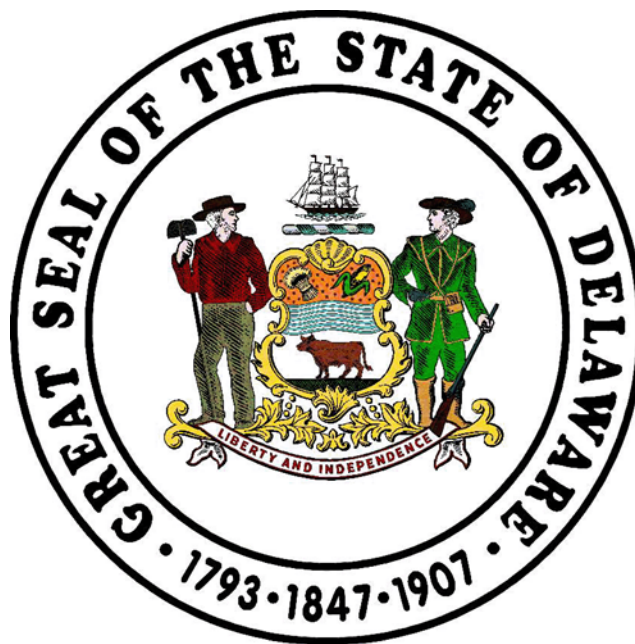


# **DELAWARE RECIDIVISM STUDY**

## **Technical and Methodological Considerations Brief**



**December 2024**

**Prepared by the**

**Statistical Analysis Center**

**Delaware Criminal Justice Council**

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## Introduction

This document is intended to support the Delaware Recidivism Report, the official report on recidivism among offenders released from Delaware prison terms. This supplement is designed to capture in detail: (a) significant methodological changes and (b) critical technical considerations associated with the Delaware Statistical Analysis Center's (SAC) work on its ongoing study of recidivism among released prisoners. All installments of the Delaware Recidivism Study are available on the Center's website: <https://sac.delaware.gov/recidivism/>

This brief is organized as follows:

*Delaware Department of Correction (DOC) Overview* provides a more detailed picture of the structure of DOC, focusing on the facilities and probation supervision levels that prisoners will likely encounter from their time of entry into DOC custody until they are eventually released from that custody, and an overview of the paths from DOC admission through release.

*Key Methodological Changes* captures important methodological changes that: impact the calculation of recidivism rates; alter the characteristics of the study cohort selected; and materially change the amount of information available or studied regarding cohort characteristics and/or recidivism outcomes. This section explains any methodological changes that could potentially result in higher or lower recidivism rates than expected based on prior cohorts.

*Key Technical Considerations*: includes more detailed discussion of the most important technical considerations and limitations related to the ongoing study, supplementing the brief discussions in the Limitations and Considerations sections in each final data report.

## Delaware Department of Correction (DOC) Overview

Delaware has a unified correctional system, operated by the Delaware Department of Correction, with all correctional facilities and services falling under the jurisdiction of the state. This unified system integrates prison and jail systems. Within the unified system, Delaware maintains a five-level system of supervision for offenders: Level V (24-Hour Incarceration); Level IV (Quasi-Incarceration); Level III (Intensive Probation Supervision); Level II (Standard Probation); and Level I (Administrative Probation).

### Level V Facilities

DOC operates four Level V facilities. There are three male facilities, and one female facility that house both detained by court order and sentenced inmates.

**Delores J. Baylor Women's Correctional Institution (BWCI):** located in New Castle, houses both pre-trial and sentenced adult females at minimum, medium, and maximum security.

**Howard R. Young Correctional Institution (HRYCI):** located in Wilmington, houses adult males. HRYCI processes about 60% of all Delaware Correctional system admissions and houses the majority of the male detainee population.

**James T. Vaughn Correctional Center (JTVCC):** located in Smyrna, can house up to 2,600 minimum, medium, and maximum-security male inmates. The facility also houses a small detainee population.

**Sussex Correctional Institution (SCI):** located in Georgetown, can house a maximum of 1,206 minimum, medium, and maximum security male inmates.

### Level IV Facilities

DOC currently operates five facilities which house adult offenders serving court-ordered sentences at Level IV, Level V offenders classified by DOC to a lesser security environment, and offenders who have violated their conditions of probation. DOC has also closed or repurposed other facilities during the long course of the recidivism study; closed facilities are noted in italics.

***Central Violation of Probation Center (CVOP):*** which closed in December 2019, was a 300-bed facility located near Smyrna that served male offenders who violated the technical terms of their community probation. Upon closure, its responsibilities were transferred to Morris Community Corrections Center.

**Community Corrections Treatment Center (CTCC):** located in Smyrna, opened in December 2020 at the site of the former Central Violation of Probation Center. A statewide facility for up to 250 male offenders, CCTC houses the Road to Recovery (R2R) substance abuse treatment program.

**Hazel D. Plant Women's Treatment Facility (HDPWTF):** located in New Castle, is a statewide facility for female offenders that houses the Road to Recovery (R2R) substance abuse treatment program and work release program.

***Morris Community Corrections Center (MCCC):*** which closed in December 2020, was a 150-bed facility located in Dover that housed substance abuse treatment (Crest program) and work release offenders. Upon its closure, its responsibilities shifted to the CTCC.

**Plummer Community Corrections Center (PCCC):** located in Wilmington, is a multi-functional facility that serves male offenders in work release and substance abuse treatment programs.

**Sussex Community Corrections Center (SCCC):** located in Georgetown, houses two other centers in addition to providing substance abuse treatment:

**Sussex Work Release Center (SWRC):** is a transition program for offenders preparing for full-time transition to the community.

**Sussex Violation of Probation (SVOP):** serves up to 250 male and female offenders (separately) who have violated the technical terms of their community probation.

#### Level IV Home Confinement

DOC also provides Home Confinement at Level IV. This is the most restrictive level of community supervision but is categorized separately because of its defining characteristics: an offender must have an approved residence to enter this supervision option, and typically have significant reasons to leave that residence. Also, monitoring of one or more types (e.g., home visits, electronic monitoring) is required to ensure compliance with restrictions. While awaiting approval for a placement, an offender may continue to be held at a Level V or Level IV facility.

#### Community Probation

DOC provides Community Probation, offering offenders the greatest level of freedom within the community. Levels are differentiated by the conditions imposed on their probation, the frequency of required contact with Probation and Parole, and the extent of community-based services required.

*Level III (High Risk/Needs):* Frequent contact with the assigned Probation & Parole Officer (generally one office visit per week, but homeless probationers may require more frequent visits). Probationers often require curfew restrictions and if necessary, electronic monitoring. For offenders who require electronic monitoring, they may continue to be held at a Level IV facility until a slot is available in DOC's Level III electronic monitoring program.

*Level II (Moderate Risk/Needs):* Report less frequent (one office visit per month is typical), and conditions imposed and services required may be less than at Level III or at a less intensive level/frequency.

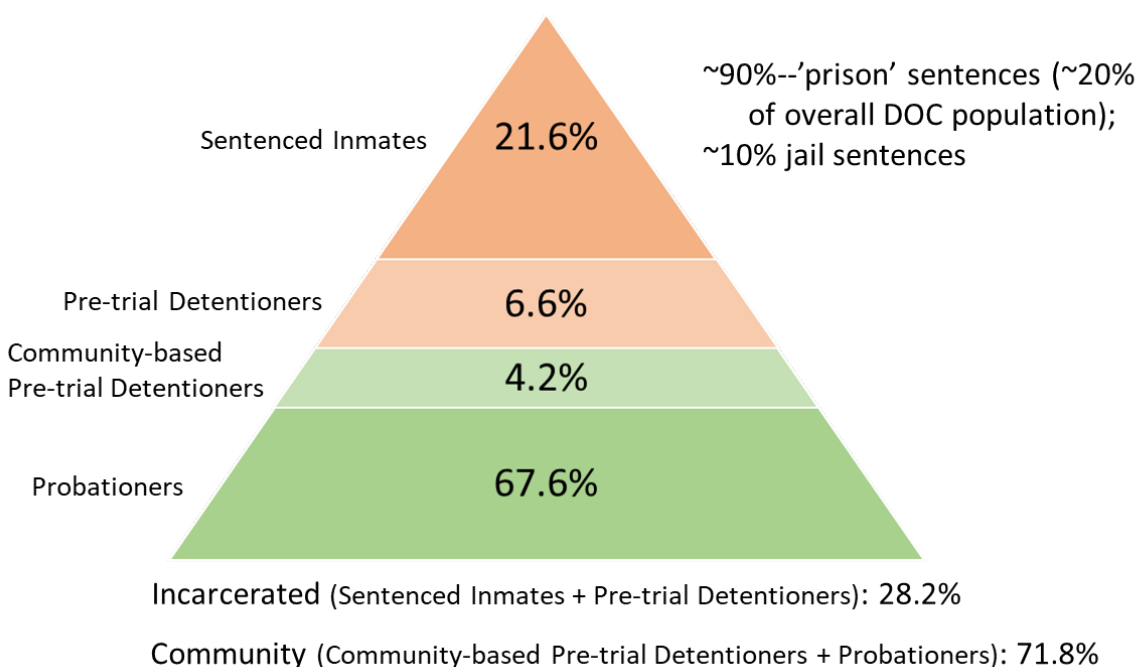
*Level I (Low Risk/Needs):* is the least restrictive supervision level; reporting may be infrequent/more variable, and there are fewer conditions and requirements imposed. When Level I probation is imposed to monitor payment of fines or restitution, payment toward those fees may be the only probation requirement.

## DOC Population Breakdown

The total number of offenders served by DOC varies daily, based on the number of admissions and releases from the agency on a given day. Likewise, the populations at each level also will vary daily based on both agency admissions and releases and on flows (i.e., releases and admissions) between the five levels.

The following graphic, based on a daily snapshot of the DOC population from December 2024 provides a general sense of the distribution of offenders within DOC. Offenders who are the subject of recidivism study—inmates serving prison sentences—represent only around one-fifth of the entire DOC population.

Figure 1: DOC Population Breakdown (December 2024)



## An Offenders Journey Through the Adult Correctional System

In the optimal scenario, an inmate at a Level V facility would:

- Progress steadily from higher through lower levels of security at the Level V facility;
- then be released to a Level IV facility where they continue and complete all programming and/or treatment, then steadily progress to work release in anticipation of full transition to the community;
- then be released to Level III probation, and progressively flow down to lower levels of probation as they complete remaining programming and treatment and become fully re-established in the community;
- then, due to excellent progress, be released from probation well before their probation sentence is due to expire.

However, given that rehabilitation is challenging, and progress is not usually linear, the reality is quite different. While in a Level V facility, an offender's behavior and treatment needs may necessitate a change in facilities, a return to a higher level of security, and/or a change in programming and treatment provided. In rare cases, an offender may even be released directly to the community, without further supervision, upon completion of their Level V sentence.

While in a Level IV facility, the pathways can be more varied and convoluted. Absent behavior problems, an offender may move from one program or facility to another as they progress steadily through treatment and programming. However, a change in treatment or programming needs may necessitate a transfer or return to a more intensive program/treatment or at a facility that is more restrictive, including to a Level V facility if such a placement is in the best interests of the offender.

Behavioral problems or setbacks in treatment progress introduce an added level of complexity. If an offender refuses a treatment program or incurs a program violation while in a Level IV facility, he/she may be moved to a higher level of security within that facility, be transferred to another facility like SVOP for a period of time, and/or be returned to a Level V facility for a period of time (and not necessarily in that order). While at Level IV Home Confinement, an offender could be returned to a Level IV or Level V facility for a similar set of reasons.

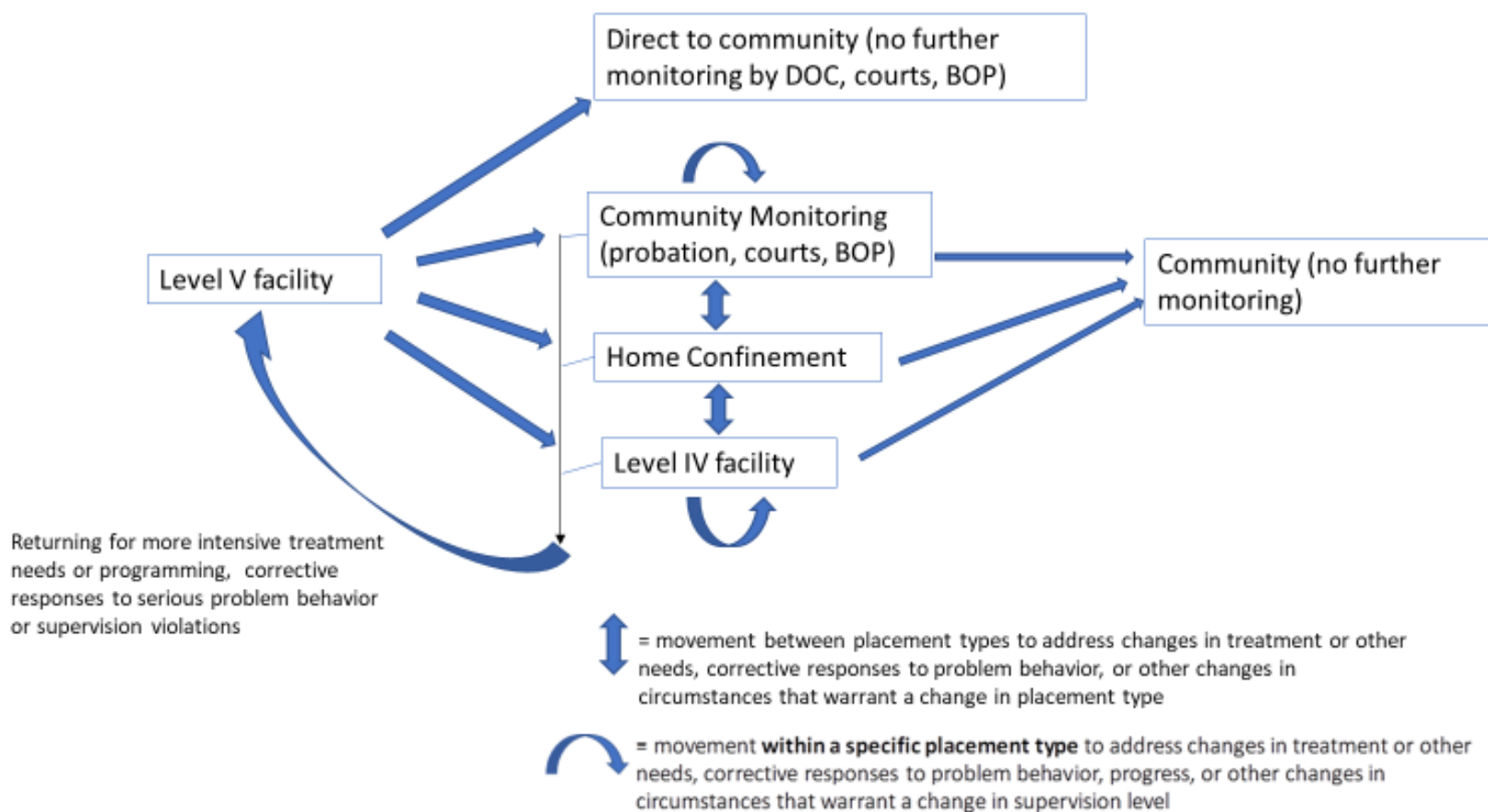
For offenders on community probation, treatment and/or behavioral needs could necessitate a return to a higher level of community probation, placement in Level IV Home Confinement, or a return to a Level IV or Level V facility.

The journey will also be different for male versus female offenders with similar profiles of needs and behavioral issues, given the specific female vs male facility options described earlier.

As a result, the number of potential pathways an offender may travel from the day of admission to a Level V facility until the day they are finally released from DOC supervision are quite numerous and difficult to capture in a single graphical representation.



Figure 2: Flow Chart of Potential Pathways Through the Adult Correctional System



## Key Methodological Changes

Aside from changes related to Level IV sentences (described in detail further below), there have been few methodological changes since the 2008 and 2009 cohorts were examined. These changes include:

- **Gaining access to Probation and Parole records from Delaware Department of Correction** which has allowed the Center to more thoroughly identify subjects who should be removed from the study due to events such as death, deportation, or criminal activity/incarceration in other jurisdictions, and, in many cases, to resolve conflicts between other data sources or address gaps in these sources.
- **Return to prison was introduced, at the Center's discretion, as a measure** beginning with the 2013-2015 cohort study. This measure was included to allow for more direct comparisons with other states who use return to a prison sentence as a primary measure of recidivism. Previously, some states were inappropriately using Delaware recommitment measure, which includes both prison and jail sentences, along with detentions. Unlike Delaware's other recidivism measures, return to prison is not adjusted for cohort attrition to be consistent with practices in other states regarding this measure.
- **Violations of Probation and Parole were added as an area of inquiry** beginning with the 2013-2015 cohort study, in support of an increasing interest in the correctional community in understanding probationers' experiences during re-entry.
- **Reconviction was eliminated as a required measure** by the Delaware Legislature in 2021 (Senate Bill 98 of the 151<sup>st</sup> General Assembly), affecting study cohorts from 2016-2018 onward. This measure added little to the understanding of recidivism and was the most resource-intensive of the three measures to examine.
- **The approaches to determining the at-risk release and the classification of program violations while at a Level IV facility were both changed** for the 2019 cohort to reflect the Department of Correction's emphasis on Level IV as a continuation of programming following the transition from a Level V facility. These changes are discussed immediately below.

## Examination of Issues and Data Related to Level IV Decisions: 2019 Cohort

### Overview

For the 2019 cohort, the Center began a transition in how it handles: 1) Level IV sentences to a Level IV facility that are contiguous to a Level V release; and 2) violations of probation at a Level IV facility that result only from program violations, not new criminal charges.

These changes were made to better reflect DOC's intention regarding Level IV sentences at Level IV facilities: that such sentences are an extension of treatment and/or programming at level V, and, as a result, carry a somewhat different set of expectations regarding offender progress and setbacks than for offenders on probation in the community.

Summary of changes discussed in the Methodology section of the report:

- At-risk releases (with some exceptions) now include release from either Violation of Probation Center (Central and Sussex were both operational in 2019) at Level IV to either a lower level at that facility or to another Level IV facility at Level IV or lower.
- Violations of probation (VOPs) at a Level IV facility that result only from program violations are no longer considered recidivating events for any measure. However, such VOPs that result in new criminal charges remain recidivating events.
- VOPs at Level IV facilities resulting from program violations reset the process for determining the at-risk date when an offender is returned to a higher level of custody, whether through an administrative decision or through adjudication of the VOP; the most recent qualifying release event (defined earlier) then determines the at-risk date.

For the 2020 cohort year, the Center set the at-risk date to the last release from a Level IV sentence at a Level IV facility when such sentences follow an offenders Level V sentence.

### Descriptive Data for the 2019 Cohort

Overall, 438 individuals (45.4% of the cohort) transitioned to any Level IV sentence following the release from their Level V sentences (Table 1). There was little difference between those who were classified as recidivists by rearrest and those who were not with respect to the transition to any Level IV sentence.

*Table 1: No Level IV Transition vs. Level IV Transition, 2019 Cohort*

	No Level IV Transition		Level IV Transition	
	Number	Percent	Number	Percent
Overall Cohort	526	54.6%	438	45.4%
Recidivists by Rearrest	343	55.3%	278	44.7%
Non-Recidivists (Rearrest)	183	53.3%	160	46.7%

Table 2 below displays the rough amount of contiguous Level IV time individuals accrued following their release from the institution where they completed their Level V sentence. Level IV time was not calculated for 16 individuals (almost 4% of the total with Level IV time) who received new criminal charges as a result of a VOP at Level IV facility, since the new charges functionally ‘disrupted’ the sentence being served at the time of the new arrest.

*Table 2: Distribution of Level IV Time Following Post-Level V Release, 2019 Cohort*

	<b>Overall</b>		<b>3 Year Recidivists by Rearrest</b>		<b>Non-Recidivists by Rearrest</b>	
<b>Amount of Level IV Time</b>	<b>N</b>	<b>Percent</b>	<b>N</b>	<b>Percent</b>	<b>N</b>	<b>Percent</b>
<1 month	59	14.0%	36	13.7%	23	14.5%
1 to 2 months	42	10.0%	26	9.9%	16	10.1%
>2 to 3 months	29	6.9%	18	6.8%	11	6.9%
>3 to 4 months	43	10.2%	21	8.0%	22	13.8%
>4 to 6 months	183	43.4%	121	46.0%	62	39.0%
>6 to 9 months	49	11.6%	30	11.4%	19	11.9%
>9 to 12 months	9	2.1%	6	2.3%	3	1.9%
>12 months	8	1.9%	5	1.9%	3	1.9%
<b>Net Total (new-charge group excluded)</b>	<b>422</b>		<b>263</b>		<b>159</b>	
<b>Program violation led to new charges</b>	<b>16</b>	<b>3.7%</b>				

Of the remaining 422 individuals (the net total), 84.5% served up to six months of Level IV time (or a combination of Level IV time, detention, and Level V time resulting from a program violation). Just over half of this group (43% of the net total) served four to six months. The second largest subgroup comprised those who served less than a month (15% of the 422); many individuals in this group were at a Level IV facility while awaiting a Level IV Home Confinement sentence placement.

Four-percent of the net total spent more than nine months serving a Level IV sentence (or the combined equivalent mentioned earlier). This group almost equally split between those who served 9 to 12 months and those who served more than 12 months and was largely composed of those whose at-risk release determination was reset by one or more program violations at a Level IV facility that resulted in a VOP.

When comparing those rearrested by the end of three years to those who were not, there was little difference in the Level IV time distributions.

Regarding violations of probation at Level IV facilities, there are differences between recidivists by rearrest and non-recidivists (Table 3). While the proportions of recidivists with and without Level IV time generally mirror the recidivism by rearrest rate of 67.2%, recidivists are over-represented in the group of 66 offenders with a Level IV VOP of any type (78.8%). Recidivists also had a Level IV facility VOP at twice the rate of non-recidivists.

Table 3: Further Look at Level IV Cohort Members

	Level IV Time		Had Level IV VOP		
	Number	Percent	Number	Percent of VOPs	Percent of RA Group
were RA recidivists	278	63.5%	52	78.8%	18.7%
were RA non-recidivists	160	36.5%	14	21.2%	8.8%

### Impact/Implications of the Changes

- Based on 2019 data, if the Level IV release criteria is broadly applied, a substantial portion of each cohort would be determined to be first at-risk from a few weeks to six months later than under the current criteria, with a very small percentage likely to see a delay of more than nine months. Given the Center must set cut-off dates for both data collection and data analysis in order to meet its year-end publication deadline, there is a risk that larger portions of future cohorts may not reach the end of their three-year at-risk window before those activities are terminated. However, analysis of the 2019 cohort suggests that ending these activities as late as possible (mid-October for this cohort) would likely result in very few individuals affected by the change, with those with Level IV time greater than nine months having the highest chance of a shortened at-risk window.
- Rearrest and recommitment rates will likely be lower than previous years to at least some extent. While most 2019 cohort members who incurred a violation of probation at a Level IV facility later became recidivists (79%), a portion did not, resulting in an overall rearrest rate that is 1.5 percentage points lower than if the previous methodology had been applied. While not measured in this analysis, the recommitment measure would likely also see a decrease, though to a lesser extent since not all Level IV facility VOPs resulted in a recommitment event.
- While the Level IV-related changes have an impact starting with the 2020 cohort, Level IV sentence time and VOPs while at a Level IV facility will not be excluded from the Center's analyses. Instead, the intention is to develop a section of the report that will address these topics.

## Key Technical Considerations

**Be cautious when interpreting Delaware’s recidivism data and in making comparisons to data from other states.** The Center measures very specific and limited outcomes in the recidivism study: the first rearrest for a qualifying offense; the first recommitment (with certain, limited exceptions), and the first return to a prison term. The first measure, however, is limited in ways that cannot be empirically measured within the confines of this study; at best, rearrest is a measure of the extent to which a return to criminal behavior was first detected by police or probation and parole officers. Out-of-state criminal behavior cannot be reliably detected, and administrative records are inherently limited as a measure of criminal behavior, especially when compared to direct observation of behavior or intrusive monitoring measures used by correctional and probation systems (e.g., GPS monitoring).

Comparisons with other states can be problematic unless it’s clear how a comparison state is defining and measuring recidivism and the most appropriate Delaware measure is used for the comparison.

Virginia, for example, touts its recidivism rate as being one of the lowest in the nation, with Delaware’s being one of the highest. However, when examining what, specifically, Virginia is measuring and the Delaware measure being used for comparison, it’s readily evident that apples are being compared to oranges, instead of apples being compared to apples. For Virginia, state responsible incarceration is for a felony sentence of more than 12 months (see Table 4). The Delaware measure Virginia cites is recommitment, which includes any return to secure custody whether detention, a jail sentence, or prison term. The inappropriate comparison results in an inflated and inaccurate difference between these two states. The Delaware measure most appropriate for the Virginia comparison is return to prison (a Level V term of more than a year)—were that measure used, Delaware’s rate would be approximately half of Virginia’s rate.

*Table 4: Virginia’s definition of State Responsible*

Offense Date	Offense Type	Sentence Length	Expressed In	State Responsible
Before 1/1/1995	At Least 1 Felony	> 2 Years	Years	YES
Before 1/1/1995	At Least 1 Felony	> 24 Months	Months or Days	YES
Before 1/1/1995	No Felonies	ANY	ANY	NO
Between 1/1/1995 - 6/30/1997	At Least 1 Felony	> 6 Months	Years, Months or Days	YES
Between 1/1/1995 - 6/30/1997	No Felonies	ANY	ANY	NO
Between 7/1/1997 - 8/31/1998	At Least 1 Felony	>= 1 Year	Years	YES
Between 7/1/1997 - 8/31/1998	At Least 1 Felony	>= 12 Months	Months or Days	YES
Between 7/1/1997 - 8/31/1998	No Felonies	ANY	ANY	NO
9/1/1998 – Present	At Least 1 Felony	>= 1 Year	Years	YES
9/1/1998 – Present	At Least 1 Felony	> 12 Months	Months or Days	YES
9/1/1998 – Present	ANY	= 12 Months	Months or Days	NO
9/1/1998 – Present	No Felonies	ANY	ANY	NO

**The demands of data collection limit the Center’s ability to examine recidivism among the broader DOC population.** Unfortunately, the process of determining both whether an individual offender meets the criteria for inclusion in the cohort and whether they have recidivated (or should be excluded due to out of state activity) requires the manual review of management information system records. Depending on the specific offender, this process can be quite time-intensive (lead offense, at-risk date, length of stay, and recommitment information are examples of variables requiring extensive manual review). As a result, the methodology specific to this study is not scalable to the larger DOC population without the allocation of additional resources. Understanding recidivism among other groups of offenders, however, does remain an important area worthy of exploration.

**Cohort sizes limit the valid examination of subgroup patterns.** On average, a typical study cohort is composed of around 1,000 offenders, 90% who are male, and roughly split between offenders who identify as Black and those who identify as White (data quality issues limit the ability to accurately identify ethnicity). While the cohort can be further divided into several additional subgroups for further examination (e.g., prison release offense, age group, length of prison stay, or combinations of these groups), inevitably, a number of subgroups with a small number of individuals are created. While these subgroups validly *describe* a given cohort, *the small number of individuals within them preclude their use in making statistically valid generalizations or inferences to released prisoners in general.* While the Center has not yet explored aggregating cohorts for further statistical analysis due to resource demands associated with completing each cohort study, depending on the research question, an examination of cohort characteristics not routinely collected (e.g., treatment and programming available and received while incarcerated) may first need to be conducted to determine the appropriateness of further explorations.

**The Center’s recidivism study provides one limited view of a complex problem.** While recidivism and desistance are ‘yes/no’ events, those measures do not reflect the complex nature of the rehabilitative process. By its nature, rehabilitation is not expected to result in a smooth straight path for incarcerated offenders. Most offenders are incarcerated only after less restrictive interventions for prior incidents of criminal behavior have not succeeded in deterring additional criminal behavior. Mental health and/or substance abuse issues, persistent patterns of criminal thinking, deficits in skills needed for thriving in the community as a productive citizen, among myriad other factors all affect the expected trajectory of the rehabilitation process. For some offenders, the path to desistance may be one with few diversions, not problematic or criminal behavior. For other offenders, however, significant progress may equate to fewer or less serious incidents of criminal or other problematic behavior with full desistance, an aspirational goal that may never be achieved. Also needed is systematic examination of treatment and programming for prisoners (program quality, sufficient dosage and frequency, participant motivation and commitment) provided within the correctional system, and an examination of extent, quality, or availability of the myriad resources needed to support the successful re-entry into the community.

The Center is inherently limited in its ability to examine the complex nature of the topic by both its resource capacity and mission, the type of data available, the type of multi-methodological approaches and expertise needed to study and understand that complexity. As a result, a deeper understanding of recidivism, desistance, and rehabilitation progress among Delaware’s released prisoners needs the involvement of multiple public and private agencies and organizations with the appropriate expertise and resources for examining other aspects of these issues.