



Oregon Recidivism Analysis

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Oregon Criminal Justice Commission

Statistical Analysis Center

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Key Takeaways:

- For the examined Parole-PPS cohort, rates of arrest, conviction, and incarceration recidivism continued to decline.
- Arrest and conviction rates continued to decrease for Probation cohorts, although the most recent Probation cohort experienced a small increase in incarceration recidivism.
- Recidivism rates in Oregon are at or near historic lows. At least part of the recent downward trend can be attributed to Measure 110, which decriminalized most instances of possession of controlled substances. Lower levels of enforcement, whether due to criminal justice system staffing shortfalls or other related causes, likely also impact these trends.

Introduction

This report is the sixteenth semiannual recidivism report authored by the Oregon Criminal Justice Commission (CJC) with the assistance of state agency partners. In this report, the CJC's methodology for connecting cohorts to potential recidivism is consistent with past reports (please see the Appendix of the May 2018 report¹ and the November 2020 report²). The CJC separately analyzes two groups: those released to post-prison supervision, and those who receive a new probation sentence. As required in ORS 423.557, an individual is counted as recidivating if they are incarcerated for a new crime, or arrested or convicted of a crime, within three years of release from prison/felony jail sentence or starting a probation sentence. Arrest, conviction, and incarceration rates are tracked separately, so a single individual can contribute to all three recidivism measures or a subset.

To calculate recidivism rates, the CJC combines data provided by the Oregon Department of Corrections (DOC), Oregon Judicial Department (OJD), and Oregon State Police (OSP). Law Enforcement Data Systems (LEDS) data from OSP permits the CJC to count arrests for which the individual was fingerprinted. Fingerprinting is required in arrests for felony crimes and for misdemeanor drug and sex crimes. Multiple arrests and arrests that do not require fingerprinting are omitted from the CJC's recidivism measure. Circuit court data from the OJD allows the CJC to track misdemeanor and felony convictions. In reported conviction counts, the CJC does not account for multiple convictions. Oregon DOC data permits the CJC to track incarceration for individuals within these cohorts.

In addition to providing an update to historic trends using our traditional methodology, this is the first recidivism report subsequent to the implementation of Measure 110 that includes historical recidivism rates excluding drug possession events. This was done to provide comparable recidivism rates over the entire 20+ years of data contained in past reports and to examine the impact on recent trends driven by this historic change in criminal justice drug policy.

¹ <https://www.oregon.gov/cjc/CJC%20Document%20Library/May2018RecidivismReport-Final.pdf>

² https://www.oregon.gov/cjc/CJC%20Document%20Library/RecidivismReport_Nov2020.pdf

Statewide Recidivism Rates

The most recent recidivism cohort the CJC can track includes individuals released from incarceration or sentenced to probation from January through June 2019. For this group, the CJC can examine the full three-year recidivism period, which ended in June 2022. Recidivism rates for this six-month cohort are displayed in Figure 1 and Figure 2.

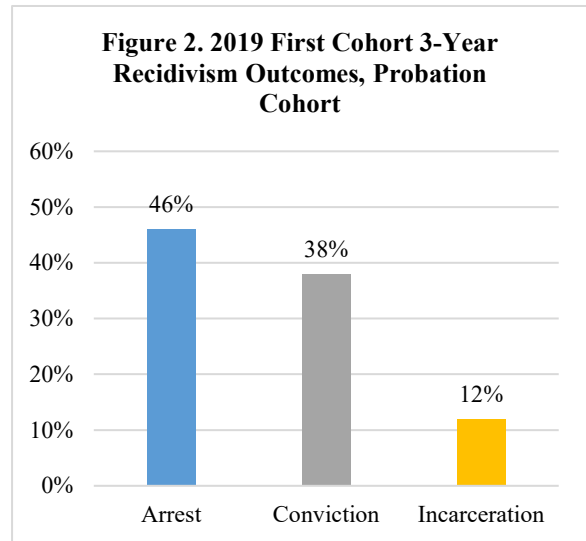
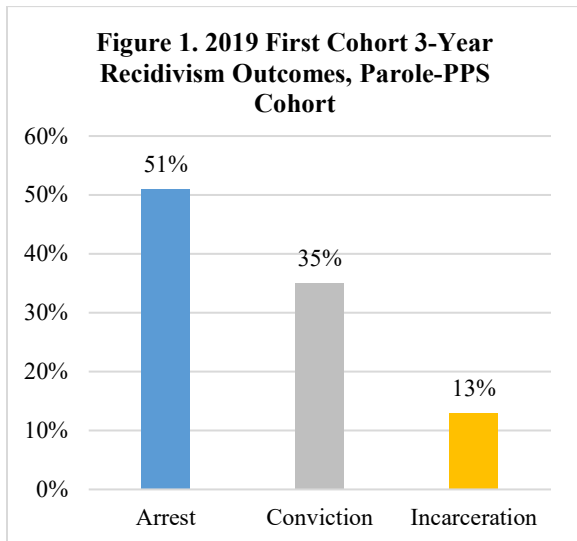


Figure 3 and Figure 4 express the above recidivism rates in greater context within Oregon. The first cohort included in the figures is from 1998 and the most recent cohort examined is the first six-month cohort of 2019 (2019/1ST). The COVID-19 pandemic has likely influenced recidivism rates during this time, as individuals included in this cohort spent almost their entire three-year risk period in a criminal justice system impacted by COVID-19. Prior analyses by CJC show a substantial reduction in traffic stops, arrests, and prison and probation intakes over the course of the COVID-19 pandemic thus far³. In addition, staffing at all levels of the criminal justice system has been impacted by COVID-19 and recent economic trends. Finally, Measure 110 likely impacts recidivism by decriminalizing most possession of controlled substances and is discussed in detail in the next section of this report.

Figure 3 displays the recidivism rates for individuals on parole or post-prison supervision, which includes all individuals released from jail or prison. For the most recent Parole-PPS cohort, recidivism continued the downward trend that first appeared with the 2ND 2017 cohort. Indeed, the most recent Parole-PPS cohort exhibits at or near the lowest recidivism rates since tracking began. The arrest rate for the most recent cohort is 51.4 percent, the lowest since the first Parole-PPS cohort of 2010, which stood at 50.2 percent. The conviction rate was 35.5 percent, which represents a historic low, and the incarceration rate is 13.1 percent, the lowest for any cohort since the earliest cohort on record, the first cohort of 1998, which stood at 13.1 percent.

³ https://www.oregon.gov/cjc/CJC%20Document%20Library/COVID_impacts_part1.pdf

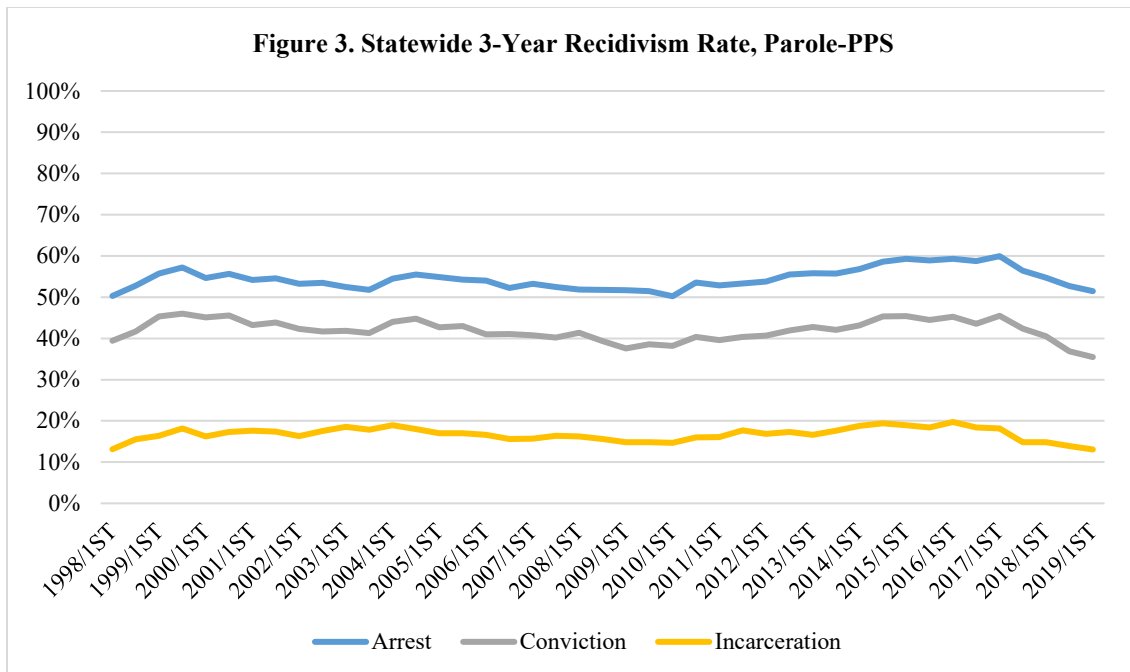
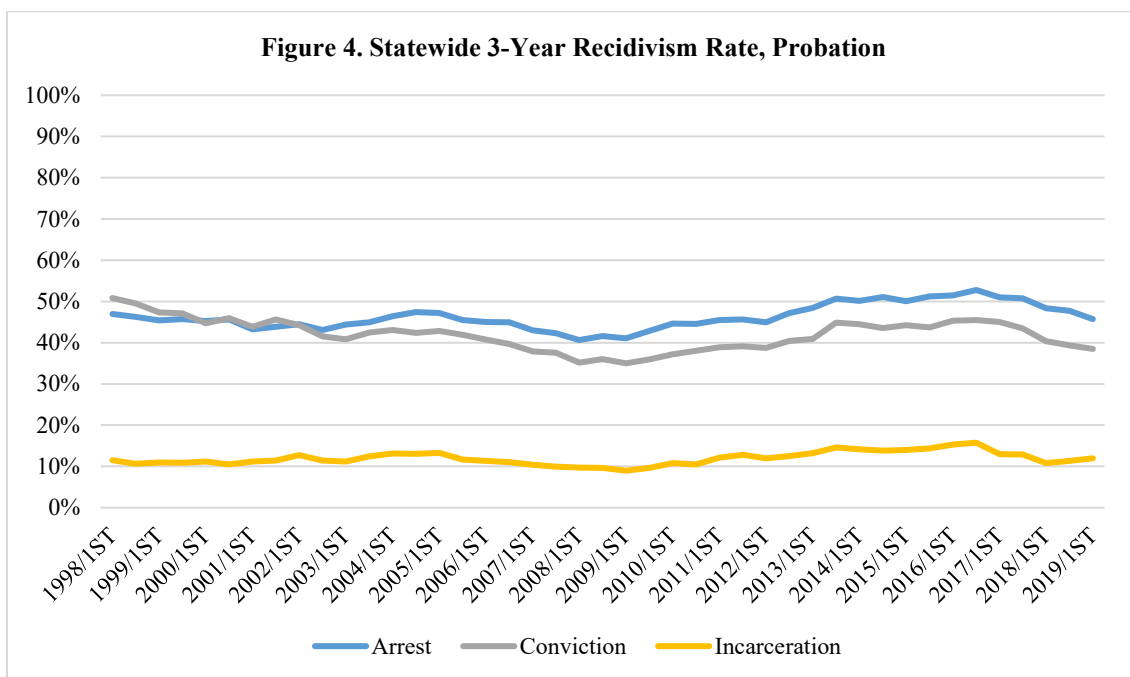


Figure 4 illustrates arrest, conviction, and incarceration recidivism rates for individuals sentenced to probation from 1998 through early 2019, a twenty-one-year period. Similar to the Parole-PPS cohort, recidivism rates are near historic lows, although patterns for probationers differ slightly. Recidivism rates for both arrest and conviction mirror the downward trends described previously. Arrest recidivism sits at 45.7 percent while conviction recidivism is at 38.5 percent. Incarceration recidivism, however, displays a different pattern, as a slight upward trend is reported over the last two cohorts. Specifically, incarceration recidivism for the most recent cohort is 11.9 percent, 0.6 percentage points higher than the incarceration rate for the second cohort of 2018.



Impact Of Measure 110 and Drug Possession Events

Passed in November 2020 and effective February 1, 2021, Measure 110 reduced penalties for possession of controlled substances offenses that are not classified as a commercial drug offense under ORS 475.900(1)(b) (2019). For possession of “user amounts” of controlled substances, Measure 110 reduced penalties from the criminal misdemeanor level to a new Class E violation. For possession of larger non-user amounts, Measure 110 reduced criminal penalties from the felony level to a Class A misdemeanor. Thus, the majority of drug possession offenses are now non-criminal violations following the implementation of Measure 110.

The potential impact of Measure 110 on recidivism is substantial, as individuals convicted of possession of controlled substances historically exhibited relatively high rates of recidivism and one of the more common crimes for which individuals recidivate has been possession (see May 2017 report⁴). With the reclassification of possession to a Class E violation in most cases, those individuals will never enter a DOC cohort for inclusion in recidivism analyses. Furthermore, since most drug possession offenses are a violation, these non-criminal events are not recorded as arrests, convictions, or incarcerations. For context, new arrests and convictions for possession of controlled substance have fallen by approximately 80-90% since the effective date of Measure 110.

The potential impacts of Measure 110 lead to two implications, both of which are addressed in this report. First, it is important to determine the share of any reduction in recidivism directly attributable to these policy changes. Second, and related, it is important to orient any current reductions in recidivism attributable to Measure 110 to historical trends so that appropriate comparisons can be made using the historical data on recidivism possessed by the Criminal Justice Commission.

Methods

The results presented below include historical recidivism rates with drug possession events removed from the arrest, conviction, and incarceration outcomes. The cohorts are unchanged, and the recidivism rates have been compiled by removing drug possession events. For example, if an individual is arrested for drug possession six months after release, that arrest will not be included as a recidivating event in this analysis. However, if the same individual is arrested again nine months after release for drug possession *and* theft, the theft charge will still be included and the individual will show the arrest recidivism event. Therefore, while *drug possession* has historically been a common crime for which individuals recidivate, if the individual has an event for *another crime* within the three-year time period, they will still be included in the recidivism rate calculation.

This analysis examines the potential impact of Measure 110 on historical recidivism from 2006 to 2019. Previously reported rates are included, as well as comparison trend lines where drug possession recidivating events were removed (denoted by dotted lines). The analysis only extends back to 2006 because some drug Oregon Revised Statute (ORS) codes prior to 2006, particularly for arrests, do not differentiate between possession, delivery, or manufacturing activities.

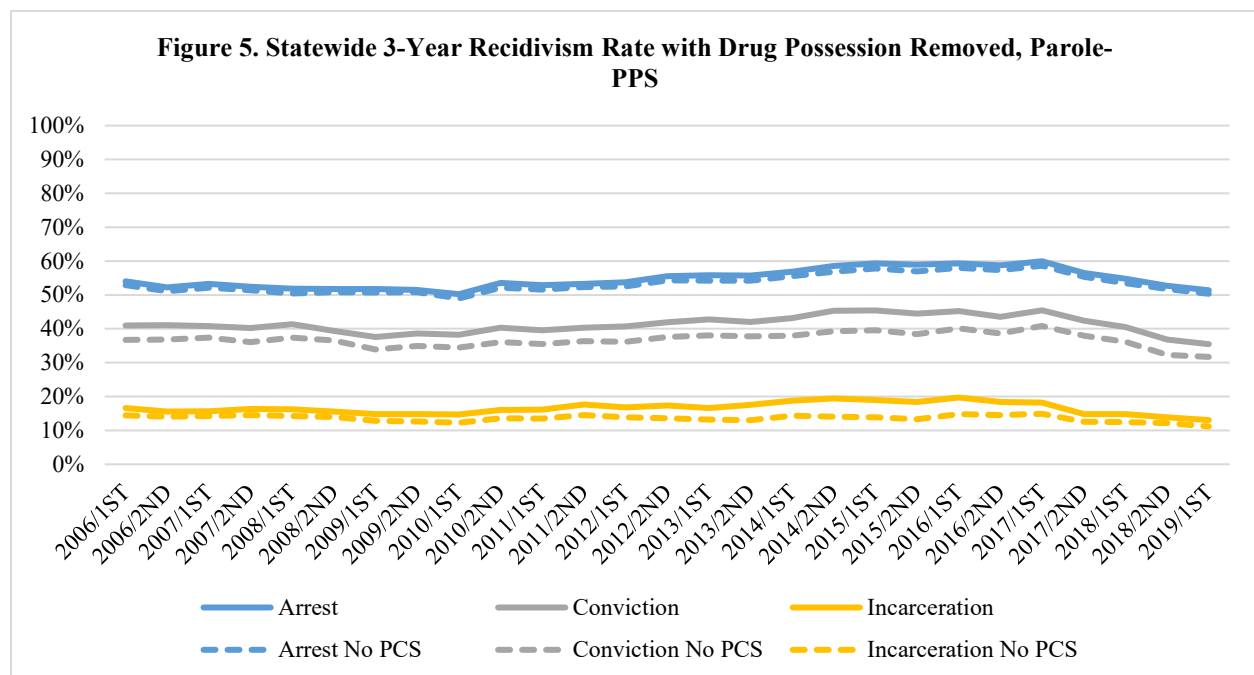
Results

Figure 5 displays the Parole-PPS cohorts’ historical recidivism rates from 2006 to 2019. Generally, with drug possession events removed, the recidivism outcomes for the Parole-PPS cohorts show a similar trend of historically low recidivism rates. The arrest rate with drug possession removed for the most recent cohort is 50.3 percent, the lowest since the first Parole-PPS cohort of 2010, which stood at 49 percent.

⁴ https://www.oregon.gov/cjc/CJC%20Document%20Library/Oregon_Recidivism_Analysis_May2017.pdf

The conviction rate was 31.7 percent and the incarceration rate 11.2 percent, both of which represent historic lows.

As shown in Figure 5, the difference between the historical rates and the rates with drug possession removed have been fairly consistent over this nearly 13-year time period. The average decrease for the arrest recidivism rate is one percentage point, while the conviction rate displays a four percentage point average decrease. This indicates there have historically been more individuals with convictions solely for drug possession as compared to arrests in the 3-year recidivism time period. The incarceration rate displays an average three percentage point drop with drug possession events removed. This difference in incarceration outcomes narrowed beginning in 2017 likely due to the drug possession sentencing changes at that time included in HB 2355, which defeloned many instances of possession of controlled substances⁵. Thus, while drug possession events contribute to the declining recidivism rates, other factors likely have an impact, such as lower levels of enforcement due to criminal justice system staffing shortfalls or other related causes.



Finally, Figure 6 displays the Probation cohorts’ historical recidivism rates from 2006 to 2019, along with the rates removing drug possession events as illustrated by the dashed lines. Similar to the Parole-PPS cohorts, the arrest and conviction rates show a general decline since 2016, with the exception of the conviction rate with drug possession events removed for the most recent cohort. Specifically, the conviction rate with drug possession removed for the most recent cohort is 35.7 percent, 0.7 percentage points higher than the conviction rate for the second cohort of 2018. Incarceration recidivism also shows an upward trend over the last two cohorts. The difference between the historical rates and the rates with drug possession removed have been fairly consistent over this nearly 13-year time period. The average decrease for the arrest recidivism rate is two percentage points, while the conviction rate displays a 4.6 percentage point average decrease. The incarceration rate displays an average drop of two percentage points with drug possession events removed. This indicates, similar to the Parole-PPS cohorts, that Measure 110 has played a role in recent recidivism reductions, although this impact does not explain the majority of the observed reductions. Other system impacts over the past few years, including COVID

⁵ <https://www.oregon.gov/cjc/CJC%20Document%20Library/PossessionofControlledSubstancesReport-9-2018.pdf>

related criminal justice system changes, economic impacts, and policy changes, among others, have likely had a larger effect on recidivism rate reductions than Measure 110. Further research is needed to pinpoint the magnitude of these impacts.

