

The Limits of RECIDIVISM

MEASURING SUCCESS AFTER PRISON

Committee on Evaluating Success Among People Released from Prison

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Summary¹

The criminal legal system in the United States has vast reach.² Over 75 million American adults have an arrest or criminal record of some kind and 4.3 million remain under community supervision. Over 600,000 people were released from state and federal prisons each year between 2000 and 2019 with the hope that they will successfully reintegrate into their communities.³ Their success or failure is used as an indicator of our criminal legal system’s effectiveness. Tracking the success of those released from prison can tell us whether the criminal legal system is fulfilling its mission and whether public investments are being put to effective use. The successful reintegration of those released from prison is also often used as an indicator of public safety. In fact, the National Institute of Corrections describes successful reintegration as a “critical aspect of correctional missions to improve public safety.” Nevertheless, while evaluations of success among individuals released from prison affect perceptions of the performance of our institutions and the safety of our communities, our attempts to evaluate success face serious limitations.

¹Citations to support the text and conclusions of this summary are provided in the body of the report.

²In the service of accuracy, the committee uses the term “criminal legal system” to describe the various institutions, agencies, and official actors who enact and enforce criminal law in the United States. See Chapter 1 for further discussion of terminology used in this report.

³The number of individuals released from prison in the United States dropped to 549,600 in 2020.

In this context, Arnold Ventures asked the Committee on Law and Justice of the National Academies of Sciences, Engineering, and Medicine to form an ad hoc committee to examine:

1. The strengths and limitations of current measures of recidivism, including variation according to different individual needs and characteristics, and identification of key factors and outcomes that are not adequately captured by this measure alone.
2. The correlates of positive outcomes for individuals who do not return to incarceration and corresponding measures of reentry from prison that go beyond the avoidance of negative outcomes, such as crime, and consider broader measures of success (e.g., health, victimization, family attachment, educational attainment, employment, income, and civic engagement).

The committee members applied expertise from a range of disciplines to their charge, including criminology, law, medicine, political science, sociology, economics, and statistics. Committee members also brought expertise in criminal legal policy and reentry programming, and personal experience of incarceration and reentry. To respond to their charge, the committee examined the existing literature and relevant data sources on recidivism, desistance, and broader post-release outcomes. A public session with researchers, practitioners, and experts with previous experience of incarceration was held and a commissioned paper was secured to fill gaps in evidence and information. The committee also met with and drew on the expertise of correctional officials and crime victims and survivors' service providers in the course of its deliberations.

The committee's conclusions fall broadly into two categories. The first and second conclusions speak to the limitations of current measures of recidivism. The final three conclusions reflect the many broader, positive outcomes of success relevant to those returning from incarceration. Drawing on these conclusions, the committee offers four recommendations for the evaluation of success among those released from prison. The committee offers a range of recommendations for changes in practice, policy, and research, including recommendations whose adoption will require significant time, commitment, and financial investment. Some of the committee's recommendations will require collaboration across organizations and sectors that may be challenging to implement; however, the possible existence of barriers to implementation of a recommendation should not determine the value of pursuing it. Where possible, the committee highlights ways to leverage existing research or programs that offer models from which to build.

From its review of the evidence, the committee concluded that efforts to evaluate success should shift away from exclusive reliance on recidivism,

an imprecise proxy at best for measuring return to criminal behavior; clarify the limitations of certain measures of recidivism; draw more heavily on desistance as a measure of post-release outcomes in the criminal legal system; and expand the measurement of post-release success to include well-being in a broad range of life domains. The committee arrived at five key conclusions—supported by evidence presented in chapters 2 through 4—that serve as the basis for the recommendations listed below and discussed in more detail in Chapter 5.

Taken together, the committee's recommendations address two goals: (1) to improve measures of post-release outcomes in the domain of the criminal legal system and (2) to improve the evaluation of post-release success by expanding current concepts and measures to encompass positive outcomes in domains outside of the criminal legal system.

Of particular importance, the committee recognizes that individuals with personal experience of incarceration and practitioners who work with formerly incarcerated individuals have unique insights regarding the conceptualization and measurement of post-release success. Formerly incarcerated individuals and reentry practitioners have made essential contributions to each chapter of this report. The committee strongly recommends that their expertise inform the design and implementation of each of this report's recommendations.

EVALUATING POST-RELEASE SUCCESS: CORE CONCEPTS

The reoccurrence of criminal behavior after release from prison is a key piece of evidence used in evaluating post-release success. Much criminal behavior results in harm to individuals, communities, and society-at-large, and as such is of critical interest to policy makers and the public. To date, the bulk of evaluation of the outcomes of criminal legal system involvement, particularly for people released from prison, has typically relied on measures of recidivism, which purport to measure the likelihood that previously incarcerated individuals will commit new crimes and eventually return to prison. However, existing recidivism measures offer a narrow understanding of reentry and can be misleading if researchers and policy makers are not aware of the varying sampling strategies used to assess how the prison experience affects the life outcomes of individuals after release.

For example, pronounced differences exist between the relatively low recidivism rates of individuals released from prison for the first time and the significantly higher rates among those who have been in prison multiple times. In addition, the administrative data used to measure returns to prison typically include arrests as well as technical violations, which may not always reflect the commission of a new crime. Administrative records are also subject to a number of limitations, the most important of which is that they reflect the recorded actions of legal officials. As a result, administrative

records do not count criminal behavior that goes undetected by criminal legal system officials and can include wrongful assignment of criminal behavior to innocent parties. In short, recidivism measures are a limited and imprecise proxy for an individual's return to criminal behavior.

While return to crime is a key piece of understanding post-release success, scientific evidence shows that the cessation of criminal activity is complex and best understood as a slow process that may involve setbacks. Recidivism rates are typically binary (yes/no) measures. Even when they are accurate, they reveal only whether or not a new arrest, conviction, or incarceration has occurred, ignoring factors that would provide a more complete picture of movement toward desistance such as the time elapsed between recidivism episodes, the relative severity of the offense compared to past offenses, and the community and societal factors that influence recidivism.

Research has also documented the persistent and varied barriers facing those attempting to reintegrate in domains beyond criminal legal system involvement. Individuals released from prison today face numerous collateral consequences (impediments beyond conviction and incarceration themselves) with respect to employment, education, housing, health, and community and civic life. Many of these collateral consequences amplify precisely the characteristics that are thought to be associated with continued criminal activity, including weakened social bonds, inadequate and unstable employment, and a diminished sense of well-being. As they are currently applied, recidivism measures encourage a sole focus on negative outcomes in the criminal legal domain when evaluating reentry process. This limits the ability to measure, let alone support, post-release success. It also limits society's collective ability to make informed policy and budgetary decisions regarding the criminal legal system.

MEASURING THE CESSATION OF CRIMINAL ACTIVITY

Broadly speaking, recidivism refers to a return to criminal activity. In practice, recidivism measures rely on administrative records of criminal legal system activity, drawing on rearrest, reconviction, or reincarceration data or some combination of the three. These measures thus reflect the interaction between individuals and the criminal legal system. They can be both over-inclusive, by recording mistaken arrests and wrongful convictions, and under-inclusive, by failing to capture undetected criminal activity. While administrative records capture the most serious criminal behavior reasonably well, victimization surveys indicate that a large fraction of criminal behavior goes undetected.⁴ Nor do these measures account for the

⁴For example, results from the National Crime Victimization Survey indicate that victims or others reported just 40 percent of violent victimizations and 33 percent of property victimizations to the police in 2020 (Morgan and Thompson, 2021).

disparities in likelihood of arrest, conviction, and reincarceration based on an individual's identity or community context.

Current conceptions of recidivism also tend to treat any return to crime as a failure, without distinguishing between failure as an end state or as part of a desistance process. A robust body of scientific evidence on desistance demonstrates that the cessation of criminal activity occurs incrementally and can involve setbacks. For example, an individual on the path toward ceasing criminal activity may commit additional crimes but with declining frequency or seriousness, indicating that they are on the path to desistance. Common measures of recidivism do not capture this movement toward desistance or other signs of progress highlighted by research on desistance, including changes in self-view and feelings of hope.

In sum, recidivism rates based on administrative records are an imprecise and incomplete proxy for measuring a return to criminal activity (Conclusion 1). Measures of desistance from crime offer a more accurate and realistic account of changes in criminal activity after release from prison (Conclusion 2).

RECOMMENDATION 1: To ensure more precise and accurate use of the construct of recidivism, researchers, policy makers, and practitioners should (a) specify the exact actions taken by legal authorities (arrest, revocation, conviction, incarceration) included in their measures, (b) clarify the limitations of the data used to measure these actions, and (c) supplement binary recidivism measures with measures of desistance from crime such as the frequency and seriousness of offense and length of time until a new offense.

MEASURING SUCCESS

One of the most significant limitations of current measures of recidivism is their limited ability to measure the multiple dimensions of post-release success. In concept and practice, the scope of recidivism is restricted to a single realm—the criminal legal system. But individuals released from prison return to lives and communities that are more complex than avoiding criminal legal system intervention. In addition, the criminal legal system's core aims go beyond punishment to include public safety and rehabilitation—neither of which is captured in full by an exclusive focus on recidivism. The Federal Bureau of Prisons lists successful reentry as a core element of its vision, which will be realized when “through the provision of health care, mental, spiritual, educational, vocational, and work programs, inmates are well-prepared for a productive and crime-free return to society.”⁵

⁵Federal Bureau of Prisons, “About Our Agency,” https://www.bop.gov/about/agency/agency_pillars.jsp.

A more meaningful conception of success views post-release outcomes through the lens of overall healthy adult development across multiple life domains in addition to crime control: education, employment, housing, family and social support, mental and physical health, and civic and community engagement.

An individual's success is also determined in part by their own personal sense of well-being. For example, an individual may prioritize success in certain domains and thus have a sense of well-being despite setbacks in other domains. Neither recidivism nor desistance encompasses this broader conception of success, and researchers and practitioners in the criminal legal space lack adequate methods of measuring it, though promising models have been validated in other disciplines (see Chapter 4 for examples). *Meaningful measures of success traverse multiple life domains including a heightened sense of personal well-being, which is best measured through self-report surveys and validated assessment instruments* (Conclusion 3).

RECOMMENDATION 2: Researchers should review existing measures and, as needed, develop and validate new measures to evaluate post-release success in multiple domains, including personal well-being, education, employment, housing, family and social supports, health, civic and community engagement, and legal involvement.

Individuals released from prison face a number of significant barriers to success across life domains, including ongoing penalties for their criminal behavior. They may return to a community without adequate employment opportunities or training programs. They may not have access to necessary substance abuse treatment or mental health counseling. They may encounter local or state policies that exclude them from accessible housing or social safety net programs. Further, systemic disparities exist along lines of race, socioeconomic status, and geography in access to needed services and supports. As such, post-release outcomes are the product of interactions between individual behavior, institutional actions, and systemic inequalities in exposure to barriers and access to resources. The choices an individual makes, both in prison and after release, play a pivotal role in post-release outcomes, as the listening session with previously incarcerated persons made clear. But an individual's range of choices is shaped by the environments into which they are released, and it can be expanded or constrained by the opportunities or barriers to which they are exposed. *The existence of community and policy facilitators of and barriers to success can be documented in studies that link data on post-release success to local socioeconomic conditions, policies that restrict access to employment, housing, and public benefits, and structural inequalities that disproportionately affect historically marginalized populations* (Conclusion 4).

RECOMMENDATION 3: Researchers should review existing measures and, as needed, develop new measures of facilitators of and structural barriers to post-release success in multiple domains, including personal well-being, education, employment, housing, family and social supports, health, civic and community engagement, and legal involvement. These measures should reflect the particular needs and experiences of historically marginalized groups.

A persistent problem facing the evaluation of post-release success is the lack of shared definitions and methodologies. In the case of recidivism, one reentry program's recidivism rate may refer to rearrests and technical violations of the rules of community supervision while another program's rate may measure only reincarceration. One state's recidivism rate may measure criminal activity in the five years following release, and another's may track recidivism over just three years. As a result, it is difficult to reliably compare recidivism rates across programs or across jurisdictions. A lack of uniform best practices and standards greatly complicates efforts to measure success and limits opportunities to experiment, learn from one another, and scale interventions. The wide variety of definitions and methodologies also invites misinterpretation and misuse. These problems could persist even with a move toward a more robust conception of post-release success.

Individual jurisdictions and agencies are free to retain their own standards and measures of post-release success in addition to uniform standards that allow for reliable comparisons across jurisdictions. *Uniform national standards for measuring success among individuals released from prison would augment the comparability of program evaluations and the utility of administrative and other data across multiple policy domains. The development of a website containing core measures and instruments would hasten the eventual development of uniform measurement standards. These efforts can be supported by federal agencies and private foundations committed to improving success for persons released from prison* (Conclusion 5).

RECOMMENDATION 4: The National Institute of Justice, Bureau of Justice Statistics, Bureau of Justice Assistance, National Institutes of Health, and other federal agencies and centers whose missions are central to the success of persons released from prison should (a) convene interdisciplinary research advisory panels to assess data, methods, and recommendations for measuring post-release success; (b) request grant proposals from researchers and practitioners, in collaboration with formerly incarcerated persons, to review existing measures of success and develop and validate new measures as needed; and (c) consider questions relevant to the measurement of post-release success in existing survey protocols such as the American Community Survey and data

collection efforts in other domains such as education, labor, and health. Private foundations committed to improving success among persons released from prison should support this evaluation independently or in partnership with federal agencies. Governmental and private support should be directed, at a minimum, to the following issues:

- a) The quality of records from legal and other social institutions used to monitor post-release success;
- b) The utility and feasibility of linking records across multiple administrative domains;
- c) The utility and feasibility of linking existing administrative data with instruments measuring personal well-being;
- d) The development of a website containing core measures of success across multiple administrative domains and the role of qualitative as well as quantitative research in the development of these measures; and
- e) The eventual development of uniform national standards for measuring post-release success.

CONCLUSION

The widespread use and misuse of current recidivism measures can generate inaccurate conclusions and ineffective policies and programs. Nonetheless, the committee believes there is great promise for improving the measurement of success among individuals released from prison. Executing the committee's recommended improvements will require the investment of researchers, practitioners, administrators, policy makers, and private funders. It will require advances in data collection, new lines of research, sustained collaboration across disciplines and policy domains, and shifts in shared terminology. These efforts are vitally important. Decisions about what and how to measure can have enormous impact on program and policy outcomes. Improving the measurement of success for those released from prison has the potential to produce more effective policy, safer and more stable communities, and better lives for those who reenter them. Who is included in the process of decision-making is as important as the measurement decisions themselves. Formerly incarcerated individuals and reentry practitioners should be directly involved as partners in each stage of the review, development, validation, and implementation of new measures of success among persons released from prison.

TABLE 2-4 Measures Derived from Sources and Strengths and Weaknesses

Measure(s)	Sources	Strengths	Weaknesses/concerns
Crimes committed, contact with justice system agencies, context	Self-report surveys or interviews	Person-based measures that reflect individual behaviors give voice to participants; may allow participants to describe and contextualize the events; can provide very detailed information and uncover rationale for behaviors.	Very costly; mode and setting effects; recruitment and retention issues; nonresponse bias; recall issues; typically small sample sizes.
Rearrest rates	State and local law enforcement agencies; state criminal history repositories	Details about the dates and criminal law charges of arrests, which can be used to assess the severity of the arrest record. State criminal history repositories contain disposition data (nationwide, in about 82% of arrests). Booking (fingerprint) records indicate an official action. Fingerprints allow for linking records within persons over time and place.	Local law enforcement agency data contain little disposition data on the arrest, other than crimes cleared and exceptional clearances; need to go to the state repository to obtain these records. State law is variable on the content of what must be submitted to the repositories (e.g., other than felonies, what misdemeanor, citation, or infraction arrests) and on non-criminal legal uses of criminal history data.
Reconviction rates	County courts; state administrative offices (where available); and state criminal history repositories	Conviction is a well-measured event, even if a conviction is for a lesser charge. Dates of events are measured. Data on each charge are recorded, and the data on multiple charges can be used to assess severity.	State repositories cover within-state criminal history; the FBI's Interstate Identification Index provides for the decentralized interstate exchange of criminal history record information; records are supported by fingerprint submissions (CJIS 2005). Convicted behavior is not always the same as the underlying offense behavior. Not all states have statewide court record systems; access to court records in these states is county-by-county. Often includes the conviction offense only. Does not detail whether offense was plea-bargained. Generally, no universal ID; linkages across places and events need to be done by name and related matches.

continued

TABLE 2-4 Continued

Measure(s)	Sources	Strengths	Weaknesses/concerns
Reincarceration	State departments of corrections (prison records) and local (county) jails	Dates of entry into and exit from custody are well defined; data are on persons with events attached to person records; data on misconduct and treatment are available; prison records indicate release to supervision or not.	Reasons for entry into custody are not always well-defined (e.g., technical violations vs. new crimes); movements may reflect changes in status (e.g., conviction).
Technical violations of conditions of supervision	Probation agencies, which may be federal, state or county; parole supervising agencies (state-level); departments of corrections	Indication of a supervising agency's decisions, which when associated with other agency data provide indications of the probability of revocation conditional upon repeated measured behaviors (e.g., the number of failed drug tests before revocation). Generally include records of the supervision histories and interactions.	Records typically do not detail the nature of the events that led to a technical violation/revocation, or include the dates or severity of the violation behavior. Few systems track the nature of the events. Supervisory agency decisions involve discretion even with the use of risk instruments, which makes it difficult to disentangle the effects of an individual supervisee's behavior from the agency decision making. Variability across systems in data definition and access.
Graduated responses	Supervising agencies	Indications of management strategy to address issues of noncompliance (or incentives for compliance). Typically indicate a date of the event occurring.	Variability in use of graduated responses. Often do not detail the dates when events occurred. Variability in data definitions, lack of complete records of the incremental measures for addressing non-compliance.