

Introduction to Special Issue on Addressing Disparity in Community Corrections

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THIS VOLUME COVERS a critical topic in the field of criminal justice—racial disparity. Racial disparity has a long history in the criminal justice system. From policing to parole, large-scale disparities have been noted (Nembhard & Robin, 2021). In 2020, after the killing of George Floyd, there was renewed interest in and demands for racial equality in the criminal justice system. Several researchers have continued work in this area with renewed vigor, while others have approached this work as new researchers in this space. This volume of *Federal Probation* is dedicated to taking stock of what we currently know about racial disparities and what other research topics need to be explored. Our hope is to spur conversation about how to make changes that bring about equality in the criminal justice system.

“Place Matters: Racial Disparities in Pretrial Detention Recommendations Across the U.S.” is the first article to consider the impact of “place” on recommendations for pretrial release. Skeem, Montoya, and Lowenkamp’s article indicates that “place” matters. Those districts with low detention rates seem to have greater levels of disparity. Consistent with earlier research on disparities in prison populations, this research finds that the greatest disparities by location are in the Northeastern and Midwestern districts. Those with modest disparities were predominantly in Southern districts. This article ends with thoughts about mediating the impact of “place” on pretrial detention.

Sandra Susan Smith’s article, “How Pretrial Incarceration Diminishes Individuals’

Employment Prospects,” is one of the co-editors’ favorites, as it takes what we have learned from other research and then digs a bit deeper to understand the mechanisms that generated the findings of previous research. This is something that is rare but necessary once large datasets have told us all they can—which, when it comes to elevating the voices and experience of those impacted by criminal justice system policies, administrative data fails to convey.

In “Moving Past Arbitrary Bail: A Proposal for More Deliberative Pretrial Decision-Making,” Picard, Rodriguez, and Rempel make an interesting and convincing argument for changing the process of making pretrial decisions. Rather than focusing on the notion that judges and magistrates need more information to make better decisions, the authors argue for changes in the process by which we currently make pretrial decisions. For example, the authors suggest changing the arraignment process, providing complete information at initial hearings, and holding second hearings related to release conditions. The goal here is to make more deliberative decisions in pretrial contexts. The authors’ suggestions are important for two reasons. First, such a process can ensure that we release defendants in keeping with the rights afforded to them by the United States Constitution. Second, a more deliberative process can decrease the impact of bias in decision-making, leading to less disparity and greater fairness.

The fairness, or equity, of risk assessment at the pretrial stage has been a topic of considerable interest. Henderson, Sevil, Lessard, and

Rembert add to this growing body of literature in “Determining Racial Equity in Pretrial Risk Assessment.” This article indicates that Black defendants tend to have higher scores than White defendants; however, the differences in scoring are solely explained by racial bias. Further, race did not predict false positive rates. While race and false negative rates were related to a significant degree, this relationship did not differ by race. This research certainly contributes to our understanding of racial equity in pretrial risk assessment.

In “Pretrial Supervision: Race and Revocation,” Bechtel, Connor, and Lowenkamp focus on understanding the characteristics of those on pretrial supervision, the activities on pretrial supervision, and how those relate to revocation. In bivariate models, Black and White defendants have equal revocation rates. However, in multivariate models controlling for risk, legally relevant factors, the types of conditions on supervision, and the number of contacts per month, race is inversely related to revocation.

Lu and Rempel begin the process of understanding how supervised release is used and which legal and extralegal factors are predictors of release decisions. Because very little is known about pretrial supervision, “Supervised Release in Post-Reform New York: An Exploratory Analysis” is a quite novel article. The authors provide a nice summary of the extant literature on pretrial supervision, the history of bail in New York, as well as bail reform in New York. Using data from New York, the authors estimate several models to understand how race and sex

impact the use of various options at the pretrial stage. The results indicate that race and sex, as well as place, significantly impact the likelihood of an individual defendant being assigned to Release on Recognizance (ROR), supervised release, or remand to jail.

The research on pretrial programming as an alternative to detention and a method

for reducing risk is limited. Success in these programs and pretrial supervision can have severe implications for sentencing and future pretrial release or detention decisions. In "The Outcomes of a Pretrial Diversion Program in Texas," Petkus and Ruhland find that race is unrelated to successful outcomes. Age, sex, employment, citizenship, and several other

factors are related to the successful completion of the pretrial diversion program. This is an important finding, as pretrial diversion programs might be an option for pretrial release. Further successful completion may be unrelated to race.