



Classifying Prisoner Returns: Problems and Potential Solutions

Draft

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Contents

1.	Introduction	1
2.	Background.....	2
2.1	Estimating the Number and Types of Prison Returns	2
2.2	First Returns versus Repeat Returns.....	3
2.3	Complications Due to Heterogeneity in Jurisdiction Sentencing and Supervision Structures.....	4
2.4	Community Supervision Sanctioning Policies	5
2.5	The Impact of Types of Community Supervision on the Probability of Returns That Includes Unconditional Releases.....	5
2.6	Community Supervision Intensity	6
2.7	Alternative Policies to Enhance Offender Reintegration.....	7
3.	What Do We Want to Learn from Prison Returns?	7
4.	The Revocation Process	8
5.	Returning to Prison: A Schematic	12
6.	Problems in Interpreting Administrative NCRP Records.....	13
6.1	Revocation and Admission Sequences – Messy Processes, Coding Conundrums	14
6.2	What Does a PCCS Release Date Mean?	17
6.3	States with Combined Prison Jail Systems and Decision Rules for Prison Admission in States Having Separate Systems	18
6.4	Revocations in Lieu of Prosecutions and Time-Served.....	18
6.5	The Length of Post-Confinement Community Supervision	19
6.6	Determinate and Indeterminate Sentencing States	19
6.7	Are IT Systems Up to the Task?.....	20
6.8	Summary.....	20
7.	Empirical Observations	21
8.	Parole Revocations in California – The Research of Grattet, Lin, and Petersilia.....	23
9.	Hierarchy of Return Definitions?	24
10.	Summary	29
	References	31

1. Introduction

There is a large criminal justice literature emphasizing policy choices that can improve offender re-integration back into the community (see especially Mears and Cochran, 2015; Petersilia, 2003; Travis, 2005; Travis and Visher, 2005). An important dimension of this scholarship focuses on the types of returns to prison, addressing two fundamental questions. Are prisoner returns a result of a new court commitment after community supervision has expired? Are returns during the supervision term triggered by a new crime or technical violation? Addressing these questions has implications for policy choices states make. Among those policy decisions are those governing the classification and supervision of released prisoners, those determining the rehabilitation services provided both in prison and in the community, and those guiding the revocation or continuance of an offender's community supervision.

Classifying the type of return also has implications for assessing prisoner time-served. We would expect revocation terms within a specific offense category to be much shorter than a prison term for a new court commitment. So estimates of time-served should distinguish return types, in addition to offense. Using this logic, we use time-served as a diagnostic demonstrating misclassification of returns for revocations versus returns for new convictions. Although administrative databases often contain variables that are supposed to distinguish between types of prisoner returns, we first argue why this process is fraught with ambiguity. We then provide empirical results demonstrating what we believe to be administrative coding errors of prisoner returns. The processes involving the decision to prosecute, to revoke, or to continue community supervision make it a challenge to disentangle the causes of prison returns, make cross-jurisdictional comparisons suspect, and complicate estimation of differences in time-served between the terms based on the new court commitments and revocations.

Administrative databases are often not designed to assess such complex processes. In this paper, we discuss the many nuances that make recording these processes difficult. As an interim solution, we propose a hierarchy of definitions that can be ranked along two dimensions: precision and inclusiveness. By precision, we mean that the return type can distinguish among many return events that inform both analysis and policy intervention or nominally lump together those events. By inclusiveness, we mean the definition will have the same meaning, despite potential legislative and policy changes that occur over time and across jurisdictions. The most rudimentary of these definitions, categorizing a return based solely on the length of time that someone has spent in the community prior to their prison return, is the least precise and most inclusive. However, depending on the goals of the analysis and the policies being evaluated, it may be the one measure that is consistent across jurisdictions and time. Our hierarchy of definitions is based on the analyst's confidence in the codes found in the administrative databases. We admit there are some limitations to categorizing a prison return solely on the time spent in the community. However, we argue that using this alternative definition, especially in states with ambiguous admission and release codes, is particularly useful in specific evaluation circumstances. It is also useful when comparing prison returns across jurisdictions or within jurisdictions when those jurisdictions have disparate definitions of prison returns. Since we believe that many administrative databases cannot be used to reliably distinguish between new court commitments and revocations, or revocations based on technical violations versus revocations for a new arrest, criminologists and policy analysts will not be misled by data purporting to represent these differences, if instead, they use the alternatives we propose. We apply these principles to the National Corrections Reporting Program (NCRP), a Bureau of Justice Statistics

(BJS) sponsored administrative database that encompasses individual records of prisoner and post-release community supervision terms. NCRP is the largest and most comprehensive compilation of these types of records in the United States.

This paper was originally motivated by an inquiry into time-served by offense and return type. As we probed the NCRP on prisoner returns, we were puzzled by inconsistencies in individual records and inconsistencies in reporting across states. This led us to more closely investigate both the revocation process and the factors that thwart a comprehensive depiction of the sequence of events, starting with release from prison and culminating in a revocation return as they might appear in administrative data sets. Our primary purpose in this paper is to provoke thought on the complications inherent in the prison return process, and to challenge analysts to be circumspect in how they approach such a nuanced and complicated process. By raising our concerns, we also hope that people would recognize potential limitations in administrative databases that can lead to future improvements.

We first provide background on the importance of prisoner return scholarship. In subsequent sections, we dive into the nature of the revocation process, specify reasons why it is difficult to represent the complexity of the process, highlight research where the prisoner returns could be successfully decomposed, and show empirical results indicating misclassification between types of returns in the national database available to us. We then propose a hierarchical definition of returns. This hierarchy can be used to span the types of information and the veracity of the data that are available, lending varying levels of verisimilitude to the policy questions that can be addressed. In the last section, we briefly summarize our paper.

2. Background

In this section, we emphasize the main empirical and policy themes found in the prison reentry literature that focus on prisoner returns. We review these first, since our argument for a hierarchy of definitions for prisoner returns will, in part, depend on how well it can answer questions scholars have raised about enhancing reentry and minimizing recidivism. At the end of each subsection we highlight in bold the implications the subsection has for prison return measurement.

2.1 Estimating the Number and Types of Prison Returns

Proponents of alternative community supervision policies point to the high proportion of offenders whose prison return occurred while they were under community supervision. For example, Burke and Tonry (2006) and Petersilia (2003) cite many of the same sources (Hughes et al., 2001; Harrison and Beck, 2005; Blumstein and Beck, 2005) demonstrating that a large proportion of returns to prison are offenders under parole or other post custody community supervision (PCCS) authority, and that a large proportion of the PCCS returns are for violations of the term of supervision¹. We adopt the

¹ Most of the sources characterizing types of prisoner returns over time are collected by the Bureau of Justice Statistics such as their parole and probation surveys, the National Prisoner Statistics program and the National Corrections Reporting Program (NCRP). Other than the NCRP, we make no explicit judgements about whether the coding conventions adopted in these data collection series are valid. Our critique focuses on NCRP since the year 2000 when additional data requirements buttressed the ability to verify sequences

PCCS terminology because post-release supervision has evolved to a point where parole is only one of many forms of community supervision once a person is released from prison (Travis, 2005). This definition encompasses parole, mandatory release supervision, and the community component of split sentences.

Burke and Tonry (2006) summarize the research concluding that a little less than half of prisoners returned to prison have committed new crimes, and slightly more than 50 percent were returned for technical violations. A misleading element behind this summarization is that people whose supervision is revoked are often arrested for a new crime; however, in lieu of prosecution, authorities use the supervision revocations process, saving criminal justice resources that would be involved in prosecution, pre-trial detention/supervision, sentencing, and probably longer prison stays. While an unprosecuted arrest may qualify as grounds for a technical violation, we think it is misleading to represent revocation returns as “purely” technical violations, lumping together unprosecuted crimes with failing a drug test, absconding, and missing a parole appointment. As Grattet, Petersilia, and Lin (2008) have shown in their California analysis of parole, many of the unprosecuted arrests can be classified as serious offenses. Grattet et al. (2008) found that most prison returns were associated with a new crime, even if the person is not convicted of that crime that has triggered a new sentence. Using the 2004 BJS national survey of prisoners, Pfaff (2015) found that of the inmates whose parole was revoked 68.3% claimed it was for a new arrest. Since inmates were allowed to self-report more than one reason for the revocation, those who reported other technical violations, such as a failed drug test, could also report a new arrest or offense. Pfaff notes “... revocation for a new offense—arguably the least technical of all violations—is reported by 26% of those who also failed a drug test, 29% of those who also failed to report to a drug test, 31% of those who also failed to report to treatment, 36% of those who also failed to report to other treatment, and so on. Moreover, for over half of those who reported both a new offense violation and a drug test violation, the new offense was something more serious than a drug crime—either a violent or property offense.” (Pfaff, 2015, p. 190) Thus, the premise of many scholars that technical violations are a large proportion of prisoner returns may be technically true; however, this hides the fact that many of the revocation returns are more than benign technical violations.

Burke and Tonry (2006) also cite data that parole violators have been a growing percentage of all admissions to prison and are partly responsible for the rise in mass incarceration. This is yet another reason to be able to decompose the type of prison return. The data referenced in these various sources span the period roughly between 1990 and 2004. **To clarify policy options, analysts must estimate returns while a person is under supervision; however, an important secondary feature of this estimation is to be able to decompose revocation returns based on either purely technical violations, new sentences, or unprosecuted new crimes. This will also be important in calculating whether one or more of these return types is a growing or diminishing component of prison admissions.**

2.2 First Returns versus Repeat Returns

One of the main issues that is often ignored by many scholars studying reentry and returns is whether the offender is being released for the first time or is a repeat return. An exception is the report by Petersilia, Rosenfeld, Bonnie, Crutchfield, Kleiman, Laub, and Visher (2008). In their report they cite the work by Rosenfeld, Wallman, and Fornango (2005), who found that inmates released to

of prison admissions and releases. Recent enhancements to post custody community supervision records also will enhance the veracity of codes found in the prison records.

parole from their first prison sentence have lower recidivism rates than those released from prison for the second, third, or fourth time. Prisoners released for the first time accumulated 18-25 percent fewer arrests during the first 3 years out of prison than those who had been to prison and released at least once before. These estimates controlled for sex, age, race, imprisonment offense, prior arrests, and time-served (Rosenfeld et al., 2005). Consistent with the Rosenfeld et al findings, Rhodes, Gaes, Luallen, Kling, Rich, and Shively (2014) showed that most offenders do not return to prison when you take into account that release cohorts are over-weighted with high risk repeat recidivists. Tonry (2004) has argued that understanding the differences in risk posed by first-time and repeat recidivists offenders will allow reentry and community supervision programs to be tailored to these distinct groups of clients. This distinction between repeat and non-repeat offenders is also implicated in program evaluation research designed to reduce recidivism. Repeat offenders will probably respond differently to prison and community interventions than first-time offenders released to the community. **So any measure of return should be able to distinguish between the first-time and repeat offenders.**

2.3 Complications Due to Heterogeneity in Jurisdiction Sentencing and Supervision Structures

Contemporaneous with the period in which scholars point to a growth in supervision violation admissions (Burke and Tonry, 2006) was the diminishing use of discretionary release sentences (Piehl and LoBuglio, 2005; Solomon, Kachnowski, and Bhati, 2005; Stemen and Rengifo, 2012). This evolution has been particularly well-documented by Stemen and Rengifo (2012). Through the mid-1970s, all 50 states and the federal system had discretionary release structures called indeterminate sentences. Parole agencies had the authority to release even though their decisions were circumscribed by statutory limitations, such as a minimum and maximum time-served. From the mid-1970's to 2012, 19 states enacted what Stemen and Rengifo call determinate release statutes—the release date is set by the sentencing judge, and only prison good time accrual can alter the release date. However, two of those states have reinstated discretionary release for all offenses, and one state reinstated discretionary release for first-time, non-violent offenses. There are also five “mixed” states where some offenses are subject to determinate release and others to discretionary release. In two of those five states, the judge decides whether the sentence should be determinate or indeterminate.

While many states have adopted determinate release, many others still maintain a term of post release supervision. In the federal sentencing system for example, under changes enacted in 1987 as a result of the Sentencing Reform Act of 1984, the Federal Sentencing Guidelines specify both a determinate sentence for imprisonment and a separate sentence for post-release supervision. California uses parole supervision for every offender, regardless of whether or not their release is discretionary (Grattet, Petersilia, and Lin, 2008). The changes to sentencing structure and release policy in many states mean that a PCCS return may involve different processes among jurisdictions in the decision to revoke or continue community supervision. It also means that different branches of government and different agencies are involved in the supervision of offenders under community supervision. Piehl and LoBuglio show (2005, Table 5.2, pp.116-118) that most states oversee parole through the Executive branch of government –Oregon and Pennsylvania are exceptions where parole is regulated by the Judiciary. The majority of states oversee probation through the Executive branch; however, the Judiciary has oversight in a third of all states. This is important for prison releases since there are many instances of offenders serving a post-prison sentence of probation, the so-called split sentence.

Complicating this diorama of supervision structure is the fact that states also vary in whether the parole or probation agencies function as local (county) or state agencies.

Piehl and LoBuglio also document the role probation services have in prison post-release supervision. In 2002, 9 percent of the four million people on probation were post incarceration clients (Glaze, 2002). These offenders received split sentences imposed by judges. In some jurisdictions, the community supervision of split sentences falls under the auspices of probation. In other jurisdictions, it is controlled by the Executive branch of government. In essence, split sentences are another form of mandatory release. The convolution in terminology and the variety of agencies responsible for supervision, as well as a myriad of supervision policies and practices, makes post-release supervision a difficult terrain to represent. Piehl and LoBuglio also show that in some jurisdictions, offenders may receive post-release supervision from more than one agency. **For our purposes, any scholar interested in evaluating the differences in release structure or the impact of the type of supervision agency on returns, will require a measure of return in addition to knowledge about the type of PCCS supervision and the agency involved.**

2.4 Community Supervision Sanctioning Policies

Knowing the type of prison release and return paths informs the policy choices to promote public safety. Piehl and LoBuglio (2005) discuss these policy choices. Sanctioning technical supervision violations by revoking community supervision may promote public safety, if those violations are a signal that the person will commit crimes. However, community supervision agents who have rehabilitation resources may also refer the violators to services in the community. In some jurisdictions, intermediate sanctions can be used, such as placing a violator under stricter supervision by using an electronic monitor or employing a stricter reporting regime such as electronic monitoring. These alternate supervision choices can be used even when an arrest has occurred and the prosecutor declines to pursue formal criminal charges. The choices that supervision agents make may be proscribed as much by their community rehabilitation resources as they are by the rules governing violations. While there appears to be a movement away from a social service model of community supervision (Lynch and Sabol, 2001; Petersilia, 2003), scholars argue that supervision and support should be viewed as complementary (Piehl and LoBuglio, 2005; Solomon, Kachnowski, and Bhati, 2005). Supervision agents can use threats of stricter supervision or revocation to promote compliance with community treatments and services. In turn, those services reinforce prosocial values and embed the offender into prosocial institutions. **Investigation into the effect of sanctioning PCCS violations does require a measure of returns that distinguishes technical violations versus new crimes. It also requires a very sophisticated design and analysis to show whether the sanctioning of the violation, either by increased supervision in the community or return to a prison or jail, has any effect on subsequent criminal behavior.**

2.5 The Impact of Types of Community Supervision on the Probability of Returns That Includes Unconditional Releases

Prisoner reentry and supervision in the United States has a landscape of many contours. In addition to discretionary and non-discretionary release – typically referred to as mandatory release in the literature– offenders are also released unconditionally without supervision. These are sentenced offenders who have reached the end of their sentence. Hughes, Wilson, and Beck (2001) show that in

the period 1980 to 2000, discretionary releases declined, and mandatory and unconditional releases increased.

“Does supervision matter?” We borrow this interrogatory from a chapter with the same title by Piehl and LoBuglio (2005). It is a serious question and one that has not yet been addressed by a great deal of research. A corollary is of course do different types of supervision matter? In the context of this paper, we pose the problem as whether types of supervision matter with regard to the types of prison returns. If the administrative databases were up to the task, we might inquire and productively evaluate whether types of supervision release had an impact on returns for new convictions or violation returns. We would also have to generate counterfactuals from people who were not supervised. Solomon, Kachnowski, and Bhati(2005) examined this question using data gathered for a BJS recidivism study and used re-arrest rather than returns as the outcome. After controlling for a host of variables, they found a small reduction in re-arrests for people whose release was discretionary, relative to people whose release was mandatory or whose release was unconditional (no community supervision). They also acknowledged that the small impact of re-arrest on the discretionary release group could have been due to factors unaccounted for in their data. Discretionary released individuals are screened on a host of factors that may not be measured in the data they used. While this research examined types of supervision, it did not directly address the issue of returns due to revocations versus returns for new convictions. Prison return types depend on offender behavior (criminal and non-criminal) and the criminal justice response. **Evaluating the impact of type of supervision, discretionary, mandatory, or no supervision on returns will require knowledge about the release type and the dates of entry and exit from supervision, in addition to an operational definition of a return. Even the Solomon, Kachnowski, and Bhati (2005) study only had knowledge of the release type but did not have entry and exit dates to confirm whether someone was still under supervision at the time of their arrest.**

2.6 Community Supervision Intensity

There have been a number of studies examining the intensity of supervision on prison returns. Turner, Petersilia, and Deschenes (1992) conducted a randomized trial of drug offenders showing higher recidivism for intensive as opposed to regular supervision. Petersilia and Turner conducted a randomized experiment of intensive supervision in 14 sites across 9 states. Intensive supervision offenders were much more likely to be technically violated than the controls (65% versus 38%) and were more likely to be returned to prison. As Piehl and LoBuglio argue, there are two ways to interpret the intensive supervision results. Either increased supervision elevated misbehavior or criminality, or it enhanced surveillance and detection of that behavior. Grattet, Lin, and Petersilia (2011) found that more intensive supervision elevated the probability of a violation, controlling for offender risk, and that parole agent characteristics, as well as regional characteristics, influenced the likelihood of violation. In a follow-up to that study, Grattet and Lin (2014) decomposed the violation returns into 5 categories: absconding, other technical violations, drug use and possession, violent offenses, and sexual offenses. They considered the first three to be minor offenses and the latter two major offense types. Using a competing risks analysis, they found intensity of supervision increased the probability of an absconding violation, and that it had no effect on other technical violations, or drug, violent, or sexual offenses. Offenders with a prior sex offense who were intensively supervised had a higher rate of technical and violent offense violations. The Piehl and LoBuglio criticism may also apply to these latter evaluations. Are people being revoked because the behavior increases under

intensive supervision or because the increased surveillance elevates the probability of capturing the misbehavior? For the purposes of this paper, we focus less on the substantive findings than on the requirements for answering the questions. **To conduct an analysis of returns requires unambiguous data on the type of return and the type of supervision. The data cited in this section came from specialized and well-funded research studies, and when administrative databases were used, they were supplemented with additional data or were combined with other sources of administrative data.**

2.7 Alternative Policies to Enhance Offender Reintegration

Criminologists as advocates promote strategies to reduce revocation returns that are either enhancements to current systems or dramatic changes to both policy and structure. Burke and Tonry (2006) argue that parole is the key link to successful re-entry, but that parole boards and parole supervision authorities have been under-funded, eviscerating their ability to promote reintegration. Burke and Tonry (2006), Petersilia (2003), and Travis (2005), among others, argue for changes to policy to promote successful integration. Their recommendations include: using actuarial methods for assessing risk, devoting the most resources to the most risky; employing evidence-based rehabilitation programs during incarceration and continuing those programs into the community the continuity of care paradigm; treating recidivism as a relapse rather than adopting a zero tolerance for supervision violations; and adopting reentry courts, allowing a judge to use graduated sanctions and replacing the authority of the parole authority with the judicial system. The latter is a sea change advocated by Travis (2005) in the structure of post-release administration. **To study these proposed changes would require a sophisticated design that compares a policy change to a control or counterfactual group and a nuanced measure of prisoner return.**

3. What Do We Want to Learn from Prison Returns?

Although our review in Section I was not intended to be exhaustive, this background section highlights that the scholarly exegesis of reentry that focuses on decreasing prison returns depends on new strategies and enhanced resources, while people are on post-release community supervision.² A key element to any evaluation of policy changes to enhance reentry is to first get good estimates of the types of prison returns. There are few administrative databases up to the task. We review one system of records that was (Grattet, Petersilia, and Lin, 2008); however, as we demonstrate in this paper, many administrative databases do not have sufficient information allowing analysts to decompose the prison returns into neat and unambiguous categories.

As we noted in the background section, criminologists and advocates of policy changes to reentry want to improve offender reintegration. Many scholars want to reduce returns that occur under supervision and limit supervision to the most risky and serious offenders. Prison is a costly resource,

² There is a large literature on the role of imprisonment in the desistance process such as the chapter by Maruna and Toch (2005). We sidestep this literature because it is not germane to the primary focus of this article, which is on minimizing error in estimating prisoner returns.

and public policy requires rational prison use. Rational prison use is a subject of intense debate, but an ingredient of that debate is whether an offender who commits a violation of PCCS should be returned to prison or perhaps should be continued in the community under increased surveillance or with additional services, each of which is much less costly than prison. In theory, the NCRP and similar administrative data answer questions germane to the reintegration literature. Based on the review of the reentry literature in Section I, we list some of the essential questions and their corollaries that can be addressed with prison returns.

- Does post-prison community supervision enhance public safety by lowering prisoner returns?
 - Does the level of supervision matter?
 - Are there other important individual³, community, and organizational factors affecting the rate of returns? What is the effect of the length of supervision on types of returns?
 - Does the type of release (discretionary, mandatory, or unconditional) matter?
- Are offenders returned for a PCCS violation or a new court commitment?
 - Does a technical violation preclude a more serious offense or crime?
- What is the time-served on the original commitment versus the first technical violation return?
- What is the total time-served for the original commitment and all subsequent technical violation returns?

It would be useful to produce national estimates of answers to these questions. From the perspective of individual states, it would be useful to know how answers to these questions changed over time within a state, and perhaps to be able to compare one state with another. These are important questions because society, through its legislators and corrections officials, exercises control over time-served for original terms, and over the harshness or leniency of revocation policies that determine who gets revoked and who remains under community supervision. That control is best exercised by not only studying variations in policy and practice, but also by raising the questions of definition and measurement is implicit in the questions. While these questions are answerable in theory, answering them in practice is difficult. The following sections identify the problems.

4. The Revocation Process

Some of the ambiguity in interpreting prisoner returns derives from the complexity of the revocation process. Figures 1 and 2 are illustrations based on the revocation process in North Carolina. Figure 1 shows the flow of events for a revocation based on a new crime. Figure 2 shows the flow of events for a revocation based on only a technical violation. The diagrams show the event sequence, hearings that occur during the revocation process, and the likely place of confinement during each event period. While the time delays between events, the people responsible for the administrative hearings, the places of confinement, the rules that govern revocation policy, and the revocation sanctions may

³ Individual factors imply heterogeneity in the treatment effects of post-release supervision.

vary from state to state, the diagram conveys the essential components of the flow of events across states.

The figures show that due process requires preliminary and final revocation hearings. Most offenders waive their rights to preliminary hearings when a pending revocation is based on allegations of a new crime because this will shorten their prison stay (see Figure 2). One of the many important takeaways from these diagrams is that when there is an allegation of a new crime, depending on the offense, and depending on the offender's willingness to waive preliminary hearings, either a concurrent or consecutive sentence revocation term will be added to any new term. We return to the importance of this distinction later on in the paper.

Figure 1. Revocation for Crimes Committed during Post Confinement Community Supervision, North Carolina

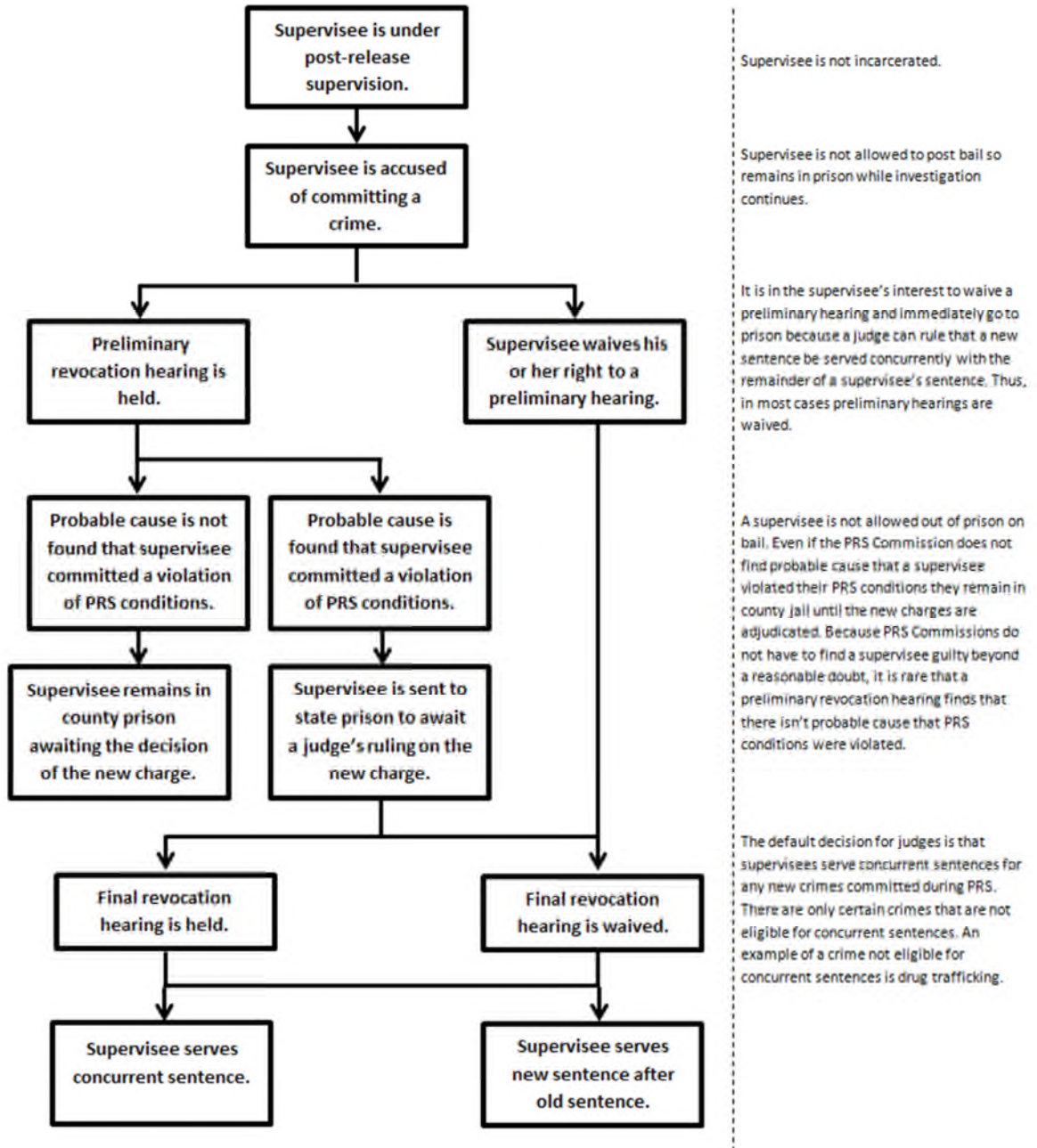
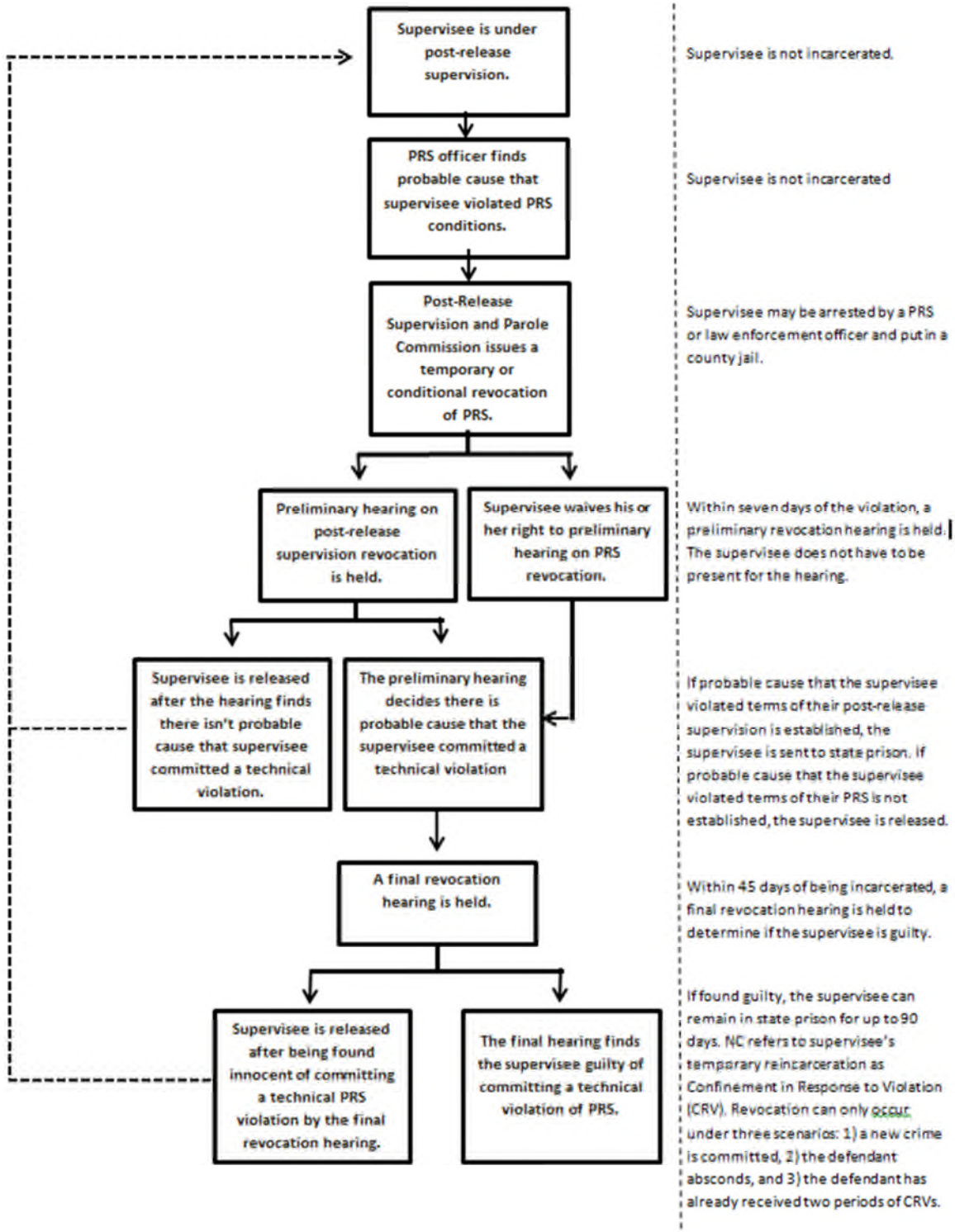


Figure 2. Revocation for a Technical Violation during Post Confinement Community Supervision, North Carolina

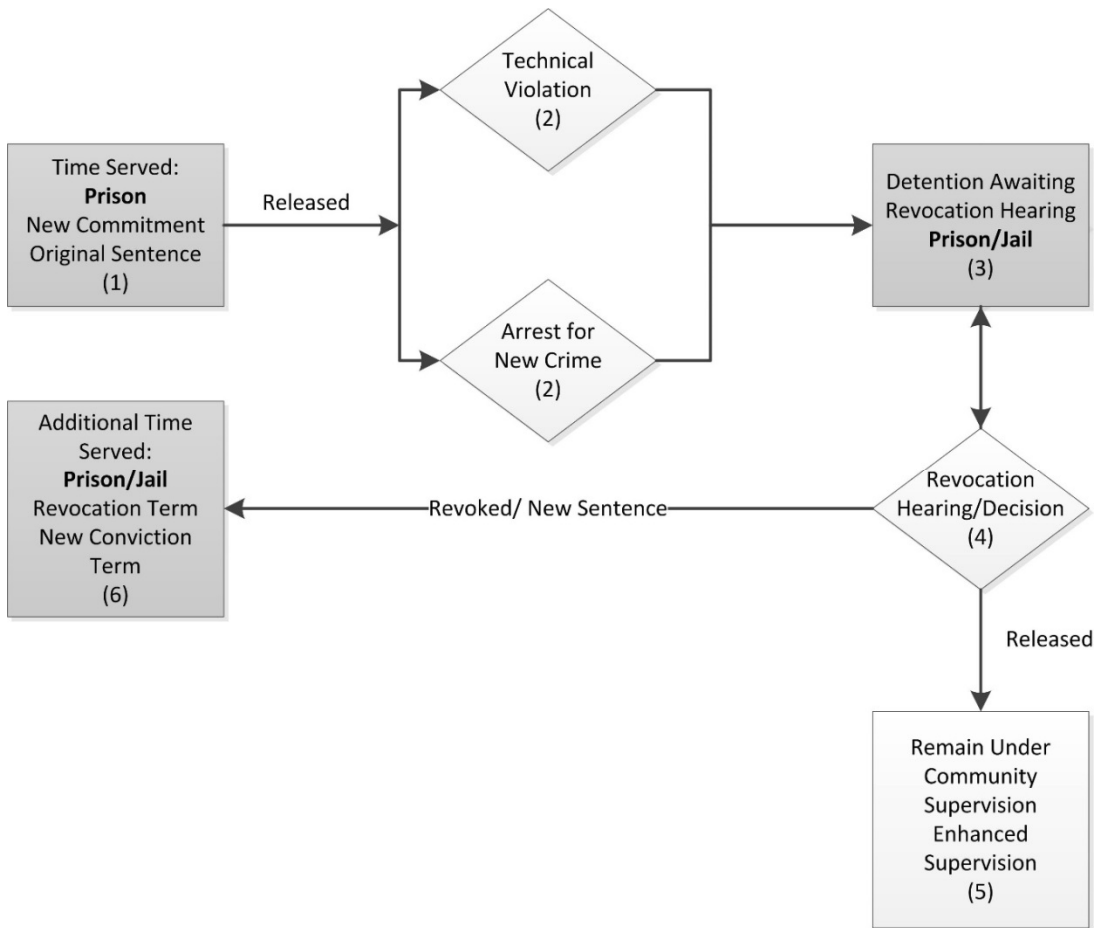


5. Returning to Prison: A Schematic

Figures 1 and 2 focus on the administrative and legal processes involved in a revocation. To make sense of the ambiguities inherent in this process, Figure 3 shows an idealized version of the criminal justice processing. The figure distinguishes between supervision violations and crimes committed after release from prison. Block (1) indicates that an offender has been sentenced for a crime, has completed at least part of the prison term, and has been released. We have called this the originating crime. The triangles (2) presume that a community corrections officer has detected misconduct, either a new crime or a technical violation of the conditions governing community supervision. If a new crime has occurred, the offender is detained pending a revocation hearing (3). As a result of the revocation hearing (4), the offender might be released (5), or the offender might be returned to prison to serve additional time (6). If a new crime led to a conviction, then the return would be based on a new conviction; however, a conviction may also trigger a violation of the prior crime so that the offender is serving both a new commitment and a violation term concurrently or consecutively.

There are variations in the sequence of events represented in Figure 3. In some jurisdictions, a person may be allowed to remain in the community during the supervision revocation process. In other jurisdictions, rather than send someone back to prison or jail to await their revocation hearing, offenders are sent “halfway back.” These offenders either spend a short term or serve their revocation terms in a halfway house. The purpose of Figure 3 is to represent the most prevalent scenario across the states. In Figure 3, the heavily shaded blocks – (1), (3) and (6) – identify times when an offender might be observed in prison administrative records, and for our purposes, observed in NCRP prison term records. The problem is to examine the NCRP records and classify those records as belonging to (1), (3) or (6), and if (6), to determine if the sequence corresponds to a revocation or a new conviction. In the next section, we demonstrate the reasons why it is often difficult to accurately classify the different scenarios.

Figure 3. The Flow of Release and Revocation Decisions for Offenders under Post-Confinement Community Supervision.



6. Problems in Interpreting Administrative NCRP Records

Several problems complicate the interpretation of NCRP records as well as other administrative databases that record types of prison/PCCS admissions and releases. NCRP as well as all administrative databases have to adopt conventions for coding. The NCRP manual instructs the users to code one of more than 20 prison admission categories, a similar number of prison releases categories and sundry codes for admissions and releases to PCCS. NCRP requires that contributing states conform their coding conventions to a uniform set of NCRP conventions. NCRP prison admissions codes can be sorted into the following: court commitments while the person is not under PCCS supervision; supervised release revocations assuming the revocation process has been completed; returns of people who were under supervision where the revocation process is pending; probation revocations, both probation and post-prison supervision technical violations, and other admissions that includes escape returns, transfers, and unknowns. The intention of this coding scheme is to separate court commitments on new sentences when a person is **not** under supervision from crimes while the offender is under supervision. NCRP also instructs the users to distinguish types of revocations, those based on a technical violation and those based on a new sentence. However, NCRP

does not require the contributor to code differences in revocations that might be distinguishable as purely technical violations (absconding, missing curfews, failure to report for a drug test) as opposed to unprosecuted new crimes. This last distinction is an important one. Technical violations composed of misconduct that are not ordinary crimes are quite distinct from criminal behavior. The former are set by the supervision authorities and often add constraints on behavior that free citizens are not encumbered by.

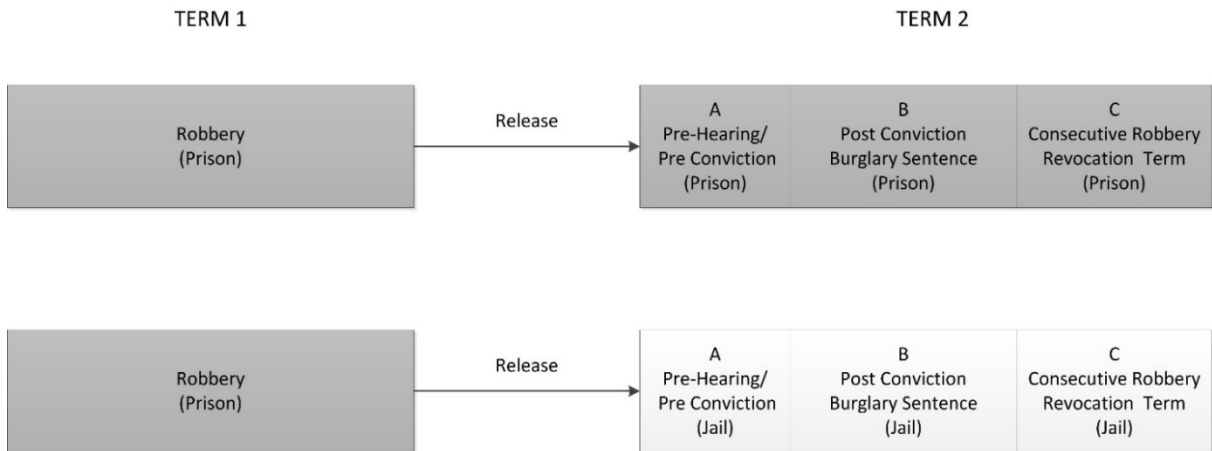
We review why this coding convention is not only difficult to apply, but also why the revocation process itself confounds our understanding of prison return types and makes return offense classification ambiguous. We also show that there are jurisdictional differences that confound interstate comparisons.

6.1 Revocation and Admission Sequences – Messy Processes, Coding Conundrums

The sequence of events in the revocation process contributes to difficulties in classifying prison admissions. This problem is best explained with an example. The offender completes his or her sentence following conviction for a robbery, and while on post-conviction community supervision (PCCS), the offender commits a burglary. Community supervision is revoked and the person is returned to prison or jail pending completion of the revocation process. He/she is subsequently convicted for the burglary, is sentenced for that new crime, and begins that new term while already in custody following the revocation. According to the NCRP coding rules, persons readmitted to prison should have both the original crime(s) in addition to any new crime(s) recorded on the admission record. So in our example there should be both a burglary and a robbery offense. NCRP instructions also use the offense with the longest associated sentence to categorize the prison term. In our example, the original robbery will probably have the longer sentence. However, the person is really serving an aggregate prison sentence. This not only confounds the classification of the offense, robbery versus burglary, but leads to ambiguity in time-served estimation. From the perspective of the NCRP, the offender enters prison following a robbery revocation, but he/she is serving a combined robbery/burglary sentence and the length of time-served on this new term is partly or mostly attributable to the new crime, burglary.

Binnall (2012) notes that in most jurisdictions, when a new crime has been committed while the person is under supervision, authorities will delay the revocation hearing until the resolution of the disposition of the arrest for a new crime. Binnall also claims that most offenders who have been convicted of a new crime, while under post-confinement community supervision that results in a prison sentence, will also receive either a concurrent or consecutive “violation” term for the supervision violation. Since both of these events occur after a person has been detained, if the person has been returned to prison during this criminal justice processing, at the time of the admission, the only legitimate admission status is admission pending the results of a revocation hearing. NCRP allows for this, but in most jurisdictions, the code is rarely used. We find this rather suspicious since many jurisdictions return a sizable number of people to prison during the revocation process. The only reasonable NCRP admission code is that the revocation occurs but there is no information on the reason for the return. However, the status will change over time, and the ultimate disposition will depend on the court ruling and the disposition of the revocation hearings. All of these events can occur during a continuous term of imprisonment. Figure 4 depicts these events adding nuances.

Figure 4. Time-served components of re-commitment and revocation terms



The top and bottom halves of Figure 4 represent the same events distinguishing whether the revocation process and revocation term is served in prison or jail. The lengths of the boxes represent time-served to convey a prison revocation term as a concatenation of component terms. The grey-scaled boxes represent time spent in prison, and the white boxes, time spent in jail. Term 1 is the original new commitment for a robbery. Term 2 has three components all representing a portion of time-served for the second term. Suppose the person was released after serving time for the robbery, and then was returned to prison following the burglary arrest – event A. During this second stay, up to the point of the conviction for a burglary, the person might be assumed to be in prison for a robbery in the top half of the figure, or jail in the bottom half, and if a conviction occurs this time, it will be credited to the burglary term and probably any revocation term. After the conviction, the person is serving time for a burglary – event B. If there is a consecutive revocation term, then the person is spending time in prison for a robbery again – event C. If the revocation is concurrent, the person is spending time in prison for both robbery and burglary following the conviction for the burglary. As we noted based on the North Carolina revocation process, the type of crime for a new conviction determines whether the revocation portion of time-served on the originating crime (robbery) will be served concurrently or consecutively to the new conviction crime (burglary). There will certainly be state-to-state variation in crimes that trigger a concurrent or consecutive sentence.

Since the NCRP only requires the submitting states to record physical admissions and releases, this change in the status of the offender during the entire prison stay for the second term, represented in the upper half of the figure, will be lost. We also assume, in most administrative databases the sequence described in Figure 4 is difficult to disentangle. In fact, logically this sequence is hard to categorize as other than some type of aggregate term. Secondly, in the bottom half of the figure, for the majority of states that have separate prison and jail systems, none of the time-served for the second term would be recorded in NCRP (or any state administrative prison system of records) because the time is spent in a jail. If all of the revocation process were served in a jail, there would be no prison admission entry, and the revocation itself would be lost from the data series. To make this more complicated, any one of the components of time-served for events A, B, or C might be served in a prison or a jail. In California, for example, prior to the Realignment Act, a person could be held in either a jail or a state prison (reception center) during the revocation process. After the Realignment Act, a revocation could only be served in a jail (Grattet, 2015, personal communication). Pennsylvania has one of the most complicated systems of parole authority having separate state and

local parole jurisdictions and parole placements that depend on both the sentence length and the judge's decision. According to the Pennsylvania Board of Probation and Parole website, a person convicted of a new crime or technical violation while under state parole supervision can serve time in a prison, jail, or special violation center similar to a halfway house⁴.

We sampled several other states by calling the community supervision agencies and reading the online policies governing revocation. Our sample of states included Delaware, Florida, Massachusetts, New York, and Oregon. Delaware is a combined prison/jail system, and revocation hearings take place while the person is confined in a state institution. Florida holds preliminary hearings in a jail and final hearings in a state prison. In Massachusetts, if a person was released from a jail, they return to the jail for the revocation process and to a prison if they were released from a state prison. In New York, the place of confinement during the revocation process depends on both jail and judge availability. In Oregon the place of confinement during the revocation process is usually a county jail. Each of these states has different laws and policies governing whether a revocation term could or should be consecutive or concurrent. There is obviously state to state variation confounding the clarity of the classification of admission types, and thereby introducing error into time-served estimation for prison returns. There are variations on the sequence of events in Figure 4, but the implication is the same: categorizing the type of re-admission presents many convolutions. Understanding the meaning of time-served following a revocation is complicated because of the interaction between the administrative processes for a revocation and the judicial processes for a new crime.

The sequence of events we observe in NCRP reflects these many convolutions. States submit individual admission and release records for both prison and PCCS. We examine these sequences and create term records that reflect prison or PCCS terms having both admission and release dates on one record. We can observe instances from the separate admission and release records where an offender enters prison following a revocation on one day, appears to enter prison again on a subsequent day, and then leaves prison after the first two events. There is some variation to this pattern such as an admission on day #1, another admission on day #2, a release on day #3 and another release on day #4. This might be explained by a revocation term starting on day #1 and ending on day #3 with an overlapping new commitment beginning of day #2 and ending on day #4. The admission code is correctly assigned to a revocation, but time-served from day #1 to day #4 provides a misleading estimate of time-served because of a revocation. We cannot tell for sure when the state is simply reporting #1 and #4 because prison authorities are essentially concerned with when the offender enters and exits prison.⁵ States are doing their best to make messy admissions and release patterns conform to a standard set of NCRP rules, and we are unsure how valid the sequences are represented within a state's system of records.

These sequences cannot be identified reliably within the NCRP because the NCRP instructs states to report when an offender enters and leaves prison, ignoring status changes (such as the beginning of a

⁴ <http://www.pbpp.pa.gov/Understanding%20Parole/Documents/FINAL%20Parole%20Reentry%20System%20FLOWCHART%2009%2025%202014.pdf>

⁵ When the state reports a series of overlapping admissions and releases, the NCRP convention is to record the admission type associated with the *last* release. This may not be the reason why the offender first entered prison during the sequence.

new sentence) that occur during the course of an ongoing term. An analyst might attempt to overcome this problem by basing time-served statistics solely on new terms, but this returns us to the problem of identifying new commitments with certitude.

To summarize this section, the revocation process, in combination with the place of confinement during the revocation hearings and revocation term, makes it difficult to unambiguously classify the type of revocation term, the offense classification of the prison return, and estimates of time-served.

6.2 What Does a PCCS Release Date Mean?

In the prior section, we assumed that the date of release found on PCCS release records for people who were eventually revoked referred to the day on which a person began the revocation hearing process. But there is another interpretation. The release date could be the day that the community supervision authority (parole or probation agency) closed out the case when the hearing process was completed. Adopting the following notation for admission and release dates helps to clarify potential sequences: **PR-A** – prison admission, **PR-R** – prison release, **PCCS-A** – PCCS admission, **PCCS-R** – PCCS release, *J-A* – jail admission, and *J-R* – jail release. We italicize *J-A* and *J-R* to highlight the fact that they will not be recorded as admissions and releases in the NCRP for most states. In the following examples of sequences, we are considering the majority of states which have separate prison and jail systems.

If the person spent the entire time in prison during the revocation process, then we might see the following sequence of admissions and releases: **PR-A, PR-R, PCCS-A, PR-A, PCCS-R, PR-R**. Restating this in words: the original admission to prison, a subsequent release from prison, an admission to PCCS, an admission to prison for the revocation hearing, a release from PCCS at the conclusion of the revocation hearings, a release from prison once the revocation term had been completed. In this sequence the PCCS release would occur between the second prison admission and release.

If instead, the person spent time in a jail during the entire revocation process, we would observe the following sequence: **PR-A, PR-R, PCCS-A, J-A, PCCS-R, J-R**. In words this is: the original admission to prison, the release from prison, the admission to PCCS, an unrecorded admission to jail for the hearing, a release from PCCS at the end of the hearing, and a release from jail at the end of the revocation term. There would be no record of prison admission and release for the revocation term.

Another plausible sequence is the following: **PR-A, PR-R, PCCS-A, J-A, PCCS-R** and *J-R* on the same day, **PR-A on the same day as the PCCS-R, PR-R**. This is the sequence: an original admission to and release from prison, an admission to PCCS, an unrecorded admission to and release from jail for the revocation hearing, a release from PCCS once the hearing is complete and the revocation term is started, and an admission to and release from prison to serve the revocation term. Assuming this latter scenario, the PCCS release date on a revocation term should be very close to the prison admission date to serve that revocation term. We investigated this last scenario in 9 states for which we have comprehensive PCCS admission and release records. In two of those states, the PCCS release and subsequent prison admission dates were identical in 96 to 98 percent of the revocation terms implying that was the process occurring in only two states. However, one of those two states was one in which a revocation hearing could occur in a prison or jail. Under those circumstances, if the revocation hearing occurred in a prison rather than a jail the sequence should be: **PR-A, PR-R, PCCS-A, PR-A, PCCS-R** and **PR-R**, a pattern we do not find. We appreciate how difficult these

sequences are. We encounter even more esoteric sequences than the ones we portray in this paper and must make logical decisions on what they mean when we construct NCRP term records (cite the Luallen et al paper). In many states, a small proportion of the records have ambiguous sequences. We could blithely read the admission and release types off the records and summarize those as representative of the admission and release patterns across the states; however, this would misrepresent the actual admission and release patterns.

We currently have no independent information on the way in which jurisdictions treat the PCCS date when they submit data. Some states may treat the PCCS release date as the day a revocation process begins. Others may treat it as the date revocation hearings end. Still other states may simply treat the date as an administrative date that simply records when the supervising agent closes out the case irrespective of the revocation status. PCCS release dates may have different meanings across the states. In summary, the meaning of the PCCS release date clouds our interpretation of the status of the prison return.

6.3 States with Combined Prison Jail Systems and Decision Rules for Prison Admission in States Having Separate Systems

In six states, correction systems are integrated, and in those states NCRP is a compilation of both prison and jail terms. In those six states, all returns will be recorded even if there is ambiguity in the type of return.

In other states, the NCRP only reports prison terms. Moreover, in states with separate prison and jail authority, the sentence threshold for eligibility for a prison stay as opposed to a jail stay is quite variable. In some states, the sentence threshold may only be a few months, and in at least one state, people are sent to prison rather than to jail if their sentence is two-and-one-half years. As we discussed in the prior section, we are unsure how frequently the entire terms or parts of the revocation term are spent in jails and would not be reported to NCRP in states that have separate prison and jail systems. Referring back to Figure 4, in states with separate systems, some or all of the composite second term may be served in a jail and not appear in NCRP. This also raises the possibility that over time, even within a single state, variation in admissions and time-served within an offense could depend, at least partly on placement decision rules and/or jail and prison capacity to house offenders undergoing the revocation process and serving their revocation term.

If the revocation hearing process is taking place after the offender has already been admitted to prison, it will be impossible to know the final outcome prospectively, and it would take some sophisticated programming to determine the status retrospectively.

6.4 Revocations in Lieu of Prosecutions and Time-Served

Building on this idea regarding the true nature of the revocation return, in the sequence depicted in Figure 4, the offender was sentenced to prison for a robbery, was freed to community supervision, committed a burglary and had his supervision revoked prior to being convicted for the burglary. One possibility is that prosecution is declined because the revocation serves as an adequate substitute, saving the state time, expense, and uncertainty. However, the additional time-served for the revocation likely takes the unprosecuted burglary into account. So even if the admission code is correctly representing a return while under supervision, the additional time-served is partly because of the burglary. We are unsure how frequently this happens because evidence is anecdotal.

It seems likely that prosecutorial discretion is exercised more frequently in indeterminate sentencing states than in determinate sentencing states. In indeterminate sentencing states, the time remaining on the original sentence is often lengthy because time-served is much shorter than the maximum sentence imposed. The prosecutor has more to work with when fashioning what he or she sees as an appropriate prosecutorial response. In determinate sentencing states, where returning to prison for a revocation of the technical conditions governing community supervision is restricted to short periods by law, prosecutors may be less inclined to rely on revocations in lieu of prosecution. We cannot tell whether this distinction is important. To disentangle these nuances, would require a system of records that contains all of these discrete events: the type of revocation misbehavior, including whether there was an arrest, the disposition of the arrest, and the disposition of the revocation. Few administrative databases are up to this task.

6.5 The Length of Post-Confinement Community Supervision

States vary widely regarding the maximum length of post-confinement community supervision terms. In some states, this period may be as short as a few months. In other states, it may run for years. Supervision may become inactive after a period of successful supervision, but the utility of a revocation for a technical violation of the conditions governing community supervision remains available longer in some states than in others. Even if supervision is still technically active, monitoring the offender may have been so diminished, that technical violations are unlikely to be recorded. As Piehl and LoBuglio (2005) point out, active monitoring may increase the likelihood of detecting a new crime in addition to a technical violation. This implies that the meaning and quality of PCCS release dates becomes important for sorting out the effect of supervision on returns.

6.6 Determinate and Indeterminate Sentencing States

States vary in their sentencing structure and policy. We noted in the background section of this paper that Stemen and Rengifo (2012)'s paper distinguishes between determinate and indeterminate release. Indeterminate release is most often under the authority of a parole system. Determinate release depends on the sentence and good time accrual. This distinction may raise the starkest contrast among states, and the following discussion examines the implications of this contrast on the revocation process ignoring many nuances.

In an indeterminate sentencing state, a judge might impose a maximum and a minimum term. The maximum typically far exceeds the time offenders will remain in prison prior to their release. Parole commissions are non-judicial entities authorized to return the offender to prison for a discretionary period of time for a technical violation, provided that the sum of the original time spent in prison, the time spent on post-confinement community supervision, and the additional time to be spent in prison does not exceed the maximum judicially imposed prison term.

In states with a determinate release structure, a judge might impose a term to be served in prison with some latitude for early release for good behavior. That same judge might impose a separate community-based term to begin upon release from prison. Alternatively, state law may stipulate the length of the community-based term. In either case, the offender completes the first prison term and then enters the second term for post-confinement community supervision. If the offender is returned to prison for a technical violation in a determinate release state, a judge or other authority will impose a *new* prison term that may not be linked to the original prison term.

The important point is that following a technical violation of the conditions governing community supervision, in an indeterminate sentencing state, the offender is returned to prison to complete part or all of an extant sentence. There is no new court commitment. In a determinate sentencing state, the offender is returned to prison to serve a new term. This may be reported in NCRP as a new commitment even though NCRP rules are intended to record this as a return while under supervision. The same process of returning an offender to prison for a violation of the conditions governing community supervision can result in different NCRP admission codes. This makes cross state comparisons uninterpretable. Even within-state comparisons over time may reflect a change from indeterminate to determinate release structures so that the pre- and post- sentencing structure changes obfuscate interpretation of types of admissions.

In some states, the sequence is unambiguous, and new commitments are readily distinguished from revocations. But in other states, the sequence is ambiguous, and the return code is not trustworthy for classifying the type of admission. For example, a few states always report that an admission is for a new commitment. Reliable reporting in some states and unreliable reporting in other states hinders interpretation and the development of national statistics.

6.7 Are IT Systems Up to the Task?

As we have shown, there is a high degree of uncertainty in the classification of revocations until the process has been completed, including potentially the processing of a new conviction in which the events that led to the arrest occurred while the person was under PCCS. Electronic prison recordkeeping systems may be more dependent on the admission date than the admission reason; the record keeper may not know the reason for admission at the time of admission. We are also aware that many IT systems record physical admissions and releases separately from information on sentencing and revocation information. Aligning the two is no simple task.

While the NCRP instructions are clear on the requirements for assigning codes associated with a new commitment or revocation, that does not mean the IT systems used to record these events allow an analyst or programmer to unambiguously meet the NCRP requirements. Furthermore, the NCRP instructs the submitting state to represent only physical admissions. How states actually assign these codes will depend on whether they actually record all of these changes of status in their databases, or whether the IT systems simply update the data to reflect the most recent status. The programming effort required to apply the NCRP rules to cull the data for an NCRP submission is not a trivial exercise, even if the databases record all of the events.

6.8 Summary

While we are skeptical about the accuracy of admission codes for prison returns in many states, the accuracy is somewhat beside the point. Even when codes are accurate, interpretation is made ambiguous by the fact that characterizing the return is complicated by the revocation process. As we have shown, this introduces ambiguity in the meaning of the type of return as well as complicating time-served by type of admission and offense. The ambiguity of classification of prison returns is fostered by the sequence and timing of revocation events, the separate jail and prison systems in most states, and placement of offenders during the sequence of revocation events. There are also differences among states in many other dimensions including: the sentence length threshold for admission to a prison or jail, sentencing structures, length of supervision, capability of IT systems,

and state coding conventions. Further complications arise from the aggregate terms that result from some combination of the revocation term and a new conviction, and the ambiguity in the meaning of a PCCS release date. Additional complexity comes from determinate sentencing where revocations and new commitments both result in new sentences, so the admission code is not informative. Finally, there is discretion on whether to prosecute a new crime while someone is under PCCS, allowing the revocation term to serve as a punishment expedient, which can lead to ambiguity in the distinction between a technical violation and a revocation based on a new sentence.

In summary, there are many reasons why imposing a national standard on types of returns is difficult. But national databases must accommodate as best they can the state-by-state variations in all of the processes we have described. Before we provide our solution, we first empirically demonstrate the signs and symptoms of these classification problems.

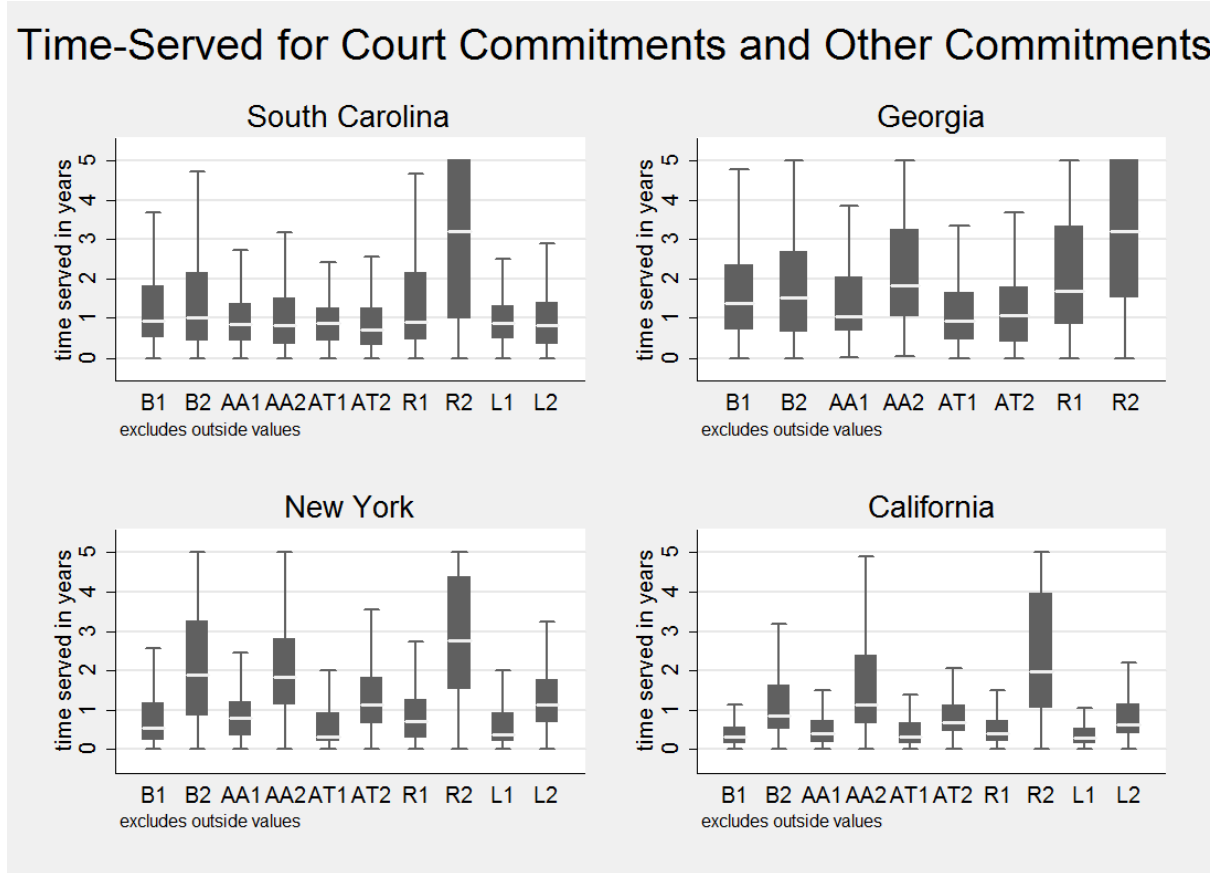
7. Empirical Observations

First we examine the distribution of admissions codes across all of the states over a 12 year period, from 2000 to 2011. The following states have 97 percent or more of new court commitments: Florida, Idaho, Maryland, North Carolina, and Washington⁶. It seems unreasonable that these states admit almost exclusively new court commitments. The other states vary from 18 to 89 percent on new court commitments. The variation in new commitments across the other states implies (but does not prove) diverse reporting practices.

We use time-served as a further diagnostic. The expectation is that within an offense category, time-served for revocation returns should, on average, be much less than time-served for new court commitments. One would expect less variability in revocation terms as well. When developing the NCRP, we have used four states as test cases: California, New York, North Carolina, and South Carolina. We selected these four states because they have reported admissions, releases and end-of-the-year prison stock records since 2000, and because we considered their data to be of high quality. Figure 5 illustrates apparent ambiguities arising from failure to clearly distinguish court commitments from other admissions. The graphs composed of box plots classify offenses into five categories: burglary (B), aggravated assault (AA), automobile theft (AT), armed robbery (R) and grand larceny (L). Each category is divided into commitments other than court commitments (i.e. B1 for burglary revocation commitments) and court commitments (i.e. B2 for burglary court commitments). The other than court commitments depictions are composed mostly of a mixture of revocations for technical violations and revocations for a new crime. The horizontal white lines indicate the median value of time-served. The dark vertical bars show the 25% to 75% range. The whiskers show the range exclusive of some outside values. Data are truncated at five years to improve resolution of the graphs. Florida and North Carolina are excluded from the graphs because almost all admissions are designated as new commitments in those two states.

⁶ Over the period of interest, only a small proportion of North Carolina offenders served terms of post-confinement community supervision. We would expect most admissions to be for new commitments. However, independent investigation suggests that the rate of new commitments is still implausibly high.

Figure 5. The Distribution of Time-Served by Admission Type across Four States



B burglary (B2 court commitment and B1 is other commitment); AA aggravated assault; AT auto theft; R armed robbery and L grand larceny.

Results from New York and California show what we might expect from states that impose relatively short prison terms for technical violations of the conditions of supervision. In fact, the distribution of time-served following revocation is fairly uniform regardless of the original offense in New York and California. The same uniformity does not appear for new commitments, as expected, because some crimes are seen as more serious than other crimes. The impression is that admissions codes for New York and California are relatively accurate although (1) time-served following revocation is sometimes lengthy, suggesting that these are mixtures of terms that may include technical violations but other admission types as well that would have longer periods of time-served, and (2) time-served following a new commitment is sometimes very short, even for serious crimes, suggesting that these are not all terms for new commitments. Later in this paper we capitalize on this and the other evidence that California and New York have accurate prison admission codes, in order to make a point about alternative definitions of prison return types.

A different pattern appears in South Carolina and Georgia. In South Carolina, with the exception of armed robbery, there is little distinction between the distribution of time-served following a revocation and time-served following a court commitment. Even for armed robbery, the overlap is

considerable. The distinction between the distribution of time-served for court commitments and other admissions is clearer in Georgia, but there is considerable overlap.

Additionally, the length of time-served following a revocation is typically longer in South Carolina and Georgia than in New York and California. Perhaps these differences reflect real differences across the states in the severity of sanctions triggered by a revocation; but we cannot be sure. Still, it appears that a revocation (as recorded in the NCRP) means something different in South Carolina and Georgia than it means in New York and California. As we logically showed in the previous section, revocation return terms are often aggregations of new sentences and revocation sanctions. Therefore, differences in the time-served distributions we observed may reflect state-by-state variations in both how states aggregate these terms and how states code these terms.

We briefly review one research effort where disentangling some of the typological and classification issues seems to have been successful. This example helps us to envision the proper framework for specifying types of prison returns. Then we propose a hierarchy of definitions that depends on one's confidence in types of PCCS release codes and types of prison admission codes.

8. Parole Revocations in California – The Research of Grattet, Lin, and Petersilia

Research by Grattet, Petersilia, and Lin (2008) in California demonstrates the effort and data quality required to decompose prison returns into revocation types and new court commitments. The purpose of their research was to assess the structure of parole and the parole revocation processes for making informed policy recommendations. Since their research, California has drastically changed the admission and revocation process, so this example represents California prior to the California's Public Safety Realignment Act of 2011. "Low level" offenders in California are now housed in jails. State parole authorities now only supervise violent and sex offenders, and most violators will be placed in jails. Prior to the Realignment Act, California was a determinate release state except for offenders who were sentenced to prison on a life term, about 20 percent. Those offenders were subject to discretionary release. Most released prisoners were placed on formal parole, typically for three years. This represents a large pool of supervised offenders since California has the largest throughput of state prisons.

Parole revocations were decided by politically appointed Deputy Commissioners during Board of Parole Hearings (BPH). BPH is a component of the California Department of Corrections and Rehabilitation (CDCDR). A revocation can lead to a maximum one year sentence. Given good time accrual and revocation sentences that are less than one year, the revoked offender spent, on average, an additional 4 months in prison. Grattet et al argue that many offenders placed on parole supervision would not appear on parole caseloads in many other states, and that the length of parole supervision time – 3 years – further increases the collective period of surveillance compared to most states. Given the large release pool of prisoners, the mandatory parole for all releases, and the length of parole supervision, California represented a large share of all parole supervision cases in the United States. In 2007, according to Grattet et al., 15 percent of everyone on parole was supervised in California. This large pool of supervision cases also drew a lot of prison returns.

“At the end of three years, 66 percent of all California parolees had been returned to a California prison, 27 percent for a new criminal conviction and 39 percent for a technical or administrative violation, which can result from new crimes or violations of the conditions of parole. On any given day, six out of ten admissions to California prisons are returning parolees (Grattet, et al., 2008, P. 5).”

To compile their data, the researchers merged information from 12 different national and local databases. To collect precise data on violations they had to merge three distinct CDCR databases. As the authors indicate, “[a] comprehensive picture of violations was only possible by merging information from all three systems (Grattet, et al., 2008, P. 68).” However, they also needed data from California’s criminal history depository to confirm whether a return was based on a crime resulting in a new court commitment without referral to the BPH. Other data sources were required to compile background data on offenders, information on communities to which the offenders were released to supervision, and data on the parole agents.

During the scope of their 2003-2004 evaluation, there were 151,750 violation reports containing information on “...whether criminal violation cases were successfully prosecuted in court as opposed to being referred to the parole board, and whether cases heard by the BPH were returned to prison or continued on parole. (Grattet, et al., 2008, p. 11).” With these data, Grattet et al could also decompose returns into purely technical violations, which were mostly for absconding – missing an appointment qualifies as absconding – or for new crimes.

Of the total number of 151,750 violations, 80.5% were returned to prison and 19.5% were released. Of the 122,141 violations resulting in a return, 25.7 percent of the offenders had a new sentence, 57.6% had been detained due to an arrest for a crime but received a revocation without a new sentence. Many of these arrests were for drug possession and drug use offenses. There were unprosecuted serious crimes as well that led to a revocation rather than a new court commitment. The remaining 16.7 percent were revoked on strictly a technical violation. The California data, if representative of the other states, shows a much lower degree of purely technical parole violations than many advocates have claimed.

With the ability to decompose prison returns into new court commitments, BPH technical violations without a new arrest, and BPH violations with a new arrest, along with a rich set of covariates involving the offenders, the agents, and the community, Grattet, Petersilia, and Lin were able to model many aspects of the “back end” process of prisoner returns (Grattet and Lin, 2014; Grattet, Lin, and Petersilia. 2011; Grattet, Petersilia, Lin, and Beckman. 2009; Lin, Grattet, and Petersilia, 2010). Their work highlights the effort required to develop a prerequisite database to address policy analyses that require important, foundational distinctions among return events.

9. Hierarchy of Return Definitions?

We recognize that decomposing returns into their most elemental parts such as the Grattet et al effort can be important in many policy applications. Furthermore, with a precise typology, time-served estimates are more meaningful. We propose a hierarchical typology of returns that depends on the quality of the administrative data from the most refined such as the one employed by Grattet and his

colleagues in California, to a cruder definition that can still be used to address meaningful, but not necessarily all policy questions. The lower level, cruder definitions are more likely to be applicable to a more inclusive set of jurisdictions. Thus, the definitions sacrifice precision for inclusiveness. Ideally, we would want the most refined decomposition of return types to be generated for all states. Until state administrative data can be manipulated to produce such a national system, cruder definitions will still yield meaningful interstate estimates and in states that change definitions over time, meaningful intra-state estimates of return types. Table 1 lists the return definitions from the least (Level 1) to the most precise (Level 5). The definitions rely on the veracity of the codes found on the PCCS release records and the prison admission records. In the case of NCRP, the only way to verify these codes would be to audit records by taking exemplars of different types of re-entry paths and comparing them to paper records or the states' data system. This is a time-consuming process but could go a long way in finding reliable and unreliable coding conventions.

Table 1. A Hierarchy of Prisoner Return Typologies

Return Level	Return Definition	Analysis or Policy Application
Level 1 PCCS Release Codes Ambiguous Prison Admission Codes Ambiguous	Elapsed time from release to return – such as the one-year rule. This rule is applied when PCCS release types and prison admission types are ambiguous in at least some jurisdictions when estimation must occur across jurisdictions. Example: If the return occurs within one year, the return is a revocation; otherwise it is a new court commitment.	Evaluation of policies intended to impact successful integration and reduce returns to prison broadly defined as returning within a given time frame.
Level 2 PCCS Release date accurate Prison admission date accurate	In a unified prison/jail system, a PCCS revocation occurs if the PCCS release date is close to the prison/jail admission date. Otherwise the commitment is a new court commitment. This assumes the release date means that the revocation process has been concluded. Notes: Unified systems only occur in states with small prison populations. In non-unified states, the PCCS release date and prison return date will depend on whether some or all of the revocation process (both hearings and revocation terms) occurs during confinement in jail, prison, or specialized housing (e.g. a halfway house) and whether the PCCS release date means the revocation process has concluded.	
Level 3 PCCS Release codes accurate Prison admission codes ambiguous	The return to prison type is defined by someone who has a PCCS revocation release and a prison return within one year. People who serve both the revocation process and the revocation term in a local jail in a non-unified state will have a revocation release but not a revocation return. In a unified state, the revocation release and return should be observed. For level 3, the release code	

Return Level	Return Definition	Analysis or Policy Application
	<p>may be accurate but the date of release from PCCS may not be. This implies we may know if a person was placed on PCCS, but not necessarily whether he/she was under PCCS when a new conviction occurred. The prison admission code will not clarify the ambiguity. Otherwise the commitment is a new court commitment.</p>	
<p>Level 4 PCCS Release codes accurate Prison admission codes accurate</p>	<p>A PCCS revocation release occurs and a prison admission revocation return occurs. Otherwise the commitment is a new court commitment.</p> <p>Notes: Confirmation of the reliability of PCCS release codes and prison admission codes will have to be conducted with audited records or some other source to insure integrity of the codes. For level 4, the release code may be accurate but the date of release from PCCS may not be. In this case, however, the prison admission code should clarify the type of return.</p>	
<p>Level 5 Detailed Information on type of revocation in addition to accurate event times</p>	<p>There is sufficient data to distinguish: new court commitments from new convictions while under PCCS supervision, revocation returns based on a new unprosecuted crime, and revocation returns on strictly a technical violation.</p> <p>Notes: The gold standard of prison return types</p>	<p>Evaluation of polices or interventions intended to address how interventions differentially affect discretionary practices in returning or continuing someone under community supervision.</p>

Level 1 assigns a new commitment as any commitment that occurs outside some period of elapsed time, such as one year of a previous release from prison and any commitment within a year to be a revocation. The one year is arbitrary and could easily be some other length of elapsed time. The reasoning is that revocations for technical violations tend to occur within one year of release, so any admission after one year is likely to be a new commitment. A more conservative rule would be that any admission outside one and a half, or two years of a previous release from prison would be considered a new commitment. This is the broadest, most inclusive definition that could be applied to all states. How good is this estimate?

We tested the one-year convention using data from Pennsylvania, a state for which we have post-confinement supervision records, allowing for our first test to determine whether the level-1 return type is reasonably accurate. PCCS records will provide a date that supervision ends. If the date means that the revocation process has ended and a revocation occurred, the PCCS release date should be very close to the subsequent prison admission date if someone is returned to prison rather than jail or a community alternative. In table 2a this is the admission type using PCCS records. Table 2a shows the cross tabulation of return types using the PCCS date-defined definition and state-reported prison admission codes (columns of table 2a). Table 2b shows the cross tabulation of return types

using the PCCS date-defined definition to the level-1 definition based on a one-year rule of elapsed time since release. For simplicity in reporting, comparisons are limited to three classes of offenses: violent crimes, property crimes, and drug crimes.⁷ Both tables 2a and 2b report column percentages.

Table 2a: Comparison of PCCS Release Date-defined Admissions to Prison Admission Codes

Admission Type Using PCCS Records (Date-defined)	Admission Type Using Prison Admission Codes		
	New Admissions	Revocation Admissions	Other/Unknown ⁸
<i>Violent Crimes</i>			
New Admissions	10,380 (98.2%)	719 (20.9%)	172 (13.9%)
Revocation Admissions	185 (1.8%)	2,726 (79.1%)	1,065 (86.1%)
<i>Property Crimes</i>			
New Admissions	5,908 (97.5%)	417 (19.4%)	492 (34.4%)
Revocation Admissions	152 (2.5%)	1,735 (80.6%)	937 (65.6%)
<i>Drug Crimes</i>			
New Admissions	8,784 (95.2%)	636 (19.4%)	759 (44.7%)
Revocation Admissions	131 (4.8%)	2,642 (80.6%)	979 (56.3%)

Table 2b: Comparison of PCCS Release Date-defined Admissions to Admissions Based on the One-Year Rule

Admission Type Using PCCS Records (Date-defined)	Admission Type Using Time Elapsed Since Release (Return within 1 year)		
	New Admissions	Revocation Admissions	Unknown
<i>Violent Crimes</i>			
New Admissions	10,987 (81.4%)	284 (16.2%)	-
Revocation Admissions	2,512 (18.6%)	1,464 (83.8%)	-
<i>Property Crimes</i>			
New Admissions	6,563 (79.7%)	254 (18.0%)	-
Revocation Admissions	1,669 (20.3%)	1,155 (82.0%)	-
<i>Drug Crimes</i>			
New Admissions	9,916 (80.2%)	263 (16.7%)	-
Revocation Admissions	2,444 (19.8%)	1,308 (83.3%)	-

Table 2a shows three important things. The first is that roughly 80 to 85 percent of all cases are in agreement. The prison admission codes agree with the PCCS date-defined return definition. Among cases with known admission codes (first two columns), overall agreement rises to 93 percent. The second is that admissions with other and unknown admission codes tend to be more often revocation

⁷ Homicide and manslaughter are excluded from all analyses. Estimates of time-served are not produced for these crimes because the sentence lengths are extraordinarily long, and reliable estimates cannot be constructed.

⁸ The “Other/Unknown” category includes admissions that could not be unambiguously classified as new admissions vs. revocation admissions and admissions that had missing codes.

admissions according to the admission type based on the PCCS date defined information. PCCS records give us another window into the supervision release to prison admission sequence. This is not definitive because of the possibility that people released from PCCS on a revocation do not return immediately to prison, or even within a longer period such as 30 to 120 days. People who are undergoing a prolonged revocation process may be serving that period in a jail or community alternative place of confinement. This may be why there is more agreement with new commitments than revocations.

The third is that misclassification, when it occurs, tends to run in one direction – over classifying new admissions as revocations. Assuming the PCCS date based definition is correct, Table 2a shows that four to five percent of prison admission codes deemed to be revocation are new admissions; this compares to one to two percent of prison admissions purported to be a new court admission are actually revocation admissions.

Table 2b shows cross tabulation comparing the PCCS-based return categories with the one-year rule, where a revocation admission is defined as an admission occurring within one year of a prior release. According to this table, 80 to 83 percent of cases agree. Other cases that do not agree overwhelmingly fall into the category of cases where supervision was revoked sometime after a year of supervision had passed. There are also cases where offenders return within one year, but did not appear to be on supervision. These cases could also have occurred if, e.g., an offender moved outofstate after their release. Overall, this table suggests that identification of admission type using the one-year rule underestimates revocation returns. But we must also assume that the PCCS release date is accurate and that means the revocation has been resolved.

We also ran another test of the one-year rule based on the prison admission codes in two states that are known to have reliable data, California and New York. The reliability is based on a series of tests we conduct on the data, the results we reported in Figure 5, and on communication with the data providers who have run independent checks against the data when asked to resolve possible ambiguities. The two states, California and New York, compose a large proportion of all returns nationwide. We examined the cross tabulation of the one-year results from all returns from 2000 to 2011, with the prison admission codes that distinguish new court commitments and revocations, ignoring any other type of admission such as transfers from other jurisdictions. This analysis is based solely on known returns so there had to be a previous release to qualify as a return. Of the 992,479 returns for California in this time span, according to the one-year rule, 31.1 percent were new court commitments and 68.9 percent were revocations. According to the prison admission codes, 10.1 percent of returns were new court commitments and 89.9 percent were revocations. Assuming the prison admission codes are correct, the one-year rule overcounts new court commitments and undercounts revocations by a wide margin. A similar result occurs for New York State. Of the 166,683 returns over the period 2000 – 2011, the one-year rule classified 62.6 percent of the returns as new court commitments, and 37.4 percent as revocations, while the prison admission codes tell a different story – 25.9 percent were new court commitments and 74.1 percent were revocations. Choosing alternative thresholds for elapsed time would change the nature of the classification errors; however, any optimal threshold would still have large classification errors. Based on these results, our recommendation is to use the prison admission codes for “reliable” states, and other definitions within the hierarchy depending on the quality of the data. In some states, this will still mean the analyst should base returns on elapsed time. A reasonable alternative for states with unreliable prison

admission codes is to use the prison release codes to establish whether someone was placed on supervision, and then examine whether they returned within a year. We suspect prison release codes are more accurate because the disposition of the release is known at the time of release, while this is not always the case for admissions. This restricts the proxy definition to returns within a year that were actually placed on community supervision. When compiling national statistics, this will mean combining different definitions on a state-by-state basis.

10. Summary

We have shown in this paper how the revocation process and state-by-state structural differences contribute to confounding our understanding of the foundational meaning of a return. This is a caution to analysts and policy makers who blithely read revocation statistics without digging into the veracity of the estimates.

We return to the list of key policy questions that can be addressed with types of prison returns, and raise the question of which definitions in our hierarchy will be useful. The elapsed time rule has several distinct advantages. It can be used across all states even when the supervision revocation process has many different legal and policy structures, such as whether a state is a determinate or indeterminate release jurisdiction. There is no ambiguity about whether someone is returned within one year, even when state coding conventions may not clarify whether someone is a new court commitment or is someone who commits a technical violation or a crime during post-release supervision. In states that record almost all returns as new court, it will give a clearer comparison to other states. In other policy analysis we have done, such as the evaluation of the Justice Reinvestment Initiative (Rhodes, 2015), in some states, policy has affected the definition of return types over time. Under these conditions, we have chosen elapsed time because it maintains the integrity of its meaning over time, while the prison admission codes change in meaning. While there is certainly error in this classification of types of returns, there is consistency in the meaning of the outcome over time.

The elapsed time rule founders when questions are raised about PCCS failures that require distinguishing new convictions under supervision from revocations based on technical violations and revocations based on new crimes. Many important questions require this level of event granularity. As the Grattet et al research shows, this required a combination of administrative databases in California to sort out the different events. The triangulation of events – arrests, convictions, violations, community supervision terms, prison, PCCS, and probation dispositions – supplements and enhances the analyst’s understanding of the supervision events. As the administrative databases mature, we will have more confidence in admission and release codes, and the meaning of admission and release dates. However, because of the timing of events, we should expect some ambiguity. As we showed, return prison terms are difficult to characterize because of the timing of the revocation process and the loss of information when some or all of the revocation process occurs while the person is located in a jail. In addition, the lost events in the sequence confound our ability to classify the offense type. Sometimes the best we might do is to indicate the person is serving an aggregate term based on the offense associated with the original sentence and the offense associated with the revocation, if indeed, there was an arrest involved in the revocation. Part of the ambiguity stems from the “black hole” created in states where they have separate prison and jail jurisdictions, and the jail

records are not available. This really calls for a national system of jail records, but that is the topic of another paper.

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