

The Net of Privatized Punishment:  
Examining the Use of Private Probation in Colorado

Tyler Smith

A thesis  
submitted in partial fulfillment of the  
requirements for the degree of

Master of Sociology

University of Washington

2020

Committee:

Alexes Harris

Jerald Herting

Program Authorized to Offer Degree:

Sociology

@Copyright 2020  
Tyler Smith

University of Washington

**Abstract**

The Net of Privatized Punishment:

Examining the Use of Private Probation in Colorado

Tyler Smith

Chair of the Supervisory Committee:

Alexes Harris

Department of Sociology

The expansion of privatized punishment has raised important questions about the impact that these private actors have on the punishment practices of criminal justice systems. Critics suggest that using private punishment services can lead to “net-widening,” in which a greater number of individuals are subject to carceral control. This study examined the use of private probation by local court districts in the state of Colorado from 2002 to 2017. Using a decomposition model, this study shows that districts who used private probation had higher probation sentencing rates and higher active probation rates, and that these rates were higher when reliance on private probation was higher. Importantly, these associations were not explained by differences in crime rates or community context. This study supports net-widening research by showing how using private probation leads to a greater number of individuals being subjected to state supervision. Findings also emphasize how the structural arrangements of punishments, particularly through privatization, can impact local punishment practices. Exploring the ways in which private punishment services can change the use of sanctions in local court systems is essential to understanding the full impact of these public-private correctional partnerships.

## INTRODUCTION

Partnerships between criminal justice systems and private companies have become increasingly prevalent across the United States. While much of the scholarly attention has been on the growing private prison industry, the scope of privatized correctional services and sanctions is extensive- ranging from providing materials to correctional facilities to the direct management of supervision programs (for a full accounting, see Montes and Mears 2019). Important questions have arisen about how these private industries might impact the structure and punishment practices of public criminal justice systems (Harris, Smith, and Obara 2019). This study focuses on the use of private probation services by state courts. While ten states currently allow local courts to contract with private probation companies for the supervision of low-level cases, the impact of these arrangements has not been properly studied and questions still remain about whether the use of private probation leads to a subsequent expansion in the use of probation as a sanction (Latessa and Lovins 2019). This study will address this gap by testing whether the use of private probation increases punishment trends in local court districts.

A better understanding of the use of punishment in society may result from thinking of punishment as its own kind of social institution. Like other social institutions, the practices of punishment within any given society are “highly patterned and organized” and address a recurring social need in an organized and stable way (Garland 1990). Beyond function, this broader framework for examining punishment can also help us understand why the factors that shape punishment practices are multi-faceted and complex. As Garland (1990) explains:

“Punishment is not reducible to a single meaning or a single purpose... because it is a social institution embodying and condensing a range of purposes and a stored-up depth of historical meaning. It involves discursive frameworks of authority and

condemnation, ritual procedures of imposing punishment, a repertoire of penal sanctions, intuitions and agencies for the enforcement of sanctions and a rhetoric of symbols, figures, and images by means of which the penal process is represented to its various audiences.” (p. 17)

Punishment is not only shaped by larger social and historical trends, but also the changing organizational structure of the legal system and the actions of individual actors within the legal field. Understanding the interaction between these various aspects can help us to understand both the rise of private punishment in modern society and to theorize about the potential impact that this organizational arrangement has on punishment practices.

The reliance of local jurisdictions on private probation services was primarily fueled by two large, and related, trends in the United States. The first was the massive and rapid expansion of punishment that began in the 1980s. Rising crime rates, the war on drugs, and harsh sentencing reforms lead to an immense number of citizens being swept into the correctional system. From 1975 to its peak in 2009, the number of incarcerated individuals in the United States grew from about 200,000 to over 1.5 million (National Research Council 2014). While much scholarly attention has been focused on rising incarceration rates, the expansion of punishment was also extended to those convicted of lower-level offenses. “Mass probation” developed in parallel to mass incarceration with the number of people put on probation swelling to a peak of 4.1 million in 2007 (Phelps 2017). As more and more Americans were put under the yoke of correctional institutions, local criminal justice systems began to buckle under the administrative costs of such unprecedented levels of supervision.

During this same time period, there was a growing political movement aimed at reducing the scope of government and increasing the use of private companies to perform public

functions. The social upheavals of the 1960s-70s and the exaltation of America's "free market spirit" in the 1980s resulted in greater skepticism about the government's ability to enact positive social change and a critical eye towards governmental inefficiency. Politicians in both federal and state governments began to increase the use of contracting between public institutions and private service providers. While most of these public-private partnerships began by focusing on auxiliary services (such as transportation and security), private entities were increasingly handed control of functions that were traditionally thought of as the purview of the government, such as education, transportation, utility management, child welfare, and national defense (Eisen 2018).

Justifications for privatizing punishment emerged at the convergence of these two trends.<sup>1</sup> Just as tougher and more expansive sanctioning policies were being pushed, public resources to handle this new influx were being reduced. This combination forced states to consider a broader range of cost-saving mechanisms and fostered an environment in which privatization of criminal supervision was seen as a viable alternative. Soon, states began to allow their local courts to contract with private companies to house and supervise individuals who broke the law. Georgia became the first state to codify the capability to contract with for-profit private probation providers for the supervision of misdemeanor cases in 1991 (Schloss and Alarid 2007). In the following years, nine more state legislatures would pass laws that allowed their own courts to do the same. The arguments for these arrangements were that private probation providers could be more cost-effective, could be more innovative in addressing client

---

<sup>1</sup> Private punishment is not new and institutionalized versions of it can be traced as far back as the 16<sup>th</sup> century. The most infamous early iteration in the U.S. was "convict leasing" in which incarcerated individuals would be contracted out to local farms and businesses for cheap labor (see Blackmon 2009). The idea of private management of state punishment fell out of favor in the early 20<sup>th</sup> century as the role of punishment was argued to be the sole responsibility of the state (Burkhardt and Connor 2016). The resurgence of private punishment is reflective of changing public and political sentiments towards the role of government in criminal supervision.

needs, and would allow jurisdictions to be more flexible to demands for community supervision (Burkhardt and Connor 2016).

While these benefits are touted by supporters, critics have argued that the privatization of probation will lead to “net-widening” (Lindsey, Mears, and Cochran 2016; Phelps 2013). Net-widening refers to the phenomenon in which the introduction of new forms of punishment expand overall sanctioning, rather than serving as substitute to more serious sanctions (Cohen 1985). Indeed, previous research has found that the introduction of intermediate sanctions (such as probation) is associated with greater levels of overall punishment (Blomberg 1983; Blomberg, Bales, and Reed 1993; Phelps 2013; Tonry and Lynch 1996). While private probation is not the creation of a new form of punishment, per se, there are reasons to believe that private probation will compound net-widening effects. By offloading the cost of supervision to private providers, local courts may use probation as a sanction without as much concern over the court’s capacity or resources. They may also lobby local governments against sentencing policies that would lower populations and may resist efforts to reduce or terminate contracts (Lindsey, Mears, & Cochran 2018). While private probation is viewed by some as a solution to rising system needs, it may be the case that it actually compounds them.

Although these arguments are central to the privatized punishment debate, little research has tested the net-widening effect of private punishment and no studies have tested the potential impact of private probation specifically. An examination of the structural arrangement between private probation companies and public systems of justice could possibly help us uncover one mechanism by which societal shifts are translated into changing punishment practices. Previous research has pointed to the ways in which the “people-processing” activities of the criminal justice system are impacted by changes to structural factors especially when it comes to

considerations of politics and resource allocation ((Hasenfeld 1985).Furthermore, private punishment companies have different goals than public institutions, have different obligations to the public, and must devote more attention to market-related periphery aspects of service such as promotion, marketing, lobbying, and investment reporting (Shichor 1999). Whether the qualitative difference in public versus private management of criminal sanctions leads to quantifiable changes in sentencing practice is an open question.

This study explores the usage and effect of private probation services within the state context of Colorado from 2002 to 2017. I began my analysis with an investigation of public versus private probation trends and an exploration of the descriptive differences between court districts and probation populations. Next, I directly tested the net-widening hypothesis using two different measures of probation usage. In doing so, I differentiated between the spatial and temporal aspects of probation-trend variation which allowed me to explore (1) differences between districts that used versus did not use private probation and (2) the effect of increased reliance of private probation in districts that did use private services.

The first analysis tests whether the use of private probation to supervise individuals was associated with an increased percentage of court cases being sentenced to probation. The following analysis examined whether the use of private probation to supervise *low-risk* individuals was associated with the maintenance of higher overall low-risk probation rates. Results suggest that districts which use private probation tend to have greater probation sentencing and maintenance rates compared to districts that do not use private probation. Additionally, the analysis indicates that greater reliance on private probation leads to the increased usage of probation as a form of punishment. While these findings show support for the net-widening effect of private probation, key differences between court districts and the overall

decreased reliance on private probation over time paint a more complicated picture of how and why local jurisdictions may use private probation contractors.

## **MODERN PUNISHMENT AND THE PRIVATIZED NET**

### *Mass Punishment in the United States*

Much of the contemporary research on punishment in the United States has focused on the “punitive turn” that occurred after the 1960s. Major shifts in penal philosophy during this time saw a move away from conceptions of correctional rehabilitation towards harsher policies of punishment, deterrence, and incapacitation (Garland 2001b). The result was an unprecedented expansion of sanctioning capacity in criminal justice systems across the country.

Particular focus has been placed on mass incarceration, as rates ballooned far beyond “the historical and comparative norm” and young African-American men from urban communities were disproportionately sent to jails and prisons<sup>2</sup> (Garland 2001a; Wakefield and Uggen 2010). Indeed, the use of incarceration as a primary tool for punishment became one of the defining issues of the American social and political landscape. However, researchers have shifted their attention towards the expansion of other forms of criminal sanctioning that occurred during this same period. More recent scholarship has focused on the expansion of coerced treatment and educational programs (Gowan and Whetstone 2012), electronic home monitoring systems (Jones 2014), and legal fines and fees (Harris, Evans, and Beckett 2010). Other research has focused on the ways in which laws and practice have increased the conviction rates of misdemeanor offenses in the United States (Kohler-Hausmann 2018) and the resultant expansion of community

---

<sup>2</sup> The gap in the incarceration rates between the United States and the next highest western European country increased five-fold from 1983 to 2001. For example, the incarceration rate in the United States in 1983 was 275 per 100,000 compared to the UK at 87 per 100,000. By 2001, the incarceration rate in the United States had ballooned to 686 per 100,000 while the UK saw a more modest rise to 126 per 100,000 (Western 2006).

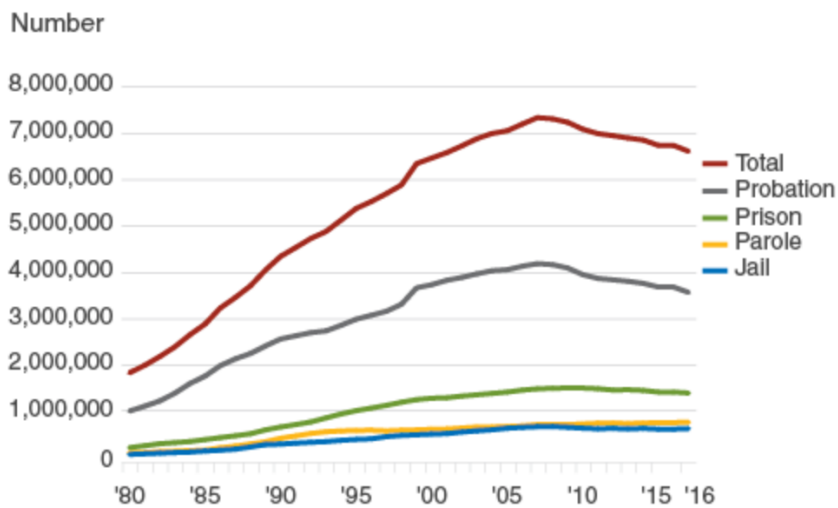
corrections in order to supervise this rising number of low-level cases under sanction (DeMichele 2014). Not only have tough-on-crime policies resulted in massive carceral populations, but they have changed the ways in which social control is practiced in the United States and the types of sanctions that criminal justice systems are using. Instead of defining the era simply as one of mass incarceration, it may be more rightly described as one of mass punishment where an ever-increasing number of individuals are subject to the punitive arm of the state.

The use of probation as a form of punishment is central to this broader understanding of social control. Despite the focus on mass incarceration, probation is actually the most commonly used form of criminal sentencing with over 4 million individuals under supervision (Doherty 2016). **Figure 1** shows the comparisons of probation populations in the United States in comparison to other supervision types. The numbers of individuals on probation grew by over 250% from 1980 to its peak in 2007. Throughout much of the twentieth century, probation was thought of as a rehabilitative sanction that allowed an individual to be supervised and corrected while staying in their own communities. The idea that individuals could be safely supervised without confinement represented the “exemplary instance of the penal-welfare approach” and was a key component to many of the reform efforts prior to the 1960s (Garland 2001b; Phelps and Curry 2017). Reformers hoped that probation could be used as an alternative to more serious punishments, particularly in diverting prison-bound individuals into community-based sanctions. However, as the penal-welfarist approach to punishment began to unravel, so did the perceived utility of probation services. The new era of mass social control transformed the vision of probation from one of rehabilitation to one of pure punishment. Probation agencies began to highlight and develop their supervisory capacities, intensive requirements, and use of social

control technologies (Durnescu 2011). The goal was no longer seen as one of rehabilitating individuals through community-based guidance, but instead to punish people and protect communities.

As consequence, probation rates ballooned in parallel to incarceration rates. In a study exploring the nature of rising probation rates, Phelps (2017) found that this rise is largely explained by an increase in direct admissions rather than increases in probation term lengths, and are not associated with changes in state crime rates. Finally, states that had lower increases in incarceration tended to have bigger increases in probation rates over time. States that were less willing to engage in harsher incarceration policies still expanded their criminal justice system through probation supervision. It seems that no state escaped the massive demand for increased punishment in the late 20<sup>th</sup> century.

Figure 1. Number of individuals under different supervision types in United States, 1980-2016.



Source: Bureau of Justice Statistics, Annual Survey of Jails, Annual Survey of Parole, Annual Survey of Probation, Census of Jail Inmates, and National Prisoner Statistics, 1980–2016.

Theorists have continued to grapple with explaining the primary factors that lead to mass punishment. Emphasis has been placed on different social and contextual factors, including racial animus resulting from the Civil Rights movement (Alexander 2010; Beckett and Sasson 2003), the collapse of the urban labor market (Wacquant 2009; Western 2006), and a fear of crime stoked by mass media (Garland 2001b). Further research has focused on more immediate causes that have shaped legal processes. This body of scholarship has explored how mass punishment was created through legislative demands for harsher sentencing practices, increased availability of criminal sanctions, and changes in legal practice and court room procedures (Garland 2018). What is clear from taking these studies as a whole is that punishment within society is a multifaceted phenomenon and that it is influenced not only by larger social trends, but also by the organizational practices and arrangements of criminal justice institutions.

### *Shift Towards Privatized Punishment*

One of the more significant organizational shifts in punishment has been the reemergence of privatized punishment. Criminal justice sanctions are considered privatized whenever governments “contract out the administration of punishments, treatments, and services to private non-profit or for-profit organizations” (Montes and Mears 2019). The revitalization of market interest in the criminal justice system is reflective of the trend towards mass punishment, as well as shifts in the political landscape that occurred during that same time period. Concerns grew quickly over the financial strain placed on local systems of justice as the number of individuals entangled in the justice system continued to rise. While the rationalization of the legal system has been a classical topic of study (Sterling and Moore 1987; Weber 1921/1978), the historically large supervision populations made it necessary for administrators to greatly expand their concentration on administrative processing. Justice system actors increasingly focused on

practices that could help them address rising costs and demands, including faster case-processing, utilizing quick-sentencing diagnostic tools, moving towards offender-funded court models, and developing new supervision tools and capacities (Albin-Lackey 2014).

Considering this, it is not surprising that local criminal justice systems turned toward privatization as a cost-saving strategy and that private companies were quick to develop services in response to justice-system needs. This followed a larger trend in the privatization of many government-based services and agencies. The social tensions and economic downturns of the 1960s and 1970s resulted in an increasing belief that the government was ineffective and inefficient in its attempts to manage social issues (Hoogland and Stein 1999). Additionally, the pitting of free-market ideals against communist values contributed to an increasing belief that the private sector was a better source of social good than the involvement of a centralized government. Across the western world, “the abandonment of the communist system and its basic ideas of central planning and government dominance of the economy” led to system-wide changes in public welfare and concerted efforts to “turn toward the private sector as the primary producer of services” (Seidenstat 1999). Ronald Reagan established several initiatives in order to identify waste and inefficiency in the government, culminating in the creation of the President’s Commission on Privatization in 1987 with the expressed purpose of identifying ways in which the operation and management of government services could be transferring to private companies. Soon the federal and state governments were privatizing a host of services that were previously under government control including utilities, airports, hospitals, trash collection, nursing homes, and public transit systems (Eisen 2018; Seidenstat 1999).

This combination of tough-on-crime policies and an emphasis on market-driven solutions made the criminal justice system particularly responsive to market forces (Lilly and Deflem

1996). It was suggested that private punishment would be more cost-efficient, effective, and flexible than government run agencies. Not only could private services quell public opposition to increased criminal justice spending, but they could better realize correctional goals through the improvement of correctional facilities and development of innovative supervision strategies (Khey 2015). The first privately managed detention facility was opened in Tennessee in 1984 by Corrections Corporation of America (later CoreCivic and by 2014 they owned and operated 52 prisons and detention facilities with over 59,000 beds (Harding, Rynne, and Thomsen 2019). The privatization of community corrections saw similar growth. A host of different private providers began to offer their services to courts under the guise of rehabilitating individuals and preventing recidivism, thus saving the court system money. Private treatment providers, mental health services, educational courses, residential facilities, and work release programs all made their rise during this time (Latessa and Lovins 2019).

Private probation also developed during this period, as seven different states passed laws throughout the 1980s and 1990s explicitly allowing local court jurisdictions to contract with private companies for the supervision of probationers<sup>3</sup> (Schloss and Alarid 2007). Arguments for the use of private probation are similar to those fused or other forms of privatized punishment, suggesting that private probation could offer supervision services that are cheaper, more effective at ensuring compliance, and more innovative in assimilating new supervision strategies and technologies (Latessa and Lovins 2019; Montes and Mears 2019). Generally, states allow local courts to contract with private providers to supervise lower-level, misdemeanor cases at a negotiated cost, with providers sometimes offering additional services such as pretrial diversion,

---

<sup>3</sup> These states are Alabama, Arkansas, Colorado, Florida, Georgia, Kentucky, Mississippi, Missouri, Tennessee, and Utah. It should be pointed out that this may not be an exhaustive list of states that use private probation services. There is some evidence that private probation operates in some states that do not explicitly allow for private contracting, but do not explicitly forbid it (Albin-Lackey 2014).

bond supervision, and electronic home monitoring (Teague 2011). Private probation companies make money through their contracts but also generate additional profit through the use of fees that must be paid by the probationers themselves. In some contractual arrangements, the company is required to pay back a proportion of these fees to the courts (Albin-Lackey 2014). Not only does private probation allow courts to offload the cost of supervision, but it may also provide an additional revenue stream for court funding.

Another key justification for the use of private probation is that it can better help criminal justice systems achieve supervisory goals. Proponents suggest that private probation can more quickly implement improved supervisory methods and utilize advances in rehabilitative services. This final note may help us to understand an interesting paradox in the rise of mass probation: if probation is considered the “ideal” form of rehabilitative punishment, how did probation services manage to survive during a time where the rehabilitative ideal was largely abandoned? DeMichele (2014) suggests that actors in the field of probation actively worked to maintain the relevance of probation by cultivating a culture geared towards managerial and “evidence-based” practices. The ultimate goal was to shift the focus of probation away from hands-off methods towards practices that focused on greater rehabilitative requirements and a stricter set of social controls. In doing so, probation agencies more directly aligned themselves with the nation’s increasingly punitive nature. The justifications for private probation reflect this realignment—private probation companies suggest that they can enact these stricter requirements while also managing system costs.

### *The Net-Widening of Private Probation*

Critics of private probation argue that it will lead to net-widening. Net-widening refers to the phenomenon where the introduction of a new type of sanction leads to a greater number of

individuals being sanctioned into the criminal justice system. Stanley Cohen (1985) was the first to popularize the term, comparing the formal social control system to “something like a gigantic fishing net.” Cohen (and subsequent researchers) argued that the introduction of alternative sanctions leads to net-widening by incorporating more people into the criminal justice system (wider nets; Tonry and Lynch 1996), using the new sanction as a supplement to previous sanctions instead of as a substitute (different nets; Blomberg et al. 1993), and increasing the overall intensity of interventions (denser nets). In these ways, the introduction of new forms of punishment changes the structure of punishment strategies in both quantitative and qualitative ways

Thus, the paradoxical result of sentencing “alternatives” is that they tend to increase the scope of state control rather than decreasing the use of more serious penalties. This phenomenon is particularly impactful for “low-risk” cases or individuals convicted of misdemeanors who are more likely to be subject to the alternative sanction and placed under some kind of supervision. Research has found that in states that use probation primarily for the supervision of misdemeanor cases that it does not divert cases from incarceration, but instead leads to a greater number of individuals being subject to state supervision (Phelps 2013).

What is made clear from studies examining probation, community corrections, and other forms of alternative sanctioning is that the organizational arrangement of sanctioning agencies and services impacts the punishment strategies of local criminal justice systems. While previous theorizing about net-widening has focused on the introduction of new sanctions, there has been far less discussion about how the administrative rearrangement of sanctions may impact legal practices. So even though private probation may not be considered a “new” type punishment when compared to state-run probation, it represents a different conceptualization of how

probation services should be managed. Whether new arrangements of the same sanction results in net-widening through increased usage of that punishment is a question that has not been thoroughly answered.

This study sought to answer this question by testing whether private probation leads to the net-widening of probation services. There are reasons to believe that private probation would result in a net-widening effect. First, contracting with private probation agencies increases the overall capacity of a local criminal justice system to punish individuals with probation. The question is whether this increased capacity is directly related to an *overall* increase in the use of that punishment. While prison abolitionist movements have long argued that the basic capacity of the system is directly related to the use of punishment, surprisingly little direct research has examined this suggestion (Bianchi 1994). What research does exist has found a connection between an institution's capacity to punish and an overall increase in punishment. A series of examinations by Pontell (1984) found that the overburdening of court systems actually led to less punishment. Whenever funding was increased for these systems (and thus capacity restored), punishment tended to increase. Pontell contends that as overall capacity is reduced, court actors must make greater considerations of the time and resources available to the system and alter their sanctioning practices in response.

While Pontell argues that this is related to rising crime and arrest rates, there are other explanations for the relationship between capacity and punishment. It is likely that the simple availability of a sanction has a direct correlation with the likelihood of that sanction being used. This may be especially true whenever the capacities are increased by the use of private contracting. For probation in particular, which is already a commonly used method of punishment, the use of a private provider to supervise probation populations allows jurisdictions

to expand while alleviating the need to consider the resource cost to their own departments. A jurisdiction that may have had a limited ability to supervise clients may now leverage the resources of private agencies in order to supervise a much larger number of individuals. If probation itself is a net-widening sanction, then the expanded capacity to use probation by way of private contracting should lead to an overall increase in probation rates.

In addition to the impact of increased capacity, the for-profit character of private probation companies creates an incentive to keep supervisory populations high. Post-industrial market logic dictates that private companies always seek to expand their market share and diversify product offerings (Lie 1996). This is no different within the criminal justice field. Private probation companies may attempt to keep demand high (and the net wide) by offering additional services that public agencies may not be able to utilize. Additionally, private providers may lobby policy-makers to pass laws that help maintain their populations or remove roadblocks for partnering with local criminal justice systems (Bellacicco 2013). In this way, private providers help to establish an ever-expanding repertoire of accepted supervision methods.

Finally, the increased use of probation as a form of punishment could also be related to increased efforts to de-institutionalize. With increasing attention to the costs and consequences of mass incarceration, policy-makers have looked for ways to divert individuals away from correctional systems. Probation is often seen as a less invasive form of punishment and a potential alternative to prison sentencing (DeMichele 2014; Phelps 2013). The use of private probation may reflect an intention to divert more cases away from incarceration and towards community supervision. Increasing the capacity to use probation, and the subsequent increase in probation sentencing, may reflect these explicit attempts at reconfiguring sentencing strategies.

What can be seen in the use of privatized punishment is its reciprocal relationship with mass social control. Demands for harsher sentencing laws and expanded sanctioning provided a space for a market-based solution to rising correctional costs. As these private companies began to contract with criminal justice systems, they in turn increased the capacity for these systems to punish. Several states saw private contracting as a solution to rising probation populations, but it remains a question whether these arrangements have impacted the punishment practices of local court jurisdictions. While private probation currently functions in only a handful of states, the impact on local criminal justice systems has not been directly studied.

## **EXPLORING PRIVATE PROBATION IN COLORADO**

### *The Case of Colorado*

In order to explore the nature and impact of private probation on local court systems, I studied trends in public and private probation in Colorado using pooled cross-sectional time-series data from 2002 to 2017. Colorado is one of the few states that maintains detailed data on probation populations under both public and private supervision. Therefore, studying the case of Colorado provides a unique opportunity to explore trends in private probation usage within a particular state context and to test its potential expansive influence.

Probation is an integral part of the Colorado judicial system. Colorado probation serves under the Colorado Judicial Department with departments located in all 22 of Colorado's court districts. Probation services are offered as an alternative to incarceration and other serious sanctions, with a specific emphasis on "rehabilitation, skill development, and enhancing public safety for all residents of Colorado" (Colorado Judicial Branch 2018). Indeed, Colorado probation services include the extensive use of alcohol and drug analysis, as well as several specialized "intensive" probation services for sex crimes, juveniles, and women. Emphasis is

placed on using research and assessment tools in order to identify the treatment options that are perceived as most appropriate to specific probationers and to “help insure tax dollars are spent efficiently and effectively” (Colorado Office of State Court Administrator 2009).

Since 1996, Colorado has explicitly allowed local court jurisdictions to contract with private probation companies.<sup>4</sup> The statutes set down by the Colorado Supreme Court state that “given limited resources,” court districts may enter into their own agreements with private probation providers in order to supervise adult probationers who are considered to be lower-risk, although not every court district makes use of private probation services. The statutes set down by the Colorado Supreme Court do not allow individuals who are considered high risk to be supervised by contract services. None of the districts that use private probation rely *solely* on private probation and instead use both public and private services. Throughout my analysis, I differentiated districts by classifying them as either **public-only** probation districts or **public-private** probation districts in order to identify the hybrid nature of these probation systems.

### *Testing the Net-Widening Effect of Private Probation*

I present a three-pronged analysis in this study. I start with a *descriptive examination* of the specific case of private probation in Colorado. In doing so, I compared the contextual characteristics of court districts that have public-private probation arrangements versus those that have public-only probation. I also examined the demographic characteristics of individuals who are placed on private probation compared to those who are placed on public probation.

In the second and third part of my analysis I used separate measures of district probation trends to directly test whether the use of private probation leads to net-widening. First, I tested the association between the *percentage of court cases sent to probation* and the reliance on

---

<sup>4</sup> § 18-1.3-202; Chief Justice Directive 16-01

private probation to supervise people. Since private probation is used to increase the capacity of a jurisdiction to use probation as a punishment, I contend that judges in jurisdictions that use private probation, or that rely more heavily on private probation, are more likely to use probation as a form of sanction. This should be reflected in an increased percentage of filed court cases resulting in a probation sentence.

While district courts maintain probation departments, individuals may be sent to probation from either the district or county court level. Therefore, I included all probation-eligible cases from both district court (felony-level) and each county court within that district (misdemeanor and traffic). This means that the percentage of cases sent to probation will be reflective of individuals across all risk levels. While the main mechanisms of net-widening is through increased use of probation for low-risk clients, the institutional justification for private probation is that court districts can devote more resources to their public probation systems to supervise those considered higher risk (Colorado Judicial Branch Annual Report 2006). I used the percentage of the total cases across both court levels as a crude measure of this cumulative effect and as a way of isolating the role of sentencing as a driving mechanism.

*H<sub>1</sub>*: Court districts that use private probation to supervise individuals will have a higher percentage of filed court cases sent to probation compared to districts that do not use private probation.

*H<sub>2</sub>*: Court districts that rely more heavily on private probation to supervise individuals will have a higher percentage of filed court cases sent to probation compared to districts that rely less on private probation.

The third analysis in this study tested the relationship between the *total active low-risk probation rate* and the reliance on private probation to supervise individuals considered low-risk. Whereas the previous analysis focused on cases that may have been any risk level, this analysis was restricted to low-risk probation rates. This allowed me to more directly explore the hypothesis that private probation expands probation services through the increased use of probation for individuals who commit less-serious crimes. I suggest that court districts that use and rely on private probation should have higher average low-risk probation rates than districts that do not use private probation. Probation rates may reflect individuals who are both sentenced within that year and individuals whose sentences have carried over from the previous year. Therefore, any differences in probation rates found between districts could be a reflection of more individuals being held in probation longer across time. This may indicate the potential mechanism by which private probation departments are likely to be more intensive or incentivized to maintain individuals under their service for longer periods of time.

*H<sub>3</sub>*: Court districts that use private probation to supervise low-risk clients will have a higher active low-risk probation rate compared to court districts that do not use private probation.

*H<sub>4</sub>*: Court districts that rely more heavily on private probation to supervise low-risk individuals will have a higher active low-risk probation rate compared to districts that rely less on private probation.

## **DATA & METHODS**

### *Dependent Variables*

The **percent of cases sentenced to probation** per year was calculated for each court district. I created this variable by dividing the sum of new probation sentences (public + private)

by the total number of cases filed in the courts within that court district during that fiscal year. I then multiplied that number by 100 to get the percentage from the proportion. The total number of cases filed includes all probation-eligible cases in each district court, as well as in all of the county courts under that district court's jurisdiction. The total caseload is calculated specifically as the number of criminal cases filed in district court plus the number of misdemeanor and traffic cases filed in each individual county court.

I calculated the **low-risk probation rate** per 10,000 residents for each court district for every year. The rate is found by summing both the active public and active private probationers who have been designated as "low-risk", dividing this total by the total sum of the population of all counties in that court district, and multiplying this base rate by 10,000. Data for probation and caseload statistics comes from the *Colorado Judicial Branch Annual Statistics Reports*. Since 2001, the Colorado Judicial Branch has gathered and published annual caseload and financial information for all levels of the state court system and probation services. These reports provide a detailed accounting of the population in both state-run and private probation services within each district court system of Colorado. The populations of Colorado counties are provided by the *Colorado Department of Local Affairs- State Demography Office*. The State Demography Office provides a wide-range of demographic information for the state of Colorado, including yearly county level population estimates.

### *Independent Variables*

The primary variable of interest was the degree to which court districts rely on private probation to supervise individuals. None of the districts in the state of Colorado rely exclusively on private probation, therefore districts either have no reliance on private probation or a mix of private and public populations. To capture this quality, I used a **ratio of private to public**

**probationers** within each district. This ratio is indicative of how strongly a district relies on private probation to supervise probationers compared to how much it uses public resources. I use two separate measures for each test. For the first analysis, I use the ratio of probationers across all risk levels. For the second analysis, I use the ratio for low-risk individuals only. Again, data is taken from the *Colorado Judicial Branch Annual Statistics Reports*.

The most important set of controls for this study are the **crime rates** in each district. One way that the system may be strained is due to an increase in crime rates and the resulting increase in the number of cases being processed by the system. It may be that an association between probation rates and the higher use of private probation services is actually related to high crime levels or changing crime patterns. To control for this possibility, I calculated district level crime rates separately for drug crime, property crimes, and violent crimes by adding together the total arrests in each crime category across all counties within a district and converting to a rate per 10,000 of that district's population. While property and drug crimes rates are most related to low-risk probation rates, I also included violent crime rates to make sure that the probation rate over time is not a result of policy changes that divert serious cases to probation. Crime data is provided by the *Colorado Division of Criminal Justice* which provides yearly arrest rates for each county in Colorado.

Another set of controls focuses on measures of the **financial resources** available to the communities within each district court system. Districts that have poorer citizens are likely to have a lower local tax base and thus less resources for their criminal justice system. Financial strain may result in both the increased use of probation (as a cheaper alternative to incarceration) and an increased likelihood that courts use private probation to offset the costs of supervision. Additionally, the financial well-being of a community is likely related to higher levels of low-

level offenses, such as theft and drug crimes, and a lower ability to maintain probation requirements, which provides an indirect relationship with probation rate trends. For one measure, I used the **average percentage of individuals who fall below the federal poverty line** averaged across all counties within each district. This data is taken from the *US Census Small Area Income and Poverty Estimates (SAIPE)*. The SAIPE gathers yearly poverty and income estimates for every state and county. A second measure used the **home vacancy rate** averaged across all counties within a district. The *Colorado Department of Local Affairs- State Demography Office* provides home vacancy rates in Colorado counties on a yearly basis.

The racial and ethnic make-up of each court district was controlled for by using variables for **the percent of the population that is non-white** and **the percent of the population that is Hispanic**. The historical connection between race and punishment in America is long established, especially for African-Americans (Alexander 2010). Colorado is predominantly white<sup>5</sup> and the data includes a non-descript biracial category. Therefore, I chose to measure the percent of individuals who are not white, rather than specific minority racial categories, in order to capture the full range of racial demographic change within each district.<sup>6</sup> Further research has demonstrated that individuals with Hispanic ethnicity face disproportion punishment compared to individuals who are white, especially for those who live and work in rural areas (Steffensmeier, Painter-Davis, and Ulmer 2017).

The **population** within each district was also controlled. The relationship between population size and system strain is not as straightforward- larger populations may mean that more funds are available for local systems to rely on, but also that a greater number of

---

<sup>5</sup> The average white population in all of Colorado was about 84% across the entire timeframe.

<sup>6</sup> Correlations between the average non-white populations and the average black populations were high ( $r = 0.8$ ) indicating that most of the differences in minority populations across districts represent differences in the population if individuals who are black within that district.

individuals are processed through the system. On the other hand, court districts with small populations likely have fewer financial allocations but also have a smaller population of individuals to manage. I control for the log of the population in order to explore whether any relationship exists. Population estimates are provided by the *Colorado Department of Local Affairs- State Demography Office*.

Finally, a control variable was included that indicated whether the **district attorney during that year is a Republican**. A conservative district attorney may charge lawbreakers in a more punitive way, which could lead to a greater number of individuals being sentenced. Additionally, the election of a conservative DA may be reflective of a more conservative climate in that court district and increased support for privatization. Thus, the relationship between the use of probation and private probation could be an effect of conservative politics. Election results are provided by the *Colorado Secretary of State*.

#### *Decomposition Model*

To test the association between the use of private probation and probation caseloads/rates, I compiled all separate data sets into a balanced cross-sectional time series data set containing all relevant variables. A model of such data can be given in the general form (Allison 2009):

$$y_{it} = \alpha + \beta X_{it} + \nu_i + \varepsilon_{it}$$

Where  $y_{it}$  represents the dependent variable for district  $i$  in time  $t$ ;  $\alpha$  indicates the intercept; and  $\beta$  represents the estimated set of parameters for the explanatory variables,  $X_{it}$ . Additionally, the model includes a district specific intercept,  $\nu_i$ , that varies across districts and a residual,  $\varepsilon_{it}$ , that captures random variation within units over time.

One issue with panel data models is that the usual models for testing relationships in panel data do not allow for estimating how the covariates impact variation of the dependent variable over time. Fixed effects treat between-unit differences as fixed and constant and provide only within state effects, while random effects provide estimates that combine the effect of between-unit and within-unit variation. A different model is needed in order to provide the estimates of the independent variables both between-units on average and within-units over time (Phillips 2006).

In order to accomplish this, I estimate a decomposition model<sup>7</sup> (as presented in Phillips 2013):

$$y_{it} = \alpha + \beta \bar{X}_i + \eta(x_{it} - \bar{X}_i) + v_i + \varepsilon_{it}$$

In this model,  $\beta$  indicates the cross-sectional variation between districts where differences are represented using the average of the covariate over time for that district (the average here is indicated as  $\bar{X}_i$ ). The parameter  $\eta$  indicates the impact of deviations from the district mean for the values of a covariate in a given year for that district. Once again, the model includes a district-specific error term that is treated as a random variable and allows for correlation among observations from the same district, a residual error term that allows for the correlation over time of observations from the same district, and an intercept.

Overall, this model allowed me to engage in a kind of dual comparison. First, comparing averages allowed me to compare probation trends between district types. Second, the centered variables allowed me to explore how changes in the reliance on private probation impacts these trends over time. Preliminary analysis for both models indicated that the inclusion of an autocorrelated error structure was appropriate, meaning that the dependent variables in my

---

<sup>7</sup> What Allison (2009) calls a “hybrid model.”

analysis may be influenced by the values of those variables in the previous year. Therefore, I control for an AR(1) error structure in both tests.<sup>8</sup>

## RESULTS

### *Trends in Colorado Public and Private Probation*

**Figure 2a** shows the total number of supervised probationers in Colorado from 2002 to 2017. There was a steep rise in the number of probationers from 2004 until 2009 with a growth in population of about 22,000 individuals over this period. The year-over-year growth decelerates after 2009, although the total population does slowly grow across the remaining time. The total population is portioned by risk level in **Figure 2b** to determine trends in misdemeanor and felony-level probation sentencing.<sup>9</sup> While this graph does not allow us to explore trends in the early rise of probation populations seen in figure 2a, the number of both low-risk and higher-risk individuals increased from 2006 to 2009. The rise in low-risk probationers was especially steep in comparison to high/medium risk populations. The leveling off after 2009 occurred for both low-risk and higher-risk probation with slow growth thereafter. The total population for “other” risk levels remains relatively stable across the entire time period.<sup>10</sup>

**Table 1** provides the descriptive calculations for all court districts in Colorado across the entire time-period as well as in the first and last years of the data. In comparing district types, it is important to explore potential social or contextual differences. **Table 2** compares the descriptive information in the variables of interest in this study between district types. On average, the district-level crime rates were relatively similar although public-only districts did have a slightly

---

<sup>8</sup> ACF plots for both models indicated autocorrelated errors at AR(1). I used likelihood ratio tests to assess the difference between models with and without an AR(1) structure. For model one with percentage of cases as DV: LR=426.67,  $p < .001$ . For model two using probation rate as DV: LR=104.32,  $p < 0.001$ .

<sup>9</sup> Data on risk levels for private probation is only available starting in 2006.

<sup>10</sup> Other risk levels are categorized as being supervised under specialty probation programs (such as domestic violence and sex crime programs) and those who come from community corrections populations.

Figure 2a. Total probation population in Colorado, 2002-2017

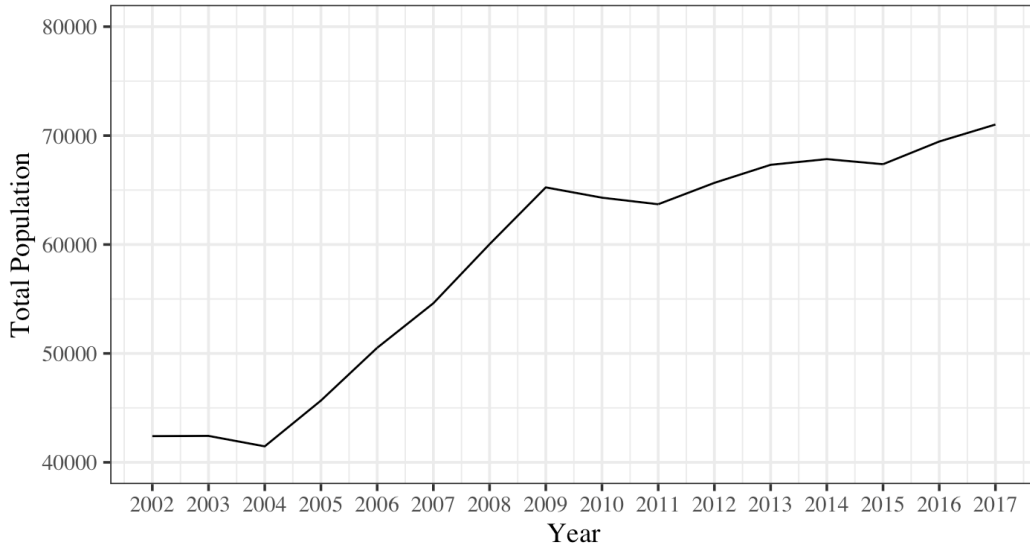
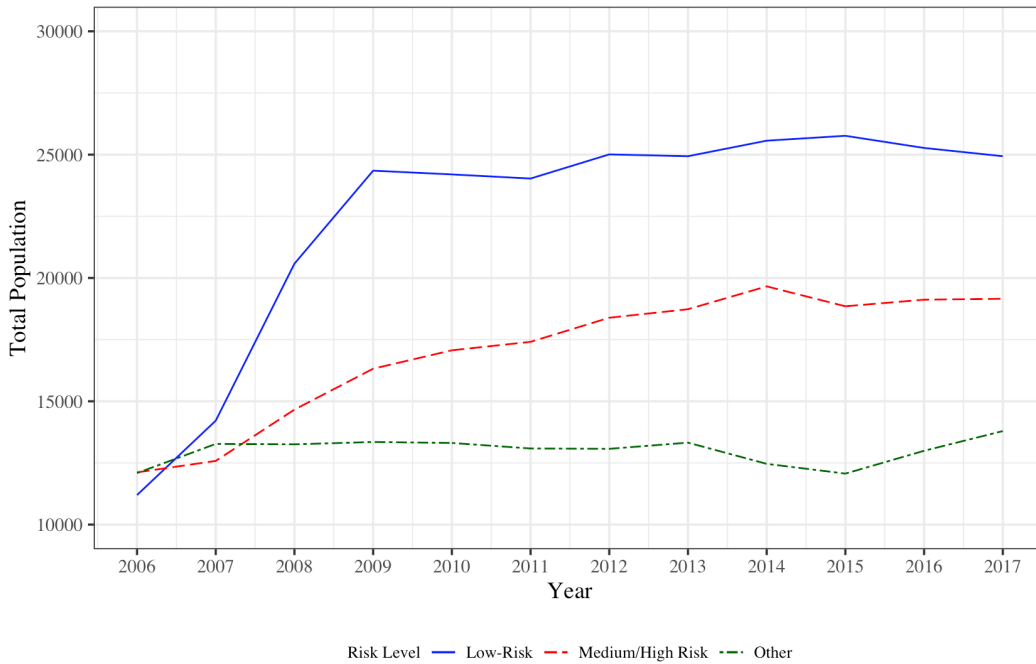


Figure 2b. Total probation population in Colorado by risk type, 2006-2017



Note: Risk level data was not available in years 2002-2005

Table 1. Descriptive statistics for all districts in Colorado

	Overall	All Districts	
		2002	2017
<b>% of Cases Sentenced</b>			
<i>Mean (SD)</i>	12.84 (6.16)	7.96 (2.93)	16.54 (5.80)
<i>Range</i>	1.92-87.43	1.86-14.83	3.30-27.67
<b>Overall Low-Risk Rate</b>			
<i>Mean (SD)</i>	47.20 (18.42)*	NA <sup>+</sup>	46.22 (11.76)
<i>Range</i>	12.93-114.60*	NA <sup>+</sup>	15.15-66.77
<b>Private-Public Ratio</b>			
<i>Mean (SD)</i>	0.34 (0.35)	0.36 (0.41)	0.16 (0.21)
<i>Range</i>	0.00-1.67	0.00-1.46	0.00-0.75
<b>Drug Crime Rate</b>			
<i>Mean (SD)</i>	23.92 (12.48)	24.26 (16.99)	24.97 (10.77)
<i>Range</i>	1.50-30.72	1.92-87.43	10.58-59.84
<b>Property Crime Rate</b>			
<i>Mean (SD)</i>	35.77 (14.92)	37.15 (19.47)	42.13 (16.35)
<i>Range</i>	7.75-88.32	16.86-88.32	12.81-82.01
<b>Violent Crime Rate</b>			
<i>Mean (SD)</i>	10.75 (4.70)	11.55 (5.68)	10.25 (5.58)
<i>Range</i>	1.98-31.16	3.17-24.47	4.48-31.16
<b>% in Poverty</b>			
<i>Mean (SD)</i>	13.69 (5.54)	12.39 (5.16)	13.35 (6.20)
<i>Range</i>	6.05-37.93	6.05-26.87	7.25-34.30
<b>Vacancy Rate</b>			
<i>Mean (SD)</i>	21.31 (12.22)	19.45 (11.47)	20.84 (13.51)
<i>Range</i>	0.07-41.25	4.29-37.69	0.34-38.16
<b>Population (/1000)</b>			
<i>Mean (SD)</i>	228.23 (244.90)	204.76 (218.07)	254.97 (284.57)
<i>Range</i>	18.64-1010.01	22.05-747.86	18.74-1010.01
<b>% Non-White</b>			
<i>Mean (SD)</i>	8.39 (4.37)	6.93 (4.12)	10.08 (4.94)
<i>Range</i>	2.58-19.85	2.58-18.22	4.53-19.85
<b>% Hispanic</b>			
<i>Mean (SD)</i>	21.98 (11.50)	20.12 (12.05)	22.86 (11.06)
<i>Range</i>	6.09-47.14	6.09-46.80	9.60-45.56
<b>Republican DA</b>			
<i>Percentage</i>	59%	32%	59%

\* Low-risk rate is not available until 2007. Numbers represent calculations from 2007-2017.

+ Low-risk rate is not available until 2007. Mean (SD) for the low-risk rate in 2007 is 37.64 (22.18) with a range of 14.02-102.30.

Table 2. Descriptive statistics for districts in Colorado by private probation usage

	Public-Private Districts			Public-Only Districts		
	Overall N=16.68	2002 N=17	2017 N=12	Overall N=5.11	2002 N=5	2017 N=10
<b>% of Cases Sentenced</b>						
<i>Mean (SD)</i>	14.39 (5.83)	8.97 (2.40)	20.05 (4.41)	7.90 (4.33)	4.55 (1.80)	12.33 (4.317)
<i>Range</i>	5.12 - 30.72	5.34 - 14.83	12.83 - 27.67	1.50 - 17.99	1.86 - 6.10	3.30 - 17.99
<b>Overall Low-Risk Rate</b>						
<i>Mean (SD)</i>	50.46 (18.50)*	NA <sup>+</sup>	49.27 (7.49)	33.22 (14.45)*	NA <sup>+</sup>	42.55 (15.06)
<i>Range</i>	12.93-114.60*	NA <sup>+</sup>	36.00 - 60.00	7.10 - 78.18*	NA <sup>+</sup>	15.15 - 66.77
<b>Private-Public Ratio</b>						
<i>Mean (SD)</i>	0.45 (0.34)	0.47 (0.41)	0.30 (0.20)	0	0	0
<i>Range</i>	0.00 - 1.67	0.01-1.46	0.00 - 0.75	0	0	0
<b>Drug Crime Rate</b>						
<i>Mean (SD)</i>	23.44 (10.88)	21.99 (9.49)	25.36 (11.84)	25.45 (16.58)	31.97 (32.55)	24.51 (9.95)
<i>Range</i>	2.82 - 66.74	6.10 - 45.67	14.34 - 59.84	1.92 - 87.43	1.92 - 87.43	10.58 - 44.94
<b>Property Crime Rate</b>						
<i>Mean (SD)</i>	35.84 (14.02)	36.69 (17.36)	38.83 (13.88)	35.55 (17.59)	38.71 (27.95)	46.10 (18.87)
<i>Range</i>	8.85 - 86.97	16.86 - 86.97	17.94 - 61.95	7.75 - 88.32	21.55 - 88.32	12.81 - 82.01
<b>Violent Crime Rate</b>						
<i>Mean (SD)</i>	10.22 (3.82)	11.32 (4.67)	10.67 (2.90)	12.41 (6.60)	12.32 (9.01)	9.75 (7.87)
<i>Range</i>	1.98 - 21.90	3.70 - 19.68	7.61 - 16.04	2.68 - 31.16	3.17 - 24.47	4.480 - 31.16
<b>% in Poverty</b>						
<i>Mean (SD)</i>	12.48 (4.20)	11.76 (5.34)	11.22 (3.29)	17.560 (7.29)	14.52 (4.26)	15.90 (7.96)
<i>Range</i>	6.05 - 32.60	6.05 - 26.87	7.25 - 18.20	7.40 - 37.93	7.90 - 19.80	7.67 - 34.30
<b>Vacancy Rate</b>						
<i>Mean (SD)</i>	20.28 (12.36)	18.59 (11.92)	14.22 (12.30)	24.60 (11.22)	22.38 (10.41)	28.80 (10.61)
<i>Range</i>	0.07 - 41.25	4.29 - 37.69	0.34 - 36.96	2.04 - 39.52	7.14 - 35.04	3.44 - 38.16
<b>Population (/1000)</b>						
<i>Mean (SD)</i>	254.48 (243.81)	225.09 (215.52)	370.85 (292.29)	144.50 (230.14)	135.64 (236.94)	115.92 (209.10)
<i>Range</i>	26.48 - 1010.01	31.17 - 747.86	78.71 - 1010.01	18.64 - 705.65	22.05 - 559.10	18.74 - 705.65
<b>% Non-White</b>						
<i>Mean (SD)</i>	8.18 (3.73)	6.67 (3.20)	9.55 (4.16)	9.13 (5.91)	8.48 (6.66)	10.72 (5.91)
<i>Range</i>	3.14-18.02	3.14-13.52	5.35-18.02	2.58-19.85	2.58-18.22	4.53-19.85
<b>% Hispanic</b>						
<i>Mean (SD)</i>	20.50 (11.07)	19.45 (12.07)	21.26 (10.40)	26.72 (11.71)	22.38 (14.42)	24.78 (12.07)
<i>Range</i>	8.90-47.14	8.90-46.80	10.78-43.04	6.09-45.56	6.09-39.37	9.60-45.56
<b>Republican DA</b>						
<i>Percentage</i>	63%	35%	67%	50%	20%	50%

\* Low-risk rate is not available until 2007. Numbers represent calculations from 2007-2017.

+ Low-risk rate is not available until 2007. Mean (SD) for the low-risk rate in public-private districts in 2007 was 39.95 (23.75) with a range of 14.02-102.30. The mean (SD) for the low-risk rate in public-only districts was 27.22 (8.47) with a range of 20.27-39.21.

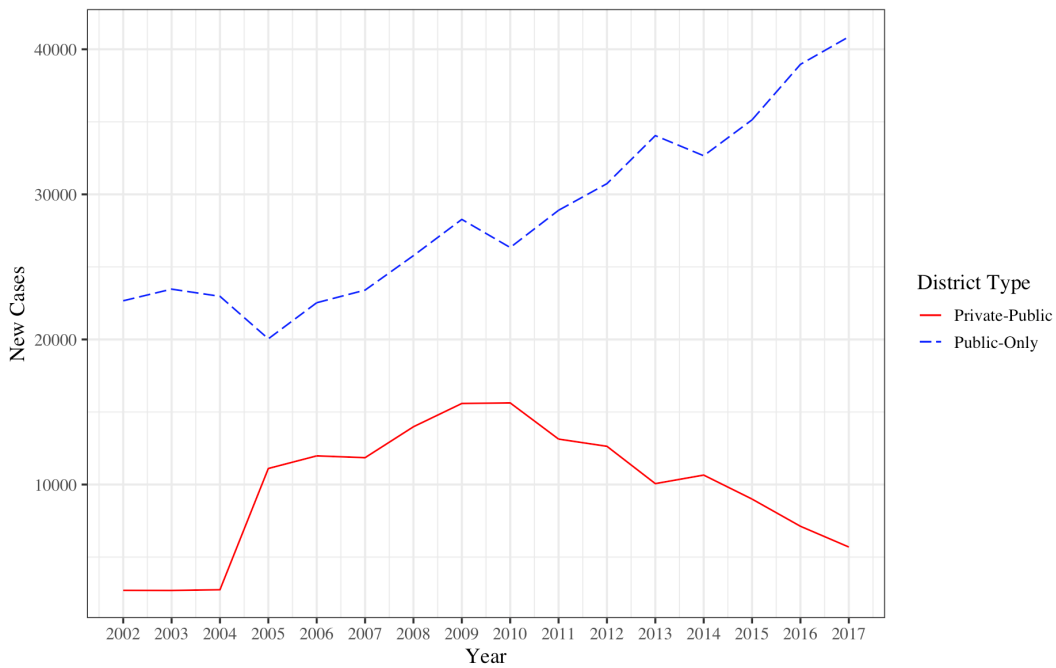
higher drug arrest rate over time. It can also be seen that public-private districts tended to be less poor and more populous. Public-private districts had a lower percentage of individuals below the poverty line on average (12.48% versus 17.56%) and lower home vacancy rates (20.28% versus 24.60%). Additionally, the population of public-private districts was much larger at an average of about 254,480 compared to 144,500 for public-only districts. Racial demographic comparisons show that the average non-white Population across district types is relatively similar, although public-only districts tended to have a greater Hispanic population (26.72% versus 20.50%). Finally, public-private districts had Republican district attorneys (63% on average) more often than public-only districts (50%).

Another important aspect in determining the impact of private probation is to examine whether individuals who are sentenced to private probation tend to differ from individuals who are sentenced to public probation. This was done by comparing the demographic categorizations of individuals on probation under private services versus those under public services. While Colorado does not provide data for the demographic characteristics of active probation populations, they do provide information on individuals who are new cases for that fiscal year. **Figure 3** shows the trends for new cases in Colorado since 2002. New cases sent to public probation increased consistently over time. Private probation cases are quite different, having risen substantially from 2002 until 2009, and then dropping significantly since then.

**Table 3** shows the demographic characteristics for individuals who are newly sentenced to either public or private probation averaged across time. Both private and public probation populations consisted primarily of men compared to women although private probation had a slightly greater proportion of women over time (28.22% versus 25.02%). The racial composition

of populations was also similarly patterned, with both private and public populations consisting predominantly of individuals identified as white.<sup>11</sup> However, the proportion of white individuals in private probation was higher than public probation on average (80.89% versus 73.84% respectively) and had a higher range across all years, while the average black population was smaller (4.31% versus 8.99%). Interestingly, the proportion of non-white individuals in the populations was roughly equal between the district types. This means that the difference in white population under supervision was not reflective of differences in district racial demographics. The distributions of age categories were relatively the same between district types.

Figure 3. Total new probation cases in Colorado by district type, 2002-2017



<sup>11</sup> It should be noted that the data provided classifies “Hispanic” as a discrete racial category, and not as an ethnic identification. Therefore, those identified as Hispanic are categorized only under the Hispanic category and not under any additional categories that would further specific their racial association.

Table 3. Demographic characteristics of private and public probation populations in Colorado

	Private Probation		Public Probation	
	Mean % (SD)	Range	Mean % (SD)	Range
<i>Gender (%)</i>				
Male	71.78 (2.15)	69.21 - 76.41	74.98 (1.10)	72.39 - 76.63
Female	28.22 (2.15)	23.59 - 30.79	25.02 (1.10)	23.37 - 27.61
<i>Race/Ethnicity (%)</i>				
White	80.89 (4.59)	67.17 - 83.88	73.84 (2.22)	69.78 - 76.83
Black	4.31 (0.89)	2.26 - 5.17	8.99 (0.77)	7.97 - 10.67
Hispanic	11.88 (4.73)	8.59 - 26.51	12.93 (1.49)	10.80 - 15.59
Asian	1.13 (0.24)	0.66 - 1.81	1.42 (0.21)	0.84 - 1.73
Native-American	0.81 (0.33)	0.36 - 1.48	0.93 (0.14)	0.60 - 1.22
Other	0.98 (0.78)	0.34 - 3.67	1.90 (0.39)	1.53 - 2.75
<i>Age (%)</i>				
Ages 0-17	0.32 (0.16)	0.07 - 0.68	0.36 (0.09)	0.24 - 0.58
Ages 18-20	10.48 (1.42)	7.79 - 12.32	11.06 (2.52)	6.99 - 14.77
Ages 21-24	19.13 (1.21)	16.83 - 21.05	18.23 (1.30)	15.70 - 20.16
Ages 25-32	27.38 (1.02)	25.61 - 29.88	27.70 (1.57)	25.25 - 30.38
Ages 33-39	16.19 (2.01)	14.21 - 21.19	17.06 (1.17)	15.13 - 19.24
Ages 40+	26.48 (1.68)	21.89 - 29.05	25.59 (2.26)	21.92 - 28.22

*Testing the Net-Widening Effect*

In the following analyses, I used the decomposition model to investigate the relationship between the level of private probation usage and two separate measures of probation rates that indicate net-widening. The results of both analyses were differentiated to show the between-district effects as well as the effects of changes in the independent variables across time within each district. This allowed comparisons of the differences between public-private versus public-only districts and an exploration in how changes in the degree to which districts use private probation impacted probation usage.

*Percentage of court cases sent to probation.*

The first analysis looked at the relationship between the total number of probation-eligible court cases sentenced to probation and the total private-to-public probation ratio within each court district from 2002-2017. **Figure 4** shows the percentage of new probation cases compared to the total number of cases filed by district type. There were clear differences between district type in the percentage of cases sent with public-private districts sending a greater proportion of cases to probation across the entire timeframe. While the percentages are relatively low in the first few years, probation sentencing had increased more than two-fold for both sets of districts.

**Table 4** displays the results of the decomposition model with both cross-sectional comparisons and the effect of within-district changes over time. Hypothesis 1 was not statistically supported although the effect size of the private -to-public ratio is rather large ( $\beta = 6.71$ ,  $se = 3.50$ ,  $CI = -0.99 - 14.41$ ). As such, it is still important to consider substantive impact. Since this coefficient represents the comparison of the average relationship *across* districts, this means that districts that relied more on private probation on average tended to have a higher percentage of court cases sent to probation after controlling for other relevant variables. A useful interpretation of this coefficient is to compare a public-only district (ratio = 0) and a district with an average public-private ratio (mean = 0.45). Compared to a public-only district, we would expect that a public-private district with an average ratio would send 3.02% more cases to probation in a given year. Importantly, the inclusion of crime rates did not account for the association suggesting that the effect was not related to differences in crime patterns across districts. In fact, none of the categorical crime rates were significantly related to the percentage of cases sent to probation. The other control variables were also insignificant with rather small effect sizes and did not account for the variation between court districts.

Figure 4. Percentage of cases sent to probation in a given fiscal year in Colorado, 2002-2017

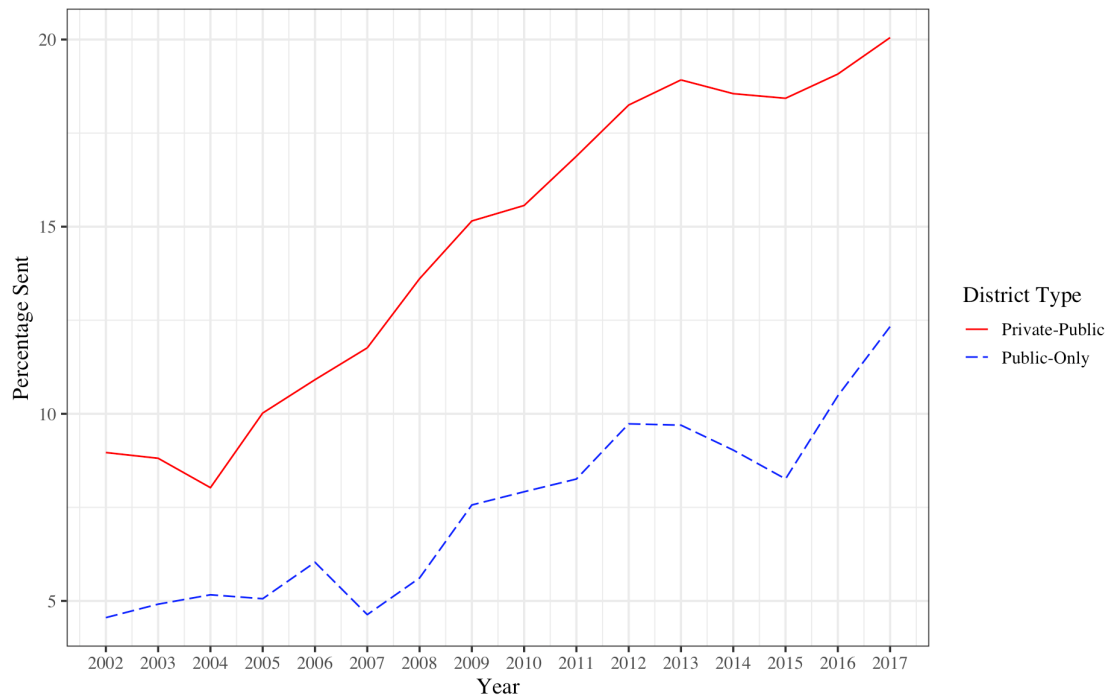


Table 4. Regression results of cases sent to probation on variables of interest, 2002-2017

	Percentage of Cases to Probation					
	Across Districts			Within Districts		
	Coefficient	SE	Conf. Intervals	Coefficient	SE	Conf. Intervals
Private-Public Ratio	6.71	3.50	-0.99 - 14.41	4.63*	0.73	3.21 - 6.06
Drug Crime Rate	-0.08	0.13	-0.37 - 0.20	-0.01	0.01	-0.03 - 0.02
Property Crime Rate	0.06	0.11	-0.18 - 0.31	-0.01	0.01	-0.03 - 0.02
Violent Crime Rate	-0.65	0.40	-1.53 - 0.22	-0.05	0.03	-0.12 - 0.02
% in Poverty	-0.03	0.24	-0.56 - 0.50	0.10	0.07	-0.46 - 0.25
Vacancy Rate	-0.02	0.09	-0.22 - 0.18	-0.21	0.13	-0.47 - 0.06
Republican DA	-1.90	2.62	-7.66 - 3.86	0.04	0.44	-0.82 - 0.90
log(population)	0.21	1.34	-2.74 - 3.15	9.24	7.55	-5.61 - 24.10
% Non-White	0.15	0.35	-0.61 - 0.91	0.99*	0.26	0.49 - 1.49
% Hispanic	-0.03	0.11	-0.27 - 0.21	1.01*	0.25	0.53 - 1.50
AR(1)	0.92					
Intercept	16.21					

\* $p < .05$

Looking at variation within-districts, hypothesis 2 was supported statistically with the effect of changes in the private-to-public probation ratio being positive and significant ( $\beta = 4.63$ ,  $se = 0.73$ ,  $CI = 3.21 - 6.06$ ). Since districts that never used private probation will have a centered ratio value of zero, this coefficient can be thought of as the effect of increasing or decreasing private service reliance in districts that used private probation either (1) during the entire time series or (2) at some point throughout. In a given year in which a district's public-private ratio is one standard deviation above the average ( $sd = 0.34$ ), the expectation for that district would be to send about 1.57% more cases to probation. This also means that there would be a decrease of that value in cases sent to probation whenever the yearly value is a standard deviation below the overall average. This effect indicates that the increased usage of private probation may have an expansive impact on probation sentencing. The inclusion of crime rates did not account for this within-effect. Finally, both racial and ethnic change were significant factors in determining probation sentencing. For every roughly 1% increase in either the non-white or the Hispanic populations, we would expect the percentage of cases sent to probation to increase by about 1%.

A final comment should be given to the AR(1) coefficient (0.92). These results indicated a strong degree of autocorrelation, meaning that much of the case sentencing in a given year is related to the amount of sentencing in the year before. While this effect is controlled for in the analysis, it is important to note this mechanism as it indicates a reliance by the courts on recent sentencing trends.

#### *Low-risk probation rate.*

While the first analysis explored sentencing and private-to-public ratios for all risk-types, the second analysis restricted the focus of the study in order to test the impact of private probation on the supervision of low-risk cases only. Specifically, it tested the relationship

between the total *low-risk* probation rate and the *low-risk* private-to-public probation ratio within each court district. Since the probation rate measures active probationers, the degree to which a district relies on private probation in one year may have a residual or compounding effect in the following year as individuals remain active over time. To account for this, the low-risk private-to-public ratio was lagged by one year and use this lagged value as the independent variable.

Unfortunately, data on the risk-levels of privately supervised individuals was not recorded until 2006 and the use of a time-lag restricts my data an additional year. As a result, the data for the second analysis was only for probation in Colorado from the years 2007 to 2017.

**Figure 5** shows the low-risk probation rate in public-private and public-only court districts during this restricted time period. There was a rise in probation rates for both sets of districts at the beginning of the sequence. Around 2012, there was a decline in the rates of public-only districts (until the final time period in which there is a quick rise again) while public-private district rates remain much more level.

**Table 5** displays the results of cross-sectional comparisons and within-district change over time. Exploring the cross-sectional associations, there is support for hypothesis 3 in that the coefficient for the lagged public-private low-risk probation ratio is large, positive, and significant ( $\beta = 17.45$ ,  $se = 4.39$ ,  $CI = 7.79 - 27.11$ ). Districts that relied on private probation in a given year had higher low-risk probation rates on average the following year after controlling for all other variables and temporal correlation. A district with an average low-risk private-to-public ratio (mean = 1.11) would be expected to have a total low-risk probation rate that is 19.37 per 10,000 citizens higher than a district that does not use private probation. As before, crime rates did not explain the association. This means that differences in the association between low-risk

Figure 5. Low-risk probation rates in Colorado, 2007-2017

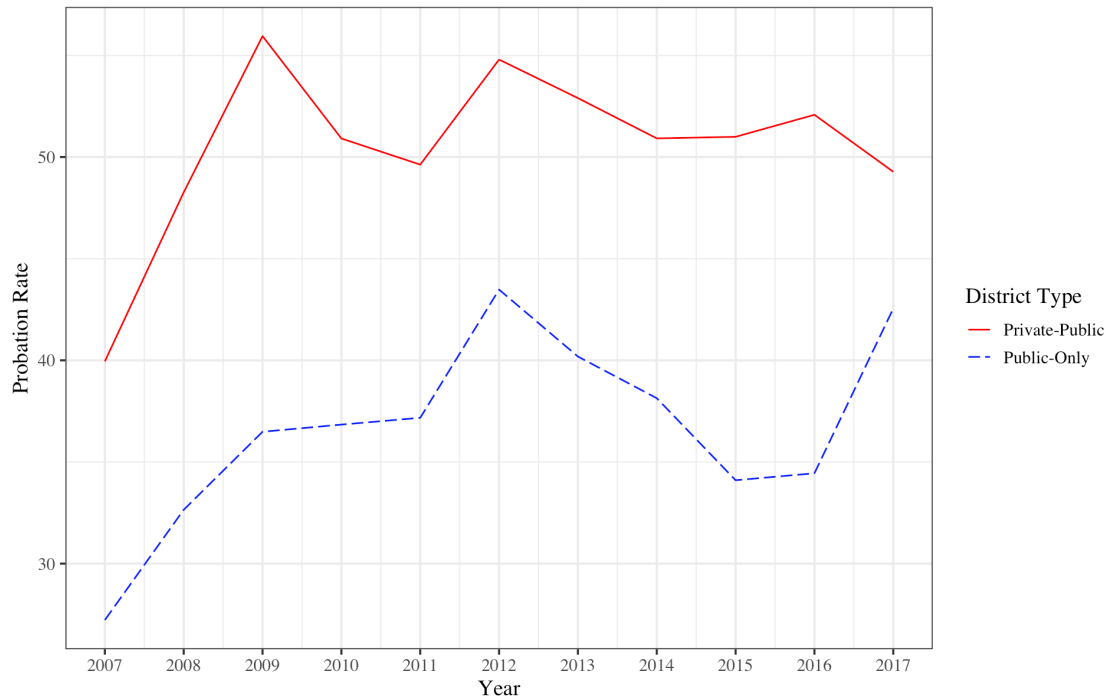


Table 5. Regression results of low-risk probation rate on variables of interest, 2002-2017

	Low-Risk Probation Rate					
	Across Districts			Within Districts		
	Coefficient	SE	Conf. Intervals	Coefficient	SE	Conf. Intervals
Private-Public Ratio	17.45*	4.39	7.79 - 27.11	2.28*	1.09	0.14 - 4.43
Drug Crime Rate	0.73	0.42	-0.20 - 1.66	-0.10	0.09	-0.27 - 0.08
Property Crime Rate	0.48	0.38	-0.34 - 1.31	-0.18*	0.07	-0.31 - -0.05
Violent Crime Rate	-0.91	1.38	-3.95 - 2.13	-0.07	0.24	-0.55 - 0.41
% in Poverty	0.14	0.80	-1.61 - 1.89	0.66	0.48	-0.28 - 1.59
Vacancy Rate	0.66	0.31	-0.02 - 1.35	-0.41	0.90	-2.18 - 1.37
Republican DA	9.03	8.62	-9.95 - 28.00	4.30	3.35	-2.32 - 10.91
log(population)	-7.66	4.38	-17.30 - 1.98	42.98	49.49	-54.58 - 140.54
% Non-White	-0.22	1.16	-2.78 - 2.33	1.82	1.34	-0.83 - 4.47
% Hispanic	0.73	0.36	-0.06 - 1.52	2.71*	1.38	-0.01 - 5.42
AR(1)	0.79					
Intercept	17.45					

\* $p < .05$

rates and the private-to-public ratio were not explained by differences in crime rates across districts. While not statistically significant, the effect of having a Republican district attorney was large with a 9.03 (CI = -9.95 – 28.00) rate difference compared to a Democrat DA. Other controls had small effects and were insignificant.

There is also support for hypothesis 4, with changes in the low-risk probation ratio having a positive and significant effect on rates ( $\beta = 2.28$ ,  $se = 1.09$ ,  $CI = 0.14 - 4.43$ ). A public-private district where the low-risk private-to-public ratio is one standard deviation above the average ( $sd = 1.39$ ) would have a low-risk probation rate that is 3.17 per 10,000 higher than a district at the average. As for crime rates, only changes in property crime rates appeared significantly associated although the effect size is small ( $\beta = -0.18$ ,  $se=0.06$ ,  $CI = -0.31 - -0.05$ ). Again, the effect of changing from a Democrat to a Republican DA has a noticeable effect as it lead to an increased low-risk probation rate of 4.08. The effect of population appears rather large, but when interpreting the impact of the logged variable we see that a 1% increase in the population only increases the probation rate by about 0.43 per 10,000 ( $CI = -0.55 - 1.41$ ). Finally, we see that changes in the Hispanic population had a significant effect. For every 1% increase in the Hispanic population, we would expect a 2.71 ( $CI = -0.01 - 5.42$ ) increase in the low-risk probation rate.

Again there is a rather high autocorrelation value with  $AR(1) = 0.79$ . Like sentencing rates, the probation rate was heavily dependent on previous probation rates. This is to be expected for two reasons. First, it represents a similar path-dependent relationship in which the reliance on probation in one year dictates how courts will rely on it in the next. Second, a subset of probationers are likely to continue their probation sentence across multiple years.

The summary of the hypotheses proposed in this study and the subsequent findings of those tests can be found in **table 6**. The focus on a particular state in this paper allows us to view the results in two different ways. First, we can think of the results from a *case study* perspective and consider the effects for Colorado court districts specifically. The data presented represents the full population of Colorado court districts, meaning that the effects found in the analyses represent the true effect of those variables.<sup>12</sup> This means that extra focus should be placed on whether the effects discovered are substantively relevant. These investigations show the considerable influence that private probation has on both sentencing patterns and probation rates in Colorado.

Another way of considering the results is in thinking of the districts in this study as a *subset of all potential court districts*. While there is valid concern over representativeness, it is still worth considering the statistical relevance of the studied factors. From this perspective, there is still support for the net-widening impact of private probation. If districts in other states are similar enough to the districts studied in Colorado, then we would expect the effects to hold. Unfortunately, it is hard to compare Colorado's arrangement to other states. Data on other private probation in other states being sparse and opaque. The limited research that does exist suggests that the cost-cutting justification for private contracting was similar across states and that most states only allow for the supervision of low-risk or misdemeanor cases, although financial, educational, and supervisory requirements can differ (Schloss and Alarid 2007). This study offers an important preliminary justification for a more large-scale, multi-state analysis that compares both state contractual arrangements and tests for effects on punishment practices.

---

<sup>12</sup> Taking into consideration potential omitted variables.

Table 6. Summary of hypotheses and findings

Hypothesis	Statistically Significant?	Effect Size?
1. Court districts that use private probation will have a higher percentage of court cases sent to probation	No	Large
2. Court districts that rely more heavily on private probation will have a higher percentage of court cases sent to probation	Yes	Moderate
3. Court districts that use private probation to supervise low-risk clients will have a higher active low-risk probation rate.	Yes	Large
4. Court districts that rely more heavily on private probation to supervise low-risk individuals will have a higher active low-risk probation rate.	Yes	Moderate

## DISCUSSION

The purpose of this study was to explore the role that private probation plays within local criminal justice systems in Colorado and to test whether it leads to punitive “net-widening.” The results of this study support the idea that using private probation leads to a greater use of probation as a form of punishment over time. The more heavily that court districts relied on private companies to supervise individuals, the more often those courts sentenced individuals to probation supervision. Additionally, court districts who used private probation had significantly higher active low-risk probation rates over time compared to public-only court districts, and those rates increased as reliance on private probation increased. These trends were not explained by differences or changes in crime patterns, population characteristics, or political climate. Instead, private probation appears to be a source of penal expansion.

These results support the central findings of previous scholarship on net-widening that the addition of an “alternative” sanction leads to a greater number of individuals being brought into the legal system. More specifically, this study shows how the addition of *private* alternatives can lead to a greater ensnarement of individuals into the criminal justice net. Private probation gives local jurisdictions the flexibility to use probation more often as a sentence and judges appear to react affirmatively. This study also expands on previous scholarship in important ways.

While previous research has examined the introduction of new sanctions, this study emphasizes the impact of different structural arrangements on already established sanctions. In fact, changes in structural arrangements that increase sanctioning capacity for an already established form of punishment may have a stronger effect than simply adding new sanction types. New sanctions expand the net by creating new tools and criteria for punishment, but these new forms face start-up costs and must establish themselves among already entrenched forms of penalty. Whenever a sentence that is already accepted in the “taken-for-granted structure” of punishment is made easier to enact, it is likely to become an increasingly common tool for judges and prosecutors (Feeley 2002). Punishment practices are not only guided by changes in the law or in the behaviors of lawbreakers. Instead, the assembly of punishment organizations can create an organizational response within legal institutions that leads to criminal justice net-widening.

This idea underscores the importance of understanding punishment as a “complex and differentiated practice composed of the interlinked processes of law-making, conviction sentencing, and the administration of penalties” (Garland 1990). If we are to take seriously the challenge of studying punishment as a social institution, we must attempt to understand the full range of social activity that gives it shape. This means that we must be able to recognize the larger political and economic trends that exert vertical pressure on systems of justice. However, we must also understand the field-level horizontal pressures exerted on systems of punishment and the actors within them. This kind of organizational perspective is key for understanding the influences of private punishment and its field-level impacts on the distribution of punishment (Shichor 1999).

Important to the conclusions of this study was that neither crime rates nor changes in crime patterns were found to be important explanations for the association between probation

trends and the use of privatized punishment. This suggests that arguments about private probation being essential to meet criminal justice demand may not be supported. However, it could be that the case that the increased use of probation by public-private court districts is due to an effort to divert individuals away from more serious sanctions. Private probation may absorb some of the costs and resources of supervising low-risk individuals so that public probation services can focus a greater attention on supervising individuals convicted of more serious crimes who would have otherwise been incarcerated. If this is the case, then private probation is not leading to “net-widening” in the traditional sense.

Still, it is hard to see how the de-institutionalization of individuals from prison would increase the number of *low-risk* individuals under supervision as was found in this study. Instead, the increased low-risk probation rate in public-private districts could be reflective of another trend in net-widening- namely “an increase in the overall intensity of intervention” (Cohen 1985: 44). Recent scholarship has noted the increasingly punitive nature of probation across the country, with more restrictive policies and more intensive forms of supervision (Phelps 2017; Stemen and Rengifo 2009). Private probation, which is funded mainly through the collection of user fees, may be incentivized to increase the length of probation due to violations or time under supervision may be extended due to inability to pay. Further research should be devoted to exploring the potential relationship between incarceration and probation rates, as well as understanding the mechanisms that explain the differences in low-risk probation rates.

Another explanation for the changes in probation patterns is that they reflect changes in the emphasis on certain crimes. One interesting consideration that was not available in this data was the potential impact of marijuana legalization in Colorado in 2012. **Figure 3** shows how reliance on private probation has dropped significantly since this time. A greater examination of

the role that private probation has in supervising individuals convicted of drug offenses should be made. It may be the case that the use of private punishment *is* linked to demand, but that demand specifically stems from the desire to punish and supervise individual convicted of low-level drug offenses.

In addition to the main findings of this study, results reveal an interesting relationship between race and probation. Even though probation populations are composed of a greater proportion of individuals who are white, the increase in non-white populations tended to increase the overall use of probation. This raises interesting questions around the interaction between race, probation, and private service usage. We know that African American defendants are given disproportionately harsh sentences and are perceived as being at a higher risk to reoffend than white defendants (Feldmeyer and Ulmer 2011). One consequence of this is that individuals who are white tend to be placed under community supervision at higher rates, which leads to a lower racial disproportionality in probation when compared to incarceration (Phelps 2017; Sutton 2013). Differences between private and public populations could be reflective of private probation involving only individuals convicted of low-level offense or considered low risk. As non-white populations grow, there may be a degree of racial threat felt by the community that leads to harsher sentencing practices and greater amounts of social control (Feldmeyer and Ulmer 2011). Additional examinations should focus explicitly on disentangling these complex racial and punitive interactions.

This study provides evidence of the potential expansive influence of privatized probation. As private punishment companies continue to grow and diversify, careful reflection must be made about how incorporating these companies into local criminal justice systems could expand the criminal justice net. This means that policymakers should judiciously consider the

consequences of contracting with private punishment companies and adequately assess their necessity. Does the need for privatized punishment result from a true deficit in the ability to address sanctioning needs? Or is the motivating factor simply to cut costs? Whenever private companies are used to offset the costs and resource demands of criminal sanctioning, criminal justice systems may be inadvertently expanding the criminal justice net and actually costing the state more money in the long run. Even if the expansion of probation services is used to help divert other individuals away from incarceration, the requirements of probation can be onerous and lead to instability in supervised individuals lives. While probation may present a less invasive alternative to incarceration, a full accounting of the harms and costs of increasing probation capacity through privatization must be made. Policymakers may find it less costly in both financial and human capital to increase public funding for court systems in order to avoid the pitfalls of private involvement. If jurisdictions do choose to contract with private companies, these contracts should clearly define the expected practices of probation services and allow for the easy reduction or termination of private services in order to make these services congruent with changes in laws and criminal justice needs.

The modern wave of correctional privatization has attracted increased scholarly and political attention, but a historical perspective reveals the influences that private actors have always had in the criminal justice system. In fact, scholars have argued that private entrepreneurs have been at the heart of the development of some of the biggest changes in penal capacity throughout history, including the development of the penitentiary, convict labor systems, juvenile facilities, and immigration detention centers. The “primary goal” of private punishment companies is to do exactly that- to offer new and increasing punishment alternatives that are available to the state (Blackmon 2009; Feeley 1997, 2002) . These developments have always

raised concerns over private involvement in the legal system and a philosophical discussion about the state's primary role in the punishment of its citizens. It is essential to maintain these discussions in the face of current privatization efforts and attempt to understand the effect of privatization given the modern confluence of punitive attitudes, fiscal austerity, and political tension. A thorough examination of the ways in which privatized punishment impacts the use of punishment itself is essential to outlining the full impact of these public-private correctional partnerships.

## References

- Albin-Lackey, Chris. 2014. *Profiting from Probation: America's Offender-Funded Probation Industry*. New York, New York: Human Rights Watch.
- Alexander, Michele. 2010. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York, NY: The New Press.
- Allison, Paul. 2009. *Fixed Effects Regression Models*. Thousand Oaks, CA: Sage Publications.
- Beckett, Katherine, and Theodore Sasson. 2003. *The Politics of Injustice: Crime and Punishment in America*. Thousand Oaks, CA: Sage Publications.
- Bellacicco, Sarah Dolisca. 2013. "Safe Haven No Longer: The Role of Georgia Courts and Private Probation Companies in Sustaining a De Facto Debtors' Prison System." *Georgia Law Review* 48:227–68.
- Blackmon, Douglas. 2009. *Slavery by Another Name: The Re-Enslavement of Black Americans from the Civil War to World War II*. New York, NY: Anchor Books.
- Blomberg, Thomas, William Bales, and Karen Reed. 1993. "Intermediate Punishment: Redistributing or Extending Social Control?" *Crime, Law and Social Change* 19:187–201.
- Blomberg, Thomas G. 1983. "Diversion's Disparate Results and Unresolved Questions: An Integrative Evaluation Perspective." *Journal of Research in Crime and Delinquency* 20(1):24–38.
- Burkhardt, Brett, and Brian Connor. 2016. "Durkheim, Punishment, and Prison Privatization." *Social Currents* 3(1):84–99.
- Cohen, Stanley. 1985. *Visions of Social Control: Crime, Punishment and Classification*. Cambridge, MA: Polity Press Cambridge.
- Council, National Research. 2014. *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. edited by J. Travis, B. Western, and T. Redburn. Washington D.C.: The National Academies Press.
- DeMichele, Matthew. 2014. "Studying the Community Corrections Field: Applying Neo-Institutional Theories to a Hidden Element of Mass Social Control." *Theoretical Criminology* 18(4):546–64.
- Doherty, Fiona. 2016. "Obey All Laws and Be Good: Probation and the Meaning of Recidivism." *The Georgetown Law Journal* 104(2):291–354.
- Durnescu, Ioan. 2011. "Pains of Probation: Effective Practice and Human Rights." *International Journal of Offender Therapy and Comparative Criminology* 55(4):530–45.

- Eisen, Lauren-Brooke. 2018. *Inside Private Prisons: An American Dilemma in the Age of Mass Incarceration*. New York, NY: Columbia University Press.
- Feeley, Malcolm. 1997. "The Privatization of Prisons in Historical Perspective." in *The Philosophy and Practice of Corrections*, edited by M. McShane and F. Williams.
- Feeley, Malcolm. 2002. "Entrepreneurs of Punishment: The Legacy of Privatization." *Punishment & Society* 4(3):321–44.
- Feldmeyer, Ben, and Jeffery T. Ulmer. 2011. "Racial/Ethnic Threat and Federal Sentencing." *Journal of Research in Crime and Delinquency* 48(2):238–70.
- Garland, David. 1990. *Punishment and Modern Society*. Chicago, IL: University Of Chicago Press.
- Garland, David. 2001a. "Introduction: The Meaning of Mass Imprisonment." in *Mass Imprisonment: Social Causes and Consequences*. London, England: Sage Publications.
- Garland, David. 2001b. *The Culture of Control: Crime and Social Order in Contemporary Society*. Vol. 367. Oxford: Oxford University Press.
- Garland, David. 2018. "Theoretical Advances and Problems in the Sociology of Punishment." *Punishment & Society* 20(1):8–33.
- Gowan, Teresa, and Sarah Whetstone. 2012. "Making the Criminal Addict: Subjectivity and Social Control in a Strong-Arm Rehab." *Punishment & Society* 14:69–93.
- Harding, Richard, John Rynne, and Lisa Thomsen. 2019. "History of Privatized Corrections." *Criminology & Public Policy* 18:241–67.
- Harris, Alexes, Heather Evans, and Katherine Beckett. 2010. "Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States." *American Journal of Sociology* 115(6):1753–99.
- Harris, Alexes, Tyler Smith, and Emmi Obara. 2019. "Justice "cost Points:" Examination of Privatization within Public Systems of Justice." *Criminology & Public Policy* 18(2):343–59.
- Hasenfeld, Yeheskel. 1985. "The Juvenile Court as a People-Processing Organization: A Political Economy Perspective." *American Journal of Sociology* 90(4):801–24.
- Hoogland, Ruth, and Lana Stein. 1999. "Municipal Contracting in the 1980s: Tinkering or Reinventing Government." in *Contracting Out Government Services*. Westport, CT: Praeger Publishers.
- Jones, Richard. 2014. "The Electronic Monitoring of Offenders: Penal Moderation or Penal Excess?" *Crime, Law and Social Change* 62(4):475–88.

- Khey, David N. 2015. "Privatization of Prison." in *The Encyclopedia of Crime and Punishment*. American Cancer Society.
- Kohler-Hausmann, Issa. 2018. *Misdemeanorland: Criminal Courts and Social Control in an Age of Broken Windows Policing*. Princeton University Press.
- Latessa, Edward, and Lori Lovins. 2019. "Privatization of Community Corrections." *Criminology & Public Policy* 18:323–41.
- Lie, John. 1996. "Sociology of Markets." *Annual Review of Sociology* 23:341–60.
- Lilly, J. Robert, and Mathieu Deflem. 1996. "Profit and Penalty: An Analysis of the Corrections-Commercial Complex." *Crime & Delinquency* 42(1):3–20.
- Lindsey, Andrea, Daniel Mears, and Joshua Cochran. 2016. "The Privatization Debate: A Conceptual Framework for Improving (Public and Private) Corrections." *Journal of Contemporary Criminal Justice* 32(4):308–27.
- Montes, Andrea, and Daniel Mears. 2019. "Privatized Corrections in the 21st Century." *Criminology & Public Policy* 18:217–39.
- Phelps, Michelle. 2013. "The Paradox of Probation: Community Supervision in the Age of Mass Incarceration." *Law Policy* 35(1–2):51–80.
- Phelps, Michelle. 2017. "Mass Probation: Toward a More Robust Theory of State Variation in Punishment." *Punishment & Society* 19(1):53–73.
- Phelps, Michelle S., and Caitlin Curry. 2017. "Supervision in the Community: Probation and Parole." *Oxford Research Encyclopedia of Criminology and Criminal Justice* Oxford Research Encyclopedias.
- Phillips, Julie A. 2006. "Explaining Discrepant Findings in Cross-Sectional and Longitudinal Analyses: An Application to U.S. Homicide Rates." *Social Science Research* 35(4):948–74.
- Pontell, Henry. 1984. *The Capacity to Punish: The Ecology of Crime and Punishment*. Bloomington, IN: Indiana University Press.
- Schloss, Christine, and Leanne Alarid. 2007. "Standards in the Privatization of Probation Services: A Statutory Analysis." *Criminal Justice Review* 32(3):233–45.
- Seidenstat, Paul, ed. 1999. *Contracting Out Government Services*. Westport, CT: Praeger Publishers.
- Shichor, David. 1999. "Privatizing Correctional Institutions: An Organizational Perspective." *The Prison Journal* 79(2):226–49.

- Steffensmeier, Darrell, Noah Painter-Davis, and Jeffery Ulmer. 2017. "Intersectionality of Race, Ethnicity, Gender, and Age on Criminal Punishment." *Sociological Perspectives* 60(4):810–33.
- Stemen, Don, and Andres F. Rengifo. 2009. "Mandating Treatment for Drug Possessors: The Impact of Senate Bill 123 on the Criminal Justice System in Kansas." *Journal of Criminal Justice* 37(3):296–304.
- Sterling, Joyce S., and Wilbert E. Moore. 1987. "Weber's Analysis of Legal Rationalization: A Critique and Constructive Modification." *Sociological Forum* 2(1):67–89.
- Sutton, John R. 2013. "Structural Bias in the Sentencing of Felony Defendants." *Social Science Research* 42(5):1207–21.
- Teague, Michael. 2011. "Probation in America: Armed, Private and Unaffordable?" *Probation Journal* 58(4):317–32.
- Tonry, Michael, and Mary Lynch. 1996. "Intermediate Sanctions." *Crime and Justice* 20:99–144.
- Wacquant, Loïc. 2009. *Punishing the Poor: The Neoliberal Governance of Social Insecurity*. Durham, NC: Duke University Press.
- Wakefield, Sara, and Christopher Uggen. 2010. "Incarceration and Stratification." *Annual Review of Sociology* 36:387–406.
- Weber, Max. 1978. *Economy and Society: An Outline of Interpretive Sociology*. Berkeley, CA: University of California Press.
- Western, Bruce. 2006. *Punishment and Inequality in America*. New York, NY: Russell Sage Foundation.