



GUIDELINES FOR RECIDIVISM STUDIES

**MEASURING CRIMINAL JUSTICE OUTCOMES FOR
LOCAL PROGRAMS**

JUNE, 2015

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Adult Recidivism Definition

Recidivism is defined as conviction of a new felony or misdemeanor committed within three years of release from custody or committed within three years of placement on supervision for a previous criminal conviction.¹

Supplemental Measures

This definition does not preclude other measures of offender outcomes. Such measures may include new arrest, return to custody, criminal filing, violation of supervision, and level of offense (felony or misdemeanor).

Recidivism Rates

While the definition adopts a three-year standard measurement period, rates may also be measured over other time intervals such as one, two, or five years.

DISCUSSION

Program and policy evaluations often refer to a recidivism rate, which is defined by three elements: *what*, *who*, and *when*.

What. The narrowest and, for most studies, the most reliable definition of *new offense* depends on courts of law to establish whether an individual actually committed a particular offense: by this standard, offenses have been committed only when a disposition of *guilty* (or equivalents, including deferred entry of judgment) has been rendered for a criminal misdemeanor or felony. This definition of new offense excludes cases dropped or dismissed, as well as non-criminal traffic offenses, regardless of guilt. Furthermore, absent a conviction, new jail admissions and violations of supervision (parole, probation, PRCS, mandatory supervision, or other terms of release, either pretrial or post-sentence) are excluded.

- While new jail admissions and supervision violations do not count as *new offenses* per se, they may be classified as forms of recidivism, depending on policy objectives. For example, if a program aims at reducing violations or jail admissions, these outcomes mean as much as new offenses. Furthermore, it is useful to track these events because their patterns may shed light on new offense recidivism and other outcomes of interest.

¹ “Committed” refers to the date of offense, not the date of conviction.

- In some contexts, legally adjudicated new offenses in the community may not apply: for example, inside prisons, one may wish to measure, and for convenience describe as a form of recidivism, prison rule infractions by inmates who had previously been disciplined and segregated.

New offense recidivism, invoking a legal standard for conduct that violates the law and threatens the safety of others, occupies a privileged position in assessing how well the public is protected by criminal justice policies and programs. There is little dispute that if a subject has been convicted of a new criminal offense, he is officially a recidivist; dispute is possible, of course, about whether that's too much to require. The priority of new convictions does not mean that other measures should be ruled out; rather, it means that if other measures are reported, the reference should be specified and their use explained.

- If *new offense* is extended to arrests as well as to convictions, it is important to clarify how arrests are counted: for example, as a recorded law enforcement stop resulting in detention, even if only temporary; or more narrowly, as a law enforcement stop followed by booking and fingerprinting; it is fingerprinting that generates a record of the arrest and the associated case(s) in the Department of Justice's reporting system.
- In statewide data systems maintained by DOJ, there is no middle ground between arrests and dispositions that allows us to determine whether charges were filed following an arrest. If there is a disposition, whether guilty or not, one may infer that charges were filed; but not all filed charges result in recorded dispositions. Sanctioning someone for a probation violation in lieu of pursuing charges is one reason that charges are dropped, but this fact is not a regular part of official records that would allow an analyst reliably to assess recidivism rates by means of official record data. In a small-scale study with case-by-case examination of chronological records, it may be possible to discern which probation violations are technical and which are imposed in lieu of prosecution for a new offense.
- Charges for new offenses are one among many reasons for which people may be arrested and returned to jail. As explained above, jail admissions may be counted independently of convictions and yield a useful measure of behavior for many purposes. But connecting jail admissions with court cases is complicated, not only because it requires local data but because one person may be admitted many times on the same case, and many cases may apply to a single admission.

Because of local variations in criminal behavior, law enforcement, prosecution, defense, and adjudication, jurisdictions will differ in the percentage of cases resulting in convictions. They also vary in use of incarceration for pretrial defendants and convicted offenders. For this reason, tracking arrests and returns to custody, along with convictions, is both practical and useful: both as measures of offender behavior and as indicators of other factors and practices that result in different patterns among jurisdictions.

Who. How is the population defined, for which recidivism rates are being assessed and reported? Rates will differ substantially, for example, between the population of people being released from prison for felony convictions and the far less selective population of everyone who has ever been arrested or admitted to jail. It is important to remember that the population—the denominator for a recidivism rate—is partly defined by calendar periods, but recidivism rates apply to people, not to periods of time. So we ask: among offenders placed on probation in 2011, how many committed new offenses over the next three years? We do not ask, what was the probation department’s recidivism rate for 2011, because there is no fixed denominator for such a question. Data elements needed to define *Who* are explained below.

- *Cohort Definition.* Studies of behavior over time use the term “cohort” to refer to a group of people who share, among other things, a common date range for the event(s) that qualify them as study subjects. For example, studies might distinguish two cohorts of offenders: those convicted during the two years before Realignment and those convicted during the next two years.
- *Inclusion and Exclusion Criteria.* A cohort is defined in the first place by a date range, but study populations may be further defined by offense (felons with 1170h offense), agency (released from prison), supervision status, and treatment program participation.

Examples: People convicted of PC1170h felony offenses during the two-year period beginning October 1, 2011;
People previously incarcerated for felony convictions who enrolled in XYZ treatment program between January 1, 2012 and December 31, 2013

- *Index offense* refers not to the FBI’s eight Part I index offenses in the Uniform Crime Reporting (UCR) system, but to the previous offense that establishes a subject’s membership in the recidivism study population. Particular types of index offense (e.g., sex offenses) may be included, along with date parameters, in the criteria for study subject status. In the above examples, the population is defined both by date criteria and the felony status of their index offenses.
- *Censoring Subjects.* One particular exclusion criterion deserves special mention because one may not know, before collecting data, to whom it will apply. In a study of released offenders, some of them may have died, left the state, been admitted to state hospitals, or been detained on warrants for previous offenses. If they are deceased, incarcerated or out of measurement range for reasons *other than a new offense* during substantial portions of the study period, and if those subjects had committed no new offenses before disappearing from view, they are *censored*: they are not included in the study population for this purpose. In terms of recidivism rates, they are excluded from both the numerator and the denominator.

When. When do we begin tracking recidivist behavior, and when do we stop?

- *Index date.* We begin with the index date, which divides criminal history from new offenses for the purposes of a recidivism study. For most studies, the index date is the date of the subject's latest release from jail or prison during the index period (i.e., the period that defines a study cohort). For some purposes, such as evaluating a community-based treatment program, it is reasonable to use the program enrollment date.

If we were to define a release cohort, for example, in terms of people released from custody between October, 2009 and October 2011, the same person may be released, re-admitted, and released again during this period. The date of someone's last release during that period may serve as the default release date, but this default may be overruled by other criteria: type of admission and type of release; type of offense (felony, misdemeanor); study constraints (the range of dates for which data are available; or study objectives (e.g., program evaluation). In such situations, it is important to make clear how the index date is determined.

- *Exposure period.* This is the period of exposure to risk in the community over which it is meaningful to report rates of recidivism. This period begins with the index date.

Researchers rarely report rates over anything less than an 18-month exposure period, which may be adequate for new offenses by juvenile offenders; but for some populations and offenses—for example, new sexual offenses among people released from prison for previous sex offenses—a five-year period may be needed.²

The length of the exposure period depends on the time available for reporting on outcomes, but also on the timing of first new offenses by study subjects. Rates are misleading unless we have evidence that, of subjects who will eventually commit another offense, the vast majority will have done so by the end of the exposure period.³

The exposure period should be the same in length for each subject, but date parameters will vary according to each individual's index date. The entire study period extends from the earliest

² Barnoski, R. 2005. *Sex Offender Sentencing in Washington State: Measuring Recidivism*. Olympia, WA: Washington State Institute of Public Policy, Document # 05-08-1202. Barnoski, R. 1997. *Standards for Improving Research Effectiveness in Adult and Juvenile Justice*. Olympia, WA: Washington State Institute of Public Policy, Document # 97-12-1201.

³ The concept of *survival*, taken from medical literature, refers to the percentage of the population remaining free of negative outcomes over time. In a graphic representation for convicted felons released from prison, the *survival curve* starts to level off between two and three years, indicating that the vast majority of people who are likely eventually to commit new offenses will have committed their first one within three years, the standard used in federal Bureau of Justice Statistics studies (Langan P & Levin D, 2002, *Recidivism of Prisoners Released in 1994*, Washington DC: U.S. Department of Justice, Office of Justice Programs). For new sex offenses by convicted sex offenders, however, the curve continues to drop steadily during the third year—i.e., recidivism continues to rise steadily during that period—indicating that a longer period of measurement is needed.

index date for the subject cohort to the latest date of data collection, so it will be longer than the study period for any particular subject.⁴

- *Censoring Events.* For reasons just described, the data collection period often extends beyond the particular exposure period of many subjects. Events such as *new offenses* may be recorded that occurred after the end of one subject's exposure period because others in the subject pool had later index dates. To provide equal periods of exposure and therefore fair comparisons among subjects, such events are *censored*, i.e., not counted in the study population's recidivism rate.

If someone released from prison re-offends during his first three months in the community, and spends the remainder of the period in jail or in the hospital, his offense is counted; if, on the other hand, he is hospitalized except for three months of the study period, and commits no new offense during that time, then, as described above under *Who*, the subject would be censored.

Censoring prevents reported rates from being lowered artificially by subjects who lacked full opportunity to commit new offenses during the study period. The date at which events are censored, i.e., the end of each subject's exposure period, also provides data needed to analyze community survival patterns.

- *Adjudication Interval.* Offenses committed during the exposure period may not be adjudicated until many months later, usually in proportion to the seriousness of the charges but sometimes reflecting other procedural complications. Allowances may be made for the circumstances of a study, but allowing a year will capture almost all cases; three months is inadequate, even for many misdemeanors.

Elements Needed to Measure Recidivism. For each individual in the population under study, there are a few data elements critical to producing reliable statistics.

- *Date and Type of First New Offense.* The offense date (not the incarceration date, filing date, or disposition date) of the first new offense is an important measure, along with the applicable statute(s). The date is critical to determining whether an offense lies within the exposure period; furthermore, it is useful to track *how long* it takes for people to recidivate as well as whether they ever did.
- *Date and Type of Most Serious New Offense.* The first offense is often not the most serious during the exposure period; for example, new felonies are often preceded by misdemeanors or probation violations that may be described as harbinger offenses. The community's

⁴ This definition of the recidivism study period does not include the period, often covering many years, during which subjects may have been building criminal records; including criminal history in recidivism studies will assist interpretation of results.

interest in recidivism is measured not only by the overall rate, but by the kinds of offenses that recidivists commit. Such descriptions will benefit from a hierarchical classification system that identifies the most serious new offense during the exposure period.⁵ Such a system also helps to identify the controlling or most serious charge for any particular case or conviction.

- Because felony and misdemeanor patterns differ, many studies count them separately.

Data Sources. The most reliable data on arrests and dispositions of cases (e.g., convictions) are recorded by Superior Courts and assembled by the Department of Justice. In local studies, the local Superior courts, district attorney's offices, and probation departments may have records on convictions *in their jurisdictions* that are more complete than those assembled by DOJ. Probation violations and jail admissions pose distinct challenges, particularly in statewide studies.

- Optimal capacity to detect and correct errors (e.g., about index dates) and address questions of interpretation is achieved if researchers are provided with a complete listing of all offenses ever reported for study subjects; complete datasets on offenses also permit description of criminal history and its association with recidivism.
- For studies of populations other than people released from prison, even narrowly defined new offense measures require County-level jail data to identify index dates. Other records may be required to identify subjects who would be censored because they were deceased, hospitalized or detained in jail for previous offenses.

The above comments are intended to call attention to issues for consideration when a recidivism study is being planned. Local needs and circumstances must govern decisions about methods of data collection, and the level of detail required to specify variables. BSCC's Research Department will be happy to consult on plans and methods with administrators, researchers, and program evaluators interested in using recidivism as a measure of criminal justice outcomes.

⁵ A system for coding offenses by type and seriousness was developed by the Washington State Institute for Public Policy and adapted for use in California by CDCR and at least one county; a simpler, compatible system is used by researchers at Irvine. Given the utility of a well-constructed hierarchical system for recidivism studies and jail population analysis, and the effort required to update and maintain it as new legislation and policy objectives emerge, it is worth considering whether a single state agency should provide this service to counties and other agencies concerned with assessing results. A well-constructed system with the appropriate degree of granularity is compatible with, and indeed facilitates, alternate rankings for particular policy purposes.