained by differences in characteristics included in the model. Using these results, policymakers can understand why a particular disparity exists and where to target disparity-reduction efforts.

The findings from the B-O method are highlighted in table 1. There were too few Hispanic probationers who experienced a revocation in our sample to conduct a Blinder-Oaxaca decomposition, so this study only decomposed the black–white disparity. The difference in revocation rates for these two groups was 2.4 percentage points. Differences between white and black probationers along demographic and legal factors contributed to 54.4 percent (1.3 percentage points) of the observed disparity, a statistically significant amount. The significant contributors to the gap were differences between black and white probationers based on the number of past probation terms, criminal history, crime severity, and age. Of these, the number of past probation terms was the greatest contributor to the disparity, accounting for 37 percent of the gap.

Table 1. Statistically Significant Blinder-Oaxaca Decomposition Results

| | | |
|---|----------------------|-----|
| Black–white disparity (percentage points) | | 2.4 |
| Contribution of group difference (percent) | Past probation terms | 37 |
| | Criminal history | 10 |
| | Crime severity | 6 |
| | Age | 3 |

Note: Differences in suggested level of supervision, gender, violent charge, felony charge, drug charge, and weapons charge were not statistically significant contributors to the black–white disparity.

Approximately 46 percent of the gap was unexplained by group differences. We cannot say with confidence how much, if any, of the unexplained proportion can be attributable to bias. Variables, such as violation type, that we were unable to include in the model may account for a proportion of the unexplained gap; however, the size of the unexplained portion is sufficient to raise concerns about the presence of bias to the disadvantage of black probationers.

The study found disparate revocation outcomes for black probationers relative to white and Hispanic probationers in Multnomah County. Black probationers were revoked at significantly higher rates than both of these groups. Statistically significant differences between black and white probationers persisted after controlling for an array of factors in the logistic regression model; the difference between black and Hispanic probationers, however, was no longer statistically significant. Further examination of the black–white disparity found that 54 percent of the disparity would be eliminated if white and black probationers had, on average, the same legal and demographic profiles, leaving 46 percent of the difference between the two groups unexplained.

Policy Implications

Three themes emerged from the study of Multnomah County’s revocation rates. First, disparities in revocation rates persisted between black and white probationers after controlling for other variables in the logistic regression model. Second, more than half of the black–white disparity could be attributable to differences in legal and demographic profiles and almost half remained unexplained. Third, the county had a low revocation rate relative to other sites in the study, which limited the magnitude of disparate outcomes for this decision point.

The statistically significant relationship between race and revocation suggests that bias could have contributed to the disparity, likely from multiple decision points. Discretion is present at every decision point in the criminal justice system: Where do officers patrol? Who do officers provide a verbal warning versus an arrest? Which arrests result in charges filed? On which cases do district attorneys seek more stringent probation conditions? Which offenders do probation officers seek to bring before a judge versus those to whom they offer a second chance? Which cases do judges choose to revoke? If small biases are present at the individual level, these biases may have a cumulative effect as offenders are processed through the criminal justice system. Further, some of the effects of bias could then be represented as objective factors for decisionmaking, such as criminal history indicators.

In addition to addressing potential bias, Multnomah County can focus on the group differences that contribute to disparity. Differences between black and white probationers along criminal history and crime severity indicators contributed to large portions of the disparity. More severe criminal history and crime severity may indicate higher risk levels—a greater likelihood to violate probation and to have more severe violations. Since black probationers on average have more severe criminal history and crime severity scores, which contribute to disparate outcomes, DCJ could focus on improving the success rate of its higher risk probationers through risk reduction programs.

Additionally, the criminal history and crime severity variables may have been proxies for the type of probation sentence. More severe criminal histories and crimes may have prompted district attorneys and judges to pursue more stringent probation conditions, which in turn may lower the bar for revocation. Judges may have sentenced probationers in the study to one of three types: (1) “downward departures,” (2) plea agreements stipulating that each violation must be returned to court, or (3) probation conditions that follow the administrative sanctions grid.

“Downward departure” refers to offenders who faced a prison sentence as determined by Oregon’s sentencing guidelines grid, but who instead received a sentence to probation. In some cases, it is formally stipulated that any new violation results in immediate revocation—denying the PPO any discretion in the use of sanctions. This study could not distinguish downward departure cases from other cases, so it is not known if minority populations in Multnomah County were more likely to be designated downward departures, contributing to disparities in revocation rates.

For the second type of sentence, a judge may choose to order or the District Attorney’s Office negotiates that an offender is not eligible for the administrative sanctions grid as part of a plea agreement. In these cases, the probation officer has no discretion and the offender must return to court for every probation violation. The data available for this study did not include an indicator for this stipulation and it is not known whether this supervision condition is correlated with race or any other characteristics.

The third type of sentence stipulates that officers use the structured sanctions grid to provide swift and certain sanctions to deter future violations. However, there is a statutory limit established at sentencing as to the number of sanctions that an officer can impose on an offender. Once that limit is met, the officer has limited discretion and the offender must return to court for a revocation hearing. The study data did not include details on probation violations or violation limits, so we were unable to examine their effect on racial disparities.

The overall revocation rate for the study sample was 2.1 percent, which was a low rate relative to the samples of other sites participating in the study. The low rate at which Multnomah County revokes probation raises the question of how relevant probation revocation is to the effort to reduce disparities in the criminal justice system. The presence of disparity and potential discrimination at this decision point, however, suggests that disparity and discrimination may also occur in other probation decisions. Thus, DCJ may wish to examine racial and ethnic disparities for more common probation sanctions, such as the use of or short jail stays for probationers as a response to violations that do not involve a probation revocation. Rengifo and Scott-Hayward (2008) examined the frequency and type of graduated sanctions used for all probationers and parolees discharged from DCJ custody in 2005. Of the 30 percent receiving at least one sanction while on supervision, 92 percent received an intermediate jail sanction, making this sanction by far the most common response to a violation. Future research could explore whether the likelihood of receiving a jail sanction while on supervision varies by race and ethnicity.

Although the ratio of revocation rates for black and nonblack probationers was more than 2:1, the low revocation rate could minimize the harm of disparity. There are several distinguishing characteristics of Oregon's and Multnomah County's community corrections system that have promoted the low revocation rate.

Adoption of an Evidence-Based Administrative Sanctions Grid

In 1993, the DCJ began using an administrative sanctions grid—a tool that suggests an appropriate administrative response by the parole and probation officer to varying levels of offender noncompliance. This is a statewide grid and the authority to use it rests in Oregon statute. The use of this grid encourages offender accountability by promoting a swift and certain response to probation violations. This also empowers PPOs to effectively deal with observed problems without always bringing an offender before the court. PPOs have developed a broad range of sanction options in addition to custody. The availability of custody alternatives means that, in lieu of seeking revocation, officers can respond with less severe sanctions, such as requiring check-ins to a day reporting center, participation in community service work crews, submission to instant field drug testing, and electronic monitoring.

Removal of County- and Officer-Level Incentives to Revoke

Multnomah County probationers are frequently housed locally in jails rather than state prison beds for intermediate incarceration sanctions and revocations. Any sanction or revocation length that is 12 months or less will be served in a county jail and not a state institution. Throughout most of Oregon, community corrections is administered on a county basis, where local agencies do not access “free” state prison beds. Custodial costs are incurred locally, which incentivizes local agencies to minimize the revolving door of alternating incarceration and community placements.

In addition, unlike some other jurisdictions, Multnomah County's community supervision officers provide both parole and probation supervision. In the event of a revocation and subsequent incarceration, probation clients return to the same jurisdiction as a parolee after his or her release. It is often the case that an offender can have the same officer assigned to his/her post-prison supervision as had been assigned to his/her probation supervision. Probation officers, then, cannot remove difficult offenders from their caseloads permanently by transferring them to the state supervision system because returning offenders are supervised by the local system. As a result, probation officers have no long-term incentive to revoke an offender to prison. All offenders will remain on local community supervision caseloads regardless of revocation.

Multnomah County's Response to Findings

The study findings were shared initially with the DCJ's research and planning team. Working with the DCJ director and his executive council, the research and planning team disseminated the results to a variety of stakeholders, including district-level managers in the Adult Services Division and DCJ's internal Diversity and Equity Steering Committee. The Diversity and Equity Steering Committee intends to include the findings in its annual report to all employees. The findings were also incorporated into a presentation on the importance of culturally-sensitive case planning and supervision by a trainer who provides advanced PPO instruction at the statewide training academy. The findings of the report will also be included in upcoming work sessions to develop the department's next Strategic Plan. Disseminating results has prompted solution-focused policy discussions.

The DCJ indicated that their attempts to address this issue will continue in two directions. The first will focus on internal departmental policies. The DCJ will conduct research on the relative impact of downward departures on the observed disparity in probationer outcomes. Additionally, DCJ's research and planning team will explore differences in the application of administrative sanctions for white and nonwhite probationers to determine where their trajectories may differ. The second direction will be to find venues to discuss the cross-system implications of these findings. Multnomah County is fortunate to have a Local Public Safety Coordinating Council that can help moderate dialogue on disproportionate minority impact and support collaborative efforts to implement policy solutions.

When it comes to racial and ethnic disparity, probation decisionmakers in Multnomah County—from executive level staff and management to community supervision officers—stated that there is no acceptable level of difference. They recognized that, despite having a low revocation rate, disparate outcomes among probationers have persisted. Upon reading the study results, DCJ Director Scott Taylor remarked, “I am disappointed but not surprised by the results. We still have a lot of work to do in this area.” The DCJ has shown a willingness to work toward solutions and has expressed a desire to continue doing so until the observed differences among probationers is no longer a reality.

Notes

1. Carson and Golinelli 2013; Maruschak and Bonczar 2013; Minton 2013; US Census Bureau, “State & County QuickFacts,” January 10, 2013, <http://quickfacts.census.gov/qfd/index.html>.
2. Glaze and Herberman 2013.
3. Maruschak and Bonczar 2013.
4. See Jannetta et al. (2014) for results from all four study sites.
5. US Census Bureau, “State & County QuickFacts,” January 10, 2013, <http://quickfacts.census.gov/qfd/index.html>.
6. The Public Safety Checklist was developed and validated by the Oregon Department of Corrections and Oregon Criminal Justice Commission.
7. Additional detail regarding sample refinement and characteristics is contained in the full study technical report, available from the authors upon request.
8. Percentages do not add up to 100 percent due to rounding.
9. Revocation rates for other samples in the study sites were all greater than 11 percent.
10. The full models are detailed in the final technical report, which is available from the authors upon request. Control variables included age, gender, criminal history score, number of prior probation terms, crime severity score, sentencing charge type (e.g., felony, violent, drug), and suggested level of supervision.
11. Felony charge is statistically significant at $p < .05$; all other categories are statistically significant at $p < .01$.

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