Department of Public Safety and Correctional Services

Office of the Secretary

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November 15, 2021

The Honorable Guy Guzzone
Chair, Senate Budget and Taxation Committee
3 West Miller State Building
Annapolis, Maryland 21401-1911

The Honorable Maggie McIntosh
Chair, House Appropriations Committee
House Office Building, Room 121
Annapolis, Maryland 21401-1911

RE: Joint Chairmen's Report – Q00R – Recidivism Report

Dear Chair Guzzone and Chair McIntosh:

Pursuant to the 2021 Joint Chairmen's Report, the Department of Public Safety and Correctional Services is required to submit a report on recidivism from the period of 2016 onward. The language requirements can be found on page 147 of the 2021 Joint Chairmen's Report and states:

The budget committees request that the Department of Public Safety and Correctional Services (DPSCS) submit a report by November 15, 2021, on the following: single-, two-, and three-year recidivism numbers for the fiscal 2016, 2017, and 2018 release cohorts;
two-year recidivism numbers for the fiscal 2019 release cohort; and an analysis of recent recidivism trends, including a comparison to past years and a comparison to other states.

Attached is the Department's submission for the period for cohorts through FY 2021 in satisfaction of the reporting requirement.

I hope this letter and report meet with your approval. If the Department or I can be of further assistance, please do not hesitate to contact me or Chief of Staff Rachel Sessa at rachel.sessa@maryland.gov.

 Sincerely,

Robert L. Green
Secretary

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cc: Members of the Senate Budget & Taxation Committee
Members of the House Appropriations Committee
Mr. Matthew Bennett, Counsel, Senate Budget and Taxation Committee
Mr. Kenneth Weaver, Policy Analyst, House Appropriations Committee
Ms. Sarah Albert, Department of Legislative Services
Ms. Cathy Kramer, Department of Legislative Services
Ms. Amelia Chassé Alcivar, Chief of Staff, Governor's Office
Mr. Keiffer Mitchell, Jr., Chief Legislative Officer, Governor's Office
Ms. Erin Chase, Deputy Legislative Officer, Governor's Office
Ms. Cristina Jorge-Tuñón, Budget Analyst, Department of Budget and Management
Mr. Jacob Cash, Policy Analyst, Department of Legislative Services

DEPARTMENT OF PUBLIC SAFETY

AND CORRECTIONAL SERVICES

Recidivism Report

November 15, 2021

Governor Larry J. Hogan
Lt. Governor Boyd K. Rutherford
Secretary Robert L. Green

Executive Summary

- Three-year recidivism from FY 2016-2018 is lower than historical rates reported.
- Consistent with national models, Maryland's recidivism is highest in the first year following release. Overall, since FY 2017 19.75% of releases have returned within the first year of being released.
- Recidivism is measured as the earliest return to Departmental custody due to conviction for a new prison sentence, conviction to a new probation sentence, or return from community supervision (parole, probation or mandatory supervision post release) due to revocation. Unlike other states, Maryland has centralized authority over all statewide community supervision and can incorporate subsequent sentence to community supervision in its definition of recidivism in addition to sentences to prison.
- Returns due to technical violations of community supervision are the most significant driver of first year recidivism rates across all years measured.
- On average, technical violations occurred in the first 6 months after release; however, since FY 2016, returns for technical violations are occurring more frequently after the prior benchmark of 4 months. Potentially reflecting the diversionary success of the graduated sanctions implemented by the Justice Reinvestment Act (JRA).
- Most (67.98%)[1] individuals released from prison between FY 2016 and FY 2020 were released under some form of supervision, either mandatory supervision due to early release, parole, or continuation of a prior supervision status.
- The lowest recidivism rates are found among first time parolees, who over a three year period are more likely to remain free of new offenses than populations who are released with no supervision.
- Cumulative 3 year recidivism rates decrease with age at release. Breakdowns by age group reveal that most of the recidivism in the State involves the return of inmates who are aged 26-35 at release. Proportionally, emerging adults (aged 25 and younger) had the highest recidivism rate within their age cohort.
- Generally, inmates with shorter total sentence lengths had higher recidivism rates than those that carried longer, more severe sentences.
- Inmates released in FY 2017 were the first to be sentenced and supervised under the current structure established by the Justice Reinvestment Act of 2016.
- The implementation of the Justice Reinvestment Act has not been linked to a significant increase in recidivism within the State.
- Court closures associated with the COVID-19 pandemic response coincided with variations in FY 2019 recidivism rates. The COVID-19 pandemic has had a diminishing effect on yearly recidivism rates affecting how appropriate the most recent rates will be on predicting future recidivism trends.
- Recidivism calculation criteria vary widely across states, reflecting the structure and authority of their correctional entities. Maryland's recidivism calculation reflects state detention and local sentenced detention from Baltimore City, and combines all reasons for return to custody, but excludes arrest.

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[1] Detailed breakdowns of release cohorts are provided in Appendix B.

Introduction

Recidivism is in part an evaluation of the effectiveness of rehabilitation and deterrence after justice involvement. However, it is equally impacted by transition stability during the re-entry period, access to housing and necessary resources, and the availability of employment opportunities. Recidivism trends are often used to target interventions more effectively as the relationship between over-involvement in the justice system and poor recidivism outcomes has been explored. Despite the heavy impact of social factors on recidivism, it remains the primary performance measure for state and federal correctional systems even as the landscape of corrections and incarcerated populations have changed dramatically over the last 20 years.

<u>Smaller, Acute Populations</u>
Nationally, the correctional population has declined by an average of 12.4% since 2009.[2] Maryland has been cited as a leader in correctional decreases and has experienced a 20% decline in its State sentenced population over the same period. Shifts toward smaller, older, longer-serving populations are the expected consequence of the high incarceration trends of the 1990s, which saw Maryland's State correctional population peak in 2003. Since 2009, intakes and releases have declined by nearly 64%. Large decreases in the volume of release cohorts as well as decrease in the volume and composition of annual intakes result in changes in recidivism populations over time.

While the size of correctional populations has slowly become more manageable, the composition has become more significant. Over the past 6 years, the average length of stay in sentenced custody has increased by 29%, and average sentence lengths have increased by 10%. The percentage of the State correctional population serving shorter sentences and sentences for non-violent crimes has decreased. In the initial years after the Justice Reinvestment Act (JRA) went into effect, the lessening of penalties for some theft and drug possession offenses diverted inmates away from State incarceration. From FY 2015 to FY 2022, the percentage of inmates serving sentences for these crimes within the Division of Correction (DOC) custody dropped by 75% (theft) and 75% (drug offenses) respectively.

The long term impacts of this comprehensive reform will not be appropriately measured for years to come, but its initial effects are present in the changes to the Department of Public Safety and Correctional Services' (Department) population, and in the reductions in returns for technical violations. By design, the outcome of these diversion measures focuses correctional resources on individuals serving sentences for serious, often violent crimes. The reduction of frequent, short-term, incarceration periods is more strongly reflected in local correctional outcomes than in state incarceration. Additionally, this reduction of shorter sentences in DOC custody means that over time, state recidivism cohorts will consist of individuals with longer periods of incarceration, and more significant criminal histories.

<u>Separate Systems of Incarceration</u>
Maryland's recidivism calculation must also be considered within the context of its correctional landscape. Maryland is unique among state correctional systems in that it

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[2] Correctional Populations in the United States, 2019 – Statistical Tables, BJS, July 2021, NCJ 300655

operates as a hybrid between the traditional state correctional model (shared by neighboring Pennsylvania and Virginia) and a unified model (shared by neighboring Delaware). In Maryland, because the Department operates as the State correctional entity (Division of Correction), the local jail in Baltimore City (Division of Pretrial and Detention Services), and the statewide community supervision entity (Division of Parole and Probation), it has unique insight into the relationship between local, state, and community corrections. The Department's direct relationship with the largest local jail population in the State allows for more detailed outcome measurement for inmates sentenced from Baltimore City.

Figure 1: Maryland Correctional Structure

Correctional Authority	Sentenced	Pretrial	Populations
State Prisons	✓	✓	• Sentences longer than 18 months • All pretrial and sentenced populations in Baltimore City
Post Release Supervision	✓		• Individuals released from State prisons who are supervised in the community on parole or following a mandatory release to supervision.
County Jails	✓	✓	• Inmates awaiting trial outside Baltimore City • Inmates sentenced for <18 months • Local Home Detention & Pretrial Release Programs
Probation Supervision	✓	✓	• Individuals assigned Probation Before Judgement • Sentences to community supervision • Early Releases from State Prison & Local Detention

Historical Recidivism Calculations in Maryland

To meet the needs of the legislature and the public, the Department developed its longest standing recidivism calculation, the Repeat Incarceration Supervision Cycle (RISC) application, in 1981. Designed before the inclusion of unique State Identifying Numbers (SIDs), this process relied on name and personal identifying information matching and manual cohort generation, and remained the standard for tracking recidivism in Maryland for over 30 years. Over time, due to changes in data format and gaps in case information, the application's integrity became strained, and calculations were found to misattribute some violations as offenses, and undercount the frequency of new offenses within the cohort. The last Departmental recidivism report was released in FY 2014[3] for the FY 2009 cohort.

Beginning in FY 2015 and with the advent of the Department's current database, the Offender Case Management System (OCMS), the Department had the opportunity to redesign its recidivism calculation. The implementation of OCMS brought significant enhancement to the Department's infrastructure and data collection, but interrupted the

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[3] Maryland's Recidivism Rate Driven Down Seven Points from 2007. Released August 2013.

existing recidivism cohort, and required that the Department design a new process for collecting recidivism and other data once data entry had stabilized in FY 2016.

In the interim, the Department has continued to provide annual updates on single year recidivism, as required in the Managing for Results (MFR) reporting. The standard set within the MFR report limits reporting to only those inmates sentenced to DOC for a new offense within a fiscal year of release, and does not include non-offense related returns to state custody. This definition is at the core of many correctional recidivism measures, which are primarily focused on repeat incarceration within the State system.

Figure 2: Comparison of historical recidivism rates 1990-2021[4]
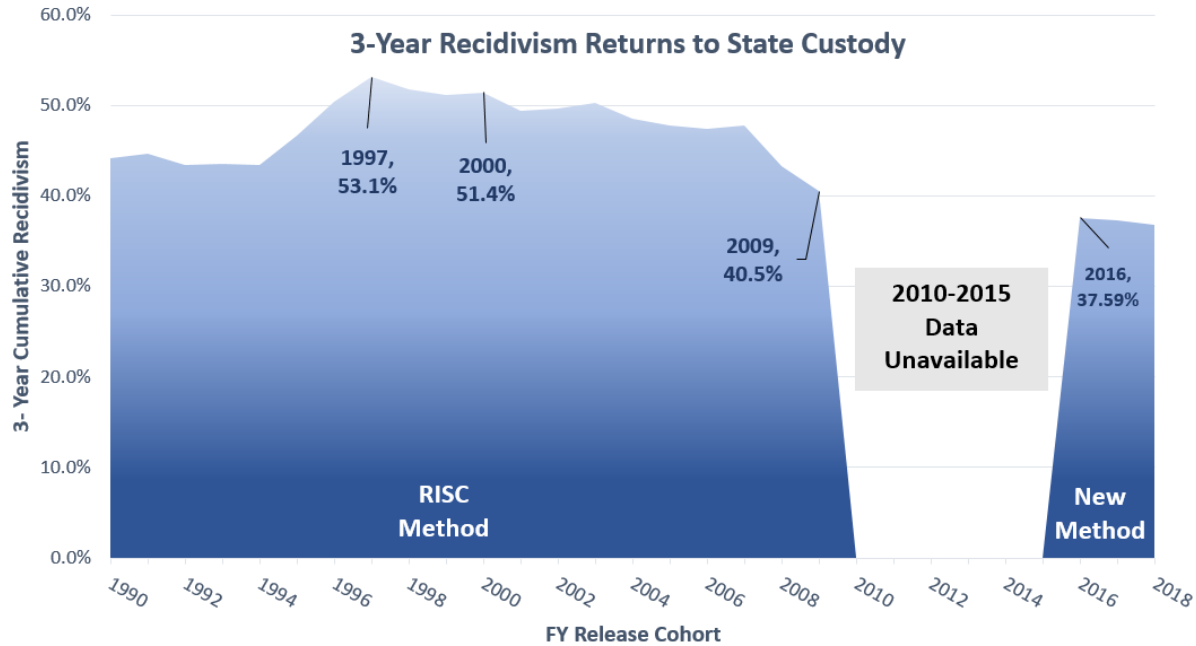
Today, the Department has a strong data infrastructure that far exceeds the functionality and flexibility of its predecessor system, capable of tracking complex sentencing conditions and detailed indicators of inmate programming during incarceration. The Offender Case Management System is well established and has adapted to effectuate and track the changing landscape of criminal justice in Maryland through the implementation of Justice Reinvestment, which took full effect in 2018. Beginning in FY 2020, the Department had the appropriate duration of data collection necessary to resume traditional 3-year state recidivism calculation.

Recidivism Methodology

Cohort Definition

Inmates released from the custody of the DOC to the community in a given fiscal year (FY) are included in the release cohort for that year. Releases directly to other correctional authorities, both within and outside the State, are omitted to focus on the release population who has an opportunity to recidivate. Those omitted encompass inmates released to a detainer, who are expected to have reported recidivism qualifying events
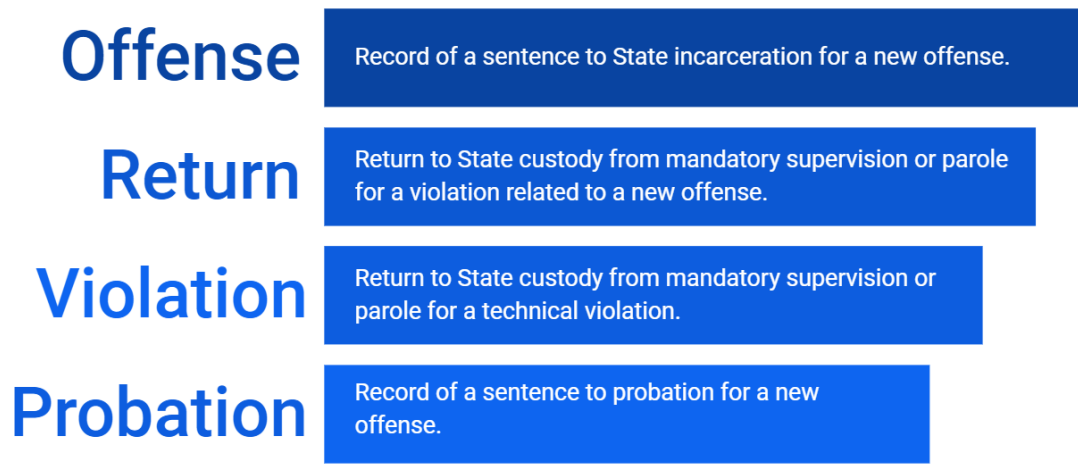
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[4] Historical RISC Annual Data, DPSCS Annual Reports

immediately following release that is not related to subsequent behavior. Inmates are only counted once within the eligible fiscal year, by their earliest release date. Sentenced releases from all facilities within the Department's control are included in these cohorts, regardless of the authority or designation of the releasing facility. Prior recidivism calculations struggled to include all inmates, regardless of overlap between the DOC facilities, DPDS facilities, and the Patuxent Institution.

Recidivism Definition
The current state recidivism rate provided by the Department is reflective of return to either the Division of Correction or the Division of Parole and Probation following sentencing for a new criminal offense, or return to the Department's physical custody from parole or mandatory supervision due to violation of the conditions of release. It is important to distinguish between the potential severity of behavior between these two circumstances; to that end, the Department has further broken down recidivism indicators by reported technical noncompliance with terms of release and supervision violations tied to new offenses. Returns to custody reflect admission to state custody, not whether an inmate is subsequently not violated and continued on supervision. In instances where multiple measurable recidivism events occur within the same follow-up year, the more severe event will be reported to provide a more accurate picture of recidivism drivers. Recidivism events that occur sooner than one year are reported within single year recidivism. Event severity is weighted toward events with greater certainty of criminal behavior, and towards those sanctions involving state incarceration. Thus, a releasee who is sentenced to prison for a new conviction and returned to state correctional custody for a technical violation in the same year is reflected as the former. Similarly, a releasee who is sentenced to probation for a new conviction, but in the same year is returned to the DOC on a technical violation is reported as recidivating as a result of the former.

Figure 3: Recidivism event hierarchy

Offense — Record of a sentence to State incarceration for a new offense.

Return — Return to State custody from mandatory supervision or parole for a violation related to a new offense.

Violation — Return to State custody from mandatory supervision or parole for a technical violation.

Probation — Record of a sentence to probation for a new offense.

The components of recidivism calculation vary significantly based upon the role and aims of the measuring entity. The method of calculation even varies across different state correctional systems (see further discussion below). The diagram above identifies the eligible events that are captured in the Department's recidivism calculation (noted in blue) and omitted events (noted in grey). The Department is currently limited to the incarceration and criminal justice records within its purview, which necessarily exclude

records of commitment in local detention facilities and out-of-state correctional facilities. Due to the wide variability between arrest and subsequent guilty findings, the fluctuations in local enforcement patterns, and the Department's lack of arrest power, the Department does not include arrest in its recidivism calculation criteria.

Recidivism Outcomes Since 2016

Figure 4: Cumulative Recidivism Rate Across All Cohorts
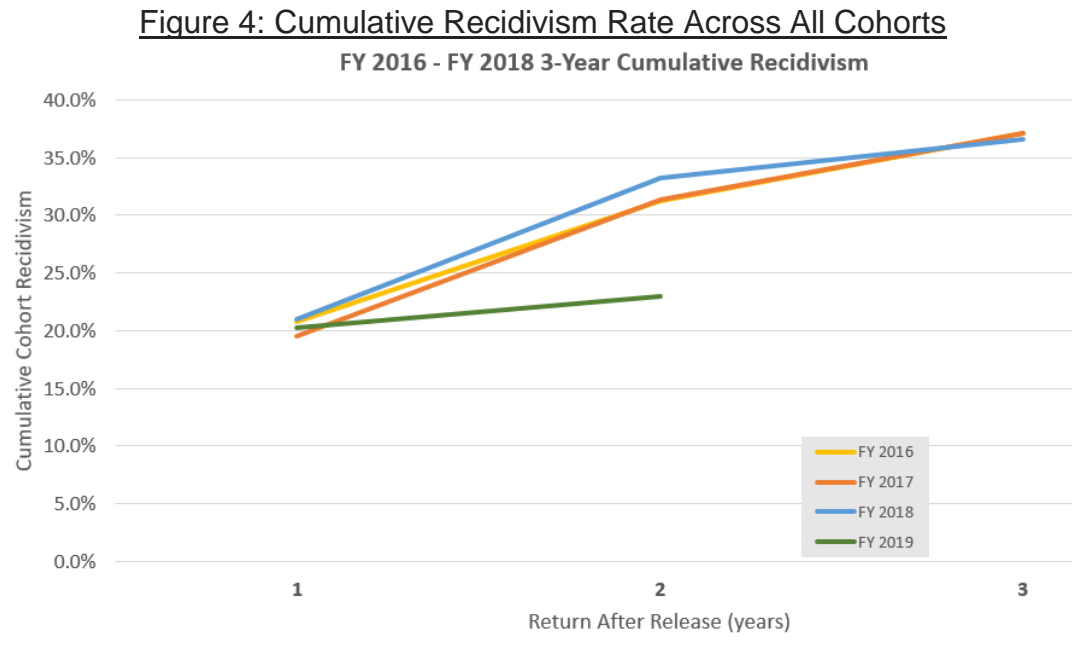
While the State can now measure comprehensive 3-year recidivism for multiple release cohorts, see below, the FY 2017 cohort provides the most reliable baseline for Maryland. Inmates released in FY 2017 were the first to be sentenced and supervised under the current structure established by the Justice Reinvestment Act of 2016[5]. Subsequent cohorts are impacted by the COVID-19 pandemic's disruption of regular criminal justice functions that impact measurable events. Impacted cohort years have been identified in yellow below, and warrant extended 5-year recidivism calculation to provide a more comprehensive measure of release outcomes.

Table 1: Recidivism rates from 2016 – 2019

Release Year	MFR 1 year	1 year	2 year	3 year	Cumulative 3 Year
FY 2016	7.0%[6]	20.74%	10.54%	5.85%	37.13%
FY 2017	6.2%	17.77%	13.62%	5.76%	37.15%

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[5] The JRA, Chapter 515 of 2016, had a phased effect from October 1, 2016 (FY 2017) until it took full effect on October 1, 2018 (FY 2019) http://goccp.maryland.gov/councils-commissions-workgroups/justice-reinvestment/

[6] Previously reported in annual Managing For Results reports, available from the Department of Budget and Management. https://dbm.maryland.gov/pages/managingresultsmaryland.aspx

FY 2018	4.7%	20.98%	12.28%	3.29%	36.55%
FY 2019	4.1%	18.85%	4.18%	-[7]	23.03%

Recidivism Trends

Consistent with national models, recidivism is highest in the first year following release. Overall, since FY 2016, 19.83% of releases from state incarceration in Maryland have returned within the first year of being released. Nationally, this rate is 19.9%[8] within one year for state prisoners for the 2012 cohort, the most recent period available. This is consistent with broader research on the difficulty and instability of the initial re-entry period, which is closely tied to success and decreased recidivism. In Maryland, recidivism approximately halves with each continued year after incarceration, as there are fewer cohort members remaining and as those remaining have demonstrated longer periods of compliance and avoided significant justice involvement.

3-Year Cumulative Recidivism

In the context of the Department's historical figures, which were calculated using a different methodology, contemporary recidivism rates are an all-time low for the Department. Overall, cumulative three-year recidivism rates have been gradually decreasing since 2016. The cumulative FY 2017 recidivism rate saw insignificant overall change from the cumulative FY 2016 recidivism rate. However, the largest difference between them is the nearly 3% drop in first year recidivism rate among FY 2017 releases. This coincides with the earliest effective date of the Justice Reinvestment Act's penalty provisions, which impacted sentence lengths and guidelines within the first three months of release. The FY 2017 release cohort was also significantly larger than FY 2016 and FY 2018. The subsequent increase in second year recidivism is consistent with a significant portion of the release cohort remaining at liberty. Despite the brief overlap with COVID-19 related court interruptions in Year 3, the FY 2017 third year recidivism rate was very consistent with the prior year.

The FY 2018 cohort was the first to be fully impacted by new Justice Reinvestment Act (JRA) provisions. The JRA impacts the release cohort size, anticipated reductions in return to state custody through non custodial interventions for technical noncompliance, and sentence length reductions that divert nonviolent offenses away from state incarceration. While there was a significant drop in the third year recidivism rate coinciding with FY 2021, which was heavily impacted by the COVID-19 pandemic, the overall 0.57% decline from FY 2017 recidivism and 0.58% decline from FY 2016 is promising.

Time to Recidivism

A more nuanced monthly examination of time to recidivism reveals more variation in how soon released inmates return, and how profoundly outside factors impact recidivism.

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[7] These measures are not yet available, as their data capture period is in the future. See Appendix B.

[8] Recidivism of Prisoners Released in 34 States in 2012: A 5-Year Follow-Up Period (2012–2017). Available at https://bjs.ojp.gov/library/publications/recidivism-prisoners-released-34-states-2012-5-year-follow-period-2012-2017

Comprehensive assessment of improved re-entry outcomes includes both a reduction in recidivism and an increase in time until return.
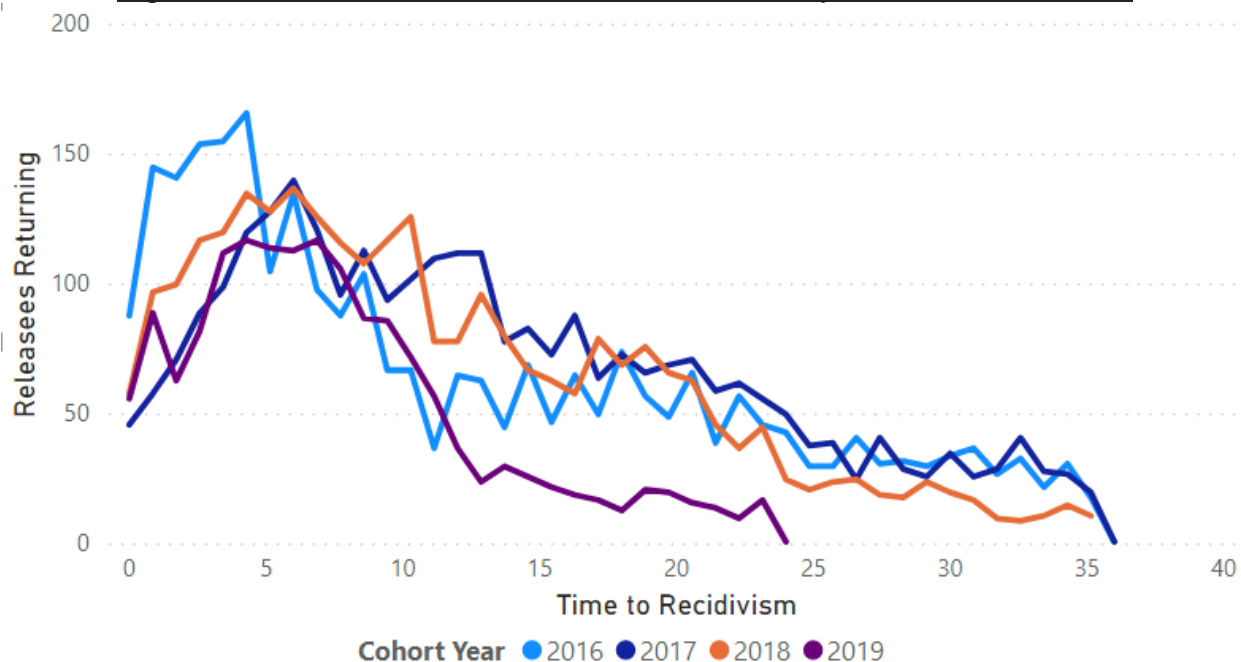
The largest peak in returns to Department custody generally occur within the first six months of release. As illustrated by the progression above, there is significant variation within the single year recidivism rates. Despite the roughly consistent overall single year recidivism rate for FY 2016, FY 2018, and FY 2019, there are vastly different trends in when and why inmates may be returning to custody. Comparing raw annual figures by time to return identifies an anomalous spike in early time to recidivism for inmates released in FY 2016, and returning in the last six months of 2016. Within the FY 2016 cohort, 20.74% of releasees returned within one year, but 12.9% returned within the first 6 months of release. This early attrition reflective of rapid failure during early re-entry is not present in following years. Return within the first six months dropped by 39% over the same period for the FY 2017 cohort and has never returned to the FY 2016 level. By FY 2019, the last period not impacted by COVID-19, the number of FY 2018 releasees returning within six months was still 20.5% less than it was for the FY 2016 group. The more gradual first year recidivism pattern established by FY 2017 and FY 2018 may be a truer representation of recidivism in a post-JRA landscape, as graduated sanctions and technical revocation caps temper rapid return to custody.

The most significant temporal trend is the sharp decline in FY 2019 returns to custody beginning 10 months after release. Occurring in roughly May 2020 this coincides with the Maryland courts' Phase I operation, which had limited functions. Returns only increased again near August 2020 as courts reopened under Phase III-IV. This sharp decline and continued departure from the monthly trends of three prior fiscal years places the FY 2019 second-year annual rate into more appropriate context.

Recidivism Return Reasons

Figure 6: Cumulative Recidivism Reasons Across All Cohorts
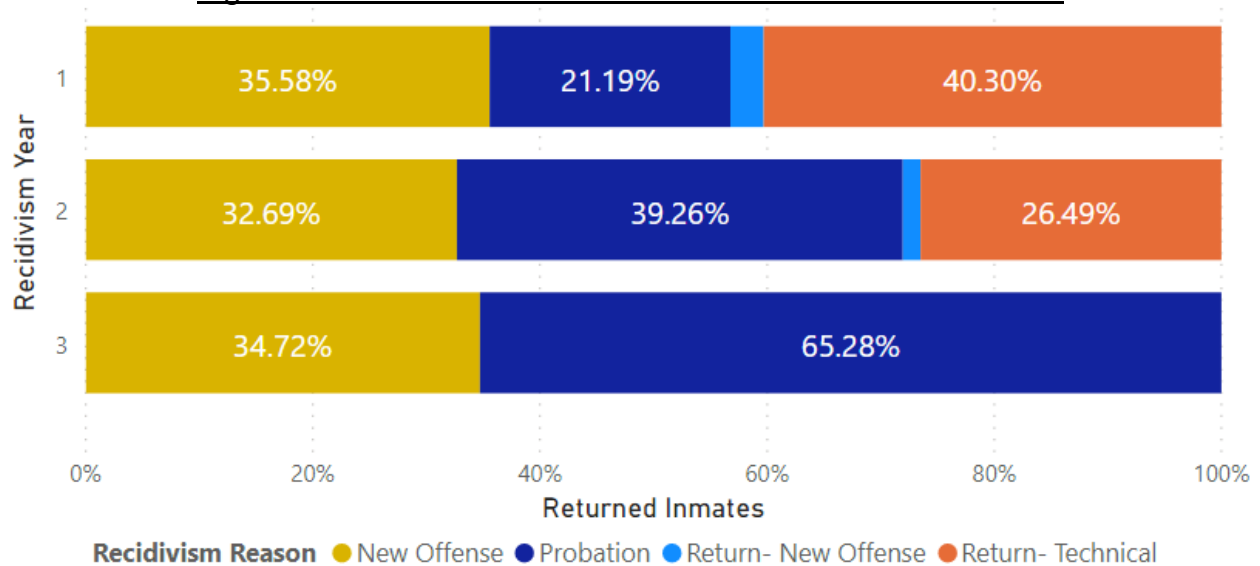
Analysis of annual recidivism trends within these cohorts also identifies an expected front loading of returns due to technical violations. Above, the total number of recidivists per year are broken down by the event that caused recidivism. Returns due to technical violation of community supervision are the most significant driver of first year recidivism across all years measured. They account for 40.3% of first year returns from FY2016 to FY 2019. Second year recidivism is primarily driven by new sentences to probation and new state responsible sentences, including a small percentage of returns from supervision due to new offenses. In the third year[9], recidivism is entirely due to new probation convictions and to a lesser extent new offense convictions resulting in return to state prison.

In the FY 2016 cohort, technical revocations represented the majority (46.4%) of first year returns, more than new offenses (34.11%). On average, technical revocations occurred within 4.2 months after release. The pattern of early technical revocation driving first year return changes dramatically beginning with FY 2017 releases. Even as overall first year recidivism rose to comparable levels in the FY 2018 cohort, technical revocations have still remained a lower percentage of first year returns, and occur on average 6 months or more after release.

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[9] This reflects only release cohorts for which third year recidivism data was available, FY 2016-FY2018.

Figure 7: First-year Recidivism Reasons Across All Cohorts
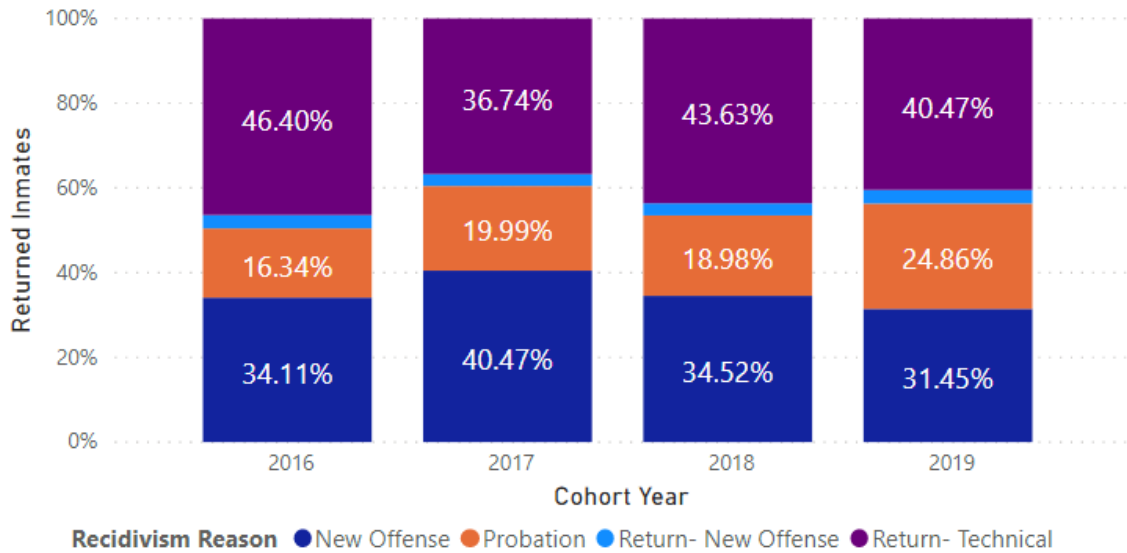
Recidivism Outcomes Across Groups

Recidivism and Release Conditions

The largest disparities in recidivism outcomes are seen between different conditions of release. Most (67.98%)[10] individuals released from prison between FY 2016 and FY 2020 were released under some form of supervision, either mandatory supervision due to early release, parole, or continuation of a prior supervision status. For definitions of these release conditions, see Appendix A.

Table 2: Recidivism by Release Reason 2016-2019

Release Reasons	FY 2016	FY 2017	FY 2018	FY 2019
Continued on Parole	47.98%	45.94%	47.64%	34.08%
Continued On Mandatory Supervision	44.30%	44.65%	48.02%	34.81%
Mandatory Supervision	37.62%	36.05%	40.28%	23.25%
Expiration	36.31%	37.36%	32.10%	22.37%
Court Order	32.62%	30.73%	23.02%	17.76%
Parole	30.49%	33.78%	31.25%	14.88%

Generally, time under community supervision can be associated with increased returns to incarceration due to technical revocations, which can result in return to prison absent conviction for a new offense, or behavior that would otherwise incur incarceration. Individuals who are released due to an expiration of sentence or court order, do not necessarily have a period of supervision after release. The figures listed above provide the cumulative recidivism rate by release type for all available years. Examination of

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[10] Detailed breakdowns of release cohorts are provided in Appendix B.

cumulative recidivism outcomes for these groups reveals that individuals returning to the community after at least one prior return to incarceration have the highest recidivism rates, above the yearly average (shaded in blue above). Conversely, the best recidivism rates are found among first time parolees, who over a three year period are more likely to remain free of new offenses than populations who are released with no supervision. One important distinction between these groups is the discretionary nature of parole releases, compared to the indiscriminate nature of releases due to court order, mandatory release to supervision, or upon expiration of sentence.

Recidivism and Age

Recidivism rates vary widely based upon age at release from the Department's custody. In FY 2021, the average inmate age within the Department's custody was 39.5 years. Across all release cohorts, the average age of inmates leaving custody was 36.7 years old, while recidivists were slightly younger on average at 34.4 years old. As illustrated in the figure below, comprehensive 3 year recidivism rates decrease with age at release. Breakdowns by age group reveal that most of the recidivism in the State involves the return of inmates who are aged 26-35 at release. While emerging adults (age 18-25) do not make up the largest group of returns to prison, proportionally they have the highest recidivism rate of any age group. Geriatric aged inmates (65-75) have the lowest recidivism rate among age groups.

Figure 8: 3-Year Recidivism Rates by Age at Release
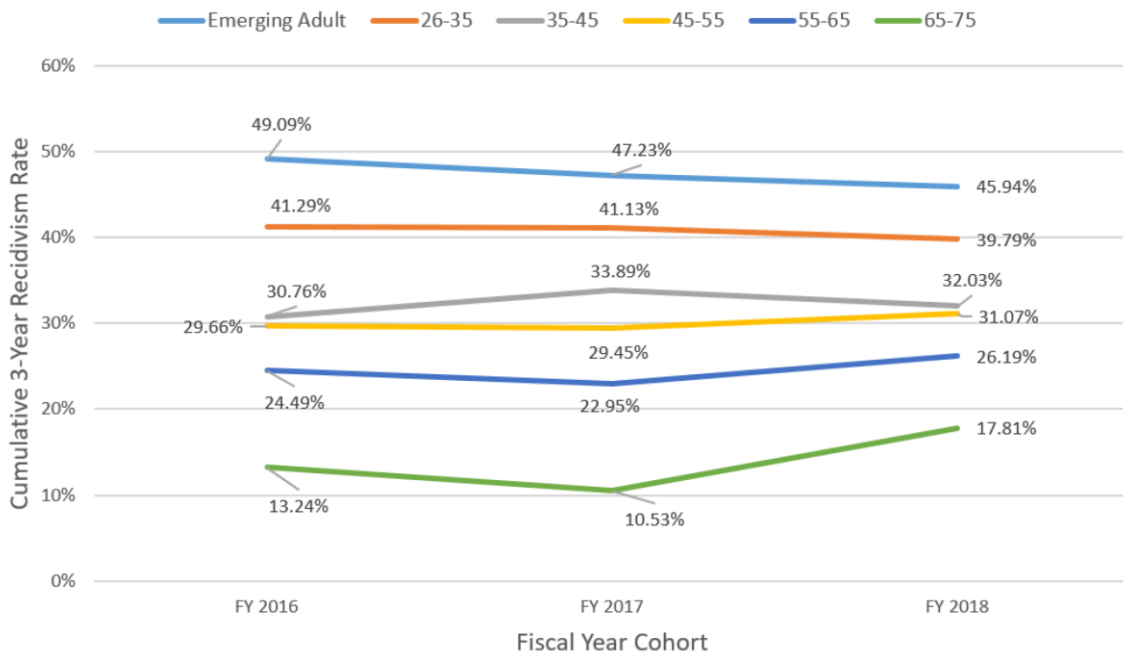
However, it is relevant to note that recidivism rates have fluctuated over time for some groups. Three-year recidivism among inmates aged 45 and above at release increased in FY 2018. The significant increase in recidivism among inmates aged 65 and older was impacted by the relatively small number in this group. From FY 2017 to FY 2021, a total of 33 inmates aged 65 or older were returned to state custody after release, the majority

of which returned for a technical violation of supervision, only 7 returned due to a new offense sentence of state incarceration.

Recidivism and Sentence Length

The majority of inmates released from state incarceration have some portion of their incarcerated sentence in suspension, either due to paroled release or the accrual of diminution credits that offset the sentence length onto a period of post-release supervision. Inmates convicted of crimes against persons and multiple or subsequent charges tend to carry longer sentence lengths[11]. In FY 2021, the average sentence length of inmates within the Department's custody was 21.6 years, with an average length of stay of 8.5 years.

Table 3: Recidivism by Sentence Length 2016-2019[12]

Sentence Length	FY 2016	FY 2017	FY 2018	FY 2019
Less than 2	35.47%	37.14%	33.95%	25.53%
2 to 5	39.67%	36.11%	38.32%	23.48%
6 to 10	39.76%	39.78%	38.11%	23.64%
11 to 20	37.29%	38.46%	38.68%	23.41%
21 to 30	29.07%	33.69%	30.72%	18.89%
31 to 40	19.09%	24.53%	24.35%	24.74%
41 to 50	37.14%	22.00%	36.36%	11.76%
Life Equivalent	35.29%	16.67%	26.67%	15.63%

Recidivism rates shaded in blue above indicate where inmates of that sentence length have 3-year recidivism rates higher than the overall group. Inmates sentenced to 2-5 years incarcerated were both the bulk of the release cohort as well as the bulk of the recidivism group. However, inmates with sentence lengths of 6-10 years tended to have higher recidivism rates. Generally, inmates with shorter total sentence lengths had higher recidivism rates than those that carried longer, more severe sentences.

Regional State Trends
Methodology for recidivism calculation varies widely among correctional entities, with each state adopting measurement conventions that reflect their priorities, unique legal landscape, and scope of responsibility. The only standard nationwide calculations are conducted by the Bureau of Justice Statistics to capture not only standard measurement, but to account for interstate recidivism. The most recent data available from the Bureau of Justice Statistics (BJS) tracked releases in 2012[13] over an initial 3 year recidivism

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[11] Sentence length calculation is described in more detail in Appendix A: Data Dictionary.

[12] Inmates with a sentence over 50 years were considered life equivalent

[13] Recidivism of Prisoners Released in 34 States in 2012: A 5-Year Follow-Up Period (2012–2017). Available at https://bjs.ojp.gov/library/publications/recidivism-prisoners-released-34-states-2012-5-year-follow-period-2012-2017

period, with supplementary 5 and 10 year follow up re-evaluations. BJS identified the national three-year cumulative recidivism to be 39%. At the time of collection, Maryland was unable to participate in this reporting due to limitations of the prior data system. Maryland can now fully participate in future national reporting.

State correctional entities routinely self publish three year recidivism calculations which vary by capacity, focus, and prior convention. Among neighboring states, there is great variation in the size of state responsible populations, as well as scope of responsibility. Among neighboring states, the size of the Department's population most closely mirrors New Jersey's, but in responsibility for local jail sentences, it mirrors Delaware's unified corrections system. Below, the variety of factors that are captured in state recidivism calculations are outlined.

State	ADP	Methodology
New Jersey	12,808[14]	Rearrest, Reincarceration, Reconviction
Pennsylvania	38,950[15]	Overall: Earliest Rearrest or Return
Virginia	28,103[16]	Rearrest, Reincarceration, Reconviction
Delaware	4,217[17]	Rearrest, Reconviction, Recommitment, Return to Prison
Maryland	15,561[18]	Overall: Earliest Reincarceration, Reconviction, Return to Prison
South Carolina	15,540[19]	Reconviction, Return to Prison
Washington	13,674[20]	Reconviction, Return to Prison

These important differences in methodology produce widely different recidivism rates. Most neighboring states make three-year recidivism rates available within 3-4 years of the release cohort year. All neighboring states have had disruptions in their publication timelines, and some have drastically changed their methodology in recent years. In Maryland's calculation, state responsible sentences are determined by intake into DOC custody, and also include local jail commitments for the Baltimore City population which would be encompassed within sentences under 18 months. In other states, such as Virginia, only felonies are reported as state responsible sentences. Currently, as of the publication of this report, Maryland has the most up to date recidivism calculations available, so the most recent historical measures are provided below for comparison.

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[14] Data reflects FY 2021 ADP. https://www.state.nj.us/corrections/pages/OffenderInformation.html#OffenderStats

[15] Data reflects total point in time correctional population as of 7/31/2021. PA DOC Monthly Population Reports.

[16] Data reflects FY 2020 ADP. https://vadoc.virginia.gov/general-public/agency-reports/.

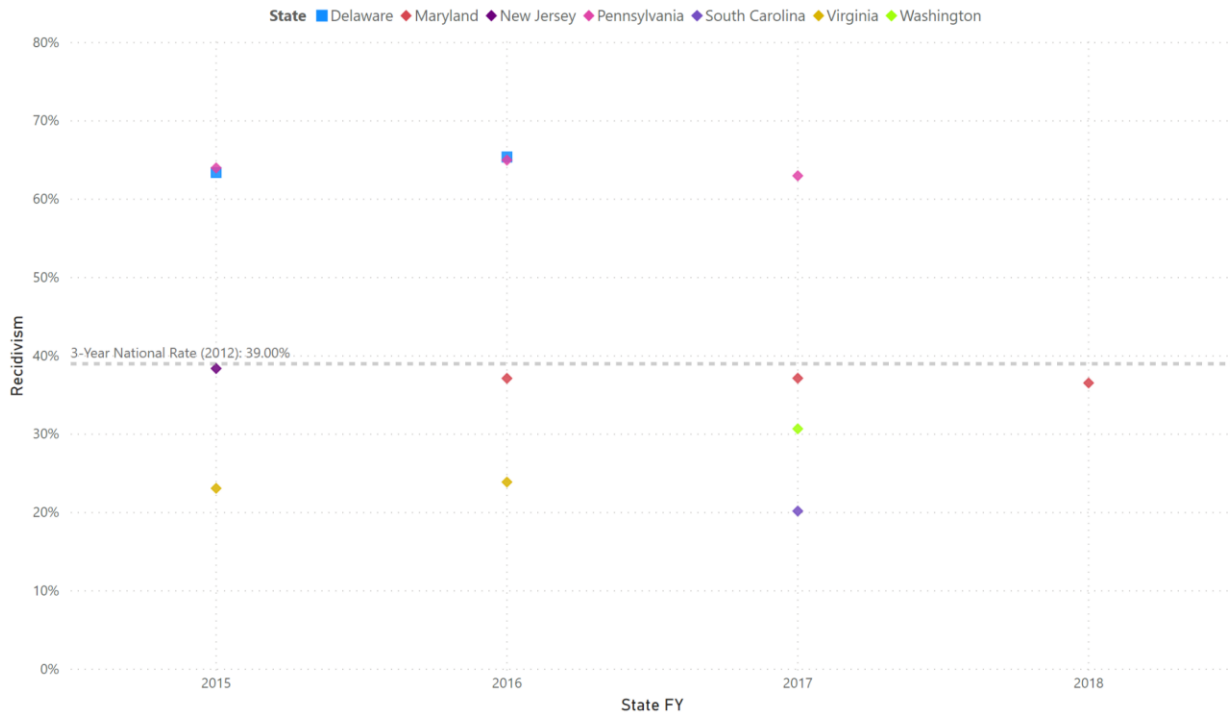[17] Delaware DOC 2020 Annual Report. https://doc.delaware.gov/views/annual_report.blade.shtml

[18] Annual FY 2021 ADP Report, reflecting total sentenced population, in line with other state correctional systems

[19] Data reflects FY 21 Profile of Institutional Population, http://www.doc.sc.gov/research/statistics.html

[20] Data reflects 9/2021 Agency Factsheet, https://www.doc.wa.gov/information/data/analytics.html

Figure 9: Comparison of State Recidivism Rates

State ■ Delaware ◆ Maryland ◆ New Jersey ◆ Pennsylvania ◆ South Carolina ◆ Virginia ◆ Washington

As illustrated above, Maryland's 3-year recidivism is closest to the most recent rates made available for New Jersey and are in line with the national average, based on similar reporting criteria. Beyond neighboring states, two other states have similar sized correctional populations, and somewhat comparable state populations: South Carolina and Washington. Recidivism methodology and reportable data points vary widely across different states. Some states, including Virginia and New Jersey, incorporate additional criminal justice records such as arrest and court data, and engage in case-based tracking for recidivism calculation. Other states with unified state and local systems, such as Delaware, report all returns to incarceration in their measure. South Carolina and Washington are the closest in calculation methodology to Maryland in that they exclude rearrest, and provide a combined rate for reconviction and return, however, no other state listed include Maryland's consideration of subsequent probation conviction, which raises Maryland's rate of recidivism to include all state responsible post release convictions. New probation cases contribute significantly to new offense calculations.

Data Constraints

Unlike some national studies, the Department limited calculation to only the earliest recidivism event in this report, and did not evaluate all recidivism events in the period. Only sentenced intakes to DOC custody were considered, which may exclude some releases due to time served following a plea agreement. It is unclear what impact these cases may have on recidivism, but their omission places the Department's calculator more in line with other state calculations, which draw a strong distinction between state and locally responsible sentences. Analysis of offenses, charges, and institutional programming will be available in single year cohort reports that allow for more in-depth discussion of cohort characteristics.

Recommendations

<u>Future Reporting</u>

With the development of an updated process for calculating recidivism, the Department is now poised to resume annual 3-year recidivism reporting. Focused single cohort year reports such as those produced by other states and by BJS will allow for deeper analysis into individual histories. The Department will explore more complex indicators of inmate success post release contained within its records, such as specialization of recidivism offenses, infraction history during confinement, and the impact of diminution credit accrual. Modelling after other states, the Department will focus its efforts on including the impact of inmate education on recidivism, as well as participation in evidence-based programming and job readiness programs. With data provided by programming partners, such as the Maryland Department of Labor and Maryland Correctional Enterprises, the Department will be able to better evaluate the impact of these programs on recidivism annually.

The Department continues to develop new reporting capabilities to support its operational and planning needs, which have in turn improved the quality of its legislative reporting. Future development priorities include differentiation between sentences for felonies and misdemeanors, and incorporation of local recidivism indicators.

<u>COVID-19 Impacts</u>

To better capture the prolonged impact of long term disruptions to criminal justice processes, the Department intends to produce 5-year recidivism reporting for the cohorts impacted by the effects of the COVID-19 pandemic in Maryland.

Appendix A : Data Definitions

- **Cohort:** This is a group of individuals released or returned within a fiscal year, or a group of individuals. An individual is only counted once for their earliest event in this period. Because of overlapping time periods, individuals may be present in multiple yearly cohorts due to their recidivism. See definition of cohort windows in Appendix B.
- **Court Order:** Release mandated by a state or federal court. These releases may be followed by a period of supervision or not.
- **Expiration of Sentence:** The latest date an individual may be held in custody under their sentence. Individual releases upon expiration of their sentence do not have a following period of mandatory supervision unless dictated by a split sentence to incarceration and community supervision. Inmates who do not have any behavioral or earned programming credits are released upon the expiration of their sentence.
- **Fiscal Year (FY):** The Maryland State fiscal year begins on July 1 and ends on June 30th of the year for which it is named. This is consistent with all annually reported Departmental performance measurements. Fiscal year figures referenced in this report are reflective of all individuals released or returned over the course of that fiscal year. The current state fiscal year is FY 2023.
- **Mandatory Supervised Release (MSR):** MSR is the release of an offender from the Division of Correction due to diminution credits earned and awarded. The offenders are supervised by parole and probation agents and are subject to the jurisdiction of the Maryland Parole Commission after release until the maximum expiration of their sentence. Any alleged violation of mandatory release supervision conditions may result in a revocation hearing.
- **Measurable Event:** This refers to the occurrence of an event that constitutes recidivism to State custody within the recidivism calculation window. Due to the Department's authority as the state correctional entity and the state community supervision entity, new offenses resulting in new state responsible incarceration or supervision, or return to state custody due to revocation of conditions of release are included. In many cases multiple events occur over a 3 year period, and recidivism is reported based on the first to occur.
- **New State Commitment:** An intake to custody for a new sentence, as dictated by a sentencing document. As a recidivism event, this is measured by the earliest date of offense if there were multiple offenses in the 3 year recidivism period.
- **Parole:** is the discretionary and conditional release of an offender into the community by the Maryland Parole Commission to continue serving the term of confinement under the supervision of an agent of the Division of Parole and Probation until the expiration of the full, undiminished term. If any conditions of parole are violated, the offender is subject to revocation and re-incarceration. Parole eligibility is determined by sentence length and the specific crime (s) for which the offender is incarcerated.
- **Parole-Medical:** allows consideration for an inmate who is chronically debilitated, or incapacitated by a medical or mental health condition, disease or syndrome as to be physically incapable of presenting a danger to society to be released on medical parole at any time during the term of that inmate's sentence without regard to parole eligibility.

- **Probation:** A judicially ordered conditional release of an individual from the execution or imposition of all or part of a term of incarceration, usually with the individual subject to divisional supervision or monitoring. Subsequent new probation episodes are identified by a conviction date after the cohort release date.
- **Release:** Release from the custody of a state correctional facility within the Division of Corrections. Placements onto the Central Home Detention Unit are not considered releases, even though they involve leaving state correctional facilities. Individuals being released from custody of the Division of Correction may continue onto community supervision under the custody and authority of the Division of Parole and Probation.
- **Return:** Return to state incarceration can be due to a new state responsible sentence within the Division of Correction, or a return from supervision for a technical or new offense revocation hearing.
- **Return-Mandatory Supervised Release (MSR) New Offense:** Upon notification of arrest, based upon the level of charges, DPP may notify the MPC, which can initiate a revocation and hearing. Otherwise when new charges are adjudicated, revocation hearings are often initiated and can result in revocation due to conviction of a new offense. In some instances,
- **State Custody:** Incarceration in a state detention facility, usually for a sentence of 18 months or greater. Individuals can also return to custody for short periods of time due to revocation of conditional release.
- **Return-Technical Violation:** Return to custody from supervision for a hearing as a result of any of the violations of supervision that do not include a new arrest. Examples include failure to report, failure to work or go to school, moving or leaving the state without permission, testing positive to drugs/alcohol, failure to comply with treatment, failure to pay fine, costs, and/or restitution. Individuals may be released, or found guilty and revoked for a period of their remaining sentence.

Appendix B : Release Cohort Details

Cohort	Release Window	Release Cohort Size (n)	Return Window	Recidivism Cohort Size
FY 2016	07/01/2015 - 06/30/2016	7,493	07/01/2016 - 06/30/2019	2,782
FY 2017	07/01/2016 - 06/30/2017	7,829	07/01/2017 - 06/30/2020	2,908
FY 2018	07/01/2017 - 06/30/2018	7,483	07/01/2018 - 06/30/2021	2,735
FY 2019	07/01/2018 - 06/30/2019	6,764	07/01/2019 - 06/30/2022*	1,558

The FY 2019 cohort has been measured before the end of its three-year recidivism window. Full cumulative recidivism will not be available for comparison before FY 2023.

Appendix C : Recidivism Cohort Details

2016 Cohort Characteristics	Release Cohort	Recidivism Group	3-year Recidivism
Total	**7,493**	**2,782**	**37.13%**
Gender			
Female	583	163	27.96%
Male	6,909	2619	37.91%
Race/Ethnicity			
Asian	13	5	38.46%
Black	4,938	1,917	38.82%
Hispanic or Latinx	131	30	22.90%
Native American or Alaskan Native	26	11	42.31%
Native Hawaiian or Pacific Islander	5	1	20.00%
Other race	52	11	21.15%
Unknown	397	77	19.40%
White	1,931	730	37.80%
Age (at release)			
Emerging Adult	1,432	703	49.09%
26-35	2,572	1062	41.29%
35-45	1,658	510	30.76%
45-55	1,305	387	29.66%
55-65	445	109	24.49%
65-75	68	9	13.24%
Over 75	13	2	15.38%
Local Sentenced Population			
>18 Month Sentence	5,669	2,160	38.10%
<18 Month Sentence	1,823	622	34.12%
Release Reason			
Continued on Parole	619	297	47.98%
Continued On Mandatory Supervision	623	276	44.30%
Mandatory Supervision	2,560	963	37.62%
Expiration	1,906	692	36.31%

Court Order	469	153	32.62%
Parole	1,315	401	30.49%

2017 Cohort Characteristics	Release Cohort	Recidivism Group	3-year Recidivism
Total	7,829	2,908	37.14%
Gender			
Female	654	191	29.20%
Male	7,175	2,717	37.87%
Race/Ethnicity			
Asian	22	8	*36.36%*
Black	5,062	1,959	38.70%
Hispanic or Latino	157	35	22.29%
Native American or Alaskan Native	28	8	*28.57%*
Native Hawaiian or Pacific Islander	1	1	*100.00%*
Other race	39	12	*30.77%*
Unknown	308	66	21.42%
White	2,212	819	37.03%
Age (at release)			
Emerging Adult	1,374	649	47.23%
26-35	2,796	1,150	41.13%
35-45	1,785	605	33.89%
45-55	1,314	387	29.45%
55-65	475	109	22.95%
65-75	76	8	*10.53%*
Over 75	9		
Local Sentenced Population			
>18 Month Sentence	6,191	2,295	37.07%
<18 Month Sentence	1,638	613	37.42%
Release Reason			
Continued-Mandatory Supervision	719	321	44.65%

Continued on Parole	653	300	45.94%
Court Order	576	177	30.73%
Expiration	1,946	727	37.36%
Mandatory Supervision	2,430	876	36.05%
Parole	1,498	506	33.80%

2018 Cohort Characteristics	Release Cohort	Recidivism Group	3-year Recidivism
Total	7,483	2,735	36.55%
Gender			
Female	601	183	30.45%
Male	6,880	2,551	37.08%
Race/Ethnicity			
Asian	23	4	*17.39%*
Black	4,920	1,892	38.46%
Hispanic or Latinx	165	27	16.36%
Native American or Alaskan Native	32	11	*34.38%*
Native Hawaiian or Pacific Islander	1		
Other race	41	9	*21.95%*
Unknown	200	32	16.00%
White	2,103	760	36.14%
Age (at release)			
Emerging Adult	1,219	560	45.94%
26-35	2,805	1,116	39.79%
35-45	1,717	550	32.03%
45-55	1,223	380	31.07%
55-65	443	116	26.19%
65-75	73	13	*17.81%*
Over 75	3		
Local Sentenced Population			

>18 Month Sentence	5,885	2,198	37.35%
<18 Month Sentence	1,598	537	33.60%
Release Reason			
Continued On Mandatory Supervision	606	291	48.02%
Continued on Parole	636	303	47.64%
Mandatory Supervision	2,438	982	40.28%
Expiration	1,779	571	32.10%
Parole	1,456	455	31.25%
Court Order	530	122	23.02%

2019 Cohort Characteristics	Release Cohort	Recidivism Group	2-year Recidivism
Total	6,764	1,558	23.03%
Gender			
Female	601	101	16.81%
Male	6,159	1,456	23.64%
Race/Ethnicity			
Asian	18	2	*11.11%*
Black	4,555	1,076	23.62%
Hispanic or Latinx	148	16	10.81%
Native American or Alaskan Native	30	7	*23.33%*
Native Hawaiian or Pacific Islander	1	0	
Other race	28	5	*17.86%*
Unknown	160	10	6.25%
White	1,824	442	24.23%
Age (at release)			
Emerging Adult	1,050	342	32.57%
26-35	2,465	605	24.54%
35-45	1,615	305	18.89%
45-55	1,095	208	19.00%

55-65	460	89	19.35%
65-75	74	9	12.16%
Over 75	5	0	
Local Sentenced Population			
>18 Month Sentence	5,114	1,202	23.50%
<18 Month Sentence	1,650	356	21.58%
Release Reason			
Continued On Mandatory Supervision	586	204	34.81%
Continued On Parole	578	197	34.08%
Court Order	518	92	17.76%
Expiration	1,551	347	22.37%
Mandatory Supervision	2,310	537	23.25%
Parole	1,210	180	14.88%