

Reducing Revocations Challenge: Niagara County, NY

Prepared by

Michael Cassidy, JD/PhD

Craig Rivera, PhD

Timothy Lauger, PhD

Paul Schupp, PhD

Department of Criminology and Criminal Justice

Niagara University

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EXECUTIVE SUMMARY

In October of 2019, the Niagara County Probation Department (NCPD) and Niagara University were selected as one of ten sites to participate in the Reducing Revocations Challenge funded by Arnold Ventures. The purpose of this project was to identify the drivers of violations and revocations in Niagara County, and offer potential solutions. Data collection included reviewing relevant laws and NCPD internal policies, analyzing NCPD official record data, reviewing case files, and conducting interviews with NCPD personnel and Niagara County judges. The main findings are provided below.

The Role of Legal and Administrative Policies

- New York State law requires very few mandatory conditions of probation.
- Most conditions of community supervision are at the discretion of judges. Probation officers can make recommendations that certain conditions be included, and judges generally follow those recommendations.
- NCPD's internal policies require court notification when a probationer is convicted of a new crime or absconds, and a violation is usually filed.
- Internal policies require the filing of a violation after two consecutive months of nonpayment of fines and/or restitution.
- Other instances of noncompliance may result in a violation if they are "significant", but this term is not defined in the internal policy. Whether a violation is considered significant is based on probation officer and supervisor discretion.
- Concerning revocations, internal policies state that supervisors and officers should consider adding conditions, lengthening the probation term, and intensifying supervision before recommending a revocation.
- Judges have complete discretion when making revocation decisions, as long as they stay within the original maximum sentence length.

Who is Most Likely to be Violated and/or Revoked?

- Probationer demographics and case characteristics influence violations and revocations in different ways.
- Age appears to play a role in violation decisions (as age increases the likelihood of a successful exit from probation increases), but not revocation decisions.
- Judges seem to be more lenient when making revocation decisions for Black and Hispanic clients, but individuals of other races (excluding White) are less likely to complete probation without experiencing a violation and revocation.
- Individuals on probation after being convicted of a DWI or a felony have a higher probability of successfully completing their term without a violation than those convicted of misdemeanor crimes. Similar results were found concerning DWI and revocations, but no differences were observed for those convicted of felonies.
- The likelihood of a violation and revocation increases as risk level increases.

What Types of Noncompliance are Most Prominent Among Formal Violations and/or Revocations?

- Case file reviews indicate that noncompliance is either nonexistent or very low in cases without a violation filed.
- Findings from our interviews and case file reviews suggest it is usually not one instance of noncompliance that leads to a violation or revocation, but instead a pattern of noncompliance over time coupled with a perception that the probationer is unwilling to change their behavior.
- Official record data show the most frequently listed reasons provided by officers when filing a violation are new crime charges, drug use, failure to comply with substance use treatment, failure to report, and failure to pay fines/restitution.
- The most common reasons provided in cases that end in a revocation are similar, with the exception of failure to pay fines/restitution.
- Case file reviews offer additional information about revocations, in that they commonly occur when new crime charges are for serious crimes (e.g., felonies), there are multiple arrests/charges for lower-level crimes, a probationer convicted of DWI is charged with that same crime again, a probationer requests revocation, and when a client absconds.

Primary Drivers of Violations and Revocations and Possible Solutions

- Primary drivers of violations and revocations in Niagara County include client risk level, NCPD's policy on automatic violations for nonpayment of fines/restitution, new crime charges, failure to report, substance use, and failure to comply with substance use treatment.
- Concerning risk level, possible solutions should be geared towards providing officers with more time to focus on higher risk clients. This could include increasing remote reporting for lower risk clients and expanding early release policies for these probationers.
- Given the impact of NCPD's fines and restitution policy on the number of violations filed, NCPD should consider removing the automatic violation component of the policy and send fine and restitution information letters to increase payment compliance.
- To address other types of noncompliance that drive violations and revocations (e.g., new crimes, failure to report, substance use), NCPD should reimplement and potentially revise its graduated responses policy and contract with third parties to educate and train its officers on the benefits of using graduated responses.

BACKGROUND AND PURPOSE

The Niagara County Probation Department (NCPD) provides probation services to juveniles and adults in Niagara County, New York. NCPD has offices in Niagara Falls, Lockport, and North Tonawanda, and employs a director, deputy director, five supervisors, and 26 probation officers (POs, officers, probation officers). Specialized caseloads include sex offenses, driving while intoxicated, domestic violence, and mental health.

Data from the New York State Office of Probation and Correctional Alternatives (OPCA) 2020-2021 Annual Plan Data Package show that compared to other counties in New York (excluding New York City), Niagara County has a relatively large number of probation cases.¹ In 2019, NCPD received 547 new probation cases, which puts Niagara County 12 out of 57 in terms of the number of new probationers received across non-NYC counties. Of the 1,843 probation cases handled by NCPD in 2019, 147 violations were filed (8%).² Violations stemmed from new convictions (14 cases; 10%), arrests (40 cases; 27%), absconding (25 cases; 17%), and other technical violations (68 cases; 46%). Data concerning revocations in 2019 show that out of 91 probationers, 63 (69.2%) received a jail sentence, 13 (14.3%) were sentenced to prison, and 15 (16.5%) received other sanctions (such as probation, fines, conditional discharge, and/or Willard Drug Treatment Center). Finally, NCPD closed 556 cases in 2019, with 270 (48.6%) positive outcomes. Positive outcomes include early discharge (111 cases; 20%) and maximum expiration of the probation term (159 cases; 28.6%). Negative outcomes, which include revoked for technical violations, revoked due to a new conviction, early discharge due to a new sentence, referred for further court action, and resentence to incarceration, resulted in the closure of 119 cases (24.1%). The remaining 167 cases (30%) were closed due to neutral outcomes, defined as interim cases that have been referred for further court action.

The purpose of this research is to increase knowledge about why violations and revocations occur in Niagara County, and how they can be prevented. Specifically, our work examines the laws and policies that govern community supervision in Niagara County, who is most likely to be violated and/or revoked, and the most prominent types of noncompliance cited in formal violations and/or revocations. In addition, we discuss the drivers of violations and revocations, and offer potential solutions.

DATA AND METHODS

Data

As part of the Reducing Revocations Challenge, we collected data from several sources. Our policy review included reviewing New York State statutes, the rules and regulations of OPCA, and internal NCPD policies. We supplemented this information with qualitative interview data to gain a better understanding of the extent to which these policies are used in practice, as well as how POs and their supervisors exercise discretion in situations not covered by existing laws and policies.

¹ The OPCA 2020-2021 Annual Plan Data Package provides data for 2019.

² The 8% violation rate included in the OPCA report is much lower than we observed in our analysis of NCPD data. The difference is likely due to OPCA including interim supervision cases when calculating the violation rate. We excluded these cases from our analysis because technically these individuals have not yet been sentenced, therefore no violation can be filed.

Individual-level data were collected in two ways. First, we extracted all closed cases with a violation filed between January 1, 2008 and December 31, 2019 from NCPD's electronic case management system, Caseload Explorer (CE). These data were used to examine the reason a violation was filed, revocation outcomes, and similarities/differences between PO recommended outcomes and actual dispositions. Of the 2,282 violation cases, 513 were missing information on why the violation was filed, resulting in a sample of 1,769 cases. Next, ten years of individual-level data were collected from CE to explore the association between client and case characteristics and violation and revocation outcomes. The data were limited to closed cases with probation start dates beginning on January 1, 2011 and termination dates on or before December 31, 2020.³ The data were further restricted to only include cases that were designated standard probation supervision.⁴ We removed 780 cases due to missing values for probationer information, transfers from other jurisdictions, and other data irregularities (i.e., violation date before probation start date, inconsistent start/end dates). This produced a sample of 2,862 cases available for analysis.

To help contextualize the findings from our analysis of individual-level data, we randomly selected 300 case files to review: 100 with no violation, 100 with at least one violation but no revocation, and 100 with a violation that resulted in revocation. Case file reviews included reading through all of the case notes, recording significant events within the case files (e.g., violations, noncompliance, arrests), and inductively identifying commonalities between cases that indicate patterns for how NCPD and the court system handle probationers. In addition, interview questionnaires were sent via email to 25 NCPD POs and supervisors, and 12 Niagara County judges. We also asked if individuals would be willing to participate in a follow-up interview to obtain more information. We received 10 completed questionnaires from NCPD POs and supervisors, conducted five follow-up interviews with NCPD personnel, and one in-depth interview with a Niagara County court judge.

Measures and Analytic Strategy

The dependent variables used in our analysis of individual-level data collected from CE include violations and revocations⁵. Independent variables capture probationer demographics (e.g., gender, race, ethnicity) and case characteristics (e.g., risk level, crime type). The analysis uses survival models to estimate the effect of these independent variables on the amount of time on probation before violations and revocations occur (see Appendix B for more information about variable coding and statistical models).

FINDINGS

The following section contains the findings from our research. First, we discuss the role of legal and administrative policies on imposing conditions of supervision and procedures for filing a violation of probation (VOP). Next, we examine who is most likely to be violated and/or

³ We used 2011 as our starting point for this sample due to missing data on client and case variables being more prevalent between 2008 and 2010.

⁴ Standard probation supervision cases include a term of probation as part of the sentence, including cases on specialized caseloads. Interim supervision cases were excluded because technically no sentence has been imposed, thus no violation can be filed. If the probationer does not comply the case is returned to the court for sentencing. In addition, cases in which an individual was sentenced to a period of incarceration and no probation were excluded.

⁵ Violation outcomes include discharged, withdrawn, dismissed, continued, modified, revoked-jailed/probation, revoked-other, and "other." Revocation outcomes include revoked-jailed/probation and revoked-other.

revoked, and the types of noncompliance most prominent among these outcomes. Finally, we outline the primary drivers of violations and revocation in Niagara County, and provide possible solutions.

The Role of Legal and Administrative Policies

Legal and Administrative Policies

Under New York State Penal Law, the purpose of probation is to ensure individuals “will lead a law-abiding life or to assist [them] to do so.” Supervision conditions are one of the means used to achieve this goal, yet the law requires very few mandatory conditions of probation. Specifically, probationers must report to a PO and allow officers to visit their home. Clients must remain in the jurisdiction of the court unless they receive permission to leave from the court or their PO. Lastly, probationers shall answer any reasonable inquiries from their probation officer and report any changes in address or employment. Other mandatory conditions exist but are reserved for individuals convicted of certain crimes. For example, individuals convicted of specific sex offenses are required to register as a sex offender and prohibited from using the internet and/or entering school grounds and other places. Moreover, those subject to an order of protection must comply with the conditions of the order.

Discretionary conditions are often included along with mandatory conditions. They may include broad restrictions, such as not causing injury or harm to themselves or others, avoiding certain places or people, or supporting dependents/meeting family responsibilities. The court may also direct the client to “faithfully” attempt to find work, undergo medical or psychiatric treatment, and/or, participate in an alcohol or substance use treatment program. Installation of an interlock device in the individual’s vehicle may be required if an individual is convicted of an alcohol-related traffic violation, and electronic monitoring may be imposed when the court believes that public safety is at risk. Fines, restitution, and/or community service may also be added as conditions of supervision.

POs also play a role in determining supervision conditions. The New York Codes, Rules, and Regulations (NYCRR) state that after an individual is convicted, officers provide the adjudicating court with a presentence investigation, which includes a sentencing recommendation. Recommendations are based on an evaluative analysis, and are used to inform special conditions, incarceration, flexible terms of supervision, and restitution. Recommendations for special conditions must be specific to the offense and the individual, and address five areas of concern: 1) criminogenic risk reduction, 2) compliance with state and federal laws, 3) how the condition will correct the behavior of the individual or prevent incarceration, 4) how the condition will address social, educational, vocational, and treatment needs of the individual, and 5) requirements for certain populations, such as registering as an individual convicted of a sex offense, electronic monitoring, and ignition interlock. Our interview with a judge revealed he generally followed the recommendations in the presentence investigation, as he feels they are usually very comprehensive, but in some cases he may add a couple of conditions.

After an individual is sentenced to probation, the NYCRR requires officers to complete the New York Correctional Offender Management Profiling for Alternative Sanctions (NYCOMPAS) risk and needs assessment to determine supervision level. The risk assessment is designed to determine the probationer’s risk of recidivism, as classified by “Greatest Risk,” “High Risk,” “Medium Risk,” and “Low Risk.” Risk level determines the number of probationer

in-person contacts, probationer contacts (in-person or through real time technology via phone, text, or email), collateral contacts (contacts with someone other than the probationer to verify information about the probationer), and home contacts. As risk level increases, so do the number of required contacts. The needs assessment focuses on individual risks associated with the probationer's offending. This includes factors such as thinking and attitudes, personality, familial association, substance use, mental health, employment, and schooling needs, among others (see Appendix A for additional information on legal and administrative policies).

Procedures concerning noncompliance are outlined in the NYCRR and NCPD internal policies. NCPD is required to notify the court, via a Uniform Crime Report (UCR) or VOP, if a probationer is convicted of a new crime, absconds,⁶ or if there are two consecutive months of nonpayment of restitution or fines. POs are also required to notify their supervisor when a probationer stops attending or is unsuccessfully terminated from a substance use program, but the probationer has 90 days to resume treatment before a VOP is filed. When a "significant violation" occurs, POs work with their supervisors to discuss a course of action. Options include administrative review, where the PO and client discuss the behavior and review the case plan and goals. Court involvement is not required but may be requested through a Court Notification Report (CNR) if conditions need to be modified. If the PO and supervisor determine a VOP should be filed, a violation hearing is scheduled and the client is given a notice to appear or a warrant is issued for their arrest.

Discretion and Administrative Policies

What constitutes a significant violation is unclear as there is no definition in the policy, but community safety was a common response to our interview questions about deciding whether or not to file a VOP. As one interviewee noted, "if we had somebody on for driving while intoxicated and they needed a warrant for arrest for another driving while intoxicated or aggravated unlicensed operation, that tells us the person is re-engaging in behavior that could jeopardize the safety of the community." Interviews with POs indicated that it is largely up to the discretion of the officer in terms of which cases they will bring to the supervisor's attention for their assistance. Supervisors can provide recommendations or advice for how to handle certain aspects of a case, or additional options for responding to noncompliance. Respondents also noted that supervisors tend to discourage filing violations, and that there is pressure from New York State to reduce violations.

When a probationer is arrested for a low-level offense (i.e., a violation, as opposed to a misdemeanor or felony), the PO and supervisor review the facts and circumstances of the arrest, but no action is required. Decisions concerning arrests for other crimes are discretionary. Court notification is required, but it can be via a UCR or VOP. For other technical violations and general noncompliance, POs shall conduct an investigation and graduated responses should be considered if appropriate. NCPD developed and implemented a graduated responses policy with the last few years, but POs are allowed to use discretion when determining the appropriate response, if any. If the noncompliant behavior does not improve or technical violations are serious or common, a UCR or VOP may be filed with the court.

Interviews with officers highlighted the difficulty in tracking noncompliance due to caseload size. Due to the size of officers' caseloads (often upwards of 70 or more probationers), the sentiment is that probation clients have to in a sense "bring attention to themselves" through

⁶ At NCPD, an individual "absconds from supervision" when he or she has no contact with NCPD for a period of 60 days. After 60 days have passed, NCPD files a VOP.

repeated noncompliance before a violation is filed. One officer commented on the need to triage time, which may result in missing some noncompliance, in particular if the client is trying to hide something: “I got 70 guys to worry about, I don't have, you know, 40 minutes to search a person's apartment every time I go there.”

One theme from our interviews with officers is that it is usually not one particular instance of noncompliance that leads to a violation or revocation, but instead a pattern over time and a perceived client disposition against receiving assistance or changing behavior. The consistent position reported by officers is that they strive to give clients many chances and opportunities for assistance before finally filing a violation. If the perception is that the client is not receptive to assistance and to changing their behavior, such as by refusing to attend treatment, no longer reporting to probation, or repeatedly saying “no” to directives from the probation officer, and instead continues to engage in noncompliance, a formal violation becomes more likely. According to POs, these cases often involve clients who simply do not want to be on probation – they would rather be in jail. As one officer put it, “They just don't want to deal with us anymore. Rather take eight months in jail. I mean, because maybe now they don't even have a job because they can't drive and they've lost their employment. And so then they'd rather go for eight months and get us off their back and try to start again.” However, officers draw a distinction between a client who is struggling versus one who “doesn't care.” All officers indicated that clients who are perceived to be trying, but perhaps struggling, are given several chances as they are seen to be someone who wants the help. One officer commented that if there is an instance of noncompliance and the client is willing to work on the underlying issues, probation officers are not likely to file a violation.

Whether violations are filed also differs based on the ways in which POs approach their job. Interviewees noted that discretion is related to different personal approaches to case management, regardless of type of caseload – some officers simply move more quickly to file a violation while others take longer to arrive at that point. According to one officer:

You see different results with different officers and whether it's their training or their philosophy and their approach towards their job... Being a probation officer, it runs on the continuum between law enforcement and social work, and there are some that do not favor the social work approach, so they're going to lean more towards the law enforcement end of the spectrum, and they're going to be less likely, they're not going to utilize cognitive behavioral approaches, and they're going to be quicker to moving towards filing a violation. Although those that lean themselves more towards change agent, then they're going to take a more, I would say, comprehensive approach.

Another theme that emerged from our interviews relating to filing violations was the relationship between noncompliance and time on probation. Probation clients tend to get more leeway towards the beginning of their sentence, when they are still learning the expectations. One respondent captured this sentiment in saying, “Where somebody is new, we tend to hand hold them a little more and lead them to what they're supposed to be doing and give them more chances at the onset of a case.” Time on probation is also an important factor for judges when making revocation decisions. One judge stated that if the client has been working with probation for four to five years and there has been progress, that works in their favor in his sentencing decision, and he is less likely to revoke probation. Also, if it is early in the probation term and

the individual is seen as still learning the ropes, that works in their favor. However, this depends on the initial crime – he is more inclined to revoke early in the probation term if it was a violent crime.

Concerning recommendations for revocation, NCPD’s internal policies dictate that rehabilitation and accountability are the primary goals of community supervision, and POs and their supervisors should consider adding conditions of probation, lengthening the probation term, and/or intensifying the supervision level prior to recommending revocation. Yet, some POs noted by the time they get to the point of filing a violation they feel they have already used all of their other options, so they are more likely to recommend revocation. As one officer stated, “if I go into court [for a violation], I don't ask for them to come back on probation, I've already alleviated all of my options. I don't think it's fair to just keep going back and forth to the court on violations just to add conditions.” Instead, as this same officer noted, enlargements and modifications are often used before filing a violation if it seems that more conditions would be helpful. “If there's an issue that can be solved with changing or adding conditions, I'll do it right then and there. Again, it's just supervisor approval and you send it to the court. It's just one court date, they go to court, the judge says, are you willing to abide by this additional condition? Yep, they sign it, it's part of their order, then they come back and that's part of their condition.” Another PO provided a similar response: “We do give people so many opportunities to get it right before we do return them to court so usually when we are sending something to court, we are not looking to get them just restored on probation...so typically if we are filing a violation we are looking for revocation because we have tried all of those things and failed.”

When asked about recommending revocation, a majority of respondents listed a new conviction as a common type of noncompliance that results in revocation. One specified the conviction needed to be for “more serious crimes” to result in revocation, while others noted that just a new arrest was enough to result in revocation. Several also mentioned absconding as a common noncompliant behavior that leads to recommending revocation. More generally, community safety was a common response when interviewees were asked about recommendations for revocation. According to one respondent,

Gun-related crimes ... if you have somebody on for a gun-related/criminal possession of a weapon and they're engaging in behavior that either, you know, drug offenses or if they're found in possession again of a firearm, we're going to press towards revocation because community safety is an issue. Sex offenders, we do have to be more cautious with how many opportunities we're going to give them because community safety is an issue there. And I think with driving while intoxicated as well, especially if they're caught drinking and driving again, there's not going to be much leniency there.

In terms of revocation decisions, judges have complete discretion, as long as they stay within the original maximum sentence length. The judge we interviewed stated he is more likely to revoke to incarceration than restore to probation. His sense is that if it gets to the point where a revocation is the outcome, the probation officers have tried with this client and the probation sentence just isn't working out, so it wouldn't be sensible to revoke and return them to probation, although there are times when he does. He also noted that revocation decisions can be appealed by the probation client as being too severe, unless a waiver of the right to appeal has been signed, which is often requested by the prosecutor at the time of sentencing.

Who is Most Likely to be Violated and/or Revoked?

Analysis of Official Record Data

To gain a better understanding of the influence of client and case characteristics on violations and revocations, we analyzed ten years (2011-2020) of data collected from CE for two groups. Group 1 includes 2,862 closed cases across 2,510 individuals, indicating there are 352 probationers who were on probation more than once during the ten-year time period. Of this group, just under 39% of cases had a violation filed (Table 1). This rate is much higher than the 8% reported in the OPCA 2020-2021 Annual Plan Data Package. The difference is likely due to the OPCA report including interim supervision cases when calculating the violation rate. We excluded these cases because technically no sentence has been imposed, thus no violation can be filed. For Group 2, we were most interested in comparing probationers who received a violation and were revoked versus those who were put back on probation. Thus, we removed 105 violation cases where the individual was discharged from probation without any further sentence. This produced a sample of 1,005 cases across 835 individuals. Approximately 56% of cases with a violation filed in Group 2 ended in revocation.

Table 1. Descriptive Statistics for Group 1 and Group 2

	Group 1 (n = 2,862) <i>M(SD)/%</i>	Group 2 (n = 1,005) <i>M(SD)/%</i>
<u>Dependent Variables</u>		
No Violation	61.22%	--
Violation	38.78%	100.00%
No Revocation	--	43.68%
Revocation	--	56.32%
<u>Independent Variables</u>		
Age	41.08 (11.87)	39.43 (11.22)
Female	27.88%	25.57%
Race		
White	72.68%	67.56%
Black	21.70%	25.67%
Other	5.63%	6.77%
Ethnicity		
Not Hispanic	95.98%	95.92%
Hispanic	4.02%	4.08%
Risk Level		
Low	44.55%	31.64%
Medium	37.37%	40.50%
High	14.88%	22.59%
Greatest	3.18%	5.27%
Crime of Conviction		
Misdemeanor	48.95%	55.02%
Sex Offense	2.41%	3.88%
DWI	30.36%	23.58%
Felony	18.27%	19.50%

Concerning client demographics in our sample, the average age at the start of probation is roughly 40 years old for both groups, and men, Whites, and Non-Hispanics make up a much larger portion of the groups than women, individuals of other races, and Hispanics (Table 1). Census data from 2019 show that the population in Niagara County is 87.5% White, 7.4% Black, 3.3% Hispanic, and 51.2% female, indicating that Blacks are overrepresented in the probation population (21.7% in our sample) and women are underrepresented (27.88% in our sample). Some differences were found for risk level. In Group 1, low risk is the largest group, followed by medium, high, and greatest. For Group 2, however, the majority of the sample are medium risk. Across both groups, most individuals were convicted of misdemeanor crimes, followed by DWI, felonies, and sex offenses.

The next part of the analysis examined the relationship between client and case characteristics and time on probation before violations and revocations occur (see Appendix B Tables 8 and 9 for model estimates). For Group 1, only age, race, crime of conviction, and risk level affect time on probation. Specifically, each additional year of client age extends the likelihood of a successful exit from probation by 0.5%. Compared to Whites, time on probation before a violation occurs does not differ for Blacks, but individuals of other races violate about 32% earlier in their probation terms. As an example, if a White probationer was violated after 10 months, a probationer of another race (not including Black) would be expected to receive a violation within 7 months. No differences were found comparing sex offenses to misdemeanors, though being convicted of a DWI or felony increases the likelihood of a successful exit from probation (39% and 50%, respectively). Compared to the low risk group, all other risk groups are predicted to violate earlier in their probation terms (medium, 29%; high, 51%; greatest, 60%).

For Group 2, we analyzed the association between the same characteristics and revocations and found some differences when compared to violations. For example, age is not related to time on probation and revocations. Concerning race, the likelihood of a successful exit from probation is 21% higher for Blacks compared to whites, but 21% lower for individuals of other races. Ethnicity also affects time to revocation, as Hispanics are 44% more likely to successfully complete their probation term when compared to Non-Hispanics. Regarding crime of conviction, differences were found for DWI only, where the success rate is 25% greater than those convicted of misdemeanors. In addition, high and greatest risk clients are revoked earlier in their probation term than low risk probationers (21% and 45%, respectively), but there are no differences between medium and low risk. The largest effects were found when POs recommend revocation. For these probationers, revocations are likely to occur 88% earlier.

The findings from this part of the analysis suggest the client and cases factors used when deciding to file a VOP differ from those used when making revocation decisions. Since POs (along with their supervisors) handle violation decisions and judges determine when revocation is appropriate, our results suggest the client demographics and case characteristics influence these outcomes in different ways. For example, age seems to play a role in violation but not revocation decisions, and judges appear to be more lenient when determining violation outcomes for Black and Hispanic clients. Similarities were observed for individuals of other races and to some degree, risk level. Interestingly, we found no evidence of individuals convicted of DWI and sex crimes violating or being revoked sooner than those convicted of other crimes, which is inconsistent with some of the information obtained from our interviews. However, successful exits for clients convicted of DWI and sex offenses may look different in cases where the probationer was convicted of one of these crimes, and the violation/revocation stemmed from being convicted of these crimes a second time. Qualitative data from POs indicate that, although individuals convicted of sex offenses are not more likely to have a violation filed for minor noncompliance such as missing an appointment, they do get less leeway when the behavior gets more serious. Unfortunately, we were unable to include this level of detail in our models.

What Types of Noncompliance are Most Prominent Among Formal Violations and/or Revocations?

In order to get a more detailed look at what types of noncompliance result in a violation or revocation of probation, one approach we took was to examine probation officer descriptions of the reasons for such a filing for a subset of cases. Specifically, we examined reasons listed by

the probation officer in CE, with a focus on the specific conditions that had been violated. Thus, while other components of our analyses examine patterns of noncompliance, sometimes over months or years, that eventually result in a violation, by examining the reasons listed for a formal violation filing the analysis discussed here focuses on the forms of noncompliance that directly lead to the formal violation.

Relying on the “reasons for violation” data field in CE, we identified a total of thirty-two different conditions that were listed in one or more cases as a reason for the official violation (see Appendix C for a list of all conditions). These thirty-two conditions represent an exhaustive list of all the conditions identified in the data field. Figure 1 and Table 2 contain a descriptive analysis of the number of conditions violated by each probationer. The number of conditions violated ranged from one to fourteen, with a mean of 2.7. The distribution is clearly skewed, with more than 70% of probationers having three or fewer conditions listed, and less than 4% having more than six.

Figure 1. Number of Conditions Listed in Officer Description of Reasons for Filing a VOP

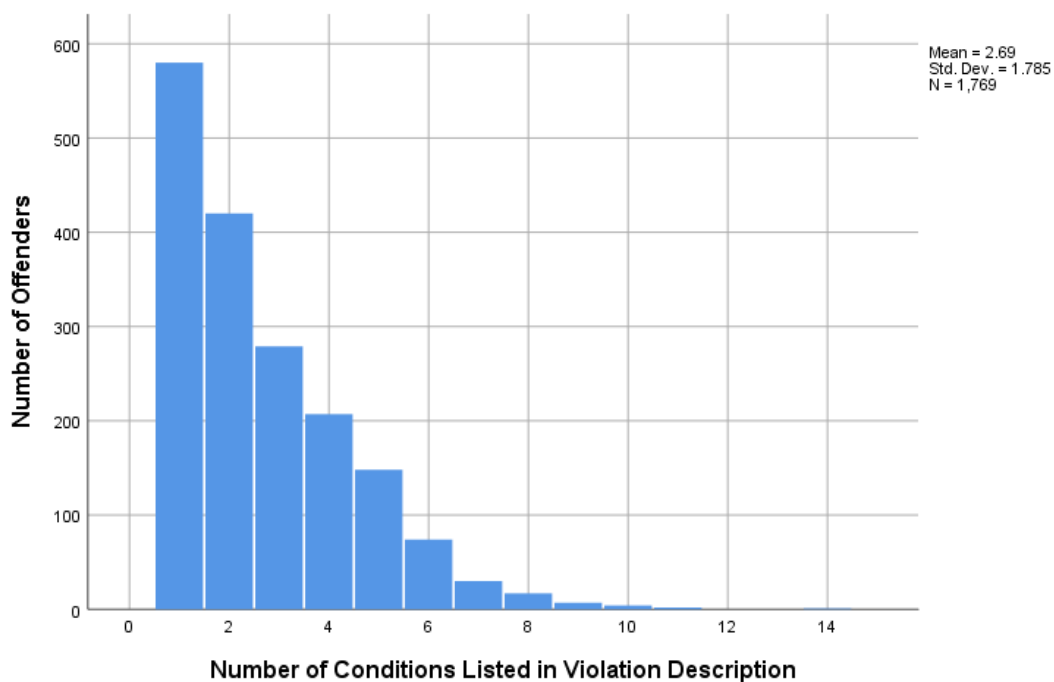


Table 3 presents the most frequently listed reasons for a filing a violation. The most frequent was being charged with a new crime, listed for 503 clients (28.4%), followed closely by drug use, listed for 474 probationers (26.8%). Related to this, failure to comply with substance use treatment was listed for 445 (25.2%). Failure to report was listed for 457 probationers (25.8%), and failure to pay a fine or restitution was listed for 438 (24.8%). No other condition was listed for more than 20% of clients, although alcohol use was the next highest and was listed for 349 (19.7%).

Of the six most commonly listed conditions, the one most likely to be the sole reason is being charged with a new crime, which was the only noncompliance listed for 219 cases (12.4%). This is followed closely by failure to pay fine/restitution, which was the only one listed for 199 cases (11.2%). Failure to report was the sole condition listed for 136 cases (7.7%). The

most common combinations were drug use and failure to comply with substance use treatment (84 cases; 4.7%), and alcohol use and charged with a new crime (81 cases; 4.6%).

Thus, although there was a variety of noncompliance listed across the probation clients in our sample of violation cases, it is usually just a handful of issues that are the most proximal drivers of the filing of a violation for an individual case, with more than half of probationers having two or fewer conditions listed. Further, other than being formally charged with a new crime, substance use-related issues appear to be some of the most prominent forms of noncompliance listed.

Table 2. Number of Conditions Listed in Officer Description of Reasons for Filing a VOP.

Number of Conditions	Number of Cases	Percent of Subsample
1	580	32.8
2	420	23.7
3	279	15.8
4	207	11.7
5	148	8.4
6	74	4.2
7	30	1.7
8	17	1.0
9	7	0.4
10	4	0.2
11	2	0.1
12	0	0
13	0	0
14	1	0.1
Total	1,769	100%

Table 3. Most Common Conditions Listed in Officer Description of Reasons for Filing a VOP.

Condition	Number of Cases	Percent of Subsample
Charged with new crime	503	28.4%
Drug use	474	26.8%
Failure to report	457	25.8%
Failure to comply with substance use treatment	445	25.2%
Failure to pay fine/restitution	438	24.8%
Alcohol use	349	19.7%

We then narrowed our focus and examined the subsample of violation cases that resulted in a revocation. Of the 1,769 violation cases 41 dispositions were unknown, and of the remaining 1,728, 890 (51.5%) resulted in a revocation. Figure 2 and Table 4 contain a descriptive analysis of the number of conditions violated by each probation client whose probation was revoked. As with the overall sample of violation cases the number of conditions listed ranged from one to fourteen, although the mean for the revocation subsample was a bit higher compared to the overall sample at 3.1. The distribution is clearly skewed, with nearly 80% of clients having four or fewer conditions listed, and less than 5% having more than six.

Figure 2. Number of Conditions Listed in Officer Description of Reasons for Filing a VOP (Revocations)

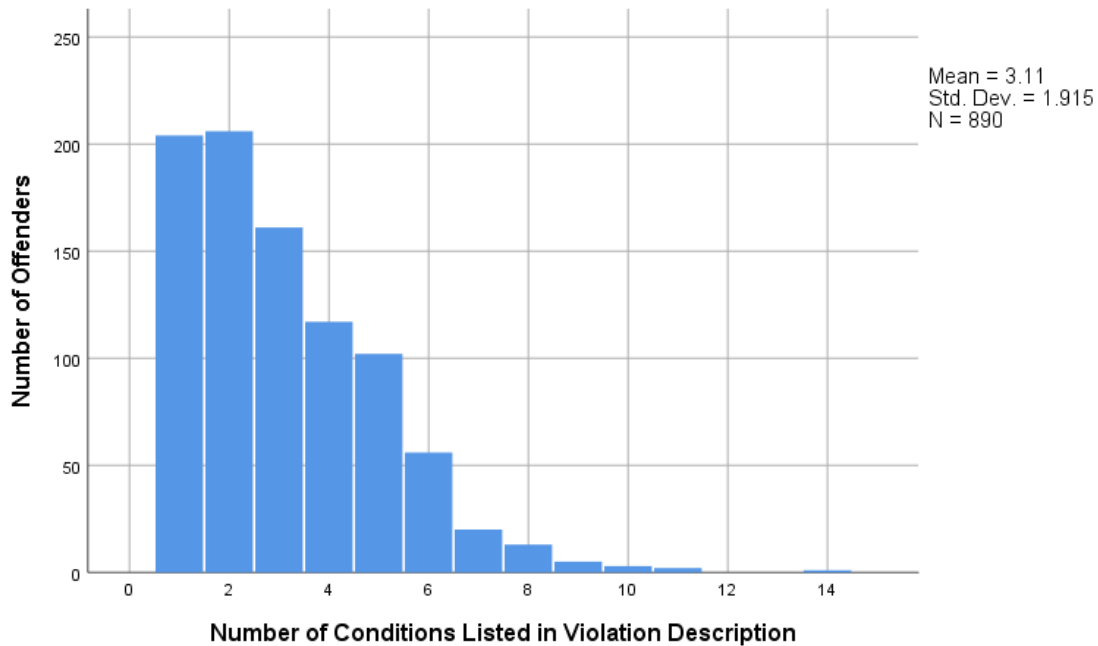


Table 5 presents the most frequently listed reasons for a filing a violation for those cases that resulted in a revocation. The most frequent was being charged with a new crime, listed for 290 clients (32.6% of revocations), which is in line with what officers reported in our interviews. This is followed closely by drug use, listed for 289 individuals (32.5%), and failure to comply with substance use treatment, listed for 285 probationers (32.0%). Related to the substance use issue, alcohol use was listed for 191 clients (21.5%). Failure to report was listed for 267 individuals (30.0%). No other condition was listed for more than 20% of clients, although being arrested was the next highest and was listed for 177 (19.9%). It is important to note here that, as they technically refer to separate “steps” in the criminal justice process, being charged with a new crime and being arrested are listed separately in the data field and were measured with separate “no/yes” variables in our analysis. Thus it is possible, although unlikely, for someone to be arrested and not charged (n=16 in the revocation subsample), or to be charged without having been arrested (n=129).

Of the six most commonly listed conditions for those violations which resulted in a revocation, the one most likely to be the sole reason is failure to report, which was the only noncompliance listed for 96 cases (10.8%). This is followed by being charged with a new crime, which was the only one listed for 72 cases (8.1%). Failure to comply with substance use treatment was the sole condition listed for 54 cases (6.1%). The most common combinations among these six conditions were drug use and failure to comply with substance use treatment (62 cases; 7.0%), and being arrested and charged with a new crime (52 cases; 5.8%). It is important to note here that the 52 cases with the combination of arrest and charge refer to cases in the revocation subsample with **only** those two conditions listed; overall, there were 161 cases in the subsample with an arrest and new charge (56% of all cases with a new charge), but 109 of those cases also had multiple other conditions listed.

Table 4. Number of Conditions Listed in Officer Description of Reasons for Filing a VOP (Revocations)

Number of Conditions	Number of Cases	Percent of Subsample
1	204	22.9
2	206	23.1
3	161	18.1
4	117	13.1
5	102	11.5
6	56	6.3
7	20	2.2
8	13	1.5
9	5	0.6
10	3	0.3
11	2	0.2
12	0	0
13	0	0
14	1	0.1
Total	890	100%

Table 5. Most Common Conditions Listed in Officer Description of Reasons for Filing a VOP (Revocations)

Condition	Number of Cases	Percent of Subsample
Charged with new crime	290	32.6%
Drug use	289	32.5%
Failure to comply with substance use treatment	285	32.0%
Failure to report	267	30.0%
Alcohol use	191	21.5%
Arrested	177	19.9%

The violation-only cases were very similar to the revocation cases in terms of the most common conditions listed by the probation officer (tables 3 and 5). Being charged with a new crime, engaging in drug use, failure to comply with substance use treatment, and failure to report were the four most commonly listed conditions for both subsamples, although the ordering of failure to comply with substance use treatment and failure to report was reversed in the two lists. One difference is that failure to pay fine/restitution was the fifth most commonly listed condition in the violation-only cases, but was not even in the top seven for the revocation cases.

There was more difference between the violation-only and revocation cases when examining which conditions were most likely to be the sole condition listed. The condition most likely to be the sole reason listed for violation-only cases was being charged with a new crime, followed closely by failure to pay a fine or restitution. However, for the revocation cases, failure to report was most likely to be the sole reason listed, followed by being charged with a new crime.

Next, in order to further examine what differentiates the violations that resulted in revocation from those violations that did not result in a revocation in terms of the number and types of conditions listed, we ran a series of bivariate logistic regressions predicting whether or not the client's probation was revoked (i.e., 0 = violation but no revocation; 1 = violation and revocation). We first used the number of violations listed as a predictor, and then used each of the six most frequently listed conditions as predictors. Table 6 contains the results.

Table 6. Bivariate Logit Regressions for Number and Type of Conditions Violated Predicting Revocation.

	Slope Estimate	Odds Ratio	Standard Error
Number of Conditions Violated	0.291	1.337***	0.031
Five or More Conditions Violated (No/Yes)	1.051	2.861***	0.143
Charged with new crime	0.446	1.562***	0.108
Drug use	0.557	1.745***	0.110
Failure to comply with substance use treatment	0.746	2.109***	0.115
Failure to report	0.414	1.513***	0.111
Alcohol use	0.250	1.284*	0.122
Arrested	0.550	1.733***	0.134

* p <.05, ** p<.01, *** p<.001

The number of conditions violated is a significant predictor of revocation, with each additional condition listed increasing the likelihood of being revoked. More specifically, having five or more conditions appears to be a tipping point, as probation clients with five or more conditions listed are nearly three times as likely to be revoked compared to those with fewer than five conditions.

In terms of specific types of conditions that were violated, each of the six most frequently listed conditions discussed above significantly predicted a revocation in bivariate analyses. Failure to comply with substance use treatment more than doubled the likelihood of a revocation, and drug use also increased the likelihood. Further, being arrested, being charged with a new crime, failure to report, and alcohol use each individually increased the likelihood of revocation. Interestingly, when being charged with a new crime and being arrested are included as predictors in the same model, both are still statistically significantly associated with higher odds of a revocation (coefficients not shown). Since arrest and charging are listed separately in the “reasons for violation” data field, and technically refer to separate steps in the criminal justice process, this appears to indicate that an arrest absent a new charge (i.e., before charging), or a new charge without an arrest, can each increase the likelihood of a revocation. Thus, as with violations overall, although there was a variety of noncompliance listed across the probation clients for whom violations resulted in revocation, it appears that it is usually just a handful of issues that are the most proximal drivers of a revocation for an individual case, with nearly half of clients having two or fewer conditions listed. Further, other than being formally charged with a new crime, substance use-related issues appear to be some of the most prominent forms of noncompliance listed for violations that ended in revocation.

We also examined whether probation officers' recommendations following a violation aligned with judges' sentencing decisions. When we asked POs about this, some stated judges follow their recommendations for revocation dispositions most of the time. However, a majority said it depends on the judge who is handling the case. According to the judge we interviewed, he estimated he follows the PO's recommendation about 80% of the time. He commented that there is a very good group of POs in Niagara County and they are very experienced, so he is highly likely to follow their recommendations. When there is disagreement, his disposition tends to be less severe than the PO's recommendations. To supplement these findings, we examined the quantitative data discussed earlier in this section. When looking only at cases that were revoked, we found that there was agreement between the probation officer and judge 96.7% of the time. In other words, in only 3.3% of revocation outcomes had the probation officer recommended a less severe disposition. From a slightly different angle, when examining anyone who had been violated, 81.4% of cases where the probation officer did recommend revocation resulted in an actual revocation. Thus, although revocations rarely occurred without the probation officer's recommendation (only 3.3% of the revocations), nearly one out of five cases where the officer recommended revocation received a less severe disposition from the judge. Interestingly, the presence or absence of the six most frequently listed conditions discussed above did not statistically significantly increase or decrease the level of agreement between the probation officer and judge for the revocation cases.

Concerning alignment between PO recommendations and judicial decisions, our interviews with officers revealed they feel that there is a pretty high rate of violations being restored to probation, despite officers' recommendations of revocation. There is a little bit of frustration on some probation officers' part, as they feel a judge may only see a "snapshot" of the probation client's behavior, such as while the case is pending, and this often isn't an accurate reflection of the larger pattern of behavior that has been displayed by the client. As one respondent noted, "It is incredibly frustrating for us, because we know we've already given all those chances. And then the judges giving them... telling us basically repeat everything you did with the negative result." The judge we interviewed estimated about 35% to 40% of cases are restored with the same conditions. This is very close to what we found in our quantitative analysis, where approximately 33% of cases were restored to probation. He brought up the issue of immaturity, and if the person hasn't already been given multiple chances he may restore the client to probation. Also, there are situations where perhaps the condition that was violated is not realistic. He discussed the example where an individual steals thousands of dollars and is ordered to pay it back as one of the conditions of probation, but in reality this is not possible if the individual has a low-paying job and also is supporting a family. He said it doesn't make sense to revoke probation and send that individual to prison for not being able to follow an unrealistic condition.

Case File Reviews

In addition to analyzing CE data, we randomly selected 300 case files that were evenly divided into three groups: probationers who experienced 1) no violation, 2) at least one violation but no revocation, and 3) a revocation. Probationers' levels of noncompliance can be observed over time so that the relative stability and instability of their noncompliance help us better understand when or why violations of probation or revocation occur. We conceptualized noncompliance according to the frequency and intensity of noncompliant behavior over time, creating two extremes (low noncompliance and high noncompliance). Probationers placed into

the “low noncompliance” category either exhibited 1) total compliance with probation⁷, or 2) rare/sporadic noncompliant behavior, usually for relatively minor violations like failure to report or a positive drug test, followed by long periods of compliance. Probationers placed into the “high noncompliance” category exhibited frequent and repetitive noncompliant behaviors. This led to observed trajectories like “high → low” noncompliance or “low → high” noncompliance. Noncompliance to conditions of probation varied significantly across probationers and influenced both when POs file VOPs and when judges revoke probation. Patterns of noncompliance fit into different trajectories (e.g., high → low, low → high, low → low, etc.) that help explain probation and judicial decision-making.

Case file reviews indicate that VOPs and revocations usually occur after probationers are noncompliant over a relatively long period of time. In these cases, noncompliance is sometimes limited to one type (e.g., one new arrest), but probationers are more typically involved in many types of noncompliance at the same time. For example, an individual who receives a VOP or revocation may repeatedly use drugs, fail to show for appointments, miss treatment meetings, get opportunities for inpatient treatment and/or drug court, struggle while on these new treatment programs, and be arrested for a new offense. Importantly, quantitative data derived from probation databases may only record the final act of noncompliance that led to the VOP. To assume that a VOP is caused by a single technical violation ignores a more nuanced process in which probationers violate many conditions of probation. Reviewing case files captures that context, which may be lacking in data pulled from probation databases. Still, some probationers do receive VOPs or revocations for only a small number of technical violations, but these cases are not typical and are often caused by policies that mandate a VOP for a specific form of noncompliance (e.g., nonpayment of fine/restitution). Patterns of noncompliance differ between the three groups of probationers (no VOP, VOP only, and revoked), as revocation cases typically exhibit more frequent and serious forms of noncompliance. Other overall findings include:

- Probationers who do not experience a VOP typically exhibit low noncompliance for the entire time they are on probation, but some display high levels of noncompliance before adjusting to the conditions of probation.
- In most cases POs use their discretion to give probationers numerous chances to become compliant even if they struggle while on probation.
- Violations are usually filed when a probationer demonstrates a clear pattern of noncompliance without making improvement, is rearrested, and/or experiences a severe mental health breakdown/drug relapse.
- Violations stemming from general noncompliance are additive in the sense that probationers demonstrate an inability to adjust behavior (i.e., refrain from using drugs) and are noncompliant with programs designed to help them with that behavior (treatment).
- Revocations typically occur for a number of reasons: 1) new arrest for a significant crime (felony) and/or for crimes that injure/threaten other people, 2) multiple arrests for lower-level crimes, 3) a new DWI offense, 4) high levels of noncompliance and

⁷ Our analysis strategy focused on recording incidents of noncompliance rather than measuring incidents of compliance. Consequently, our phrasing throughout this report uses “low noncompliance” rather than compliance. Some individuals displayed no incidents of noncompliance. These “no noncompliant” cases were included in the “low noncompliance” category. Further analysis is needed to discern patterns between “no noncompliance” and “low noncompliance” probationers.

failure to respond to second chances or new treatment options, 5) probationers requesting revocation, and 6) absconding.

Comparing the Three Groups of Probationers

Our analysis begins by comparing noncompliance to conditions of probation across three groups of probationers (no VOP, VOP only, revoked). Findings indicate some substantial differences in the patterns of noncompliance between all three groups. Table 7 provides an overview of these comparisons.

Table 7. Compliance to Conditions of Probation

	No Violation ¹	Violation	Revoked
<i>Low Noncompliance</i> ²	81	46	25
New Arrest	*	17%	24%
Technical Violation	*	83%	76%
Restitution	*	52%	5%
Treatment ⁴	*	20%	58%
Other	*	28%	37%
After VOP			
Immediate Revoke	*	*	92%
High Noncompliance	*	2%	4%
Low Noncompliance	*	98%	4%
<i>High Noncompliance</i> ³	16	54	75
New Arrest	*	39%	43%
Technical Violation	*	61%	57%
Restitution	*	9%	0%
Treatment ⁴	*	70%	69%
Other	*	21%	31%
After VOP			
Immediate Revoke	*	*	55%
High Noncompliance	*	40%	45%
Low Noncompliance	*	60%	0%

*Not applicable.

¹ Three cases did not fit under “No VOP” due to death, transfer, etc.

² For cases without a VOP, this means probationers fit into the “low noncompliance” category throughout the duration of probation. For cases with a VOP, this means low noncompliance occurred before the VOP.

³ For cases without a VOP, this means high noncompliance occurred at some point during probation. For cases with a VOP, this means high noncompliance occurred before the VOP.

⁴ This includes substance use, failure to comply with treatment (substance use & mental health), and failing drug court.

Summary of findings from Table 7:

1. “No VOP” probationers were the mostly likely to display the lowest levels of noncompliance. Eighty-one probationers demonstrated low levels of noncompliance, while 46 “VOP only” and 25 “revoked” probationers exhibited low levels of noncompliance.
2. Individuals who demonstrated low levels of noncompliant behavior were substantially more likely to experience a VOP due to technical violations rather than a new arrest (83% for “VOP only” group and 76% “revoked”). These percentages are higher than those experienced by probationers who exhibited high noncompliance. Fifty-two percent of “low noncompliance” probationers in the “VOP only” group received a VOP for failing to pay restitution. In many cases, these probationers had little-to-no other incidents of noncompliance. “Low noncompliance” probationers in the “VOP only” group received a VOP for treatment-related issues in only 20% of all cases, which is substantially lower than all other groups in the table.
3. The “VOP only” and “revoked” groups demonstrate substantial differences in their levels of compliance after receiving a VOP. Almost all (98%) low noncompliance probationers in the “VOP only” group continue to exhibit low-levels of noncompliance after receiving a VOP. This percentage is much higher than the entire revocation group (both low and high noncompliance) and “VOP only” probationers who initially exhibited high levels of noncompliance. In short, many individuals who exhibit low levels of noncompliance continue to exhibit low levels of noncompliance. Yet, many in the revocation group are not given that chance, which will be explored in a later section.
4. “No VOP” probationers exhibited substantially lower levels of noncompliance, as only 16 displayed high levels of noncompliance, while 54 “VOP only” and 75 “revoked” probationers exhibited high levels of noncompliance.
5. Individuals who exhibited high levels of noncompliance were substantially more likely to experience a VOP due to technical violations rather than a new arrest (61% vs. 39%). About 70% of technical violations for both “VOP only” and “revoked” groups focused on noncompliance with treatment. This includes repeat drug or alcohol use, not attending or being removed from treatment (substance, mental health, or sex offense), or being voted out of or removed from drug/mental health court. Restitution is not a common reason for a violation in either group.
6. Patterns of noncompliance after an initial VOP varied dramatically between “VOP only” and “revoked” groups. Whereas 60 percent of “VOP only” probationers exhibited low noncompliance after displaying high levels of noncompliance and receiving a VOP, no one in the revoked group exhibited a similar trend towards low noncompliance while still on probation. Regarding the “VOP only” group, many probationers exhibit low noncompliance after a VOP even when they display high levels of noncompliance leading up to the VOP. Still, a decent number (40% or 21 individuals) exhibit high noncompliance after the VOP and never experience a revocation. Cases that end in revocation either maintain high levels of noncompliance after an initial VOP or the initial VOP leads to revocation.

These findings begin to explain similarities and differences across the three groups, but more context is needed to fully capture the nuance that further explains each group. For example,

although the “VOP only” and “revoked” groups exhibit a similar percentage of cases that receive technical violations and violations due to arrest, we need to further explore patterns within these groups to determine if the types of technical violations and arrests are similar. The following sections further examine patterns of noncompliance within the “no VOP,” “VOP only,” and “revoked” groups.

Characteristics of No VOP Cases

Probationers who completed probation without experiencing a violation generally abided by their conditions of probation or adjusted to expectations after failing to follow those conditions at the beginning of probation. Eighty-one probationers demonstrated low noncompliance with the conditions of their probation, and, within this group, 45 did not display any noncompliant behavior and 36 had only a small number of noncompliant incidents. Sixteen probationers demonstrated high levels of noncompliance at some point during their time on probation, and three were classified as unique cases that did not fit within any group (e.g., death or transfer). We identified two main trajectories of noncompliance for cases that lacked violations of probation. They include “*Low* → *Low*,” and “*High* → *Low*” trajectories with the latter indicating that POs give many probationers time to adjust to their expectations and respond to treatment.

Low noncompliance (“Low → Low” trajectory): Forty-five probationers in the “low noncompliance” category were totally compliant with probation. Thirty-six individuals in this category exhibited behaviors that could have produced a violation, but most of these behaviors were not serious, occurred early during their time on probation, and/or were consistent with underlying conditions addressed in treatment (e.g., drug or alcohol use). POs consistently gave probationers time to adjust to expectations and were forgiving about substance use issues if probationers were honest and cooperated with treatment. Honesty was often easy for probation officers to assess. Probationers reported substance use and participated in court mandated programs, which probation officers could verify through independent sources. Some of these probationers engaged in behavior that ranged from weapons found during the first home visit to occasionally admitting drug or alcohol use to sporadically missing probation or treatment meetings. These incidents of noncompliance were exceptions to the general pattern of behavior exhibited by most probationers who did not receive a VOP, and most of these behaviors occurred early during the probation term.

High Noncompliance → Low Noncompliance: A small number of probationers (nine in total) displayed high levels of noncompliance early during their probationary periods but then adjusted their behavior to meet the expectations of their PO. These individuals typically failed numerous drug or alcohol tests early but complied with the conditions of treatment and improved after becoming sober. These cases included behavior like repeatedly submitting positive drug tests but then becoming sober and not having further problems, frequently failing to report to probation early during probation, and being involved in multiple minor traffic violations. POs, in many cases, use their discretion to give probationers opportunities to complete their court-mandated treatment or simply to adjust to expectations of probation.

High Noncompliance → High Noncompliance: Some cases (seven in total) involve probationers who displayed high levels of noncompliance with substance use treatment and

could have, therefore, experienced a violation. For example, one man was on a list for the GIVE program, which targeted high level offenders known to be involved with or around gun violence for focused deterrence intervention. He became a person of interest in a drug dealing case. He was arrested for drugs, but the charges were later dropped. He had at least seven positive drug tests and admitted to both drug/alcohol use. He also had multiple encounters with the police in which he was found to be around drug activity. His probation officer was nearby when researchers were reviewing his casefile, and she communicated that he never received a VOP because he remained committed to participating in his substance use program.

Our interviews with probation officers indicated that VOPs were used primarily as a last resort for cases in which officers interpreted the probationer's level of noncompliance as an indication that he or she was not willing or able to follow court ordered conditions of probation. Our findings thus far support these claims, but some cases are similar to other cases that receive VOPs. The probation officer's explanation of the aforementioned case may offer some insight into what distinguishes relatively similar cases. The probationer exhibited high levels of noncompliance but was still compliant with treatment and working to resolve some of the underlying causes of criminal behavior.

Characteristics of Cases that Received VOPs

We also reviewed cases for 100 individuals who received a VOP but did not receive a revocation. When compared to the individuals who did not experience VOPs, this group displayed higher levels of noncompliance caused by more severe issues with mental health and substance use along with evidence of new criminal behavior. Individuals in this group also reported to their probation officers more challenges in other parts of life including health, parent/child relationships, personal and romantic relationships, and work. POs typically seem to give clients ample opportunities to comply with conditions of probation, especially substance use treatment. They are quick to file a VOP for people not paying restitution, but such violations seem to motivate people to pay restitution and do not usually lead to a revocation.

Violation after Low Levels of Noncompliance

Forty-six probationers experienced a VOP after demonstrating low levels of noncompliance for a significant length of time. Of these cases, most (83%) received a VOP due to technical violations rather than a new arrest. Failing to pay restitution was the most common reason for receiving a technical violation (52%), and failing to comply with substance use treatment was the second most common reason for receiving a VOP (20%). Nearly all of these cases (98%) displayed low levels of noncompliance after the VOP, which places them into the trajectory of *Low* → *VOP* → *Low*.

Low → *VOP (arrest)* → *Low*: Eight individuals exhibited low levels of noncompliance when they began probation but received a VOP following an arrest. These arrests were also for relatively minor offenses like driving without a license, DWI, and disorderly conduct. Probation filed the VOP due to the arrest in these cases but judges returned individuals to probation.

Low → *VOP (technical violation)* → *Low*: Over half of all technical violations in this category involve failure to pay restitution, and, in all of these cases, probationers displayed little-to-no other problems with compliance. They all also paid restitution following the VOP and had no other problems on probation. Filing a VOP for restitution is mandated by NCPD, so it falls

outside of the discretionary decisions of probation officers. Eleven individuals received a VOP for violating miscellaneous conditions of probation, including, but not limited to, failure to install an ignition interlock, multiple but infrequent failures to report, not participating in a work program, and not completing community service. Some of these probationers were on occasion also noncompliant about using substances, but these incidents were not the primary reason for VOPs. The remaining probationers (eight in total) received a VOP for using drugs or alcohol, missing treatment appointments, or requesting to be removed from drug court. Relative to individuals who display high levels of noncompliance, individuals in this trajectory had fewer incidents of drug or alcohol use.

Violation after High Levels of Noncompliance

Fifty-four probationers exhibited high levels of noncompliance before their violations, which caused POs to file a VOP. They then continued on different trajectories after the VOP, as some exhibited low levels of noncompliance while others maintained high levels of noncompliance.

High → VOP → Low: Thirty-two individuals followed a trajectory of high noncompliance at some point during probation, which lead to a VOP, and then exhibited low levels of noncompliance after the VOP. Within this trajectory, three were arrested while on probation for behaviors like criminal possession of a controlled substance, driving while intoxicated, and driving without a license. Twenty-six individuals in this trajectory experienced technical violations and most (23) of the technical violations were due to substance use issues. The level of substance use within this trajectory is generally greater than what was observed in either the “no VOP” category or the *Low → VOP → Low* trajectory. To adequately capture the challenges faced by probationers, probation officers, and substance use professionals, the following will focus on describing a representative case:

Case Study 1: This case involves a woman who struggled with substance use and mental health problems. She began probation in November 2012 and admitted to using Suboxone without a prescription and alcohol within a week after probation began. She had two positive drug tests in December and missed treatment in January of 2013. She entered into inpatient care later that month. In April she was doing well but started missing treatment appointments. Her counselor said that the probationer was “lying” and “has entitlement issues.” A home visit In July of 2013 found the probationer with parolees. In August of 2014 probation heard that she was spending time with known drug users/dealers and may be using again. She failed a drug test and admitted drug use (Suboxone). She missed drug treatment appointments in September and mental health appointments in October. She had two more positive drug tests in November and another one in December (all for opiates). A VOP was filed for drug use. The probationer entered drug court and provided one positive drug test soon after, which led to a two-week drug court sanction with inpatient treatment. She generally did well after this and got a series of jobs, each improving in their conditions and pay. Over the following year she had only one more problem and received a four-week drug court sanction when she was found with a container of urine. She then remained clean until her release from probation in July of 2016.

This case provides a good example of sporadic noncompliance over the course of a few years on probation. Her pattern of noncompliance was intermixed with concerted efforts to attend treatment and improve some of the drug related behaviors that led to noncompliance. Although initial efforts at treatment did not lead to sustained sobriety, they did help her stay sober for months at a time. When her drug use escalated along with an increase in missed appointments, probation filed a VOP. She received drug court sanctions and more treatment each time she relapsed, but she remained invested in the process of pursuing sobriety.

High → VOP → High: Twenty-two individuals engaged in high levels of noncompliance before their VOP and then continued to engage in high levels of noncompliance after their VOP. Within this trajectory 16 were arrested while on probation for crimes ranging from buying marijuana to harassment to reckless endangerment to possession of a deadly weapon. Technical violations were less common (five in total) and include repeated failures to comply with treatment and one absconding case. The following case provides a representative example of probationers in the *High → VOP → High* trajectory:

Case Study 2: This case involves a young woman who periodically struggled with substance use, compliance with treatment, and homelessness. Although her noncompliance was sporadic over a long period of time, she was arrested a few times on probation. She began probation in August of 2013. She did well for a while on probation with only one positive drug test in February of 2014. However, in November of 2014 she was arrested for endangering the welfare of a child. This was her fourth child, an infant who was born when she was on probation. The arrest also led to a VOP. Her three other children were in foster care, and Child Protective Services removed the baby from her home. She then had another baby while on probation who was also taken from her. Social services reported that she was unable to take care of herself or her children. Her oldest child then died in a car accident with their foster mother, and, although she expressed sadness about this to her PO, it did not influence her level of compliance. She was restored to probation and tested positive for alcohol in February of 2015. She missed treatment appointments and gave a diluted urine sample in August. In February of 2016 she was a suspect in a burglary and was arrested in March for three counts of petit larceny and falsifying business records. In April, she missed curfew and stopped attending parenting classes. She tested positive for drugs in September and again for alcohol in April of 2017. Her house was shot at in July of 2017. She absconded during that summer, but this was more due to homelessness rather than effort to evade probation. She was arrested in January of 2018 on a bench warrant, and the judge sentenced her to time served on probation and her case was closed.

This case involves high levels of noncompliance throughout the duration of probation. Although Child Protective Services deemed this probationer unfit to take care of her children, the seriousness of her arrest offenses was relatively minor. She tested positive for drugs and alcohol a few times and did not always attend treatment. Her PO communicated in the case files that her

act of absconding was due to challenging life circumstances rather than a rebellion against probation or court orders.

Reviews of this case and others highlighted a discrepancy between a probation officer's recommendation and a judge's decision about case outcome. Interviews with probation officers indicate they file VOPs with the intent on having the court change conditions of probation (e.g., add drug court) or to have the case revoked. They do not use VOPs as a method for motivating a probationer towards compliance. Judges may listen to probation officer recommendations, but they do not always make decisions according to those recommendations. Cases in the "VOP only" category frequently include a "restored to probation" decision following a VOP. Within the *High* → *VOP* → *High* trajectory a few probationers were arrested for reckless endangerment, domestic violence, violating orders of protection, and possession of a deadly weapon and yet do not receive a revocation. All of these arrest offenses are more typical of "revoked" cases, indicating some variability in how judges handle cases.

Summary of "VOP only" Cases

Our review of "VOP only" cases indicates that probationers who receive a VOP generally exhibit higher levels of noncompliance than probationers who do not receive a VOP. Some cases do seem to overlap in the sense that some "no VOP" cases are similar to "VOP only" cases and vice-versa. Although this may mean that some "no VOP" cases can be treated differently (e.g., 28 positive cocaine tests without a VOP), it may also indicate that some "VOP only" cases do not require a VOP. This may be why judges overrule probation officer recommendations to restore people to probation. A closer examination of these cases – those in the *Low* → *VOP* → *Low* trajectory – indicate that most involve failure to pay restitution, which further harms the victim of the original crime. Moreover, VOPs seems to be an effective approach to ensuring that probationers pay restitution. This practice, at least in this sample, does not appear to contribute to the incarceration of probationers. As noted elsewhere in this report, individuals do not commonly experience revocation because of restitution.

Nineteen probationers exhibit low levels of noncompliance and experience a VOP for technical violations other than restitution. A few of these cases involve people who request to be taken off of drug court, which leads to an automatic VOP. The remaining group, about 15 individuals, experience a VOP for minor violations that do not correspond with other violations. Some of the VOPs led to drug court or inpatient care that helped the probationer deal with substance use. These 15 cases also did not lead to a revocation, as judges used their discretion to restore individuals back to probation or provide them with additional services. Although these VOPs could led to incarceration, which we examine in the next section, they did not end that way for this group.

Characteristics of Revocation Cases

We also examined 100 cases that ended with revocation. Relative to the "no VOP" (16%) and "VOP only" categories (54%), "revoked" cases are more likely to demonstrate high levels of noncompliance (75%). Our review of case files generally indicated that revocation cases exhibit higher levels of noncompliance than cases in the "VOP only" group. For example, whereas both groups experience similar rates of arrest while on probation (about 40%), probationers in the "revoked" group are arrested for more serious crimes, many of which harm or threaten other people. This finding is consistent with what we learned during interviews with POs. Both "VOP only" and "revoked" groups also received VOPs for technical violations at similar rates (about

60%), but cases in the revoked group are more likely to include absconding, termination from drug court, nonparticipation in treatment programs, and requests to be removed from probation.

Revocation After Low Levels of Noncompliance

Probation revocation following low levels of noncompliance is relatively uncommon, only accounting for 25% of all revocation offenses, and most (92%) of these cases fit into a single trajectory in which revocation occurred following the VOP.

Low → VOP → Revocation: Five cases in this trajectory involved a new arrest for behaviors like menacing with a weapon, criminal contempt, prostitution, and DWI. These probationers did not, aside from their arrest, demonstrate repeated noncompliance with the conditions of probation. Two cases involved probationers who requested revocation, and the judge granted their request. Twelve cases included noncompliance with substance use or mental health treatment, including probationers who were removed from drug court, which forced probation to file a VOP. Some of the cases did not include enough information in the probation files to assess why revocation occurred, but two of these cases included people originally convicted of sex offenses. Only one case resulted in a revocation after a VOP was filed for failure to pay restitution.

Revocation After High Levels of Noncompliance

Most revocations (75%) occur after probationers exhibit high levels of noncompliance. An initial comparison of high noncompliant probationers in “VOP only” versus “revoked” groups reveals some similarities and differences (Table 7). Probationers in the revocation group are arrested more (43% vs. 39%) and experience technical violations less (57% vs. 61%), but the differences are small. They exhibit a slightly higher percentage of high noncompliance after VOPs (45% vs. 40%). They are more likely to receive a VOP for miscellaneous violations (32% vs. 21%) but are much less likely to receive a VOP for failure to pay restitution (0% vs. 9%). The largest difference between the two groups is that the revoked group shows no cases of low noncompliance after a VOP while awaiting disposition, but 60 percent the “VOP only” group exhibit low levels of noncompliance after initially engaging in high noncompliance. We created two trajectories to more thoroughly examine the types of noncompliance that lead to revocations.

High → VOP (Arrest) → Revoke: Thirty-two probationers engaged in high levels of noncompliance before receiving a VOP and were arrested at some point on probation, which contributed to their revocation. Some individuals in this trajectory received a VOP for technical violations but were then arrested at a later date. Others received a VOP as a result of their arrest. The offenses leading to arrests are relatively severe, especially when compared to arrests in the “VOP only” group. Many of the arrests in this trajectory are for violent offenses or threatening behavior such as assault (strangulation), robbery, sexual assault, and child pornography.

The interaction between technical violations and arrests makes analyzing cases difficult, as aggregated data derived from probation databases likely do not account for additive noncompliance over time. VOPs may be recorded as technical violations when the probationer also has been arrested, and cases with recorded arrest charges will not account for an array of unreported noncompliance to conditions of probation. Many cases include one or more arrests

and repeated noncompliance with conditions of probation. The following case provides a representative example:

Case Study 3: This case involves a man with a history of violent offenses. Early during probation, his PO received conflicting reports about his place of residency. He claimed to be living with his girlfriend, but his girlfriend denied this. There was a lot of conflict between the probationer and his girlfriend. She claimed that he was dealing drugs and hanging out in front of a drug house with his infant son. She also accused him of kidnapping his infant son, which he denied, instead saying he just went for a walk with his child after fighting with his girlfriend. This led to Child Protective Services opening a case against him. His daughter's mother filed family court documents to gain full custody, claiming the probationer frequently yelled at his 5-year-old daughter so that she was afraid of him. He was arrested at probation for an outstanding warrant (criminal contempt and stalking), which he denied. He was also arrested for driving without a license and violating an order of protection in separate incidents. These offenses led to a VOP. He told his PO, "fuck probation, give me my time." Probation visited his home two times after curfew, and he was not there in both cases. He said he was upstairs playing video games during the first visit and that he was at the hospital for a medical emergency for the second. His mother called probation reporting that he stole his brother's license, and reported that the family is tired of his "disrespectful" behavior. He started to work at a restaurant where his child's mother worked even though both parties had, at the time, no contact orders of protection against the other person. The probationer was shot and provided a false name to the hospital. He was later arrested for a few counts of criminal possession of controlled substances and intent to sell narcotics. Probation recommended to the district attorney's office that the probationer be sent to jail rather than spend more time on probation. Before his court date, the probationer was also a robbery suspect. He was identified by the victim and accused of both hitting another person in the head with a hammer and smashing her car window with a baseball bat.

High → VOP (Technical Violation) → Revoke: Forty-two individuals in the revocation group exhibit high levels of noncompliance without being arrested. Technical violations within this group are numerous, as probationers typically engage in a range of noncompliant behavior. Nearly 70 percent of all technical violations involve substance use or failure to comply with court mandated treatment. Individuals in this trajectory struggle significantly with substance use. The following breakdown of violations identifies common tendencies within this group that are not mutually exclusive. A probationer may, therefore, engage in one or more of the following forms of noncompliance: 1) absconding or communicating to their PO/judge that they would rather spend time in jail than complete probation, 2) consistent use of drugs or alcohol while on probation or a significant relapse that leads to high noncompliance over a period of time, 3) refusing treatment, frequently failing to attend treatment, or being expelled from treatment programs for disruptive behavior or lack of participation, and 4) removal from drug court for noncompliance, which initiates an automatic, nondiscretionary VOP from probation and causes the court to determine the case outcome. The intersection of these tendencies are best demonstrated through a representative case:

Case study 4: This case involves a woman with a history of severe mental health (bipolar, major depression, bulimia) and substance use problems. She grew up with alcoholic parents and suffered physical, emotional, and sexual abuse as a child. She developed a pattern of self-harm as a teenager (cutting). She began probation on drug court. Early on probation, she failed to report to probation and had multiple independent positive tests for alcohol, THC, prescription medication, and cocaine. She reported relationship problems with her estranged husband – custody fights and that he was verbally abusive – but they reconciled. She had more positive alcohol and drug tests (e.g., morphine) and was admitted into inpatient treatment. Alcohol and drug use continued sporadically after treatment, and she received a drug court sanction and communicated a desire for long-term residential treatment. A counselor reported that the probationer’s mother, who she lived with, is likely being verbally abusive, saying things like “I should have aborted you and thrown you in a garbage bag.” At about his time, the probationer failed to appear for court, had multiple positive tests for alcohol, and then missed treatment appointments. She reentered treatment, finding long term residential care, and admitted to consuming alcohol daily (a pint of liquor and a couple of beers each day) and using cocaine with her husband. While living in long-term treatment, she finalized her divorce, which she reported as upsetting. She was also not following house rules (e.g., doing chores) and was released after leaving the home without permission. Over the next year, she continued with drug court and outpatient treatment while periodically using drugs and alcohol. The probationer was hospitalized for an overdose and her older brother reported she had been stealing his wife and dog’s medication (Tylenol with codeine, Klonopin, and Gabapentin). She entered a mental health program, kept using drugs and alcohol, and eventually had probation revoked for noncompliance with drug court.

This case highlights a trend within the revocation cases that was not as prevalent in the “no VOP” and “VOP only” groups. According to reports from mental health and drug counselors, trauma in this probationer’s life (e.g., verbal abuse) led to the use of drugs as a coping strategy. A few other cases within this trajectory exhibited a similar pattern of traumatic life events (i.e., breaking up with a significant other, death of a loved one, or exposure to abuse) preceding a relapse, noncompliance with treatment, and revocation. Both case studies (3 & 4) for revoked probationers exhibit more frequent and serious forms of noncompliance than those cases that only received a VOP (cases 1 & 2).

Summary of “Revoked” Cases

Our review of cases that end in revocation indicate that they are more likely than cases in the “VOP only” group to involve more serious forms of criminal activity, especially offenses that involve violent or threatening behavior. Probationers who receive technical violations are also more likely to abscond, be terminated from drug court, not participate in treatment programs, and request to be removed from probation. They are much less likely to receive a VOP for restitution and do not have their probation revoked due to restitution. Some cases do seem to overlap with those in the “VOP only” category. For example, cases in the “*low* → *VOP (arrest)* → *revoke*” trajectory involve arrests for crimes that correspond with the “VOP only group” (e.g., criminal

contempt, prostitution, and DWI). Our interviews with probation officers indicate substantial variation in how judges handle cases.

One important finding from these case reviews is that descriptions of violations identify significant variations even if they can be classified under the same category. Not all technical violations or arrest-related violations are the same. This is most noticeable in our coverage of technical violations. Relative to the “VOP only” group, technical violations for the “revoked” group involve not only a high number of noncompliant incidents, but, more importantly, they seem to correspond with absconding, termination from drug court, nonparticipation in treatment programs, and requests to be removed from probation.

Summary of Case Files

Our examination of case files reveals substantial differences between the “no VOPs,” “VOP only,” and “revoked” categories. We are able to provide some insight into the degree to which cases in one category are similar to cases in another category. This can help determine if there are significant variations between how cases are handled within NCPD or across judges. If, for example, a large number of “no VOP” cases are similar to “VOP only” cases then significant differences exist in the probation department. If a large number of “VOP only” cases are similar to “revoked” cases then differences may exist between judges or between probation officer recommendations. Our findings indicate the following:

- The number of cases that could fit in both “no VOPs” and “VOPs” is small, as both categories reveal clear distinctions between cases. There are about seven “no VOP” cases that could have fit into the “VOP only” category based on their similarity with other cases. These cases involve consistently noncompliant individuals who never received a VOP. At first glance, 46 “VOP only” cases could have fit into the “no VOPs” category because probationers exhibited low levels of noncompliance before receiving a VOP. Further analysis indicates that many of these cases involve failure to pay restitution, which leads to an automatic VOP. Other cases in this category involved an arrest or a removal from drug court. A minority of cases (about 15) received technical VOPs when they displayed low levels of noncompliance with probation. These cases are more consistent with the “no VOP” category, and none, by definition, led to a revocation.
- Our analysis did not find much evidence of “revoked” cases that could overlap with “no VOP” cases. There were some (25) revocation cases that involved low levels of noncompliance, but further review provided explanations for why these cases received a VOP (e.g., new arrest or drug court removal). Although similarities exist between the “VOP only” and “revoked” categories, the groups are also quite different. The types of arrests for revoked cases are generally more serious than for “VOP only” cases. There is some overlap for a few cases (e.g., DWI or prostitution), as judges seem to vary in how they handle cases. Technical violations for “revoked” cases seem qualitatively different than “VOP only” cases, as they include the *appearance* that a probationer has stopped working on his or her court mandated treatment.

Primary Drivers of Violations and Revocations and Possible Solutions

Our results suggest several drivers of violations and revocations in Niagara County. As shown in our findings examining client and case characteristics, risk level is strongly associated with violations and revocations. Prior research shows that increasing supervision intensity for

higher risk clients via reduced caseloads reduces recidivism (Jalbert et al., 2011). At NCPD, officers with generalized caseloads (i.e., those not assigned specialized cases), handle clients across all four risk levels (low, medium, high, greatest). We spoke with NCPD leadership previously about assigning a sample of POs to reduced caseloads to better meet the needs of higher risk clients, but this is not feasible. Still, finding ways to free up POs' time to focus more on higher risk clients is important to reduce violations and revocations. In terms of solutions, reducing the amount of time probation officers spend on low risk (and potentially some medium risk) clients might be achieved by experimenting with different methods of reporting remotely, which POs have now become accustomed to due to the Covid pandemic. A discussion with NCPD personnel about what worked and what did not over the past year could provide the basis of developing and implementing a new system for probationer contacts. Related to this, NCPD could consider expanding early release policies for low risk clients, which would allow POs to increase supervision intensity on higher risk clients. Concerns about early release are understandable—NCPD leadership and probation officers do not want to risk public safety in exchange for reducing caseload size. However, policies that target certain low risk clients (and potentially medium risk probationers who are reassessed as low risk over the course of their supervision) who have little history of noncompliance may alleviate some of these concerns. Early release for these probationers would reduce the total number of probationers on each officer's caseload and allow them to devote more time and resources to higher risk clients.

Our review of relevant laws and policies, CE data, and case files indicates that nonpayment of fines and/or restitution is also a primary driver of violations. Though failure to pay fines and make restitution rarely leads to revocations, it does require time and resources. Officers have to document the noncompliance in CE, file a VOP, all parties have to go to court, and judges have to hold a hearing. After all of this, the outcome is often that the client is just restored to probation. As such, finding ways to get clients to pay fines and restitution in a timely manner is important to not only reduce formal violations, but also conserve time and resources. Research on restitution has shown that the type of information a probationer receives concerning restitution owed influences payment (Ruback, Gladfelter, & Lantz, 2014). Probationers in Pennsylvania were randomly assigned to four experimental groups. The first received a letter that only included information about restitution owed, the second was sent a letter that explained the rationale behind restitution (i.e., acknowledging harm, accepting responsibility), the third received a letter with both information and rationale, and the fourth (control group) was not sent anything. After one year, results indicated that those who received the information only letter made more payments and paid more money than clients in the other three groups (Ruback et al., 2014). NCPD is in the early phases of revising its fine and restitutions policy—one idea being discussed is removing the provision that makes nonpayment of fines/restitution an automatic violation—and is considering sending an information letter to increase compliance.

The results from our analysis also reveal that new crimes (and to a lesser degree arrests), failure to report, substance use, and failure to comply with substance use treatment are the most common reasons for filing a VOP. These kinds of noncompliance are also prominent in revocation outcomes. Substance abuse was also listed by a judge we interviewed as the most common type of noncompliance resulting in revocation. Concerning substance use, a consistent theme that emerged during our interviews with POs was that supervision supports and resources are valued and utilized by probation officers, but the availability does not always meet the demand. One officer noted, for example, that all individuals convicted of sex offenses get access to psychological services but the same is not true for other probation clients. While substance use

counseling is more available, it is sometimes difficult to find psychological counseling for clients who are not convicted of sex crimes. One respondent commented that, “We are only equipped to do so much, but we don’t have those resources and a lot of agencies don’t have the manpower to handle that stuff.” Another officer also reported that the waiting list is long for mental health services – clients may even have to wait months to just see a counselor. Connecting clients with services can be quite challenging when community resources are limited, but addressing noncompliance associated with new arrests/convictions, failure to report, substance use, and failure to comply with substance use treatment may be accomplished via NCPD’s graduated responses policy.

NCPD’s graduated responses policy was implemented in February of 2020. The policy was reviewed with staff during a general staff meeting, but no specific training was provided. Though NCPD leadership relied on the OPCA framework and established policies in other jurisdictions when creating its policy, they recognize the text is cumbersome and learning the responses grid (particularly determining which responses to use in a given situation) can be challenging. To date, the policy is rarely used, mainly because of issues with officer buy-in. Still, NCPD sees great value in having a graduated responses policy in place. As such, a potential solution is a reimplementation of NCPD’s policy, which would entail contracting with third parties to review (and potentially revise) the policy and provide education and training for NCPD staff to increase buy-in.

Ultimately, this research sought to identify the drivers of violations and revocations in Niagara County, and offer potential solutions. This study used a mixed methods design that included a review of relevant laws and policies, analysis of NCPD official record data and case files, and interviews with NCPD personnel and judges. Findings suggest that risk level, internal policies on nonpayment of fines and restitution, and certain types of noncompliance (e.g., new crime charges, failure to report, substance use) are the primary drivers of violations and revocations. Potential strategies to reduce unsuccessful exits from community supervision include intensifying supervision for higher risk clients by increasing remote reporting and expanding early discharge policies for lower risk probationers, revising NCPD’s fines and restitution policy, and reimplementing the department’s graduated responses policy.

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APPENDIX A

Legal and Administrative Policies

As provided in the New York Codes, Rules, and Regulations (NYCRR), after an individual is sentenced to probation, the NCPD director assigns the case to an officer within three business days of receiving official notification of a criminal court disposition. When assigned a case, the PO, overseen by their director/supervisor, must also review the probationer's disposition for legality, verify dates of the probation term, and consider the need for specialized caseloads. Cases involving sex offenses, driving while intoxicated, domestic violence, and mental health are assigned to POs with specialized caseloads. After assignment, officers have eight days to conduct an initial interview with the probationer.

During the interview, the probationer must be provided with a copy of his or her probation order, including the conditions of probation. Within the first 30 days of assignment, legal case requirements are fulfilled (e.g., obtaining DNA samples, registering sex offenders, obtaining fingerprints, establishing restitution accounts), and a risk and needs assessment is conducted to determine supervision level. The risk assessment is designed to determine the probationer's risk of recidivism, as classified by "Greatest Risk," "High Risk," "Medium Risk," and "Low Risk." The needs assessment focuses on individual risks associated with the probationer's offending. This includes factors such as thinking and attitudes, personality, familial association, substance use, mental health, employment, and schooling needs, among others.

A case plan must be completed within the 30 business days of the initial interview between the probationer and PO. The primary goal of the case plan is to address the underlying behavior that led to the need for community supervision. This is achieved by matching case planning strategies to the probationer's motivation to change, establishing action steps to complete between contacts, and setting short and long-term goals. The overarching goal of the case plan is to base services off of the state approved risk and need assessment which is catered to each individual probationer. Components of a case plan include a feedback mechanism to communicate assessment findings to the probationer, determining the level of probationer motivation to change criminogenic behaviors, and linking the level of probationer motivation to the individually catered plan of action within the case plan itself. This includes consideration for external services which a probationer may be determined to need. All components of case plans are designed and classified in terms of action steps (the smallest measurable tasks for the probationer to achieve short term goals), short-term goals, and long-term goals within a reasonable timeframe.

NCPD operates under a differential supervision system that uses Greatest, High, Medium, and Low Risk levels to set the number of probationer in-person contacts, probationer contacts (in-person or through real time technology via phone, text, or email), collateral contacts (contacts with someone other than the probationer to verify information about the probationer), and home contacts. A home contact entails visiting the probationer's home to verify the address, assess living conditions, and monitor compliance with the conditions of probation. A positive home contact is defined as an in-person meeting with probationers in their homes. Those deemed the Greatest Risk require a minimum of one in-person contact per week and two probationer contacts per month. This population is also subject to a minimum of six collateral contacts that target criminogenic needs (e.g., criminal thinking/attitudes, substance use, employment) identified in

the case plan. In addition, one positive home contact per month is required, and this may serve as one of the in-person contacts.

The stabilization period is a time frame of three to six months where Greatest and High Risk probationers are assessed for case plan and probation condition compliance. Greatest Risk clients may be credited with one probationer contact per month following a stabilization period, provided they have complied with the case plan and engaged in merit credit activities such as victim restoration, employment retention, and sustained program participation. Merit credits are protocols by which probationers, when in compliance with the conditions of their probation sentence, may qualify for a reduction in contacts with their PO or may qualify for incentives distributed on the basis of each individual probationer's criminogenic needs.

As risk level decreases, so do the number of required contacts. High Risk requires the probationer to receive one or more in-person contacts per week and one home contact per month. High Risk probationers may qualify for merit credit after the stabilization period. The probationer may be credited up to one in-person contact per month. Next, Medium-Risk clients require two probationer contacts per month, one of which must be an in-person contact, and two collateral contacts. After one positive home contact during the first 45 days on probation, home visits are conducted as needed. Further, this group may be credited with one probationer contact per month for engaging in merit activities alone. Low-Risk clients require only one probationer contact per month, and collateral and home contacts are used as needed. Since one contact per month is required by statute, merit credits are not applicable for this group. Regardless of risk level, officers conduct a case review every six months to assess compliance with contacts and the conditions of probation, and consider whether modifications to risk level and/or conditions are needed.

APPENDIX B

Methods

The violations dependent variable indicates whether a violation was filed (0 = no violation; 1 = violation). Violation outcomes include discharged, withdrawn, dismissed, continued, modified, revoked-jailed/probation, revoked-other, and “other.” The revocations dependent variable captures whether probation was revoked (0 = no revocation; 1 = revocation). Revocation outcomes include revoked-jailed/probation and revoked-other. Demographic independent variables include a continuous measure for the probationer’s age at the time supervision began, and a dichotomous variable to capture gender (reference = male). Race includes White (reference category), Black, and Other (comprised of American Indian/Alaskan Native, Asian/Pacific Islander, and other), and ethnicity represents whether the probationer was Hispanic (reference = Non-Hispanic). Case characteristics include risk level (low, medium, high, greatest, reference = low), and a crime type variable that reflects whether the crime of conviction was a misdemeanor, sexual offense, DWI (which includes all driving under the influence of alcohol/drug crimes), or felony. For the revocations model only, we also included a dichotomous variable that captures whether the probation officer recommended the client be revoked. We employ Kaplan-Meier estimation and lognormal accelerated failure time (AFT) models to analyze the effects of these covariates on probation supervision survival time. Comparing Akaike information criteria (AIC) model fit estimates suggested specifying a lognormal distribution.

Survival Models

Figures 3 through 13 provide lognormal survival curves for each of the categorical client and case covariates, without controlling for other factors. Groups are represented with solid lines, dotted lines reflect 95% confidence intervals, and Kaplan-Meier estimates for all probationers are denoted in red. For violations, Figure 3 shows very little differences in failure rates for males and females. The survival curves for race (Figure 4) suggest Whites have a lower rate of failure than both Blacks and individuals of other races, whose curves are nearly identical.

Figure 3. Predicted Lognormal Survivor Functions for Gender and Violations

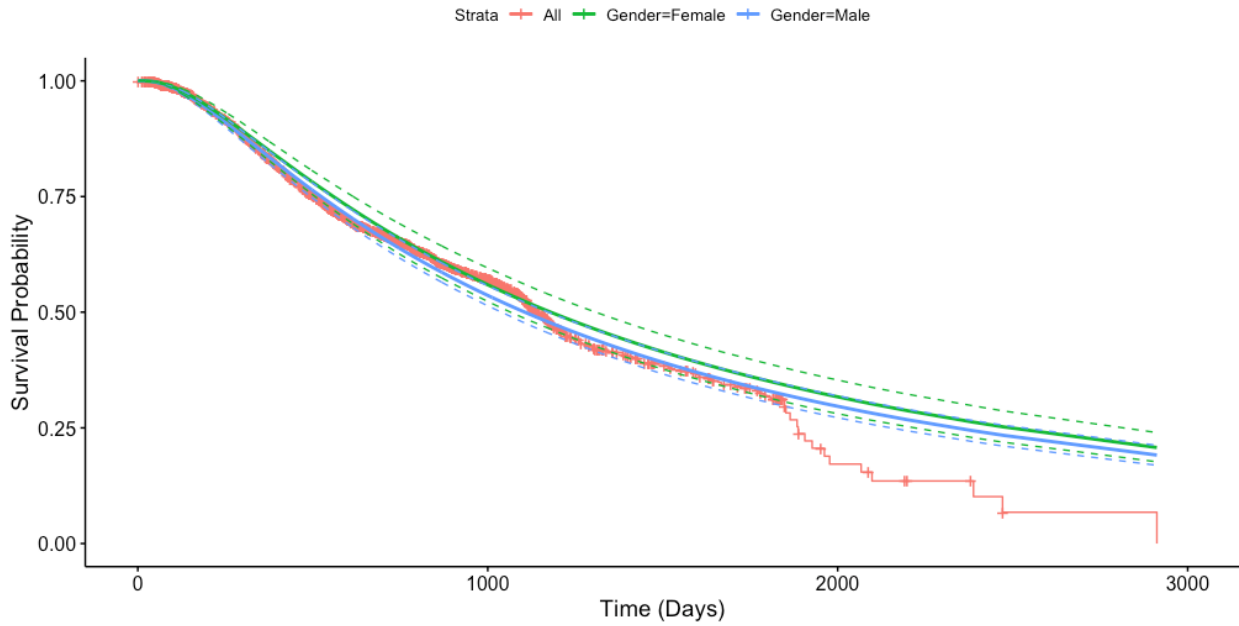
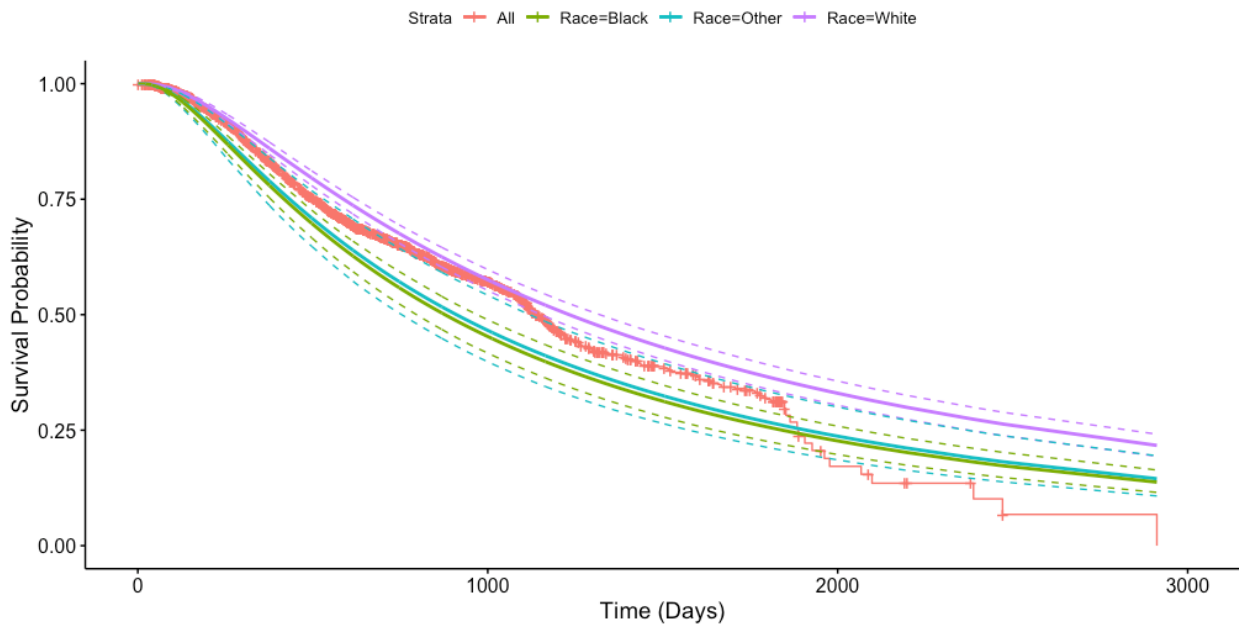


Figure 4. Predicted Lognormal Survivor Functions for Race and Violations



For ethnicity, the findings suggest almost no differences in the survival probability for Non-Hispanics and Hispanics (Figure 5). The survival curves for crime of conviction show those convicted of sex offenses and misdemeanors exhibit the highest failure rates, followed by felonies and DWIs (Figure 6).

Figure 5. Predicted Lognormal Survivor Functions for Ethnicity and Violations

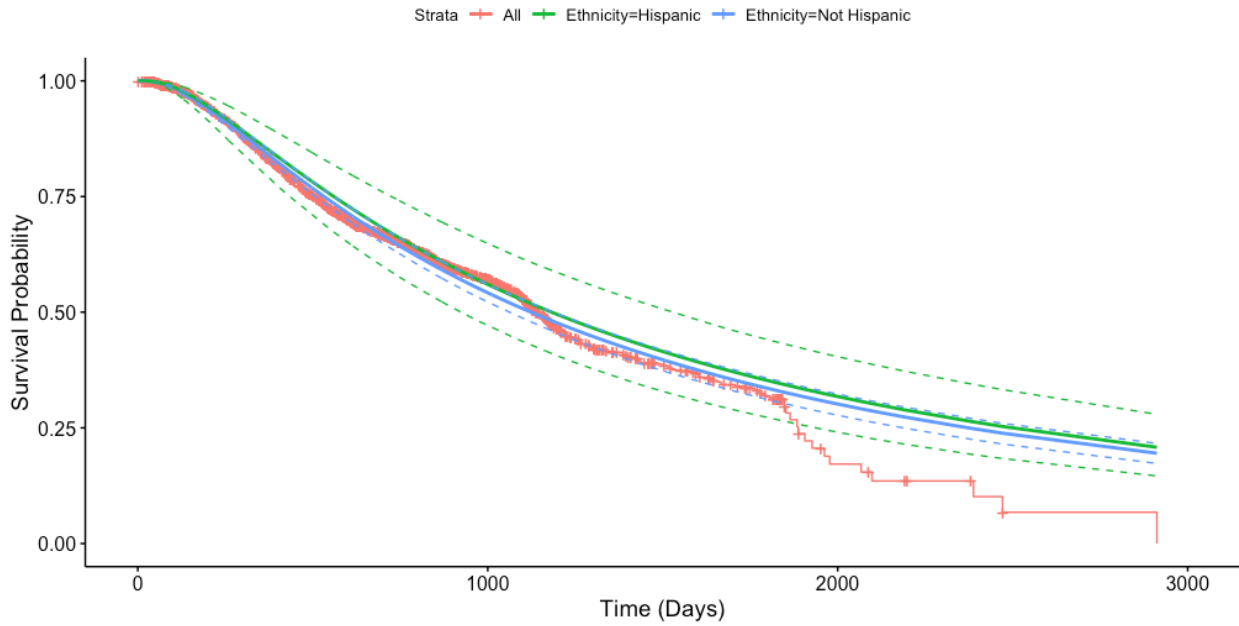
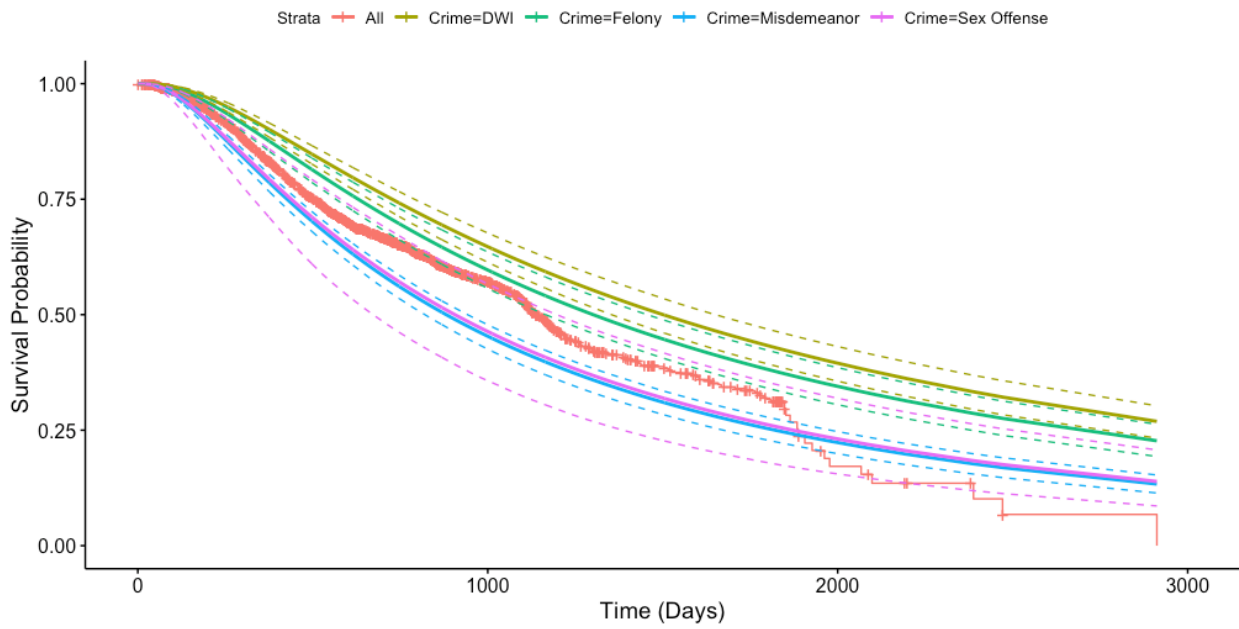
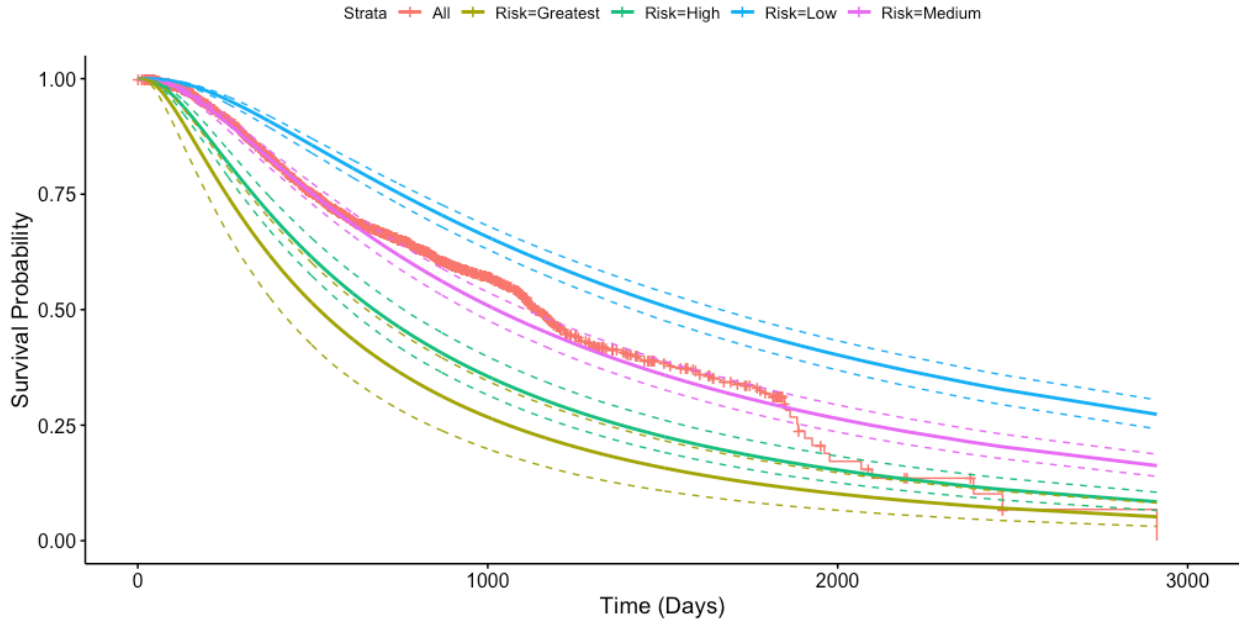


Figure 6. Predicted Lognormal Survivor Functions for Crime of Conviction and Violations



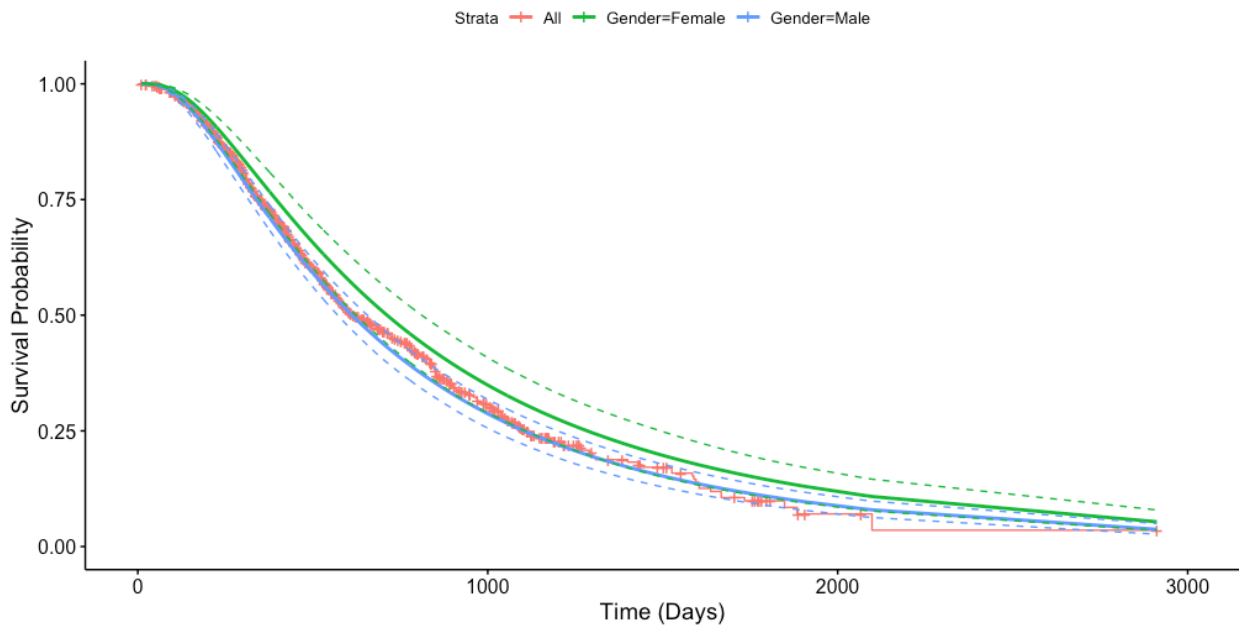
More heterogeneity is found when looking at risk level, with survival probability decreasing as risk level increases (Figure 7).

Figure 7. Predicted Lognormal Survivor Functions for Risk Level and Violations



The survival curves for revocations show females have a slightly lower rate of failure than males (Figure 8).

Figure 8. Predicted Lognormal Survivor Functions for Gender and Revocations



Survival probability rates for Whites and Blacks are nearly indistinguishable, while other races have a higher rate of failure (Figure 9). Unlike the ethnicity curves for violations, revocation failure rates appear to be higher for Non-Hispanics than Hispanics (Figure 10).

Figure 9. Predicted Lognormal Survivor Functions for Race and Revocations

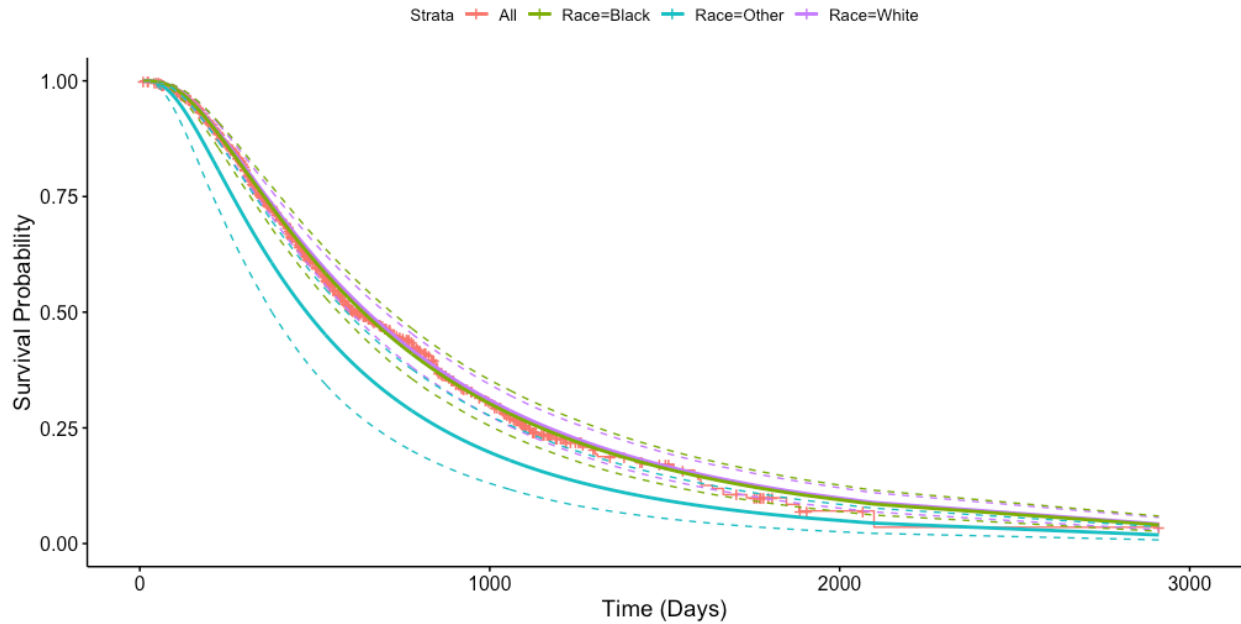
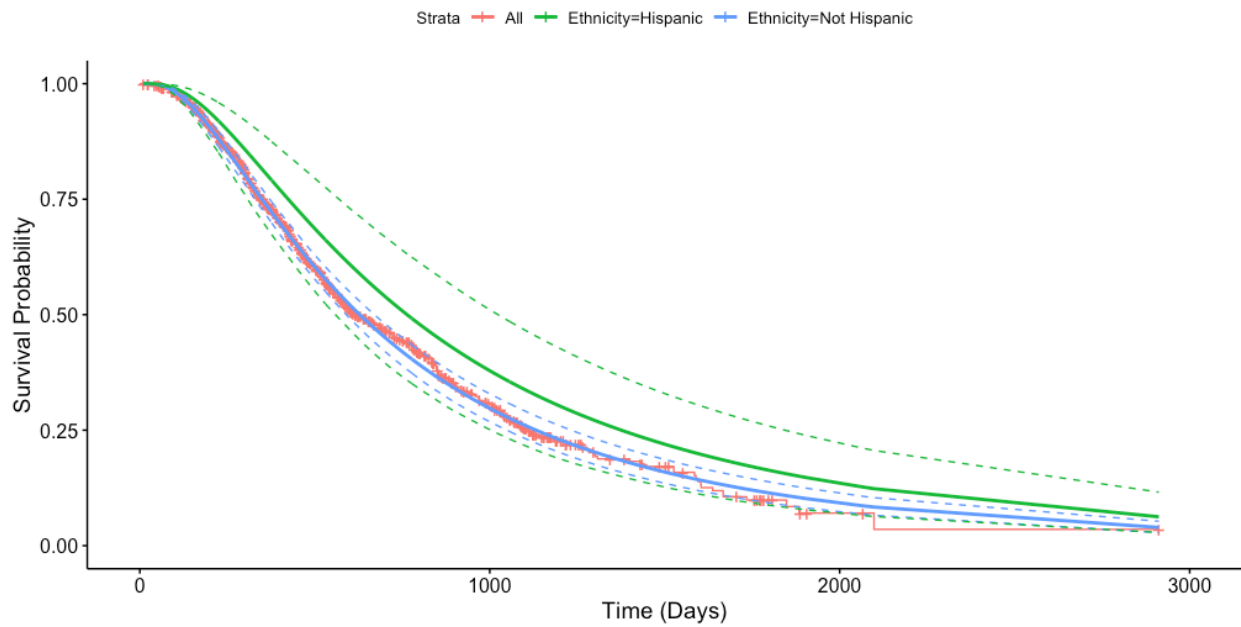


Figure 10. Predicted Lognormal Survivor Functions for Ethnicity and Revocations



Conversely, survival curves for crime of conviction and risk level follow similar patterns as those found in the violation models (Figures 11 and 12). Finally, the survival rate decreases dramatically when POs recommend revocation (Figure 13).

Figure 11. Predicted Lognormal Survivor Functions for Crime of Conviction and Revocations

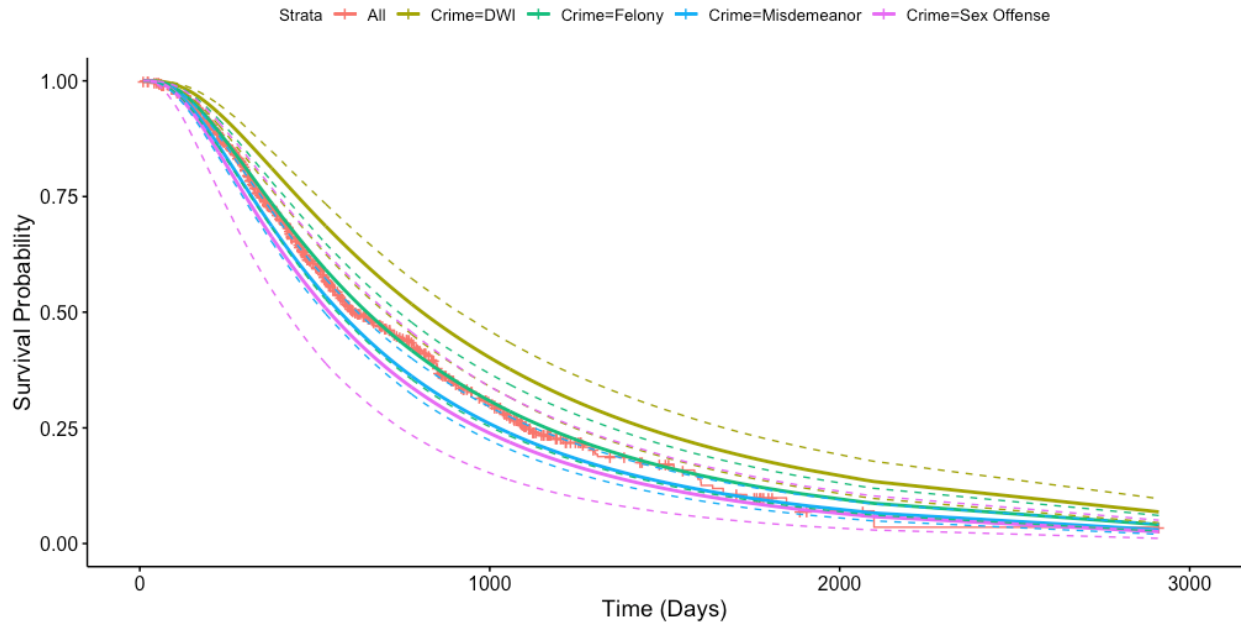


Figure 12. Predicted Lognormal Survivor Functions for Risk Level and Revocations

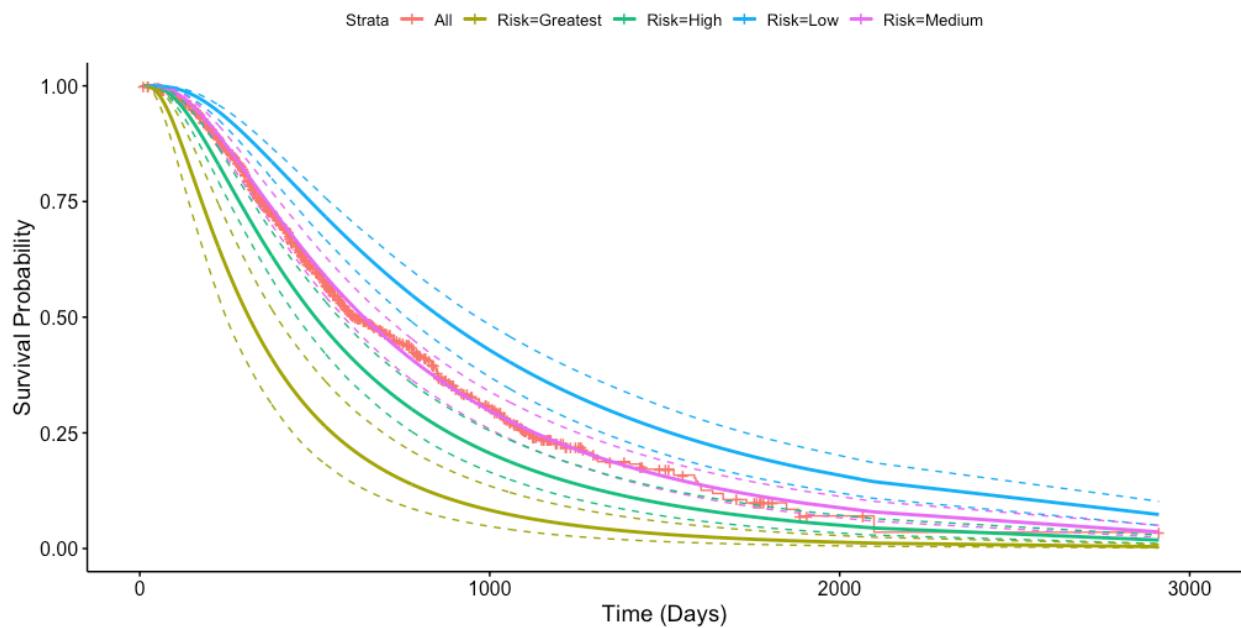


Figure 13. Predicted Lognormal Survivor Functions for Revocation Recommended and Revocations

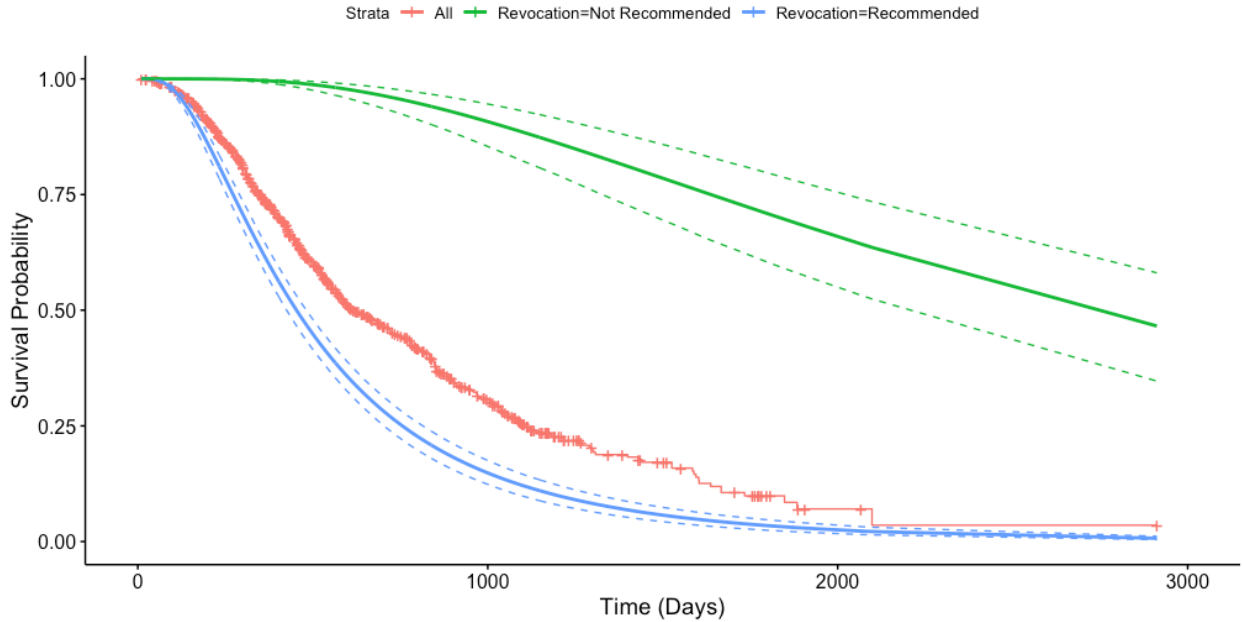


Table 8. Accelerated Failure Time Models with Predicted Survival Estimates for Group 1

	Exp(Est.) (SE)	95% CI	
		Lower	Upper
Age	1.005 (0.002)	1.001	1.009
Female	0.948 (0.054)	0.852	1.055
Race ^a			
Black	0.895 (0.060)	0.796	1.006
Other	0.779 (0.100)	0.640	0.949
Ethnicity ^b			
Hispanic	1.130 (0.125)	0.885	1.443
Crime of Conviction ^c			
Sex Offense	0.991 (0.144)	0.747	1.314
DWI	1.394 (0.059)	1.241	1.565
Felony	1.506 (0.064)	1.327	1.708
Risk Level ^d			
Medium	0.719 (0.056)	0.644	0.803
High	0.496 (0.074)	0.429	0.574
Greatest	0.403 (0.132)	0.311	0.522

^aReference = White; ^bReference = Non-Hispanic; ^cReference = Misdemeanor; ^dReference = Low

Table 9. Accelerated Failure Time Models with Predicted Survival Estimates for Group 2

	Exp(Est.) (SE)	95% CI	
		Lower	Upper
Age	1.005 (0.003)	0.999	1.009
Female	0.963 (0.072)	0.836	1.109
Race ^a			
Black	1.214 (0.072)	1.054	1.398
Other	0.786 (0.115)	0.627	0.985
Ethnicity ^b			
Hispanic	1.447 (0.156)	1.066	1.964
Crime of Conviction ^c			
Sex Offense	1.834 (0.128)	0.920	1.522
DWI	1.258 (0.077)	1.081	1.464
Felony	1.158 (0.075)	0.999	1.343
Risk Level ^d			
Medium	0.874 (0.076)	0.754	1.013
High	0.793 (0.088)	0.666	0.941
Greatest	0.550 (0.131)	0.425	0.711
Revocation Recommended	0.186 (0.114)	0.148	0.232

^aReference = White; ^bReference = Non-Hispanic; ^cReference = Misdemeanor; ^dReference = Low

APPENDIX C

Probation Officer Description of Reasons for Filing a VOP

- Failure to report
- Alcohol use
- Evidence of alcohol use
- Failed to abstain from injurious/vicious habits
- Failed to abstain from unlawful/disreputable places
- Failed to abstain from consorting with unlawful/disreputable people
- Charged with new crime
- Convicted of new crime
- Arrested for a new crime
- Violated order of protection
- Failure to comply with domestic violence treatment
- Failure to comply with substance use treatment
- Warrant out for new crime
- Failure to comply with substance use evaluation
- Failure to obtain/maintain employment
- Missed substance use treatment
- Missed court appointment
- Evidence of drug use
- Driving without ignition interlock
- Failure to notify PO of change in address
- Failure to pay fine/restitution
- Failure to complete community service
- Failure to comply with mental health evaluation
- Failure to abide by curfew
- Failure to comply with TASC program (educational requirement)
- Failure to comply with mental health treatment
- Failure to comply with no weapons requirement
- Failure to comply with GED program
- Failure to comply with sex offender treatment
- Failure to notify PO of contact with police
- Failure to comply with parenting classes
- Evidence of alcohol use