



Many Youth Kept on Probation Despite Being at Low Risk for Rearrest

Texas data shows that new arrests are uncommon after months on supervision

Overview

A new study by The Pew Charitable Trusts shows that young people who are not arrested in their first year of juvenile probation are unlikely to be arrested for a new offense in the rest of their supervision term, regardless of its length.

The study, based on data provided by the Texas Department of Juvenile Justice and analyzed by researchers at the Council of State Governments (CSG) Justice Center and Pew, suggests that long community supervision terms for youth in the juvenile justice system may have diminishing public safety benefit—a finding mirrored in Pew’s earlier research about adults on probation.¹

Probation is U.S. juvenile courts’ most frequent response to delinquency, according to data from the Office of Juvenile Justice and Delinquency Prevention (OJJDP).² In 2019, the most recent year for which complete data is available, almost a quarter-million (246,000) delinquency cases nationally resulted in youth being placed on probation (also known as community supervision).³ Despite the large numbers of youth on probation, there has been little research on the impact of long supervision terms on subsequent offending.⁴

Although national data isn’t available on length of supervision terms for youth, state and local data shows broad variations by jurisdiction, with some youth spending most of their teenage years under supervision. For instance, a 2016 report showed that Utah youth spent an average of three years on community supervision.⁵ Annual reports from 2016-17 show the average length of juvenile probation exceeded two years in Los Angeles County, California, and Allegheny County, Pennsylvania, and was roughly a year in Colorado, Florida, and Virginia.⁶

To help address this research gap, Pew and CSG looked at how often youth in the Texas juvenile justice system were arrested while under supervision for either new offenses or technical violations such as missing a probation meeting or violating curfew. Researchers also analyzed how long youth had been on probation at the time of any first rearrest.⁷ Although the findings may not be representative of all youth on probation in the U.S., the study found that if young people on probation in Texas were arrested, this arrest happened relatively early in their supervision. About 1 in 3 youth (33%) were arrested for a new offense at some point while on probation, with most of those being arrested in the first five months and 9 in 10 arrests being for lower-level and nonviolent offenses; monthly arrest rates for new offenses decreased sharply over the first year and then averaged below 1% after that. For youth who completed a year on probation without being arrested, only 1 in 10 (10%) were arrested for a new offense on probation at any point after that. Yet many youth who were assessed as being a low risk of engaging in new criminal behavior at the start of their probation—and who, in fact, were never arrested while on supervision—remained on probation for one year or longer.

Definitions

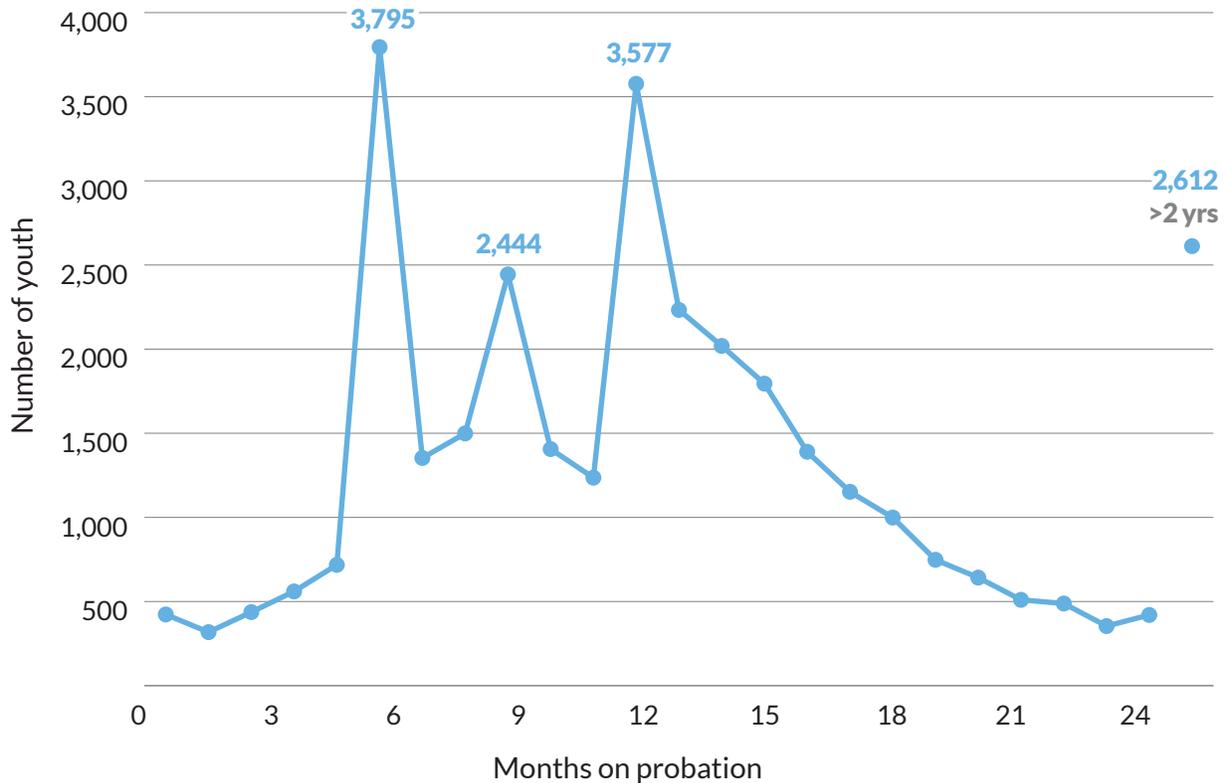
- Throughout this publication, “new arrest” refers to the first arrest that occurs during probation, not the arrest that triggered the probation.
- Monthly arrest rates refer to first-time arrests on probation and are defined as the percentage of youth arrested for the first time each month since beginning probation out of the number of youth still on probation that month who had not already been arrested.
- “Youth” for the purposes of identifying those in the Texas juvenile justice system refers to those under age 17, as those 17 or older in Texas are adjudicated in the adult criminal system.

Pew and CSG analyzed data on 33,128 youth adjudicated in juvenile court and placed on probation in Texas from October 2013 to September 2017, starting with an analysis of how long youth spent on supervision. The most common probation terms ended at six months, nine months, or one year, but almost half (15,362) of the youth remained on probation for more than one year. (See Figure 1.) This is in spite of many evidence-based interventions for youth, such as family therapy, normally being completed in six months or less.⁸

Figure 1

The Most Common Probation Lengths Were 6 or 12 Months, but Many Youth Remained Under Supervision for Much Longer

Lengths of stay for Texas youth on probation, 2013-17



Sources: Data from the Texas Juvenile Justice Department, the Texas Department of Public Safety, and the Texas Department of Criminal Justice, fiscal years 2013-17; analysis by the Council of State Governments Justice Center and The Pew Charitable Trusts
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Most arrests for new offenses occurred in the first few months of probation

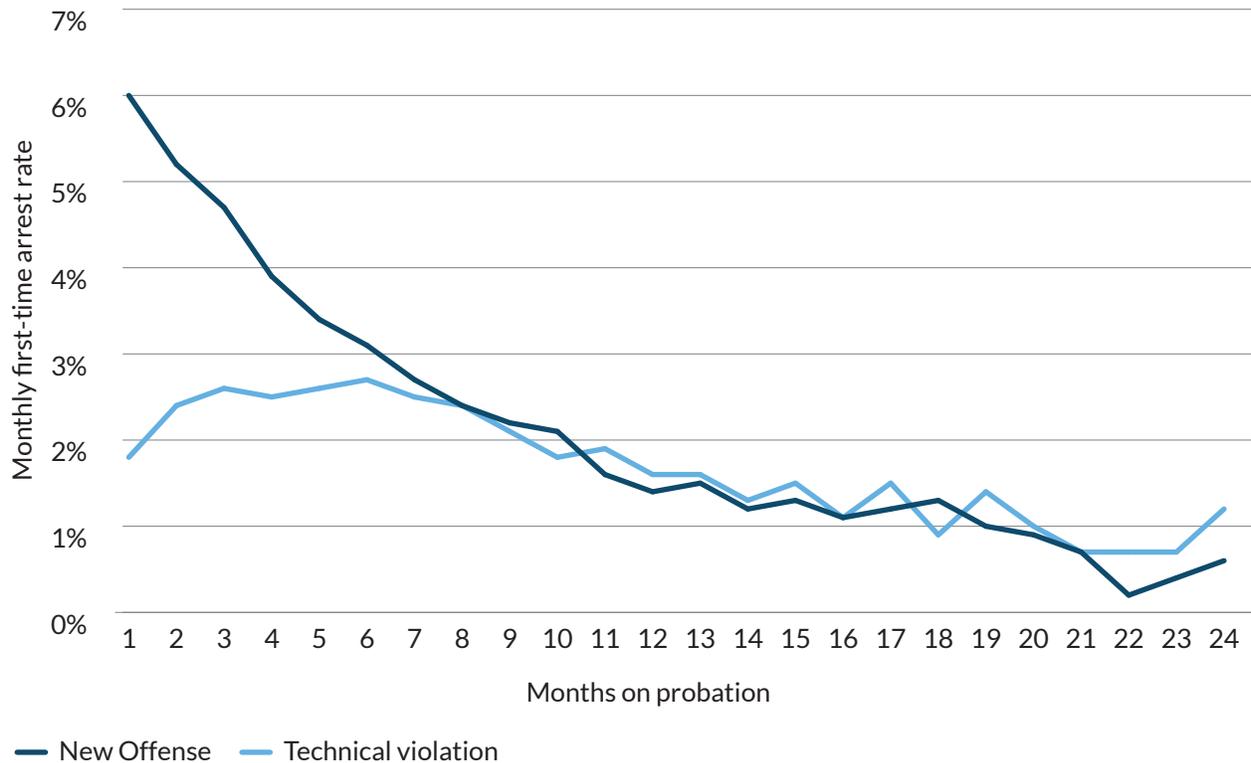
Among youth in the study, 6% were arrested for new offenses in the first month of supervision, with arrest rates dropping quickly after that. (See Figure 2.) Over the second year, new offense arrests while on probation declined to 1% of youth per month on average. Notably, after the first 10 months on probation, there were more new arrests for technical violations (827 arrests) than for new offenses (728 arrests). Research has found that arrests for technical violations do not have a deterrent effect and may actually increase subsequent offending.⁹ Research also suggests that punitive responses to technical violations can contribute to an overrepresentation of youth of color in the juvenile justice system.¹⁰

Girls accounted for about 1 in 5 (21.7%) youth on probation in Texas and were arrested for a new offense about 25% less often than boys. However, boys and girls were arrested for technical violations at similar rates.

Figure 2

Youth on Probation Were Most Likely to Be Arrested for the First Time in Their First Months Under Supervision

Monthly rates of first arrest for youth on probation by offense type, 2013-17



Sources: Data from the Texas Juvenile Justice Department, the Texas Department of Public Safety, and the Texas Department of Criminal Justice, fiscal years 2013-17; analysis by the Council of State Governments Justice Center and The Pew Charitable Trusts
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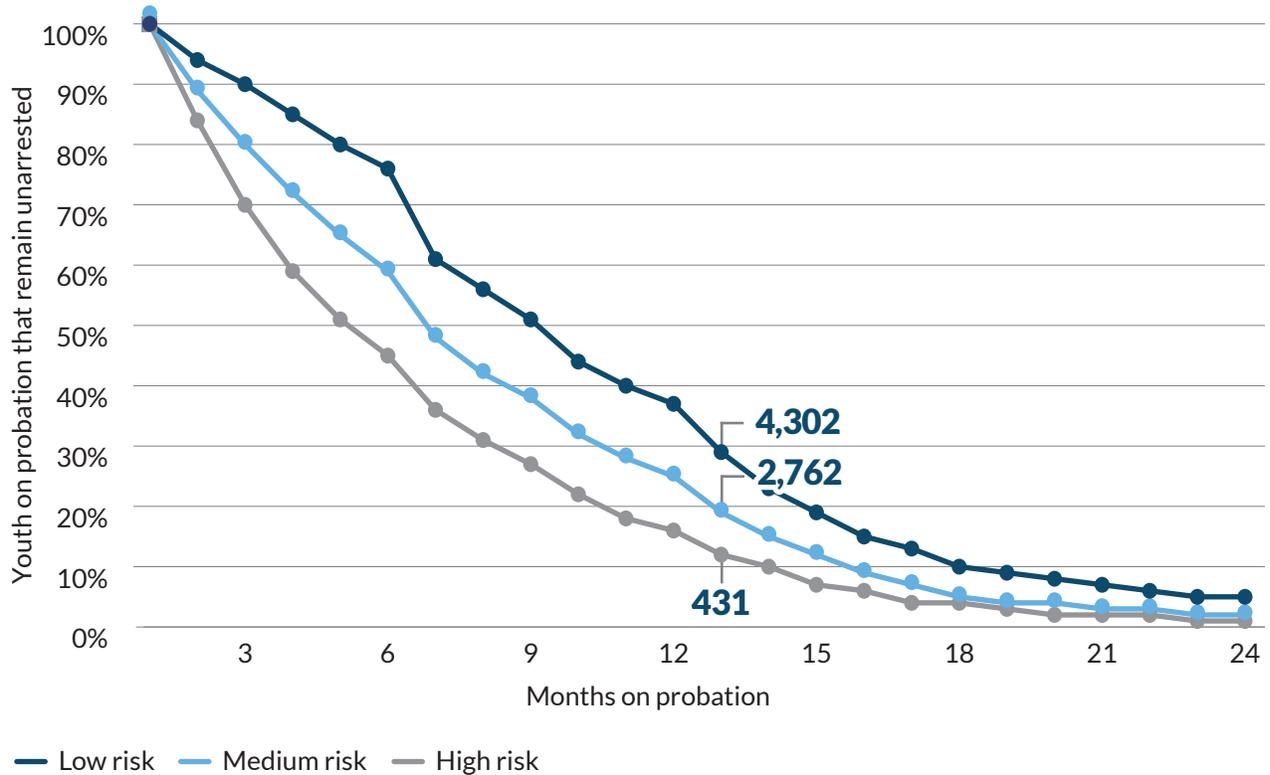
Many youth, including those assessed as low risk of reoffending, remained on probation for more than a year despite no new arrests

About 1 in 4 youth (23%, or 7,495 youth) remained on probation into a second year despite having no arrests during the first year of supervision. (See Figure 3.) Notably, youth assessed as low risk to reoffend were most likely to be held on probation the longest despite engaging in no new criminal behavior.¹¹ Even at two full years of being on probation without arrest, 5% of youth assessed as low risk remained on probation, compared with 2% of medium-risk and 1% of high-risk assessed youth. Research has shown that over-supervising people assessed as low risk can result in worse outcomes and is an inefficient use of resources.¹²

Figure 3

Many Youth on Probation Assessed as Low Risk Were Held on Supervision a Year or Longer, Despite Having No New Arrests

Distribution of unarrested youth on probation at the start of the month by risk level, 2013-17



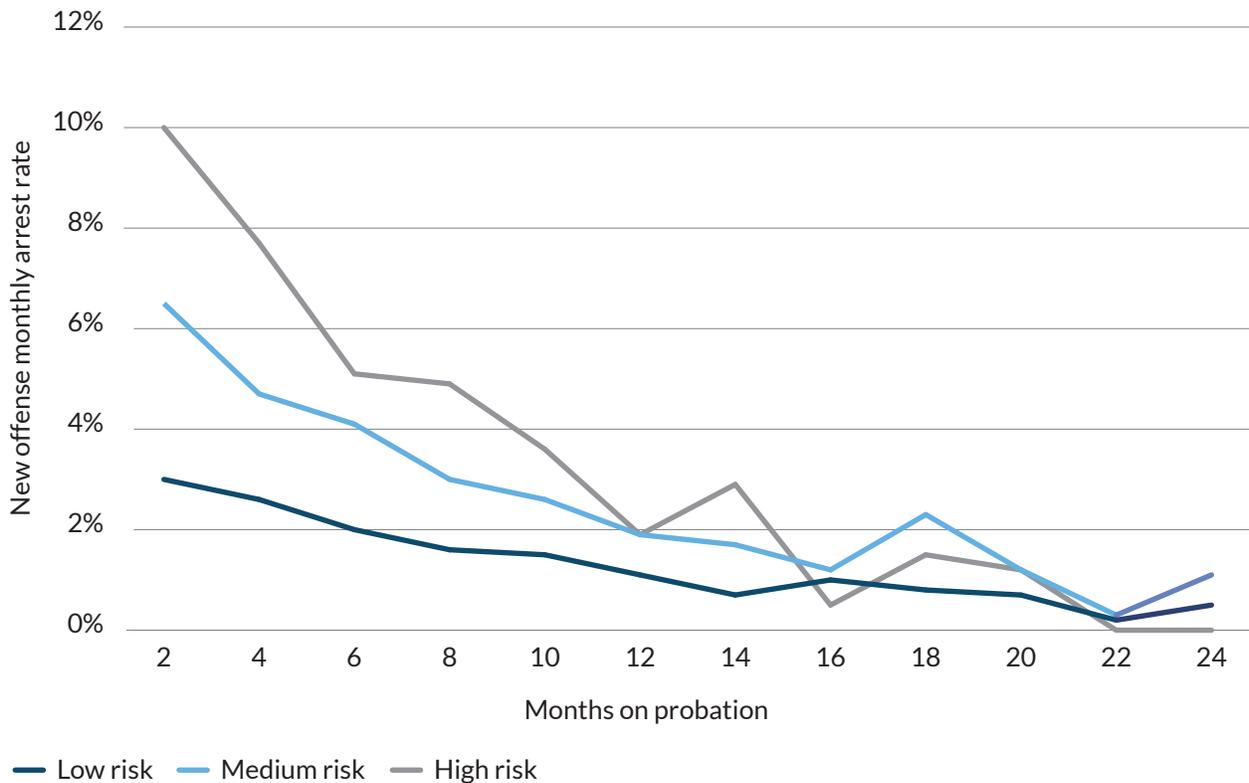
Sources: Data from the Texas Juvenile Justice Department, the Texas Department of Public Safety, and the Texas Department of Criminal Justice, fiscal years 2013-17; analysis by the Council of State Governments Justice Center and The Pew Charitable Trusts
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For the first six months, youth assessed at higher risk of reoffending did, in fact, get arrested at higher rates. However, all youth who were not arrested in their first year on probation had low likelihoods of arrest after that regardless of their initial risk level; the monthly new offense arrest rate averaged under 1.5% after one year, even for youth assessed as high risk. (See Figure 4.) This suggests that youth on probation who do not get arrested early do not tend to get arrested later, either, regardless of their assessed risk level.

Figure 4

Rates of First Arrests While on Probation Align With Risk Levels at the Start of Supervision but not After That

Monthly rates of first arrest for new offenses for youth on probation by risk level, 2013-17



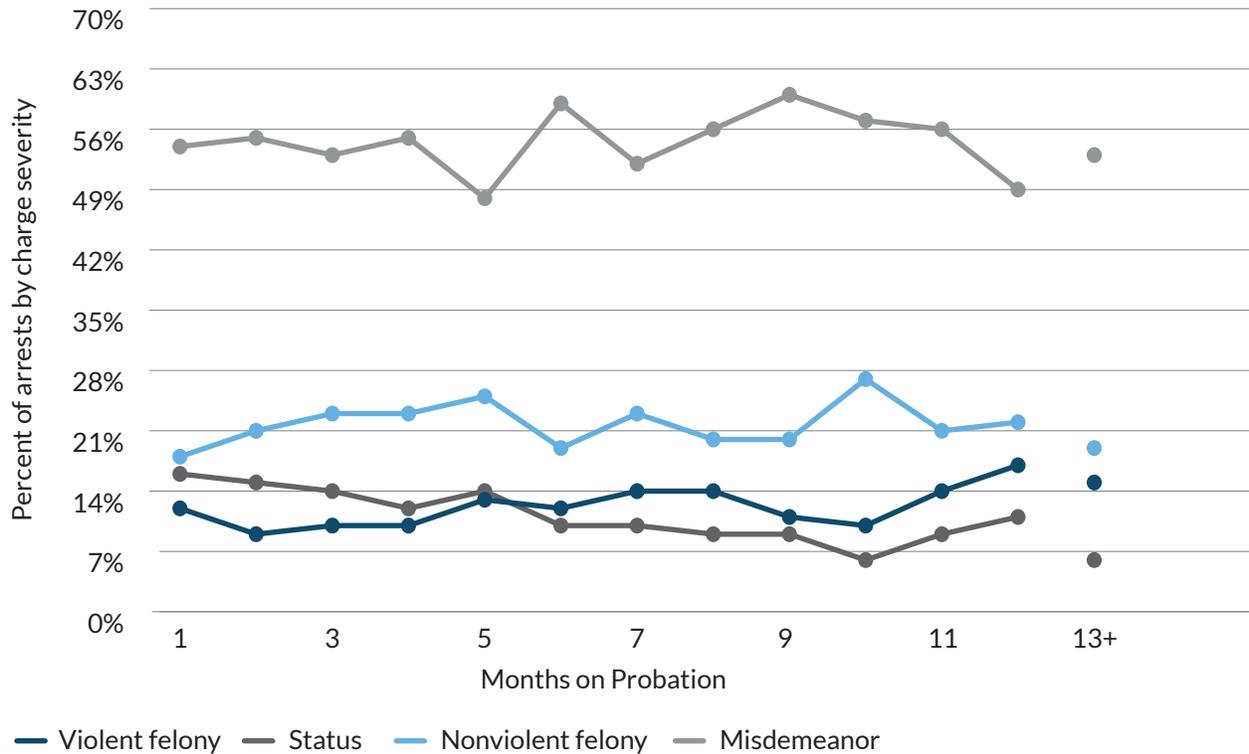
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The severity of new charges remained fairly consistent even as months on probation rose and the number of youth on probation fell from 33,128 in month 1 to 7,495 after month 12. (See Figure 5.) More than half (54%) of new offense arrests were for misdemeanors, while about 1 in 5 (21%) were for nonviolent felonies. Over the entire study period, 13% of all arrests were for status offenses—that is, engaging in behavior, such as skipping school, that is not criminal for adults—while the smallest share (12%) were for violent felonies.

Figure 5

Most Arrests for New Offenses Were for Misdemeanors, Regardless of Time on Probation

Seriousness of charges for new arrests on probation by number of months on probation, 2013-17



Note: Data for months 13 and above combined into 13+ in this chart.

Sources: Data from the Texas Juvenile Justice Department, the Texas Department of Public Safety, and the Texas Department of Criminal Justice, fiscal years 2013-17; analysis by the Council of State Governments Justice Center and The Pew Charitable Trusts

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Black youth adjudicated in Texas juvenile court were overrepresented and more likely to be rearrested while on supervision

Nationally, research generally indicates that youth of color are more likely than White youth to be referred to the juvenile justice system, less likely to receive diversion, and more likely to receive severe dispositions even when controlling for similar backgrounds and offense histories.¹³ These racial and ethnic disparities may be due to differential enforcement of the law, differential participation in criminal behavior, or some combination thereof.¹⁴ A 2018 study found that Black students in Texas were referred to the justice system for public school discipline matters at higher rates than their peers, although the reasons for juvenile justice referral were not controlled for.¹⁵ A recent study found that racial disparities in youth arrests persist even after controlling for behavioral (alcohol and drug use, criminal history) and contextual (neighborhood disadvantage, exposure to violence, family history) factors.¹⁶ Recent reviews of juvenile justice literature have concluded that, although not every study finds racial disparities, most find effects of race that disadvantage youth of color at all decision points.¹⁷

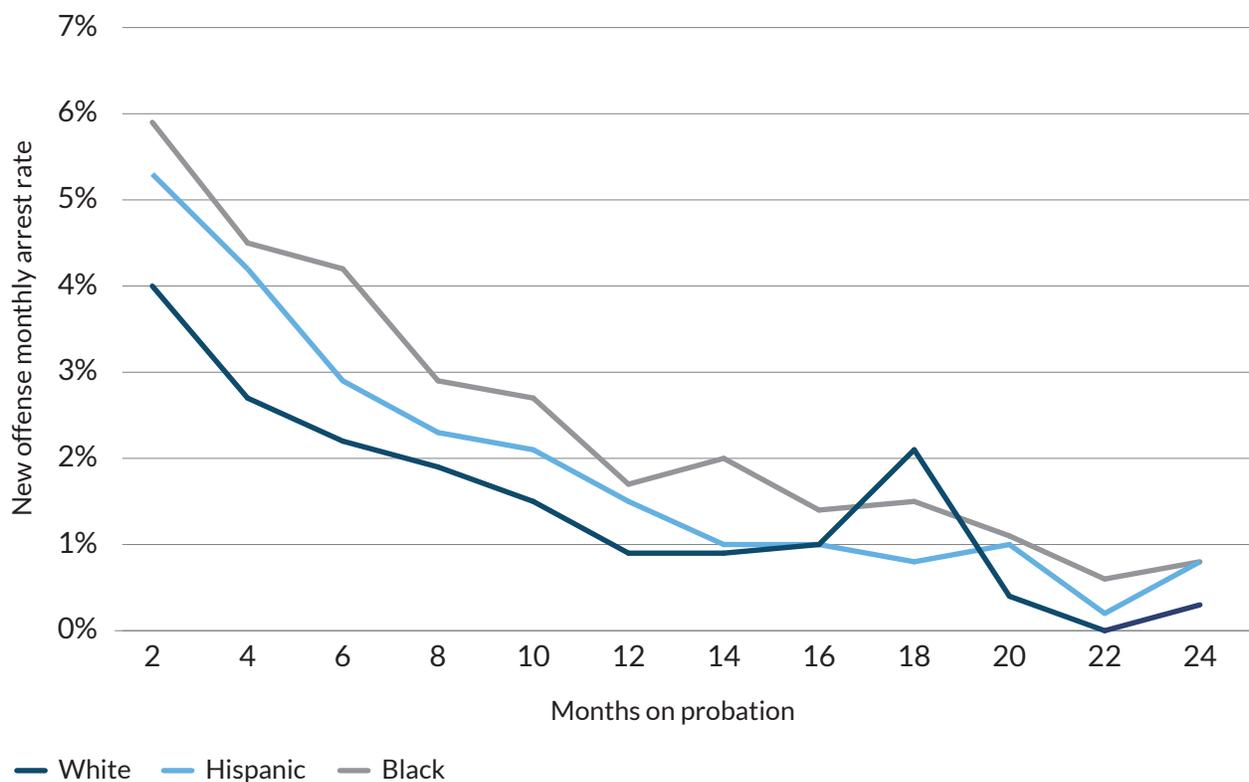
From 2013 to 2017, Black youth constituted only 13% of the general population but 27% of youth on probation in Texas.¹⁸ Hispanic youth made up 49% of both the general population and those on probation, while White youth made up 33% of the general population but only 23% of those on probation.

There were also racial and ethnic disparities in monthly arrest rates for new offenses, which persisted over time on supervision. Black youth were 1.8 times and Hispanic youth were 1.4 times as likely as White youth to get arrested for a new offense while on probation. (See Figure 6.) Youth of all races had low rates of arrest for new offenses after one year; however, racial disparities in arrests grew over time, with Black youth becoming 2.2 times as likely as White youth to get arrested for the first time for a new offense in the second year of supervision. Compared with arrests for new offenses, new arrests for technical violations on probation were low but relatively consistent over time and across racial groups.¹⁹

Figure 6

Youth of Color Are Disproportionately Arrested on New Charges Throughout Their Terms of Probation

Monthly arrest rates for first new offense charges, by race



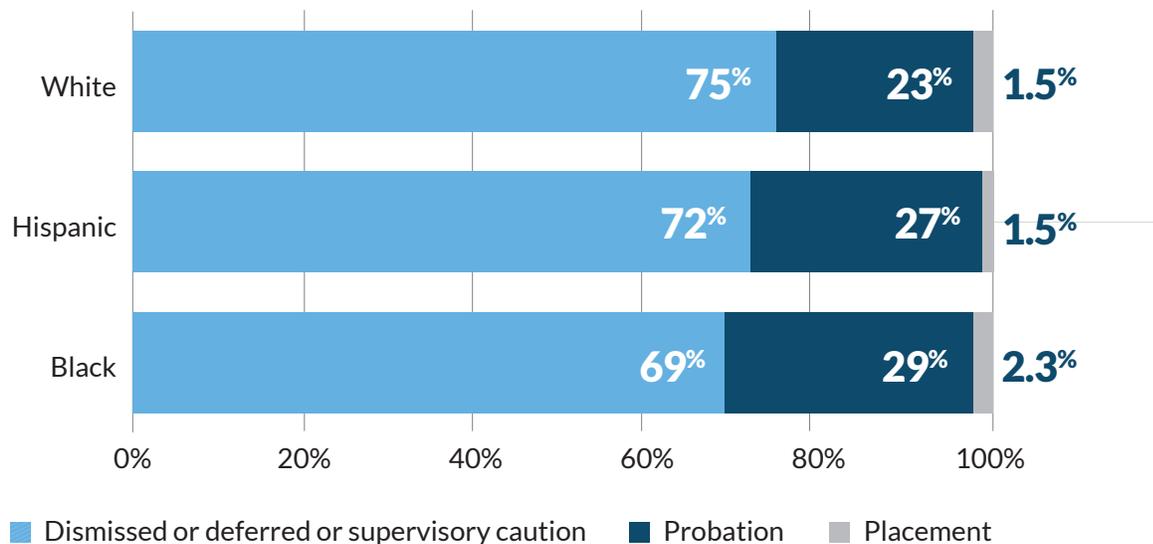
Sources: Data from the Texas Juvenile Justice Department, the Texas Department of Public Safety, and the Texas Department of Criminal Justice, fiscal years 2013-17; analysis by the Council of State Governments Justice Center and The Pew Charitable Trusts
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These findings of racial disparities in probation are consistent with those found in other parts of the Texas juvenile justice system. The Texas Juvenile Justice Department reported that probation was the most common juvenile court disposition for Black and Hispanic youth in 2015, while the most common disposition for White youth was diversion to an alternative to the formal juvenile justice system.²⁰ (See Figure 7.) Black youth were more likely than their White peers to receive the most serious dispositions of placement in a secure facility (1.5 times as often) or probation (1.2 times as often), and least likely to receive the least serious dispositions of diversion or a dismissal. These differences existed even though White and Black youth had a similar share of felony offenses (22.7% for White youth compared with 23.1% for Black youth).

Figure 7

Black Youth in Texas Disproportionately Received More Serious Dispositions in Juvenile Court

Texas juvenile justice case disposition by race and disposition outcome



Note: “Deferred” is a diversion alternative to adjudication and in this chart also includes informal disposition options; “supervisory caution” is an informal disposition option that may include counseling on behavioral consequences, contacting the youth’s parents, or referring the youth to services; the “placement” category includes youth committed to a state or county post-adjudication secure correctional facility as well as youth transferred to adult court.

Sources: Data from *The State of Juvenile Probation Activity in Texas*, Texas Juvenile Justice Department, calendar year 2015

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This disparity in dispositions can have serious and lasting effects. In one recent study, youth diverted from the formal court process and informally placed on probation for a short period of time (one to six months) were less likely to engage in adult criminal behavior than similarly situated youth who were adjudicated delinquent and sent to probation for longer, typically six to 12 months.²¹ This finding suggests that Black youth in Texas are being placed more frequently on supervision—with its restrictions on liberty and exposure to sanctions for not following supervision rules—without clear added public safety benefit. Regarding the most restrictive juvenile setting of out-of-home placement, Black Texas youth were 33% of the placed population (while constituting only 13% of the general youth population) at the midpoint of this study in 2015, while Hispanic youth made up 42% of the placed population and White youth 24%.²²

Conclusion

This analysis showed the following findings for youth on probation in Texas from 2013 to 2017:

- Most young people who have not been arrested early on in probation (within the first six months) are unlikely to be arrested for a new offense later, suggesting that keeping these youth under supervision may be an inefficient use of resources.
- Long lengths of supervision for youth who have not been arrested while on probation disproportionately exposes them to arrests for noncriminal technical violations that can have adverse consequences, such as removing them from their home and placing them in secure residential facilities.
- Racial disproportionalities exist in patterns of arrest while on supervision and in the use of probation and placement instead of diversion.

A very small share of youth who were on probation for a year without being arrested were subsequently arrested (less than 2% per month and less than 1% per month for youth assessed as low risk), suggesting that there may be limited public safety benefit to keeping these youth on supervision. That many youth assessed as low risk to reoffend remained on probation for months and years without being rearrested may represent an ineffective use of resources.

Although this analysis is specific to one state, policymakers can ask for and review data from their court and juvenile justice agencies to determine if young people are remaining on probation for longer periods of time than is necessary to achieve rehabilitative or public safety goals. If so, policies should be adopted that align probation terms with the time frames that research and effective treatment programming support.

Methodology

In Texas, individuals whose offense occurred on or after their 17th birthday are adjudicated in the adult criminal justice system; young people whose offense occurred prior to age 17 can remain in the juvenile system, including on probation, until they are 18. For this data set, only the first arrest was recorded, whether it was a new offense or a technical violation. Any subsequent arrests for an individual on probation are not tracked in this study. If the youth’s first arrest on probation was for a technical violation and they later got arrested for a new offense, they will only appear in this data as an arrest for a technical violation. After their first arrest, a youth may either remain on probation unchanged, be assigned to additional probation conditions or length, or be sent to placement in a facility, depending on how their specific case is handled. Post-probation arrests and outcomes are not included in this study. Technical violations are defined as a formal referral to the juvenile probation department due to violations of the supervision conditions that do not include violations for a new offense. Youth on probation in Texas have indeterminate supervision periods, except for the most serious offense types.²³ Probation dispositions that included placement in a residential facility and those still on probation at the end of the study period were excluded.

Texas Juvenile Justice Probation Demographics, FY2013-FY2017		
Male		Female
25,929		7,199
White	Hispanic	Black
7,550	16,152	9,091
Low-risk	Medium-risk	High-risk
15,065	14,475	3,588

Sources: Data from the Texas Juvenile Justice Department, the Texas Department of Public Safety, and the Texas Department of Criminal Justice, fiscal years 2013-17; analysis by the Council of State Governments Justice Center and The Pew Charitable Trusts

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Endnotes

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