

5/2/91

# **Probation Administrative Management System**

**MICROFICHE**



FIVE-YEAR ANALYSIS OF RECIDIVISM  
AMONG PROBATIONERS WITH VIOLENT CRIMES  
IN MORRIS COUNTY

ADMINISTRATIVE OFFICE OF THE COURTS  
STATE HOUSE ANNEX, TRENTON, NEW JERSEY

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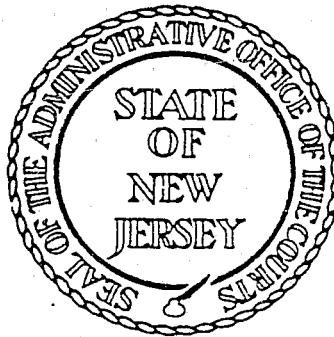
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IN MORRIS COUNTY

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Trenton, New Jersey 08625

August, 1978

Second Printing, April, 1979

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EXECUTIVE SUMMARY

This report presents the findings of a study of recidivism among probationers whose terms resulted from a conviction of a violent offense. The sample consisted of 65 persons placed on probation in Morris County over a 5-year period (September 1, 1970 through August 31, 1975). Criminal history records were secured from the State Police and each case was followed through April 24, 1978.

RECIDIVISM FINDINGS

1. Slightly more than half had not been rearrested.
2. The majority (60%) had not been reconvicted.
3. Almost two-thirds (65%) of the recidivists had committed no new offenses of violence.
4. Most recidivists committed their new offense(s) during either the first year on probation or the first year after the termination of probation.
5. Persons with histories of drug abuse were more likely to commit multiple subsequent offenses than persons without histories of drug abuse.

PROFILE OF THE SAMPLE COMING TO PROBATION

1. Almost all committed some degree of either assault or robbery.
2. Terms of probation ranged from less than a year to five years.
3. Slightly more than half (52%) had prior convictions.
4. Most of the offenders (85%) had not served prior probation terms.
5. At least 40% had drug (excluding alcohol) abuse histories.



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INTRODUCTION

In June, 1976, Probation Research and Development Staff began a five-year study of recidivism among Morris County probationers whose terms resulted from convictions for crimes of violence.<sup>1</sup> Mr. Edwin H. Stern, who was Director of Criminal Practice for the Administrative Office of the Courts when the study was designed, identified the following offenses for inclusion in the study: atrocious assault and battery, assault with a deadly weapon, murder, rape, larceny from the person, robbery, and armed robbery.

Sixty-five persons were identified who were placed on probation in Morris County at any time between September 1, 1970 and August 31, 1975, for violent crimes. Criminal history records were obtained from the State Police. These records were studied to determine whether the probationers had been convicted of any offense(s) (from disorderly persons to high misdemeanors) subsequent to the beginning of their probation terms. Criminal histories were traced through April 24, 1978.

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<sup>1</sup> This did not include probationers who had records of violent crimes prior to their current probation term, if the current term was for a crime without violence. When this essay employs phrases such as "probationers with violent offenses," it refers not to prior records but the instant offense for which they were serving a probation term.

OBJECTIVES

1. To provide descriptive recidivism information regarding probationers with violent offenses for the Morris County Probation Department.
2. To explore the value of some proposed operational definitions of recidivism.

OPERATIONAL DEFINITIONS OF RECIDIVISM

There is no commonly accepted definition of recidivism. Therefore the following working operational definitions were proposed for this study.<sup>2</sup>

1. Recidivists are all persons who, having once been convicted of a criminal act, are convicted for one or more subsequent criminal acts while serving a probation term and/or during the first three years following the termination of probation.  
*Comment:* This is the broad definition of recidivists, and consists of the two kinds of recidivists identified below.
2. Inconsistent recidivists are all persons who, having once been convicted of a criminal act, are convicted for one or more subsequent criminal acts while on probation and/or during the first three years following the probation termination date when the subsequent convicted offense(s) is (are) neither the same as nor similar to the original or other prior offenses.
3. Consistent recidivists are all persons who, having once been convicted of a criminal act, are convicted for one or more

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<sup>2</sup> The rationale for these operational definitions is outlined in depth in Appendix C.

subsequent criminal acts while on probation and/or during the first three years following the probation termination date when the subsequent offense(s) is (are) the same as or similar to the original or other prior offenses.

It is important to note that these definitions of recidivism differentiate between persons who commit new offenses during their probation term and persons who commit new offenses after the termination of their probation term.

#### PROFILE OF THE SAMPLE COMING TO PROBATION

This section briefly describes the persons who were the subject of the survey.

As noted in the introduction, this study focuses only on probationers who were placed on probation for an offense of violence. The profile of the offenses committed by this group shows that *almost all committed some form of assault or robbery.*

TABLE I  
Offenses Committed by Study Group

<u>Instant Offense</u>	<u>Number</u>	<u>Percent</u>
Atrocious assault & battery	26	40%
Robbery	17	26
Assault with a deadly weapon	11	17
Armed robbery	8	12
Rape	2	3
Larceny from the person	<u>1</u>	<u>2</u>
	65	100%



Terms of probation assigned to these offenders ranged from less than a year to the statutory maximum of five years. Table II shows the range of probation terms for each offense:

TABLE II

Probation Terms per Offense

Offense	Probation Term				
	Less than 1 Year*	1-1½ Years	2 Years	3 Years	4-5** Years
Atrocious assault & battery	4	8	5	7	2
Assault with a deadly weapon	0	3	4	4	0
Larceny from the person	0	0	0	0	0
Rape	0	1	1	0	1
Robbery	1	3	4	4	5
Armed robbery	0	1	2	3	2
TOTAL NUMBER:	5	16	16	18	10
PERCENT	8%	25%	24%	28%	15%

\* These include indefinite terms (e.g., until fine paid) and short terms as part of split sentences.

\*\* Terms of 4 & 5 years were combined since only one offender had a term of 4 years.

The sample was almost split in two halves in terms of prior criminal histories. Slightly more than half (n=34; 52%) had prior convictions. Most recidivists (n=29) were found to be inconsistent recidivists and only 5 individuals were found to be consistent recidivists.

Most of the offenders (n=55; 85%) had not served prior probation terms. Only 9 (14%) had been on probation before.<sup>3</sup>

<sup>3</sup> Records were inconclusive about one person, thereby rendering these statistics incomplete.

Concluding the profile is the variable of prior and/or current drug abuse. Drug abuse was identified in this study only by one's record of drug-related (excluding alcohol) convictions. *40% of the sample (n=26) had drug abuse records and the remainder (60%) did not.*

#### BASIC FINDINGS REGARDING RECIDIVISM

While this study accepts subsequent conviction, and not subsequent arrest, as a criterion for its definition of recidivism, some may find it an interesting statistic nevertheless. *Slightly more than half (n=33; 51%) had not been rearrested.*

To break down the arrest statistics further, 13 persons were rearrested while on probation and an additional 13 persons were rearrested only after the termination of probation. An additional 5 persons were rearrested both during the probation term and after it. Finally, 15 persons (23%) had been arrested subsequent to being placed on probation only once, while 17 persons (26%) had been arrested two or more times.

Leaving arrest data behind we proceed to review the findings on recidivism as defined for this study. *The majority (n=39; 60%) had not been reconvicted. Fifteen (23%) had been reconvicted once, while eleven (17%) had been convicted again two or more times.*

Since the population under study is unique (i.e., they have committed offenses of violence), the violence of subsequently convicted crimes was compared to the crimes for which these persons were placed on probation. Table III shows that *almost two-thirds (n=17) of the recidivists had committed no new offenses of violence* and only one person (4% of the recidivists) had committed a more violent offense.

TABLE IIIViolence Index of Recidivists' Subsequent Offense(s)

<u>Violence Index</u>	<u>Number</u>	<u>Percent</u>
More violent	1	4%
Same violence	4	15
Less violence	4	15
No violence	<u>17</u>	<u>65</u>
	26	99%*

\* 1% was lost due to several items being too small to round upward.

One of the research concerns was when recidivists committed the offense for which they were convicted. Table IV shows that *most recidivists committed their offenses during either the first year on probation (35%) or the first year after the termination of probation (27%)*. Further, it should be noted that half of the recidivists committed their new offense during their term of probation and 38% committed their new offense after the termination of probation. Some criminal history records did not contain arrest information and therefore this arrest data could not be determined for the remaining 12%. Finally, it is interesting to note that while ten persons had been placed on probation for terms of four or five years, no offenses were committed during a fourth or fifth year of a probation term. The relationship between length of time of a probation term and when a subsequent offense was committed is explored in a later section.

TABLE IVDate Subsequently Convicted Offense Committed

<u>Date</u>	<u>Number</u>	<u>Percent</u>
First year of probation term	9	35%
Second year of probation term	3	12
Third year of probation term	1	4
Fourth year of probation term	0	0
Fifth year of probation term	0	0
First year after termination	7	27
Second year after termination	1	4
Third year after termination	2	8
Insufficient information to determine	<u>3</u>	<u>12</u>
	26	101%*

\* The extra percentage point is due to rounding.

There is one last variable that should be noted before moving into the next level of analysis. As the reader will recall, a two-fold typology of recidivists has been proposed. The vast majority, 73% ( $n=19$ ), of the recidivists of this sample were found to be inconsistent recidivists and the rest were found to be consistent recidivists.

While Appendix C discusses the meaning of consistent recidivists and inconsistent recidivist in some depth, it may be helpful to note here that one of the purposes of this definition is to facilitate the identification of persons whose subsequent criminal offenses are the same as or similar to their former offense. Therefore, this finding suggests that only 27% of the recidivists committed new offenses along the same or similar lines as their former offenses.

## LIMITATIONS

Before proceeding to the remainder of this essay it is necessary to identify four limitations.

1. This study does not allow for a comparison to be made between the recidivism rates of violent offenders placed on probation to the recidivism rates of non-violent offenders placed on probation in Morris County. Consequently, no conclusions or inferences should be drawn from this study pertaining to the relative risk or success of a probation disposition for the two groups. However, the preliminary findings of another study of recidivism in another county currently in progress suggests no difference in recidivism rates between violent offenders and non-violent offenders.

2. This study does not pretend to be an evaluation study. It is designed to be descriptive of one variable (i.e., recidivism). Data for variables relevant to evaluation (e.g., nature and quality of probation supervision and services, personal histories and characteristics of the offender, etc.) was not collected. Finally, no meaningful evaluation can be conducted until a well-designed classification system is developed.

Similarly, this study cannot explain why some offenders recidivated, or why they recidivated when they recidivated. This study only shows what the recidivism statistics are for one group of probationers in one county during one period of time.

3. The recidivism rates for these probationers in Morris County should not be assumed to be predictive of what the recidivism rates would be in other counties. This *may* be particularly

true because in 1976 Morris County had next to the lowest violent crime rate per 100,000 residents of all New Jersey counties (see Appendix A). Further, its 1976 rate of arrests was less than the rates of two-thirds of New Jersey's counties (see Appendix B). For a point of information only, the other recidivism study mentioned above found a recidivism rate in that county of 30% instead of the higher rate in Morris County. It is not possible to compare the two studies, especially since the other study included comparatively fewer cases with violent offenses.

It may be that these rates are not even predictive for Morris County since some of the probationers were transfers from other counties and at least one was from another state.

4. The findings that are reported in the remainder of this report should be viewed as suggestive. Due to the small sample size, the analysis of relationships among groups of offenders is statistically uncertain and conclusive analysis was not possible. The discussion that follows should be regarded with discretion.

#### OTHER RESEARCH QUESTIONS

1. What relationship is there between recidivism and drug abuse? In the simplest language possible, *persons with histories of drug abuse are more likely to commit multiple subsequent offenses than persons without histories of drug abuse.* Table V shows that while 72% of those persons without drug histories had no subsequent convictions, only 42% of persons with drug histories had not recidivated. Further, while the same percentage of each group had been convicted again once, 35% of the drug abusers had



been convicted of two or more subsequent offenses while only 5% of non-drug abusers had been convicted of multiple subsequent offenses.

TABLE V

Recidivists Among Persons With & Without Histories of Drug Abuse

	<u>Number of Subsequent Convictions</u>		
	<u>0</u>	<u>1</u>	<u>2+</u>
Some drug history	28 (72%)	9 (23%)	2 (5%)
No drug history	11 (42%)	6 (23%)	9 (35%)

2. Are persons who commit certain kinds of offenses more likely to recidivate than persons who commit other kinds of offenses? This study yields no conclusive answer, but if there is anything that can be said, it seems that persons with assaultive offenses were less likely to recidivate than persons with offenses of robbery. Table VI shows that only 27% of persons with assaultive offenses recidivated while 56% of persons with robbery offenses recidivated.

TABLE VI

Recidivism Among Various Offense Types

<u>Offense Type</u>	<u>Number of Convictions</u>		
	<u>None</u>	<u>One</u>	<u>Two or More</u>
Assaultive	27 (73%)	7 (19%)	3 (8%)
Robbery (any)	11 (44%)	6 (24%)	8 (32%)

3. Does the data yield any support for the proposed definitions of recidivism? Is there any indication that the definitions are useful for analysis?

- A. Time frame - The data is inadequate for yielding information on, much less conclusions regarding, the proposed three-year time frame. Further studies will be required to assess this element of the definition.

- B. Consistent/inconsistent typology. Unfortunately there were too few (only 7) consistent recidivists to assess the value of this typology. Further research will be required to appraise this typology.
4. Is there any relationship between the length of a probation term and the point in time when the recidivist commits the new offense? The answer seems to be yes, there is a relationship between the two. And the relationship, as shown in Table VII seems to be that the shorter the probation term is the more likely a person is *not* to recidivate while on probation. Conversely, the longer the probation term is, the more likely a person will recidivate while on probation. Since it is plausible to believe that the more serious cases are given longer probation terms, it is reasonable to expect them to have a higher recidivism rate.

TABLE VIILength of Probation Term Compared to Date Subsequent Offense Committed

<u>Probation Term</u>	<u>Date Subsequent Offense Committed</u>	
	<u>While on probation</u>	<u>1-3 years after termination of probation</u>
1 - 11 Months	0	1
12 - 18 Months	0	5
24 Months	4	1
36 Months	5	3
48 - 60 Months	4	0

5. Who is more likely to recidivate, persons coming to probation as first offenders or as recidivists? Table VIII shows that 35% of the first offenders recidivated compared to 44% of the persons coming to probation with prior convictions. Recidivists recidivate, then, at a slightly higher rate than first offenders.

TABLE VIIIRecidivism Rates of First Offenders Compared to Offenders withPrior Convictions

<u>Prior Criminal History</u>	<u>Post-probation Recidivism</u>	
	<u>Recidivated</u>	<u>Did Not Recidivate</u>
Some	15 (44%)	19 (56%)
None	11 (35%)	20 (65%)

## APPENDIX A

VIOLENT CRIME RATES IN NEW JERSEY COUNTIES

<u>County</u>	<u>Rate of Violent Crime per 100,000</u> <u>1976</u>	<u>1975</u>
Essex	981.4	1,022.4
Hudson	561.6	562.4
Passaic	558.8	566.0
Mercer	510.8	494.9
Atlantic	501.5	517.5
Camden	457.1	497.2
Union	362.6	417.0
Middlesex	276.6	298.2
Cumberland	271.2	320.0
Monmouth	270.6	259.7
Cape May	262.6	255.1
Gloucester	192.1	204.0
Ocean	183.0	168.3
Salem	170.8	268.3
Burlington	169.4	182.4
Somerset	165.0	174.8
Sussex	140.7	94.9
Bergen	131.1	113.6
Warren	126.4	126.8
Morris	114.6	115.7
Hunterdon	81.9	69.8

Source: Division of State Police.  
Uniform Crime Reports, State of New Jersey, 1976.  
Table 24, pp. 82-83.

## APPENDIX B

ARREST RATES IN NEW JERSEY COUNTIES

<u>County</u>	<u>Rate of Arrests per 100,000</u> <u>1976</u>	<u>1975</u>
Cape May	14,477.1	12,424.0
Atlantic	7,865.8	8,181.7
Cumberland	7,354.7	7,252.7
Salem	6,150.6	5,802.6
Ocean	5,818.9	5,492.4
Warren	5,046.4	5,105.4
Monmouth	5,013.6	5,259.1
Gloucester	4,957.4	5,078.6
Mercer	4,945.6	4,889.1
Passaic	4,690.4	4,773.9
Essex	4,583.0	4,723.0
Camden	4,469.5	4,776.0
Sussex	4,286.5	4,610.9
Burlington	4,274.1	4,259.9
Morris	4,056.7	4,112.8
Middlesex	3,981.9	4,435.0
Union	3,969.2	4,286.4
Hudson	3,769.9	3,951.2
Somerset	3,765.3	3,808.3
Hunterdon	2,992.3	3,120.5
Bergen	2,974.6	2,978.5

Source: Division of State Police.  
Uniform Crime Reports, State of New Jersey, 1976.  
 Table 28, p. 89.  
Uniform Crime Reports, State of New Jersey, 1975.  
 Table 27, p. 85.

APPENDIX C

## Defining Recidivism

Introduction

1.0        Imprecise language frequently characterizes discourse about persons who commit more than one criminal offense during a lifetime. Among the terms we employ are "repeaters," "habitual criminals," "chronic recidivists," "career criminals," "persistent offenders," or, simply, "recidivists." Many, if not all, of these phrases are understood synonymously even though several vary at least in degree.

1.1        The concern with persons who commit more than one criminal offense during a life time is twofold. First, there is a concern that affirms higher degrees of culpability and blameworthiness for such persons on the occasion of subsequent convictions. As former New Jersey Supreme Court Justice Haydn Proctor noted, "Habitual offender legislation does not create substantive crime, but rather imposes greater penalty for particular crime for which defendant is convicted, where such defendant consistently engaged in unlawful activity."<sup>1</sup>

1.2        The second concern with this phenomenon is its implications for evaluation of penal/correctional programs. As the National Commission on Criminal Justice Standards and Goals observed, "Recidivism has become the ultimate criterion of the success of correctional programs."<sup>2</sup> We should

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<sup>1</sup> State v. Washington, 47 NJ 244, 248 (1966).

<sup>2</sup> Corrections (Washington, D.C.: U.S. Government Printing Office, 1973), p. 497.



add that a penultimate criterion of the success of correctional programs would be the seriousness of any post-correctional offense. In this respect a degree of success may be claimed if an offender commits a subsequent offense (or offenses) that is less serious than the original offense. If special deterrence<sup>4</sup> cannot be fully effective on an offender, then there is some consolation that an offender, although having committed one or more subsequent offenses, has not committed any subsequent offense of the same or increased seriousness.

- 1.3 The need for a standard definition of recidivism has most recently been identified by the Commission on Accreditation for Corrections of the American Correctional Association. The full text of their Standard 3095 concludes our introduction to this essay.

Standard 3095 There exists a written, standardized definition of recidivism, which is understood and used by all agency personnel using recidivism data.

DISCUSSION: Recidivism is a useful criteria for evaluating probation/parole agencies and offender performance. The agency should develop a standard definition of recidivism that considers: The nature of events to be counted; the categories of behavior and degrees of seriousness to be included; the time of release (use of cohorts); and, the duration of the follow-up period.<sup>3</sup>

- 1.4 There are three approaches to defining a word. The first is working etymologically, tracing the history of its meaning and giving special value to its original use. The second is determining how the word is understood and

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<sup>3</sup> Commission on Accreditation for Corrections, American Correctional Association, Manual of Standards for Adult Probation and Parole Field Services (Rockville, Md.:

<sup>4</sup> Commission on Accreditation for Corrections, 1977), p. 18. Special deterrence is deterrence of the offender being punished for committing additional crimes.

used in common, everyday conversation. The third is creating a definition unique to a problem identified for research. This definition is usually made as precise as possible for purposes of pursuing research with clearly defined terms that can be qualified. The result is what may be called an operational (or research) definition.

### Defining Recidivism

- 2.0 The etymological approach to defining recidivism emphasizes falling back into behavior, i.e., relapsing into former kinds of conduct. Webster's New Collegiate Dictionary defines it thus, "a tendency to relapse into a previous condition or mode of behavior; esp.: relapse into criminal behavior."
- 2.1 There are two understandings of "relapse." Their point of difference is their understanding of into what criminal behavior one relapses. The first is general. Here recidivism means "an individual who is convicted of an offense after he has been convicted of a previous offense."<sup>5</sup> There is no necessary relationship between the two convicted offenses; e.g., they may both be murders, or the first may be murder and the second shoplifting, or the first may be shoplifting and the second murder.
- 2.2 This general understanding of relapse is probably the common understanding in current American use. Research

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Martin A. Levin, "Policy Evaluation and Recidivism," Law and Society Review, 6:1 (August, 1971): footnote, p. 41.

on, and public understanding of, recidivism have largely operated under this definition of recidivism as "the repetition of crime by individuals."<sup>6</sup>

That understanding is the purest and truest notion of recidivism. Unfortunately, though, it cannot be used for our purposes. The problem is that too many crimes are never detected, reported, and/or solved. We simply do not know who the real recidivists are.

2.3 The second understanding of "relapse" requires a relationship between two discreet convicted offenses. Here the mere conviction for one or more offenses subsequent to a former conviction is not enough. In this case the second offense must be related in some respect to the first. One example of this understanding is provided by the earliest habitual offender statutes in the United States. Also called recidivist statutes, they "provided increased penalties only for repetition of the same offense."<sup>7</sup> The second example of this perspective is provided by a section of the Polish Penal Code where "recidivist" is defined thus: "'a delinquent who after having undergone at home or abroad at least three sentences of imprisonment, or else having been released from a prison implementing a 'mesure de surete' (anglice, preventive

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<sup>6</sup> Ramsey Clark, Crime in America (New York: Pocket Books, 1970), p. 196.

<sup>7</sup> Linda Sleffel, The Law and the Dangerous Criminal: Statutory Attempts at Definition and Control (Lexington: Lexington Books, 1977), p.1. *Emphasis added.*

detention), commits, within five years, another crime inspired by the same motives or a crime of the same category as the preceding infraction."<sup>8</sup>

On this understanding the mere reconviction of a person does not yield an instance of recidivism. The relapse is not back into the "condition" of a general delinquency, but a specific sort of delinquency that must be common to both or all offenses.

This understanding of recidivism provides a greater degree of precision than the general notion. Here we know something more about a "recidivist" other than the simple fact that the person has ever committed two or more discreet crimes. Several new elements are added to the definition: (1) Conviction and punishment replace the mere commission of an offense or arrest as the criterion for including a person in the definition;<sup>9</sup> (2) the subsequent offense(s) must be the same as or similar to the former punished offense; and (3) the subsequent offense must be committed within a certain period of time. Each of these is explored in further detail below.

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<sup>8</sup> Cited in Norval Morris, The Habitual Criminal (Cambridge: Harvard University Press, 1951), pp. 4-5. *Emphasis added.*

<sup>9</sup> So Norval Morris, who defines a recidivist as "one who having previously served a term of penal servitude, imprisonment, or Borstal training, is sentenced to a term of penal servitude or imprisonment. "Op. cit., p. 4. Alfred Blumstein and Richard C. Larson concur in "Problems in Modeling and Measuring Recidivism," Journal of Research in Crime and Delinquency, 8:2 (July 1971), p.124.

3.0        The first element to be considered for our operational definition of recidivism is what event in the criminal justice process should be our criterion. We have already dispensed with the mere commission of an offense since the identity of many of the real recidivists (in the general sense) is unknown.

Can we use arrest as our criterion? Many people use arrest as a or the criterion for measures of recidivism. It is unacceptable for our purposes though, because as the United States Supreme Court noted, "The mere fact that a man has been arrested has very little, if any, probative value in showing that he has engaged in misconduct."<sup>10</sup> The National Advisory Commission on Criminal Justice Standards and Goals (NACCJSG) has also rejected the acceptance of arrest as a criterion.<sup>11</sup>

That leaves us with reconvictions as the criterion. As the NACCJSG noted, "Recidivism should be measured by reconvictions. A conviction is a well-defined event in which a recorded action has been taken by the court."<sup>12</sup> Therefore we accept reconviction as the first element of our operational definition of recidivism.

3.1.0        The second issue to be addressed is the relationship

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<sup>10</sup> Schware V. Board of Bar Examiners of the State of New Mexico, 353 U.S. 232, 241 (1957).

<sup>11</sup> Corrections (Washington, D.C.: U.S. Gov't. Printing Office, 1973), p. 512.

<sup>12</sup> Ibid.

of the offenses committed. The examples cited in paragraph 2.3 above imply that if a subsequent offense is not the same as or similar to a former offense, there is no instance of recidivism. That restriction is unsatisfactory because it omits from consideration all reconvictions that are not the same as or similar to the original conviction. Further it seems that this exclusive notion of recidivism is unnecessary. The apparent intent behind this restrictive criterion was probably increasing the precision of understanding what would be included in the term "recidivism." This gain (greater precision) does not justify the exclusion of other repeaters of crime.

3.1.1        A solution which extends precision and includes all who are reconvicted requires the development of a typology of recidivists. Three types from which numerous sub-types may be developed are proposed below.

3.1.2.0       The first type may be called consistent recidivists. This type includes all persons who are reconvicted of the same or similar offenses. This preserves the definition explored in paragraph 2.3 above.

The main value of this definition seems to be that it is descriptive of the types of crimes a person has committed or will be likely to commit. The individual is offensive in only one general way, e.g., always interested in sexual pleasure. Here there is no defiance of law per se, but of one area of law. Outside of this area the individual is a law-abiding citizen.



3.1.2.1 A difficulty with this notion is identifying sameness and similarity of crimes. The Polish Penal Code cited in paragraph 2.3 spoke of sameness as follows: "another crime inspired by the same motives or a crime of the same category as the preceeding infraction." An estimate of motive or intent can probably be made by comparing presentence investigation reports. Thus motive or intent can supply one indicator of sameness or similarity.

3.1.2.2 Another indicator of sameness or similarity is the offense itself. Crimes can be categorized and compared in terms of category. This indicator is less satisfactory than the motive/intent indicator for several reasons. It is difficult if not impossible to create categories of crimes that are completely satisfactory. For example, should robbery and burglary be in the same category because they share the intent for financial gain? If so, then do we include fraud? Here's another example: The person who commits auto theft, a B & E, and a burglary could be reasonably classified as a consistent recidivist. But what if the person then commits armed robbery?

3.1.2.3 For the purposes of this study the following definitions of "sameness" and "similarity" will be applied:

An offense is "the same offense" as a former offense when the offender is convicted under the same statute in both cases.

An offense is "similar" to the original or other prior offenses" when:

1. It is a lesser included offense;
2. It is a different degree of the same offense;

3. It is within the same category as listed or implied as follows: crimes against the person (except sex offenses); drug offenses; JINS offenses; crimes involving fraud, embezzlement, extortion, forgery, or bribery; sex offenses; burglary, robbery, and larceny; gaming and lotteries; arson and malicious mischief; treason and offenses against the government; weapons and explosive offenses per se and when accompanying assault.
4. Two offenses can otherwise be reasonably identified as emerging out of the same circumstances or etiology, e.g., a B & E when the person has previously or subsequently been convicted of CDS offenses.

3.1.3 The second type may be called inconsistent recidivists.

These are persons who have committed crimes that are not the same or similar. In this case we are less likely to know what crime this person will commit. But we do know we can expect versatility and participation in a broader range of offenses. While the consistent recidivist is violative of only a part of the law, the inconsistent recidivist is more defiant of law per se, i.e., defiant of any law.

3.1.4 The third type of recidivism measure is the general measure including inconsistent and consistent recidivists combined. Recidivists will include all persons convicted of one or more offenses subsequent to a prior conviction.

3.1.5 Measures of consistent and inconsistent recidivists can be subdivided in at least one way for even greater precision. The following table suggests how recidivists can be viewed in terms of trends in their criminal behavior.

Elaboration on this table is beyond the scope of this

project and is reported here only to indicate possible expansion of the typology. Another measure that may be used to further develop this typology is the presence of violence, e.g., violent consistent recidivist or non-violent inconsistent recidivist.

### TREND

Recidivist Type	More serious, progressive	Less serious, retrogressive	Same or Indiscriminate
Consistent	Shoplifting.. burglary	Burglary.... shoplifting	Larceny.. larceny
Inconsistent	Burglary..... homicide	Homicide.... shoplifting	Homicide... larceny... robbery... AA&B

3.2 The third element in the definition of recidivism is the period of time after the original offense within which the subsequent offense must be committed. Recent discussions of defining recidivism propose "to establish a standard measure with a specific time frame so that comparisons among programs and systems will have a consistent base."<sup>13</sup> Further commentary on the rationale in support of a period of time is provided by Search Group, Inc..

A specified time period after discharge or other release from institutions simply means that there is a time period following which offenders are considered to be rehabilitated if they do not become recidivists. For example, in many states, an offender who is not recommitting for twenty-four months is considered to be rehabilitated for statutory purposes.<sup>14</sup>

<sup>13</sup> Ibid.

<sup>14</sup> OBSCIS: Offender-Based State Corrections Information System. Volume 1. The OBSCIS Approach. Sacramento: Search Group, Inc., 1975. Technical Report No. 10.

Now that some justification for a specific time frame has been provided, what should that time frame be? Numerous time frames have been proposed. The New Jersey Court Disposition Reporting System employs a time frame of one year following the termination of probation.<sup>15</sup> The OBSCIS group proposes two years, the NACCJSC suggests three years, and the Polish Penal Code uses a five year period. We will accept the three year period proposed by the NACCJSC for the simple reason that "the few recidivism studies that have followed offenders more than three years have not revealed a significant difference between recidivism before and after the three-year point."<sup>16</sup> Our present and future studies of recidivism will determine whether this is the most desireable standard.

#### Operational Definitions of Recidivism

4.0

In view of the foregoing discussion we propose these three operational definitions of recidivism.

1. Recidivists are all persons who, having once been convicted of a criminal act, are convicted for one or more subsequent criminal acts while on probation and/or during the first three years following the termination of probation.
2. Inconsistent recidivists are all persons who, having once been convicted of a criminal act, are convicted for one or more subsequent criminal acts while on

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<sup>15</sup> C.D.R. 6-5.

<sup>16</sup> NACCJSG, Corrections, loc. cit.

probation and/or during the first three years following probation termination date when the subsequent convicted offense(s) is (are) neither the same as nor similar to the original or other prior offenses.

3. Consistent recidivists are all persons who, having once been convicted of a criminal act, are convicted for one or more subsequent criminal acts while on probation and/or during the first three years following the probation termination date when the subsequent offense(s) is (are) the same as or similar to the original or other prior offenses.

4.1        These definitions may be analyzed in a variety of ways:

1. Time, e.g., comparing subsequently convicted offenses committed while under probation supervision to subsequently convicted offenses committed after probation term is completed;
2. Nature of offense, e.g., comparing violent to non-violent offenses and/or combinations of both.

**END**