

AOC Briefing

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Defining Recidivism in Juvenile Justice

An overview of common definitions of recidivism and the challenges of not having one standardized definition.



ADMINISTRATIVE OFFICE
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AOC Briefing

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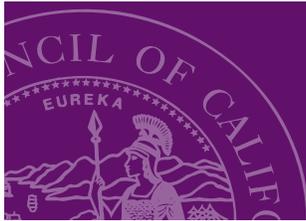
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INTRODUCTION

Many measures are used to verify the success of programs or practices in juvenile justice, and those measures usually depend on what an evaluation is trying to determine. Collecting and analyzing the data necessary to determine the success of such programs or practices, however, is often difficult. For example, a drug court program may want to find out whether its graduates have relapsed after completing the program to establish whether the program has worked, but that information may be difficult to obtain because of the graduates' relocation or unwillingness to respond. Thus, recidivism is the most common outcome measure used to determine whether a program or practice in juvenile justice is "working," or is successful. Recidivism is used for three reasons: (1) it reflects whether a program or service is preventing youth from committing another crime, (2) it generally reflects whether youth are making better decisions in their lives, and (3) it is relatively easy to track and calculate.¹ Using recidivism as a measure has challenges, however, because of the various ways that researchers and organizations define it. Researchers may use different benchmarks and time frames, making comparisons among programs, counties, or states difficult.

This briefing will examine how juvenile justice partners define and measure juvenile recidivism and will review the recommendations stated by the Council of Juvenile Correctional Administrators (CJCA) for standardizing a definition. This briefing is one of several on topics of interest to judicial officers and court stakeholders, including a detailed overview of evaluating risks and needs of youth in the juvenile justice system and how practices and programs become evidence based.* The Administrative Office of the Courts (AOC) has also published a report describing several performance measures used in juvenile delinquency, including recidivism.² These measures were determined through a careful and collaborative process of assessment and pilot testing.

Recidivism is a common measure used to determine the success of a program or practice for three reasons:

1. It reflects whether a program or service is preventing youth from committing another crime;
2. It is generally a reflection of whether youth are making better decisions in their lives; and
3. It is relatively easy to track and calculate.

* For links to these and all current AOC Briefings and Literature Reviews, see www.courts.ca.gov/12891.htm.

DEFINING AND MEASURING RECIDIVISM

Researchers and policymakers define recidivism in several ways. In the AOC's report on juvenile court performance measures, *recidivism* is defined as new law violations resulting in sustained petitions or convictions.³ The CJCA noted that “[r]ecidivism is most commonly measured in terms of rearrests, referrals to court, reconvictions, or reconfinement,” or some combination of these variables.⁴ According to the National Research Advisory Committee of the National Drug Court Institute, both arrest data and conviction data can be proxy measures of recidivism, although neither is a perfect measure.

Writing on behalf of the Washington State Institute for Public Policy, Robert Barnoski suggested that recidivism is “any offense committed after release to the community that results in a ... court legal action.” He defined *court legal action* as “a conviction, deferred sentence, deferred prosecution, deferred disposition, or a diversion agreement ... for misdemeanors, gross misdemeanors, and felonies.” When using multiple measures of recidivism, Barnoski also noted that it is important to report arrests separately from convictions and to report misdemeanors separately from felonies, and that recidivism should be measured beginning on the date the offender is released to the community with a specific follow-up period, stating that it takes at least 30 months to reasonably capture recidivism events and their system processing.⁵ Thus, Barnoski measured recidivism with two measures: rearrest within 18 months and readjudication within 30 months.⁶ He also distinguished among reoffending with a misdemeanor, with a felony, and with a violent felony.

Prominent researchers in criminal and juvenile justice use various measures to assess recidivism. Some researchers have used a one-year rearrest rate to define recidivism, using a definition that Mark Lipsey established in 2009.⁷ Lipsey conducted a meta-analysis of studies using rearrest, reconviction, and reincarceration to define recidivism. He standardized the definition to rearrest during 12 months after intervention.⁸ Edward Latessa, Christopher Lowenkamp, and Kristin Bechtel also measured recidivism using several measures: “(1) any technical violation, (2) any arrest, (3) any re-incarceration, (4) number of arrests and (5) any recidivism” (all combined).⁹ Latessa, Lori Lovins, and Paula Smith also defined recidivism as rearrest and reincarceration for either a new offense or a technical violation.¹⁰ Chip Coldren, Timothy Bynum, and Joe Thome, of the Office of Juvenile Justice and Delinquency Prevention (OJJDP), suggested that the best measure of recidivism is one that focuses most closely on the behavior itself, such as police contacts, rather than organizational decisionmaking.¹¹ The researchers argued that decisions made by police in determining whether to arrest and decisions made by the court on

whether to adjudicate may be influenced by a number of factors that are unrelated to the youth's behavior related to delinquency. Some definitions also take into consideration the character or severity of any new offense.

Several states have a standardized definition of recidivism used in the adult criminal and juvenile justice systems. For example, Oregon defines recidivism as any new criminal referral. Maine defines recidivism as readjudication in either juvenile or adult court. North Carolina uses rearrests as the primary measure of recidivism and supplements that with reconvictions and reincarcerations. Several agencies have recommended that California establish a standardized definition. Without a standardized definition to use as a comparison, there is no way to determine whether a particular recidivism rate is good or bad or more or less successful than another recidivism rate in another county, agency, or program.

For adults in California under the California Community Corrections Performance Incentives Act of 2009, recidivism is defined as a conviction of a new felony, including when probation is revoked or terminated. The act, passed as Senate Bill 678 and codified in California Penal Code section 1228, encourages the use of evidence-based practices and programs[†] and requires each county that receives SB 678 funding to create a community corrections program to implement those practices and programs as well as to identify and track outcome measures.

For California juveniles, the California Department of Corrections and Rehabilitation's Division of Juvenile Justice (DJJ) uses the following definition for a recidivist: An individual previously adjudicated of a serious or violent crime (CA Welfare and Institutions Code section 707b) or sex crime (California Penal Code section 290), committed to DJJ and released or discharged, and subsequently arrested in California or returned or recommitted to DJJ or a California adult institution during a specified follow-up period of time ranging from one year to three years from release. This definition is independent of the youth's discharge status on the initial offense. Because this definition is not standardized among agencies, justice partners, and researchers, comparison evaluations of juvenile programs are challenging.

Informal conversations among some officials and researchers in California to standardize a definition have led the Chief Probation Officers of California (CPOC) to agree on a standardized definition of juvenile recidivism for use in California: Recidivism is a subsequent criminal conviction or juvenile adjudication while on probation. Some have argued that this is an imperfect definition that presents some

[†] For information on how practices and programs become evidence based, see the AOC Briefing at www.courts.ca.gov/documents/AOCBrief_JuvenileJusticeResearch_efile_021612.pdf.

challenges, however. For example, many counties differ in the length of time a juvenile is placed on probation, with some probation departments using a specified number of years (which may also differ among counties) and some using an indefinite amount of time, permitting individual officers to request probation be terminated when they believe a minor no longer warrants supervision. This definition also does not determine whether a new arrest occurring after the original offense but before disposition would be included. For example, a juvenile may be arrested on a new charge postadjudication but before disposition on the original charge so he or she may not yet technically be on probation. An additional question is whether juveniles who have been diverted preadjudication, postadjudication, or postdisposition would be included, as well as whether juveniles given deferred entry of judgment would be included. An additional challenge is that the definition does not include new offenses in the adult criminal system after an offender turns 18, even if an offense is committed the day after an offender's 18th birthday, for example. It is also often impossible for county probation departments to obtain arrest or conviction rates that occur outside of the county at any point in time. For all of these reasons, counties may have a difficult time determining recidivism outside of a narrow scope of age and location, and the recidivism measure may differ by county.

RECOMMENDATIONS OF NATIONAL AGENCIES

In a renowned article, James Bonta, Tanya Rugge, Terri-Lynne Scott, Guy Bourgon, and Annie Yessine cited differences in recidivism rates depending on the measure used: rearrest alone or rearrest with reconviction.¹² For example, when rearrest was the sole measure, the recidivism rate was much higher than when conviction was included (25 percent vs. 20 percent). The recidivism rate dropped further when a new prison sentence was used as the measure (to 11 percent). Coldren et al. of OJJDP noted that each type of measure used isn't wrong; rather, they are just measuring different things and thus cannot be compared.¹³

How each researcher defines recidivism will depend on the following four factors: (1) what data are available, (2) what the agency wants to look at, (3) the length of the project, and (4) the amount of funding. Taking all of these factors into account, Phil Harris et al. of the CJCA recommended the following in a recent white paper:¹⁴

- Recidivism should include rearrest or petition as well as adjudication or conviction in order to minimize the number of false positives. Recidivism should be based on an official record such as readjudication because there is opportunity for bias in measuring recidivism.

- Any readjudication should be due to a new offense rather than a technical violation.
- If a disposition is used to define recidivism, a distinction between incarceration and reincarceration should exist. This distinction will determine how youth who have never been incarcerated (e.g., those who were handled informally or through diversion initially) are classified in regard to recidivism.
- Adult convictions should be included in order to ensure that offenses occurring at some point in the follow-up time period are not excluded. That the offense resulted in adult system processing should not matter.
- Measurement of recidivism should start with the date of disposition. The follow-up period for tracking an individual's recidivism should be at least 24 months. The authors noted that the average maximum follow-up period for both state agencies and program evaluators is more than two years.
- The definition of recidivism must include criteria for location of the new offense. For example, can recidivism data be collected only within the county, within the state, or within the country?

In a follow-up article explaining the CJCA's white paper, Harris, Brian Lockwood, Liz Mengers, and Bartlett Stoodley discussed development and rationale of the recommendations.¹⁵ Their goal in writing the white paper was to find a way of standardizing the measurement and reporting in a way that exceeds many organizational structures. They noted that a common definition of recidivism is necessary to clearly communicate the meaning of study results. In addition, a standardized definition is essential for accurately describing methods used to gather data in order to replicate research designs. They also recommended collecting multiple measures of recidivism in order to draw comparisons among studies using different measures. The authors further agreed that recidivism research must distinguish between delinquent offenses and violations of probation or parole, as well as between offenses committed following discharge and those committed during a program or confinement.

CONCLUSION

Recidivism can be defined in many ways; however, without a standardized definition that all organizations and agencies use, comparisons may be difficult to make. According to Harris et al., clear communication and effective use of performance data would increase if recidivism definitions and measures were standardized.¹⁶ California policymakers have made great efforts to standardize the definition and measure of recidivism for juveniles and can use the recommendations stated by the CJCA, including those listed in this briefing, to refine those definitions and measures.

NOTES

¹J. Kelly, "National Standard Coming for Juvenile Recidivism Rates?" (Nov. 25, 2009) Youth Today, www.youthtoday.org/view_blog.cfm?blog_id=253.

²Admin. Off. of Cts., *Juvenile Delinquency Court Performance Measures* (in press).

³*Ibid.*

⁴P. W. Harris, B. Lockwood & L. Mengers, *A CJCA White Paper: Defining and Measuring Recidivism* (Council of Juvenile Correctional Administrators, U.S. Office of Juvenile Justice and Delinquency Prevention [OJJDP], Nov. 2009), www.cjca.net.

⁵R. Barnoski, *Standards for Improving Research Effectiveness in Adult and Juvenile Justice* (Washington State Institute for Public Policy, Dec. 1997), www.wsipp.wa.gov.

⁶R. Barnoski, *Assessing Risk for Re-Offense: Validating the Washington State Juvenile Court Assessment: Appendices* (Washington State Institute for Public Policy, 2004), www.wsipp.wa.gov.

⁷M. W. Lipsey, J. C. Howell, M. R. Kelly, G. Chapman & D. Carver, *Improving the Effectiveness of Juvenile Justice Programs: A New Perspective on Evidence-Based Practice* (Center for Juvenile Justice Reform, Dec. 2010), cjjr.georgetown.edu/pdfs/ebpl/ebppaper.pdf.

⁸M. W. Lipsey, "The Primary Factors that Characterize Effective Interventions with Juvenile Offenders: A Meta-Analytic Overview" (2009) 4(2) *Victims & Offenders* 124–147.

⁹E. J. Latessa, C. T. Lowenkamp & K. Bechtel, *Community Corrections Centers, Parolees, and Recidivism: An Investigation into the Characteristics of Effective Reentry Programs in Pennsylvania* (Nov. 2009), www.uc.edu/ccjr/reports.html.

¹⁰E. J. Latessa, L. B. Lovins & P. Smith, *Follow-up Evaluation of Ohio's Community Based Correctional Facility and Halfway House Programs—Outcome Study* (Center for Criminal Justice Research, Feb. 2010).

¹¹J. R. Coldren, T. Bynum & J. Thome, *Evaluating Juvenile Justice Programs: A Design Monograph for State Planners* (OJJDP, June 1991), www.bja.gov/evaluation/guide/documents/documentg.html.

¹²J. Bonta, T. Ruge, T. Scott, G. Bourgon & A. K. Yessine, "Exploring the Black Box of Community Supervision" (2008) 47(3) *Journal of Offender Rehabilitation* 248–270.

¹³Latessa, Lowenkamp et al., *supra* note 9.

¹⁴Harris et al., *supra* note 4.

¹⁵P. W. Harris, B. Lockwood, L. Mengers & B. H. Stoodley, "Measuring Recidivism in Juvenile Corrections" (OJJDP, Fall 2011) 1(1) *Journal of Juvenile Justice* 1–16.

¹⁶*Ibid.*



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