

# RE-ENTRY AND RECIDIVISM

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## Key Points:

- Eighteen percent of those released returned to prison within six months.
- Arizona's three-year recidivism rate of 39 percent is lower than the national average of 50 percent.
- Those returning to society after prison often lack the resources to establish themselves in the outside world.
- Access to transportation, employment and health care may help reduce recidivism.



Nearly everyone sent to prison will one day return to the community. This means that understanding recidivism is of critical importance to members of that community. At the most basic level, recidivism can be defined as “the reversion of an individual to criminal behavior after he or she has been convicted of a prior offense, sentenced, and (presumably) corrected”.<sup>1</sup> Recidivism therefore requires that some sort of involvement with the criminal justice system has taken place, and that then the individual again comes into contact with the system after additional transgressions. Recidivism, in other words, is officially detected, repeat unlawful behavior.

Multiple measures of this behavior exist, including re-arrest, reconviction, and reimprisonment. Recidivism can include technical violations – acts that are otherwise not viewed as criminal, such as entering an establishment that serves alcohol – that can constitute breaches of contract for individuals on probation or parole release. Other factors can also drive the frequency of recidivism. More intensive supervision of released individuals could mean more opportunities for violations and the detection of violation. A longer time spent within the community could also mean more opportunities to recidivate. (It is often said that at least three years since release provides a good understanding of recidivism).

Recidivism is complicated, featuring different definitions, the combination of unlawful behavior with technical violations, varying levels of supervision and different follow-up periods. Recidivism becomes “a complex measure of criminal behavior combined with formal and informal policy and procedure mechanisms.”<sup>2</sup>

These complexities of recidivism are not trivial. For example, in a national study of over 400,000 formerly incarcerated individuals released across multiple states in 2005, it was determined that 18 percent of those released had returned to prison within 6 months. In the same study, it was determined that 77

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<sup>1</sup> Maltz, 1984: 1

<sup>2</sup> Wilson, 2005: 494

percent of those released had been rearrested within 5 years.<sup>3</sup> Both numbers are correct and both are valid indicators. But it is critically important to know exactly what is being measured (and what is not) to fully comprehend recidivism.<sup>4</sup>

What is the extent of recidivism in the United States? The national study cited above by the U.S. Bureau of Justice Statistics (BJS) documented 404,638 formerly incarcerated individuals from 30 states for a period of five years, from 2005-2010. Within that five years, over three-quarters (77 percent) of the released individuals had been rearrested and over half (55 percent) had a parole or probation violation or a new offense that resulted in reimprisonment.<sup>5</sup>

The United States Sentencing Commission (2016) produced a report on 25,431 incarcerated individuals released from the federal prison system in 2005 with a follow-up period of eight years. Nearly half were rearrested, nearly one-third were re-convicted, and nearly one-quarter were re-imprisoned during that period.

A critical difference between this study and the BJS study is that the former also included individuals who were previously sentenced to only probation. These individuals had a re-arrest rate of 35 percent, while individuals sentenced to prison had a re-arrest rate of 53 percent. Further data are contained in a 2011 Pew Center on the States report entitled "State of Recidivism: The Revolving Door of America's Prisons." This provided aggregate recidivism rates between 2004 and 2007 for 33 states. The overall three-year recidivism rate, measured as return-to-prison, was 43 percent. This rate masked wide variation among states, with six states reporting recidivism rates above 50 percent (led by Minnesota's 61 percent) and five states reporting recidivism rates under 30 percent (led by Oregon's 23 percent).

Criminologists have long focused on identifying and targeting risk factors that might increase an individual's likelihood of recidivism. These individual-level risks are classified into two categories: static and dynamic.<sup>6</sup>

*Static risk* factors are features of the person that cannot be changed, such as age, race or criminal record. Research has consistently found that younger individuals, males, minorities and those with a criminal history have a higher risk for recidivism.<sup>7</sup>

*Dynamic risk* factors, on the other hand, are characteristics that can be changed and therefore make appropriate targets for treatment. These include antisocial values, beliefs and behaviors, which sometimes are referred to as "criminogenic needs".<sup>8</sup> Consideration of static and dynamic risk factors can begin to suggest what programs are most appropriate for certain individuals in order to reduce recidivism. But to truly understand recidivism - and how to potentially reduce it - it must be learned why people recidivate.

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<sup>3</sup> Durose, Cooper, and Snyder, 2014

<sup>4</sup> See Wright and Khade, 2018 for more detailed discussion

<sup>5</sup> Durose et al., 2014

<sup>6</sup> Bonta and Andrews, 2017

<sup>7</sup> Benedict, Huff-Corzine, and Corzine 1998; Gainey, Payne, and O'Toole 2000; Gendreau, Little, and Goggin 1996; Hepburn and Albonetti, 1994; Listwan et al., 2003

<sup>8</sup> Andrews et al. 1990

## Why Do People Recidivate?

The reasons that people continue to engage in crime are as varied as the reasons people commit crimes in the first place. A criminology textbook may include everything from biological theories of crime to psychological theories to sociological theories; from individual theories of crime to neighborhood theories to nation-state theories; and from social bond theories to social disorganization theories to social learning, to social support theories. Then there are factors such as strain, labeling, poverty, genes, masculinity, self-control, inequality, personality - the list goes on. For the general public, the reason is usually simpler and perhaps a bit obvious: Criminals choose to engage in crime.

Most criminologists tend to be wary of any explanation that whittles criminal behavior down to a simple choice - a rational, cost/benefit analysis of whether to forge that check, inject that heroin, or beat up that former associate. Part of this reluctance is that rational-choice explanations of criminal behavior by themselves can lead to punitive policy prescriptions: All we need to do, this approach says, is make the costs of crime outweigh the benefits. Thus, increasing the likelihood of going to prison and for a longer time should dissuade most people from engaging in crime.

### Personal Insight

Ryan Nightenhelser has some firm opinions about the challenges facing inmates returning from Arizona prisons, and counts himself among the lucky ones.

"[Housing] support plays a major role in [a released inmate's] success," he said. "It's a huge thing if you have a friend or family member who will allow you to live with them for a while. Lucky for me, I did."

Nightenhelser noted that released inmates are given \$100 when they get out, "which pays for little more than your bus ticket." An ex-inmate who comes out with little or no money desperately needs housing. "At least if [released inmates] knew they had someplace to go when they first got out, they could focus on getting housing and a job."

Nightenhelser has both, and says he's determined to keep them. But the task is further complicated, he says, by the negative stereotypes of inmates held by the public. There certainly are people who deserve to be locked up, he says, but "what people don't know] is how small a percentage [of inmates] are violent or dangerous." Many, he says, are in on drug offenses . . . "People think prisons are full of hard, tough guys just waiting to come out and commit more crimes," Nightenhelser says. "First-hand, I can tell you this isn't true."

But this line of thinking shows the limited value of the "crime as a choice" explanation. First, people who engage in crime do not always have the same set of legal, prosocial options available to them from which to choose. They often come from disadvantaged backgrounds marked by abuse and victimization, drug and alcohol addictions, and family instability. They have fewer opportunities for quality education, gainful employment or positive recreational outlets. They find themselves surrounded by crime and incarceration. Engaging in criminal behavior may be the easiest, most comfortable or only choice available to them.

The counter argument is that many people grow up in difficult situations yet refrain from criminal behavior. This is true, but leads to a second shortcoming of the "crime as choice" explanation: people

who engage in crime do not always approach the decision-making process with a rational mindset. A number of different factors can impact rationality, including mental illness, past victimization, and drug and alcohol addiction. More importantly, however, what is perceived as rational may be different for people who engage in crime as compared to those who do not. It may sound like a cliché, and perhaps a bit of a copout, but there is some truth to the idea that “crime is all they know.” If you surround yourself with family and friends who engage in criminal behavior, then you are likely to develop attitudes that support that behavior and “thinking errors” that prohibit you from considering the impact of your actions on yourself and others, as well as the potential legal ramifications of those actions.

Considering these two shortcomings together helps explain why prison is not much of a deterrent to people who engage in criminal behavior, and especially those who engage in repeat criminal behavior. It does not matter how long the prison sentence is or how vile the prison conditions may be, offenders give little consideration to the punishment aspects of a criminal act. To some, incarceration is a natural part of life, and to others it may even represent a badge of honor or rite of passage. Broadly speaking, people recidivate because 1) they have limited opportunities to obtain and sustain quality education, gainful employment, stable housing, as well as supportive professional and personal networks and relationships and, 2) they are rewarded for antisocial thinking and behavior instead of prosocial thinking and behavior, which may be influenced by prior victimization, mental illness or substance abuse.

A more direct approach to answering why people recidivate is to simply pose the question to people who are currently incarcerated. The challenge in doing this is that it may be difficult to establish the necessary rapport with incarcerated individuals that would allow for truthful responses to questions that pry at the most difficult aspects of their lives. To counter that obstacle, in the summer of 2017, researchers from Arizona State University (ASU) worked with incarcerated men to develop and implement a study that could overcome this critical obstacle. ASU faculty, graduate students and incarcerated men are part of a think tank called The Arizona Transformation Project (ATP),<sup>9</sup> which evolved out of the first Inside-Out Prison Exchange Program in Arizona in spring 2016.

The ATP developed interview questions in collaboration with the Governor’s Office Recidivism Reduction Project Team. Incarcerated members were trained in proper interviewing techniques and consent protocol, as required by ASU’s Institutional Review Board (IRB). The five incarcerated researchers completed 409 interviews in two months at the medium-security East Unit of the Arizona State Prison Complex at Florence. The report was shared with the Governor’s Office.<sup>10</sup> It is believed to be one of the first studies in the United States in which incarcerated men served as interviewers of other incarcerated men.

Early in the interview, the incarcerated men were asked: Why do you think most people come back to prison? Several themes emerged. The most prominent theme that emerged (44 percent of respondents) was that a lack of resources or programming contributed to recidivism. For example, one respondent said: *“Because they are not adequately prepared for reentry into society, because they have not made successful and dedicated transformation from their old lifestyle to one that would keep them out of prison.”*

A second theme was drug and alcohol use (27 percent of respondents), captured by the respondent who said: *“A lot of felons have serious drug addiction problems. ... When addicts get out, there aren’t any affordable quality treatment options.”*

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<sup>9</sup> See [www.aztransform.org](http://www.aztransform.org)

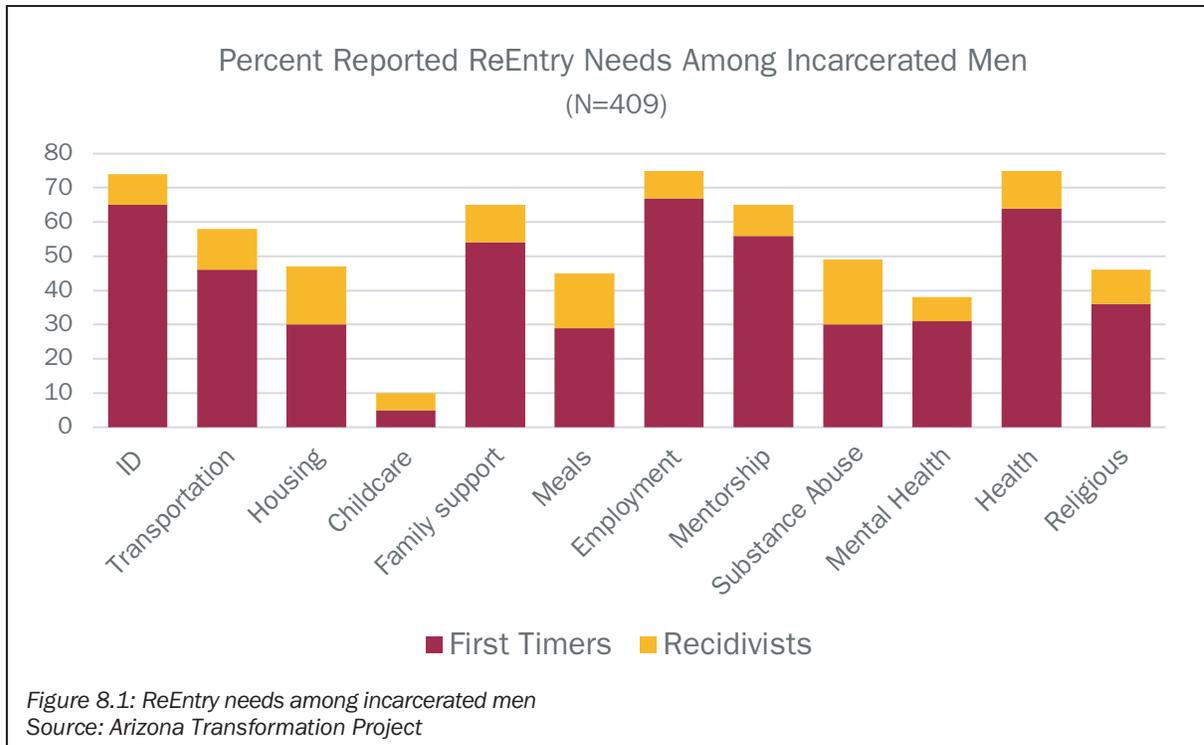
<sup>10</sup> Wright et al., 2017

The third most prominent theme among respondents was an inability to change thinking and behavior, or resorting to comfort. This was best captured by the respondent who said: *“Lack of education, skills, and a desire to succeed. They stay in here for a long time, get complacent and [there isn’t] any real type of job training to teach them how to be successful. So, they revert back to crime (what they know) because they’re unprepared for society. ... Prison isn’t much of a deterrent anymore when someone isn’t taught how to live.”*

Other themes that emerged included lack of a support system/mentor (16 percent), lack of education (15 percent), money issues (14 percent), stigma (14 percent), and peers, neighborhood or family environment (12 percent).

Of the 409 men interviewed, 62 percent had been to prison before (recidivists). The men who had recidivated were different in important ways from those who had not. They were older (42 years versus 39 years), had more kids (2.5 versus 1.5), more minor kids (1.4 versus 0.8), fewer months served in prison (77 versus 123), fewer years still to serve in prison (4.8 versus 7.4), and had been employed on the outside for a shorter period of time (52 months versus 72 months). They also were more likely to have less than a GED (21 percent versus 17 percent) and to have been unemployed at time of arrest (48 percent versus 35 percent).

Importantly, they were also more likely to believe that they had a substance abuse problem (52 percent versus 35 percent) and were more likely to not know where they would live upon release (31 percent versus 17 percent). But most telling are their responses to questions that were asked regarding their perceived needs upon release. Recidivists were statistically significantly more likely to report needing assistance with obtaining identification, transportation, housing, childcare, family and friend support, meals, employment, mentorship, substance abuse, healthcare and religious services (see Figure 8.1).



Despite having served much longer sentences, and with much longer sentences still to serve, first-timers perceive their reentry needs to be less than that of recidivists. There are many plausible explanations for these differences. Given their experience, recidivists' perceptions of needs may be more rooted in reality. Should this be the case, prison first timers may be woefully underprepared for the challenges that lie ahead. It is also plausible that recidivists have been particularly negatively impacted by the experience of churning in and out of prison: Bridges have been burned, stigmas have been added and failures have accumulated.

Still other reasons could include the nature of the crime and the circumstances that led to their incarceration (whereas first timers may be in for longer sentences for violence that is not tied to deficits, need or addiction), substance abuse and mental illness, or challenges associated with criminal justice supervision. Whatever the reasons, recidivists seem to differ from non-recidivists. One recidivist summed his experience this way: *"Having a negative thought pattern from prison. Frustration and lack of opportunities. Not having the tools to deal with frustration of denials and roadblocks. So, all the negative thinking from prison kicked back in. And I go back to old ways. I started with [a] positive mind-set and that quickly faded away, leading to substance abuse. Substance abuse changes people so quickly, so you must avoid those frustrations and barriers."*

### **Re-Entry and Recidivism in Arizona**

How is Arizona doing when it comes to reentry and recidivism? The challenges here are similar to the challenges elsewhere, and significant strides have been made in the last few years to reduce recidivism in the state. As of November 2017, approximately 42,000 people were incarcerated in state prisons in Arizona.<sup>11</sup> At yearend 2015, Arizona had the fifth-highest incarceration rate in the nation (781 per 100,000 adults), behind only Louisiana, Oklahoma, Mississippi and Alabama. Approximately 14,000 people were released from Arizona prisons in 2015.<sup>12</sup>

Arizona's three year return-to-prison rate is 39.1 percent. This figure puts the state below the national average for the BJS cohort study reported above, 49.7 percent within 3 years,<sup>13</sup> and below the figure for the Pew state study reported above 43.3 percent within 3 years.<sup>14</sup> Although comparisons across states should always be done with caution, Arizona is decidedly average when it comes to recidivism – the Pew study puts Arizona between states like Minnesota (61.2 percent) and California (57.8 percent) and states like Wyoming (24.8 percent) and Oregon (22.8 percent). Importantly, however, approximately half of all of the people currently incarcerated in Arizona have served a prior term in prison (21,157).<sup>15</sup>

The reduction of recidivism has been a primary goal for Governor Doug Ducey's administration as represented by the Recidivism Reduction Project Breakthrough Team.<sup>16</sup> This project has the Arizona Department of Corrections (ADC) as the lead agency and includes additional agencies such as the Department of Economic Security, the Department of Housing, and the Department of Health Services. ADC has made a number of changes over the last few years with recidivism reduction in mind, including modifying conditions of confinement to make prisons less restrictive, training correctional officers

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<sup>11</sup> Ryan, 2017

<sup>12</sup> Carson and Anderson, 2016

<sup>13</sup> Durose et al., 2014

<sup>14</sup> Pew Center on the States, 2011

<sup>15</sup> Ryan, 2017

<sup>16</sup> See <https://ams.az.gov/protecting-our-communities>

on motivational interviewing techniques, and supplying cognitive behavioral therapy for high-risk individuals.

ADC also has collaborated with some of the above agencies to introduce innovative approaches to recidivism reduction – most notably with the implementation of employment centers in three prisons. Prior to their release, eligible inmates can transfer to these units and receive assistance in employment searches from Department of Economic Security staff. Potential employers are invited to the centers for job fairs with the goal of having individuals released from prison with a job in hand.

Additional approaches to reducing recidivism include reentry centers to provide alternatives to re-incarceration, a partnership with Uber to provide transportation to released individuals, enrollment of incarcerated individuals within the Arizona Health Care Cost Containment System (AHCCCS), reentry coalitions designed to mobilize support for formerly incarcerated individuals within the community, and the development of new standards for halfway house quality. Each of these approaches will require evaluation to determine how well they reduce recidivism, but they are all steps in the right direction.

### **How to Reduce Recidivism**

Based on the above information, which is informed by scholars, currently incarcerated individuals, formerly incarcerated individuals, correctional administrators and staff, and other key stakeholders associated with recidivism reduction, the following elements could help to reduce recidivism.

#### **1. Replace the reward structure of incarcerated individuals**

Focus on rewarding good behavior rather than punishing bad behavior. Incentivize prosocial behavior on the inside that is expected on the outside: reward sobriety (e.g., clean UAs), and education, job, and programming performance (not only attendance or completion). Create bank accounts that allow people to save money toward their release and to visually see the savings.

#### **2. Create prosocial opportunities for formerly incarcerated individuals**

Time spent in legal activities means less time to spend in illegal activities. Work to increase education, employment, housing, and productive leisure opportunities. Do not just remove barriers (e.g., “Ban the Box”) – create pathways for formerly incarcerated individuals to be successful. Begin these processes while the individual is still incarcerated, and give special attention to the immediate transition period between prison and community re-entry.

#### **3. Distribute re-entry and recidivism efforts across multiple agencies and organizations**

Recidivism is not simply a problem for the Department of Corrections. Employment needs, health needs, mental health needs, substance abuse needs and housing needs all point to assistance required from other agencies and organizations.

#### **4. Recognize that people recidivate for a variety of reasons**

There never will be a magic-bullet program that works for everyone and reduces recidivism to a significant degree. Even the very best, gold standard cognitive behavioral therapy programs are difficult to scale up to reach a large population. Recidivism-reduction efforts should be multifaceted and address the many factors related to criminal behavior.

## **5. Start re-entry on the first day of incarceration**

Re-entry programming often begins just a few months before re-entry and has to overcome the effects of years of incarceration. Instead, re-entry preparation should begin early, with individualized case plans from counselors and in-prison mentoring from those who have gone through the system.

## **6. Foster ties to the outside world within prison**

Nearly all prisoners are returning to society. Re-entry into society is a shock, and the unfamiliarity of interacting with people and institutions can promote recidivism. Opportunities for keeping prisoners connected to society, while still retaining the incapacitation effects of incarceration, include the Inside-Out Prison Exchange Program, parenting programs that allow family members into the institution so that skills can be practiced, work release, visitation with a focus on family reunification, mentorship programs, and job training.

## **7. Acknowledge victimization among people who are incarcerated**

The well-documented “victim/offender overlap” in criminology means that a significant portion of people who are incarcerated are also victims. They also often were children of incarcerated parents themselves. Women in prison in particular often have significant histories of abuse and victimization. Addressing these harms and traumas is critical toward successful re-entry.

## **8. Develop alternatives to re-incarceration**

Prison should be reserved for violent individuals who are a continued danger to themselves or society. Prison is more costly than community alternatives. It costs approximately \$24,300 to incarcerate one person per year in Arizona – \$66 a day. It costs approximately \$3,400 to supervise one person per year in the community in Arizona, or \$9 a day. Incarcerating older people is even more costly and their likelihood of reoffending declines significantly with age. Good quality transitional housing and reentry centers or increased supervision conditions may be better responses to recidivism.

## **9. Empower and reward correctional staff**

Correctional staff are often underpaid and overworked and, quite simply, undervalued. They are often expected to act as change agents to alter antisocial thinking and behaviors while simultaneously ensuring safety and security. Staff should be trained and provided the best resources available to accomplish these goals, and they should be incentivized to do their job well.

## **10. Anticipate setbacks**

Resist the urge to hold up individual examples as failures of the larger program or approach. High-profile negative instances can result in an otherwise successful program or policy being discarded.

The above list is certainly not exhaustive, and it generally avoids recommendations that would require significant legislative changes. It also does not explicitly address the especially pronounced impact of incarceration on the future prospects of youth, women, and racial and ethnic minorities. Arizona is making significant advancements in several of these areas, but it will take continued and additional support from community members to achieve sustained progress.

Nearly everyone in prison is coming back. It is time to acknowledge this fact and to give appropriate attention and resources to recidivism reduction in order to achieve public safety at a lower social and economic cost.

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