

From First Offense to Future Arrests: The Impact of Probation on Youth

A new study by The Pew Charitable Trusts shows that young people assigned to probation after their first offense are more likely to be rearrested in the future, particularly for technical violations, than their peers diverted away from probation. The study, based on data provided by the Texas Juvenile Justice Department (TJJD) and analyzed by researchers at The Council of State Governments (CSG) Justice Center and Pew, suggests that diverting more youth from probation could improve justice system efficiency and public safety outcomes.

Background

Past research has shown that young people removed from their homes have higher likelihoods of future rearrest—and of arrest for more severe offenses—than similarly situated youth supervised in their communities instead.¹ These findings spurred a major change in state youth justice policy over the last two decades that shifted the balance from out-of-home placements toward community supervision.² However, more recent research has suggested that youth who are formally processed and supervised are more likely to be rearrested in the future than comparable youth who receive diversion from formal prosecution.³

New research from Pew builds on this work by examining rearrest rates among statistically similar Texas youth assigned to probation versus diversion. The study looks at arrests for both new offenses and technical violations, as research suggests that arrests for technical violations do not have a deterrent effect, may increase subsequent offending, and can contribute to an overrepresentation of youth of color in the juvenile justice system.⁴

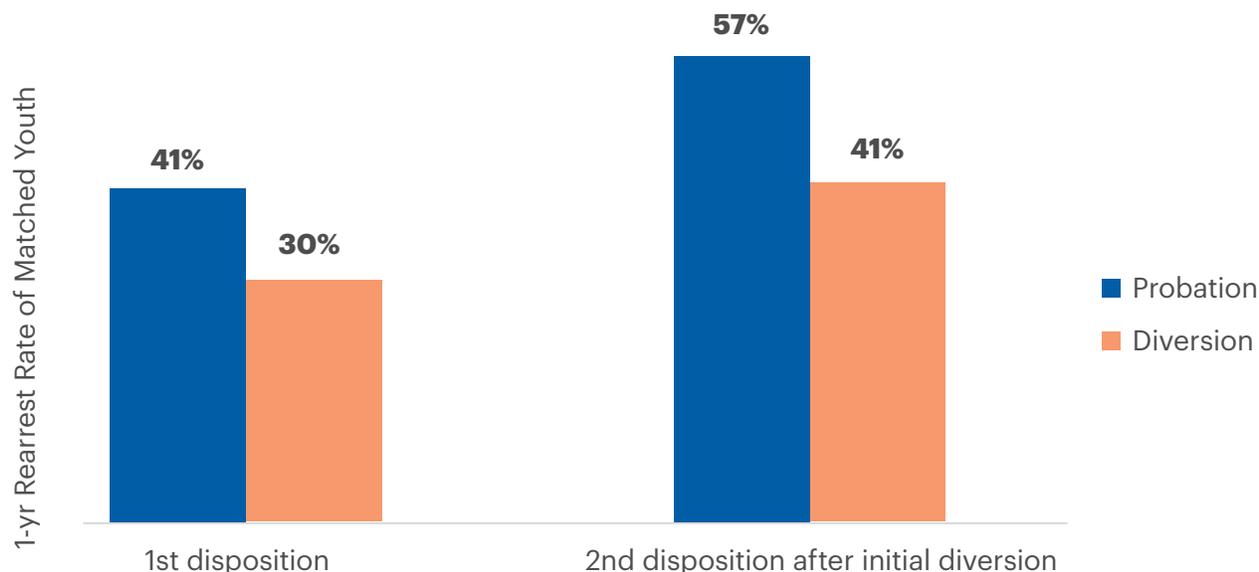
Probation Is Tied to Higher Future Likelihood of Rearrest than Diversion

TJJD data generally shows that youth assigned to more severe dispositions have higher recidivism rates: the 3-year rearrest rates of justice-involved youth in 2015 were 41 percent for diversion, 62 percent for probation, and 74–75 percent for placement in a residential facility.⁵ However, youth who are given more severe dispositions may have different backgrounds and characteristics than youth who aren't, so directly comparing their rearrest rates can be apples to oranges. The new study controlled for this by comparing only youth on probation with diverted youth that statistically match one another across a wide range of background covariates, such as race and offense history.⁶

Pew and CSG Justice Center staff analyzed data on 32,404 Texas youth charged with their first-ever offense in calendar year 2013 who were assigned to either probation or diversion.⁷ Texas diverted most of these youth: 27,179 (84 percent) were assigned diversion and 5,225 (16 percent) were assigned probation.⁸ Their justice system involvement, including new dispositions and rearrests for technical violations or new offenses within one year of disposition, was tracked through September 2017.⁹

Figure 1:

Rearrest Rates of Statistically Matched Texas Youth Assigned to Probation versus Diversion, within One Year of Disposition



The Pew study found that diversion was not associated with increases in offending and resulted in fewer arrests overall, suggesting that youth can be diverted without risking increases in offending behavior while also reducing the likelihood of reoffending in the future. Statistically matched youth assigned to probation versus diversion were significantly more likely to be arrested overall in the following year: 41 percent versus 30 percent. (See left side of Figure 1.) **Their arrest rates for new offenses were not statistically different between probation (28.4 percent) and diversion (28.7 percent) groups, and the difference in overall arrests was entirely driven by technical violations (24 percent versus 3 percent, respectively), like missing an appointment.** (Note: Arrests for technical violations and new offenses add up to more than the overall arrest rate because some youth were arrested for both.)

A Second Chance at Diversion Leads to Fewer Future Arrests than Time on Probation

Pew found the above pattern held even for youth assigned to diversion multiple times. Of youth initially assigned to diversion, 29 percent came back into the system and received a new disposition to either diversion or probation at some point during the study period. Again, Texas diverted most such youth: 4,827 (62 percent) were assigned diversion again for their second disposition, and 2,974 (38 percent) were assigned probation at that point. Pew's analysis found that youth assigned to diversion first and probation second were significantly more likely to be arrested overall than those assigned to diversion initially and then diversion again (57 percent versus 41 percent). (See right side of Figure 1.) **As before, youth on probation were particularly susceptible to technical violation arrests compared to diverted youth (36 percent versus 9 percent), and their new offense arrest rates were not statistically different (39.3 percent versus 39.0 percent).**

Conclusion

Youth charged with their first offense who are diverted from probation are not associated with an increase in offending and are less likely to be rearrested in the future than their matched peers assigned to probation, reinforcing prior research findings. This pattern holds even for youth diverted more than once.

These findings suggest that states can keep more youth off probation without compromising public safety, and doing so may improve public safety and reduce expenses in the long term. States should examine their use of probation and consider diverting more young people to improve public safety outcomes. Reducing recidivism among youth and allowing them to enter adulthood without further justice system involvement benefits them, conserves public safety resources, and helps strengthen communities.

Endnotes

1. Tony Fabelo et al., “Closer to home: An Analysis of the State and Local Impact of the Texas Juvenile Justice Reforms” (Council of State Governments Justice Center and The Public Policy Research Institute at Texas A&M University, 2015), <https://csgjusticecenter.org/publications/closer-to-home/>; The Pew Charitable Trusts, “Re-Examining Juvenile Incarceration” (Washington, DC: The Pew Charitable Trusts, 2015), <https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2015/04/reexamining-juvenile-incarceration>.
2. Ibid.
3. Elizabeth Cauffman et al., “Crossroads in Juvenile Justice: The Impact of Initial Processing Decision on Youth 5 Years After First Arrest,” *Development and Psychopathology* 33, no. 2 (2021): <https://pubmed.ncbi.nlm.nih.gov/33955345/>.
4. A.M. Hobbs, T. Wulf-Ludden, and J. Strawhun, “Assessing Youth Early in the Juvenile Justice System,” *Journal of Juvenile Justice* 3, no. 1 (2013): 80, <https://digitalcommons.unomaha.edu/jjiacademicpubs/1/>; M.J. Leiber and J.H. Peck, “Probation Violations and Juvenile Justice Decision Making: Implications for Blacks and Hispanics,” *Youth Violence and Juvenile Justice* 11, no. 1 (2013), <https://doi.org/10.1177/1541204012447960>.
5. Legislative Budget Board, “Statewide Criminal and Juvenile Justice Recidivism and Revocation Rates,” 2019, https://www.lbb.Texas.gov/Documents/Publications/Policy_Report/4914_Recidivism_Revocation_Rates_Jan2019.pdf.
6. Matched groups were created using propensity score 1:1 nearest neighbor matching and background covariates controlled for include arrest history, offense level, risk level, county size, age at first referral, sex, race, MAYSI-2 scales (risk assessment), treatment status, mental health needs, suspected substance use, suspected emotional abuse, suspected sex abuse, special education status, and gang affiliation. Note: matched groups were created for youth diverted with conditions versus youth diverted without conditions, and there was no statistical difference found in their rearrest rates, either for new offenses or technical violations.
7. Diversion is defined by the CSG Justice Center as follows: the most severe case closure code is dismissed, supervisory caution, or adjudicated no disposition and supervision type is temporary Pre-Court Monitoring (TEMP), Indirect Supervision (INDR), conditional pre disposition supervision (CREL), or None, or most severe disposition is deferred prosecution. Probation is defined as the most severe case closure code is adjudicated or modified probation.
8. Texas youth are given indeterminate lengths of supervision —diversion typically lasts up to six months, and probation varies from one month to over two years with the most common sentence being six months.
9. Throughout this report, *disposition* means the act of being assigned to probation or diversion. The study cohort excludes youth who are given a probation disposition that includes any amount of confinement in a secure facility.



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