

Exploring the Potential for Racial and Gender Bias in Violations of Probation Petitions

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Juvenile offender data were examined in 1 county of 1 southern U.S. state, to explore whether racial and gender disparities in youth involved in the justice system were a factor in detention decisions for violations of probation. Probation officers were able to make relatively consistent decisions about detention for violation of probation, despite disproportionate demographic representation in the overall population that they work with. There remains, however, a substantial potential for subjective bias, suggesting that measures to assist probation officers in making such decisions would appear to have potential value in the field.

Issues related to juvenile offenders are particularly challenging to the U.S. justice system. Incarceration for juveniles is more expensive than for adults and there is evidence to suggest that incarceration of low-risk offenders may increase recidivism rates for high-risk activities post-release. Given that available information seems to indicate that a relatively small percentage of youth offenders are responsible for the majority of serious crimes, probation appears to be a reasonable and necessary alternative in sentencing for the bulk of adolescent offenders. It would appear that the courts are reactive to this phenomenon, because probation is the most frequently used sanction within the overall court system.

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Despite the widespread and frequent use of the sanction, little research has been done to explore issues of violations related to probation agreements for juveniles or about decision-making strategies related to probation officers' petitions, in light of system equity and resource availability issues. The Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 and subsequent amendments of the Act in 2002 mandated that states comply with four requirements related to the detention and custody of juveniles as a condition of receiving federal funding:

1. deinstitutionalization of status offenders,
2. sight and sound separation of juveniles from adult offenders,
3. jail and lockup removal, and
4. issues related to disproportionate minority confinement (Griffin & Torbet, 2002; Hodge & Greenleaf, 2005; Leiber, 2002; Office of Juvenile Justice and Delinquency Prevention, 2008).

This study focuses on the disproportionate minority confinement aspect of the JJDP Act and provides a preliminary analysis exploring factors related to petitions for detention as a sanction for violating terms of probation in one southern U.S. state.

REVIEW OF LITERATURE

Juvenile probation officers aid in supporting safe communities for youth and their families. Probation officers are often social workers or other allied professionals, working on the frontlines with adolescents and families involved in the justice system. The risk-resilience perspective often applied in forensic social work settings “can be useful in informing assessment and intervention strategies with youth involved in—or at risk of—juvenile justice system involvement” (Maschi, Violette, Rosato, & Ristow, 2009, p. 235). Such a perspective focuses on risk and protective factors of juvenile justice system involvement and is consistent with the biopsychosocial framework more commonly used in social work (Maschi et al., 2009). In order to provide services within a risk-resilience perspective, probation officers must achieve a level of training in a range of areas, including intake, case management, crisis management, family structure, substance abuse, and gang prevention, as well as a keen awareness of the ever-changing federal, state, and local laws governing the juvenile justice system.

Although probation officers may provide excellent service to meet a critical systemic need, there is a limit to the amount of services that can be provided, both in terms of caseload sizes and of scope of assistance. The caseloads of probation officers across the southern United States are extremely high, particularly in light of recent and ongoing funding restrictions. Jones,

Harris, Fader, and Grubstein (2001) pointed out that “at a time of increasing fiscal, legal, and moral pressure to reduce commitments to already crowded correctional institutions, juvenile justice policy makers and practitioners are being urged to consider a rapidly expanding array of sanctioning alternatives” (p. 481). Evidence seems to suggest that southern states generally have some of the highest incarceration rates (of all ages) in the nation; as a result, the same states also have some of the highest probation rates (Petersilia, 1997). Given such a situation, it is imperative that effort and funding focus the provision of services to those who can benefit most from them, while avoiding the contamination of those who would be worse off for the contact (Jones et al., 2001; Jung & Rawana, 1999; Petersilia, 1997).

Juvenile probation is one means by which court-ordered services are rendered. Probation may be used at the “front-end” for first-time low-risk offenders or at the “back-end” as an alternative to institutional confinement for more serious offenders. At times, probation may be used as an alternative to formal adjudication (Agnew, 2009; Maloney, Romig, & Armstrong, 1988; Office of Juvenile Justice and Delinquency Prevention, 2008). When offenders violate the terms of their probation, detention is frequently used as a sanction. Despite the relative justice or necessity of detention, this is an expensive option with a juvenile population, and there is evidence suggesting that incarceration of low-risk offenders may do more harm than good (Jones et al., 2001; Jung & Rawana, 1999; Krysik & LeCroy, 2002; Petersilia, 1997; Putnins, 2005). With cost and overcrowding problems overwhelming the system, probation options, particularly in cases where offenders have high potential for rehabilitation, have increased in number steadily in the last decade (Jung & Rawana, 1999; Petersilia, 1997; Putnins, 2005).

In the midst of this steady rise, there have been issues raised concerning the potential for racial bias in assignment of violations, which may lead to racial bias in subsequent dispositions (Conley, 1994; Frazier & Bishop, 1985; Hodge & Greenleaf, 2005). The issue became so prominent on the public radar during the 1990s that the Annie E. Casey Foundation initiated a research focus to examine the issue of disproportionate minority confinement due to the increased rates of detention for African American and Hispanic juveniles (Hodge & Greenleaf, 2005; Hoytt, Schiraldi, Smith, & Ziedenberg, 2002). As a result, there has been a growth in research focused on exploring empirical ways to evaluate relative risk of recidivism for youth offenders, in an effort to maximize equity in the system and standardize services, to allow for the application of available services for the greatest possible gain.

Determining risk for juvenile offenders, however, has proven to be exceedingly tricky. Collection of data about probationers, either adult or juvenile, varies widely across the nation, leading to inconsistent information that gives almost no insight into who is on probation at any given time, why, or what services and supervision they may be receiving in any systematic way

(Petersilia, 1997). Furthermore, inconsistent data collection and reporting can lead to “fundamental doubts about the meaning of official crime data” (Prior, 2009, p. 6); it appears that varying operationalization of definitions and biases in the system, along with methodological flaws in data recording and collection, may have a significant impact on reported outcomes as well as perceptions of the prevalence of important issues.

Initial attempts to classify groups of high-, low-, and medium-risk offenders relied on age, ethnicity, and gender as predictors of recidivism, although there have been some recent attempts to expand these criteria (Church, Wharton, & Taylor, 2009; Petersilia, 1997; Putnins, 2005). Several studies found that younger males were more likely to be violated on probation than either older males or females, but predictive validity only held for some minority groups; additionally, the use of public or private attorneys impacted the likelihood of initial imprisonment and subsequent probation possibilities or likelihood of violation (Jones et al., 2001; Petersilia, 1997; Putnins, 2005). Studies of incarceration and probation rates of female offenders and some minority groups have suggested that bias in the judgments made by courts and police networks may lead to problems in data analysis, and it remains unclear as to what factors impact decision making in detention cases. Because of this lack of clarity, the question remains as to whether these groups are actually more likely to be higher risk for re-offense or whether they are simply more likely to be incarcerated as a result of systematic bias (Jung & Rawana, 1999; Prior, 2009). Available information indicates that while judges may use empirically based instruments to support their decisions in tricky cases, they are more likely to rely on probation officers' training, skills, and provided information about family and individual situations in most cases, when passing judgment (Petersilia, 1997; Putnins, 2005).

METHODS

Data were obtained from a statewide Administrative Office of the Courts database in one southern state. One county was selected for preliminary data exploration. The county is a Juvenile Detention Alternatives Initiative (JDAI) site, with funding from the Annie E. Casey Foundation to reduce racial disparity in the juvenile justice system. The county was chosen due to an ongoing working relationship between the JDAI Coordinator and the research team on this project. A stratified sampling technique was used for race (African American and Caucasian), and random sampling was used within each strata to select juvenile cases (Maxfield & Babbie, 2005). The sample ($N=153$) included 74 youth detained for violation of probation as a sanction, and 79 youth whose violation of probation did not result in detention. Using detention as a bivariate dependent variable, we used logistic regression to explore demographic (race, sex, age) and offense characteristics (total number of

petitions, violation type). *t* Tests and Chi-square tests were conducted as well as crosstabs to examine differences in detained and non-detained groups by age, race, sex, violation type, and total number of petitions.

RESULTS

The mean age of juveniles in this sample was 15 years of age ($SD = 1.58$). Age was not a statistically significant predictor of detention. The mean number of petitions in this group was 9.19 ($SD = 5.74$), and number of petitions was found to have no discernible influence on violation of probation (VOP) detention. Although males ($n = 109$; 73%) and African Americans ($n = 117$; 76%) were disproportionately represented in the sample, Chi-square testing and examination of crosstabs indicates proportional equivalence in detention of either group when compared to females and Caucasians as a result of VOP, in general (see Figure 1). Males were detained at an overall rate of 49.2% of their group and were only slightly more likely than females to be detained for violation of probation (47.5% of their group).

Demographics in the southern rural county sampled indicate that only 39% of juveniles in the county are African American. However, demographics of juveniles in detention in the same southern rural county indicate that 63% of incarcerated youth are African American. Of the VOP petitions filed during the identified time frame for the study, more than 75% were against African American youth. Despite this uneven representation in the system overall, race does not appear to be a factor in detentions for violations of probation by probation officers, who seem to have proportional representation among the subgroups.

Gender did not seem to have an impact on the chances that a youth would be detained on a probation violation. Data show that significantly higher numbers of VOP petitions were filed against male youth, but gender does not seem to be a factor in whether a violation of probation petition leads to detention, except for a non-significant difference related to VOPs with no violence involved. In those cases, more females (42%) than males (36%) were detained (see Table 1).

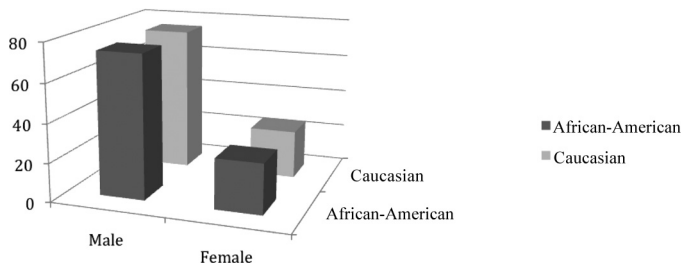


FIGURE 1 Percentage of detentions by race and gender.

TABLE 1 Percentage of Detentions

Juvenile	Non-violent violations	Violent violations
Female	42%	67%
Male	36%	66%
African American	37%	68%
Caucasian	41%	60%

If the violation was violent, then 68.1% of African Americans and 60% of Caucasian juveniles were detained. If the violation of probation was not violent, then 37.1% of African Americans and 41.2% of Caucasian juveniles were detained. Regarding gender, if the violation of probation was violent, 66% of males and 66.7% of females were detained and non-violent 35.7% of males and 41.9% of females were detained.

DISCUSSION

Examination of data regarding violations of probation in this southern county demonstrated that only violation type was significant as a predictor of detention as a violation consequence ($p = .001$). Violations associated with violence were more likely than other types of violation to result in detention (55.4% vs. 28% for non-violent violators). Although males and African Americans were disproportionately represented in the sample, Chi-square testing and examination of crosstabs indicated proportional equivalence in detention of either group when compared to females and Caucasians as a result of VOP, in general. However, when considering the presence of violence relative to race and sex, there emerged a trend toward a possible subjective bias in the system toward minorities, although results were statistically non-significant. For VOPs with associated violence, more African American youth were detained (68%) than Caucasian youth (60%). Alternatively, when the VOP was non-violent, more females (42%) than males (36%) were detained.

Given the lack of available evidence-based, objective decision-making aids for probation officers in the field (such as scales or other predictive tools), these data suggest that officers are able to make relatively consistent decisions about detention as a violation of probation, despite disproportionate demographic representation in the overall population that they work with in this county. There remains, however, a substantial potential for subjective bias, suggesting that measures to assist probation officers in making such decisions would appear to have potential value in the field.

There are several limitations to this study. Small sample size and missing data in the juvenile case records from the statewide database did not allow for analysis of variables that may have significant impact on the issues explored

here, such as mental health service need or substance abuse. Additionally, the database did not include the nature of violations (e.g., curfew violation vs. a new charge). Similarly, it did not include degree of the underlying offense, such as an indication of whether theft and assault charges were classified as felonies or misdemeanors. Although database information provided a cross-sectional view of probation services across the state, there was no information about specific officer caseloads or the demographic dispersion that they may have encountered across those caseloads.

Overall, less than half of all VOP petitions in the full database resulted in detention. However, for juveniles on probation with domestic violence charges, a violation of probation petition almost always resulted in detention, and research is needed to further explore this phenomenon. Additionally, the nature of violations resulting in detention needs more in-depth consideration, particularly examining how specific types or severity of charges may correlate with unusually high detention rates (Hoytt et al., 2002; Jones et al., 2001; Jung & Rawana, 1999; Krysik & LeCroy, 2002; Leiber, 2002; Maupin & Bond-Maupin, 1999; Putins, 2005). A VOP may be filed for a range of conduct, from curfew violations to violence or theft-related charges, and it remains unclear whether the nature of the violation makes it more or less likely that a VOP will lead to detention. Additional research with a larger sample size and a broader range of variables may yield a stronger analysis of racial disparity and the potential for subjective bias regarding detainment for a violation of probation (Kempf-Leonard, 2007; Schwalbe, 2009; Wordes, Bynum, & Corley, 1994). By strengthening our understanding of factors related to racial and gender disparities across the juvenile justice system, education and training of those who work in the field of probation may be better targeted toward the provision of appropriate and fair services to all who are in need of support.

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