

Recidivism of Youth Ages 18-19 Adjudicated in Criminal Court



Submitted to:

***Vermont Department for Children and Families
Systems Improvement Committee***

Submitted by:

Robin Joy, J.D., Ph.D.
Crime Research Group
P.O. Box 1433
Montpelier, VT 05601
802-230-4768
www.crgvt.org

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Introduction

The Vermont Department for Children and Families (DCF) contracted with Crime Research Group (CRG) to provide a baseline recidivism analysis for youth ages 18 and 19 who were convicted in adult criminal court.

The 18- and 19-year-old youth were identified using the Court Adjudication database maintained by CRG. Their age was based on the age at arraignment. There were 859 youth who were convicted from 2016-2019. CRG sent their names to Vermont Crime Information Center (VCIC) to obtain their Vermont criminal histories. VCIC was able to match 761 youth to criminal histories. Of those 761, 13 had died and were removed from the analysis. If a youth's base offense had been expunged, then it no longer appeared on the rap sheet.¹ These youth were also excluded from the study if they had no additional qualifying conviction during the study period. Also excluded were youth who had probation violations only or had a charge for one of the "Big 12" crimes on their base docket. This resulted in 400 youth in the study cohort.

Demographics of Cohort

There were 249 White males in the cohort and 74 White females. There were five or fewer Asian defendants, Indigenous defendants, and Black female defendants. There were 15 Black male defendants (3.75%).² The race or gender of the defendant was missing or unknown for 58 defendants (14.5%). There were 211 18-year-olds and 189 19-year-olds in the cohort.

¹ The actual recidivism rate would likely be lower than reported here because youth whose records were expunged cannot be accurately tracked.

² Excluding defendants who had a charge of the "Big 12" excluded 14% of all Black defendants compared to 8% of all White defendants.

Base Charges

Table 1 illustrates the number of charges with which the juveniles in the cohort were charged. The most common charges were crimes against public order, these include Violations of Conditions of Release, Disorderly Conduct, and Unlawful Trespassing. Violations of lower-level Motor Vehicle laws, such as Driving on a Suspended License and Operating Without Owners Consent, were the next most common offenses. Driving Under the Influence (DUI) was the third largest offense group. Only 44 of the defendants (11%) were convicted of felonies. The felonies were largely property and motor vehicle offenses (including felony DUI and felony operation).

Table 1: Crime Categories and Number of Charges for Base Docket

Crime Category	Total
Public Order	167
DMV	118
DUI	97
Theft	61
Assault	56
GNO	54
Drugs	26
Domestic	23
Weapons	7
Fish and Game	5
Arson	4
Sex Offenses	4
Fraud	3

Sentences

The most common sentence imposed was fine only with 171 youth being sentenced to paying a fine. Straight jail time sentences were imposed on 108 youth. The average time sentenced on the minimum was 147 days and the average on the maximum 354 days. There were 81 probation sentences. The average length of probation was 157 days, and the maximum length was 309 days. The average deferred sentence was 2 years. The average length of time to serve on a split sentence was 45 days, with an average of 7 months to 1 year for the probationary sentence.

Charts 1 and 2 illustrate the distribution of sentences by county. There were no cases from Grand Isle. In nine counties, fines were the predominant sentence. However, sentences to incarceration were the predominant sentence in Bennington, Chittenden, Orleans, and Washington counties. Some of the sentences to incarceration may be pre-approved furlough cases. The data do not distinguish between a sentence to serve and pre-approved furlough.

Chart 1: Total Sentences by Type by County

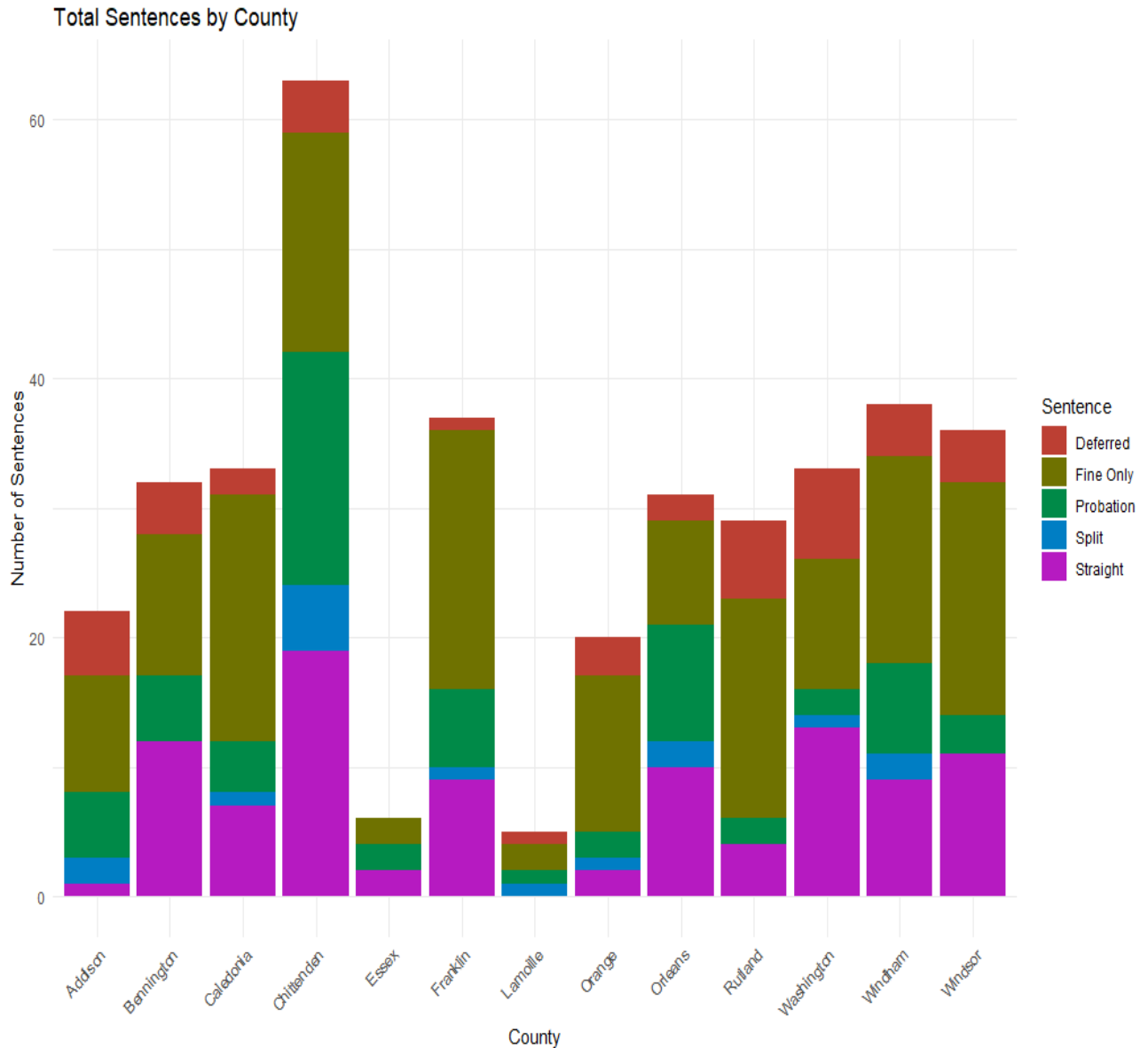
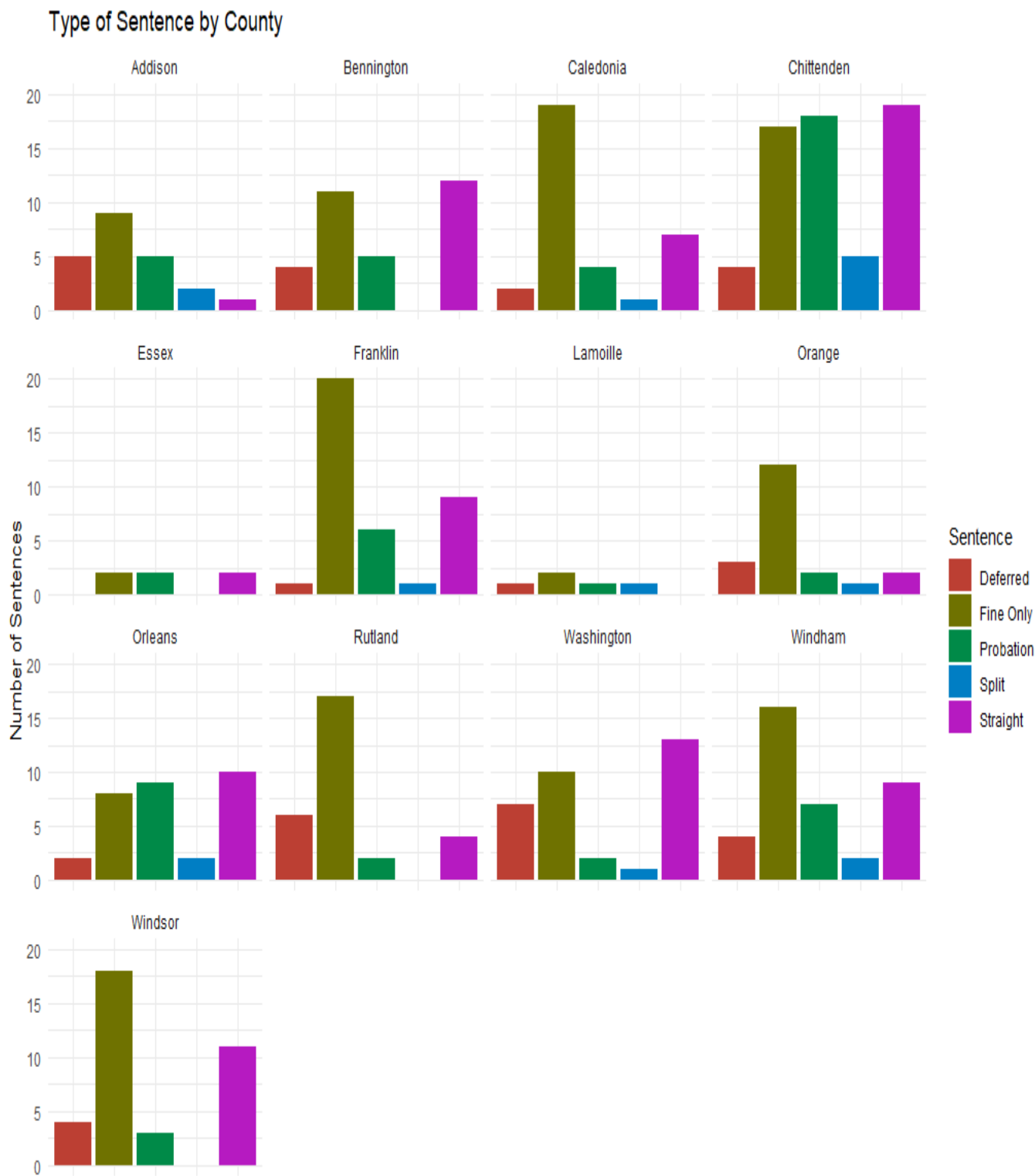


Chart 2: Type of Sentence for Each County

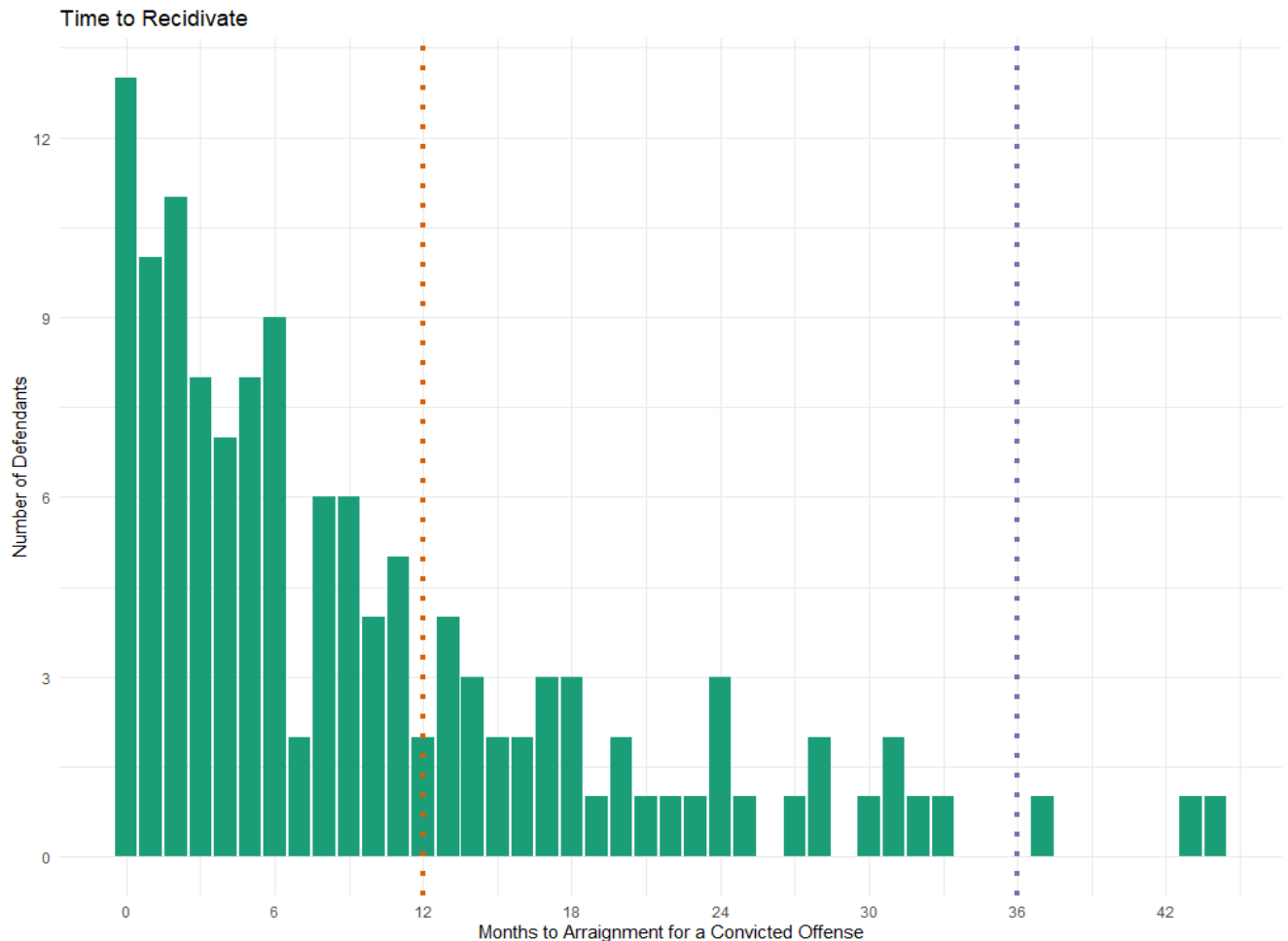


Recidivism

Of the 400 defendants in the cohort, 379 were eligible to recidivate within one year. Ninety-one defendants committed a new offense within one year of their eligibility to reoffend for a one-year recidivism rate of 24%. Two hundred and seventy-four defendants had least three years to recidivate. Of these, 126 or 45.98% earned a new conviction within three years.³

Chart 3 shows how soon defendants were arraigned for a new charge and were convicted. Most defendants recidivated within the first year. The average time to recidivate was 9.6 months and the median was 6 months. Sixteen defendants were re-arraigned within one month of their base docket. Three defendants did not recidivate for over three years.

Chart 3: Number of Defendants Convicted of a New Crime Within Three Years of Base Offense



³ Two defendants were sentenced to more than three years of jail time. One is still incarcerated, and the other was released in the spring of 2021, after the data were obtained, therefore, we were not able to complete the recidivism analysis outlined in 28 VSA § 4.

New Offenses

Of the 126 youth who recidivated within three years, 24, or 19%, earned a new felony conviction. Table 2 shows the types of crimes and number of convictions for the 126 youth who recidivated. If one looks at the entire cohort of youth eligible to recidivate (274) the rate of recidivism for a felony is 6.9%. Two of the 24 defendants earned a conviction for a “Big 12” offense. Six of the 24 had a felony conviction on their base docket.⁴ The most common felony conviction was for Escape from Custody (5 convictions), followed by assault crimes (4 convictions) and drug crimes (4 convictions).

Fourteen defendants violated their probation with no conviction for a new offense. Ten juveniles earned a new conviction for Violations of Conditions of Release and two of them had new criminal convictions on the same docket.

Table 2: Type of Crime and Number of Convictions for Youth who Recidivated

Crime Category	Total
Public Order	52
DMV	27
DUI	20
Theft	15
Assault	14
Drugs	11
Fraud	11
Domestic	9
Fish and Game	4
Sex Offenses	3
GNO	2

Overall, the distribution of the types of all crimes committed on the recidivism dockets mirrored the distribution of crimes on the base dockets. Public order, low level DMV, and DUI crimes were the three most common crimes committed.

The three-year recidivism rate for 18-year-olds was 43.5% and for 19-year-olds it was 48.8%. There were 147 18-year-olds who were eligible to recidivate within three years, and 64 recidivated. There were 127 19-year-olds eligible to recidivate within three years, and 62 recidivated.

⁴ The Sentencing Commission has proposed several changes to property and drug crimes that would raise the threshold for crimes to be considered a felony. This will make comparing the 6.9% new felony recidivism rate here to future felony rates difficult.

The sentences youth received for the recidivist offense showed no consistent pattern. Table 3 shows the harshest base sentence as the columns and the harshest recidivist sentence as the rows. Straight incarceration was the most common sentence. However, if a juvenile received a fine as the harshest base sentence, a fine was the most common recidivist sentence.

Table 3: Base Sentence and Sentence

	Deferred	Fine Only	Probation	Split	Straight
Deferred	0	3	2	0	1
Fine Only	3	20	9	0	7
Probation	1	5	8	0	4
Split	1	1	1	0	6
Straight	16	14	28	15	74

Conclusion

The overall three-year recidivism rate for 18- and 19-year-old youth is 45.98%,⁵ with most youth committing a new offense within six months of eligibility. Calculating recidivism using the definition outlined in 28 VSA § 4 was not possible because only two defendants had been sentenced to more than one year in jail and were not eligible to recidivate until after the data for this study were collected.

Of concern is that 14% of all 18- to 19-year-old Black youth were excluded from this study because they were charged with a “Big 12” crime. Only 8% of White defendants were excluded for the same reason. Further research into this disparity should be conducted. It is possible that the excluded defendants had charges when they were younger that would now be processed in juvenile court. It is also possible that the types of charges that Black youth are charged with are causing the disparities.

Metrics should be developed to measure the criminal trajectory of the youth. Vermont has some policy guidance on crimes that are worse than others, such as the “Big 12” designation or the Listed Offenses. As noted above, however, this may be contributing to racial disparities. Other metrics, such as a felony classification, are not helpful. For example, property crimes have very low thresholds for felonies, often \$900, which may be the value of a cell phone. A felony conviction for a cell phone theft might not be evidence of a worsening trajectory.

⁵ The actual recidivism rate would likely be lower than reported here because youth whose records were expunged cannot be accurately tracked.

Reducing the time between offenses may be a better measure of how well the system is supporting youth. A reduction in Youth Assessment Screening Instrument (YASI) scores may also be a possible metric. Qualitative studies, when appropriate, are useful in centering the conversation to include the youth, their advocates, and their experiences.