

BHDCJS Recidivism Subcommittee—Definition of recidivism discussion and proposal to be presented to the Recidivism Interim Study Committee

Colorado is not unique in its use of varied measures of recidivism. There is in fact no national standard. Some suggest using conviction, instead of arrest, as a measure helps to avoid false positives especially with juvenile populations.¹ However, the challenge with this is that it requires a lengthier lag time between release and detection of a recidivism event should it occur. The timing required to detect recidivism is impacted by the offense, court processing times, and choices made by the attorneys in how to approach the case. The National Academy of Sciences (NAS) convened a stakeholder group to include the leading scholars and those with lived experience and note the challenges and limitations to the various measures of recidivism that exist.² In order to improve the accuracy of measurement, the NAS suggests being explicit about the official action being taken, identifying the limitations of the data used, and supplementing this failure focused measure with indicators of desistance.

The recidivism subcommittee of the BHDCJS reviewed the current definitions that exist across the various state agencies tasked with reporting recidivism (see Table 1) and discussed the challenges with these definitions and the construct of recidivism as a sole outcome measure. These definitions were each adopted out of specific agency's needs to report on measures meaningful to their population or as a result of legislation. The Division of Youth Services, juvenile diversion programs, and adult and juvenile probation measure recidivism as a new deferred agreement, adjudication, or conviction for a felony or misdemeanor crime within one, two, and three years post discharge. Community corrections measures recidivism as a new conviction for a felony offense within one year and the Department of Corrections as a return to custody following release. These definitions, which are each impacted by both individual behavior and criminal and juvenile justice case processing make it difficult to identify the impact of various legislative, policy, and practice changes on a consistent outcome measure. Additionally, the populations served by these points along the continuum of justice involved have differing base rates of criminal activity and different average levels of risk for continued involvement in crime. As a result, even if there were a standard definition and measure used across these agencies, they would not be directly comparable.

¹ Harris, P.W., Lockwood, B., & Mengers, L. (2009). A CICA white paper: Defining and measuring recidivism [White paper]. Retrieved from <http://www.cjca.net>

² National Academies of Sciences, Engineering, and Medicine. 2022. *The Limits of Recidivism: Measuring Success After Prison*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/26459>.
<https://nap.nationalacademies.org/catalog/26459/the-limits-of-recidivism-measuring-success-after-prison>

Table 1: Definitions of Recidivism Used in Colorado

| Agency | Measure | Time Frame |
|--------------------------------|---|--------------------------------|
| Division of Youth Services | New deferred agreement adjudication or conviction for a misdemeanor or felony | 1, 2, and 3 years post release |
| Juvenile Diversion | New deferred agreement adjudication or conviction for a misdemeanor or felony | 1, 2, and 3 years post release |
| Probation (adult and Juvenile) | New deferred agreement adjudication or conviction for a misdemeanor or felony | 1, 2, and 3 years post release |
| Department of Corrections | Return to custody | 1, 2, and 3 years post release |
| Community Corrections | Conviction for a new felony | 1 year post release |

Access to data and the technical skills required to execute recidivism studies are also a challenge. Many of our state systems were designed for case management, not data management. As a result, they do not capture and store information in ways that are conducive to efficient extraction and analysis. Should a definition and measure of recidivism be required of all state agencies, it would be important to ensure that these agencies have access to the data required to report this measure and the resources needed to construct the measure whether that is technology or staff or both. If a statewide definition is adopted, its specific purpose should be very clear. For example, the measure would be used when state agencies (or those receiving state funds) are asked to report on long term criminal justice outcomes and impacts. The definition identified would not preclude agencies from having alternative preferred definitions as would be appropriate to meet their unique business needs.

The BHDCJS recidivism subcommittee planned to recommend convening a multidisciplinary and multi-agency working group³ to establish a shared definition of criminal justice recidivism⁴ to be used when assessing the potential and actual impact of legislation, policies, and procedures on justice involved persons. The subcommittee also discussed the need to look beyond this one often dichotomous measure and wanted to express that it is also

³ The subcommittee would suggest representation or a structured approach to obtaining feedback from the following stakeholder groups: Colorado Department of Public Safety, State Judicial, Department of Corrections, Community Corrections, Division of Youth Services, District Attorneys, Defense Bar, Office of Civil and Forensic Mental Health, Behavioral Health Administration, Department of Local Affairs, Healthcare Policy and Finance, Individuals with lived experience, criminal justice practitioners, reentry service providers, pretrial service providers, behavioral health treatment providers who work with justice involved populations, criminologist, and members of the Legislature.

⁴ Recommendation is to focus on a justice system measure (e.g. new arrest, new filing, new conviction) rather than other outcomes (e.g. return to care) which should be addressed as measures of progress or proximal measures of success.

important to consider the more proximal measures of success. These measures such as employment rates, treatment attendance, housing stability, health (including physical and behavioral), and community engagement provide an opportunity for systems to identify more quickly what is and isn't working and determine the adaptations to make, if needed, to improve outcomes for individuals and the community.