

PROBATION VIOLATIONS AS DRIVERS OF JAIL INCARCERATION IN ST. LOUIS COUNTY, MISSOURI: Research Brief

Beth M. Huebner, Lee Ann Slocum, Andrea Giuffre, Kimberly Kras,
and Bobby Boxerman

This research was supported by the John D. and Catherine T. MacArthur Foundation through the Safety and Justice Challenge Research Consortium (Consortium). Launched in 2019, the Consortium advances criminal justice research, grounded in the efforts and data of Safety and Justice Challenge sites, to expand the field's collective knowledge of how to safely reduce the overuse and misuse of jails and racial and ethnic disparities through fair and effective pretrial reforms. The Consortium is comprised of research organizations who develop and are granted projects under independent review by a panel of academic, policy, and practice experts, including individuals with lived experience. The Consortium is managed by the CUNY Institute for State and Local Governance.



INTRODUCTION

There are more people under correctional supervision than any other correctional sanction.ⁱ Although there have been declines in the national probation population over the past decade, one in 84 adult US residents is currently on probation.ⁱⁱ The growth in use of probation increases the population at risk for subsequent imprisonment in jail or prison.ⁱⁱⁱ Individuals who violate their probation, in most states, are detained in jail awaiting a hearing. Despite the growth in probation revocations and the increased use of jail stays as a response to technical violations, there is little evidence to suggest that short terms of jail incarceration used as a sanction for non-compliance reduces recidivism.^{iv} In fact, jail stays have deleterious effects in the short and long term.^v There is further evidence that Black individuals, particularly young men, are also more likely to struggle with probation supervision and to be given multiple conditions of supervision.^{vi}

Funded as part of the John D. and Catherine T. MacArthur Foundation’s Safety and Justice Challenge Research Consortium, the goals of this research are threefold.

- Document the probation revocation process in St. Louis County, Missouri, and, using jail data, consider probation violations as one driver of the jail population.
- Conduct a process and outcome evaluation of the St. Louis County Expedited Probation Program (EPP), which was designed to accelerate case processing and provide services for individuals detained on a probation technical violation.
- Using a racial equity framework for the study allows us to consider if jail reform efforts disproportionately affect individuals of color.

This project focuses on the St. Louis County Jail which is managed by the Department of Justice Services and serves as the central detention facility for the region. St. Louis County, Missouri provides an ideal location to study the jail-probation nexus. St. Louis County is a large and diverse community. Sixty-eight percent of the population is white and 25% Black, with a small (less than 3%) Hispanic and Latinx population. The county poverty rate of 9.7% is slightly lower than the national average. The Missouri Department of Corrections (MoDOC) is a centralized system, and the St Louis County offices supervise 2,481 clients on probation.

The data used in this report include administrative data from the years 2010-2020 that were provided by Justice Services. The process and outcome analyses are also informed by data collected from qualitative interviews with individuals on probation (n=47) and local criminal justice stakeholders (n=17).

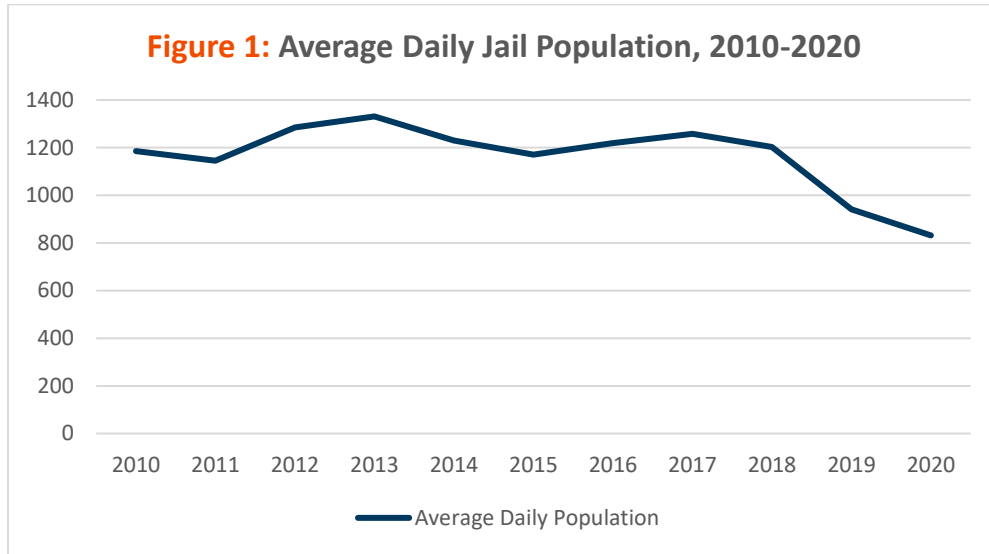
KEY RESEARCH FINDINGS

Jail Trends

The jail remained at or above capacity (1,232 jail beds) for most of the study period until 2018, when the population decreased (see Figure 1).

The Average Daily Population (ADP) represents the total population incarcerated divided by the number of days in the year.

The ADP was highest in 2013, with an average of 1,331 individuals in jail. The ADP was lowest in 2020, with an average of 832 individuals in jail. The decline in the jail population is likely due to several factors. The St. Louis County region began implementing formal interventions that are part of the Safety and Justice Challenge initiative (SJC) in 2016 and the second round of funding began in 2018.^{vii} In 2019, Prosecutor Wesley Bell was elected, running on a platform that was centered on reducing mass incarceration, including the enhancement of the existing diversion program.^{viii}

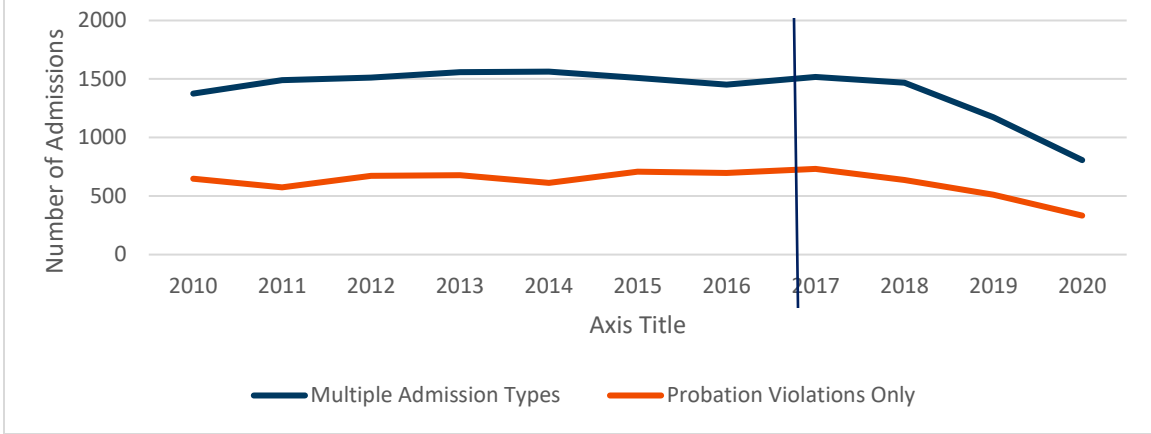


Probation Trends

Defining Probation Violations. Probation violation admissions typically involve technical violations, which include behaviors that are not unlawful but go against the terms of supervision (i.e., curfew, maintaining employment). There is some overlap between what separates a probation violation from a new crime. For example, individuals who report drug possession and/or drug use can be returned to jail on a probation violation; however, these behaviors could also be charged as new crimes. It is difficult to understand the nature of the underlying behaviors from official data, and the use of probation violations is highly discretionary. Individuals admitted to jail for multiple admission types may have a probation violation and another charge, but many individuals are returned to jail for a probation violation and a warrant on a different charge, or a combination of events.

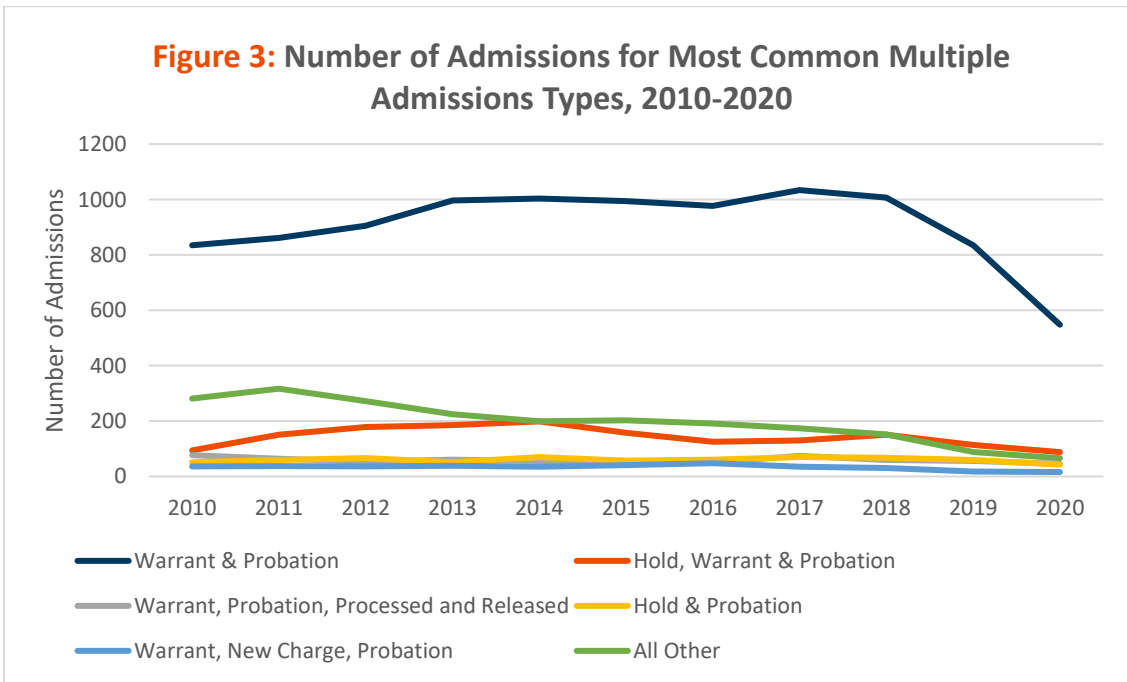
Individuals who came into the jail on a probation violation were most often admitted with multiple charges. The number of individuals admitted to jail on a probation violation, either for only a probation violation (i.e., single admission type) or for a probation violation and another reason (i.e., multiple admission types), remained relatively consistent between 2010 and 2017. Both groups saw a substantial decline after 2017 (see Figure 2).

Figure 2: Number of Probation Admissions by Number of Admission Types, 2010-2020



Individuals admitted to jail on probation violations and additional charges were most frequently booked on both a warrant and probation violation (see Figure 3). At the most, this group totaled 1,034 admissions in 2017, and at the lowest, 548 admissions in 2020. There are several different contexts under which a person is admitted into jail. A judge or probation officer (PO) can issue a warrant for failure to comply with probation requirements. In addition, warrants can be issued to require a person to come to court, either for failure to comply with court requirements (i.e., failure to appear) or if there is evidence of a new crime.^{ix} Finally, individuals can be admitted to jail on a hold, typically while awaiting transfer to another jurisdiction. Very few people are booked into jail on a probation violation and suspicion of a new crime, but as noted, the warrant may reflect potential rule-breaking.

Figure 3: Number of Admissions for Most Common Multiple Admissions Types, 2010-2020

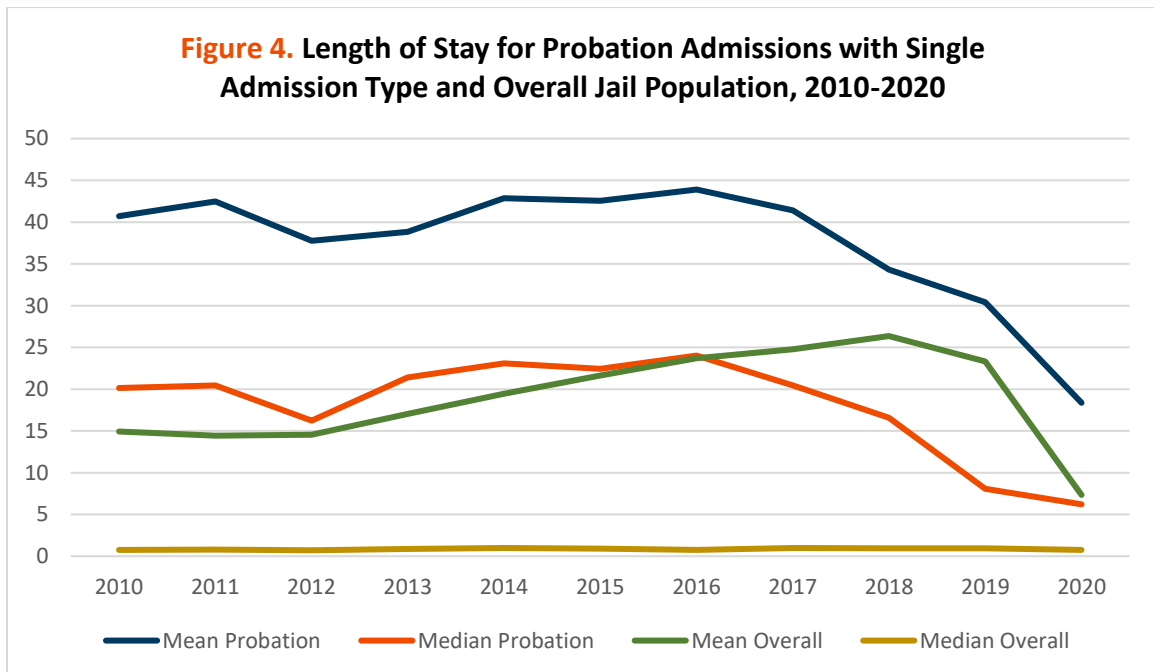


Length of Stay Trends

Length of stay (LOS) is a continuous measure of date and time released subtracted from date and time admitted. To capture the substantial case processing delays faced by many individuals on probation, we use the length of stay as a proxy for the efficiency of case processing.^x

The mean length of stay for the overall jail population increased steadily from 2012 to 2018 when it peaked at about 26 days and then dropped. The jail population dropped in 2019 and then again, precipitously, in 2020 with the onset of COVID-19, resulting in a low of 7 days. Like the average daily drop in the jail population, the decline in the length of stay coincided with the second round of funding of the MacArthur Safety and Justice Challenge, and associated interventions, and the election of a progressive prosecutor, Wesley Bell.

The length of stay for probation admissions was consistently higher than that of the total jail population for the entirety of the study period. However, **the average length of stay for the probation group declined by 31% from 2016 to 2019**, from 44 to 30 days, while the median declined by 67% (from 24 to 8 days). The length of stay for the probation group declined to 18 days in 2020. Notably, in 2016 the EPP program was introduced to reduce case processing time for people admitted with probation violations. This program is discussed in the next section.

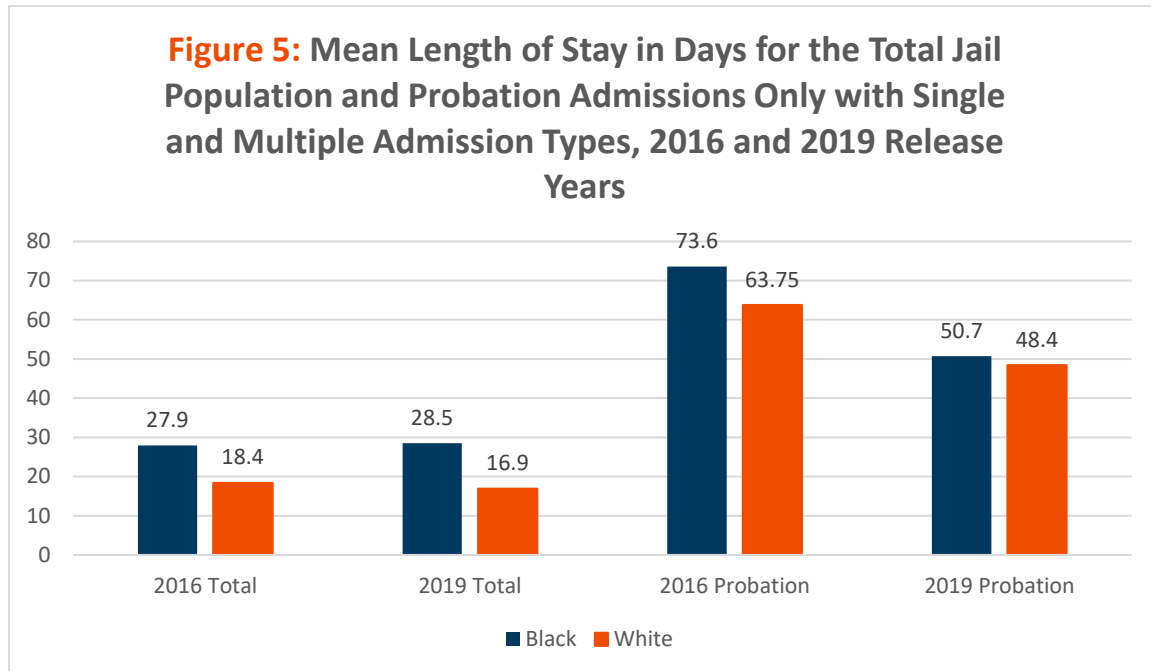


Racial Disparities in Jail Trends

Consistent with research of this type, we find racial disparities in all trends considered. **There are substantial racial disparities in jail admissions and length of stay.** While the county population is 25% Black, around 56% to 55% of those admitted to jail were Black in 2016 and 2019, respectively.

The average length of stay for all admissions was substantially longer for Black compared to White people, and individuals held on probation violations had the longest lengths of stay. The racial differences in the length of stay for individuals with probation violations were longer in 2016--the

year in which the MacArthur Safety and Justice Challenge was initiated in St. Louis County--than in 2019, the last full year of data pre-COVID-19. The average length of stay for Black individuals admitted for a probation violation declined by approximately 13%, while the length of stay declined by two days for White individuals (See Figure 5).^{xii} The mean length of stay for Black individuals entering the jail with a probation violation remained higher than that of White individuals for both years, but the race gap narrowed reaching near parity. In 2016 and 2019, the mean lengths of stay for Black individuals admitted for a probation violation were about 74 and 51 days, respectively, a 31% decrease. In comparison, the mean lengths of stay for White individuals in 2016 and 2019 were approximately 64 days and 49 days, a 23% decrease.



Probation Revocation Processes

Probation was historically developed as an alternative to incarceration, and probation allows for individuals to be referred to additional social services while maintaining social relationships and employment in the community. However, increasing the population on probation also enhances the risk of incarceration as failure to comply with the terms of probation can result in revocation and ultimately the imposition of a prison sentence. In Missouri, judges can mandate individuals to comply with several conditions of probation.^{xiii} For example, individuals on probation must maintain employment and housing, abstain from the use of controlled substances, and regularly report to their PO. Individuals on probation must also abide by any additional rules or conditions set forth by the PO or court, including drug testing and attendance at treatment or classes, among others. In Missouri, individuals sentenced to state probation are assessed a monthly intervention fee of \$30, which the state uses to pay for treatment services.^{xiii} Terms of probation can be extended by one year for failure to comply with payment schedules or any other condition of probation.^{xiv}

There is substantial discretion in the probation violation process, as it includes several phases and stakeholders. We outline the phases including: probation office's response to the behavior, formal violation report filed with the court, detention and arraignment, the PO issues recommendation, and final judicial decision. There are many circumstances guiding decision-making in a specific case and at each phase of the process. **Judges play a large role in the violation process**, yet they are often not

considered or included in probation reforms. Unpacking this process is key to increasing the efficiency of this process and potentially reducing lengths of stay.

The Missouri Department of Corrections made large organizational changes during COVID-19, shifting to a partially remote model. The statewide supervision model shifted from primarily in-person work with most meetings occurring at regional offices to a remote model where officers meet clients in the field or over teleconference. As one PO noted, "***we're trying to meet clients where they are.***" There was general support for this change as less time was dedicated to waiting on court dockets and more efforts could be diverted to enhancing communication with individuals on probation. For example, Officer Wilkes denoted: "***Pre-COVID, it wasn't uncommon for me to sit in the courtroom for four to six hours for something that was going to take 10 or 15 minutes.***"

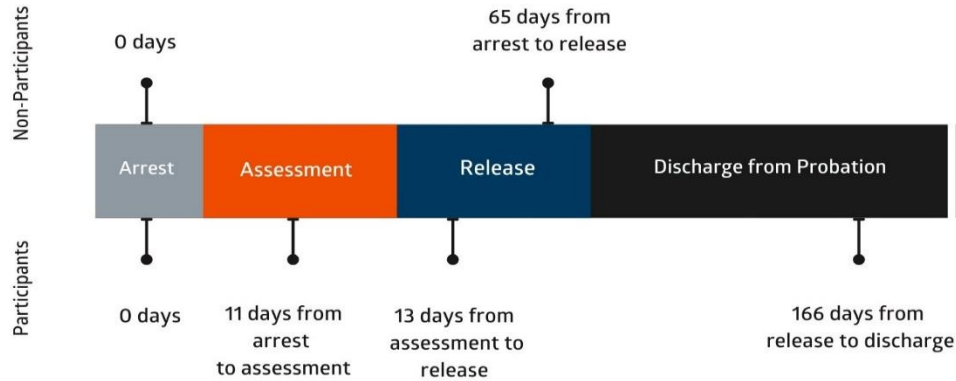
Probation officers reported that **many individuals were returned to jail because they absconded from supervision**, meaning that they did not comply with the requirements to check in with their supervising officer. Individuals on probation reported that challenges with compliance, particularly during the COVID-19 pandemic, could be linked to what they perceived as the opaque nature of the supervision process. Individuals on probation and POs also reported distrust of the probation system among individuals on probation, which led some to abscond instead of reengaging in treatment or supervision. **Individuals on probation discussed that their supervision experience was heavily dependent on their individual PO** and whether they felt like the PO would show understanding and empathy when responding to potential violations.

Evaluation of the Expedited Probation Program

The Expedited Probation Program (EPP) was designed and piloted at the end of 2016 and instituted fully in January 2017. The program is designed to expedite the revocation process to divert individuals from jail to community-based treatment. Unlike most correctional interventions, the primary aim of the project is to change how individuals are processed in jail instead of solely expecting individuals in the program to reform based on service provision. Specifically, the goal of the EPP is to have individuals evaluated by a judge and released within 10-12 days of incarceration. Individuals are deemed eligible for the program if they have been booked into the St. Louis County jail and the PO has recommended reinstatement of their probation. Individuals with a new felony arrest, outstanding serious warrants, or a severe mental health diagnosis are ineligible.

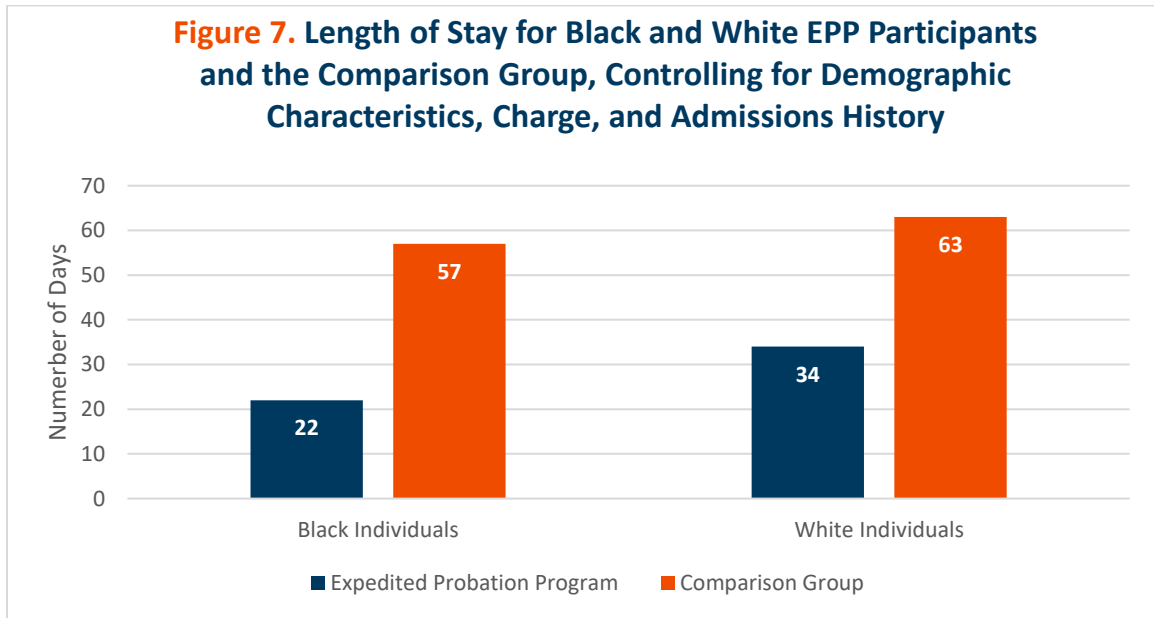
The Expedited Probation Program (EPP) achieved its goal of reducing the number of days individuals admitted for probation violations were detained in jail. On average, participants spent 28 days in jail compared to 65 days among individuals not in the program. Further, the processing time continued to decline as the program progressed. Figure 3 provides the average time for participants to complete phases (see Figure 6).

Figure 6. Average Time for EPP Participants to Complete Program Phases



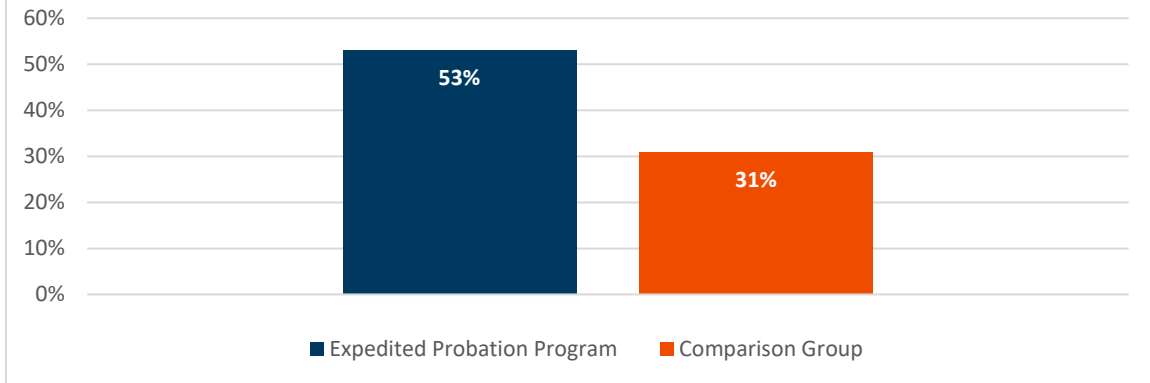
An evaluation of the EPP indicated Black individuals admitted for probation violations had shorter lengths of stay than their White counterparts (See Figure 7). The difference in the length of stay between Black EPP participants and the control group was significantly greater than that observed for white EPP participants and the control group. Further research is needed to disentangle the factors generating these race differences since they could be due to factors not measured in our data.

Figure 7. Length of Stay for Black and White EPP Participants and the Comparison Group, Controlling for Demographic Characteristics, Charge, and Admissions History



Participants in the EPP were significantly more likely to be readmitted to jail than the comparison group. Specifically, just over half (53%) of EPP participants were readmitted to jail within one year of their release while the comparable percentage for the control group was 31% (see Figure 8). These findings are observed regardless of race.

Figure 8. Likelihood of Jail Readmission for the EPP and Comparison Group Controlling for Demographic Characteristics, Charge, and Admission History



According to interviewed staff, the increase in recidivism among the EPP group is likely a partial result of additional surveillance of this group and the stress and barriers to compliance that accompanies court-mandated programming. While the enhanced services were intended to assist with reentry, they may have the unintended consequence of increasing probation violation failure rates by increasing surveillance of EPP participants and placing additional requirements on them that they had difficulty meeting.

AVENUES FOR REFORM

In terms of policy, **substantial delays in case processing of cases that involve probation violations exist.** Probation staff denoted that much of the power to change the delays lay in the hands of the judiciary. They felt that there was a need to improve communication with POs and the court, which could be achieved through enhancements in technology and potentially assigning staff to specific dockets or judges. At the same time, POs valued their autonomy and wanted to preserve discretion to intervene early with technical violations. The following policy suggestions were discussed.

Expedite the violation process. Probation staff noted that court docket calendars dictate the process and nature of probation services. Because the violation response is in the court's hands, individuals are often kept in "court limbo", waiting for the next hearing to be set or paperwork to be filed by the court. In some cases, staff suggested the delayed response from the court meant their clients went unsupervised by probation because of policy, and individuals were also not eligible for earned compliance credits while awaiting a decision. Probation officers also worried that a vulnerable client could be engaged in more harm while awaiting a decision, particularly when detained in jail for long periods of time. PO Howard provided an example:

My client, I think I had court... every month for well over a year and a half, maybe two years to handle one probation violation. And that is outrageous to me, not only for you know for myself, I'm thinking at some point, it almost sounds pointless for me to continue to go to court every month when it's just going to get continue to the next month, but for the client. It just leaves them in this limbo status and I don't know that all of our clients realize that.

There was, also, general support for continuing the EPP. After the first cohort enrolled in the program had higher rates of recidivism, the probation staff took several steps to revise the program

model. The staff transitioned to using the Ohio Risk Assessment System ORAS to match risk and need with programming, and the probation staff has transitioned to using a small number of vetted providers instead of private companies. Initial results suggest that substance abuse programming, particularly inpatient services, was being ordered more than potentially needed. Clients faced challenges with compliance as many reported difficulties arranging transportation and some treatment programs were quite lengthy in duration, making employment more difficult. Private companies also were more likely to file reports of non-compliance. This finding is consistent with recent research which has raised concerns with the potentially coercive nature of correctional programming, like drug treatment, that, for some providers, focuses largely on risk mitigation and control and not long-term integration and general health.^{xv} In addition, group substance abuse treatment is highly variable in nature, and outcomes are dependent on group cohesion and the qualities of the treatment provider.^{xvi} Therefore, with modifications, there is general evidence that this type of model can enhance case processing.

Collaborate with the judiciary to enhance case processing. Many probation staff participants shared that delays in court action in response to violations and a lack of communication or reciprocity related to the violation report were substantial impediments to the effectiveness of the probation violation process. In particular, staff desired a more unified understanding and approach to probation violations and greater recognition of the expertise of the probation staff. PO Norris provided important insight into current communication processes:

I just think that a lot of times the judges should hear the PO. Because we're the ones that establish the rapport with the client and knows the client the best. And if a PO is advocating or providing information about a client, then I think the judge should, they should listen and, you know, somewhat side with us. But sometimes it seems like they're not. You're letting them know what's going on, and what's gonna happen but it's like "okay, forget what you said. They're gonna do what they want to do." ... Because when they're making decisions, it's like, they're not thinking of the POS, because they're not the ones out here doing the work.

In addition, several individuals on probation felt like the outcomes of their case in court were predetermined, and their actions or presence in court were not valuable.

Staff made specific recommendations for improving this process:

- Develop automated and electronic processes to facilitate communication, particularly around probation violation orders, between the judiciary and probation officers.
- Create unique dockets for probation violations.
- Implement a consistent check-in process for the court to hold with clients
- Design practices that enhance the role of probation officer recommendations

Assign specific officers to court dockets to improve the collaboration between the probation office and the court. The pilot of having officers dedicated to the jail to respond to violations for those in custody was viewed positively by all probation staff participants. Participants suggested expanding this role to include officers dedicated to specific court divisions to serve as a

liaison between probation and the court regarding probation violations. This role would assist in expediting probation violation processes, as well as serving to inform the court of a client's probation history and relevant recommendations.

Ensure officer discretion in issuing a violation/citation for non-compliance. Many staff members reiterated that their ability to respond to noncompliance with service referrals or monitoring before going to court was central to addressing the underlying issues related to non-compliance. That noted, there is always the concern that some people might benefit more from discretion than others. Decision-making patterns must regularly be evaluated to ensure that revocation decisions are being equitably made.

Expand technology and policies for communicating virtually. Access to broader communication strategies between courts and officers, and officers and clients, was an important outcome of the COVID-19 response. For individuals on probation, being able to communicate with officers via technology and meet with officers in the community was an improvement to the supervision relationship and process. For both officers and individuals on probation, pivoting to holding some court hearings on web-conferencing software proved to be an efficient and less burdensome process of attending court. Leveraging technology in this way could also improve contact between the court and individuals on probation outside of probation violations.

CONCLUSIONS

Individuals who violate the terms of probation are rarely considered in correctional reforms, and much remains to be learned about best practices in jail and probation management, particularly post-COVID-19. The first goal of this study was to document the probation revocation process in St. Louis County, Missouri, and, using jail data, we consider probation violations as one driver of the jail population. Using a racial equity framework, particular attention is paid to the length of stay among individuals that violate probation and the racial variation in jail trends.

The report highlights the complexity of the probation violation process and the multiple places in which discretion is present. We find considerable racial differences in jail admissions and among the population who are returned to jail for a probation violation.

The Expedited Probation Program (EPP) achieved its goal of reducing the number of days individuals admitted to the program were detained in jail, and these reductions were substantial. However, the recidivism rates were higher for the EPP group than for the controls. Interviews with program staff suggest that there is substantial stress and barriers to compliance with the court-mandated programming associated with the intervention, which may have led to higher rates of technical violations among the intervention group.

Emerging from our interviews with stakeholders and system-involved individuals are the substantial needs that remain among this probation. Participants enumerated concerns with substance abuse and poverty that many face in the community. COVID-19 also has also changed the way in which the probation office interacts with clients, shifting to a community-based model. There is general support for these changes, and many of the participants appreciated the ability to interact with the court virtually for probation violation hearings.

Overall, the results of the EPP program suggest that collaborative processes can be instituted to reduce the time spent in jail for a probation violation. That noted, to reduce the rates of recidivism among this group, more work needs to be conducted to better understand the needs of individuals released to the community.

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- ^{viii} Slocum, L. A., Torres, L., & Huebner, B. M. (2020). *Warrant arrests in the City of St. Louis, 2002 – 2019*.
- ^x The length of stay measure uses both date and time, thus is an hourly time period rather than a date-only approach. If an observation does not have time booked and released, then the length of stay was calculated using date only with the time set at midnight. In situations where a negative length of stay was produced, these were coded as <1 day as these indicate administrative errors.
- ^{xi} Includes people admitted for a probation violation only or for a probation violation and additional charges who were released in 2016 and 2019.
- ^{xii} See <https://doc.mo.gov/sites/doc/files/2018-01/White-Book.pdf>.
- ^{xiii} See RSMO 217.690
- ^{xiv} See RSMO 559.016. Total time on any probation term, including any extension, shall not exceed the maximum term as designated in the statute. By statute, an individual cannot have more than two 5-year terms of probation with a one-year extension. Locally, most probations start at a 3-year term. A 3-year term can be extended 2 years to a total of 5. If the probation has been extended to 5 years, the individual could then be extended one more time for one year. A term of probation can also be revoked, and the individual can then be placed on a new term.
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