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**NEW YORK  
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# RESEARCH NOTE

## TRENDS IN RECIDIVISM AMONG MISDEMEANANTS SENTENCED TO PROBATION

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## TRENDS IN RECIDIVISM AMONG MISDEMEANANTS SENTENCED TO PROBATION

### INTRODUCTION

This Research Note is a follow-up to a study by Greenstein (1990) that described trends in recidivism of adult felons sentenced to probation in New York State during Fiscal Years 84/85 through 88/89. Greenstein observed that the recidivism rates of recent felony cohorts had increased substantially over those of earlier felony cohorts. He attributed this rise in recidivism rates to the increasing rates of the felony drug probationer cohorts combined with the fact that drug offenders were an increasing proportion of the felony probation caseload. He also observed that recidivism patterns differed by region, race, sex, age, and prior criminal history.

This Note examines the recidivism patterns of adult *misdemeanor* probationers. The primary focus is on whether the findings of the felony population are replicated in the misdemeanor population. Attention is also given to the changing nature of the probation population in New York State.

### SUMMARY OF FINDINGS

- The composition of the misdemeanor cohorts changed substantially between 1984 and 1989. Probationers in counties outside of New York City represent an increasing percentage of misdemeanants sentenced to probation statewide. This change in composition counters the change found among felons sentenced to probation, who were increasingly located in New York City.
- Statewide, drug probationers constituted an increasing proportion of misdemeanants sentenced to probation. This is consistent with the statewide trend observed in the felony cohorts examined by Greenstein. However, the growth in felony drug probationers occurred primarily in New York City, whereas this growth in misdemeanor drug probationers occurred in counties *outside* of New York City.
- The short term recidivism rates for misdemeanor probationers did not increase substantially between 1984 and 1989 - a finding contrary to the trend among felony probationers. Recidivism rates for misdemeanor drug probationers outside of New York City were an exception to this statewide pattern.
- Misdemeanor drug probationers outside of New York City had increasing short term recidivism rates, during a time when this subgroup was also becoming an increasingly larger fraction of the total misdemeanor probation population.
- As with the felons, recidivism rates were found to vary by subgroups of misdemeanants. Recidivism rates were higher in New York City than in the remainder of the State, higher for black/others than for whites/Hispanics, higher for males than females, higher for younger probationers, and higher for those with a prior record of arrest in the last ten years.
- Drug probationers were found to have some of the highest rates of recidivism. DWI probationers had some of the lowest.
- The recidivism pattern of DWI probationers was quite different from that exhibited by other subgroups. A constant percentage of the DWI cohort could be expected to recidivate in each 3 month period. For other groups, recidivism was more likely to occur in the early months of the follow-up period than in later periods.

- Misdemeanants constitute a decreasing proportion of those sentenced to probation; conversely, felons have become an increasing proportion of those sentenced to probation. This felony growth occurred primarily in New York City and is due to an increasing number of sentences to probation for felony drug convictions.
- Misdemeanants had *higher* recidivism rates than felons, when geographic location was held constant. Statewide, recidivism rates of felony probationers were higher than misdemeanor probationers for the most recent sentencing cohort because of the changing geographic composition of the probation population.

## METHODS

### Cohort Selection

As with the Greenstein report, five cohorts representing sentences to probation in Fiscal Years 84/85 through 88/89 are presented. These cohorts were identified on the basis of information from the Offender Based Transaction Statistics Trends file (OBTS TRENDSFILE) maintained by the New York State Division of Criminal Justice Services. Probationers were included in a cohort based on the date of their sentence to probation. Unlike Greenstein's selection criteria, individuals were allowed to appear in a cohort multiple times and in more than one cohort if they had more than one sentence to probation. This difference in the operational definition of the cohorts had very little impact on the results, since 85 percent of the misdemeanor population had only one qualifying event and 97 percent had two or less.

The selection of probationers to be used in this study was determined on the basis of an OBTS TRENDSFILE sentence variable. Persons who were sentenced to probation but who were subsequently resentenced (as on a technical violation of probation) may not appear in any of the cohorts studied. This omission would occur if the person was resentenced to a sanction other than probation and the person had no other sentence to probation, and the OBTS TRENDSFILE sentence variable reflects the resentence, rather than the original sentence. This means that there was some under-reporting of the size of the cohorts and, furthermore, this exclusion involved persons who "failed" probation. The actual recidivism of probationers, therefore, is probably higher than reported here.

### Measures of Recidivism

As noted by Greenstein, there is no universal standard by which recidivism is specified. For the current study 13 different definitions of recidivism were explored. While all of them were examined, only four are reported in the Note. They are:

- Subsequent arrest (fingerprintable)
- Subsequent felony arrest
- Subsequent drug arrest (fingerprintable)
- Subsequent conviction

For each of these four measures of recidivism, the time to the first occurrence of such an event was constructed based on information in the OBTS TRENDSFILE. Time was expressed as the number of days since the probation sentence date. These times were then collapsed into cumulative first occurrences by three month intervals. Recidivism measures based on arrest events were timed to the date of this subsequent arrest. Recidivism, as measured by conviction, was timed until the date of sentence for the new conviction. Dispositions of arrests occurring prior to entry in the cohort were *never* used, regardless of their dates of disposition and sentencing.

## Follow-up Period

As in the felony probationer study, persons were assumed to remain at risk for the entire length of the follow-up period, whether or not they were removed from probation early, completed probation successfully, or entered actual probation supervision some time after sentencing. All persons were assumed to be at risk of rearrest from the date of sentencing. No attempt was made to identify persons who were no longer at risk of rearrest in New York (e.g., deaths, out of state transfers). Persons in a given sentence-year cohort were tracked for identical periods of time. Each of the five cohorts had at least a 15 month follow-up period. As noted by Greenstein, the manner of constructing the time to occurrence leads to a "censorship" problem for the more recent cohorts. The percentage reported as not having a conviction at a given point in time into the follow-up period was resultant both from the time required to dispose of a case and from a possible lack of disposition reporting.

A final caveat should be noted. Almost no controls were used to "standardize" the cohorts or cohort subgroups. It should not be inferred that some groups of offenders were not "good candidates" for probation on the basis of the information presented here.

## FINDINGS

Contrary to Greenstein's study of felony probationers, there is little evidence of a strong increase in the rate of recidivism among the misdemeanor probation cohorts. Figure 1 shows remarkably similar patterns across the cohorts. Alternative measures of recidivism yielded similar results.

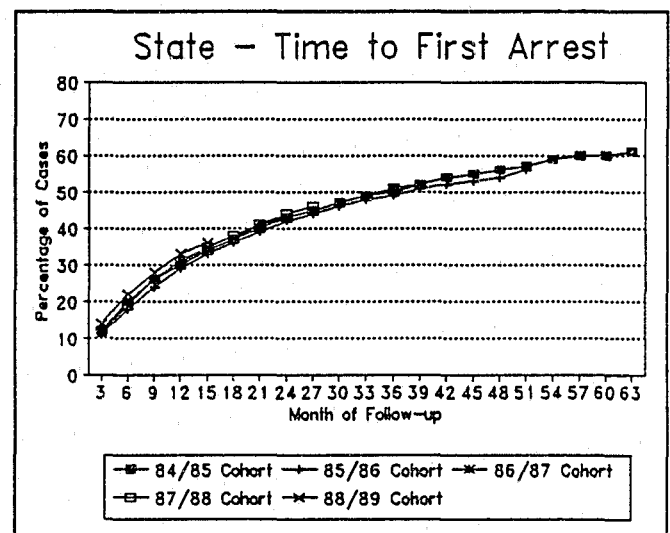
This failure to replicate Greenstein's findings among the misdemeanor probation cohorts may be due to the difference in composition of the misdemeanor caseloads compared with the felony probationers. Greenstein attributed much of the increase in recidivism rates of felony probationers to the increase in recidivism rates of felony drug offenders and to their increased presence in the felony probation cohorts over time.

### Changes in Composition

As the felony probationer population changed in composition between FY84-85 and FY88-89, so too did the misdemeanor population. The misdemeanor drug probationers constituted 8 percent of the misdemeanants in the FY84-85 cohort and 12 percent of the FY88-89 cohort - nearly a fifty percent increase. The felony drug probationers had an even greater increase, growing from 16 percent to 39 percent of felony probationers. While drug probationers have become an increasing percentage of the misdemeanant cohorts in recent years, their numbers are still small relative to the entire population and can be expected to have little impact on the overall trends in recidivism.

A geographic shift in the populations has also occurred. The misdemeanor probationer population is increasingly located in counties outside of New York City. In FY84-85, 69 percent of the population came from counties outside of New York City. By FY88-89, this figure had risen to nearly 78 percent. This is opposite to the trend for felony probationers, who were increasingly located in New York City.

Figure 1



Drug probationers constituted an increasing percentage of misdemeanants sentenced to probation both in New York City and outside of the City. In FY84-85, they represented 15 percent of the misdemeanants sentenced to probation in New York City. By FY88-89, this figure had risen to 21 percent. In counties outside of New York City, the percentage due to drug offenders nearly doubled, rising from 5 percent in FY84-85 to 10 percent in FY88-89. However, the total number of misdemeanants sentenced to probation has been decreasing in New York City, so the *number* of misdemeanor drug probationers has declined there as well. In counties outside of New York City, their number has nearly doubled.

### Changes in Recidivism Rates

Misdemeanor drug probationers did not exhibit the strongly increasing rates of recidivism that were found by Greenstein in his felony study. Figure 2 shows that, except for the latest cohort, there was little change in the recidivism rates for drug misdemeanants. The recidivism patterns of nondrug probationers were also very consistent, though the recidivism rates were lower overall than those of the drug probationers (see Figure 3).

Figure 2

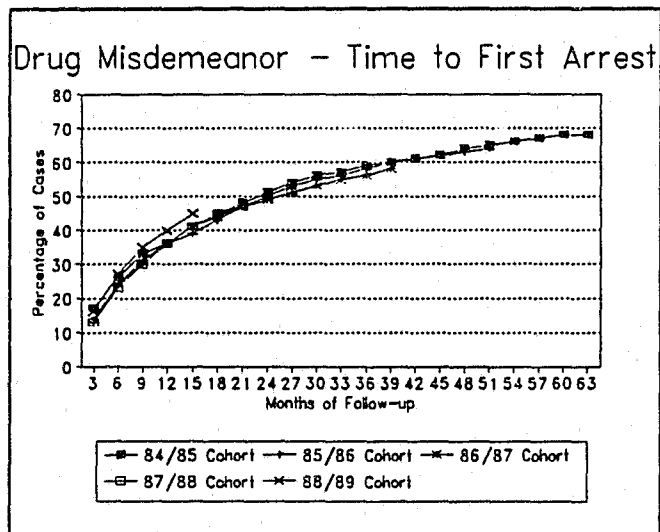
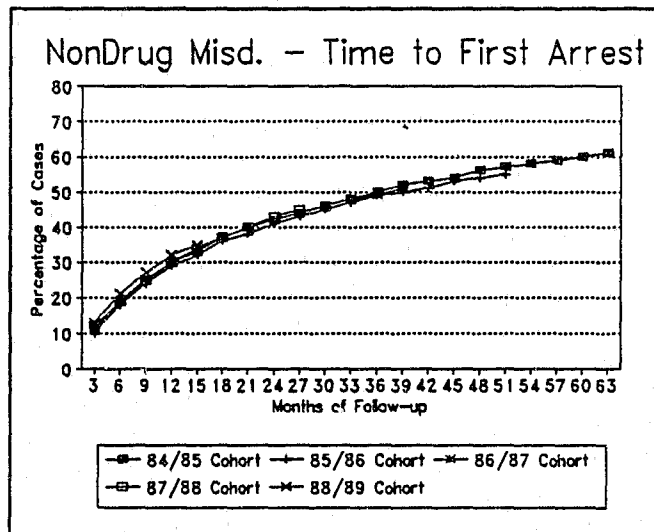


Figure 3



However, there was an increase in recidivism rates for misdemeanor drug probationers from counties outside of New York City. This is masked when the statewide picture is presented. The patterns of recidivism for drug probationers were very different in New York City than in the counties outside of the City (see Figures 4 and 5). New York City's oldest cohort had short term rearrest rates that were slightly higher than those for the most recent group. Outside of New York City, the oldest cohort has the lowest recidivism rate and the newest cohort the highest.

Figure 4

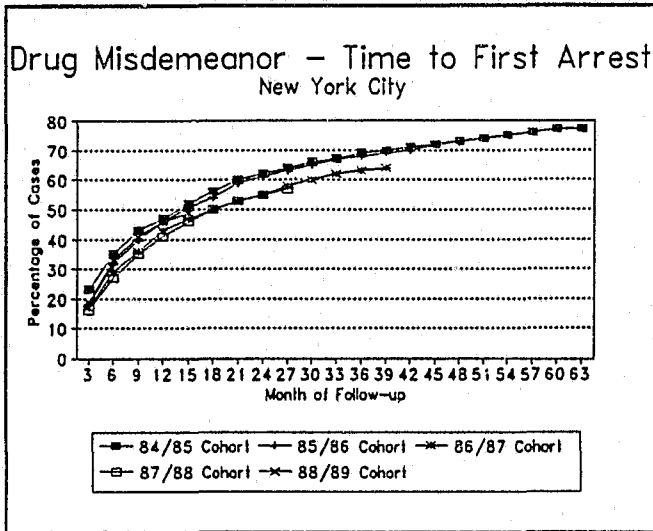
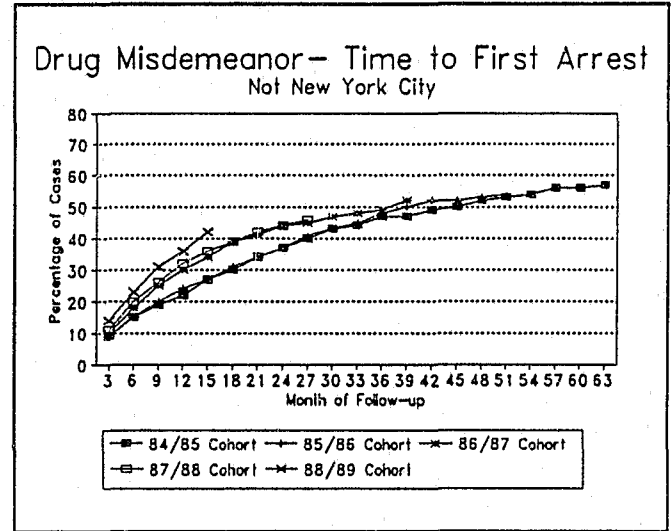


Figure 5



The recidivism rates of the nondrug probationers are displayed by region in Figures 6 and 7. In New York City, the most recent cohort had slightly higher rates than the other cohorts but there is no clear trend of increasing rates. Outside of New York City, the nondrug cohorts had almost identical rates of recidivism across all 5 years.

Figure 6

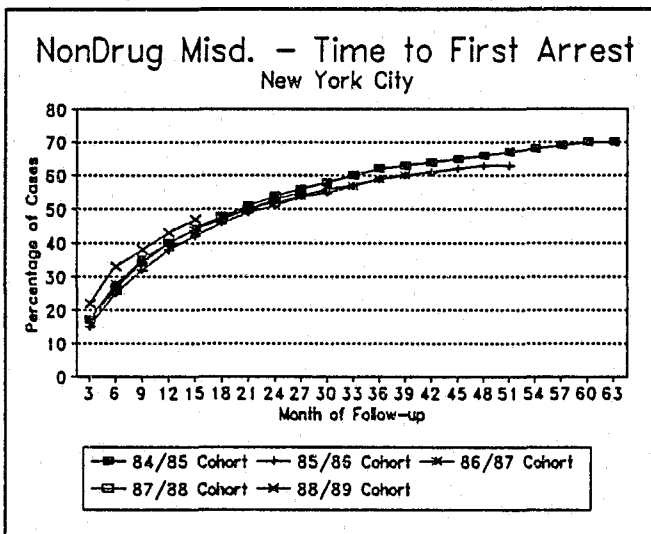
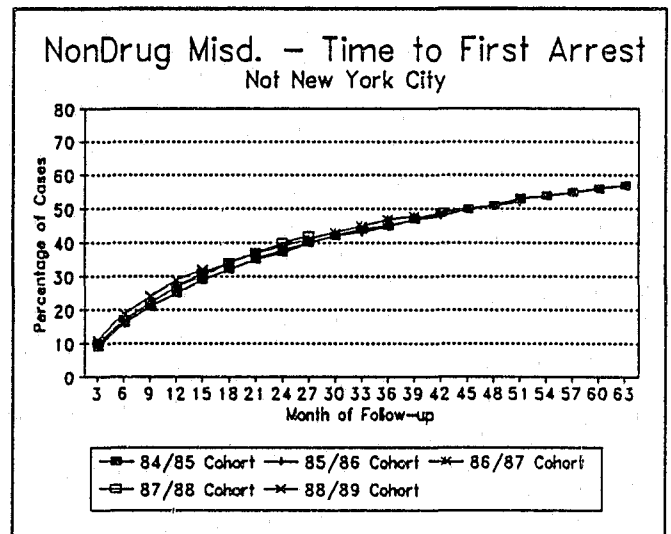


Figure 7



Subgroup Differences

Differential recidivism rates for subgroups of felony probationers were noted by Greenstein. Similar findings were found in the misdemeanor cohorts. Thirteen different measures of recidivism were examined for 35 different groups. Selected recidivism rates for misdemeanants sentenced to probation in FY88-89 are presented in Table 1. Each rate represents the percentage of the group who recidivated during the first 15 months of follow-up. The differences among subgroups for this cohort and these specific measures of recidivism were typical of those found for earlier sentencing cohorts and for other measures of recidivism.

**Table 1**  
**Selected Recidivism Rates after 15 months from Sentence to Probation**  
**for the 1988/89 Misdemeanor Probation Cohort**  
**(expressed as a percentage of the group)**

Recidivism Measure

	First Arrest	First Felony Arrest	First Drug Arrest	First Conviction
<b>STATEWIDE</b>	36	20	9	16
<b>REGION</b>				
New York City	47	36	19	24
Not New York City	33	16	7	13
<b>RACE/ETHNICITY</b>				
White/Hispanic	31	15	5	12
Black/Other	48	32	18	22
<b>SEX</b>				
Male	38	22	10	16
Female	29	12	6	12
<b>AGE</b>				
Age 16-25	43	26	11	19
Age 26 and above	29	14	8	12
<b>PRIOR CRIMINAL HISTORY SCORE</b>				
Prior Score = 0	27	15	7	10
Prior Score > 0	42	24	11	19
<b>DRUG PROBATIONER</b>				
Yes	45	29	26	19
No	35	19	7	15
<b>DWI PROBATIONER</b>				
Yes	13	6	1	4
No	41	23	11	18

Table 1 can be summarized as follows:

- 1) As in Greenstein's study, misdemeanor probationers in New York City had recidivism percentages that exceeded those for misdemeanor probationers in the counties outside of New York City.
- 2) Similarly, black and "other" ethnic groups had higher recidivism rates than whites and Hispanics. This held true within region as well (data not shown).
- 3) Males had higher recidivism rates than females.
- 4) Younger probationers (ages 16-25) had higher rates of recidivism than older probationers.
- 5) Persons with one or more prior arrests in the last 10 years were more likely to recidivate than those without such a prior criminal history.
- 6) Persons convicted of a misdemeanor drug offense and placed on probation had a higher recidivism rate at 15 months than those placed on probation for other offenses at the misdemeanor level.
- 7) Persons placed on probation for a misdemeanor DWI conviction had the lowest recidivism rate of all subgroups displayed.

Examination of the recidivism rates of probationers convicted of driving while intoxicated (DWI) brought out an interesting observation. Unlike other subgroups examined, DWI probationers did not show the typical pattern of relatively high recidivism rates in the early months followed by declining rates. Rather, the DWI pattern of recidivism was constant across follow-up time. A comparison of Figures 8 and 9 illustrates this phenomenon. The reason for such differences remains to be explained. DWI arrests and convictions are primarily phenomena that occur outside of New York City.

Figure 8

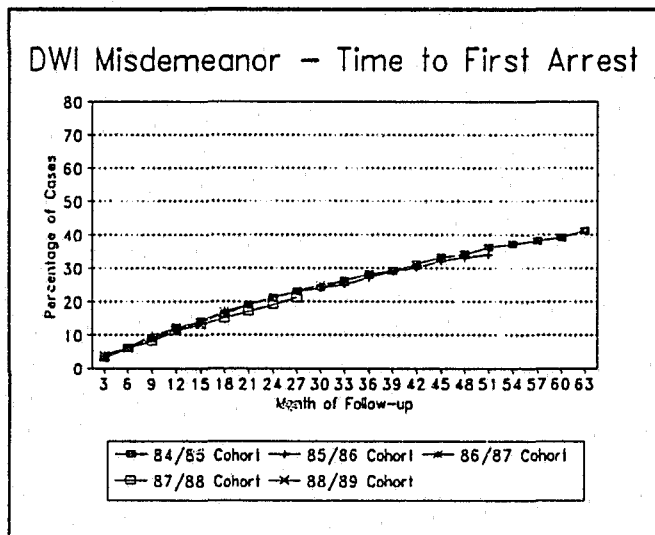
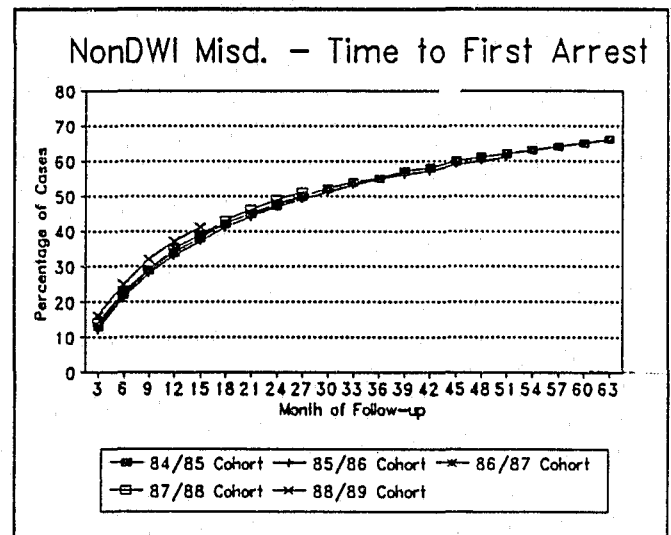


Figure 9





## Change in the Misdemeanor/Felony Mix

An issue not directly addressed in Greenstein's report is the growing "felonization" of the probation caseload. Not only has the composition of the misdemeanor probation population changed, the mix of misdemeanor and felony probation sentences has changed. Using information developed for this paper and for Greenstein's paper, it is possible to focus on the increasing felonization of the probation populations. It should be noted that the percentages that are to be presented are only *approximate*, but do reflect the changes that are occurring in the probation population. These measures are approximate, in part, because of differences in the way data were collected for this paper and for the previous paper by Greenstein. As indicated earlier, Greenstein only allowed a person to appear once in his felony cohort based on the most recent felony sentence to probation. This restriction was not placed on the misdemeanor cohorts studied in this report.

Statewide, felony probationers account for an increasing percentage of those sentenced to probation. In FY84-85, they represented 43 percent of all probation sentences. By FY88-89, this figure had risen to over half - 51 percent. This felonization of probation occurred primarily in New York City where the percentage of the probation sentences at the felony level rose from 56 percent in FY84-85 to 74 percent in FY88-89. Outside of New York City, the felony percentage was relatively constant at around 33 percent. Felony drug sentences were largely responsible for this felonization in New York City. Statewide, the percentage of drug probationers convicted of felony drug charges increased from 59 percent in FY84-85 to 74 percent in FY88-89. For nondrug probationers, the percentage at the felony level remained largely unchanged, ranging from 41 percent to 43 percent.

These changes in the composition of the felony and misdemeanor probation populations have resulted in a change in the overall rates of recidivism of felony probationers relative to misdemeanant probationers over time. In the oldest cohort (statewide), misdemeanants had higher rates of recidivism than felons - using "time to first arrest" as the recidivism measure. In the latest cohort, this is reversed, with felons having higher recidivism rates than misdemeanants, although the difference is small. This shift in recidivism rates is due to the increasing proportion of felony probationers coming from New York City, where recidivism rates are higher. A comparison of the felony and misdemeanor recidivism rates is presented in Table 2 for the oldest (FY84-85) and newest (FY88-89) sentencing cohorts.

Within the region subgroups, misdemeanants had higher recidivism rates than felons in both sentencing-year cohorts. In every case but one, further controls for race/ethnicity, drug probationer, and prior criminal history score within region showed the same pattern of higher recidivism rates for misdemeanants than for felons.

## DISCUSSION

As was shown for felony probationers by Greenstein (1990), different subgroups of misdemeanor probationers have very different recidivism rates. For both felons and misdemeanants, the subgroup differences noted suggest that a more rigorous multivariate analysis of recidivism be conducted.

Unlike the trend for felony probationers, though, there has been no substantial increase in the recidivism rate for misdemeanor probationers. This failure to replicate those findings is due to the nature of the misdemeanor population and its changing composition. Drug probationers are a much smaller proportion of the misdemeanor caseload than is found in the felony caseload. Thus, even though they have a high recidivism rate as a group, their influence is moderated by their small numbers. The recidivism rates of the newest cohorts are also tempered by the fact that their numbers are increasingly coming from counties outside of New York City. As was shown, these counties, as a group, have a lower recidivism rate than probationers coming from New York City.

**Table 2**  
**First Arrest Recidivism Rate after 15 months from Sentence to Probation**  
**for Misdemeanor and Felony Sentencing Cohorts, FY84-85 and FY88-89**  
**(expressed as a percentage of the appropriate sentencing-year group)**

	Sentenced in FY 84/85		Sentenced in FY 88/89	
	Misdemeanor	Felony	Misdemeanor	Felony
STATEWIDE	34	30	36	38
REGION				
New York City	46	36	47	45
Not New York City	29	23	33	28
REGION AND RACE/ETHNICITY				
NYC - White/Hispanic	43	32	43	41
NYC - Black/Other	48	40	51	48
NOT NYC - White/Hispanic	26	21	29	22
NOT NYC - Black/Other	38	31	46	44
REGION AND DRUG PROBATIONER				
NYC - Drug probation	52	39	49	48
NYC - Not Drug probation	44	35	47	42
NOT NYC - Drug probation	27	13	42	33
NOT NYC - Not Drug prob.	29	24	32	27
REGION AND PRIOR CRIMINAL HISTORY SCORE				
NYC - Prior Score = 0	32	28	28	34
NYC - Prior Score > 0	52	44	57	55
NOT NYC - Prior S. = 0	24	20	27	22
NOT NYC - Prior S. > 0	31	25	37	31

There is reason to be concerned about the changing nature of the probation population. For counties outside of New York City, we have found that there has been growth in the number of misdemeanor drug probationers. We have also seen that the more recent drug cohorts in these counties have had an increasing rate of recidivism. If these patterns continue, we can expect to see an overall increase in rates of recidivism for the misdemeanor caseloads. At the same time, we have also seen that the recent cohorts sentenced to probation in New York State are increasingly made up of persons convicted of felonies. This growth has come from New York City and consists primarily of persons convicted of drug felonies. Greenstein noted that recent drug felon cohorts had higher rates of recidivism than their earlier counterparts. He also noted that New York City felony probationers had higher rates of recidivism than those probationers in the counties outside of New York City. Both of these developments indicate that the probation population has become increasingly heterogeneous with perhaps greater risks to public safety. A thorough review of existing policies and practices, including training of probationer officers and review of risk assessment instruments, should be conducted to deal with this changing population in the best possible manner.

## REFERENCES

Greenstein, Steven C. "Trends in Recidivism Among Felons Sentenced to Probation" A Research Note. December 1990. Albany, New York: Office of Justice Systems Analysis, New York State Division of Criminal Justice Services.