



## **Evaluation of the Expanded Work Release Program (EWRP): Recidivism Outcomes of Individuals Released Early Due to COVID-19**

*November 2022*

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### **Introduction**

The Expanded Work Release Program (EWRP) was created by the Minnesota Department of Corrections (DOC) in the spring of 2020 in response to the Coronavirus Disease 2019 (COVID-19) pandemic. The purpose of this program was to release lower risk incarcerated persons early to allow for more social distancing and to accommodate quarantine and containment strategies in facilities. Between April and December of 2020, 158 individuals were released up to three months earlier than their scheduled release dates under this program. DOC research staff recently evaluated the recidivism outcomes of EWRP participants relative to three comparison groups 14 to 24 months after release.

### **EWRP Description**

Selection and exclusionary criteria for EWRP were similar to standard Work Release (WR) criteria, if not more restrictive. To be considered for EWRP, an individual must have:

- Served at least half of their sentence of incarceration;
- No more than three months of incarceration time remaining on their sentence;
- MnSTARR scores at or below 20 percent for non-sexual violent recidivism, 52 percent for felony recidivism and 75 percent for non-violent recidivism; and
- An approved residence/program.

Exclusionary criteria included (but were not limited to):

- Recent serious disciplinary issues;
- An active warrant, detainer, or sentence from another state; and
- An active sentence for a person, predatory, or violent offense.

Unlike standard WR participants, EWRP participants were released to private residences. Thus, they were not under constant supervision by residential corrections staff. However, EWRP participants were required to contact their supervision agents any time they left their homes. Thus, their supervision level could be considered a hybrid of standard WR and standard supervised release.

### **Data and Methods**

The treatment sample for this study consists of the 158 individuals released from Minnesota prisons under EWRP between April and December of 2020. The control sample includes 389 individuals who appear to have been eligible for EWRP but served their full

sentences of incarceration. The COVID-19 pandemic created several unique circumstances, which may have impacted the likelihood of recidivism. For example, many community supervision agents were monitoring their clients remotely, the courts slowed or halted most legal proceedings, and many businesses were shuttered creating very high unemployment. An ideal comparison sample would have been released to the same or similar circumstances. Thus, the control sample was limited to individuals who were released on or after March 13th, 2020—the date that the Governor of Minnesota declared a peacetime emergency because of the COVID-19 pandemic—through the end of the same year.

**Study Findings**

Table 1 displays 1-year recidivism rates for the EWRP participants compared to the control sample. For this table only, recidivism was capped at 1 year of follow-up time to make the samples comparable. This table also displays *p*-values from an independent samples *t*-test of differences in percentages between the EWRP and control group samples.

The percent of EWRP participants revoked from supervision did not differ significantly from the control group. About 7% of EWRP participants were revoked from supervision within 1 year of release compared to 3.9% of the control sample. The higher supervision revocation rate observed among EWRP participants relative to the control group is perhaps a reflection of the close supervision imposed on the early release group. A little more than 30% of the EWRP participants were re-arrested within 1 year of release, which was comparable to the control sample (30.4% and 28.0%, respectively).

Turning to new convictions, EWRP participants had significantly fewer new convictions than the control sample; a little under 8% of EWRP participants were convicted of a new misdemeanor, gross misdemeanor, or felony offense compared to nearly 15% of control group members. When convictions were limited to only felony-level convictions, EWRP participants still had a smaller percentage of new convictions than the control sample. However, this difference was not significant. Given that EWRP participants had more supervision revocations than the control group, and the control group had more convictions, it seems possible that EWRP participants were revoked from supervision before they got into more serious trouble. Also notable, it appears that a large proportion of the new convictions incurred by the EWRP participants were for felony-level convictions.

The multivariate analyses, which controlled for MnSTARR risk probabilities in addition to gender and race/ethnicity, reaffirmed these findings. Selection into EWRP did not have a significant impact on the risk of supervision revocations or new arrests, but it did significantly

**Table 1. One-Year Recidivism Rates for the EWRP and Control Samples**

<i>Sample</i>	<i>Supervision Revocation</i>	<i>New Arrest</i>	<i>New Conviction (Any)</i>	<i>New Felony Conviction</i>	<i>n</i>
EWRP	7.0%	30.4%	7.6%	3.2%	158
Control	3.9%	28.0%	14.7%*	5.7%	389
<i>p</i> - value	0.122	0.581	0.024	0.224	

*Notes:* Asterisks denote significance between EWRP and the control group based on an independent samples *t*-test; EWRP = Expanded Work Release Program

\* = *p* value < 0.05

reduce the risk of any new conviction. EWRP participation reduced the risk of a new felony-level conviction relative to the control sample, but this effect was not statistically significant.

### **Study Implications**

The results of this study demonstrated that the early releases forced by the COVID-19 pandemic did not come at the cost of public safety. The EWRP participants were not more likely to be revoked from supervision or re-arrested, but they were significantly less likely to be convicted of a new offense up to 18 months after release. The findings from this study diverged from many earlier evaluations of improvised early release programs, which often found higher recidivism among individuals released early from prison. The results of this study are consistent with evaluations of other Minnesota-based early release programs, including standard WR and the Challenge Incarceration Program. Taken together, these programs demonstrate that lower-risk individuals can be successfully transitioned to the community without serious risk to the public.

Besides careful selection of participants, the volume of early releases generated by EWRP was much smaller than improvised early release programs of past decades. Past early release programs resulted in thousands of early releases over the course of a few years. EWRP resulted in just 158 early releases over the course of nine months. It appears that the small number of early releases did not overwhelm the caseloads of community supervision agents. The small number of releases generated by EWRP underscores the fact that individual participants were carefully selected. Prior early release programs had limited selection and exclusionary criteria, often choosing participants based almost exclusively on offense type and discipline record.

# **The Benefits of Hindsight and Modern Risk Assessment Tools: An Evaluation of Minnesota's COVID-19 Early Release Program**

Author

Valerie A. Clark, Ph.D.  
Minnesota Department of Corrections  
Research Analyst Supervisor, Senior  
Email: [valerie.clark@state.mn.us](mailto:valerie.clark@state.mn.us)  
Phone: 651-361-7200



1450 Energy Park Drive, Suite 200  
St. Paul, Minnesota 55108-5219  
651/361-7200  
TTY 800/627-3529  
<https://mn.gov/doc>  
November 2022

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## **Abstract**

Given the devastating effects of COVID-19 on congregate living settings, many correctional agencies have been forced to expedite the release of incarcerated persons beginning in 2020. This research evaluated the recidivism outcomes of 158 individuals released early from prison in response to the pandemic compared to a similar cohort of standard releases. Cox regression analyses revealed that individuals released early were no more or less likely to be re-arrested or returned to prison for a supervision violation compared to the control sample, but they were significantly less likely to be convicted of a new offense. This research demonstrated that carefully selected low-risk individuals can be released early from prison without compromising public safety.

## **Introduction**

Mass incarceration has often been referred to as a “great experiment” in public policy (Frost & Clear, 2009). Beginning in the early 1970s, the United States criminal justice system enacted a series of tough-on-crime laws in response to rising rates of violent crime, drastically increasing the number of individuals sent to prison each year (Stemen, 2007). Nationally, the prison population grew every year starting in 1972 until 2009, at which point a gradual decline began (Carson, 2020).

Most criminologists agree that this experiment has been a failure (Clear & Austin, 2017). While violent crime rates have fallen precipitously since the early 1990s, it is unlikely that mass incarceration is the cause of this decline. Rather than improve public safety, the consensus is that mass incarceration has caused more harm than good to society. Mass incarceration has left large swaths of the population without the ability to find employment and housing or successfully reintegrate back into their families and communities given the stigmatizing effects of incarceration (e.g., Lynch & Sabol, 2001; Travis, 2005; Visher & Travis, 2011). These harms have disproportionately impacted communities of color, particularly Black and African American males (e.g., Pager et al., 2009; Western & Wildeman, 2009; Wheelock, 2005). Perhaps more devastating are the intergenerational effects of mass incarceration, as parents have been separated from their children (Uggen & McElrath, 2014). Parental incarceration has been recognized as a trauma that has long-lasting health and social consequences for affected children (Miller, 2006; Parke & Clarke-Stewart, 2002; Wildeman et al., 2018).

Now, 50 years later, the United States has been forced into a new experiment: rapid decarceration. Given the devastating effects of the Coronavirus Disease 2019 (hereafter COVID-19) on congregate living settings, federal, state, and local criminal justice agencies have been

forced to reduce incarceration populations. Beginning in the spring of 2020, the courts have reduced the number of pre-trial detentions and new sentences of incarceration, while jail and prison administrators have examined their populations to determine which individuals could be released early.

Indeed, incarceration populations have decreased dramatically since the beginning of the COVID-19 pandemic. Between March and June of 2020, local jail populations decreased by a quarter (Minton et al., 2021). Compared to 2019, state and federal prison populations decreased by 15% (Carson, 2021). Most of this decrease can be attributed to lower admissions and not increases in early releases; admissions to both federal and state prisons fell by 40% between 2019 and 2020. The gradual decline in prison populations observed over the past decade coupled with the rapid decline in prison populations observed since the start of the pandemic has not been enough to wipe out half a century of explosive prison growth. Prison populations today are comparable in size to what they were in the mid-1990s (Council of State Governments, 2021).

Although they played a smaller role in the recent decrease in prison populations, early release programs have flourished since the beginning of the pandemic. Nearly every state adopted new early release procedures or expanded existing procedures in 2020 (Crime and Justice Institute, 2021). State corrections agencies primarily targeted individuals convicted of non-violent, lower-level offenses who were also nearing their scheduled release dates. Individuals with existing medical conditions that made them vulnerable to more serious COVID-19 infections were also targeted for early release.

The purpose of this research is to determine whether these early releases came at the cost of public safety. We now know that mass incarceration did not make us safer, but has rapid decarceration made us less safe? Did the individuals who were released early reoffend at a higher

rate than individuals who served their entire sentences of incarceration? To answer this question, the present study will examine the recidivism outcomes of individuals released from Minnesota prisons prior to their originally scheduled release dates during the early months of the COVID-19 pandemic.

In the following sections we will first review prior research on improvised early prison release programs and recidivism, followed by a description of early release programs in Minnesota that were created in response to the COVID-19 pandemic. Next, we will present the data and methods used to execute this research. Finally, we will discuss the results and implications of this research for future efforts to reduce prison populations.

### **Prior Research on Improvised Early Release Programs**

The COVID-19 pandemic is not the first time that prison administrators have been forced to hastily construct early release programs. Early in the era of mass incarceration, prison overcrowding forced several states to release inmates earlier than originally scheduled. In 1984, 14 states released more than 17,000 inmates early (Austin, 1986). Despite the widespread use of early releases throughout the 1980s, few studies have evaluated the effect of early release on recidivism. The few studies that do exist focused on Washington, Texas, and Illinois.

In response to a federal court decision that found that severe overcrowding in Washington State's prisons resulted in cruel and unusual punishment, the state released more than 1,600 inmates an average of 6 to 12 months early to ease overcrowding starting in the late 1970s through the early 1980s (Sims & O'Connell, 1985). Sims and O'Connell (1985) compared recidivism rates among six cohorts of early releases to historical recidivism rates, as well as a comparison group of more than 1,800 incarcerated individuals released under standard conditions. The authors found that the first four cohorts of early releases had comparable



reincarceration rates to the group released under standard conditions. However, the last two cohorts of early releases had higher reincarceration rates than the comparison group. The authors concluded that the latter two cohorts of early releases were larger in volume, potentially overwhelming the community supervision system. Also, these later cohorts included individuals with lengthier criminal records, making them higher risk to reoffend.

After a federal court ruled that overcrowding created unconstitutional prison conditions in Texas, the state enacted legislation to expedite the release of its incarcerated population in the 1980s (Ekland-Olson et al., 1993; Joo et al., 1995; Kelly & Ekland-Olson, 1991). The Prison Management Act (PMA) allowed Texas prison administrators to reduce an individual's incarceration time in exchange for good behavior (i.e., "good time" credit) when prisons neared capacity limits. Good time credits allowed incarcerated persons to become eligible for parole prior to spending one-third of their sentences behind bars, as had been previously required by law. Over the course of a decade, this legislation had a significant impact on the amount of time individuals spent in prison. Incarcerated persons went from serving an average of 37% of their total sentences in prisons for an average of 2.4 years in 1980 to serving 21% of their sentences for an average of 1.7 years in 1989 (Kelly & Ekland-Olson 1991).

Over the years 1984 to 1987, the PMA resulted in 6,288 early releases. Kelly and Ekland-Olson (1991) examined four cohorts of early releases (each cohort representing a calendar year between 1984 and 1987), comparing them to each other as well as national trends in reincarceration rates. The authors found that reincarceration rates in the first two cohort years were very similar to each other and mirrored national trends in recidivism. However, the latter two cohort years had higher reincarceration rates compared to the first 2 years and compared to national recidivism trends. These findings were echoed by a subsequent study (Joo et al., 1995).

The authors concluded that the reduction in time spent behind bars lessened the deterrent effects of prison sentences. Additionally, much like Washington's early release program, the community supervision system was not prepared for the sudden influx of released inmates.

In the late 1970s the Illinois Department of Corrections was struggling with a severe overcrowding problem, resulting in a riot that killed three corrections officers (Wright & Rosky 2011). To reduce the prison population, the state enacted legislation allowing prison administrators to selectively release inmates prior to their predetermined release dates. Inmates who were nearing their release dates and exhibited satisfactory institutional behavior were given good time credits. Most of the individuals selected for early release were serving time for property offenses and had served at least 90 days of their sentences. Prison administrators could also award good time credits to any individual who worked a steady prison job and remained discipline-free, regardless of how close they were to their predetermined release dates.

These policies led to the early release of more than 21,000 individuals in the early 1980s. Incarcerated persons were released an average of three and a half months earlier than they would have been released otherwise, resulting in an overall 12% reduction in sentence lengths. Using a random sample of 1,500 inmates released over the years 1979 to 1982, Austin (1986) evaluated the recidivism outcomes of early releases compared to standard releases.

Austin's analyses revealed that inmates released early had lower 1-year re-arrest rates than inmates who served their full terms of incarceration. However, most or all of that difference was due to group differences between the standard- and early-released inmates, including institutional conduct, prior criminal history, and age. Retrospective risk models found that a quarter of the full sample would have been considered low-risk to reoffend, and 30% would have been considered high-risk to reoffend. Austin noted that Illinois could have further reduced risk

to public safety had they assessed each inmate's recidivism risk using criteria beyond institutional conduct.

The pace of early releases slowed starting in the 1990s with passage of state and federal truth in sentencing laws, requiring inmates to serve anywhere from 50% to 100% of their sentences behind bars (Sabol et al., 2002). These laws came on top of efforts to eliminate parole in several states and implement mandatory sentencing laws along with sentencing guidelines. Together, these laws resulted in far fewer early releases in the 1990s than what occurred in the previous decade (Hughes & Wilson, 2003). This trend is demonstrated by the fact that inmates released in 1999 served an average of 49% of their sentences compared to inmates released in 1990 who served an average of 38% of their sentences.

More recently, the financial crisis of the late aughts forced states and the federal government to find ways to reduce incarceration populations. Facing a \$9 million budget shortfall, the Montana Department of Corrections targeted their low-risk incarceration population for early release (Wright & Rosky, 2011). Incarcerated individuals who were eligible for early release included those who were serving less than 5 years for non-violent and non-sexual offenses. At the time of early release, these individuals were serving time in prisons, in pre-release centers, in drug treatment centers, or under intensive community supervision. Early releases were granted at the discretion of prison administrators, while all other releases were decided by the parole board.

Unlike the previous studies of early release programs described above, Wright and Rosky (2011) employed a quasi-experimental research design to create comparable treatment and control samples. Using propensity score matching, the authors matched traditional parole prison releases to early prison releases, and traditional parole community-based releasees to early

community-based releasees. Recidivism was measured as a return to the same level of custody the individual was released from or higher for either a technical violation or a new offense.

Of all four release types, traditional parole releases from prison had the lowest rate of recidivism, while early releases from prison had the highest rate of recidivism. Multivariate analyses that controlled for several relevant variables (e.g., age, gender, and prior offense history) echoed these findings. Compared to traditional prison parolees, individuals released early from prison were two times more likely to return to prison. Conversely, early releases from community-based settings were less likely to return to prison than their traditional parole release counterparts.

Consistent with the conclusions derived from the evaluations of Illinois's and Texas's early release programs, Wright and Rosky (2011) surmised that community supervision agents were strained by the sudden increase in their caseloads and released inmates may have been less deterred by the threat of more prison due to the push to hasten the release of more inmates. Additionally, Wright and Rosky (2011) found that individuals released early were likely unprepared for release because they did not have to engage in any release planning. Traditional parolees must make their case for release by demonstrating rehabilitative efforts and detailing their plans for life outside, including post-release housing and employment. The individuals selected for early release did not have to make these efforts.

When forced to release incarcerated persons earlier than scheduled, today's prison administrators have two key advantages over the improvised early release efforts of prior decades: (1) hindsight and (2) risk assessment tools. Based on hindsight, we know more about the reentry struggles encountered by released inmates (e.g., Petersilia, 2001; Travis, 2005). Individuals selected for early release should work with prison staff to create a plan for work,

housing, treatment, or other important steps to increase the likelihood of successful reentry.

There is also more awareness of how the decisions and activities in one part of the system affect other parts of the system (Walker, 2006; Wright & Rosky, 2011). Based on the lessons learned in previous eras, there is increased recognition that early release programs must be a cooperative effort between prison systems and their community supervision partners.

Prior early release efforts also demonstrated that offense type and institutional conduct are insufficient criteria for selecting candidates for early release. Today's prison administrators have the benefit of valid and reliable risk assessment tools that can predict an individual's risk of re-offense with a relatively high level of accuracy. These tools include, for example, the Level of Service/Case Management Inventory (LS/CMI; Andrews et al., 2000), the Correctional Offender Management Profiling for Alternative Sanctions assessment (COMPAS; Brennan et al., 2009), and the Minnesota Screening Tool Assessing Recidivism Risk (MnSTARR; Duwe, 2014, 2021; Duwe & Rocque, 2021).

Risk assessment tools should be used with some caution, as tools that are poorly designed and/or implemented may exacerbate existing racial and ethnic disparities in the criminal justice system (Freeman et al., 2021; Harcourt, 2015; Skeem & Lowenkamp, 2016; Vincent & Viljoen, 2020). Risk assessments are largely based on factors such as criminal history, educational achievement, and employment, which are domains that are historically plagued by systemic racism. Disparities in these domains and others can cause risk assessment tools to label individuals from racial and ethnic minority groups as high risk more often than white individuals. Thus, these tools can amplify racial disparities by inviting and justifying harsher treatment by the criminal justice system based on level of risk (Freeman et al., 2021). Before using risk assessment tools for any correctional population, administrators must test these tools

to ensure that predictive accuracy does not vary significantly across racial and ethnic groups. Moreover, risk assessment tools must not rely too heavily on measures that are heavily affected by racial and ethnic bias (e.g., criminal history).

The Minnesota Department of Corrections (MnDOC) currently uses the MnSTARR, which rates individuals as very high, high, medium, or low risk to reoffend. In addition to producing four categories of recidivism risk, the MnSTARR also produces probability scores for specific types of recidivism, including non-sexual violent recidivism, non-violent recidivism, and felony recidivism. This tool was customized to the MnDOC's correctional population, and its most recent version (the MnSTARR 2.0) has undergone multiple validation studies (Duwe, 2021; Duwe & Rocque, 2021). Moreover, it is based on several items beyond criminal history, including but not limited to participation in evidence-based correctional programming, whether the individual received visits while incarcerated, marital status, and risk of self-injury. The most recent validation study of the MnSTARR revealed that its predictive accuracy was consistent across different racial and ethnic groups (Duwe, 2021). In everyday correctional practice, risk assessment tools are primarily used to identify individuals who are high risk to reoffend to prioritize them for services and programming. However, in the context of early release programs, these tools can be used to mitigate risk to public safety by identifying individual who are good candidates for lower-custody settings.

### **Early Releases in Minnesota during the COVID-19 Pandemic**

In response to the COVID-19 pandemic, the MnDOC expanded two existing early release programs: Conditional Medical Release (CMR) and Work Release (WR). Prior to the COVID-19 pandemic, inmates who were gravely ill and posed no threat to public safety could apply for early release. In the spring of 2020, eligibility for CMR was expanded to individuals who had

underlying medical conditions that made them susceptible to serious illness or death should they become infected with COVID-19. Prior to 2020, only a small number of individuals were eligible for CMR. From 2015 to 2019, only 24 individuals were released early using this mechanism. In the first 6 months of 2020, 154 individuals were released under CMR.

Unlike CMR, WR was more widely used before the COVID-19 pandemic. Over the years 2015 to 2019, an average of 550 individuals were released to WR each year. Prior to the COVID-19 pandemic, this program was available to individuals who completed at least half of their sentences and had no more than 18 months remaining until their scheduled release dates. Candidates for WR had to have a plan for work or education upon admission to the program. Eligible males could not be rated as very high risk to reoffend according to the MnSTARR. For females, eligibility hinged on MnSTARR probabilities for three types of recidivism. The probability of non-sexual violent recidivism had to be below 26%, less than 72% for felony recidivism, and less than 95% for non-violent recidivism. More information about what variables are used to calculate MnSTARR risk probabilities is included in the Data and Methods Section of this paper.

An evaluation of this program conducted by Duwe (2015) found that WR participants were less likely to commit new offenses, but more likely to be revoked from supervision. The higher likelihood of supervision revocation likely stemmed from the fact that WR participants are usually placed in correctional housing, including halfway houses and jails. In these facilities, WR participants are closely monitored. They must check out and check back in each time they leave the facility and verify their whereabouts whenever they are away from the facility. They are also subjected to regular alcohol and drug screenings. While they may not commit new offenses, rule infractions are easily detected.

The Expanded Work Release Program (EWRP)—the focus of the present study—was created in the spring of 2020 to allow for the release of lower risk incarcerated persons. Reducing the prison population created more space for social distancing and made it easier for prison administrators to accommodate quarantine and containment strategies. Between April and December of 2020, 158 individuals were released up to 3 months earlier than their scheduled release dates under this program.

Selection and exclusionary criteria for EWRP were similar to standard WR criteria. To be considered for EWRP, individuals had to serve at least half of their sentences of incarceration and have no more than 3 months remaining until their scheduled release date. Both males and females had to have MnSTARR probability scores at or below 20% for non-sexual violent recidivism, 75% for non-violent recidivism, and 52% for felony recidivism. They also had to have an approved residence with access to a landline or the internet with a camera-capable device. These individuals were also required to have a plan for work or education; however, these requirements were relaxed given the school and business closures caused by the pandemic. Much like WR participants, EWRP candidates could not have an active warrant or detainer preventing their release, nor could they have any recent serious disciplinary issues. Individuals who would have been released to intensive supervised release were not eligible for EWRP.

Unlike WR participants, EWRP participants were released to private residences. Thus, they were not under constant supervision by residential corrections staff. However, EWRP participants were not free to leave their residences at any time; they were required to contact their supervision agents any time they left their residences. Thus, their supervision level could be considered a hybrid of traditional WR and standard supervised release (the level of supervision most MnDOC releasees receive). Also unlike WR, persons serving time for violent or sexual



offenses were not eligible for EWRP. Individuals required to register as a predatory (sexual) offender were also not eligible for this program.

## **Data and Methods**

The treatment sample for this study consists of the 158 individuals released from Minnesota prisons under EWRP between April and December of 2020. The control sample includes 389 individuals who appear to have been eligible for EWRP but served their full sentences of incarceration. The COVID-19 pandemic created several unique circumstances, which may have impacted the likelihood of recidivism. For example, many community supervision agents were monitoring their clients remotely, the courts slowed or halted most legal proceedings, and many businesses were shuttered creating very high unemployment. An ideal comparison sample would have been released to the same or similar circumstances. Thus, the control sample was limited to individuals who were released on or after March 13th, 2020—the date that the Governor of Minnesota declared a peacetime emergency because of the COVID-19 pandemic—through the end of the same year.

### ***Dependent Variables***

Recidivism is the outcome variable in this study, and it was measured in four ways: (1) a return to prison for violation of release conditions, (2) a new arrest, (3) a new misdemeanor, gross misdemeanor, or felony conviction, and (4) a new felony conviction. By using four separate measures of recidivism, we captured a range of reoffending behaviors, from rule violations (supervised release violations) to serious offenses that have been affirmed in court (new felony convictions). Additionally, the purpose of having two separate criminal conviction measures was to discern the risk of serious felony-level convictions from all convictions (not including traffic offenses). Given that the purpose of this research was to determine whether the

release of individuals early from prison compromised public safety, we wanted to examine felony convictions as they presumably represent a greater risk to public safety compared to less serious offenses.

Data on new arrests and convictions were collected from the Minnesota Bureau of Criminal Apprehension, while data on release violations were obtained from the MnDOC's Correctional Operations Management System (COMS). Recidivism events were tracked through mid-March of 2022, which allowed for a follow-up time ranging from 14 to 24 months.

Survival analysis (Cox regression) was used to estimate the impact of early release (EWRP selection) on recidivism. Cox regression makes use of both status and follow-up time, determining which variables affect whether and how soon after release recidivism events occurred. The four recidivism variables are dichotomous and indicate whether each form of recidivism occurred within the follow-up period. For each outcome measure, time is measured from a person's release date to the date they were revoked from supervision or re-arrested, or until March 22nd, 2022 if they did not reoffend. For analyses predicting new arrests and new convictions, any time spent in prison for a supervised release violation was subtracted from the time variable to accurately capture "street time" (i.e., time spent at risk of recidivism).

### *Independent Variables*

The primary independent variable in this study is selection into EWRP, which is represented by a binary indicator (0 = standard release and 1 = EWRP release). To avoid overfitting the model with too many covariates relative to the sample size, we substituted MnSTARR risk probabilities for several control variables. MnSTARR risk probabilities are calculated based on a wide variety of variables, many of which are displayed in Table 1 (for a full review of MnSTARR calculation variables, see Duwe & Rocque, 2021). Descriptive

statistics for these variables and MnSTARR risk probabilities for the EWRP sample and the control sample are displayed in this table. Results from an independent samples *t*-test of differences in means between the EWRP sample and control sample are also displayed in Table 1.

Referring to Table 1, the EWRP and control samples were very similar in several ways, and different in a few ways. About 70% of these samples were comprised of males, and 42% to 43% of the individuals in these samples identified as Black, Indigenous, or persons of color (BIPOC).

**Table 1. Descriptive Statistics and Group Mean Differences between the EWRP and Control Samples**

Variable	Description	EWRP	Control
Male	Binary indicator of whether individual is male	70%	70%
BIPOC	Binary indicator of whether individual identifies as Black/African American, Indigenous, Hispanic or Latino/a, or Asian	42%	43%
<i>MnSTARR Calculation Variables</i>			
Prior Supervision Failures	Total number of prior revocations on probation and parole	1.03	1.22
Total Convictions	Total number of prior convictions, any offense level	10.40	11.32
Felony Convictions	Total number of felony convictions	2.99	3.52**
Violent Convictions	Total number of violent convictions	0.60	0.83*
Drug Offense Convictions	Total number of drug offense convictions	1.46	1.52
Offense Type			
Drug	Current stay in prison is for a drug offense.	53%	44%
Property	Current stay in prison is for a property offense.	15%	15%
DWI	Current stay in prison is for a felony DWI offense.	12%	22%**
Other	Current stay in prison is for a type of offense not listed above, and is also not a sexual or person offense	20%	18%
Length of Stay in Prison	Length of current stay in prison, measured in months	15.88	17.41
Prison Discipline Convictions	Total number of prison discipline convictions during current term	1.70	2.44
STG	Binary indicator of whether individual is an active member of a STG	12%	13%
Prison Visit	Binary indicator of whether individual has been visited at least once during current term	30%	34%
Secondary Degree	Binary indicator of high school or GED diploma completion at time of release	73%	69%
SUD Treatment	Binary indicator of SUD treatment completion during current term	26%	35%*
Age at Release	Age at time of release, measured in years	36.23	38.72*
<i>MnSTARR Probabilities</i>			
Violent Recidivism	Probability of committing a non-sexual violent offense within 4 years of release	8.74	8.66
Non-Violent Recidivism	Probability of committing a non-violent offense within 4 years of release	59.05	56.91*
Felony Recidivism	Probability of committing a felony-level offense within 4 years of release	34.94	36.99*
N		158	389

Notes: Asterisks denote significance between the EWRP and control group samples based on an independent samples T-test; \* = p value < 0.05; \*\* = p value < 0.01; BIPOC = Black, Indigenous, or person of color; EWRP = Expanded Work Release Program; STG = Security Threat Group; SUD Treatment = Substance Use Disorder Treatment

Turning to the variables displayed in Table 1 that were included in the MnSTARR calculations, both samples had similar average numbers of prior supervision failures and convictions, but the control sample had significantly more prior felony convictions than the EWRP sample (3.52 compared to 2.99, respectively). The control sample also had significantly more prior violent convictions than the EWRP sample (0.83 compared to 0.60, respectively).

Drug convictions accounted for a little over half of current offenses for EWRP participants (53%) and 44% of control sample members, and this difference was not significant. A significantly higher percentage of the control sample was serving time for felony driving while intoxicated (DWI, 22%) compared to EWRP participants (12%). For all these offenses, EWRP participants served an average of close to 16 months in prison, compared to more than 17 months for the control sample.

The EWRP and control group samples were similar in terms of prison discipline convictions, participation in security threat groups (e.g., prison “gangs”), whether they received visits while incarcerated, and completion of secondary education degrees at the time of release. A significantly higher percentage of the control sample completed substance use disorder (SUD) treatment compared to the EWRP sample (35% compared to 26%, respectively). Additionally, the average age of the control sample was significantly higher than the EWRP sample (38.72 compared to 36.23, respectively).

Toward the bottom of Table 1 MnSTARR risk probabilities for violent recidivism, non-violent recidivism, and felony recidivism are displayed. EWRP participants and the control sample were very similar in terms of risk of violent reoffending, but there were some differences in risk of non-violent recidivism and felony recidivism. EWRP participants had a higher average probability for risk of non-violent recidivism compared to the control sample (59.05 compared to

56.91, respectively), while control group members had a higher average probability of felony recidivism than EWRP participants (36.99 compared to 34.94, respectively).

## Findings

Table 2 displays 1-year recidivism rates for the EWRP participants compared to the control sample. For this table only, recidivism was capped at 1 year of follow-up time to make the samples comparable. This table also displays *p*-values from an independent samples *t*-test of differences in percentages between the EWRP and control group samples.

**Table 2. One-Year Recidivism Rates for the EWRP and Control Samples**

<i>Sample</i>	<i>Supervision Revocation</i>	<i>New Arrest</i>	<i>New Conviction (Any)</i>	<i>New Felony Conviction</i>	<i>n</i>
EWRP	7.0%	30.4%	7.6%	3.2%	158
Control	3.9%	28.0%	14.7%*	5.7%	389
<i>p</i> - value	0.122	0.581	0.024	0.224	

*Notes:* Asterisks denote significance between EWRP and the control group based on an independent samples *t*-test; EWRP = Expanded Work Release Program

\* = *p* value < 0.05

The percent of EWRP participants revoked from supervision did not differ significantly from the control group. About 7% of EWRP participants were revoked from supervision within 1 year of release compared to 3.9% of the control sample. The higher supervision revocation rate observed among EWRP participants relative to the control group is perhaps a reflection of the close supervision imposed on the early release group. A little more than 30% of the EWRP participants were re-arrested within 1 year of release, which was comparable to the control sample (30.4% and 28.0%, respectively).

Turning to new convictions, EWRP participants had significantly fewer new convictions than the control sample; a little under 8% of EWRP participants were convicted of a new misdemeanor, gross misdemeanor, or felony offense compared to nearly 15% of control group members. When convictions were limited to only felony-level convictions, EWRP participants

still had a smaller percentage of new convictions than the control sample. However, this difference was not significant. Given that EWRP participants had more supervision revocations than the control group, and the control group had more convictions, it seems possible that EWRP participants were revoked from supervision before they got into more serious trouble. Also notable, it appears that a large proportion of the new convictions incurred by the EWRP participants were for felony-level convictions.

Cox regression models predicting in the four recidivism outcomes based on EWRP participation are displayed in Table 3. Besides EWRP selection, these models also included gender (a binary indicator of whether the individual is male), whether the individual identified with as BIPOC, and MnSTARR risk probabilities for violent, non-violent, and felony recidivism.

First, these models revealed that EWRP selection did not significantly impact the risk of supervision revocation. EWRP participation did increase the hazard of revocation compared to the control sample (by 72%), but this coefficient was not statistically significant. Given the magnitude of this effect and the difference in 1-year supervision revocation rates displayed in Table 2, it is possible that if we had a large sample we may have observed significant differences for this effect.

**Table 3. Cox Regression Analyses Predicting Supervision Revocations, New Arrests, Any New Convictions, and New Felony Convictions based on EWRP Participation**

	<i>Supervision Revocation</i>		<i>New Arrest</i>		<i>Any New Conviction</i>		<i>New Felony Conviction</i>	
	<u>HR</u>	<u>SE</u>	<u>HR</u>	<u>SE</u>	<u>HR</u>	<u>SE</u>	<u>HR</u>	<u>SE</u>
EWRP Participation	1.719	0.347	1.101	0.156	0.585*	0.273	0.475	0.400
Male	1.177	0.425	0.475***	0.169	0.636	0.260	0.649	0.356
BIPOC	1.666	0.329	1.121	0.140	0.803	0.223	0.948	0.300
<i>MnSTARR Probabilities</i>								
Violent Recidivism	1.000	0.047	1.051*	0.021	1.006	0.033	0.992	0.045
Non-Violent Recidivism	1.018	0.024	1.016	0.010	1.046	0.016	1.055*	0.023
Felony Recidivism	1.024	0.028	1.022	0.012	1.006	0.018	1.013	0.026

Notes: HR = hazard ratio; SE = standard error; EWRP = Expanded Work Release Program; BIPOC = Black, Indigenous, or person of color

\*\*\*  $p < .001$ ; \*  $p < .05$

Gender and race/ethnicity both increased the risk of supervision revocation, with males and individuals who identify as BIPOC more likely to be revoked from supervision. However, these coefficients were not statistically significant. The effects of the MnSTARR probabilities predicting violent, non-violent, and felony recidivism were very small in magnitude and non-significant.

Table 3 also reveals that EWRP selection had a very small and non-significant effect on the risk of re-arrest, increasing the hazard of re-arrest by only 10%. Curiously, males were significantly less likely to be re-arrested compared to females in the model predicting re-arrest. In most contexts, males are more likely to reoffend than females (Rettinger & Andrews, 2010). In this low-risk group, females were at higher risk of re-In addition to gender, the probability of violent recidivism had a very small but significant effect on the risk of re-arrest (a 5% increase in the hazard of re-arrest for every one-unit increase in the probability of violent recidivism).

Turning to the models predicting new convictions displayed in Table 3, we found that EWRP participants were significantly less likely to be convicted of any new misdemeanor level offense or higher compared to the control group. EWRP selection reduced the hazard of a new conviction by 42%.

The results of the analysis predicting only new felony-level convictions mostly echoed the results of the analysis predicting any new convictions with a few exceptions. First, while EWRP participation did greatly reduce the risk of a new felony level conviction, this coefficient was not statistically significant. Also different, the probability of non-violent recidivism slightly, but significantly increased the hazard of a new felony conviction (a 5% increase).

## **Discussion and Conclusion**

The results of this study demonstrated that the early releases in Minnesota forced by the COVID-19 pandemic did not come at the cost of public safety. The EWRP participants were not significantly more likely to be revoked from supervision or re-arrested and were significantly less likely to be convicted of a new offense up to 2 years after release. The findings from this study diverged from many of the earlier evaluations of improvised early release programs, which often found higher recidivism among inmates released early from prison (e.g., Kelly & Ekland-Olson, 1991; Sims & O'Connell, 1985; Wright & Rosky 2011). The results of this study are consistent with evaluations of other Minnesota-based early release programs, including standard WR (Duwe, 2015) and the Challenge Incarceration Program (CIP; a correctional bootcamp program targeted toward individuals with SUDs, Duwe & Kerschner, 2008). Taken together, these programs demonstrate that individuals deemed lower risk based on risk assessment tools can be successfully transitioned to the community without serious danger to the public.

There are likely a few reasons why EWRP participants fared better than participants of improvised early release programs in previous decades. First, the volume of early releases generated by EWRP was much smaller than previous early release programs. Prior early release programs resulted in thousands of early releases over the course of a few years. EWRP resulted in just 158 early releases over the course of 9 months. It appears that the small number of early releases did not overwhelm the caseloads of community supervision agents.

Second, the small number of releases generated by EWRP underscores the fact that individual participants were carefully selected. Prior early release programs had limited selection and exclusionary criteria, often choosing participants based almost exclusively on offense type and discipline record. The selection criteria for EWRP was similar to the criteria for established



early release programs (i.e., WR and CIP). In addition to offense type and discipline record, EWRP participants were also selected based on MnSTARR risk probabilities, which are calculated based on several variables. By carefully selecting participants, program administrators ensured that only non-violent, low-risk individuals were included in the program. Based on the results of this study, most of these individuals proved to be good candidates for early release.

Lastly, EWRP selection criteria ensured that participants were prepared for release. At a minimum, the selection criteria required that participants had an approved residence equipped for close supervision. Selected participants were also required to have plans for work or education, even if the COVID-19 pandemic likely hindered the plans of many releasees. This minimal level of release planning likely contributed to the successful reintegration of most of EWRP's participants.

While the results of this study are promising for future early release efforts, this study did not come without limitations. The primary limitation with this study was unobserved selection bias. That is, there are likely several variables that impacted selection into EWRP, which were not accounted for in this study. These criteria include, but are not limited to, the suitability of each releasee's residence, undocumented behavioral issues, or detainers or warrants that were not evident at the time data were collected. However, the multivariate analyses that controlled for risk of recidivism likely reduced the impact of much of this selection bias.

While this study does make an important contribution toward understanding the effects of the COVID-19 pandemic on incarceration populations, it is just one piece of a larger picture. More research is needed to determine the outcomes of individuals who were not incarcerated due to the pandemic. Did individuals diverted from pre-trial detention still show up for their court dates and avoid further involvement in the criminal justice system? Did individuals who avoided

sentences of incarceration successfully complete their alternative sentences? Were individuals who were not revoked from supervision able to successfully complete their terms of supervision? Policy makers have now been working for decades to reduce incarceration populations. A worldwide natural disaster has accelerated this effort. Now is the time for criminologists to determine if public safety can be preserved while incarcerating far fewer individuals than have been held in jails and prisons in recent decades.

The small size of EWRP was both its strength and its limitation. The small size of this program made it more manageable, ensuring successful reentry for most of its participants. Its small size also ensured that this program did not have a huge impact on reducing the MnDOC's population. A program like EWRP could be expanded and have a larger impact on the size of Minnesota's prison population if two things were accomplished. First, the capacity of community supervision programs would have to be expanded, allowing for more early releases. The improvised early release programs of prior decades demonstrated that early release programs can be squandered if community supervision partners are not equipped to support released inmates. To increase the capacity of community supervision programs, sentences of supervision could be shortened, and compliant supervisees could be discharged more quickly (Pew Charitable Trusts, 2020). Mass decarceration can be accomplished only if mass supervision is reined in (Phelps, 2013).

Second, more incarcerated individuals would have to participate in evidence-based programming, which would reduce their MnSTARR risk probabilities (Duwe, 2014, 2021; Duwe & Rocque, 2021). In doing so, more individuals would be eligible for early release as participation in programming not only reduces MnSTARR scores, but also reduces the likelihood of recidivism (e.g., Duwe, 2013). A cost-benefit analysis was outside of the scope of this study

but incarcerating fewer individuals would likely save corrections agencies money. That money could be re-invested into more programing and community supervision programs, making early release possible for more low-risk individuals.

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