

Informal penalties associated with parole status increase the probability of prison sentences

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A new study has examined whether specific elements of individuals' prior criminal records—current supervision status of probation or

parole—affected receiving a new prison sentence in Michigan in the mid-2000s. The study also looked at how these potential sources of cumulative disadvantage contributed to racial inequality through imprisonment. The study found that supervision status uniquely contributes to the likelihood of receiving a prison sentence, with the informal impact of parole status especially large, and it may also contribute to racial disparities in sentencing.

The study was conducted by researchers at Southern Illinois University (SIU), the University at Albany, the University of California at Berkeley, and the University of Michigan. It appears in *Criminology*, a publication of the American Society of Criminology.

"Few studies have considered the context of sentencing guidelines to explore the paths contributing to cumulative disadvantage," says Audrey Hickert, assistant professor of criminology and [criminal justice](#) at SIU, who led the study. "Additionally, the role of specific elements of criminal records in contributing to racial disparities in [prison](#) sentences is underexplored."

Cumulative disadvantage is a process in which society's responses to an individual's involvement in crime build over time, limiting future opportunities for access to education, jobs, or housing. Such disadvantage can also accrue within the criminal justice system, when rules or justice system actors (e.g., lawyers, judges) consider those with certain types of criminal justice status as more deserving of harsher punishment, despite sentencing guidelines.

In this study, researchers examined the records of more than 122,000 white or Black individuals sentenced for felonies in Michigan between 2003 and 2006 based on databases at the Michigan Department of Corrections. They compared the magnitude of the impact reflected in recommendations made based on formal sentencing guidelines to

deviations made by court actors in estimating penalties for prior punishments.

The formal use of supervision status in computing criminal records scores is common, but there is no consensus around the desired impact of prior history, and the relative impact of custody status varies greatly across states. In Michigan, the contribution of criminal justice supervision status to the prior record variable score is modest: Under the state's guidelines, committing a crime while on felony probation or parole supervision, or out on bond awaiting adjudication or sentencing on a felony adds points to a person's score, which affects future sentencing.

The study found that court actors placed substantially more emphasis on current parole status than sentencing guidelines when deciding to sentence a defendant to prison. All other factors being equal, defendants on supervision, especially parole, were more likely to be sentenced to prison than defendants who were not on parole, the study found. This may have occurred because these individuals were considered more blameworthy or dangerous to the community, leading courts to impose more severe punishments—despite research being undecided about whether prior prison or current custody status signal a risk of recidivism beyond other measures of prior criminal activity.

In this way, the informal impact of parole on the probability of receiving a new prison sentence was an important source of cumulative disadvantage, while the informal impact of probation status was small and inconsistent across sentencing guidelines. In fact, the study's authors suggest that the informal impact of being on parole, as seen in court players' discretionary actions, was much bigger than the formal impact of being on probation, even though the sentencing commission assigns equal weight to each supervision [status](#) in the formal guidelines.

The study also found that cumulative disadvantage disproportionately affected Black defendants because of their higher rates of being on parole. This in turn contributed substantially to the Black-white gap in prison sentences.

"Our key finding—that the informal parole penalty is large and consistent across the sentencing guidelines—suggests that not only does informal discretion remain, but that possible stereotypical judgments affect those on parole who have an extra-stigmatized identity," notes Shawn Bushway, senior policy researcher at the RAND Corporation, who contributed to the study. "Changing informal sentencing practices may prove more challenging than changing formal sentencing rules because our study suggests that formal sentencing guidelines fail to effectively constrain the discretion of individual actors who decide [prison sentences](#)."

Among the study's limitations, the authors note that they could only speculate about the processes that resulted in the large impact of the informal parole penalty; further research in this area should test whether the beliefs of court actors play a role. In addition, they highlight that their findings are limited in applicability because they conducted their research in one state with [sentencing](#) guidelines specific to that state.

More information: Prior Punishments and Cumulative Disadvantage: How Supervision Status Impacts Prison Sentences, *Criminology* (2021).

Provided by American Society of Criminology

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