

Technical Revocations of Probation in One Jurisdiction: Uncovering the Hidden Realities

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THE INCREASE IN jail and prison populations across the United States has been attributed, in part, to the increase in probation and parole revocations in recent years (Pew, 2007). Additionally, the number of people on probation and parole in the United States has exponentially increased, with 1 in 31 adults under some form of criminal justice supervision in the community, according to a report from the Pew Center on the States (Pew, 2009). Due to concerns for public safety and the reported “failures” of probation systems nationwide in helping to reduce recidivism and reincarceration, many probation officials have attempted to reduce revocation rates by implementing strategies thought to be effective at increasing successful completions of supervision. Cognitive-behavioral programs, substance abuse treatment based on the risk-needs-responsivity model, and specialty courts to address specific needs of offenders have gained popularity as well as credibility in reducing revocations and recidivism (Aos, Miller & Drake, 2006; Clawson, Bogue, & Joplin, 2005; Gendreau, Little, & Goggin, 1996; Hawken & Kleiman, 2009; Herzog-Evans, 2014; Latessa, 2004; Latessa, 2006; McNeill, 2009). With the growing emphasis on utilizing “evidence-based practices,” new and old probation strategies are continually under evaluation across the United States and abroad using empirical methods to confirm effects of such strategies on probation (and parole) outcomes.

However, more attention is needed for offenders who violate probation but do not necessarily commit new crimes while under supervision; these are generally referred to as technical violators of probation. In other words, offenders may violate the rules the court has ordered they abide by (in order to remain in the community in lieu of incarceration for their crime), their community sentence is subsequently revoked, or taken away, and a sentence of a period of imprisonment is imposed as set forth in the statute. Most scholarly literature regarding technical violations and technical revocations examines relationships among offender risk and need scores, offense types, demographic variables associated with technical violations, and criminal history information (Garber, 2007; Gray, Fields, & Maxwell, 2001; Minor, Wells, & Simms, 2003; Petersilia, 1999).

Many offenders have substance abuse issues; therefore it is not unusual for them to violate supervision by submitting positive drug tests. And most offenders violate their conditions of probation during their community sentence in some way, especially in the beginning when they are adjusting to the rules. Thus, violations for failure to report, failure to maintain employment, failure to complete community service restitution, or failure to pay court-ordered fees are not uncommon.

For the current study we collected data on demographic information, probation offense information, and criminal history, as other studies have. In addition, we gathered data

on a variety of other variables such as type and frequency of technical violations, probation officials’ responses to violations, mental health and substance abuse issues, absconder status, accuracy of revocation reason reported to state officials, probationer refusals for treatment at time of revocation, and the length of imprisonment sentence received upon revocation. We examined these factors to uncover any issues not previously considered in empirical investigations of technical revocations of supervision.

Revocation information for the study jurisdiction shows that almost 50 percent of felony revocations in fiscal year 2013 were attributed to technical violations of supervision. This is a concern for probation officials who are tasked with reducing prison overcrowding and improving probation outcomes.

Methods

Study Design

A case-control design was used for this study. Cases comprised probationers who had their probation revoked due to technical violations, while controls were selected from the population of felony offenders who successfully completed community supervision during the same time period.

Sampling

The sampling frame for this study was a complete list, generated by the probation department from their internal case management records, of all felony offenders reported

TABLE 1.
Felony Population Revocation Percentages, FY 2005–FY 2013

Fiscal Year	Total Felony Population	Total Felons Revoked	Percent of Total Felony Population Revoked	Total Felons Revoked for Technicals	Percent of Total Population Revoked for Technicals	Percent of Total Felony Revocations for Technicals
2013	12,387	1,633	13.1	773	6.2	47.3
2012	12,541	1,729	13.8	800	6.3	46.3
2011	12,701	1,488	11.7	705	5.5	47.3
2010	13,144	1,612	12.2	770	5.8	47.7
2009	13,467	1,659	12.3	741	5.5	44.6
2008	13,340	1,608	12	761	5.7	47.3
2007	12,825	1,749	13.6	796	6.2	45.5
2006	12,736	1,620	12.7	696	5.4	42.9
2005	12,454	2,037	16.3	1,012	8.1	49.6

as being revoked for technical violations of probation between September 1, 2012, and August 31, 2013. A random sample of 359 offenders (n=359) was drawn from the total population of revoked felony technical offenders (N=773) and used for secondary data analysis.

A random sample of felony offenders completing supervision successfully during this same time period (n=359) was also drawn from the total population of offenders completing supervision (N=1,416) and comparative analyses were conducted in order to determine what factors were associated with successful completion of supervision.

Variables

Three types of variables were collected: demographic, supervision, and criminal justice variables (prior criminal record and recidivism information). Demographic variables were used to create a profile of the typical revoked felony technical violator. Supervision variables included information about offenses, technical violations, and the community supervision response to violations. Criminal justice variables provided the researcher with in-depth information regarding prior criminal records.

Data Analysis

We used a list of county identification numbers to query the probation department's computerized case management system to extract demographic and supervision variables for the study. Data not easily extracted from the system by way of a computer query was collected individually by researchers by reviewing official chronological case notes

then coded. For example, data regarding the number and types of violations an offender had and the responses to those violations had to be determined and coded by reading the chronological case notes for each offender in the sample because of the inconsistencies in individual entry codes. Data was analyzed using the Statistical Package for the Social Sciences (SPSS) computer software. Secondary data analysis involved use of frequency distributions, Chi square tests of independence, and simple and multiple logistic regression analyses.

Results

Demographics

The typical revoked felony technical offender was a single, unemployed white male with low levels of education and income. Sixty-seven percent of those revoked for technical violations were unemployed and 55 percent had no high school diploma or equivalent. The vast majority of offenders in this study, 82.2 percent, were deemed to have a substance use, abuse, or dependence issue determined through an evaluation, random drug testing, or treatment history. Additionally, approximately 16 percent of offenders had a mental health issue determined through self-report, prescribed medication, a mental health evaluation, receiving services through the local mental health authority, or court-ordered supervision on specialized caseloads for the mentally impaired.

After analyzing both revoked felony technical offenders and felony successful completions of supervision data, we found no significant associations between race, offense,

offense level, and successful completion of supervision. However, analyses showed significant relationships between completing supervision and age, gender, employment status, and income level. Employed offenders are 10 times more likely to complete supervision successfully than those who are unemployed. Sixty-seven percent of revoked felony technical offenders were unemployed. Females are twice as likely to complete supervision as males, regardless of age, marital status, education, employment, or income level. Age was also a significant predictor of successful completion of supervision. A year increase in age resulted in about a 5 percent increase in the likelihood of completing supervision successfully. Income level was associated with successful completion of supervision. Those offenders who have an income *above* the federally defined poverty level (FPL) (\$11,600 annually) are three times more likely to complete supervision successfully. Close to 70 percent of revoked felony technical offenders examined during this same time period were living below the FPL.

Supervision Variables

Revoked felony technical offenders were most commonly under supervision for theft/property/fraud offenses (34.4 percent) and drug-related offenses (32.9 percent), followed by violent offenses (13.9 percent), alcohol offenses (8.3 percent), sex offenses (4.5 percent), and other offenses (6.1 percent) (e.g., joyriding, organized crime). Over 50 percent were low-level felons and were sentenced to an average of 8 months incarceration upon revocation, which is only about one-third of the time they could have received by law (maximum 24 months).

If the offender was being supervised on a specialized caseload such as a sex offender caseload or substance abuse caseload just prior to being revoked, this information was collected. Specialized caseloads involve more intensive supervision and officers generally have fewer offenders to supervise compared to regular or non-specialized caseloads. This may afford officers more time to discover technical violations of probation, which can lead to an increase in technical revocations (Clear & Hardyman, 1990; Petersilia, Turner, & Deschenes, 1992; Petersilia & Turner, 1993). However, most revoked felony technical offenders were being supervised on regular caseloads (65 percent) just prior to revocation.

In examining technical violations of supervision, we calculated an average number of technical violations per month to have a

standard metric considering that offenders were placed on supervision in different years. Offenders were under community supervision an average of 22 months before being revoked, and had an average of 2.9 technical violations per month. However, an average of less than one non-jail sanction (.27) imposed to address violations was noted and an average of 14 days in jail as a condition of probation for violations.

In 2005 the jurisdiction developed a Progressive Sanctions Manual, which we used as the guide for determining the ranking of

severity of violations of supervision, along with the specific types and frequency of such violations. Behaviors such as having contact with the injured party, tampering with an electronic monitoring (ELM) device (e.g., global positioning satellite, secure continuous remote alcohol monitoring), being unsuccessfully discharged from treatment, and not reporting for court-ordered jail time are considered high-severity violations. Forty-one percent of offenders had at least one high-severity violation. The most common type of high-severity violation committed was being discharged

from treatment. Almost 57 percent of offenders had at least one medium-severity violation. The most common in this category was a positive drug test. Common low-severity violations include failure to report, failure to pay court-ordered fees,¹ failure to perform community service restitution, absence from treatment, dilute drug tests, and the like. Close to 100 percent of offenders had one or more failure-to-pay violations (recall that 68 percent had an annual income of less than \$10,000). Almost 80 percent of offenders had at least one month in which they were unemployed during their time on community supervision.

TABLE 2.

Characteristics of Revoked Felony Technical Offenders and Felony Successful Completers in the Jurisdiction, FY 2013

	Revoked Felony Technical Offenders			Successful Completers		
	Average	Min.	Max.	Average	Min.	Max.
Age (Years)	32.1	18	82	39.1	20	84
Years of Education	11	1	16	11.6	0	18
Monthly Income (\$)	746	0	6,800	1,997	0	18,000
Length of Original Supervision Sentence (Years)	4.5	2	10	4.4	1	10
Gender	%	Raw # (n)		%	Raw # (n)	
Male	68.7	246		63.5	227	
Female	31.3	113		36.5	132	
Total	100.0	359		100.0	359	
Race						
White	69.1	248		72.2	259	
Black/African American	29.2	105		27.5	99	
Asian	1.4	5		0.3	1	
Other	.03	1		0.0	0	
Total	100.0	359		100	359	
Marital Status						
Married	19.2	69		30.3	109	
Divorced	8.8	32		12.5	45	
Single	72.0	258		57.2	205	
Total	100.0	359		100.0	359	
Employment Status						
Unemployed	67.2	241		13.8	50	
Student/Disab/Retired/ Homemaker	5.4	19		12.5	45	
Employed PT	7.9	29		14.2	51	
Employed FT	19.5	70		59.5	213	
Total	100.0	359		100.0	359	
Poverty Status (Federal Poverty Level, FPL)						
Below FPL (\$11,600)	68.0	244		27.2	98	
Above FPL	32.0	115		72.8	261	
Total	100.0	359		100.0	359	

Absconders

Fifty-one percent of offenders absconded—25.3 percent for six months or less and 28.1 percent for longer than six months. Absconding was defined as failure to report for three consecutive months, and data was coded as not absconding, absconding for less than 6 months, and absconding for more than 6 months. When offenders abscond, violations can mount quickly, as they generally are also failing to abide by other conditions of probation, such as paying court-ordered fees, performing community service, attending classes, etc. For each month an offender fails to follow each of these conditions a separate violation is notated.

No significant associations were found between absconding supervision and race, gender, marital status, employment, income level, prior criminal record (coded as yes or no), prior felony or misdemeanor arrests, prior supervisions, prior revocations, or age at first arrest. It was hypothesized that those with substance use/abuse issues (coded as yes or no) would be more likely to abscond than those without these issues for fear of going to jail. However, those with substance issues were *less* likely to abscond, having a 59 percent lower likelihood of absconding compared to those without these issues, after adjusting for age, race, and gender. Additionally, positive drug test data was examined in relation to absconding and revealed a significant association. Those with positive drug tests have about a 66 percent lower likelihood of absconding than those with no positive drug tests ($p < .001$).

Many of the revoked felony technical offenders in the jurisdiction did have substance use/abuse issues (82 percent), and the probation department is in a position to offer the appropriate assistance in dealing

¹ In some cases, violations were not entered by officers if offenders made a partial payment.

TABLE 3.

Crude and Adjusted Odds Ratio Estimates (OR) for Statistically Significant Predictors of Completion of Community Supervision

Variable	Crude OR	P value	Adjusted OR	95% CI	P value
Gender (Females versus Males)	1.3	0.13	2.4	1.5, 3.6	<0.001
Education	1.2	<0.001	1.0	1.0, 1.2	
Employment (Reference = Unemp)	—	—	—	—	
Student/Disabled/Retired/Homemaker	11.2	<0.001	7.0	3.5, 14.0	<0.001
Employed Part Time	8.6	<0.001	8.7	4.7, 16.0	<0.001
Employed Full Time	14.7	<0.001	10.2	6.4, 16.4	<0.001
Marital Status (Reference = Single)	—	—	—	—	
Divorced	1.8	<0.001	0.5	0.3, 1.0	.053
Married	2.0	<0.001	0.7	0.4, 1.2	.221
Income (Above FPL versus below FPL)	5.7	<0.001	3.0	2.0, 4.5	.001

with these matters by way of assessments and evaluations, treatment and counseling, and continuity of care. Although these felony offenders were ultimately revoked for technical violations of supervision, many did receive treatment of some kind before being revoked, or were offered treatment. It should be noted that based on court officer documentation close to 20 percent of offenders opted to “take their time” when offered treatment or other alternatives to incarceration when facing revocation. Since documenting offender refusal of treatment or other alternatives to incarceration at the time of revocation is not a department policy, this figure could potentially be higher. In addition, revoked felony technical violators with mental health issues were 56 percent *less* likely to abscond than those without mental health issues after adjusting for age, race, and gender.

Additional analyses were conducted to determine if there were any significant differences between absconding rates for offenders on specialized caseloads and those on regular caseloads. Chi square tests revealed a significant difference: Those on specialized caseloads were *less* likely to abscond than those supervised on regular caseloads, OR = .26 ($p < .001$).

Criminal Justice Variables

Revoked felony technical offenders were high-risk offenders with serious criminal records. Eighty percent of offenders in the sample ($n=359$) had a prior criminal record, and of this group:

- 41 percent of revoked technical offenders had at least one prior felony arrest;
- 73 percent had at least one prior misdemeanor arrest;

- 35 percent had both at least one prior felony and one prior misdemeanor arrest;
- 58 percent had been under some form of community supervision before;
- 34 percent had a prior supervision revocation;
- 60 percent had served time in jail for a conviction;
- 15 percent had previously served prison time.

Eighteen percent of offenders were actually arrested for a new offense while under supervision, but for various reasons were not coded as such in the computerized case management system. Similar results were reported in the previous year’s felony technical revocation report. However, due to state data reporting restrictions, probation departments can only report a revocation as a “new offense” revocation if the subsequent arrest was alleged on the motion to adjudicate/ revoke. Often the new offense arrest prompts filing a motion to adjudicate/revoke before official charges are filed; the supervision is revoked based on other existing technical violations, but must be reported to the state as a “technical revocation.”

Discussion

This exploratory study sought to determine if there were any factors contributing to technical revocations in the jurisdiction not previously considered by either local or state officials, or that have not been thoroughly reviewed in the scholarly literature. The short answer to this question is yes. Twenty percent of felony offenders officially reported as revoked for technical violations of probation had actually been arrested for a new offense,

but had to be reported as technical revocations because of state reporting regulations. Offenders who have been arrested but whose charges have not been officially filed cannot be counted as new offense revocations, and rightly so. Until guilt for the new offense arrest has been established, the offender is innocent in the eyes of the law.

Moreover, 20 percent of offenders facing revocation for technical violations of probation actually refused treatment or other alternatives to incarceration and opted for imprisonment. This may be accounted for by the fact that close to 50 percent of revoked felony technical offenders were the lowest classification of felony offenders and the average sentence received upon revocation was 8 months, which may contribute to inflation of cases revoked for technical violations of probation. Short sentences provide little motivation to continue on probation. In fact, they may actually discourage offenders from continuing on probation, where the offenders will be held accountable for their actions and required to participate in programming designed to address their criminogenic needs. The population of these lowest-level felons receiving relatively short sentences upon revocation needs closer examination and consideration. A recent evaluation of what works in reducing recidivism in the UK showed that offenders sentenced to less than 12 months incarceration had a higher one-year recidivism rate than similar, matched offenders that were on community supervision or those given between one and four years of incarceration (G4S, 2014).

Absconders accounted for 53 percent of those revoked for technical violations, and technical violations can mount quickly. There is little the probation department can do to help rehabilitate offenders when they stop reporting and/or leave the jurisdiction. However, offenders with substance use/abuse issues were 59 percent less likely to abscond than those with no substance use/abuse issues. What assumptions can be made about these offenders—that they are more amenable to assistance or more motivated to change? Further exploration in this area is needed. On a similar note, offenders with mental health issues were 56 percent less likely to abscond than those without mental health issues. A recent change in the probation department’s failure-to-report policy may improve absconding rates, as supervision officers are now required to contact the offender by phone within two working days of the date of failure

to report, and to conduct a home/field visit within five working days after the end of the first month in which the probationer fails to report.

Offenders completing probation successfully were more often employed and the employed were actually 10 times more likely to complete probation. Employment is an integral part of reentry initiatives in the U.S., and much research has been devoted to this issue (Carter, 2008; Henry & Jacobs, 2007; Matsuyama & Prell, 2010; Prager & Western, 2009; Petersilia, 2003), with the results backing the general conclusion that offenders who are reintegrated into society are much less likely to reoffend. Findings from this research study reaffirm the importance of employment and successful reentry.

The types of offenders being sentenced to community supervision have changed over the years, and due to rising prison populations more high-risk, dangerous offenders are being supervised in the community. Oversight agencies and legislators need to be aware of these issues in order to clearly understand outcomes. It should come as no surprise when offenders fail supervision who have had a lengthy arrest record and a history of failing on community supervision before.

Limitations of the study included the fact that information regarding substance abuse and mental health issues was not readily available for those offenders completing probation successfully, and thus, no statistical tests were conducted to determine if these factors were associated in any way with probation success or failure. Due to time constraints, data regarding technical violations of supervision for those successfully completing supervision was not collected. It would be interesting to examine the differences between the number, types, and severity of violations for offenders revoked for technical violations of supervision and those who complete supervision successfully to gain a better understanding of the two groups. Moreover, the disparity between the number of violations committed and the sanctions or interventions imposed to address

violations needs further exploration. Variation in documentation among probation officers, variation in continuity and consistency in supervision, and a number of court policies that may impact supervision practices (such as when to submit a report of violation to the court, what sanctions to impose for certain violations, and so on) may be impacting technical revocation rates. Nonetheless, this study revealed that there are dynamics involved with technical revocations of supervision, not frequently addressed in the literature, that may help explain the seemingly "high" technical revocation rates.

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