

CORRECTIONS MANAGERS' *Report*[®]

Volume XXII, No. 5
February/March 2017
ISSN 1083-3382

MANAGEMENT • OPERATIONS • FINANCE • LAW AND GOVERNMENT REGULATION HUMAN RESOURCES

Substance Abuse Treatment

Addiction Treatment Works Without Opioid Substitute—But Can Jails Afford It?

By Nicholas Zeman

Irish drug company Alkermes' brochure for Vivitrol shows a judge advising a young addict. The caption reads "Help him gain access to treatment." It's part of a sales push to expand the use of a \$1,000 per month injection treatment in corrections substance abuse programs.

America's opioid epidemic is now a well-known fact: more than 2 million Americans are believed to suffer from opioid addiction, including 15 percent of the U.S. prison population. With arrests, overdoses, and relapses at record levels, the problem of addiction runs head on into an opposing problem—the pressure on prisons and jails to reduce incarceration levels while keeping recidivism rates low, too. In response, about 100 jails in the United States have

See *OPIOIDS*, page 78

What Do We Really Mean by "Recidivism" Anyway?

By Ed Sweeney*

Once an arrest is made, almost everything else done in the criminal justice system is evaluated in terms of its positive or negative impact on "recidivism." Which achieves a lower recidivism rate, a sentence of prison or probation? Do treatment or rehabilitative programs lower recidivism? Is a jail or prison system releasing offenders who exhibit a higher or lower recidivism rate than its peers?

For a concept so deeply entrenched in corrections, one in which we place so much of our trust and allow to guide our policies and practices, recidivism is actually a very slippery idea. Recidivism rates are pronounced with a degree of certainty that may well be unjustified and enthusiasm that may be unwarranted. True, a recidivism rate is simply a calculated number, and math is math, but when I hear someone say they've crunched the numbers and their recidivism rate is such-and-such, I am at least a little skeptical. The reason is simple: arriving at an accurate, reliable, and useful recidivism rate is an extremely difficult and time-consuming exercise, subject to a wide range of assumptions, allowances, and exceptions,

and which involves people from several different departments, over a period of years. The intent of this article is not to discourage you from trying to apply measures, but to bring greater understanding to the limitations of such declarations and the key points to clarify when talking about recidivism. In Lehigh County PA we started down this road over ten years ago and it's been a decade-long learning curve, filled with many small adjustments and advances derived from identifying and addressing missteps along the way. First and foremost, the term "recidivism" itself is totally meaningless without some further context, and like most data gathering initiatives the first step is the establishment of definitions.

First decide, who are we tracking and why?

The first step in studying recidivism is to define the dataset: who are we tracking and why? If we're trying to ascertain how long a group of people stayed out of trouble after release from jail, we need to make

See *RECIDIVISM*, next page

ALSO IN THIS ISSUE

Wilkinson v. Austin	67
A Brief History of the Supermax	69
Worth Reading	71
Corrections Officer Claimed He Was Set Up—But the Department's Response Was Lawful	73
A Quiet Boom in Facility Construction	80

RECIDIVISM, from page 65

sure that the individuals in the dataset are only those being released directly back into the community, and that they are not subject to re-incarceration for any preexisting open cases. Otherwise you may be counting those released to the custody of state prisons or other county facilities as "successes" and those released on bail for prior incidents as "failures." At Lehigh County, we decided not to track those who were incarcerated simply for Summary Offenses, Traffic Offenses, Failure to Pay Domestic Relations, or those who were found not guilty or had the underlying charges dismissed. Generally, these are not the types of charges that are the focus of recidivism studies, and including them distorts the population you are measuring and the measurements you take. (Although we did not attempt to break out charge types we did decide to identify offenders with solely Driving Under the Influence related charges.)

Initially, to identify the targeted dataset, our records staff in concert with our IT department had to manually designate individuals as eligible, and check off a specially designed computerized data field, when entering discharges into the computerized records system. In our county we discharge approximately 7,000 people each year but only between 1,000 and 1,500 fit the definition for inclusion in the dataset: released from jail into the community, with no outstanding

open charges, after having served a term of local confinement for a misdemeanor or felony conviction. Inflating a study group by including releases that do not fit the target definition is a critical error. Even if an agency decides to perform a recidivism study based upon a random sampling, as compared to comprehensive data, it is still imperative to ensure the sample is selected from within the

***We discharge 7,000
people each year—but
only 1,000 to 1,500 fit
the definition of our
recidivism study group.***

defined dataset. If a random sampling is to be used, you must be sure that the sample is large enough to be meaningful; and if performing a comparative analysis, both groups must be large enough to be statistically meaningful, and contain similar subjects, without "cherry-picking" selected types of persons, so that the results are unbiased.

For our dataset, we extrapolated demographic information from our electronic booking records: gender, self-reported race, and age. Our 2012 dataset includes 1,478 people; 1,013 discharged from the

jail and 465 discharged from our CCC; 1,213 males and 265 females; approximately 51% were white, 21% black, and 27% Hispanic; 143 were under the age of 22, 279 were between 22 and 25, 483 were between 26 and 35, and 573 were 36 or older.

Take the long view.

Next is measuring how long they've been out, and not counting them as a success until the defined timeline threshold has been crossed. All too often I hear about studies that include in their recidivism calculation people discharged just a month prior. Most studies use a three year mark as the success threshold, with separate demarks at 6 months, 1 year, 18 months, 2 years and ultimately 3 years. We followed this model approach. If you accept the premise that three years represents the minimum valid benchmark in terms of public safety, then it makes little sense to even try to report a "current" recidivism rate—there is no reliable, data-based way to support such a figure. In January 2017, Lehigh County will begin assembling its recidivism calculation for individuals in our 2013 dataset.

In the early years we performed a manual look-back for each person in the dataset to determine if and when any returned to our jail during the three year period following their release. If they did not return to us for the three years they

See RECIDIVISM, page 76

Corrections Managers' Report®

Editor Emeritus: Gary W. DeLand
Contributing Editor: Russ Immarigeon, M.S.W.
Managing Editor: Eun Jeong
Editorial Director: Deborah J. Launer
Publisher: Mark E. Peel

Editorial Board

F. Warren Benton - Chairman, John Jay College, Department of Criminal Justice
Fred Cohen - Professor Emeritus, Graduate School of Criminal Justice, State University of New York, Albany, Author of *The Mentally Disordered Inmate and the Law*. Founding-Editor of *Correctional Law Reporter*.
William C. Collins, Esq. - Attorney specializing in corrections, former Senior Assistant Attorney General for the State of Washington. Author of *Practical Guide to Inmate Discipline*; Co-Founder of *Correctional Law Reporter*.
Gary Cornelius - Correctional Training, Williamsburg, Virginia
Michael P. Hodge, Esq. - Employee Litigation Director, Texas Department of Criminal Justice.
Martin F. Horn - Executive Director, New York State Sentencing Commission; Distinguished Lecturer, John Jay College of Criminal Justice

Jake Katz - Former Custody Management Specialist, Los Angeles County Sheriff's Department; former Technical Assistance Manager, National Institute of Corrections Jail Center.

Aaron Kennard - Executive Director, National Sheriffs' Association.

Richard G. Kiekbusch, Ph.D. - Associate Professor, University of Texas, Permian Basin; Past President, American Jail Association.

Gary C. Mohr - Director, Ohio Department of Rehabilitation and Correction

Faye S. Taxman, Ph.D. - Center for Correctional Excellence, George Mason University

Arthur M. Wallenstein - Director, Montgomery County (Md.) Detention Center

Affiliations shown for identification purposes only. Opinions expressed do not necessarily reflect the positions or policies of a writer's agency or association.

Correction Managers' Report (ISSN 1083-3382) is published bimonthly by Civic Research Institute, Inc., 4478 U.S. Route 27, P.O. Box 585, Kingston, NJ 08528. Periodicals postage paid at Kingston, NJ and at additional mailing office (USPS # 0015-086). Subscriptions: \$179.95 per year in the United States and Canada. \$30 additional per year elsewhere. Vol. XXII, No. 5. February/March 2017. Copyright 2017 by Civic Research Institute, Inc. All rights reserved. POSTMASTER: Send address changes to Civic Research Institute, Inc., P.O. Box 585, Kingston, NJ 08528. *Corrections Managers' Report* is a registered trademark owned by Civic Research Institute, Inc., and may not be used without express permission.

The information in this publication is not intended to replace the services of a trained legal, health or other professional. Neither the editor, nor the contributors, nor Civic Research Institute, Inc. is engaged in rendering legal, psychological, health or other professional services. The editor(s), the contributors and Civic Research Institute, Inc. specifically disclaim any liability, loss or risk, personal or otherwise, which is incurred as a consequence, directly or indirectly, of the use and application of any of the contents of this publication.

RECIDIVISM, from page 66

were counted as a success; if they did return, we looked at the circumstance that brought them back and noted the corresponding time frame. This approach proved to be very tedious and after a few years we learned that it is was not a task that could be assigned randomly to varied staff; we needed continuity to improve the process in order to give the resulting data greater credibility. We applied several rules to evaluating returns; if they were processed in and out on the same day, or they were brought in for one of the previously referenced exceptions, (Summary Offenses, Traffic Offenses, and Failure to Pay Domestic Relations),

new charge floats in days or weeks later. If it happens within the three year window, the record is adjusted to reflect the event as returned for a new criminal charge.

Should you include technical violations?

In addition to assembling a proper dataset and allowing for a meaningful measurement period, one fundamental question to answer is whether your recidivism rate includes technical parole violators or only those who have incurred a new criminal charge. We measure both, because our constituents want to know, and we like to be able to give the most complete answer possible, but we keep separate rates for technical violations and

enter their information individually into national and statewide databases to see if they have been arrested and incarcerated elsewhere. This has proved to be an eye-opening and sobering step, permitting us to identify individuals who have changed their locale but not, sadly, their way of life.

No recidivism study is perfect.

If an individual released from custody is arrested on a new charge, but the charges are subsequently dropped or he is found not guilty, is he a recidivist? The ideal research approach would distinguish between arrests and convictions, but sooner or later, you have to draw a line on what you track and what you leave behind. At Lehigh County, we do not follow each of the persons identified as having been rearrested within the three year period, locally or across the country, to determine if they were subsequently found guilty or if the charges were dropped. An arrest without a same day release is a recidivist. It's not perfect, but time and resources limit how deeply we can go. (And, in fact, we have the data on post-arrest dispositions, if any researchers out there would like to perform an analysis.)

We separate the datasets into two groups: those discharged from the jail and those discharged from the community corrections center. The expectation being to validate that those whom we spend more time with preparing for transition, finding work and making connections with community service providers and pro-social groups will be less likely to return. But we don't have a process in place whereby the individual program histories and recidivism rates are reconciled. We've also not taken the step of interviewing those who returned to try and evaluate the circumstances which led to their return. Again the data is available should a research group want to delve further into the contributing factors.

Here is a summation of our recidivism findings:

If you accept the premise that three years represents the minimum valid benchmark in terms of public safety, then it makes little sense to even try to report a "current" recidivism rate—there is no reliable, data-based way to support such a figure.

we did not count it as a recidivism event. Released on the same day is an impactful decision. The right thing to do would be to identify all who came back on a new open charge, during the measured period, and only count them as recidivists if they were subsequently found guilty of the charge—good from a research perspective but this really complicates any computer automation, as well as the ability to close out annual studies due to unresolved cases. For our study purposes we concluded that if the person made bail or was otherwise released on the same day, and they didn't return during the three year period of measure, they were counted as a success—but it is indeed a point of contention, and others might choose to count these differently. The key, of course, is to make clear, in your findings and conclusions, what you include and what you do not include, and stick to it consistently.

We also differentiated between those who were brought back in solely for a technical violation of parole and those brought back for a new criminal charge. This takes a little extra work because often folks are brought in on a technical violation due to having incurred a new charge in a neighboring county, or an investigation is still in process and the underlying

those who are arrested for new crimes, and never mingle the two. Failing a drug test is bad, and it needs to be monitored, but it's not armed robbery. Technical violations should be marked, measured, and managed differently from criminal acts.

In recent years our IT staff put a program in place to track all subjects in our dataset, applying the defined rules and the aforementioned exceptions, and noting all of the related circumstances surrounding a return, in a comprehensive pivot table. The pivot table also includes the demographic information we generated from our booking software—age groupings, race, and gender. As a final step we now take the list of persons whom we believe to be "successes" based on our own local data and

Increments of Time Measured	New Criminal Charges Only			New Criminal Charges & TPV		
	2010	2011	2012	2010	2011	2012
3 year	37.84%	36.98%	38.64%	58.70%	59.10%	60.55%
2 year	31.60%	29.18%	30.65%	51.00%	49.89%	50.67%
18 months	24.95%	24.36%	26.41%	42.90%	43.47%	44.96%
1 year	18.09%	18.45%	20.63%	33.61%	34.79%	37.43%
6 months	11.50%	10.28%	11.83%	21.07%	22.05%	20.13%

See RECIDIVISM, next page

Our IT staff also generates a pivot table with the associated demographic information for the subjects in each annual data set. The table data does not include recidivists who were manually identified as having been charged with crimes in other jurisdictions who did not return to Lehigh. The pivot table allows for numerous demographic measures and comparisons; these are just a few:

- Our recidivism rate for those discharged from our Community Corrections Center is typically between 7 and 12 points lower than those discharged from our Jail.
- Men return to jail at a rate of about 63%, Black males having the highest percentage, followed by Hispanic males.
- Women return to jail at a rate of about 50% regardless of race.

- Persons with solely DUI related charges comprised about 20% of the datasets.
- The recidivism rate for those convicted solely of DUI related offenses is about half of those convicted of other criminal offenses, and therefore if you remove the DUI offenders from the equation the recidivism rate for the remaining subjects pushes even higher.
- 65% of those who return within the three years of measure do so within the first year following release.
- The 18 to 21 year olds have the highest recidivism rate but the largest group in the data set is the over 36 year olds, followed by the 26 to 35 year olds.

Another shortcoming to mention is that these recidivism rates are not adjusted for mortality. So unfortunately those among the datasets who died within three years of release are counted as successes. Anecdotally I surmise that the age group with the highest mortality rate is the “over 36”

group, which contains a higher percentage of perennial substance abusers; again the raw data is available should a researcher want to ferret-out this assumption.

As an interesting side note, between 2010 (the first of the three datasets listed) and 2015 (the third year of the 2012 dataset tracking) the average daily population of our county department of corrections dropped from 1,299 to 1,114, despite growth in our local free-world county census. So although our dataset size and recidivism rates have not appreciably diminished, we appear to be experiencing a reduction in new offenders coming through our door. I’ll don those rose colored glasses and say, just perhaps we’re starting to do a better job keeping folks out of the system.

**Edward Sweeney retired as Director of Corrections for Lehigh County Pennsylvania on January 19, 2017 after 32 years in the field and is now consulting on corrections management. Ed can be reached at sweeneycorrections@gmail.com. ■*



Authorized Electronic Copy

This electronic copy was prepared for and is authorized solely for the use of the purchaser/subscriber. This material may not be photocopied, e-mailed, or otherwise reproduced or distributed without permission, and any such reproduction or redistribution is a violation of copyright law.

For permissions, contact the **Copyright Clearance Center** at
<http://www.copyright.com/>

You may also fax your request to 1-978-646-8700 or contact CCC with your permission request via email at info@copyright.com. If you have any questions or concerns about this process you can reach a customer relations representative at 1-978-646-2600 from the hours of 8:00 - 5:30 eastern time.