
Recommendations

CHAPTER 4

Policy makers need improved information to help them assess correctional strategies.

Many offenders under the supervision and custody of correctional agencies have committed crimes repeatedly. In the short term, recidivism could be delayed by imprisoning more convicted felons, but this could be extremely expensive and might be contrary to other correctional goals (such as making punishment proportional to the severity of the crime).¹ Alternatively, the state can—and does—use imprisonment more selectively, but with greater risks to public safety. Felons under correctional supervision in the community have the opportunity to commit additional crimes, and this report shows that many of them do.

Our study has demonstrated the feasibility of using computerized Bureau of Criminal Apprehension (BCA) records to calculate recidivism rates for large groups of offenders. As policy makers and administrators try to develop correctional strategies that balance public risks with costs, they will continue to need good information to help them make decisions and monitor the outcomes. For this reason, we recommend that:

- **The Department of Corrections' future agency performance reports should include (1) statewide measures of the recidivism of released inmates and felony probationers, and (2) targets for future levels of recidivism.**

The department should establish consistent methods for measuring Minnesota recidivism, which would permit meaningful comparisons of rates over time. At a minimum, the department should report overall rates of recidivism, although it could additionally report rates for selected subgroups of offenders.

We think the department should use a variety of measures to analyze recidivism, including rates of rearrests, reconvictions, and new imprisonments. There is no universally-accepted measure of recidivism. Many corrections researchers believe that rearrest rates provide the most accurate and timely measure of criminal activity, even though not all arrests result in prosecutions or convictions. Computing recidivism rates based on reconvictions would require that offenders be proven guilty before they are counted as recidivists. Unfortunately, Minnesota lacks com-

¹ Currently, only about 20 percent of the nearly 10,000 felons convicted annually in Minnesota are sentenced to prison. In 1996, the Legislature authorized the sale of \$89 million in bonds to build an 800-bed prison, and the daily operating cost per inmate for Minnesota prisons averaged \$3 in fiscal year 1995.

plete information on convictions in its official criminal history database, and re-conviction rates might understate recidivism due to the lapse of time between arrests and convictions. Finally, measures of offender imprisonment can be useful recidivism indicators, but many serious crimes do not result in imprisonment in Minnesota. Imprisonment rates do not measure the overall criminality of offenders, and they can be influenced significantly by the state's prison sentencing policies and by the way that courts and correctional agencies respond to technical violations of probation and supervised release.

When legislators have asked the Department of Corrections about recidivism in the past, the department has often cited the percentage of prisoners who returned to prison for new offenses within two years of their release. But the department has understated this percentage somewhat by computing it on the basis of offenders' **first** return to prison during the follow-up period. Thus, if an offender first returned to prison for a technical violation of supervised release and later in the follow-up period returned to prison for a new offense, the department did not count the offender as having returned to prison for a new offense.² We recommend:

- **When calculating the percentage of offenders who have returned to prison for new offenses, the Department of Corrections should count all offenders who returned for new offenses in the follow-up period (not just those whose first return was for a new offense).**

The Department of Corrections should produce statewide data on prisoner and probationer recidivism, using a variety of measures.

In our 1996 report on probation funding, we recommended that the Legislature require local probation service providers (as well as the Department of Corrections) to periodically collect information on recidivism. We still believe that probation agencies statewide should monitor offender recidivism. Such information could help local corrections administrators and advisory boards to plan and evaluate services, and it could help corrections agencies to validate offender risk assessment instruments. But, for purposes of the Department of Corrections' biennial performance report, we now believe that it would be best for one agency--the Department of Corrections--to produce statewide information on the recidivism of probationers. In our view, it would be more efficient for the department to prepare this information itself than to compile the recidivism reports of numerous service providers.³ In addition, we think that the department could better ensure the reliability of the computed recidivism rates by developing a consistent method for collecting and analyzing data on offenders from all Minnesota counties.

Because there are many potential state and local users of recidivism information, it would be useful for these users to have some role in the design of future recidivism measures. Any recidivism analysis requires researchers to make important decisions about how to define recidivism and what data to use, so we recommend that:

² Using the department's method, 22 percent of prisoners released in 1992 were reimprisoned for a new offense during the three-year follow-up period. Using our method and a combination of BCA and department data, we found that 28 percent were reimprisoned for new offenses.

³ Felony probation services are provided by the Department of Corrections and 16 Community Corrections Act administrative agencies. An additional 25 probation agencies provide misdemeanor and juvenile services in Minnesota counties.

- **The Department of Corrections should establish an “outcome measurement task force” to help develop recidivism measures and perhaps other outcome measures related to community supervision. The recommended measures should be reviewed by Minnesota’s Criminal and Juvenile Justice Information Policy Group.**

If the Department of Corrections routinely produces recidivism information for its performance reports, it will be better prepared to address specific recidivism questions that arise. For instance, legislators may want to know about the recidivism rates of certain types of offenders, or department staff may want to know about the reoffense patterns of offenders in particular programs.

The department’s central office has information on which inmates have participated in sex offender programs, but it does not have similar information on other programs, such as education and chemical dependency programs. Also, there is no “master list” of those inmates (or former inmates) deemed by the department to represent high risks to public safety. To help the department track recidivism rates for program participants and high-risk offenders, we recommend that:

- **The Department of Corrections should establish central, permanent records that indicate (1) programs in which individual prisoners have participated (including dates of participation and whether the program was completed), and (2) whether inmates have been designated by the department as “public risks.”**

Incomplete criminal history records constitute a serious weakness in the state’s criminal justice system.

Another issue that needs immediate attention is the BCA’s lack of comprehensive information on criminal convictions and other case dispositions.⁴ We think this is a serious weakness in the state’s criminal justice system. When convictions (or arrests) are not recorded on the criminal history system in a timely manner, recidivism analyses that rely on this system will understate the true amount of criminal behavior. More important, if some criminal convictions are not in the state’s criminal history database, people conducting criminal background checks could reach erroneous conclusions, offenders could be sentenced to inappropriately short prison terms under the sentencing guidelines, and suspects could be released from custody prior to arrest or trial because officials are unaware of their full criminal history. Currently, BCA’s “suspense file”—which contains information on court dispositions that have not been matched to arrests—cannot be accessed electronically in the same manner as other criminal history information.

The BCA is aware that the criminal history system is incomplete, and it has taken some actions to address the problem. BCA has been training and educating local law enforcement, prosecution, and court officials about proper reporting of criminal history information, and it is seeking federal funding for continued local implementation of technology that would transmit fingerprint information electronically to BCA. BCA has provided some law enforcement agencies with lists of dispositions that have not been linked with arrest data, hoping that these agencies could supply missing arrest information. But, according to BCA, the number of arrests

⁴ Besides convictions, “dispositions” include records of dismissed cases, acquittals, and other case outcomes.

that law enforcement agencies are required to report to the criminal history database will more than double in the near future as selected juvenile and misdemeanor offenses are added to the system. It will be a challenge for BCA to ensure complete reporting at a time when the system is growing so rapidly. We recommend:

- **BCA should periodically provide law enforcement agencies (and perhaps courts) with lists of criminal dispositions that have not been linked with arrests, and it should request that the agencies provide information, if available, that would allow the records to be placed in the state's criminal history database.**
- **The Department of Public Safety's future performance reports should indicate the percentage of Minnesota disposition records that are in the suspense file and set targets for reducing this percentage. If the BCA is unable to significantly reduce the number of records in the suspense file, the Legislature should consider requiring the courts to submit fingerprint records of offenders at the time of disposition.**

BCA requires positive identification of subjects before convictions are recorded on the state's criminal history database. We think this is reasonable, given the inclination of criminals to use aliases. But, while all convicted persons **should** have corresponding arrest records that conclusively establish their identity, many law enforcement officials have not provided BCA with this information. We hope that local officials will improve their reporting of arrests to BCA, but in the meantime we think there should be a way for users of the criminal history system to identify instances of criminal behavior that have not yet been entered in the criminal history database. We recommend that:

- **BCA should provide selected users of the criminal history system with the option of searching the suspense file for records of dispositions that have not yet been matched with arrests.**

In recent months, this option has been under discussion by users of the criminal history system. BCA staff told us that there are no technical obstacles to making suspense file records accessible in an electronic format. BCA or the Legislature may wish to provide criminal justice agencies with access to the suspense file, but restrict or prohibit access to others. Since the suspense file includes records where the identity of the convicted offender has not been positively established through fingerprints, the computerized system should provide users with appropriate cautions about the information provided.

In addition, we think that the quality of information in Minnesota's criminal history system should be subject to regular review, due to its importance for a variety of purposes. In 1992, BCA conducted a "baseline audit" of the system to examine its completeness, accuracy, quality, and timeliness.⁵ Federal rules require annual

⁵ Minnesota Bureau of Criminal Apprehension, *Baseline Audit of the Computerized Criminal History Record System* (St. Paul, April 22, 1992). The audit found that: the system lacked information on 49 percent of court dispositions and 20 percent of prison admissions; it took more than four months, on average, to enter arrest data into the system; and agencies responsible for submitting information to the system did not consistently comply with state policies.

audits of state criminal history systems, and BCA's 1992 audit recommended "periodic audits" of the system in order to monitor system quality on an ongoing basis.⁶ But, although a variety of problems were identified by the baseline audit, there have been no subsequent audits of Minnesota's criminal history system. We recommend that:

- **BCA should audit its criminal history database on a regular schedule.**

Our recidivism analysis used several large databases in three state agencies (BCA, Department of Corrections, and Sentencing Guidelines Commission). To conduct our analysis, it was necessary to establish links among these systems. This can be done most efficiently when systems use the same types of offender identification numbers, such as the unique identifying numbers assigned by the FBI and BCA. Unfortunately, the Sentencing Guidelines Commission does not collect identifying information other than offender names and birthdates, and this made it more difficult for us to track recidivism for felons placed on probation. We recommend that:

- **The Sentencing Guidelines Commission should collect identifying information on felons so that sentencing records can be linked with BCA's criminal history database.**

We offer no recommendations for specific changes in Department of Corrections prison programs. Although we found several instances where the recidivism rates of program participants were not better than those of non-participants, our study did not examine program content in detail, and we could not tell whether factors other than the programs contributed to these results. Still, we think there is a need for ongoing program review and accountability, and this is one reason we recommend that the department regularly monitor recidivism rates.⁷

Minnesota's sentencing policy primarily aims to punish offenders for the crimes they have committed, not their likelihood of reoffending.

Finally, we considered whether to recommend changes in state sentencing policy. Our study found that different types of offenders have different recidivism rates. For example, car thieves and burglars have higher recidivism rates than many types of violent offenders. If policy makers or the courts wanted to prevent recidivism (or at least delay it), they could imprison more offenders in these high-recidivism categories or keep them in prison for longer periods. But, to avoid prison crowding, such decisions might require reduced sentences for other offenders or even the construction of new prison space. And, given the high levels of recidivism among released prisoners, it is possible that increased use of imprisonment--perhaps at considerable expense--would merely postpone recidivism without reducing the total amount of recidivism over time. There might be more cost-effective ways to reduce recidivism, such as improving the effectiveness of rehabilitative programs or community supervision.

Presently, Minnesota sentencing policies are based largely on two factors related to past offenses: the length of an offender's criminal history and the severity of

⁶ 28 Code of Federal Regulations Part 20, §20.21 (e). A national expert on state criminal history systems told us, however, that she was aware of only one state (Illinois) that conducts annual audits.

⁷ Periodically, the department should also consider doing more rigorous, "controlled" studies that attempt to isolate the impact of programs from other factors.

the conviction offense. Underlying the guidelines is the principle of “just deserts,” or punishing offenders in a manner that fits their crimes. The sanctions in the guidelines were intended more to punish offenders for past behavior than to prevent offenders from committing new offenses.

Our study found that offenders with longer prior criminal records were more likely than other offenders to commit new crimes, particularly property offenses.⁸ Thus, the use of the criminal history score in the sentencing guidelines results in the imprisonment of some of the felons whom we found most likely to reoffend.

We found that the other factor in the sentencing guidelines--offense severity--was **negatively** related to the overall likelihood of criminals to reoffend. That is, the felons who committed more severe offenses and therefore were considered for harsher punishments under the sentencing guidelines were actually less likely than other felons to commit new offenses.⁹

Again, it would be possible to adjust the sentencing guidelines in ways that would result in higher levels of incarceration for offenders convicted of less severe crimes but with higher tendencies to reoffend, such as burglars and car thieves. But it would be a significant departure from current practice if the Legislature or Sentencing Guidelines Commission chose to base imprisonment decisions partly on the expected likelihood of certain categories of offenders to commit future crimes, rather than basing imprisonment decisions entirely on past crimes. We offer no recommendations on this policy choice, but we think the Legislature should exercise caution before it considers modifications that would alter the underlying “just deserts” philosophy of the sentencing guidelines system.

⁸ Among released prisoners, higher criminal history scores were associated with higher rates for arrest for property crimes. In contrast, rearrests for violent offenses remained relatively steady as criminal history scores increased.

⁹ We did find, however, that probationers convicted of violent crimes were more likely than other probationers to be rearrested for violent offenses.