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How Different Sampling Methods Paint Vastly Different Pictures of Recidivism, and Why It Matters for Policy

Recidivism is the propensity of a person who has been convicted of a crime to reoffend in the future. The recidivism *rate*—that is, the rate at which people with convictions reoffend—is a central concern in the criminal justice system: The rate both drives criminal justice policy and is used to measure the performance of those policies (King and Elderbroom, 2014). Given that (1) potentially one-third of Americans have criminal history records (Fields and Emshwiller, 2014) and (2) beliefs and statistics about recidivism shape public policy and life opportunities for people with records, it is critical to measure recidivism rates correctly.

Beliefs that people with criminal convictions pose a threat to public safety through their risk of recidivism lead directly to policies that limit employment, housing, education, and a host of other life opportunities for people with criminal histories (Malcolm and Seibler, 2017). For instance, every day in the United States,

employers conduct criminal background checks during the hiring process (Bushway and Kalra, 2021). They are concerned about the possibility that a person with a criminal history will turn out to be a costly employee—for example, because the person may commit crimes, such as violence in the workplace, for which the employer will bear costs.

In decades of criminal justice research, researchers have answered the question "What is the recidivism rate?" by analyzing criminal justice cohorts that comprise individuals who all experienced a particular event in the criminal justice system (e.g., a conviction or release from prison) during a specific, narrow time window (e.g., in the same year) and asking, "How soon after the event were the people in this cohort arrested for a new crime, reconvicted,

A criminal justice cohort (e.g., people who were convicted in any given year) is not representative of *all people* who have experienced the corresponding event (e.g., people who have *ever* been convicted).

or returned to prison?" For example, multiple studies over many decades show that roughly half of people who are released from prison in any given year return to prison within three to five years (Pew Center on the States, 2011; Durose, Cooper, and Snyder, 2014; Alper, Durose, and Markman, 2018; Durose and Antenangeli, 2021). Measuring and reporting the recidivism rate for criminal justice cohorts has many practical uses, such as helping decision-makers in the criminal justice system make important choices related to required prison capacity and personnel.

However, many policy debates are not about criminal justice cohorts but rather about the broader population of people with criminal histories—that is, all the people who have *ever* been convicted, released from prison, or experienced some other event in the criminal justice system. For example, policymakers, scholars, policy advocates, and the public have been engaged in debates for several years about whether the collateral consequences of criminal convictions overstate the true risk that this larger population poses to public safety. As another example, many landlords, employers, and others outside the criminal justice system institute restrictions on this larger population based on concerns about the risk that such people might pose.[1]

Thus, some policy questions concern criminal justice cohorts and should be informed by recidivism studies of that population, while other policy questions concern the broader population of people with criminal histories and should be informed by recidivism studies of that population instead. A problem arises, however, when the population studied does not match the population of concern.

As observed by Bill Rhodes and his colleagues, a criminal justice cohort (e.g., people who were convicted in any given year) is not representative of *all people* who have

experienced the corresponding event (e.g., people who have *ever* been convicted) (Rhodes et al., 2016). And recidivism rates for these populations can be very different. It is therefore a problem that policymakers, the public, and even many statisticians and criminologists use the recidivism rates of the former (narrower) group when they are asking policy questions about the latter.

In this paper, we first demonstrate that, compared with the broader population of people who have ever participated in the criminal justice system, a criminal justice cohort disproportionately contains people who are frequently involved with the criminal justice system (i.e., recurrent recidivists). As a result, the recidivism rate for a criminal justice cohort is higher than the rate for that broader population. To demonstrate this, we analyze criminal history data from North Carolina, which show, for example, that about 61 percent of individuals who were released from prison in any given year had a new conviction within five years. This is broadly consistent with other studies of prison release cohorts that used national samples (e.g., Durose and Antenangeli, 2021). However, the North Carolina data also show that only about 46 percent of the individuals who had *ever* been released from prison had a new conviction within five years—a difference of 15 percentage points. When we consider that many policies are informed by estimates of recidivism, using the wrong estimate for the population of concern may have important implications for people affected by those policies. We conclude the paper by discussing the implications of these findings for policies related to the recidivism risk of the broader population.

Illustrating the Importance of Choosing Samples That Match the Question

We use the example of an airline to illustrate how important it is to choose a sample population that matches the question being asked. Consider an airline that wants to better understand its flying population to create different incentive campaigns to increase revenue. To begin, it hires a consultant to answer the question, "What percentage of all of our customers fly with us in consecutive years?" The consultant designs a study to (1) sample passengers that get off each of the airline's flights over the next year and then (2) examine those customers' travel behavior for the following year. This convenience sample approach captures a cohort of deplaning passengers.

Unfortunately, the consultant's approach is not likely to answer the airline's question accurately. Why not? The reason is both simple and subtle. Compared with the airline's overall customer population, a cohort of deplaning passengers will disproportionately contain frequent fliers—those with the highest rates of travel. In other words, deplaning passengers do not represent all of the airline's customers, so the sample does not match the question's population of concern. Because the sample disproportionately contains frequent fliers, this mismatch will result in overestimating the percentage of the airline's customers who fly with the company in consecutive years.

To make this example more concrete, imagine an airline that offers one flight per year and has ten customers. Five customers are occasional fliers who travel, on average, once every five years; the other five customers are frequent fliers who travel, on average, every single year. These fic-

tional data are illustrated in Table 1, where each row is a customer and each column is a year (and a flight, because the company offers one flight per year); the ✖ indicates a year in which the customer took a flight. Each flight has only one occasional flier and five frequent fliers, even though there are equal numbers of occasional and frequent fliers in the overall customer base. The airline samples the cohort of passengers deplaning the flight in Year 1 and assesses whether those people fly again in Year 2. With this sampling method, the travel behavior of frequent fliers is oversampled in the estimate of the percentage of customers who travel in consecutive years. This study design would estimate that five of the six customers (83 percent) who fly with the company in one year fly with it again in the following year.

However, the percentage of *all customers* (not just those on a deplaning flight) who fly with the airline in consecutive years is five of ten (50 percent). Thus, the percentage estimated from the deplaning cohort is 33 percentage points higher than the percentage of all customers. The airline could make gross errors in its decisions if it asks questions about its whole customer base but mistakenly

TABLE 1

Fictional Data to Illustrate Sampling Mismatches

Customer	Year									
	1	2	3	4	5	6	7	8	9	10
Occasional										
Person 1	✖					✖				
Person 2		✖					✖			
Person 3			✖					✖		
Person 4				✖					✖	
Person 5					✖					✖
Frequent										
Person 6	✖	✖	✖	✖	✖	✖	✖	✖	✖	✖
Person 7	✖	✖	✖	✖	✖	✖	✖	✖	✖	✖
Person 8	✖	✖	✖	✖	✖	✖	✖	✖	✖	✖
Person 9	✖	✖	✖	✖	✖	✖	✖	✖	✖	✖
Person 10	✖	✖	✖	✖	✖	✖	✖	✖	✖	✖

NOTE: An ✖ indicates a year in which the customer took a flight. We have evenly spaced the occasional travelers' flights to make our math easy to follow. However, this phenomenon would persist even in a more realistic example.

answers those questions by assessing passengers deplaning a flight. Moreover, this difference between a cohort of deplaning customers and all customers persists no matter which flight or year is chosen, and it persists even if the airline uses all ten years of deplaning data. The underlying issue is that the consultant's deplaning-passenger approach samples customers each time they participate in the system rather than sampling customers equally regardless of their rate of participation.

This airline scenario helps demonstrate the problem with (1) asking questions about the recidivism rate of the overall population of people who have experienced a criminal justice event but (2) answering those questions with estimates of the recidivism rates of criminal justice cohorts. Here, too, the sample does not match the questions' population of concern. Just as the cohort of passengers deplaning a flight disproportionately contained frequent fliers, each criminal justice cohort is disproportionately made up of people who participate frequently in the criminal justice system. The recidivism rate measured for a criminal justice cohort is therefore higher than the rate for all people with criminal records.

The data illustrated in Table 1 can be used equally well to illustrate this sampling phenomenon for recidivism rates. One might ask, "What percentage of people who have ever served time in prison return to prison within one year of their release?" We can imagine Table 1 to show ten years of criminal history, where each ✖ symbol represents a prison term.[2] Five people offend and are incarcerated only occasionally (i.e., they serve a prison term every five years), and the other five people offend and are incarcerated more frequently (i.e., they serve some time in prison every year).[3] The same math applies: Of the people who have been

The key to accurately measuring the recidivism rate for people in the broader population is to reduce the effect of oversampling individuals with frequent recidivism.

released from prison in a given year, 83 percent are reincarcerated the next year. However, of the broader population of people who have ever been released from prison, only 50 percent are reincarcerated the following year. In this fictional example, the one-year recidivism rate is 33 percentage points higher for a prison release cohort than for the group of people who have ever been released from prison.

The key to accurately measuring the recidivism rate for people in the broader population is to reduce the effect of oversampling individuals with frequent recidivism. Doing so involves ensuring that each person has appropriate representation in the sample regardless of how often they participated in the criminal justice system. Researchers can move toward this goal by using different sampling strategies, such as using longer observation windows to ensure that individuals with infrequent participation in the system are included and using weights for people with multiple

criminal justice events to provide equal representation in the sample.[4]

To be clear, it is often appropriate to sample deplaning passengers, a criminal justice cohort, or other individuals who have experienced the same event in the same narrow window of time. The critical point is to match questions about a population of interest with a representative sample of that population. Table 2 suggests some examples of how questions and samples can be matched appropriately.

Demonstrating the Sampling Problem with Criminal History Data from North Carolina

To illustrate the impact of sampling methods in a real criminal justice setting, we used data from the North Carolina Department of Public Safety (NCDPS)'s Offender Public Information Search/Inmate Locator (NCDPS, undated). It contains public information related to convic-

tions, sentencing events, and prison incarceration stays dating back to 1972. As of April 2021, the data set contained more than 4 million sentencing records, representing more than 1 million individuals with unique IDs in the database.

Data Set Description and Definitions

We subset the data in several ways for our analysis. First, we used only events occurring after 1995.[5] Second, we used records for individuals who were between 18 and 65 years old. Third, to reduce the impact of inter-state movement in our analysis, we used data for individuals born in North Carolina. Finally, we used records through April 8, 2021, when we downloaded the data. Table 3 provides a summary of these inclusion criteria and how we defined terms in our analysis. More detail about this data set is available in the companion report (Bushway et al., 2022).

We define *recidivism* as a new conviction following an event (e.g., a prior conviction or a release from prison). For

TABLE 2

Matching Questions with Samples

Context	Questions That Could Be Answered by Sampling Individuals with a Shared Event in a Narrower Time Window	Questions That Could Be Answered by Sampling Individuals with a Shared Event in a Broader Time Window
General	What are the behaviors of people who experienced the event in question today?	What are the behaviors of people who have ever experienced the event in question?
Airline travel	What percentage of our customers who flew this year will fly again next year?	What percentage of all of our customers fly with us in consecutive years?
Recidivism	Among people who have served time in prison this year, what percentage have been reconvicted for a new crime within five years?	Among people who have ever served time in prison, what percentage have been reconvicted for a new crime within five years?

TABLE 3
Summary of Inclusion Criteria and Terms Used in This Study

Term	Definition in Our Analysis
Window of observation	January 1, 1995–April 8, 2021
Offenders	18–65 years old, born in North Carolina, not serving a life sentence at the time of data collection, and has conviction information in the data set
Qualifying convictions	All convictions except convictions that occurred while in prison.
	The full set of offense types are abandonment and non-support, assault, auto theft, breaking and entering, burglary, burnings, driving while impaired, drugs (trafficking), drugs (non-trafficking), forgery, fraud, kidnapping and abduction, larceny, manslaughter, murder (first degree), murder (second degree), not observed, not reported/undefined, other alcohol offense, other offense against person, other property, other public order, other sexual offense, other traffic violations, post-release offense, robbery, sexual assault, violation of sexual offense conditions, weapons offenses, and worthless checks.
Recidivism measure	Time between a prior conviction or prison release and a subsequent conviction.

both practical and philosophical reasons, we do not focus on subsequent arrests. As a practical matter, this data set does not contain arrest information. Philosophically, this is consistent with U.S. Equal Employment Opportunity Commission (2012) guidance that convictions (and not arrests) should be used to establish that new criminal conduct has occurred.

## Frequent Recidivists Are Overrepresented in Criminal Justice Cohorts

In this analysis, we first demonstrate that, compared with the broader population of people with criminal histories, criminal justice cohorts have disproportionately more frequent recidivists. To show this, we counted the number of convictions that each person had in the data set. We included both custodial and non-custodial convictions

and classified individuals as frequent recidivists if they had five convictions in the 25-year window from 1995 to 2020—that is, an average of one conviction every five years. We then compared the percentage of frequent recidivists in (1) the overall population of people who had ever been convicted and (2) each cohort of individuals who received a conviction in any given year, from 1995 to 2020 (i.e., 25 *annual conviction cohorts*).

Figure 1 shows that, in North Carolina, approximately 10 percent of individuals who had ever had a conviction met the definition of a frequent recidivist. However, on average, 28 percent of people in an annual conviction cohort were frequent recidivists. Thus, frequent recidivists appeared almost three times as often in an annual conviction cohort than in the broader population of people who had ever had a conviction.

FIGURE 1

Percentage of Frequent Recidivists in the Overall Population of People with a Conviction Versus in an Annual Conviction Cohort
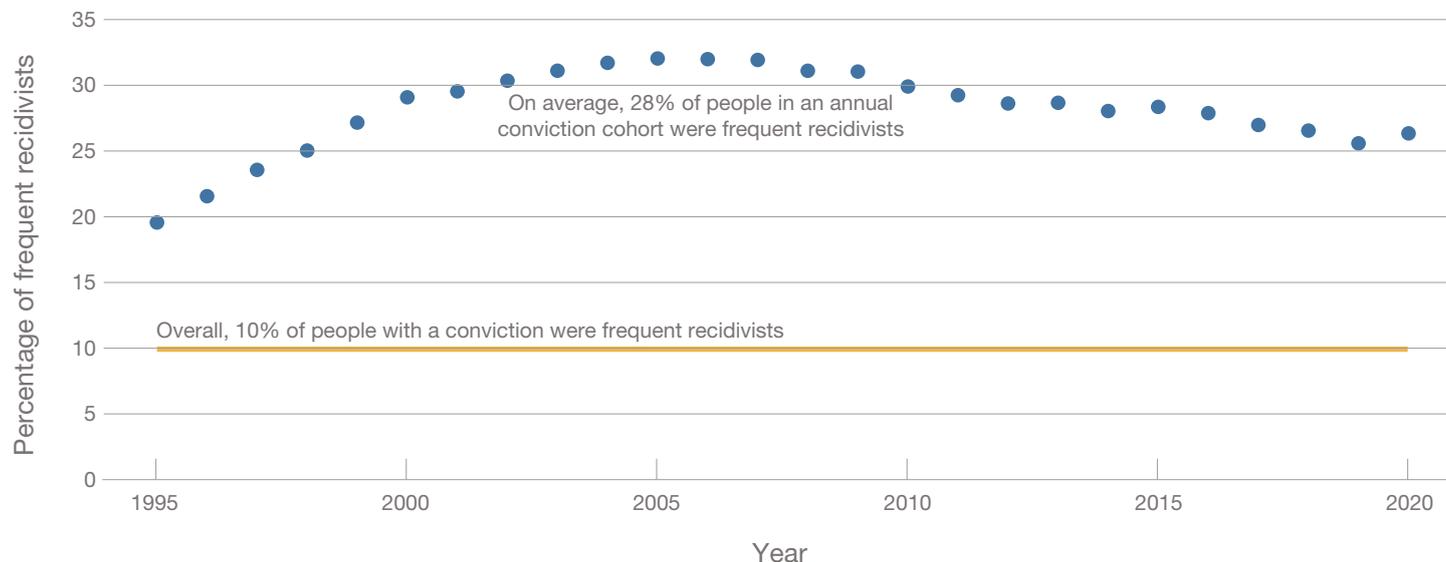
SOURCE: Authors' analysis of data from NCDPS, undated.

NOTE: In this figure, the overall population of people with a conviction is the set of individuals in the North Carolina data set with a qualifying conviction between 1995 and 2020. An annual conviction cohort is the set of individuals in this data set who were convicted in any given year. A frequent recidivist is anyone who had five or more qualifying convictions from 1995 to 2020.

We also examined recidivism among individuals who had served a prison term—a subset of the population in the previous example. This time, we are looking at people with a conviction that resulted in a prison term. Here, we defined a frequent recidivist as anyone who was convicted, served a prison term, and was released from prison two or more times in the 25-year observation window from 1995 to 2020.[6] We then compared the percentage of frequent recidivists in (1) the overall population of people who had ever been released from prison and (2) each cohort of individuals who were released from prison in any given year, from 1995 to 2020 (i.e., 25 *annual prison release cohorts*).

Figure 2 shows that approximately 43 percent of the individuals who had ever been released from prison met this definition of a frequent recidivist. However, on average, 69 percent of individuals in an annual prison release cohort were frequent recidivists. Thus, frequent recidivists appeared 1.5 times more often in an annual prison release cohort than in the broader population of people who had ever been released from prison in North Carolina.

FIGURE 2

Percentage of Frequent Recidivists in the Overall Population of People Who Had Ever Been Released from Prison Versus in an Annual Prison Release Cohort
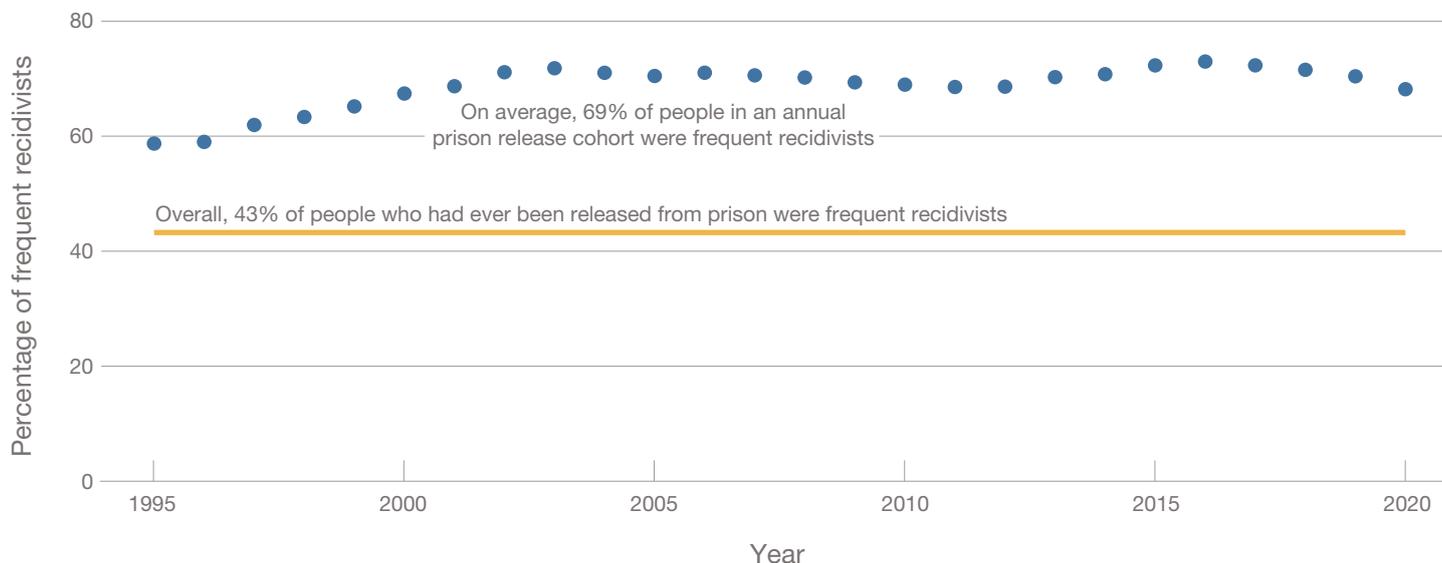
SOURCE: Authors' analysis of data from NCDPS, undated.

NOTE: In this figure, the overall population of people who had ever been released from prison is the set of individuals in the North Carolina data set who had a custodial conviction between 1995 and 2020 and were sentenced to and then released from prison in this time window. An annual prison release cohort is the set of individuals in this data set who were released from prison in any given year. A frequent recidivist is anyone who had been released from prison two or more times between 1995 and 2020.

Recidivism Rates Are Higher for Criminal Justice Cohorts Than for the Broader Population of People Involved with the Criminal Justice System

We next show how the overrepresentation of frequent recidivists translates into differences in recidivism rates. In particular, we show that the reconviction rate for annual prison release cohorts was significantly higher than the rate for the overall population of people who had ever been released from prison. For this analysis, we first calculated the time between a person's release from prison and the person's next conviction. We then measured the percentage of people who had a new conviction within five years of release in (1) the overall population of people who had ever been released from prison between 1995 and 2015 and (2) each annual prison release cohort (individuals released from prison in any given year), from 1995 to 2015.[7] (In this

analysis, the 2015 prison release cohort is the last for which we could observe new convictions up to five years later.)

Figure 3 shows that, on average, 61 percent of individuals in an annual prison release cohort had a new conviction within five years. This is broadly consistent with a key Bureau of Justice Statistics recidivism study of national data that showed that, within five years of release, roughly 54 percent of individuals in a prison release cohort had an arrest that led to a new conviction (Durose and Antenangeli, 2021).[8] However, only about 46 percent of all individuals in North Carolina who had ever been released from prison had a new conviction within five years. This difference of 15 percentage points between the recidivism rates of the two populations in North Carolina highlights the importance of matching the sample to the population in question.

FIGURE 3

Percentage of People with a New Conviction Within Five Years of Prison Release in the Overall Population of People Who Had Ever Been Released from Prison Versus in an Annual Prison Release Cohort
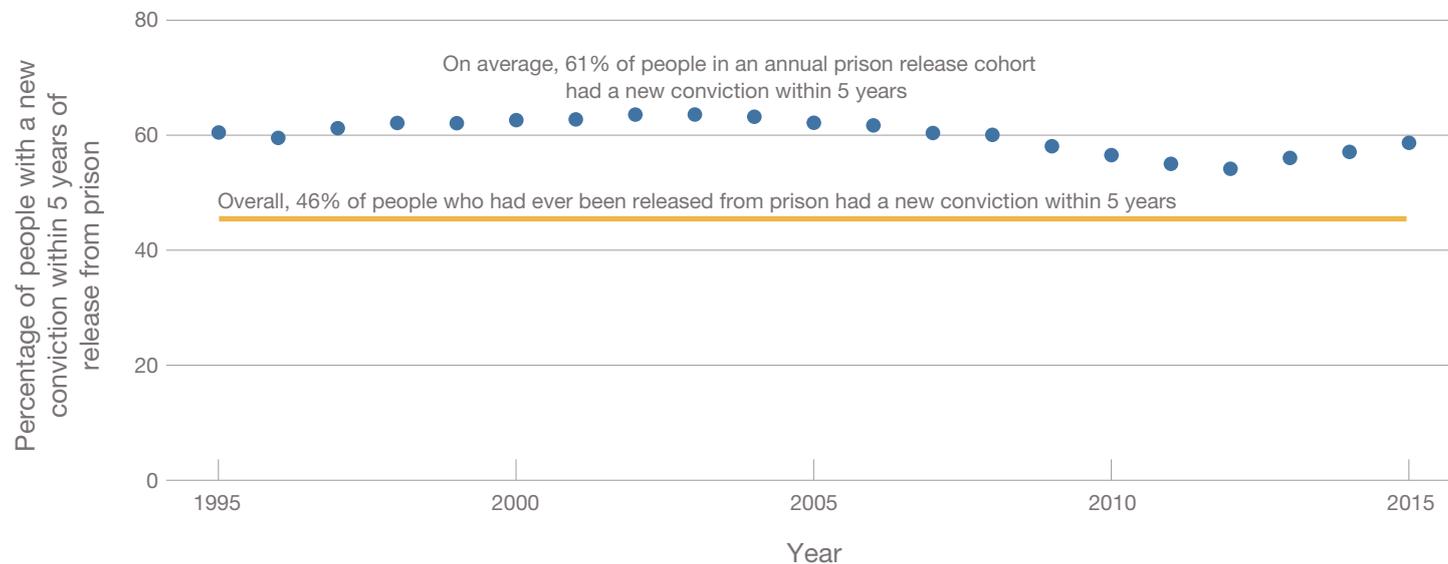
SOURCE: Authors' analysis of data from NCDPS, undated.

NOTE: In this analysis, the overall population of people who had ever been released from prison is the set of individuals in the North Carolina data set who had a custodial conviction between 1995 and 2015 and were sentenced to and then released from prison in this time window. An annual prison release cohort is the set of individuals in the data set who were released from prison in any given year.

Prior Work Shows the Same Phenomena

Nearly all of the most widely cited studies on recidivism—including those from leading institutions, such as the Bureau of Justice Statistics and the Pew Charitable Trusts—examine recidivism through the lens of criminal justice cohorts, particularly cohorts of individuals released from prison in the same year (Pew Center on the States, 2011; Durose, Cooper, and Snyder, 2014; Alper, Durose, and Markman, 2018; Durose and Antenangeli, 2021). To our knowledge, Rhodes and colleagues were the first to identify and address the sampling phenomenon found in these studies (Rhodes et al., 2016). They showed that the recidivism rate was significantly lower among the *overall population of people* with prison sentences, compared with any cohort of people released from prison in a given year. More specifically, Rhodes et al. (2016) showed that, of the people who had served time in prison, approximately two-thirds *never* returned to prison. This paints a vastly different picture of recidivism than the one indicated in the studies cited most often.

Despite the Rhodes paper making this critical observation, that insight has not yet been fully integrated into either the study of recidivism rates or policy discussions that are based on recidivism rates.[9] It is easy to understand why. It can be difficult to understand that two seemingly equivalent populations—for example, *people who have ever been released from prison* and *people who are released from prison in a given year*—are meaningfully different. Indeed, as noted by Rhodes et al. (2016, p. 1020), some institutions that measure recidivism and set the standard on measurement methods have sometimes missed this distinction and used statistics about criminal justice cohorts to make statements about the overall population that has engaged with the criminal justice system.

We hope this paper sheds new light on the significance of the difference. This effort to reconsider the relevant recidivism rates can be aided by future research that creates measures of recidivism that are directly relevant for discussions of collateral consequences associated with convictions and other involvement with the criminal justice system. This also requires that more researchers estimate recidivism for other policy-relevant populations, such as those with non-custodial convictions or those with felonies, misdemeanors, or other conviction severities. Having such estimates would contribute to the understanding of recidivism among these populations, including how differences in recidivism rates are affected by different base rates of participation in the criminal justice system. In addition, having such estimates would add nuance to the insights from this paper and generalize them to broader policy questions, such as those surrounding specific kinds of crimes.

Discussion and Conclusions

The roiling debates about the U.S. criminal justice system have a peculiar kind of cognitive dissonance. On the one hand, there is a long-standing consensus that past behavior is the best predictor of future behavior. This consensus is supported by findings that most people who are released from prison eventually recidivate. On the other hand, there is a widespread understanding that crime is a young person's game (Farrington, 1986) and that most people who commit crime eventually desist (Sampson and Laub, 2003). The former view motivates the thousands of legal and other restrictions on the lives of people with criminal histories (National Inventory of Collateral Consequences of Con-

viction, undated). The latter view has motivated a policy movement over the past several years that suggests that the current regime of collateral consequences overstates the true risk that people with a conviction record pose to public safety (U.S Commission on Civil Rights, 2019).

This more recent movement has spawned such efforts as the Ban the Box campaign, which tries to get criminal history considered as part of an evaluation of the whole person (Raphael, 2021), and the Clean Slate initiative, which seeks to erase criminal histories after a certain period without a new conviction (Prescott and Starr, 2020). These efforts are all based on the premise that the overly aggressive use of criminal history in the name of public safety may actually decrease public safety and create more harm than good (Malcolm and Seibler, 2017). The potential overuse of criminal history in policy decisions focused on public safety

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The recidivism statistics cited most often in debates about the collateral consequences of criminal conviction are not appropriate to answer the questions inherent in those debates.

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has become even more salient during the national reckoning around race and the criminal justice system that began after the police killing of George Floyd in 2020. In the United States, people in racial and ethnic minority groups are more likely than White people to have a criminal history (Wheelock, 2005; Hetey and Eberhardt, 2018; Hinton, Henderson, and Reed, 2018) and are therefore more affected by any policy that relies on criminal history to restrict access to employment or other valuable opportunities.

It is important that these debates about public safety and the effects of interventions be grounded in facts. That requirement demands that we use accurate measures of recidivism that reflect the population relevant to the policy in question. Our main point in this paper is that the recidivism statistics cited most often in debates about the collateral consequences of criminal conviction are not appropriate to answer the questions inherent in those debates. In particular, the behaviors of criminal justice cohorts (captured by commonly available figures from the Bureau of Justice Statistics) are too often mistakenly used to describe, or are entangled with descriptions of, behaviors of the overall population of people who have ever had a conviction, served time in prison, or experienced some other event in the criminal justice system. This confusion has consequences.

In this paper, we demonstrated that criminal justice cohorts disproportionately contain frequent participants in the criminal justice system and, as a result, have higher recidivism rates than does the broader population of concern. We hope that the findings in this paper will encourage those who create recidivism-related policies to ensure that the measures of recidivism they use to support those policies are based on samples that represent the population of concern.

Notes

1   Some of these actors are interested in a narrower group than this broader population. For example, employers conducting background checks are typically asking questions about the behavior of people who have any criminal history *and* are free in society *and* who are seeking employment. This is a smaller group of people than the general population with criminal history records and is different from a criminal justice cohort. Thus, answering the questions that the employers are asking requires analyzing a different sample population than just people who have any criminal history. In a report related to this paper, Bushway et al. (2022) introduces a *reset principle* that updates recidivism risk assessment to the time of a criminal background check to take into account the time that a person has spent free in the community without a new conviction.

2   For simplicity, we ignore the duration of prison terms in the criminal history timeline here, but it is a central part of our real-world analysis in the next section.

3   In a key study, Barnett, Blumstein, and Farrington (1987) described the criminal careers of a cohort of young men in London in the 1960s. The researchers modeled the conviction rate of two subgroups: the "frequents" and the "occasionals." They found that the frequents experienced a new conviction every ten months, and the occasionals experienced a new conviction every 2.5 years. This classification (and the subgroups' actual rates of activity) parallels the frequent and occasional flier classifications in our airline passenger illustration.

4   Different analytical techniques can be used to achieve (or at least better achieve) appropriate representation in samples. For example, for a person with *n* recidivating events, each event can be weighted by *1/n* to provide equal representation in the calculation of overall recidivism. Rhodes et al. (2016) used this technique, and we follow the lead of those researchers. A full discussion of analytical solutions is beyond the scope of this paper, but it is worth acknowledging that the analytic method also must match the question of interest.

5   We use post-1995 data for three reasons: There was a major structural change in the state's sentencing practices in 1995 (Wright, 1998), NCDPS's data collection process changed in 1995, and data on prison time served become more comprehensive from 1995 on (Shen et al., 2020).

6   We include only releases from prison that were the result of a conviction in 1995 or later. In other words, a conviction in 1994 that resulted in a release in 2000 would be excluded from the analysis.

7   Consistent with the approach described by Rhodes et al. (2016), we used a weighted Kaplan-Meier estimator to account for (1) individuals with multiple prison terms and (2) right-censored data (see Klein and Moeschberger, 2003). Right-censored data occur when an event of interest (i.e., a subsequent conviction) does not occur during the study. For recidivism studies, correctly managing right-censoring has obvious importance, to properly account not only for people who never recidivate but also for people who rarely recidivate. In such cases, the time between events is very long and can fall outside the study window.

8   We caution against making too much of the comparison between the two rates, however, because they are drawn from different underlying data, use different criteria for including individuals, and use different measures of recidivism (arrest leading to a conviction versus a conviction).

9   According to Google Scholar, Rhodes et al. (2016) was cited 44 times between its publication and November 4, 2021. In contrast, Durose et al. (2014), a Bureau of Justice Statistics study published just two years prior, was cited more than 1,000 times.

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About This Perspective

In the national conversation around criminal justice reform in the United States, there are competing views about people with criminal histories. On the one hand, there is a long-standing view that prison has a revolving door and that people with criminal histories recidivate often and quickly. This view is consistent with recidivism studies that show high re-entry rates among cohorts released from prison and with the thousands of legal and other restrictions imposed on the lives of people with criminal histories. In the past several years, however, there has been a growing movement implicitly challenging this view, arguing that people cannot be defined by their criminal histories and that people with criminal histories are not criminals in the persistent sense of the word. The movement has led to such efforts as the Ban the Box campaign and the Clean Slate initiative. The potential overuse of criminal history in policy decisions focused on public safety has become even more salient during the national reckoning around race and the criminal justice system that began after the police killing of George Floyd in 2020.

It is important that these debates about public safety and the effects of interventions be grounded in facts. That requirement demands accurate measurement of how people with criminal histories behave, particularly how often they return to criminal activity. In this paper, we argue that the recidivism statistics cited most often in debates about the collateral consequences of criminal conviction are not appropriate to answer the questions inherent in those debates. In particular, the behaviors of criminal justice cohorts are too often mistakenly used to describe, or

are entangled with descriptions of, behaviors of the overall population of people who have ever had a conviction, served time in prison, or experienced some other event in the criminal justice system. This confusion has consequences. This paper demonstrates that criminal justice cohorts disproportionately contain frequent participants in the criminal justice system and, as a result, have higher recidivism rates than does the broader population of concern.

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