

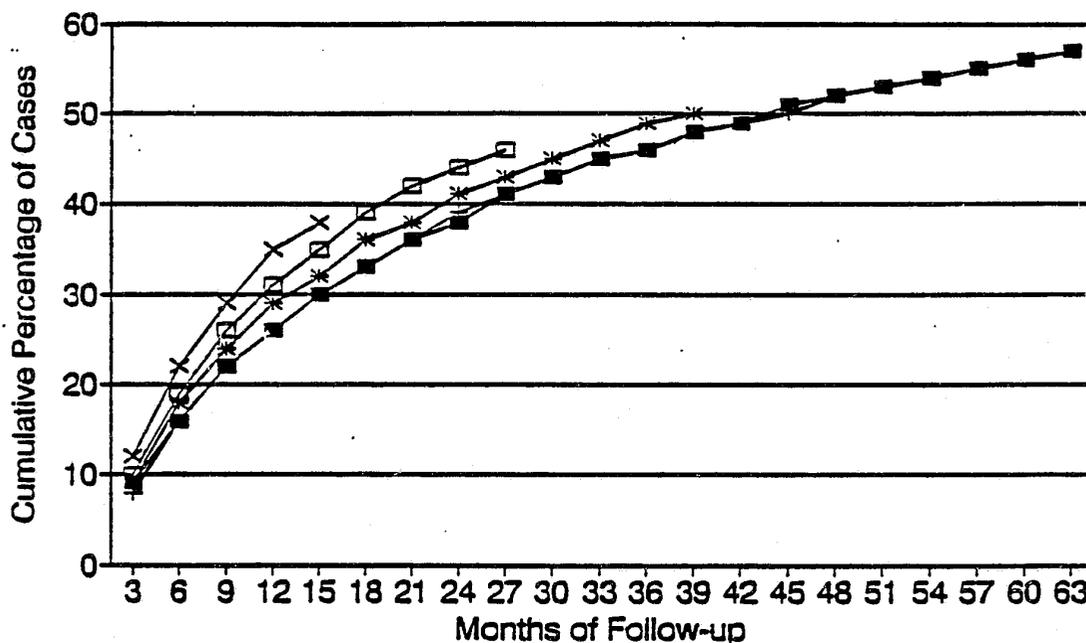
DIVISION OF
CRIMINAL
JUSTICE
SERVICES

NEW YORK
STATE

RESEARCH NOTE

TRENDS IN RECIDIVISM AMONG FELONS SENTENCED TO PROBATION

Time to First Re-Arrest



■ 84/85 Cohort + 85/86 Cohort * 86/87 Cohort
 □ 87/88 Cohort x 88/89 Cohort

DIVISION OF CRIMINAL JUSTICE SERVICES
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 AND COMMISSIONER

OFFICE OF JUSTICE SYSTEMS ANALYSIS
 BARRY SAMPLE, DEPUTY COMMISSIONER

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TRENDS IN RECIDIVISM AMONG FELONS SENTENCED TO PROBATION

INTRODUCTION

This Research Note reports on the recidivism patterns of adult felony offenders sentenced to probation in New York State during Fiscal Years 84/85 through 88/89. By relying on detailed information to examine both the incidence of recidivism (how many) and the timing of recidivism (how quickly), this research offers a clear picture of recent trends in recidivism rates.

One reason for studying the recidivism of felony probationers is to better understand the impact it can have on the State's overcrowded correctional system. As reported in a recent document entitled, "Felonization of the Probation Caseload in New York State":

The probation system is acting as a relief valve for local jails and state prisons by accepting more and more felony offenders. To the extent that the probation process is successful, the overcrowding problem is alleviated to a major extent. If, however, the supervision efforts of the local probation departments do not succeed and the probationer commits a new offense leading to a felony conviction, the correctional system receives a new Second Felony Offender.

This Research Note focuses on felony probationers because they are the more serious offenders and because any subsequent felony conviction is almost certain to result in a sentence to state prison. (The main exception to this requirement is for probationers whose previous felony convictions are replaced by Youthful Offender Adjudications.) Furthermore, felony probationers face being sentenced to incarceration even without rearrest or reconviction; felony probationers who violate the conditions of their probation may have their probation revoked, and may be resentenced to jail or prison on the original felony convictions.

The major findings of this research can be summarized as follows:

- A variety of recidivism measures were examined,

including time to first arrest, first felony arrest, first felony drug arrest, first violent felony arrest, first felony or misdemeanor conviction, first felony conviction, first felony drug conviction, and first prison sentence. Although the absolute magnitude of recidivism rates differed from one measure to another, nearly all of the measures exhibited similar historical trends and similar differences among subgroups.

- Short term recidivism rates increased substantially between 1984 and 1989. This may represent only a change in the timing of recidivism (that is, a tendency for recidivists in recent cohorts to fail sooner than recidivists in earlier cohorts), or it may also be a signal of an increase in long term recidivism rates.
- Recidivism patterns differed by region, race, sex, age, and prior criminal history. Recidivism rates were higher in New York City than in the remainder of the State, higher for blacks than for whites or Hispanics, higher for males than for females, higher for younger probationers, and higher for probationers with prior records.
- The recent increase in recidivism appears mostly attributable to an increase in the recidivism rate among felony drug probationers, amplified by the fact that drug offenders constitute an increasing proportion of the felony probation caseload. During the same time period (1984 to 1989), there was only a slight increase in the recidivism rate among offenders sentenced to felony probation for nondrug convictions.
- For the most recent cohort studied (offenders sentenced to probation during FY88-89), 13 percent of the felony drug offenders were rearrested within 3 months of their sentence to probation, and 45 percent were rearrested within 15 months. This compares to 11 percent rearrested within 3 months and 34 percent rearrested within 15 months for probationers convicted of other felonies.

The focus of the analysis was on trends in recidivism for offenders within particular regions or subgroups. While comparisons are made between various groups of offenders, the comparisons are merely descriptive of differences in the values of recidivism measures. It is not clear that offenders in different groups are in any way "similarly situated" and great care must be taken to avoid improper inferences as to reasons for observed differences in recidivism.

METHODS

Cohort Definition. Five separate fiscal-year probationer cohorts were identified on the basis of information from the Offender Based Transaction Statistics Trends file (OBTS TRENDSFILE) maintained by the New York State Division of Criminal Justice Services. Probationers were included in one of the five cohorts based on the date of their most recent sentence to probation. The use of separate sentence-year cohorts, each tracked longitudinally, made it possible to study patterns of recidivism both within and between probation cohorts.

There are a few points to note about the construction and analysis of the sentence-year cohorts of felony probationers discussed in this report:

Each person appeared in a cohort exactly once. It is possible for a person to be sentenced to a felony probation term for more than one separate disposition. Generally, however, persons were sentenced to probation based upon only one felony conviction. Only minor differences in cohort sizes resulted from including only the last sentence to probation in the given time period.

Each person appeared in exactly one cohort. It is possible for a person to be sentenced in different years to separate sentences of felony probation. Under some circumstances, the first disposition does not preclude a subsequent sentence to probation. When this situation occurred, the most recent sentence to probation was chosen.

Persons sentenced to probation were determined on the basis of an OBTS TRENDSFILE sentence variable. Persons who were sentenced to probation but who were subsequently resentenced (as on a technical violation of probation) may not appear in any of the cohorts studied. This omission would occur if the person was resentenced to a sanction other than probation and the person had no other sentence to

probation, and the OBTS TRENDSFILE sentence variable reflects the resentencing, rather than the original sentence. This means that there was some under-reporting of the size of the cohorts and furthermore, this exclusion involved persons who "failed" probation. The actual recidivism of probationers, therefore, is probably higher than reported here, particularly with regard to measuring subsequent sentences to prison.

Persons were assumed to remain at risk for the entire length of the follow-up period, whether or not they were removed from probation early, or entered actual probation supervision some time after sentencing. Clearly, some persons were not under a supervised probation for their entire follow-up period. Persons who were incarcerated for a portion of their probation, such as those given a split sentence of probation and jail, were assumed to be at risk of rearrest from the date of sentencing. Similarly, persons who were discharged from probation early (whether as a "success" or "failure") were followed for the entire follow-up period. No attempt was made to identify persons who were (in actuality) no longer at risk of rearrest in New York State (e.g., out of state transfers and "deaths").

No attempt was made to associate recidivism to any actions taken by probation departments. It is frequently argued that some "failures" from the standpoint of the behavior of the offender were actually successes from the standpoint of the system. As an example of this type of probation supervision activity, it may be argued that technical violations of probation (without new arrests) were "successes" for the system, in that an offender was removed from the community prior to serious offending with new arrest activity. Similarly, there was no attempt to associate level of supervision, programmatic participation, or socio-economic variables to recidivism.

Measures of Recidivism. There is no single universal standard by which recidivism is specified. Some argue that the definition of recidivism must rely only on criminal activity that has been established (proven) through court processing (i.e., upon conviction or resentencing). Others argue that the definition of recidivism should be based on arrest activity, whether or not the criminal activity is subsequently confirmed by court processing. Rather than attempt to resolve these intractable differences in defining recidivism, the following alternative measures of recidivism were examined:

Subsequent Arrest
Subsequent Felony Arrest
Subsequent Felony Drug Arrest
Subsequent Violent Felony (VFO) Arrest
Subsequent Conviction For a Felony or Misdemeanor Offense
Subsequent Felony Conviction
Subsequent Felony Drug Conviction
Subsequent Prison Sentence

ANALYSIS

For each of these measures of recidivism, the time to the first occurrence of such an event was constructed from the OBTS TRENDSFILE, as the number of days since the date of the sentence that qualified the case for inclusion in a cohort. These times to first occurrence were then collapsed into cumulative first occurrences by three month intervals. It should be noted that there is considerable "logical" overlap among some of the measures of recidivism. A conviction must occur on or after the date of an arrest, and may occur only for persons who had an arrest. Therefore, the proportion with a conviction must be less than the proportion with an arrest at a comparable time from sentence.

Persons in a given sentence-year cohort were tracked for identical periods of time. For example, everyone in the FY84/85 sentence-year cohort was tracked for 63 months.

The recidivism measures based on arrest events were timed from entry into the cohort until the date of arrest. The recidivism measures based on conviction were timed until the date of sentence. Furthermore, these recidivism measures use only convictions and sentences arising from arrest events that occurred after the date of entry to the cohort. Dispositions of arrests occurring prior to entry in the cohort were never used, regardless of their dates of disposition and sentencing. The timings for the conviction measures, and for the prison sentence recidivism measure, included all court associated processing time (including time between conviction and sentencing).

Because of the manner of constructing the time to occurrence, a "censorship" arises particularly for the more recent cohorts; the percentage reported as not having a conviction at a given point into the follow-up period was resultant both from the time requirements necessary to dispose of a case and from a possible lack of disposition reporting. For an

unknown percentage of the cases with one or more arrests, a conviction might have occurred but was not posted to the Computerized Criminal History database from which the OBTS TRENDSFILE is derived.

It may occur that for two similarly situated offenders in the same jurisdiction one offender received a sentence to probation and the other received a different sanction. There are many reasons for the exclusion of individuals from probation; probation is never a mandatory sentence. For certain felons, when convictions for the instant offense and the prior history do not preclude probation as a sentencing option, the sentencing judge may still order either a more or less severe sanction. Therefore, local case processing constitutes a "filtering process" which resulted in the composition of the probation cohorts studied.

No controls were used to "standardize" the cohorts, or sub-groups of the cohorts. It should not be inferred that some groups of offenders were not "good candidates" for probation on the basis of information presented here. One can not say in advance that probationers studied were either "better" or "worse" risks of recidivism than other groups of offenders sentenced for felony convictions.

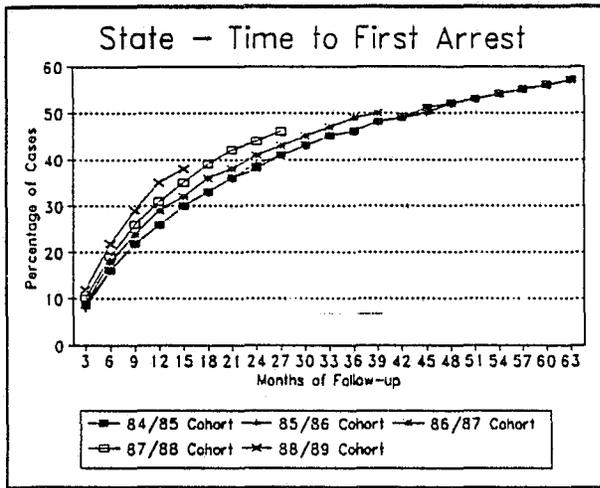
FINDINGS

Some of the more salient observations from the data are presented below. The detailed data tables from which these observations are gleaned are available upon request as a separate package.

- For the more recent cohorts, larger percentages of probationers are being arrested soon after their admission to probation. For the FY88/89 cohort, the rearrest experience at 15 months is about the same as the experience of the two earliest cohorts at 24 months into the probation period (Figure 1).

- This increase in recidivism for the more recent cohorts appears mostly attributable to two factors: (1) a steady increase in the recidivism rate among felony drug probationers; and (2) a dramatic change in the composition of the felony probation population (felony drug probationers constituted 16% of the FY84-85 cohort and 39% of the FY88-89 cohort). Subdividing information in Figure 1 into "Time to First Arrest" for drug felons (Figure 2) and "Time to First Arrest" for nondrug felons

Figure 1



(Figure 3), it is clear that the increase in probation recidivism as measured for all probationers (Figure 1) is mostly driven by drug felons and barely influenced by nondrug felons.

Figure 2

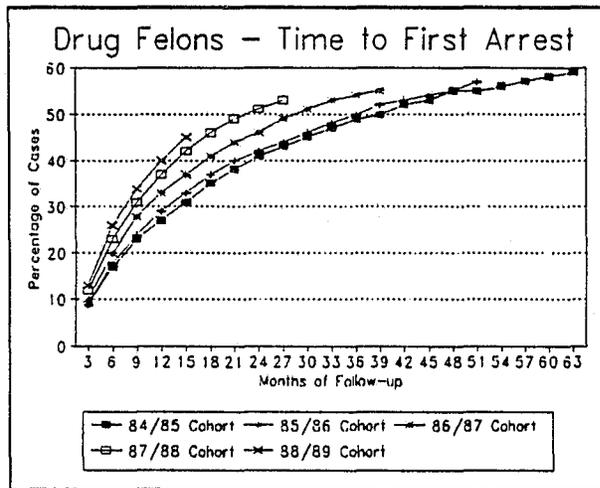
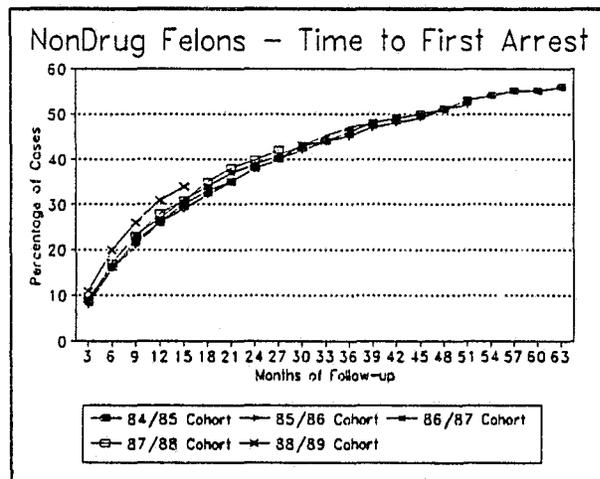


Figure 3



- The more recent cohorts of felony probationers received **felony** arrests at a much quicker rate than earlier cohorts. The FY88/89 cohort experienced a felony rearrest rate in 15 months that took the earlier FY84/85 cohort 30 months to experience.

- New York City probationer cohorts, across all sentence years and for all measures, have recidivism percentages which are higher than or equal to those for probationers in the counties outside of New York City. For example, compare Figures 4 and 5 concerning "Time to First Arrest."

Figure 4

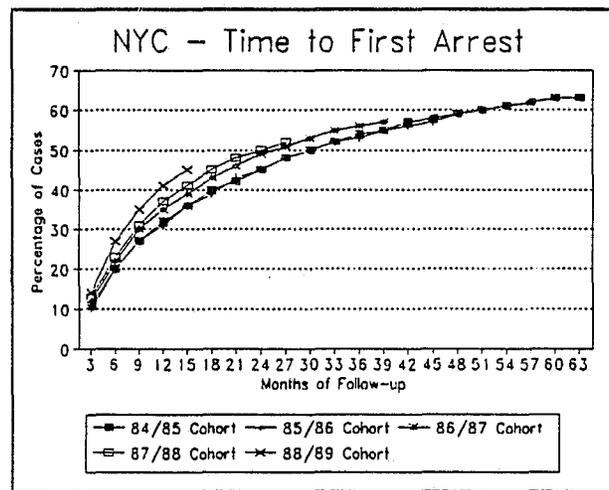
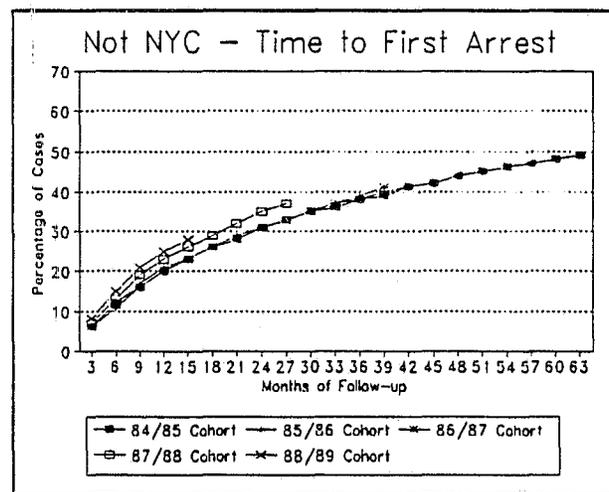


Figure 5



- The differences between New York City and the rest of the State are more pronounced for felony rearrests than for total arrests (felony and misdemeanor). After 15 months, 37% of the FY88/89

cohort in New York City had a felony rearrest, compared to 16% for the rest of the State.

- The differences between New York City and the rest of the State are extremely large for prison sentences. About 3 times as many New York City felony probationers (FY88/89 cohort) had a prison sentence within 15 months as did probationers from the rest of State (9% vs 3%).

- There are noticeably large differences in the rearrest patterns of groups defined as White or Hispanic versus Black or Other. Across all years and for practically all measures of recidivism, Blacks and Others had an equal or higher recidivism rate than Whites and Hispanics. It should be noted that much of this difference may be explained by differences between New York City and the rest of the State.

- The probation experience of women differs from men; for FY88/89, 30% of the female probationers were rearrested within 15 months, compared to 40% of the male probationers. It should be noted that virtually identical percentages (6%) of men and women were sentenced to prison within 15 months of entry into the cohort.

- The probation experience of persons with no prior arrests is much better than the experience of those with prior felony and/or misdemeanor arrests. For example, for the FY88/89 cohort, 30% of those with no prior arrests recidivated within 15 months, compared to 44% of those with a prior record. See "An Operational Definition of Prior Criminal Record" (James F. Nelson, Journal Of Quantitative Criminology, Vol 5. No. 4, 1989) for a description of the construction of this measure.

- Persons with a prior sentence to probation (generally a sentence upon conviction for a misdemeanor) have a higher recidivism rate (43% in 15 months for FY88/89) than do those without such prior probation (38% in 15 months for FY88/89).

- Persons with a prior sentence to jail seem to be among the most frequent recidivists according to the rearrest measures. For this group, 77% of the FY84/85 cohort had a rearrest within 63 months of entering probation; 53% of the FY88/89 cohort had a rearrest within 15 months of entering probation supervision.

- Persons with one or more prior felony arrests had

rearrest rates that were among the highest observed (49% in 15 months for FY88/89). It is clear, however, that many of the group with prior felony arrests are included in other groups such as prior jail sentences and prior probation sentences.

- Persons sentenced as Youthful Offenders (YOs) also seemed to have especially high recidivism rates (49% of FY88/89 YOs were rearrested within 15 months compared to 36% of those without YO status). They did not, however, seem to have a noticeably worse pattern with respect to subsequent prison sentences (about 6%). This may be attributable to prison as "not mandatory" for some of these offenders upon a subsequent felony conviction.

- The probation experience of offenders under age 26 at time of sentence to probation is worse than the experience of older probationers for all measures of recidivism. For example, in FY88/89, 27% of the younger cohort were rearrested within 6 months. It took the older cohort 15 months to reach this same level. This is related to the observation on Youthful Offenders noted above.

- Persons sentenced to probation for D and E felonies (and these are the bulk of the cohort for each year) have a better recidivism history than offenders sentenced for class A, B, or C felonies (34% versus 46% in the first 15 months for FY88/89). It should be noted that for the most part the A, B, and C felony offenders who received probation were mostly drug offenders and/or Youthful Offenders, since other convictions at C felony levels and above frequently face mandatory prison sentences.

- The incidence of felony drug rearrest was much greater for drug felons than for nondrug felons. Proportionally, four times as many felony drug offenders (24% vs 6%) had a felony drug rearrest within 15 months of entering probation.

Summary of Findings. The recidivism patterns observed above indicate that probationers are not a homogeneous group with respect to recidivism measures. There appear to be some attributes associated with higher rates of recidivism (e.g., offense type, prior record, and age at sentence); there are strong differences in patterns of recidivism between probationers sentenced in New York City and probationers sentenced in the rest of the state; many of these differences have been consistent over time; and the recidivism rate for felony drug proba-

tioners has increased substantially in recent years.

DISCUSSION

The simple observations made above were purely descriptive of differences in subsequent activity for probationers. It is clear from the observations that the experiences of some groups of probationers differed from the experiences of other groups of probationers. For this paper, separate partitions of the entire "caseload" were made based on a single variable at a time. It is certainly possible to partition the cases on other than a single variable, and to use this as a basis for observing rearrest patterns among more specific groups of offenders.

It may also be possible to model the probability of success for individual probationers on the basis of information available from computerized data systems. This "modeling" would involve the use of much more sophisticated statistical tools than those employed for the present study. Such efforts would require sensitivity to the intended use of the resulting models, and would involve different approaches for different purposes.