

Act 40 of 2023: Recidivism and Desistance

Funded by Bureau of Justice Statistics State Justice Statistics Grant 15PBJIS-23-GK-00686-BJSB

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PUBLISHED

November 25, 2024

Recidivism

Data Sources

The Department of Corrections (DOC) queried its Offender Management System (OMS) to create a set of people who met the statutory definition of recidivism. These people were sentenced to a period of incarceration that was one year or longer and followed for three years after release from incarceration to determine if they met the statutory definition of recidivism. The people in the cohorts were released in calendar years 2019 and 2020.

The Court Adjudication Database, maintained by CRG, was also used to enhance the discussion on recidivism.

Data Quality

The data used for the analysis were extracted from the OMS. The data included a field called “release code” for each person in the release cohort. CRG spot checked several dockets where the release code was “Work Crew” or “Pre-Approved Furlough” and found that those people had not been sentenced to a year or more incarceration but were sentenced directly to Pre-Approved Furlough. CRG excluded these people from the analysis. CRG also excluded people who were released to another state and those that had a missing release code. In 2019, we excluded 148 people. In 2020, we excluded 103 people.

CRG provided DOC an opportunity to review this report. CRG incorporated changes that provided clarity and explanation to the analysis.

Policies Affecting the Data

Act 40 of 2023 adopted the definition of recidivism found in 28 VSA § 4:

The Department [of Corrections] shall calculate the rate of recidivism based upon offenders who are sentenced to more than one year of incarceration who, after release from incarceration, return to prison within three years for a conviction for a new offense or a violation of supervision resulting, and the new incarceration sentence or time served on the violation is at least 90 days.

This definition of recidivism is very restrictive. It does not apply to people who are on probation, or people who are sentenced to less than one year of incarceration. In 2023, only 26.90% of all individuals sentenced in criminal court were sentenced to a carceral sentence. Of those, only 25.557% were sentenced to more than a year.

In 2019, the Vermont Legislature passed Act 148, an act relating to justice reinvestment, spurring a change in the policy and practice related to violations of supervision conditions. These changes, effective on January 1, 2021, have the potential to reduce the recidivism rate because the changes limit what behaviors can lead to a person being returned. The effect of the policy on returns in general can be seen in the section of this report [related to](#)

returns from incarceration, where the drop in returns for violations after 2020 is evident. The cohorts in this report, however, did not have the benefit of these changes for the full three years of their follow-up period. Recidivism rates for the cohorts released after January 1, 2021 will be a more accurate representation of any impacts from the Act 148 policy changes.

Analysis

The overall recidivism rate for the 2019 cohort was 46.68% and 48.84% for the 2020 cohort.

Select the demographics below to see the recidivism rate for that group. The results are for both the 2019 and 2020 cohorts. White men have the lowest recidivism rates, while people of color, especially men, have much higher rates of recidivism. This disparity should be investigated in future research. Ninety percent (nine people) of people released when they were 19 were a recidivist; most of the 19 year old recidivists were women. Those who were 55-64 when released had the lowest recidivism rate at 28.97%.

Recidivism by Race, Gender, and Age

Select Demographic

Black Female ▼

Show 10 ▼ entries

Search:

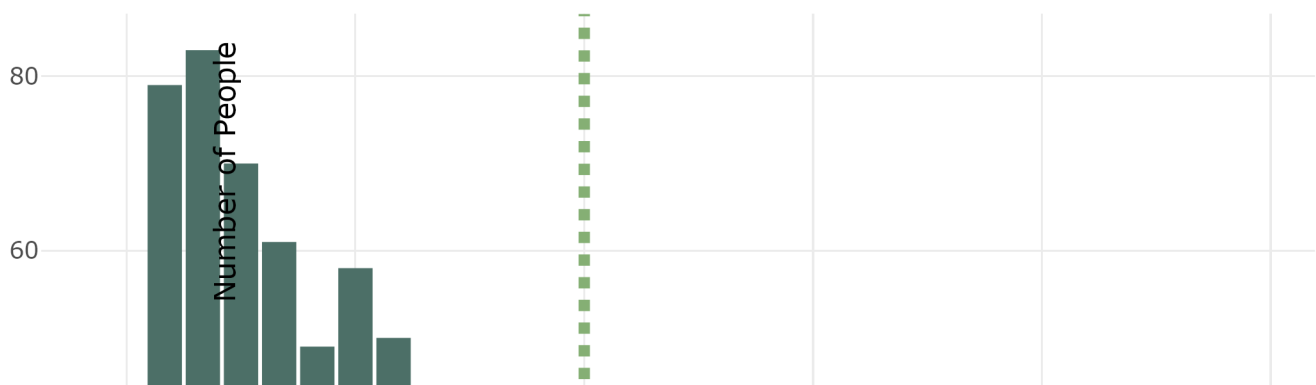
	Age Group	No	Yes
1	25-34	40.00%	60.00%
2	35-44	100.00%	0.00%
3	45-54	66.67%	33.33%

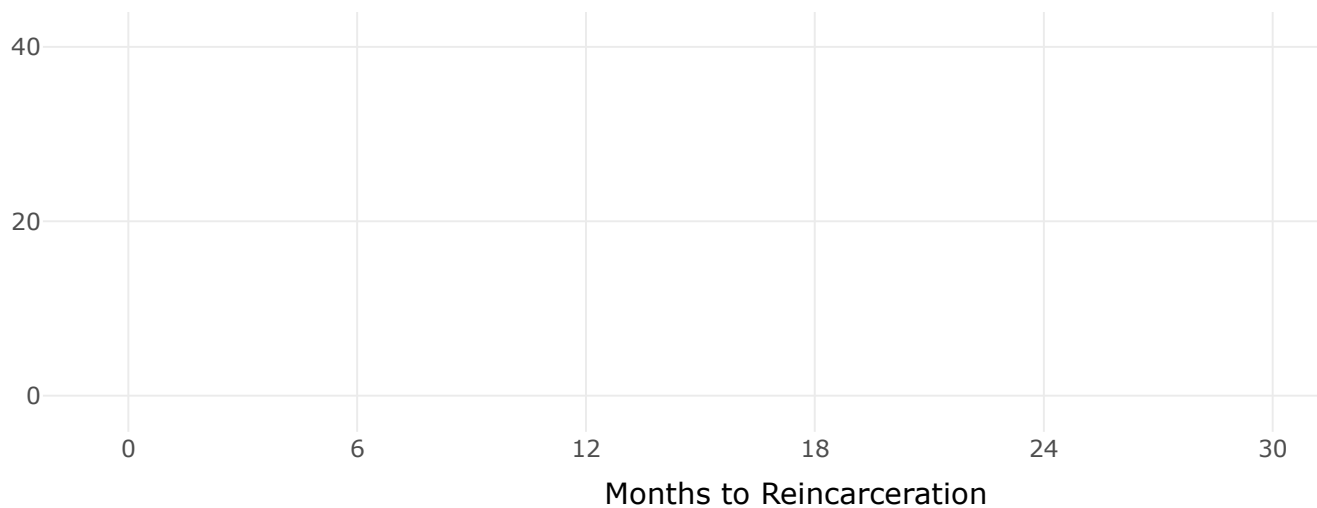
Showing 1 to 3 of 3 entries

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Time to Recidivate

Of the 902 recidivists in the cohorts, 647 (71.72%) were returned to prison within one year.





Desistance

CRG convened a group of criminal justice partners in June 2024 to discuss how best to define and measure desistance. Act 40 adopted the definition of desistance from the article [“But What Does It Mean? Defining, Measuring, and Analyzing Desistance From Crime in Criminal Justice”](#) by Michael Rocque published by the National Institute of Justice. The paper defines desistance as:

“[T]he process by which criminality, or the individual risk for antisocial conduct, declines over the life-course of the individual, generally after adolescence.”

The inclusion of desistance as defined in Act 40 is meant to provide additional context about how the criminal justice system in Vermont is working beyond the measure of recidivism. Recidivism is a binary measure. It reflects the presence or absence of a condition, in this case, new criminal behavior. Given that desistance is a process unfolding over time, measuring it requires observation of changes over time. It must also be combined with an understanding of any changes in life circumstances. The best way to know if, and why, a person desisted from crime is to talk with them. For example, by using criminal justice data alone, a researcher could conclude that a person desisted from crime because they do not show up in data sets. Another interpretation is that they have not been caught carrying out their criminal behavior. A true measure of desistance can only be achieved through a dialogue with persons being studied. However, this method carries significant cost, time, and research burdens. Therefore, scholars and practitioners look for alternative methods using administrative data sets. Additionally, since desistance is not a single process, there is not one method to measure it.

The partners CRG met with proposed the following initial operational definition of desistance: **Desistance is the reduction in criminality and the increase in known protective factors and/or decrease of known risk factors.** They favored [the factors outlined by the Centers for Disease Control and Prevention pertaining to violence](#). CRG has started work on identifying datasets that might be used to measure an increase in protective factors. CRG has plans to access Department of Labor data to understand employment records as a protective factor. CRG is working with several restorative justice agencies to understand their current data collection efforts related to protective factors and what data might be available for analysis in the future.

CRG will be updating this report as new analyses are completed.

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