OFFENDER CHARACTERISTICS OF THOSE ON PROBATION AND PAROLE

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Introduction

This report explores the utility of using Vermont criminal histories to understand probation and parole violations. We conclude that criminal histories alone are not sufficient to understand the dynamics of probation and parole violations. Intensive Department of Corrections (DOC) resources would be needed to better understand the when, where, and what of violations.

Methods

We used two data sources to identify who was released on probation or parole. For parole releases we used the National Corrections Reporting Program (NCRP) report that is generated by Vermont Department of Corrections and submitted to the federal government. This report is an offender-level report that captures entries and releases from correctional facilities. We used the reports that captured Federal Fiscal Year data from 2016, 2017, and 2018. We used this dataset to identify people who were released from facilities and therefore might have been placed on parole. We requested their Vermont criminal histories and identified if/when they were released on parole. They became our parole cohort.

The probation cohort was generated from the Court Adjudication Database maintained by Crime Research Group (CRG). We selected people who were sentenced to probation or deferred sentences (which is also a probationary sentence) for the probation cohort. We had to exclude people sentenced to a split sentence. A split sentence is a type of sentence that is split between incarceration in a facility and then a subsequent period of time on probation. We did not include these people because we could not accurately identify when someone was released from a correctional facility to probation. In the NCRP data, the release could be the initial release or release from an incarceration due to a probation violation. The criminal histories no longer capture when someone is released on probation.

The final cohort for probation, deferred, and parole are described below in Table 1. As is often the case with criminal justice data in Vermont, there were too few people of Asian, Indigenous, and Hispanic descent to provide detailed numbers without the possibility of someone being identified.

Table 1: Demographics of the Cohorts

Characteristic	DEFERRED, N = 310	PAROLE, N = 555	PROBATION, N = 4,226
Average Age	27	35	32
Race			
Asian	0 (0%)	* (<%)	39 (0.9%)
Black	8 (2.6%)	38 (6.9%)	171 (4.0%)
Indigenous	0 (0%)	* (<1%)	* (<1%)
Missing	22 (7.1%)	0 (0%)	190 (4.5%)
Unknown	* (<1%)	*(<1%)	29 (0.7%)
White	278 (90%)	506 (92%)	3,792 (90%)
Sex			
Female	101 (33%)	93 (17%)	1,147 (27%)
Male	207 (67%)	459 (83%)	3,020 (71%)
Missing	2 (0.6%)	0 (0%)	59 (1.4%)
Ethnicity			
Hispanic	0 (0%)	* (<1%)	* (<1%)
Missing	300 (97%)	391 (71%)	3,689 (87%)
Non-Hispanic	10 (3.2%)	156 (28%)	528 (13%)
Unknown	0 (0%)	0 (0%)	1 (<0.1%)
Unknown	0	0	3

*Indicates 5 or fewer people

Probation Cohort

For purposes of analysis, we combined those sentenced to deferred and those sentenced to probation in the same cohort and refer to them as being sentenced to probation. Table 2 (see below) illustrates the charges categories for which people were sentenced to probation.

Table 2: Number and Category of Charges

Crime Category	Misdemeanor	Felony
Public Order	4783	81
DUI	1635	24
Motor Vehicle	1136	36
Assaults	911	53
Domestic	583	44
Theft	533	119
Drugs	411	112
GNO	311	13
Fraud	258	56
VAPOs	203	12
Sex Offenses	139	101
Fish and Game	14	*
Weapons	13	*
Arson	11	*
Homicide	*	*
Robbery	*	6
* Indicates 5 or fewer charges		

The most common charge category was misdemeanor Public Order offenses. These include disorderly conduct, trespassing, and disturbing the peace. Misdemeanor Driving Under the Influence (DUI #1, DUI #2) was the second most common category, followed by other Motor Vehicle offenses, such as driving on a suspended license.

Almost 38% (1,715) of the probation cohort had no Vermont criminal history prior to being sentenced to probation.[1] Eighty-three percent (3,818) of the cohort had never had a prior felony conviction. Almost 78% (3,520) of the cohort never had a prior probation violation. However, the range of the number of prior probation violations ranged from zero to several people with over 40 total prior probation violations each. Four percent (164) of the cohort had prior parole violations, with several people having over 10 prior parole violations each.

Conditions of probation are standard in Vermont, although the court has the discretion to order additional special conditions. Standard conditions include not engaging in or being convicted of additional criminal activity and notifying the probation officer within 72 hours of arrest. Special conditions include staying away from a particular individual(s), not engaging in violent behavior, and not possessing firearms.[2] The specific conditions a defendant is sentenced to are not in the court data extracts or criminal histories. The Department of Corrections has the data, but it is a time-consuming process to match conditions to a particular defendant (or close to 4,500 defendants, as in this study) over a several year period.

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[1] It is possible that some people completed Court Diversion and had their record expunged.
[2] Vermont's Standard Conditions of Probation

Probation violations appear on a person's criminal history under the docket number of the original case. For example, if a person is sentenced to probation on docket 123, the probation violation is filed in docket 123.[3] What researchers can tell from the criminal history is that a violation was filed, the disposition, and the date of the disposition. Researchers cannot tell what the violation was for, in what state or county the violation occurred, or which probation and parole office filed the charge. We were able to look for a new arrest after the sentence to probation started and before the disposition of the probation violation.

Of the 4553 persons in the probation cohort, 21.7% (989) were charged with violating probation. The average counts for violations of probation per disposition was 1 and the average number of dispositions was also 1. This means that on average, the alleged violator violated probation just once during the probation period. Some people, however, were charged with as many as 25 violations at one time. The average alleged violator had no prior criminal history. Six hundred and nineteen (62%) of violators had a new arrest between the probation start date and the disposition of the violation of probation charge. Some arrest records may have been expunged because they did not result in a criminal charge being filed. Additionally, some arrests may not have been submitted to Vermont Crime Information Center (VCIC) and would not have been recorded. And, as mentioned above, it is not known if these arrests were the basis of the violation. It is just known that 62% of violators were arrested between the start of their probation and when their probation violation was disposed of by the court.

Parole Cohort

There were 555 people released on parole during the study period. Table 3 shows the charges for which people served

| Table 3: Number and Type of Charges Releases on Parole		
Crime Category	Misdemeanor	Felony
Public Order	370	54
Motor Vehicle	139	15
Assaults	75	46
Theft	75	43
Drugs	73	60
DUI	69	79
Domestic	43	36
Fraud	30	14
GNO	18	*
VAPOs	16	21
Fish and Game	*	*
Robbery	*	*
Sex Offenses	*	9
Arson	*	*
Homicide	*	*
*Indicates 5 or fewer charges		

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[3] Some states use a different docket number for probation.

an incarcerative sentence for and then were released. This is the total number of charges, not people. A person can be represented here more than once.

As with the probation cohort, misdemeanor public order crimes were the most common charge. Misdemeanor motor vehicle crimes were the second most common charge. It is possible that the people with these low-level non-violent misdemeanors also had charges of felony or more serious violent misdemeanors that lead to their incarceration.

Unlike with the probation cohort, there were no first-time offenders in the parole cohort. To succinctly capture the parole cohort's criminal record, we calculated each person's criminal history score. A criminal history score is a standardized assessment of the severity and number of an individual's prior convictions. Criminal history score is calculated as: Total Prior Felony Convictions + (Total Prior Misdemeanor Convictions *.5). The average criminal history score of the parole cohort was 8, and the median was 6. Chart 1 shows the density of the criminal history scores. The chart shows that most parolees had a low criminal history score. Seventy-five percent of the cohort had no prior parole violations in their criminal history.

Chart 1: Density of Criminal History Scores for Parolees
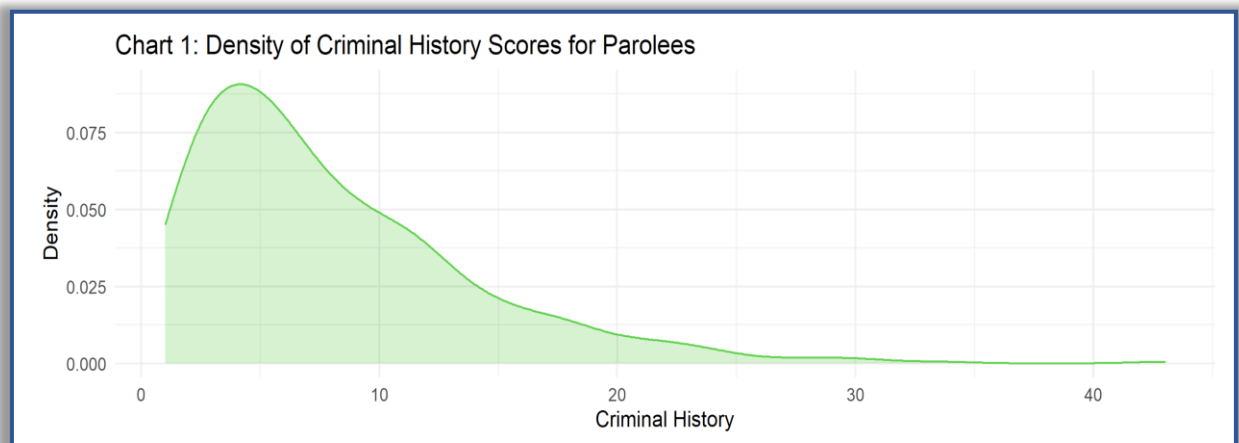
Conditions of parole are set by the parole board in compliance with 28 V.S.A.§ 502b, which allows for conditions that are "reasonably necessary" to ensure the parolee will be able to lead a "law-abiding life." [4] According to the statute, conditions may include substance abuse treatment, curtailing of internet activities, and limiting contact of certain people. Two hundred and eighty-four (52%) of parolees had a violation filed against them, of which only 111 (39%)

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[4] Vermont Terms and Conditions of Parole

had a new arrest during the parole period. This indicates that perhaps over half of all violations are not related to a new criminal offense.

Data Quality Assessment

The analysis relied on Vermont criminal histories. We have audited the disposition of criminal charges in the past and have found the completeness and accuracy rate to be extremely high.[5] For this project, however, we were using different parts of the criminal history records and found them insufficient to conduct the analysis we had hoped.

Criminal histories follow a set structure. A "cycle" in a criminal history contains an arrest segment, an arraignment segment, a disposition segment, and an event segment. The arrest segment records the arrest charges, date, agency, and other information related to the arrest. The arraignment segment records the criminal charges filed in Vermont Superior Court, Criminal Division. The disposition segment records what happened to those charges, including any sentences imposed. The event segment records events, such as failure to appear and parole releases/violations/modifications/revocations. Probation violations are listed in the disposition segment of the charges if the defendant was sentenced to probation.

Unlike criminal cases, where the date of arrest and arraignment are recorded in the record, for probation and parole violations, the date of the violation is not recorded—only the date the disposition of the violation is consistently entered. For example, if a person violated probation on 9/1/2022 and the court disposed of the violation in January 2023, the January 2023 date would be recorded. As such, it is not possible to calculate how long it took for someone to violate the probation or parole. Some probation violation entries did have a date of violation in the charge description, however, there was not enough of those entries to conduct a meaningful analysis.

Arrest data were not always complete, often the arrest offense was missing. In the case of alleged probation violators, the arrest offense was missing in 35% of the arrests. Therefore, we cannot understand what criminal offenses people were arrested for during their probation or parole.

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[5] CRG Criminal History Audit

Another issue with the criminal histories is that we cannot confirm where the alleged violations occurred. Because the violations are recorded on the cycle (either in the disposition segment for probation violations or in the event segment for parole violations) the county of original jurisdiction is the county of record. This may not be the county where the offense took place. For example, if a defendant is sentenced to probation in Orange County, but then violates a condition of probation in Burlington (Chittenden County), the violation is still recorded in Orange County.

It was also impossible to confirm when defendants serving the incarceration portion of a split sentence were released on probation. Older records had a "Released on Probation" date, indicating that the Department of Corrections would send information to Vermont Crime Information Center (the criminal history repository) indicating that a person had been released. This practice has stopped. It should be investigated to see if it is possible to resume this practice.

Conclusion

It is not possible to do a complete analysis of probation and parole violations using only criminal histories. We can determine who violated, but not how. Department of Corrections data is needed to understand the nature of violations, the timing of violations, and the location of violations. This is a very labor-intensive process for DOC. Perhaps the legislature could consider amending statutes to give probation and parole officers the ability to charge the violations as a technical violation or as a new crime, similar to subsections for types of crimes. Then, the type of violation would be recorded in the criminal history record.