



# *Examining Racial and Ethnic Disparities in Probation Revocation*

*Summary Findings and Implications  
from a Multisite Study*

JESSE JANNETTA, JUSTIN BREAUX, AND HELEN HO, THE URBAN INSTITUTE,  
JEREMY PORTER, CITY UNIVERSITY OF NEW YORK

APRIL 2014

Copyright © April 2014. The Urban Institute. The views expressed are those of the author and should not be attributed to the Urban Institute, its trustees, or its funders.

Permission is granted for reproduction of this file, with attribution to the Urban Institute.

The authors thank the Public Welfare Foundation for its support of the Racial Disparities in Probation Revocation study. We are grateful for the collaboration of the Community Supervision and Corrections Department in Dallas County, Texas; the Sixth Judicial District of Iowa's Correctional Services; Department of Community Justice in Multnomah County, Oregon; and Department of Probation in New York City. Leaders and research staff in these jurisdictions were incredibly helpful in sharing data and discussing the results. We appreciate Carl Wicklund, Julie Samuels, and Nancy La Vigne for reviewing this publication. We also thank Rebecca Neusteter for conceiving and spearheading this project and making it all possible.

Racial and ethnic disparity is pervasive in the American criminal justice system. This is particularly stark for blacks, who despite constituting just 13 percent of the US population, account for 30 percent of adult probationers, 37 percent of jail inmates, 38 percent of prisoners, and 40 percent of parolees.<sup>1</sup> Such disparities have broad consequences, from impacts on the health and functioning of minority communities to perceptions of the legitimacy of the criminal justice system.<sup>2</sup>

There are more probationers than parolees, prisoners, and jail inmates combined. Probation practice and outcomes thus affect the lives of more adults than any other criminal justice sanction.<sup>3</sup> Further, probation supervision represents an important fork in the road for justice-involved individuals, with failure on probation setting a path for more severe sanctioning, particularly incarceration. Disparities in probation revocations could then contribute to disparities in incarceration. Yet, few studies examine racial and ethnic disparities at this decision point. This brief discusses Urban's study examining the degree of disparity in probation revocation outcomes and the drivers of that disparity.<sup>4</sup> For the purposes of this study, we define disparity as differences in outcomes by race and ethnicity, regardless of cause. We make a distinction between disparity and bias, which we define as the differential treatment of individuals based on race or ethnicity, whether conscious or unconscious. This brief discusses our findings and policy implications for probation and the criminal justice system as a whole.

### Key Findings

- Black probationers were revoked at higher rates than white and Hispanic probationers in all study sites.
- Results for disparity to the disadvantage of Hispanic probationers were mixed.
- Differences in characteristics between black and white probationers explained 51 to 80 percent of disparity across the sites.
- Differences in risk assessment scores and criminal history were major contributors to the black–white disparity.

## Study Sites and Data Collection

Four probation departments agreed to participate in the study: Dallas County, Texas; Iowa's Sixth Judicial District (SJD); Multnomah County, Oregon; and New York City. The variety of study sites allowed us to examine disparity in settings that were wide-ranging in size and racial/ethnic composition of their general and probation population (see table 1). The sites were also chosen because they varied in staff diversity, had a history of providing cultural competency and sensitivity trainings, and implemented a number of evidence-based practices, including graduated sanctions.

In all of the sites, the probation department was responsible for requesting a revocation hearing and a judge made the final decision to revoke probation. Two of the sites, Dallas County and New York City, had court units within the probation department to review revocation or other sanction recommendations to the court. Two boroughs in New York City had dedicated probation judges whereas the sentencing judge hears probation matters in the other boroughs and study sites.

We requested data on probationer demographics,<sup>5</sup> criminal history, probation performance, and revocation outcomes from each site. The data elements that sites provided and the time period over which there was consistent data quality varied by jurisdiction. Given these differences, we developed separate and distinct statistical models for each site and did not pool data across sites.<sup>6</sup> As a result, findings are not directly comparable across the four study sites due to different probation populations and available data. For instance, the Dallas County sample only includes individuals sentenced to probation during the study period, while the other site samples include individuals sentenced to probation before the study period whose supervision continued into the study period. This difference inflates Dallas' revocation rate relative to the other sites. Additionally, these results are a snapshot of probation outcomes during the study period for which each site could provide data. Since the study period, these jurisdictions have made a number of probation policy changes that might impact disparity, which were not analyzed in this study.

We supplemented administrative data with interviews with probation staff and judges to provide context for the study and to understand respondents' views of disparity and bias in the criminal justice system. The study team interviewed a total of 50 stakeholders across all four sites<sup>7</sup> and led a focus group

with members of the Iowa SJD's Racial Disparity Cultural Competence Committee, which was formed in 2002 to address racial disparity within the jurisdiction.

**Table 1. Study Site Characteristics**

	Dallas County	Iowa's SJD	Multnomah County	New York City
Population <sup>a</sup>	2.5 million	432,000	759,000	8.3 million
Probation agency	Community Supervision and Corrections Department (CSCD)	SJD Department of Correctional Services (DCS)	Department of Community Justice (DCJ)	New York City Department of Probation (DOP)
Study period	2007–10	2006–10	2006–10	2009–10
Study sample size	55,212	6,990	11,923	31,095
Black probationers (general population)	39% (23)	17% (4)	20% (6)	47% (26)
White probationers (general population)	32% (32)	80% (88)	70% (72)	15% (33)
Hispanic probationers (general population)	30% (39)	4% (3)	10% (11)	38% (29)
Control variables	<ul style="list-style-type: none"> <li>• Age</li> <li>• Gender</li> <li>• Marital status</li> <li>• Education</li> <li>• Employment</li> <li>• Risk assessment score</li> <li>• Needs assessment</li> <li>• Felony charge</li> <li>• Violent charge</li> <li>• Drug charge</li> <li>• Probation violation</li> </ul>	<ul style="list-style-type: none"> <li>• Age</li> <li>• Gender</li> <li>• Marital status</li> <li>• Education</li> <li>• Employment</li> <li>• Citizenship</li> <li>• Military service</li> <li>• Born in Chicago</li> <li>• Risk assessment score</li> <li>• Drug problem</li> <li>• Alcohol problem</li> <li>• Program referral</li> <li>• Prior convictions</li> <li>• Felony charge</li> <li>• Violent charge</li> <li>• Drug charge</li> </ul>	<ul style="list-style-type: none"> <li>• Age</li> <li>• Gender</li> <li>• Criminal history (scale)</li> <li>• Crime severity (scale)</li> <li>• Past probation terms</li> <li>• Suggested supervision level (risk assessment-based)</li> <li>• Felony charge</li> <li>• Violent charge</li> <li>• Drug charge</li> <li>• Weapon charge</li> </ul>	<ul style="list-style-type: none"> <li>• Age</li> <li>• Gender</li> <li>• Borough</li> <li>• Prior arrest</li> <li>• Prior felony arrest</li> <li>• Program referral</li> <li>• Rearrest</li> <li>• Felony rearrest</li> <li>• Violation court hearing</li> </ul>

<sup>a</sup> All general population statistics from US Census Bureau, 2013, "State & County QuickFacts," Retrieved February 4, 2013. <http://quickfacts.census.gov/qfd/index.html>. The percentage of the general population that is black includes black Hispanics while the percentage of the general population that is white does not include white Hispanics. The percentage of the population that is Hispanic includes individuals of any race identifying as Hispanic.

## Limitations

Data on some key factors likely related to revocations were not available for analysis. The most important missing information pertained to details regarding violation behavior. In Dallas County, we had data on whether a probation violation was detected; in New York City, we had information on rearrest and whether an individual had a court hearing for a violation filed by the DOP. In no site was the data sufficiently populated regarding violation type, including whether violations were related to new crimes or technical violations of probation conditions. This is a very substantial limitation, as the type of violation is strongly related to the likelihood of revocation.

We also did not have the data necessary to parse out the contributions of different decision points and actors to the disparity. Probation revocations are a product of probationer conduct, probation officer discretion, judicial discretion, and supervision conditions, making these four factors important determinants of which probationers experience a revocation. Other processes, such as law enforcement practices (which could detect more or less probationer misconduct) or policies and statutes (which could limit discretion in responding to probation violations), also play a role in many jurisdictions.

Given these limitations, conclusions regarding the drivers of observed disparities in probation revocations are provisional and constrained by the data available for this study. However, our analyses provide insight on how jurisdictions might begin or advance the work of mitigating disparity in probation revocations.

## **Findings**

### **Probation Stakeholder Perceptions of Bias in the Criminal Justice System**

Views on the role of race and ethnicity in the criminal justice system expressed in our interviews of probation staff and leadership and judges were largely consistent across sites. Many interview respondents expressed the belief that bias existed in areas of the justice system other than probation, particularly with regards to arrest decisions and sentencing. Respondents often believed that minorities were more likely to be arrested by law enforcement in general and that minority communities tended to be more saturated with police, making contact with the police more frequent. Thus, minorities were more likely to be arrested by police, found in violation of probation, and revoked. Moreover, some interviewees stated that the number and types of charges listed by law enforcement often varied by race. Stacking charges against minorities were said to not only result in higher risk assessment scores, which impacts the probationer's chances of success, but also to increase the chance that the district attorney will choose to prosecute, decrease the likelihood of offering a plea bargain (or a lower plea), and influence judicial sentences.

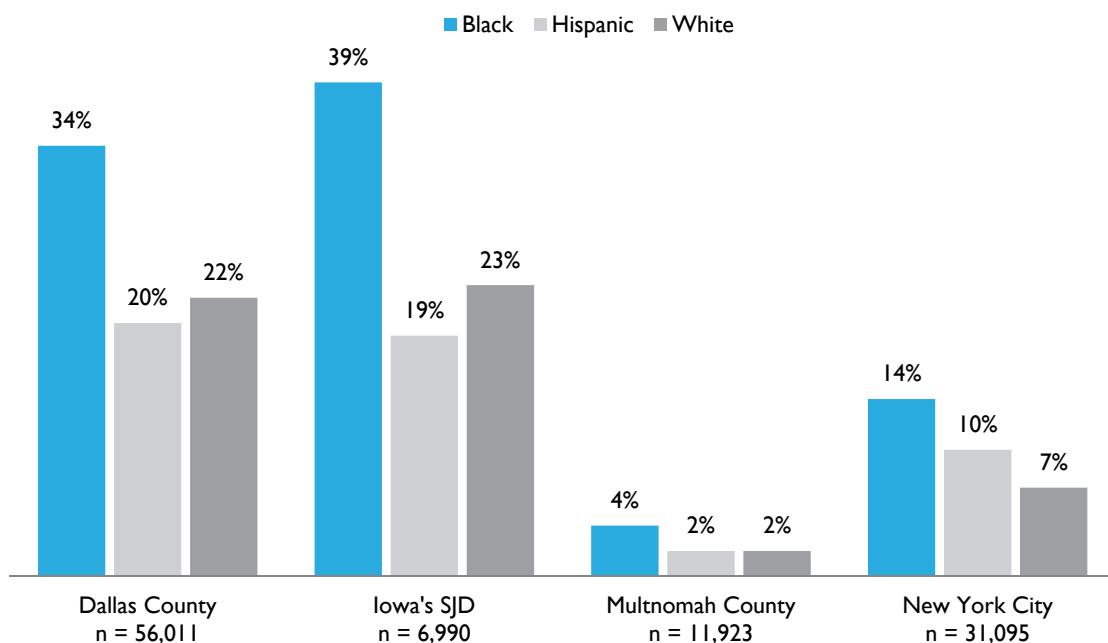
Most of the interviewees either did not believe or had never witnessed racial or ethnic bias in the probation process within their local jurisdiction. Many respondents stated that they were required to act solely upon facts and that the varying sanctioning matrices and grids employed at each site had largely—but not entirely—mitigated many of the subjective aspects of the probation process that might allow bias to affect outcomes. A few respondents in each site, however, differed from this opinion and discussed times when they believed they had witnessed racial and ethnic bias within their department.

### **Higher Revocation Rates for Black Probationers**

We consistently found disparity in probation revocation outcomes to the disadvantage of black probationers (figure 1). In all four study sites, black probationers experienced probation revocation at significantly higher rates than white and Hispanic probationers. Revocation rates for black probationers in our study samples ranged from 55 percent higher than that of white probationers in Dallas County to over 100 percent higher in Multnomah County (albeit with a low base rate of revocations).

The findings were mixed when comparing outcomes for white and Hispanic probationers. The difference in revocation rates between white and Hispanic probationers was statistically significant in two sites: Iowa's SJD and New York City. In Iowa's SJD, Hispanic probationers were revoked at a lower rate (19 percent versus 23 percent) and in New York City, Hispanic probationers were revoked at a higher rate (10 percent versus 7 percent). In Dallas and Multnomah Counties, the differences between the revocation rates for Hispanic and white probationers were not statistically significant.

**Figure 1. Study Sample Revocation Rates by Race and Ethnicity**



Note: Findings are not directly comparable across the four study sites because data available and probation population varied across sites. We excluded Dallas County probationers on indirect supervision, Iowa SJD probationers on self-supervision status, and Multnomah County probationers on bench probation in our analyses, as relevant data were not collected on them, particularly risk assessment data. The Dallas County sample only includes those sentenced to probation during the study period, while the other site samples include all individuals on probation at any point during the study period. Given that probation revocations tend to occur early in the supervision period, this means that the baseline likelihood of revocation for the Dallas County sample is higher than that for the other sites.

## Disparity Observed When Controlling for Nonracial and Nonethnic Characteristics

There were a number of meaningful differences between black, white, and Hispanic probationers in attributes related to the odds of revocation. For example, black probationers across all four study sites had higher risk scores and more extensive and/or serious criminal histories. These characteristics were positively related to the odds of revocation. We constructed logistic regression models to investigate whether disparate outcomes persisted after controlling for the factors listed in table 1 (table 2).<sup>8</sup>

**Table 2. Regression Results, Odds of Revocation Compared with Black Probationers**

Site	White	Hispanic
Dallas County	-18%	-16%
Iowa's SJD	-32%	-46%
Multnomah County	-36%	n.s.*
New York City	-30%	-17%

\*The difference in the odds of revocation between black and Hispanic probationers was not significant after controlling for other factors ( $p < .05$ ).

Note: Findings are not directly comparable across the four study sites because data available varied across sites.

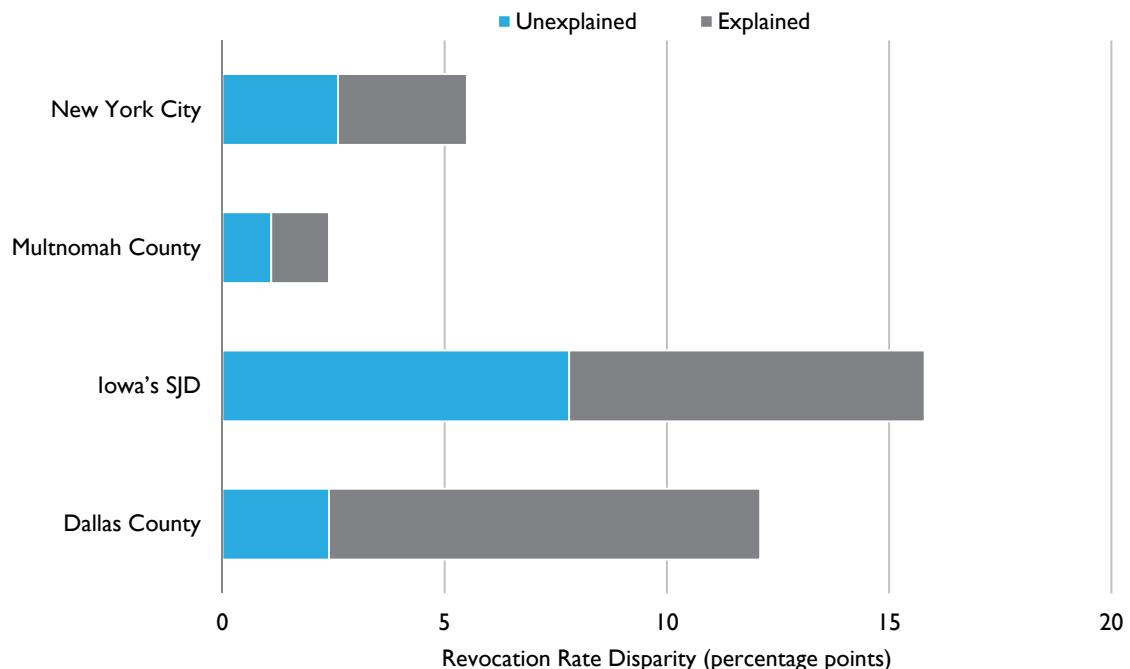
In every study site, black probationers had substantially and statistically significant higher odds of revocation than white or Hispanic probationers. The odds of revocation for white probationers were between 18 and 39 percent lower than for their black counterparts after controlling for available factors (all results were significant at the  $p < .01$  level). Similarly, in three of the four sites, Hispanic probationers

had lower odds of revocation than their black counterparts after controlling for available factors (16 to 52 percent lower odds, all results were significant at the  $p < .01$  level). The control variables differed across sites, making direct cross-site comparison of these results inappropriate.

## Contributors to Disparity

The team also used the Blinder-Oaxaca (B-O) decomposition method to analyze the contributors to disparity. The B-O decomposition method informs policy and practice differently from the logistic regression by breaking 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 (figure 2). The portion explained by group differences in characteristics is interpreted as the amount that the observed disparity would narrow if the two groups of probationers had the same characteristics in terms of variables included in the model. The unexplained portion is the amount of the disparity that would remain if the characteristics of the two groups were equalized. This unexplained portion may be due to unequal treatment or group differences not captured in our models.

**Figure 2. Black–White Disparity Explained and Unexplained by Group Differences**



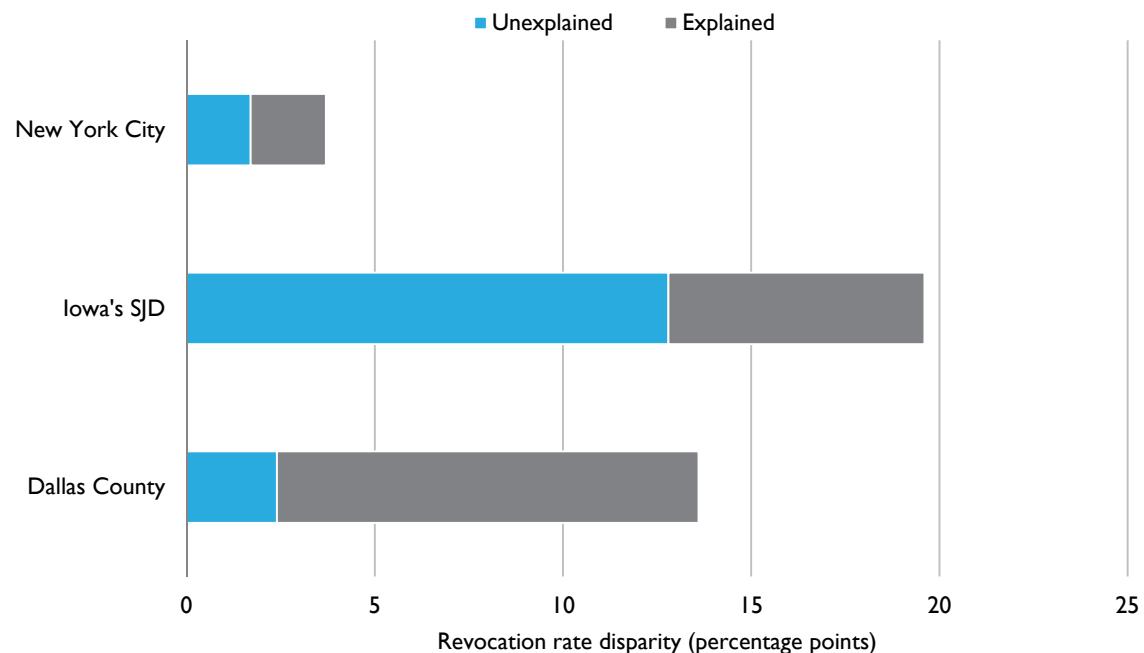
Note: Findings are not directly comparable across the four study sites because data available varied across sites.

Differences in attributes accounted for between 51 percent and 80 percent of the observed disparity between black and white probationers across the four study sites (figure 2). Between 20 and 49 percent could not be explained by the group differences in our models. In all four sites, the unexplained proportion of the disparity for the black–white decomposition was statistically significant ( $p < .01$ ). Similarly, group differences explained between 35 percent and 82 percent of the observed disparity between black and Hispanic probationers, with 18 to 65 percent unexplained (figure 3).<sup>9</sup> Once again, the proportion of unexplained disparity for the black–Hispanic comparisons was statistically significant ( $p < .01$ ) in each of the four study sites.

Unlike comparisons involving black–white or black–Hispanic probationers, group differences in attributes explained almost all of the revocation rate disparity between white and Hispanic probationers in Dallas County and New York City. In Iowa's SJD, where the revocation rate for Hispanic probationers was 4 percentage points lower than that of white probationers, practically none of the revocation disparity between white and Hispanic probationers was attributable to group differences. This was largely due to

there being some group differences to the advantage of Hispanic probationers relative to white probationers (e.g., Hispanic probationers had fewer prior convictions on average) and other differences to the disadvantage of Hispanic probationers (e.g., fewer Hispanic probationers employed), which cancelled each other out.

**Figure 3. Black–Hispanic Disparity Explained and Unexplained by Group Differences**



Note: B-O models for the black–Hispanic pair were not run for Multnomah County due to insufficient number of revocations for Hispanic probationers. Findings are not directly comparable across the four study sites because data available varied across sites.

Whether bias is a cause of disparity is a primary concern in disparity research. The portion of the disparity that could not be explained by group differences may be due to unequal treatment based on race. As discussed in the Limitations section, we cannot say with confidence how much, if any, of the unexplained disparities in revocations could be attributable to bias. Some of the unexplained disparity could be due to differences in violation behavior that we could not include in the models. However, the size of the unexplained portion is sufficient to raise concerns about the presence of bias to the disadvantage of black probationers. Although we were missing data on violation behavior, the sites where we had some violation and/or rearrest data still had significant unexplained portions. Even more, the Hispanic–white disparities in those sites were largely explained by group differences. This raises the concern that something different is operating in revocation outcomes with regard to black probationers. Given the consistent research finding that blacks are disadvantaged by bias in a broad variety of contexts in the United States,<sup>10</sup> it seems prudent to assume that some level of bias may be occurring and to seek options to remediate it. However, responsibility for revocation decisionmaking is diffuse, involving probation officers, supervisors, court liaison staff, and judges. Thus, even if bias appears to be operating, it is still necessary to determine where in the process it may reside.

The B-O models also estimate the contribution of differences in each variable to the disparity, which provides insight into the drivers of differences in revocation rates. Table 3 lists the group differences included in our analyses according to their contributions to explaining the disparity. The percentages represent how much the disparity would decrease if black and white probationers had the same average value for that attribute. For example, in Multnomah County, the difference in the average number of past probation terms contributed to 37 percent of the 2.4 percentage point disparity between black and white probationers. If black and white probationers had the same number of past probation terms on average, the disparity would be 37 percent (0.9 percentage points) smaller. Some group differences made negative

contributions, indicating that the disparity would increase if black and white probationers had the same average value for the specified attribute. In Dallas County, if the same proportion of black and white probationers were serving probation for a violent crime, the disparity would be 3 percent larger. Though they differed at each site, the highest contributing factors consistently accounted for about one-third of the disparity. The rest of the differences generally made smaller contributions, though they added up to sizable portions of the disparity.

**Table 3. Contributions of Group Differences to Black–White Disparity**

	Dallas County	Iowa's SJD <sup>a</sup>	Multnomah County <sup>b</sup>	New York City				
Black–white disparity (percentage points)	12.2	15.7	2.4	6.4				
Contribution of group difference (percent)	Risk assessment score Serious probation violation filing Needs assessment Employed Felony charge Education Gender Age Marital status <sup>c</sup> Drug charge Violent charge	39 22 7 7 4 2 2 2 0 -2 -3	Risk assessment score Prior convictions Drug problem Employed Violent Charge Age Felony charge Gender Alcohol problem Drug charge Education	52 2 2 1 0 -1 -1 -2 -6	Past probation terms Criminal history Crime severity Age Had prior arrest Had prior felony arrest Borough Gender Program referral	37 10 6 3 4 2 -2 -3 -3	Court hearing for a violation Age Felony rearrest Rearrest Had prior arrest Had prior felony arrest Borough Gender Program referral	31 21 6 4 2 -2 -3 -3

<sup>a</sup>The following factors were not significant in SJD ( $p < .05$ ): Born in Chicago, military service, marital status, program referral, and US citizenship.

<sup>b</sup>The following factors were not significant in Multnomah ( $p < .05$ ): suggested level of supervision, gender, violent charge, felony charge, drug charge, and weapon charge.

<sup>c</sup>Significant results may appear as “zero” due to rounding.

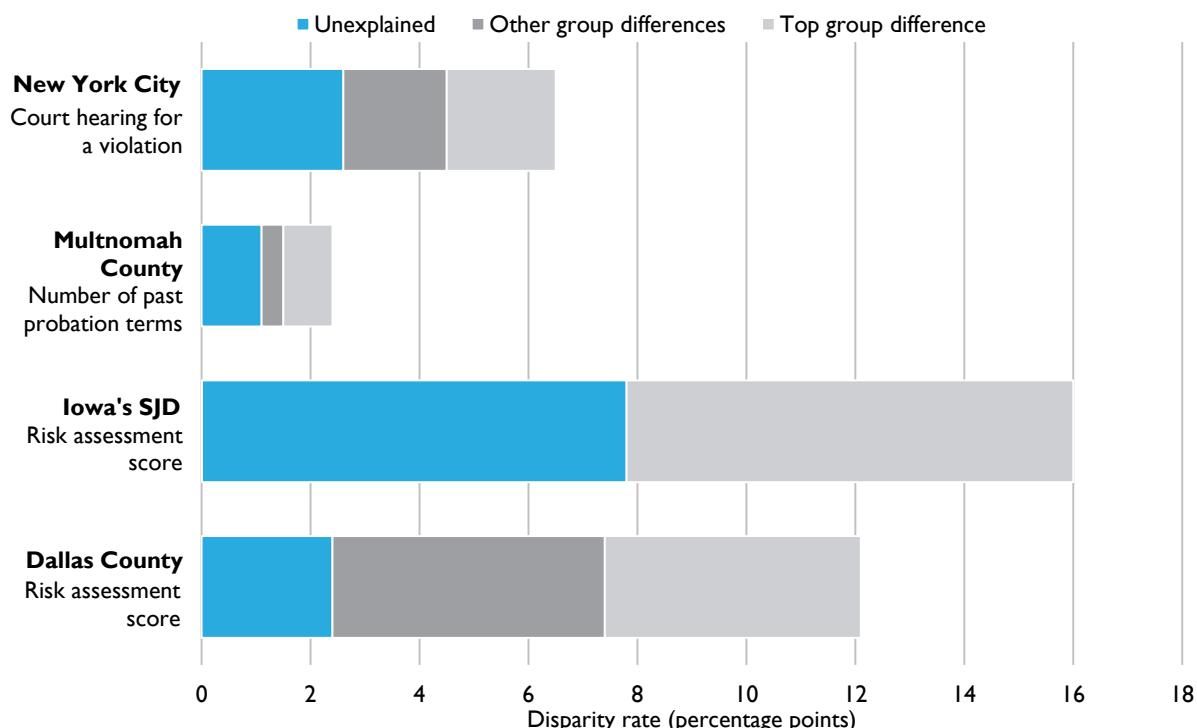
Note: Findings are not directly comparable across the four study sites because data available varied across sites.

Because available data varied by site and an important factor in one site might be omitted from another, any broad conclusions drawn regarding the most important group differences contributing to revocation disparities are provisional. However, the strong influence of differences in criminal history (past probation terms and number/severity of convictions) and risk assessment scores (which are primarily based on criminal history) stands out. The difference in risk assessment scores was the largest contributor to the black–white disparity in Dallas County and Iowa's SJD (figure 4). In these sites, black probationers had higher risk scores than white probationers; higher risk scores were related to higher odds of revocation. In Dallas, risk assessment differences made a greater contribution to the disparity than differences in having probation violations. In Multnomah County, criminal history made the largest contributions in where the number of past probation spells contributed to 37 percent of the disparity and the criminal history severity score contributed to 10 percent of the disparity. However, suggested

supervision level, as determined by a risk assessment, did not make a significant contribution to the disparity. New York City did not use a risk assessment for probation during the study period.

When the data was available, differences in probation performance variables were large contributors to the racial disparity. In New York City, the top contributor was the difference in the proportion of people who had a court hearing for a violation (31 percent). This variable reflects the probation department's decision respond to a violation by filing the violation in court. Differences in rearrest and felony rearrest rates contributed an additional 10 percent combined. In Dallas, differences in filings for serious violations contributed to 22 percent of the disparity. Notably, most of the respondents in our interviews said that they did not believe violation rates differed by race or ethnicity.

**Figure 4. Top Contribution to Black–White Disparity from Group Differences by Site**



Note: Findings are not directly comparable across the four study sites because data available varied across sites.

## Discussion and Policy Implications

The purpose of this multisite study was to better understand the extent of racial and ethnic disparity in probation revocation outcomes, and shed light on the drivers of that disparity. Disparities are an issue at decision points throughout the criminal justice system; by examining probation revocation, we hope to inform the larger discussion. Though the results across the four study sites are not directly comparable, the consistency of our main findings across all four suggests characteristics of racial and ethnic disparity in this area that may be common throughout the United States. Furthermore, the study sites are jurisdictions willing to participate in an analysis of disparity and that had already been engaged in efforts understand and mitigate justice system disparities. This suggests that the findings in the four study sites may be a conservative estimate of the extent of disparities in the probation revocations in the United States.

The most striking finding in the study is the consistent presence of disparity in probationer revocation outcomes to the disadvantage of black probationers. Revocation rates for black probationers were higher than for white and Hispanic probationers in every study site. The greater odds of revocation remained

statistically significant after controlling for differences in probationer characteristics across the three groups.

Evidence regarding disparity to the disadvantage of Hispanic probationers, however, was weaker. Revocation rates for Hispanic probationers were lower than those of black probationers in all of the study sites, lower than that of white probationers in two, and indistinguishable in a third. Only in New York City did Hispanic probationers experience revocation at a higher rate than white probationers. And only in Iowa's SJD, where Hispanic probationers had a lower revocation rate than white probationers, did the B-O analyses find a statistically significant portion of the disparity not explained by group differences between Hispanic and white probationers. The Iowa SJD results for Hispanic probationers were striking in that they had a revocation rate lower than many of their characteristics would suggest. For example, they were younger, more likely to be men, less likely to be citizens and less likely to be employed—all attributes associated with a higher odds of revocation.

A common theme in our interviews was that bias exists in other areas of the justice system, particularly with regard to arrest decisions and sentencing. For example, biased policing could lead to more arrests for communities of color, which could automatically initiate or be reason for revocation. Our results showed that differences in criminal histories, as well as risk assessments and supervision levels (both of which are primarily based on criminal history), were among the top contributors to disparity. The contributions of group differences in criminal history measures to differences in revocation rates could reflect this disparity in front-end justice system practices.

Front-end disparity could have compounding effects beyond the initial decision point. If bias is present in front-end practices, it will be “soaked up” in objective measures of criminal history. This relates to an emerging line of criticism of actuarial risk assessment, namely that relying on risk assessment for purposes such as setting the intensity of probation supervision and determining appropriate responses to violations exacerbates racial disparities in the justice system.<sup>11</sup> Thus, bias at the front end of the justice system can continue to negatively affect outcomes for minority populations throughout their justice system involvement. The amount of racial disparity stemming from differences in risk assessment scores or assessment-based supervision levels in two of the three sites with such assessments in place lends some support to this concern.<sup>12</sup> Since the study period, Dallas County CSCD has been transitioning to a new risk assessment tool that does not assign additional weight to criminal history items versus other factors in the assessment. This new scoring may impact the disparity if the other factors that are now given more weight do not correlate with race or ethnicity.

Limits placed on discretion in dealing with probation violations may also contribute to disparities. In Multnomah County, for example, some “downward departure” sentences (sentences to probation for individuals facing a prison sentence based on Oregon’s sentencing guidelines) may stipulate that any new violation results in a revocation, without the possibility of the probation officer exercising discretion. Likewise, in some cases, by judicial order or as part of a plea agreement, probationers are ineligible for their violations to be handled via Multnomah County’s administrative sanctions grid, and instead individuals are returned to court for every probation violation. These situations requiring mandatory rather than discretionary initiation of violation procedures increase the risk of revocation; if they are applied more often to minorities, they will also increase disparity.

Differences in the revocation base rates across the study sites suggest the need to ground discussion of revocation rate disparity in the context of how extensively probation revocation occurs. Multnomah County has the greatest disparity between revocation rates for black and white probationers, with black probationers experiencing revocation at twice the rate of white probationers during the study period. Here the logistic regression model indicated that the odds of revocation for white probationers are 36 percent less than the odds for black probationers when controlling for differences between the two groups. Given the 2 percent base revocation rate, however, the impact of these disparities is much smaller than that of disparities in jurisdictions in which revocation is a more common outcome. Lowering revocation rates reduces the harm that disparity in revocation rates causes, if the reduction in revocation rates occurs across all racial and ethnic groups. It is, therefore, encouraging that revocation rates were declining in

both Dallas County and New York City during and immediately after the study period. New York City has also reduced its violation rate since 2010.

The two sites in which the regression models estimated the greatest difference between odds of revocation for black and white probationers (though they are not directly comparable) were Iowa's SJD and Multnomah County, which are the jurisdictions with predominately white general and probationer populations. Establishing cultural competency is a different type of challenge for those jurisdictions. Multnomah County has tackled this challenge for parolees through its African American Program, which developed a behavior-change and reentry approach specific to that population.<sup>13</sup> Similarly, the SJD has formed the Racial Disparity and Cultural Competence Committee to address the disproportionate representation of minorities in the criminal justice system.

Regardless of the reasons behind it, racial and ethnic disparity in justice system outcomes is problematic and needs to be addressed. Contributions of group differences to disparate revocation rates are thus just as important as the unexplained portion, because they offer potential targets for system change to remediate disparity. Group differences in criminal history and risk assessment scores were the primary contributors to disparities in revocation outcomes in our models. The impact of these two measures on revocations was as expected. However, it serves as a reminder of the importance of using risk assessment to inform good risk-reduction efforts, as opposed to simply focusing more supervision surveillance on higher-risk probationers. Intensive supervision consisting solely of increased surveillance makes outcomes worse, whereas intensive supervision coupled with treatment improves outcomes.<sup>14</sup> In jurisdictions in which risk assessment scores are on average higher among probationers of color, failure to couple more intensive supervision with treatment and support will exacerbate racial and ethnic disparities in probation outcomes.

## Policy Recommendations

While this study looks at probation revocation, the results reflect many dynamics and decision points the study was unable to parse out, some of which occur outside of the purview of a probation agency or the judges considering probation revocations. Considering these limitations, we put forward a set of policy recommendations combining steps that probation agencies can undertake to reduce disparity themselves and actions that justice system policymakers across the country can undertake more broadly.

*Consistently communicate the importance of the issue of disparity.* This type of communication from agency leadership to line staff can be beneficial in having teams internalize the importance of reducing disparity understanding that it is a priority. Our interviews with probation staff highlighted the need to emphasize disparity reduction as some staff did not perceive disparity or bias to be either an issue in probation revocation or under the control of a probation agency. Committing to monitor disparity is a powerful way to communicate the importance of disparity reduction; what is measured and discussed is an indicator of what matters, and staff understand it as such. This communication would ideally span the criminal justice system, since all components of the system can help in mitigating disparity.

*Develop committees and working groups for addressing disparity.* Dedicated spaces for addressing justice system disparities are necessary to develop an agenda of policy responses to it and to communicate the message about disparity discussed previously. Such committees should have responsibility for examining the entire justice continuum, with a focus on disparities in arrest, charging, and sentencing, each of which our findings suggest may have the greatest effect on disparate probation outcomes.

*Continually enhance staff cultural competency and sensitivity.* Cultural competency and sensitivity are important elements for ensuring that staff can work with all the cultures present in the probation population with equal facility. The agencies participating in this study had all invested in cultural competency training (CCT) for staff. Each study site invests in cultural competency training for probation officers, indicating a common belief that equal treatment of, effective communication with, and effective supervision of probationers of color is good probation practice. Stakeholders in three of our four study sites called for a more nuanced approach to CCT by moving beyond more general discussions about introductions to cultures and instead cover more nuanced information that is immediately applicable to their day-to-day work, such as learning about the social cues, like eye contact and tone of voice, of other

cultures. Additionally, cultural competency and sensitivity training was not common for the judiciary, and judicial professional development organizations may wish to offer cultural competency training to address this gap.

*Assess and improve cultural competency of probation's risk-reduction partners.* Treatment and service providers must be able to engage effectively with all elements of the probation population to reduce the risk of both reoffending and revocation. Engaging with providers to whom probation makes program referrals to assess their levels of cultural competence can help ensure that disparity is addressed, and also can facilitate enhancement of probation skills by offering the opportunity to learn from community partners who may have stronger cultural competency.

*Target resources toward subsets of the probation population with higher revocation rates, who are more represented in the black probationer population.* Certain subsets of the probation population, such as those who were male or had substance abuse problems had higher odds of revocation and were more represented among probationers of color. In New York City, the difference in average age contributed to 21 percent of the black–white disparity. Differences in employment and education contributed to disparity in other sites. Probation agencies may be able to reduce disparity by increasing the success rates of those subgroups. For example, agencies might invest more resources in an employment assistance program or develop a youth program.

*Develop a robust array of nonrevocation responses to violations.* Reducing adverse justice system consequences may be the most promising avenue for reducing disproportionate harm to people of color in the justice system. A broad commitment to alternatives to revocation, and to using the least restrictive sanctions consistent with public safety can minimize the harm done by disparity in probation processes. All of the sites had some form of intermediate sanctions in place during the study period.

*Collect and monitor data on racial and ethnic disparity.* The benefits of monitoring racial disparity are twofold. First, as discussed above, monitoring disparity is a powerful way to communicate the importance of disparity reduction—what is measured and discussed is an indicator of what matters and line staff understand it as such. Second, it is difficult to effectively tackle disparity in outcomes without adequate information to understand the problem and to determine whether interventions are improving the situation. Iowa's SJD has already committed to monitoring disparities as a result of the study findings. Efforts to improve data collection may also be desirable. Incomplete data prevented us from being able to include information on violation type in our analyses, which would have provided more robust results. It may also be helpful to examine data by probation office or district, to identify patterns relative to disparity and flag potential problem offices or ones that perform better from which others could learn. Every jurisdiction is different and requires its own data analysis to pinpoint the drivers of racial disparity.

*Evaluate probation practices based on their capacity to reduce disparity.* Analyzing the impact of particular probation practices, such as having dedicated probation revocation judges or instituting a graduated response matrix, on outcomes by race or ethnicity of probationers would provide valuable guidance on effective strategies for reducing disparity in outcomes or policies that exacerbate disparity.

*Examine whether policies that increase the chances of revocation are disproportionately applied to racial and ethnic minorities.* This analysis is a critical step to determining whether constraining probation discretion is contributing to disparity in a jurisdiction. If so, it may be beneficial to reconsider whether such policies are necessary, particularly where probation departments have good assessments and a strong graduated sanctions process. Some jurisdictions have adopted racial disparity impact statements to determine the projected impact of various policy undertakings on disparity. These are useful because contemporary policies rarely explicitly discuss race/ethnicity, but could still have disproportionate impacts on people of color. Connecticut, Iowa, and Oregon have passed legislation requiring such statements.

*Reexamine risk assessments and how they impact decisionmaking.* Differences in risk assessment scores made large contributions to the black–white disparity. Actuarial risk assessment is a cornerstone of effective supervision, but jurisdictions employing such tools need to be cognizant of their potential to exacerbate racial disparities in the justice system. At the same time, risk assessments provide a

mechanism for prioritizing resources for people of color to increase their success rates on supervision. All criminal justice decisionmakers should reconsider how risk assessments redistribute surveillance and support resources and how they might exacerbate or mitigate racial disparities.

## Directions for Future Research

This study, while valuable in identifying the extent and drivers of disparity in four different contexts, also raises many questions that could not be answered within the study's parameters. Future research should explore the following areas:

- The relationship between alleged violations, types of violations, race, ethnicity, and revocation outcomes;
- Separate analyses for probation decisions to recommend revocation and court decisions to revoke;
- Racial and ethnic disparity in the use of intermediate sanctions, such as flash incarceration, or in the application of more extensive or onerous conditions of supervision; and
- The effectiveness of interventions to decrease racial and ethnic disparities in the criminal justice system.

There is a strong consensus in many quarters that racial and ethnic disparities in the justice system is a critical issue that harms communities of color and undermines belief in the legitimacy of the justice system. Findings like those presented in this brief further demonstrate how pervasive such disparities are. To ensure justice processes are fair and just, we need to determine the precise mechanisms that contribute to disparity and devise and evaluate interventions to reduce disparity.

## Notes

1. Carson and Golinelli 2013; Maruschak and Bonczar 2013; Minton 2013; US Census Bureau, 2013, "State & County QuickFacts," Retrieved February 4, 2013. <http://quickfacts.census.gov/qfd/index.html>.
2. Iguchi et al. 2005; Wakefield and Wildeman 2011; Rocque 2011.
3. Glaze and Herberman 2013.
4. A full technical report is available upon request.
5. White, black, and Hispanic were coded as mutually exclusive groups, to ensure consistency in definition of the categories across study sites. Probationers not in any of those three groups were excluded from the study samples.
6. We did not include Dallas County probationers on administrative caseloads or Iowa SJD probationers who began probation on self-supervision status in our analyses, as relevant data were not collected on them, particularly risk assessment data.
7. 26 probation officers and direct supervisors, 13 members of executive staff or upper level management, 5 members of program staff, 3 judges, and 3 court liaisons/PSI investigators.
8. We used black probationers as the reference category given that their revocation rates were consistently higher than white and Hispanic probationers.
9. The B-O decomposition method could not be conducted for the Hispanic–white and black–Hispanic pairings in Multnomah County because of the low number of revocations for Hispanic probationers.
10. For example, in housing markets (Turner, Struyk, and Yinger 1991), car sales (Ayres 1991, 1995), labor markets, (Riach and Rich 2002; Cross et al. 1990; Grodsky and Pager 2001; Turner, Fix, and Struyk 1991; Bendick et al. 1991; and Bendick, Jackson, and Reinoso 1994; Cain 1986).
11. See for example Harcourt 2010.
12. New York City did not have an actuarial risk assessment in place during the study period. It has subsequently implemented one.
13. For more information, see Multnomah County's "African-American Program," <http://web.multco.us/dcj-adult/aap>, accessed March 28, 2014.
14. Drake 2013.

## References

- Ayres, Ian. 1991. "Fair Driving: Gender and Race Discrimination in Retail Car Negotiations." *Harvard Law Review* 104: 817–72.
- Ayres, Ian. 1995. "Further Evidence of Discrimination in New Car Negotiations and Estimates of Its Causes." *Michigan Law Review*, 94 (1): 109–47.
- Bendick Jr., Marc, Charles W. Jackson, Victor A. Reinoso, and Laura E. Hodges. 1991. "Discrimination Against Latino Job Applicants: A Controlled Experiment." *Human Resource Management* 30 (4): 469–84.
- Bendick, Jr., Marc, Charles W. Jackson, and Victor A. Reinoso. 1994. "Measuring Employment Discrimination through Controlled Experiments." *Review of Black Political Economy* 23 (1): 25–48.
- Cain, Glen. 1986. "The Economic Analysis of Labor Market Discrimination: A Survey." in *Handbook of Labor Economics*, edited by Orley C. Ashenfelter and Richard Layard, 693–785. New York: North Holland.
- Carson, E. Ann, and Daniela Golinelli. 2013. *Prisoners in 2012 – Advance Counts*. Washington, DC: Bureau of Justice Statistics.
- Cross, Harry, Genevieve Kenney, Jane Mell, and Wendy Zimmermann. 1990. *Employer Hiring Practices: Differential Treatment of Hispanic and Anglo Job Seekers*. Washington, DC: The Urban Institute Press.
- Drake, Elizabeth. 2013. *Inventory of evidence-based and research-based programs for adult corrections*. Olympia, WA: Washington State Institute for Public Policy.
- Glaze, Lauren E., and Erinn J. Herberman. 2013. *Correctional Population in the United States, 2012*. Washington, DC: Bureau of Justice Statistics.
- Grodskey, Eric and Devah Pager. 2001. "The Structure of Disadvantage: Individual and Occupational Determinants of the Black-White Wage Gap." *American Sociological Association*, 66 (4): 542–67.
- Harcourt, Bernard E. 2010. *Risk as a Proxy for Race*. University of Chicago Law & Economics Olin Working Paper No. 535.
- Iguchi, Martin Y., James Bell, Rajeev N. Ramchand, and Terry Fain. 2005. "How Criminal System Racial Disparities May Translate into Health Disparities." *Journal of Health Care for the Poor and Underserved* (4): 48–56.
- Maruschak, Laura M., and Thomas P. Bonczar. 2013. *Probation and Parole in the United States, 2012*. Washington, DC: Bureau of Justice Statistics.
- Minton, Todd D. 2013. *Jail Inmates at Midyear 2012 – Statistical Tables*. Washington, DC: Bureau of Justice Statistics.
- Riach, Peter A., and Judith Rich. 2002. "Field Experiments of Discrimination in the Market Place." *The Economic Journal* 112 (483): 480–518.
- Rocque, Michael. 2011. "Racial Disparities in the Criminal Justice System and Perceptions of Legitimacy." *Race and Justice*, 1 (3): 292–315.
- Turner, Margery, Michael E. Fix, and Raymond J. Struyk, R. 1991. *Opportunities Denied, Opportunities Diminished: Racial Discrimination in Hiring*. UI Report 91-9, Washington DC: The Urban Institute Press.
- Turner, Margery, Raymond Struyk, and John Yinger. 1991. *Housing Discrimination Study: Synthesis*. Washington, DC: US Department of Housing and Urban Development.
- Wakefield, Sara, and Christopher Wildeman. 2011. "Mass imprisonment and racial disparities in childhood behavioral problems." *Criminology & Public Policy*, 10 (3): 793–817.