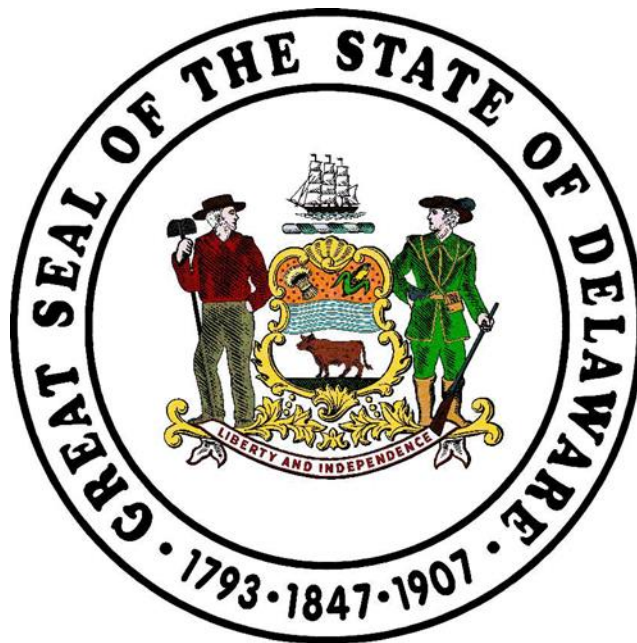


# **RECIDIVISM IN DELAWARE**

An Analysis of Offenders Released in 2018 through 2020



**December 2024**

**Prepared by the**

**Statistical Analysis Center**

**Delaware Criminal Justice Council**

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## Executive Summary

*Recidivism in Delaware* is released annually per the requirements set forth by Delaware Title 11 § 8903. This report explores both required recidivism measures for 2020 prison releases in the aforementioned statute, as well as the return to prison measure. Also provided is a detailed methodology on how these categories are measured. As in previous reports, only Delaware recidivism events are utilized to calculate these rates.

Since the inception of the report, three-year cumulative recidivism rates have generally continued to trend downward.

**States define and measure recidivism in different ways. It is important to use the appropriate measure and definition when comparing any of the three rates to recidivism data for other states.**

**Failure to use the correct measure and definition when making comparisons between states will result in distorted and invalid results.**

Delaware’s recidivism measures and rates since 2008 are defined as follows:

**Return to prison** is a return to Level V status with a sentence length greater than 12 months. Return to prison may occur as the result of a sentence for a probation violation or other violation of release conditions or a sentence for a new conviction. **Return to prison is by far the narrowest measure of recidivism.** The majority of states calculate and commonly cite some variation of return to prison as one measure of recidivism. Delaware’s three-year return to prison rates have ranged between 8% (2018 cohort) and 23% (2010 cohort).

**Recommitment** is the first secure custody readmission (excluding administrative recommitments) during the at-risk period. A recommitment may occur as the result of a probation violation or other violation of release conditions, custody for a new arrest, or a sentence for a new conviction, or other court-ordered reason<sup>1</sup>. **Recommitment is a narrower measure of recidivism when compared to rearrest.** Delaware’s three-year recommitment rates have ranged between 50% (2020 cohort) and 69% (2011 cohort).

**Rearrest** is the first incident of arrest during the at-risk period for any qualifying offense (defined in the Introduction and Methodology sections). A rearrest may or may not result in a detention/recommitment. **Rearrest is considered the broadest measure of recidivism.** Delaware’s three-year rearrest rates have ranged between 65% (2020 cohort) and 77% (2011 cohort).

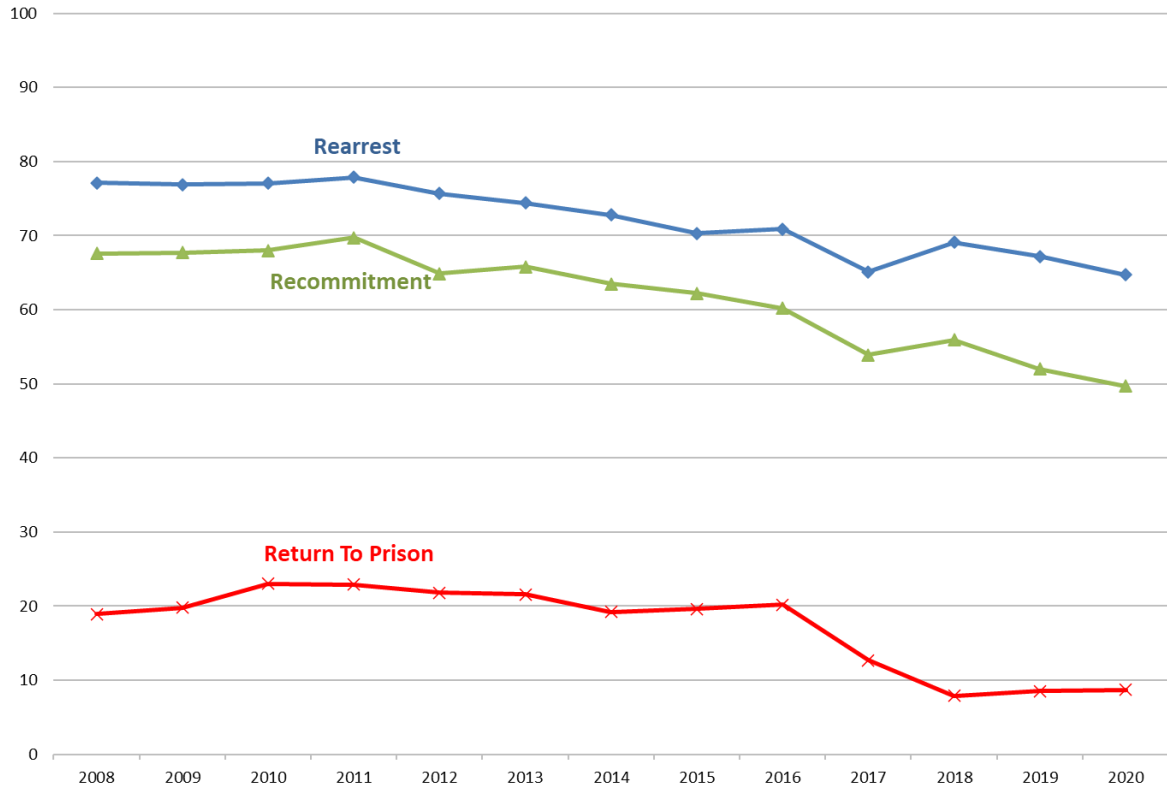
With this installment of *Recidivism in Delaware*, the Center has now examined 13 prison release cohorts. Table 1 contains three-year rates of return to prison, recommitment, and rearrest for the 2018 through 2020 cohorts, while Figures 1a-b display these rates for all cohorts since the recidivism study began.

Table 1. One-, two-, and three-year recidivism rates by release cohort

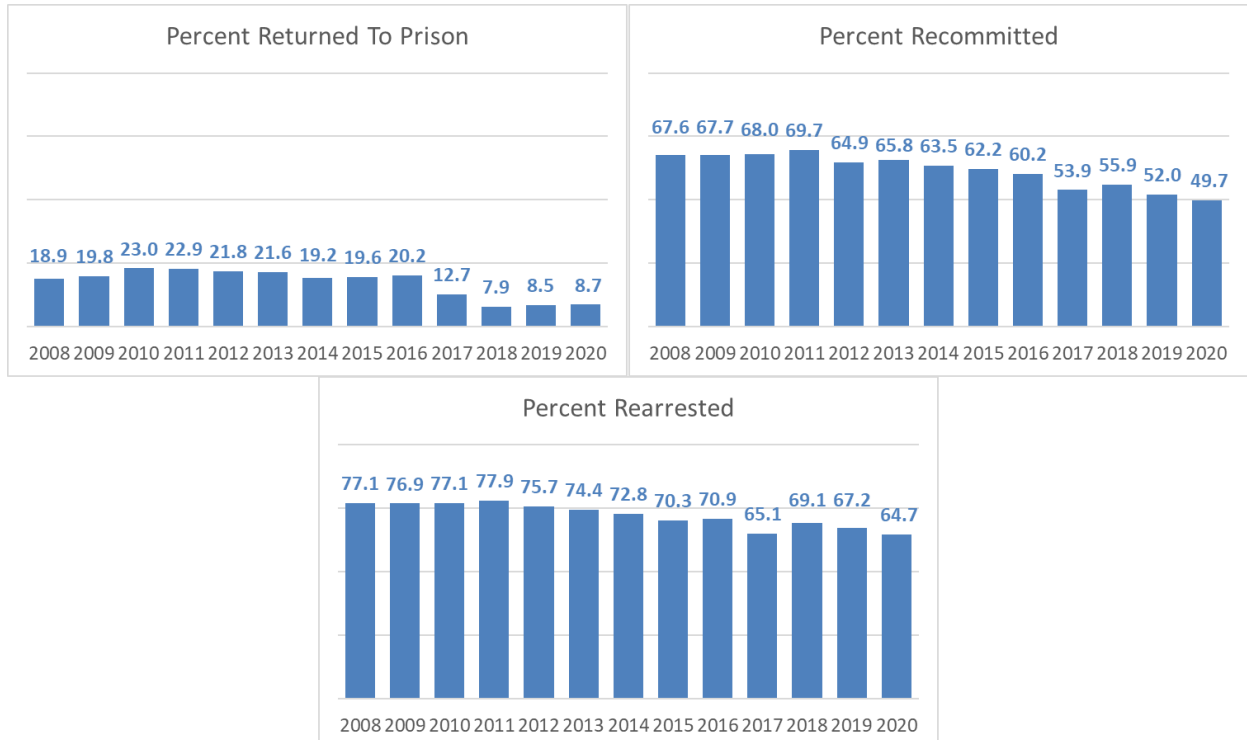
	2018 Release Cohort			2019 Release Cohort			2020 Release Cohort		
	1 year	2 years	3 years	1 year	2 years	3 years	1 year	2 years	3 years
<b>Return to Prison</b>	2.8%	6.0%	7.9%	2.1%	4.6%	8.5%	1.5%	5.0%	8.7%
<b>Recommitment</b>	36.7%	50.2%	55.9%	31.6%	44.2%	52.0%	29.1%	43.5%	49.7%
<b>Rearrest</b>	46.1%	63.0%	69.1%	43.3%	58.4%	67.2%	42.0%	59.2%	64.7%

<sup>1</sup> See the Methodology section for a description of court-ordered reasons.

**Figure 1a. Percent who recidivated within three years for 2008 through 2020 cohorts—combined look**



**Figure 1b. Percent who recidivated within three years for 2008 through 2020 cohorts—measures separated**



## Introduction

This is the twelfth *Recidivism in Delaware* report produced pursuant to Delaware Title 11 § 8903. Thus far, 13 years of cohorts have been analyzed in this series. This version of the report continues to use an additional measure, introduced in a previous report, return to prison. Consistent with previous reports, two other measures of recidivism were also analyzed: recommitment and rearrest. Reconviction, however, was removed as a required measure from the reporting statute that governs this publication as a result of Senate Bill 98 of the 151<sup>st</sup> General Assembly.

The measures of recidivism are defined as follows:

- Return to prison – a return to Level V status with a sentence length greater than 12 months during the at-risk period.
- Recommitment – the first secure custody readmission (excluding administrative recommitments) during the at-risk period. Recommitments may also result from a failure to post bail, a court order for failure to pay fines, fees, restitution, or child support, or other court-related reasons, including contempt of court.
- Rearrest – the first incident of arrest during the at-risk period for any qualifying offense. For the purposes of this study, a rearrest may result from police action or represent the *filing* of a violation of probation or parole (VOP) report with the court. A rearrest may not result in a detention/recommitment.

This report covers 2018 through 2020 release cohorts, with a focus on offenders released in the year 2020. Recidivism measures and research methods remain largely consistent with those used in prior studies; due to advances in the Statistical Analysis Center’s (the Center) ability to obtain and analyze data, measures have been taken to improve the clarity of data obtained for these cohorts.

Delaware has a unified correctional system, with all correctional facilities and services falling under state jurisdiction. 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); Level I (Administrative Probation).

Delaware defines a prison term as the aggregate of Level V sentences for an offender totaling greater than one year, while a jail term is defined as the aggregate of sentences for an offender being one year or less at Level V. Only offenders released from prison terms were included in this study. Early release of any type does not remove the offender from the studied cohort, as the offender was still sentenced to an aggregate contiguous sentence of greater than a year at Level V.

Individuals become subjects of this study at *each* prison release event. Only in-state recidivism events are captured for this analysis, with the first event for each of the recidivism measures counted during the associated at-risk period. Each individual can thus be counted only once as a recidivist after a given prison release. However, a new prison sentence can mean that an individual could enter a new at-risk period following his/her next release, making them, for study purposes, a new subject with that release date. As such, a given *individual* can appear as a *study subject* multiple times in one or more release cohorts, though there are generally few instances of this in a given year.

This study explores the required measures of Delaware recidivism in limited context of cohort demographics, length of stay, and release crime categories. Included in this version of *Recidivism in Delaware* is a more in-depth look at first rearrest events, including violations of probation. The Center

has continued efforts to further branch out in recidivism research by assisting the Delaware Correctional Reentry Commission (DCRC), which seeks to reduce recidivism through increased reentry services, and determine violation of probation and parole impacts on prison populations.

New for this year are the full implementations of new approaches to:

- release determinations, focusing on releases from Level V facilities to Level IV facilities
- determining a subject's at-risk date
- handling probation violations that occur at a Level IV facility.

These changes are summarized in the Methodology section, and detailed, along with their implications, in *Delaware Recidivism Study—Technical Considerations*<sup>2</sup>.

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<sup>2</sup> Available at [Recidivism Publications - The Statistical Analysis Center \(SAC\) - State of Delaware](#)



## Methodology

Offenders who were studied for this report:

- Were released from a Level V prison term (aggregate sentence of greater than one year) in a Delaware Department of Correction facility;
- Were not immediately released to federal custody from Delaware incarceration, either to serve time or to be deported;
- Were not released immediately to other state or local authorities that would go on to imprison the offender to a period of incarceration that would extend beyond that offender's at-risk period of three years following their Delaware release;
- Were tracked from the point of release from secure custody (which identifies the start of the at-risk period), whether from a Level V facility or a Level IV facility, for up to three years until a recidivism event or death occurred.

Subjects of this study were tracked for return to prison, recommitment, and rearrest occurring after their at-risk dates using electronic data stored in the state's criminal justice information system, court, and Department of Correction (DOC) records. Offenses counted as recidivism were limited to state felonies, serious misdemeanors, or most violations of probation or parole. Excluded as recidivism events are most state motor vehicle offenses, state criminal offenses classified as violations, all probation violations occurring while at a Level IV facility, and all municipal ordinances. Also, post-release arrests for offenses that occurred prior to release were not counted as recidivism events. A small number of offenses excluded from recidivism counts can result in jail terms, but the general distinction used for exclusion was that only jailable state offenses were counted as recidivism. (Refer to Appendix A for details.)

Rearrest events were established by offense dates, not arrest dates. The intent was to associate recidivism events as closely as possible with an offenders' return to criminal behavior, rather than when that behavior was discovered or processed through the criminal justice system. Rearrest events include both arrests by police and most violation of probation or parole (VOPs) reports filed with the courts that trigger a summons to appear<sup>3</sup>.

Recommitments were based only on DOC admission dates, regardless of when the underlying offense(s) or other commitment-triggering reason occurred. Any secure custody readmissions (excluding administrative recommitments), in detained or sentenced status, and regardless of sentence length, were counted as recommitments. Reccommitments may also result from a failure to post bail, a court order for failure to pay fines, fees, or other court-related reasons, including contempt of court. Returns to prison are recommitments to Level V status with sentence lengths of greater than one year.

Each subject's at-risk date marked the start of one-year intervals established for the recidivism time series. The intervals are calculated from each subject's at-risk date. Recidivism rates were calculated for each of the three study measures at each tracking interval. For each recidivism measure and tracking interval, all initial cohort subjects were classified into one of three groups:

- **Recidivists:** *In a given interval, a subject becomes a recidivist if records indicate a recidivism event occurred by the interval's end. Only the first event of each measure is counted, but the recidivist identifier carries forward to all intervals for a given measure after that first event.*

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<sup>3</sup> See the Deeper Look at Rearrest section on page 14 for more detail on what VOPs are included.

- **Non-recidivists:** In a given interval, a subject is regarded as a non-recidivist if not counted in the cohort attrition group and no recidivism events were recorded as occurring through the end of that interval, including all prior intervals. A subject counted as a non-recidivist up to an interval when death was known to occur would be moved to the cohort attrition group from that interval onward, but would still be counted as a non-recidivist in recidivism-free intervals prior to death.
- **Cohort attrition:** If not already identified as a recidivist, a subject is counted in the cohort attrition group in a given interval, and each subsequent interval, if the subject's death was known to occur before the end of that interval. For the recommitment measure, a subject in fugitive status on a pending *capias* is counted in the cohort attrition group as of the interval when the warrant was issued; this cohort attrition designation can be temporary if a fugitive is found to have been returned to Delaware supervision before the close of study data collection and tracking activity (which is after the three-year at-risk window for most subjects). For the return to prison measure only, the cohort attrition term is zero; that is, the initial cohort size is not reduced by attrition of non-recidivists over the tracking period.

With the terms above representing counts in each group, the following equation holds throughout the tracking period.

$$\text{Initial Cohort Size} = \text{Recidivists} + \text{Non-recidivists} + \text{Cohort Attrition}$$

Rearranging the previous equation yields the following:

$$\text{Recidivists} + \text{Non-recidivists} = \text{Initial Cohort Size} - \text{Cohort Attrition}$$

Using the terms defined above, interval recidivism rates were calculated using the following equation:

$$\text{Interval Recidivism Rate} = \frac{\text{Recidivists}}{(\text{Recidivists} + \text{Non-recidivists})} * 100\%$$

This method is intended to include only those subjects who had the opportunity to recidivate in the recidivism rate calculation. Note that, apart from return to prison, the denominator in the interval recidivism rate equation can diminish over time due to cohort attrition, and denominators can differ with each measure in the same interval. For example, consider a subject first rearrested in the second tracking interval who dies before a commitment to secure DOC custody occurs. That subject would be included in the rearrest recidivism rate denominator for all intervals (and in the numerator from the second interval onward). For the recommitment measure, the subject would be moved to the cohort attrition group in the second interval, thus reducing the recommitment rate denominator by one for the second and subsequent intervals.

In the Center's review of other states' recidivism methodology, cohort attrition is generally not considered when calculating return to prison rates. Due to the tendency to compare recidivism rates between states, the common practice of not considering cohort attrition was used to calculate Delaware's return to prison rate.

The Center does not generally have access to non-Delaware criminal records except those released to the public. However, Delaware information system records can provide a non-public source that assists in the identification of non-Delaware activity. State and public records reviewed in the research process revealed that some subjects had significant criminal justice events in other jurisdictions during the tracking period. For example, court dockets from a neighboring state might show that a probationer is incarcerated in another jurisdiction. If such sources gave reliable indications of incarceration in the tracking period by a subject who had not recidivated in Delaware, that subject was removed from the

study, as if they were not in the initial release cohort. Criminal activity in other jurisdictions cannot be completely accounted for through available sources, so it is not possible to reliably identify when and where non-Delaware events occurred. The Center holds the position, however, that it is unreasonable to regard subjects as non-recidivists if they have significant criminal activity elsewhere during the three-year tracking period.

## Changes Associated with Level IV Time

Prior to the 2019 cohort study, the SAC identified participants' at-risk dates based on their release from a Level V facility, or a Level IV facility with twenty-four hour secure custody as a number of prisoners are transitioned from a Level V facility to secure custody at a Level IV facility to serve out the final six months of their Level V sentence. Programmatically, DOC considers such transfers an extension of prisoners' programming and treatment. Given that, DOC anticipates setbacks and other progress-related issues along the way, and responds to such setbacks and issues differently than for probationers released to the community or to Level IV home confinement.

In light of the considerations above, this iteration of *Recidivism in Delaware* completes the transition in how the SAC treats Level IV time immediately following release from a Level V sentence, and how it classifies setbacks during such Level IV time.

These changes are as follows:

- A release from Level IV at any Level IV facility to either a lower level at that or another facility, or to the community, is considered to be the at-risk release.
- No violations of probation (VOPs) while at a Level IV facility are counted as a rearrest when determining recidivism.
- Detentions or other returns to twenty-four hour secure custody that result from a violation of probation while in a Level IV facility are also no longer counted as a recommitment event.
- For offenders returned to a higher level of custody as a result of violations of probation while at a Level IV facility, the process for determining the at-risk release is reset. The at-risk date is then established per the first bullet, following the release from either Level V or secure detention. When individuals incur multiple violation of probation instances, the process is reset each time until the final at-risk date is established.

For the 2020 cohort, the at-risk date for 40.5% of cohort members was determined by the release from Level IV at a Level IV facility. For 75% of this group, the duration between the release from their Level V prison sentence and their Level IV release was less than 170 days. Overall, duration length ranged from four days to 578 days. Durations of 30 days or fewer were generally followed by admission to a Home Confinement placement.

Eleven percent of the Level IV release group experienced at least one violation of probation prior to their eventual Level IV at-risk release. Almost one-third of these VOPs (29%) also resulted in new criminal charges being filed. In all but one case in the total Level IV VOP group, the VOP resulted in the return to detention or to Level V.

The implications of these decisions are discussed in the aforementioned *Delaware Recidivism Study—Technical Considerations*.

## Recidivism Subject and Offense Group Summaries

There were 872 individuals tracked for up to three years following release from a prison term in 2020. None of these individuals became subjects more than once. Breakouts of race, sex, age, length of stay, and offense histories are provided in this section. These are common parameters in recidivism research and may appear to have some association with recidivism rates, but relationships are not statistically examined in this report.

Figure 2 shows the demographic breakdown by sex and race for offenders released in 2020. In the left portion, females were broken out further to better display the racial breakdown of the female cohort. The right portion of the figure shows race and sex proportions of tracked black and white subjects in the 2020 prison release cohort; subjects in other race categories are not represented in the bar chart due to comprising less than 1% of the cohort.

Males accounted for 91% of the prison releases in the 2020 cohort. Annual prison releases of female offenders are generally low, and 2020 was no exception. Readers should be mindful of small group counts, especially for females, as samples of this size are generally more susceptible to fluctuation resulting from anomalous behavior in recidivism studies.

**Figure 2. 2020 release cohort by race and sex: counts and proportions**

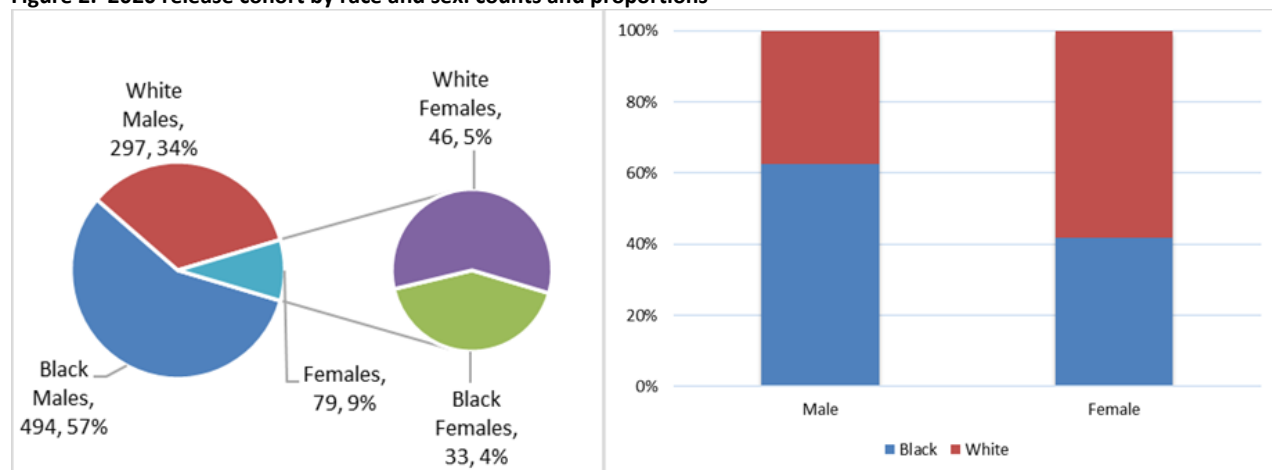


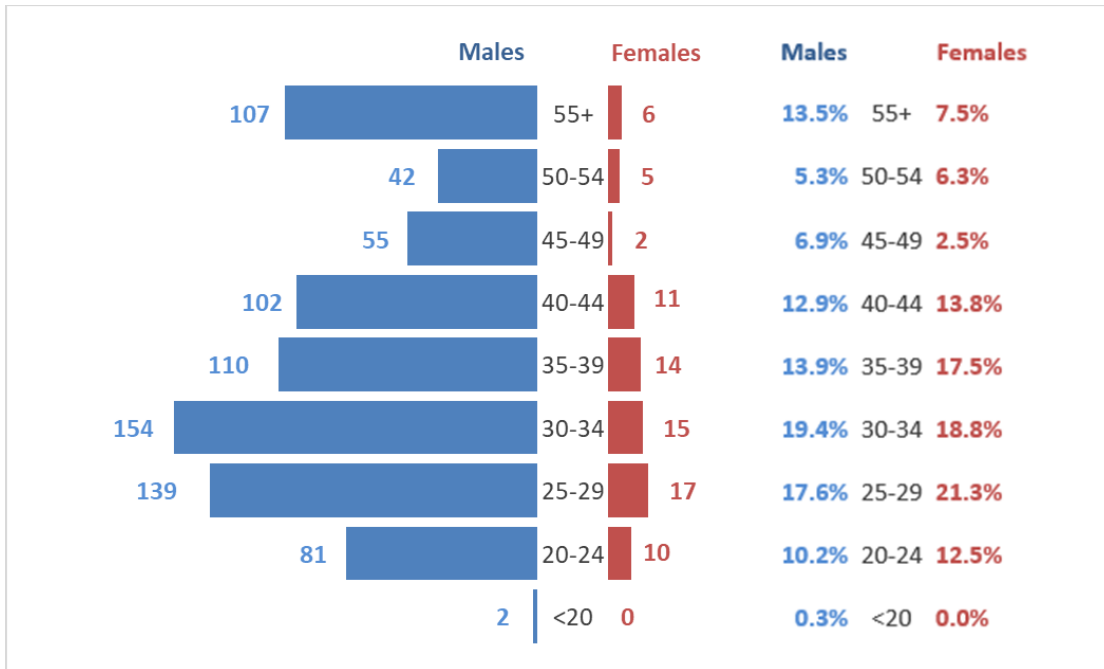
Table 2 displays offender at-risk age quartiles for the 2018-2020 cohorts, broken out by sex and race. The median age for both white and black males has changed little since 2018. Median ages for females should be interpreted with caution given their low numbers in the study.

**Table 2. Prison release cohort at-risk age quartiles by sex and race**

Age at start of at-risk period	2018				2019				2020			
	Male		Female		Male		Female		Male		Female	
	Black	White	Black	White	Black	White	Black	White	Black	White	Black	White
25th percentile	27.0	30.0	25.0	27.0	27.0	30.5	29.0	30.0	28.0	31.0	27.0	28.3
Median	33.0	37.0	33.0	34.0	33.0	38.0	34.0	36.0	34.0	38.0	33.0	34.5
75th percentile	42.0	47.0	43.0	44.0	43.0	50.0	40.8	45.0	43.0	50.0	41.0	40.0

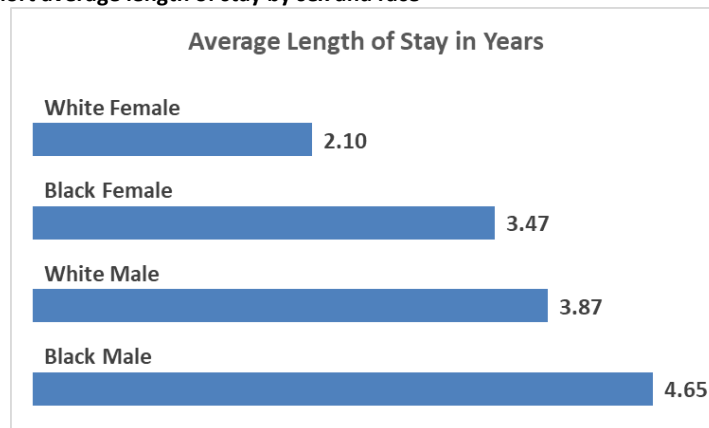
Figure 3 shows counts and percentages of male and female subjects in selected at-risk age groups. Subjects are grouped by at-risk age as of their last birthday on or before their at-risk date. Roughly 75% of both males and females had at-risk ages between 20 and 44. The largest single age group for males were those aged 30 to 34 (19%), while those aged 25-29 was the largest group for females (21%). Note that for females, all of the selected age groups had fewer than 20 subjects.

Figure 3. Age breakout by sex, 2020 releases



Average lengths of stay (LOS) for the 2020 release cohort by sex and race are displayed in Figure 4. Length of stay calculations in the prison release data include credit for time served in detention. It is important to mention that multiple variables impact an offender's length of stay, such as the prior criminal history of the offender and the crime committed. Black males had the longest average LOS (4.7 years), white females the shortest (2.1 years).

Figure 4. 2020 release cohort average length of stay by sex and race



Release offense is a common recidivism research parameter, but it is often difficult to attribute a prison term to a single offense type. Complex cases with multiple offense types and plea-bargaining are common, and a single offense can be misleading in describing reasons for an offender’s imprisonment.

For subjects in this study whose prison terms involved multiple offenses, the Center identified a lead offense by the longest single term served. If the longest-term criteria yielded more than one offense type, ties were broken using an offense hierarchy that loosely follows the FBI’s Uniform Crime Reporting hierarchy.

Figure 5 displays the percentage of each lead offense category for sex and race. For three of the four demographic groups, public order offenses comprised the largest release group, ranging from 60% for black males to 37% for white females. Compared to 2019, release offense distributions were similar for black males, while white males had substantially fewer violent release offenses. Distributions for both groups of females differed notably compared to 2019; however, given the low numbers in both groups, those differences are not discussed further here. More detailed information about the four groups is located in Table 3.

**Figure 5. Subjects by sex and race in prison release lead offense groups**

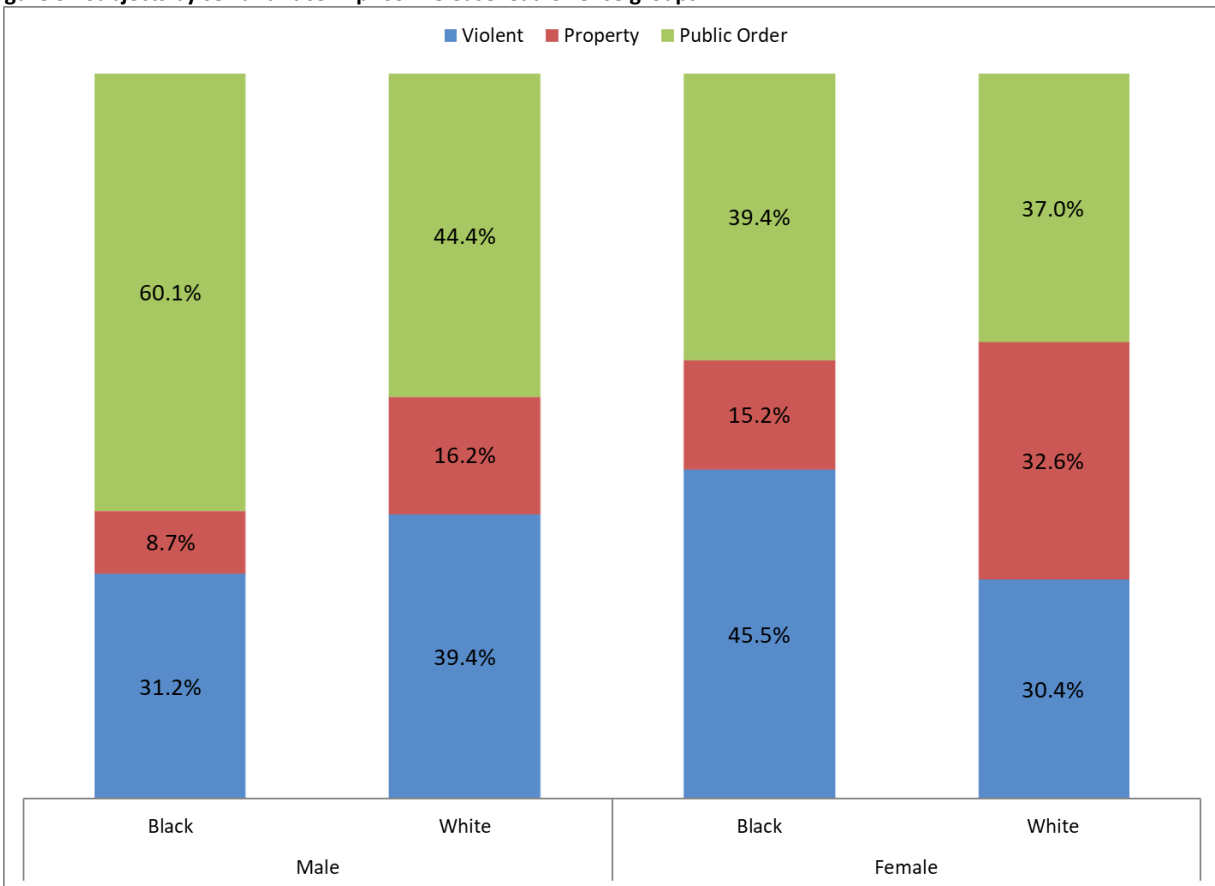


Table 3 lists offense type classifications<sup>4</sup> from most to least serious for the 2020 prison release cohort. The table shows counts of subjects for each lead offense type by sex and race. Offense types are listed under broad offense groups of violent, property, and public order, with subject counts also shown for each group. Violations of probation or parole are counted as the underlying offense for which the probationer or parolee had been sentenced and are displayed in parentheses where applicable.

For males, robbery was the most common violent release offense, burglary the most common property offense. However, for public order offenses, drug dealing and weapons offenses were the most common for black males, and, for white males, driving-related and weapons offenses. Given the low numbers of females and the diversity of their release offenses, patterns are not examined here. When comparing 2020 to 2019, the number of white males released on property offenses was 50% lower compared to 2019. There were no other notable changes in main offense category totals.

**Table 3. Prison term lead offense classification counts by sex and race**

Prison Term Lead Offense	Male		Female					
	Black	White	Black	White				
<b>Violent</b>	<b>154</b>	<b>(29)</b>	<b>117</b>	<b>(22)</b>	<b>15</b>	<b>(4)</b>	<b>14</b>	<b>(6)</b>
Homicide	16	(1)	6		3		2	
Rape	22	(2)	27	(9)	0		0	
Robbery	74	(16)	44	(7)	4	(1)	8	(5)
Assault	27	(7)	13	(4)	6	(3)	4	(1)
Other Sex Offenses	8	(2)	23	(2)	0		0	
Other Violent Offenses	7	(1)	4		2		0	
<b>Property</b>	<b>43</b>	<b>(5)</b>	<b>48</b>	<b>(24)</b>	<b>5</b>	<b>(2)</b>	<b>15</b>	<b>(12)</b>
Arson, Unoccupied	2		0		0		0	
Burglary	28	(1)	36	(16)	4	(2)	4	(4)
Theft	11	(3)	12	(8)	0		10	(7)
Fraud/Forgery	1		0		1		0	
Other Property Offenses	1	(1)	0		0		1	(1)
<b>Public Order</b>	<b>297</b>	<b>(30)</b>	<b>132</b>	<b>(40)</b>	<b>13</b>	<b>(2)</b>	<b>17</b>	<b>(10)</b>
Drug Dealing	140	(19)	24	(7)	8	(2)	4	(2)
Other Drug Offenses	5	(2)	5	(4)	0		3	(3)
Weapons	122	(6)	31	(9)	4		3	(2)
<i>Driving Related</i>	23	(1)	57	(11)	1		6	(2)
Vehicular Homicide	1		3		0		0	
Vehicular Assault	0		0		0		0	
DUI	19		49	(10)	1		6	(2)
Other Motor Vehicle Offenses	3	(1)	5	(1)	0		0	
Other Public Order Offenses	7	(2)	15	(9)	0		1	(1)

<sup>4</sup> As mentioned on the previous page, classifications of release offenses generally follow the classification scheme used by the FBI in its Uniform Crime Reporting (UCR)/National Incident Based Reporting System (NIBRS) effort. As a result, the Violent category excludes some specific offenses (e.g., serious burglaries, some drug dealing charges) that are defined as violent felonies in the Delaware Criminal Code (Title 11 §4201(c)).

## Recidivism Findings

Since the inception of the *Recidivism in Delaware* report, three-year cumulative recidivism rates for each measure have generally continued to trend downward.

**States define and measure recidivism in different ways. It is important to use the appropriate measure and definition when comparing any of the three rates to recidivism data for other states. Failure to use the correct measure and definition when making comparisons between states will result in distorted and invalid results.**

Recidivism rates are as follows:

**For the return to prison measure** (*return to Level V status, sentence greater than 12 months*), 8.7% of the 2020 cohort were returned to prison, a rate comparable to 2019, but higher than the 2018 cohort. **Return to prison is by far the narrowest measure of recidivism; as a result, rates will be much lower than for the other measures.**

**For the recommitment measure** (*the first secure custody readmission*), 49.7% of the 2020 cohort experienced a recommitment event, a lower rate than for the prior two cohorts. **Recommitment is a narrower measure of recidivism when compared to rearrest; therefore, rates will be lower than for the rearrest measure.** Keep in mind that recommitment may result from a variety of events: violations of probation, parole, or release conditions; a new arrest, a sentence for a new conviction, or variety of other court-ordered reasons.

**For the rearrest measure** (*the first incident of arrest for a qualifying offense*), 64.7% of the 2020 cohort was rearrested, a figure lower than both the 2018 and 2019 rates. **Rearrest is considered the broadest measure of recidivism; as a result, rates will be higher than for the other measures.** Note that rearrests may result from police action or violation of probation or parole reports filed with a court.

Table 4 shows recidivism rates at one-, two-, and three- year intervals for the measures studied. The column headings **R+N** and **R** represent the denominator and numerator, respectively, in the recidivism rate equation provided in the Methodology section.

**Table 4. Series recidivism rates by measure at 1, 2, and 3 years**

		2018 Prison Release Cohort			2019 Prison Release Cohort			2020 Prison Release Cohort			
		R+N	R	Recidivism Rate	R+N	R	Recidivism Rate	R+N	R	Recidivism Rate	
Return to Prison	Year	1	1,021	29	2.8%	964	20	2.1%	872	13	1.5%
		2	1,021	61	6.0%	964	44	4.6%	872	44	5.0%
		3	1,021	81	7.9%	964	82	8.5%	872	76	8.7%
Recommitment	Year	1	997	366	36.7%	943	298	31.6%	848	247	29.1%
		2	988	496	50.2%	928	410	44.2%	842	366	43.5%
		3	976	546	55.9%	908	472	52.0%	841	418	49.7%
Rearrest	Year	1	1,009	465	46.1%	954	413	43.3%	853	358	42.0%
		2	1,004	632	63.0%	943	551	58.4%	849	503	59.2%
		3	995	687	69.1%	924	621	67.2%	848	549	64.7%

Table 5 displays recidivism rates for each measure broken out by sex and race. Males had higher rates of recidivism across all measures and at all three years of the tracking period. Black males had higher recidivism rates for the rearrest measure across all three years. However, for the recommitment and return to prison measures, the pattern was more mixed, with smaller differences evident between the



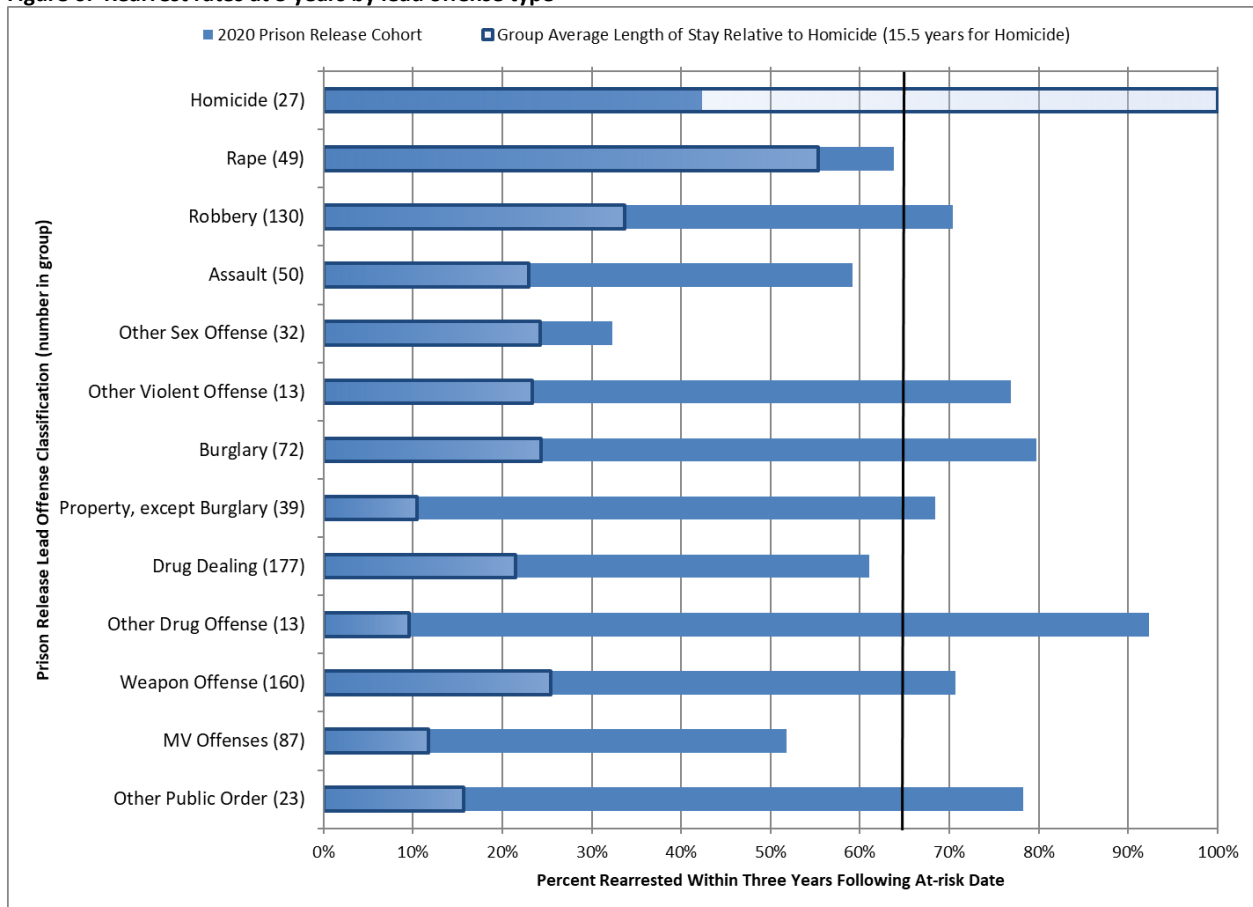
two groups of males. Black females had higher recidivism rates across all years and measures than white females, but it is important to keep in mind the low number of females in the study overall.

Table 5. 2020 recidivism rates by measure, sex, and race

		Return to Prison			Recommitment			Rearrest		
		1 Year	2 Year	3 Year	1 Year	2 Year	3 Year	1 Year	2 Year	3 Year
Male	Total	1.5%	5.3%	9.4%	29.9%	44.2%	50.8%	42.1%	59.6%	65.2%
	Black	1.0%	5.5%	9.9%	29.0%	44.4%	51.7%	43.5%	61.6%	67.6%
	White	2.4%	5.1%	8.4%	31.5%	43.9%	49.3%	39.8%	56.3%	61.0%
Female	Total	1.3%	2.5%	2.5%	21.3%	36.5%	39.2%	40.8%	56.0%	61.3%
	Black	3.0%	6.1%	6.1%	21.9%	40.6%	43.8%	43.8%	59.4%	62.5%
	White	0.0%	0.0%	0.0%	20.9%	33.3%	35.7%	38.6%	53.5%	60.5%

Figure 6 shows **three-year rearrest rates** for the 2020 prison release cohort grouped by release offense type. As with any other breakout presented herein, many factors are at play in addition to the focus variable. In Figure 6, the association of length of stay with offense type is explored for the measure of focus, rearrest. The bold vertical line indicates the three-year rearrest rate for 2020 (64.7%). The average length of stay was calculated for each offense category. Average length of stay was highest for the homicide group at around 15 years, longer than that for the 2019 cohort. For each offense group, average length of stay relative to the homicide average is represented by the semi-transparent bar overlaying recidivism rate bars. For example, the average length of stay for the robbery group was 5.2 years, which is represented as 33.7% of the average for homicide.

Figure 6. Rearrest rates at 3 years by lead offense type

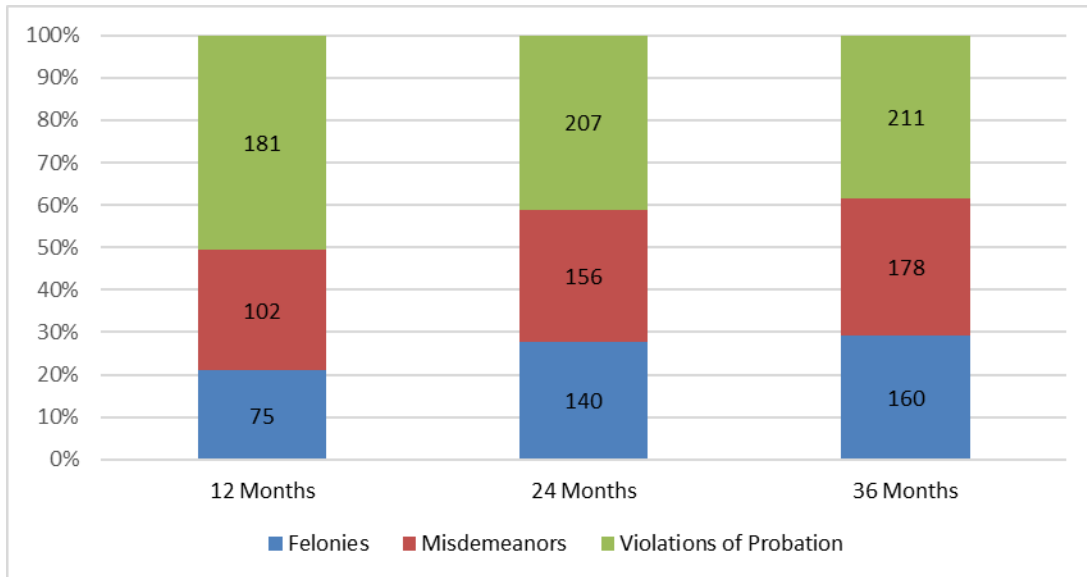


## A Deeper Look at Rearrest

This installment of *Recidivism in Delaware* continues to provide a more in-depth examination of rearrest offenses for the 2020 recidivism cohort. Since a rearrest can involve more than one charge, the Center classified rearrests based on the most serious charge incurred (felony, misdemeanor, or violation of probation or parole (VOP)). Figure 7 presents the first-rearrest classifications for each year of the three-year at-risk period. Keep in mind that first rearrest data do not paint a comprehensive picture of recidivists' return to criminal activity or their propensity for further criminal activity.

The majority of first rearrests in year 1 were for parole or probation violations<sup>5</sup> (51%). However, unlike previous cohorts, these percentages declined to well below 50% in years 1 and 3 (41% and 38%, respectively). It is unknown the extent to which these differences are attributable to pandemic-related issues. Note that the occurrence of VOPs essentially peaked in year 2, likely a function of the duration of probation sentences served following prison release, though the Center did not examine that factor. Rearrests best classified as felonies or misdemeanors increased across the three-year period, with misdemeanors accounting for 32% of rearrests by the end of year 3, felonies 29%.

Figure 7. 2020 rearrest breakout by general offense type



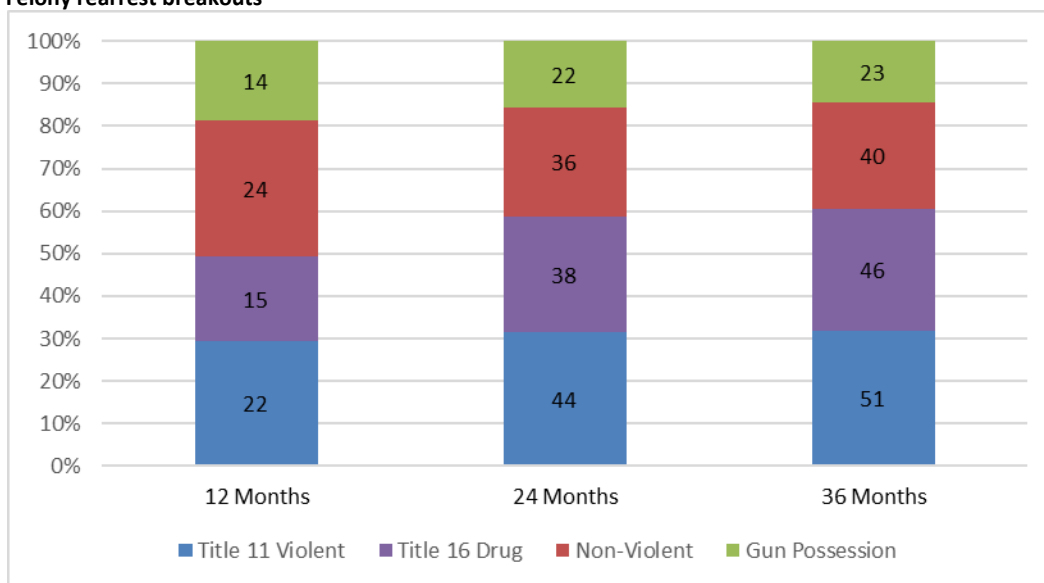
<sup>5</sup> Probation violations are defined as a court filing by a probation officer intended to either 1) approve an Administrative Warrant for secure custody, or 2) have the offender appear before the court to answer to the VOP filing. Certain VOPs are not counted as rearrest events: primarily failures to pay fines or fees, or VOPs filed for procedural reasons to accomplish a change in sentencing conditions.

Figure 8 displays a breakout of felony rearrests in the previous chart. Delaware Title 11 §4201(c) statutorily defines which felonies in Delaware law shall be considered violent; despite this, ambiguity remains in some of the statutes that define the offenses themselves. Due to this ambiguity, the Center has further segregated charges that involve firearm possession, and charges that fall under Delaware Title 16, which regulates drug offenses.

For this *Recidivism in Delaware* installment, the Center examined all felony charges within a rearrest event and assigned a classification that best represented the incident that resulted in the rearrest. For example, if a subject committed a felony assault and had a firearm they were prohibited from possessing, and that possession charge carried a higher felony classification than the assault charge, the rearrest would be classified as a Title 11 violent felony (as defined above) as it better captures the nature of the rearrest incident.

Rearrests best described as Title 11 violent felonies, Title 16 drug felonies, and non-violent felonies accounted for 32%, 29%, and 25%, respectively, of the first rearrest felonies by the end of the study period. Gun possession felonies, in this classification approach, represented 14% of rearrest felonies, but it should be noted that some gun possession felonies are absorbed in other felony categories.

**Figure 8. Felony rearrest breakouts**

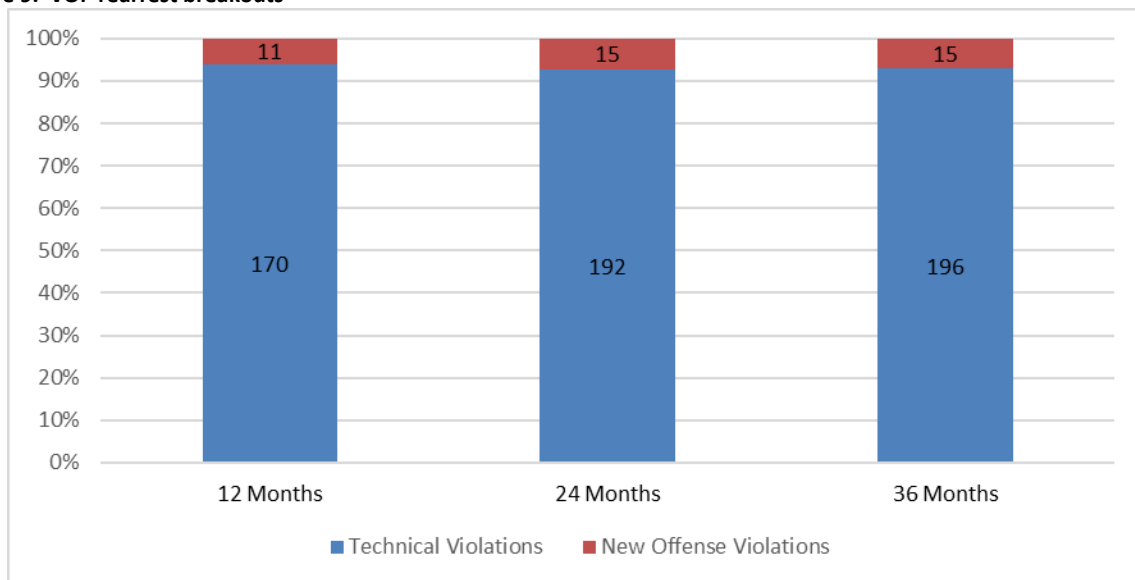


In keeping with the methodology that began with the report covering the 2011-13 cohorts (published December 2017), probation violations solely for a failure to pay fines, fees, or other costs were not counted as rearrest events, nor were those that were filed with a court as a required procedural step in order to accomplish a necessary change in sentence conditions. Also, per the Level IV-related methodology changes discussed earlier, VOP rearrest events were classified into one of just two categories: commission of a new offense (given the Center’s approach to classifying rearrests, this category mostly reflects out of state arrests); and technical violations (the broadest category of conditions, which includes, for example, failure to report to the offender’s probation officer, failure of drug testing, and general noncompliance with a court order).

Figure 9 displays a breakout of the VOP category in Figure 7.

Technical violations account for a majority of VOP first rearrest events: 94% after 12 months and 93% for the latter two time periods. The proportion of new offense violations (7%) of VOP rearrest events by the end of the study period<sup>6</sup> is lower compared to 2019 (11%) but comparable to 2018.

**Figure 9. VOP rearrest breakouts**



Most VOP rearrests involved the violation of more than one condition. When considering all violations within a given VOP rearrest, there were 30 violations for new offenses, 404 violations of technical conditions, and 70 related to Home Confinement. Overall, 25.6% of VOP rearrests involved the violation of just a single condition. The definitions of the two sets of conditions can be found in Appendix B of this report, along with data about their frequency of use in rearrests for probation violations in the 2020 cohort.

<sup>6</sup> New offense violations counts are expected to be low, as any new offense for a Delaware crime that qualifies as a recidivating event would likely first result in an arrest rather than a VOP. On the other hand, out-of-state criminal activity that results in an arrest by an agency in another state may result in a new offense probation violation in Delaware.

## Recidivism by Age

In this installment of *Recidivism in Delaware*, the Center examined recidivism among different age groups. Age has long been asserted to correlate with recidivism rates, with younger offenders being presumed to have higher recidivism rates, and older offenders, lower rates.

Figure 10, below, displays the 3-year recidivism rates of each measure, for each individual age group explored in this report. For the rearrest and recommitment measures, there is generally an inverse relationship between age and recidivism—recidivism generally decreases as age increases and this relationship was generally evident in 2020. For the return to prison measure, this relationship was evident to a lesser extent. **The reader is directed to use caution when interpreting the results for the under 20 age group—this group had the highest rates of recidivism across all measures, but there were only two individuals in that age group.**

Figure 10. 3-year recidivism rates by measure and age group

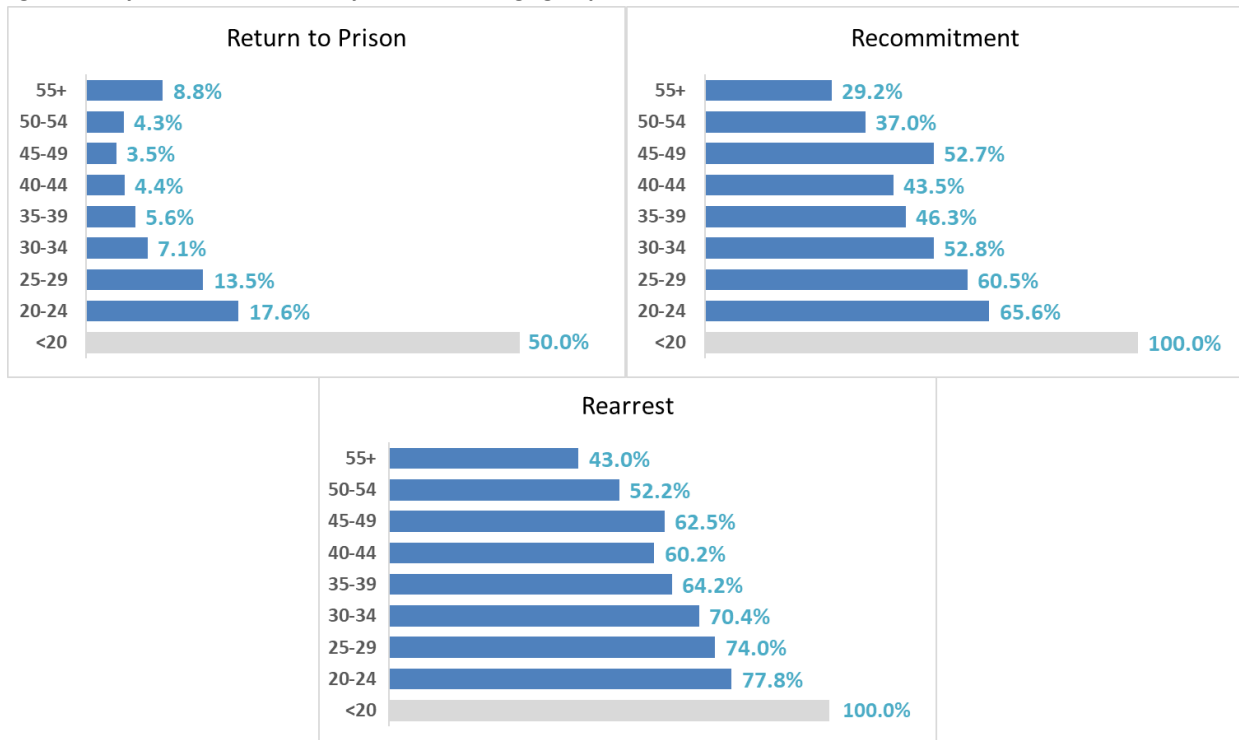
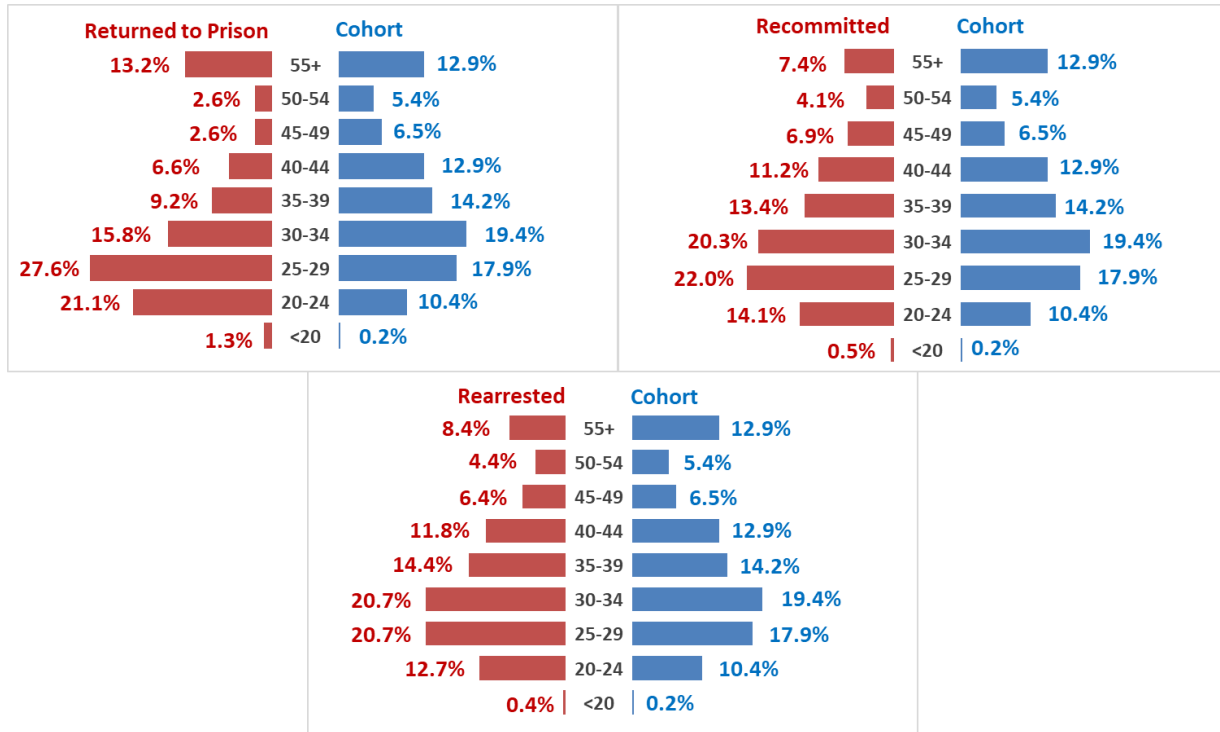


Figure 11 displays the age distributions for three-year recidivists on each of the three measures, along with the overall cohort age distribution for comparison. For the rearrest measure, recidivists tended to be younger compared to the overall cohort. In particular, individuals aged 20 to 34 comprised 54.1% of those rearrested, compared to 47.7% in the full cohort. For recommitment, 56.4% of those recommitted were in this age group. This percentage for the return to prison measure was even higher (64.5%).

Figure 11. Age group distributions, three-year recidivists by measure, compared to starting cohort



## Conclusions

### Summary of Findings

The findings of this study provide an overview of recidivism for the 2020 prison release cohort. The Center tracked 872 distinct offenders in the 2020 cohort for three years following release from secured custody for three recidivism measures: return to prison, recommitment, and rearrest. Tracking times were divided into one-year intervals, and individuals were designated as recidivists as of the tracking interval in which their first recidivism events occurred. Offense dates were used to determine rearrest events to most closely represent return to criminal behavior. For the recommitment and return to prison measures, recidivism was identified by the date of first readmission to secure custody in a DOC facility. The recommitment group included anyone detained or otherwise incarcerated for any length of time; whereas the return to prison measure included only offenders returned to a sentence of greater than 12 months at Level V custody.

The Center captured sex, race, and at-risk age for each study subject as they were recorded in the state's information systems, with some manual review to resolve data conflicts. Ethnicity was not studied due to concerns with data quality. Most offenders released in 2020 were males (91%); with 62% of males black. Almost 59% of females released in the 2020 cohort were white, a rate generally similar to the 2019 cohort.

For the purposes of analysis, the Center also categorized subjects by the offense which determined the majority of their prison stay (lead offense). The lead offenses were grouped into three major categories of violent, property, or public order. Of released inmates included in this study, 52% were released from sentences in the public order group, 35% from violent offense sentences, and 13% from property offense sentences. These rates are generally similar to rates reported in prior cohort years, with a slight increase in violent offenses and a small decrease in property offenses.

Rearrest rates varied substantially over the identified release offense groups. The highest three-year rearrest rate among the release crime categories is that of other drug offenses (92%), with burglary offenses (80%) and other public order offenses (78%) having the second and third highest rates. The group with the lowest rearrest rates in this cohort is the other sex offense group (32%).

In examining first rearrest incidents, 38% of recidivists had a violation of probation as their first rearrest offense, a substantial decrease compared to prior cohorts. Over one-fourth of first rearrests were for incidents involving felonies, with Title 11 violent felonies, Title 16 drug felonies, and non-violent felonies each accounting for 25% to 32% of the classifications of felony arrests incidents.

This iteration of *Recidivism in Delaware* also marked the full transition regarding how the Center handles Level IV time immediately following a release from Level V and VOPs that occur during such Level IV time. These changes and their impacts are discussed in the *Technical Considerations* document mentioned earlier.

## Considerations and Limitations

Limited analyses of sex, race, at-risk age, and offense types may present large differences in rearrest recidivism for those groupings. Conclusions about causation should not be drawn, as more in-depth statistical analyses would need to be conducted to explore their contributions to recidivism.

Recidivism by rearrest rates generally decreased as at-risk age increased, a finding consistent with research in this area. Rates also generally decreased as length of stay increased, but at-risk age is generally correlated with longer lengths of stay. Potential impacts from COVID were not obvious in the rates for the three recidivism measures. Advanced analyses to explore any such impacts, however, and also the contributions of age, length of stay, and criminal history to recidivism rates were outside the scope of this study.

Rearrest and recommitment continue to be required measures in this study series, but recommitment adds dubious value in enhancing understanding of offenders' post-release behavior, as it is not necessarily a reliable indicator of the severity or certainty of reoffending.

This installment of *Recidivism in Delaware* continues the use of the measure of return to prison. While return to prison rates do not contribute much to a greater understanding of offender behavior, they are provided to offer more common ground for comparison to other jurisdictions. This measure identifies the portion of released prisoners who were recommitted to a facility for a prison term (greater than 12 months at Level V). The methodology for this measure deviates from the other two in that it does not account for cohort attrition over the tracking period; this was done to match the apparent practices of other jurisdictions.

**States define and measure recidivism in different ways. It is important to use the appropriate measure and definition when comparing any of the three rates to recidivism data for other states. Failure to use the correct measure and definition when making comparisons between states will result in distorted and invalid results.**

Analyzing recidivism is challenging, as it is a complex, multifaceted subject. This study, while providing some rich data about the topic, raises far more questions than the Center was able to explore given the study's time, resource, and data limitations. It is important to remember that this study did not examine the complexities of offender behavior. Recidivism is only one type of measure needed to determine whether a package of sanctions and interventions was successful in deterring an individual from future offending. Recidivism and desistance are essentially all or none measures: either a person continues to reoffend or they do not. However, rehabilitation is a gradual, non-linear process with progress occurring in incremental steps. Examination of recidivism then should also include appropriate study of rehabilitation efforts to understand the progress offenders are making on the path toward no longer recidivating.

If recidivism is intended as a measure of rehabilitative success, recidivism research should also include appropriate study of rehabilitation efforts to understand progress offenders are making on the path toward desistance. Such a study should include particular focus on those who appear to be successfully rehabilitated. Resources that are essential for more comprehensive studies are beyond the capacity of the Center alone. Thorough research will require dedication of more resources and collaboration of multiple entities. The Center hopes to widen the scope of recidivism study by continuing to work with the Delaware Correctional Reentry Commission (DCRC).



Given the onset of the COVID pandemic in 2020, some discussion of its possible impacts is warranted. The 2020 cohort was the first to experience the full impact during study years 1 and 2. Almost two-thirds of cohort members (63.2%) had at-risk dates between April 1, 2020 and December 31, 2020, with an additional 9.7% having dates between January 1, 2021 and March 31, 2021. In addition, while 159 individuals had at-risk dates between January 1, 2020 and March 31, 2020, only seven had been rearrested prior to April 1, 2020, resulting in most individuals in this group (17.4% of the total cohort) entering the COVID era still at risk of recidivating. The vast majority of individuals experienced the effects of the COVID pandemic in ways that may have affected their progression in the recidivism study. While a definitive and comprehensive assessment of the effects of the pandemic on the entirety of Delaware's criminal justice system has not been conducted, anecdotal accounts and agency documents do describe at least some of those impacts.

Based on the final report of the Delaware Correctional Reentry Commission<sup>7</sup> and anecdotal information, in response to COVID, DOC was forced to focus on detecting, preventing, and treating COVID cases in its facilities (including using alternative disciplinary measures for probationers who violate their probation to help manage facility population numbers). Also impacted were the community resources many offenders released from prison sentences need in order to succeed in the community: mental health and substance abuse treatment services, housing services, and other reentry-oriented community programs, along with employment opportunities.

Annual reports by the Administrative Office of the Courts<sup>8</sup>, anecdotal information, and work on the 2021 installment of *Recidivism in Delaware* (covering the 2017 cohort) indicate that court operations, including case adjudication, were impacted as COVID safety and mitigation plans were developed and implemented.

Largely anecdotal information indicates that law enforcement agencies were also forced to adapt to the effects of COVID by altering staffing practices and approaches to proactive policing. These changes had the potential to impact the detection of lesser crimes that could have resulted in a recidivating arrest. Dover Police Department<sup>9</sup> is one agency that specifically addressed COVID impacts in its annual report.

The impacts of the pandemic, however, are not limited to the 2020 cohort. For several cohort years, starting with the 2017 cohort, increasing numbers of individuals will likely have encountered effects of the pandemic during and/or after their prison stays, perhaps in ways that will never be fully understood.

Finally, several pieces of legislation were introduced during the 152<sup>nd</sup> Delaware General Assembly that could potentially impact recidivism rates in the future if passed and implemented. Probation reform efforts could change how violations of probation are treated by DOC and the Courts. In addition, legislative efforts to reconstruct policies as to who is eligible for detention could potentially impact recommitment rates. Potential impacts are currently unknown, but the Center continues to keep track of possible changes and impacts on the Delaware Recidivism Study.

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<sup>7</sup> [https://doc.delaware.gov/dcrc/assets/docs/DCRC\\_Final\\_Report.pdf](https://doc.delaware.gov/dcrc/assets/docs/DCRC_Final_Report.pdf) , COVID-19 section

<sup>8</sup> <https://courts.delaware.gov/aoc/annualreports/fy20/doc/Introduction.pdf> ,  
<https://courts.delaware.gov/aoc/annualreports/fy21/doc/Introduction.pdf>

<sup>9</sup> <https://doverpolice.org/wp-content/uploads/2021/04/2020-DOVER-POLICE-DEPARTMENT-ANNUAL-REPORT.pdf>  
(COVID-19 section)

## Appendix A

### Recidivism Offenses and Prison Lead Offenses

Most offenses of relevance in this study, whether related to pre-release or recidivism follow-up, are identified in Titles 11, 16, 21, or 31 of the Delaware Code. In measuring rearrest and reconviction recidivism, the Center used only what it refers to as serious criminal offenses. In addition to probation or parole violations<sup>10</sup>, selected offenses are identified in the Delaware Code as felonies or misdemeanors with incarceration as a possible (or mandatory) sanction. In a small number of cases, Delaware arrests and detentions of subjects held as fugitives for other jurisdictions were also counted as recidivism. Offenses/events used in rearrest and reconviction recidivism measures are summarized in Table A1.

**Table A1. Arrest or conviction events counted as recidivism**

<b>Delaware Code references</b>	<b>Offenses or events counted in rearrest or reconviction recidivism measures</b>
Title 11	Any criminal felony or misdemeanor punishable by incarceration; Violation of probation (§ 4334) or parole (§ 4352); Arrest prior to requisition (§ 2513)
Title 16	Felony or misdemeanor drug offenses identified in Chapter 47
Title 21	Driving after judgment prohibited (§ 2810); Driving under the influence (§ 4177); Disregarding the signal of a police vehicle, felony only (§ 4103); Leaving the scene of an accident (Chapter 42); Theft, unauthorized use, or damage of vehicles (Chapter 67)
Title 31	Abusing, neglecting, exploiting, or mistreating an impaired adult (Chapter 39)

Table A2 (following page) lists generalized offenses within classifications that were identified as lead offenses for offenders released from studied cohorts. Lead offense classifications are listed in hierarchical order in the left column; specific offenses in each row are listed in no particular order. The brief literal descriptions should give readers a sense of the nature of offenses covered; those seeking more specificity are referred to the Delaware Code.

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<sup>10</sup> Probation violations are defined as a court filing by a probation officer intended to either 1) approve an Administrative Warrant for secure custody, or 2) have the offender appear before the court to answer to the VOP filing.

**Table A2. Lead release offense classifications and examples of specific offenses included**

Lead Release Offense Classification	Examples of Specific Offenses Included
Homicide	Murder, any degree; Murder by abuse or neglect, any degree; Manslaughter; Criminally negligent homicide
Rape	Rape, any degree; Unlawful sexual intercourse, any degree; Unlawful sexual penetration, any degree
Robbery	Robbery, any degree; Carjacking, any degree
Assault	Attempted murder; Assault, any degree; Assault in a detention facility
Other Sex Offense	Unlawful sexual contact, any degree; Sexual abuse of a child; Dangerous crime against a child; Sexual exploitation or solicitation of a child; Child pornography
Other Violent Offense	Menacing or aggravated menacing; Reckless endangering; Terroristic threatening; Arson 1st degree; Extortion; Riot; Stalking; Promoting prostitution 1st degree; Victim/witness intimidation
Arson	Arson 2nd or 3rd degree
Burglary	Burglary, any degree; Possession of burglar's tools
Theft	Theft; Shoplifting; Possession of shoplifter's tools or instruments of theft; Exploitation of resources of infirm or impaired persons
Fraud/Forgery	Forgery; Identity theft; Issuing a bad check; Unlawful use of a credit card; Home improvement fraud
Other Property	Criminal mischief; Criminal trespass; Receiving stolen property
Drug Dealing	Drug trafficking; Possession with intent to deliver drugs; Distribution of drugs to minors
Other Drug Offense	Possession of drugs; Possession of drug paraphernalia; Maintaining a vehicle or dwelling to use or deliver drugs; Possessing drugs without a prescription or acquiring drugs with fraudulent prescriptions; Delivery or possession of drugs within prohibited zones
Weapons	Carrying a concealed deadly weapon or dangerous instrument; Possession of a deadly weapon or firearm during commission of a felony; Possession of a deadly weapon or firearm by persons prohibited; Wearing body armor during commission of a felony; Theft of a firearm
Vehicular Homicide	Vehicular homicide, any degree; Murder, manslaughter, or criminally negligent homicide if a vehicle was not intentionally used as a weapon (listed as homicide if vehicle intentionally used as weapon)
Vehicular Assault	Vehicular assault, any degree
Driving Under Influence	Driving under the influence of alcohol or drugs
Other Motor Vehicle Offense	Driving after judgment prohibited; Failure to stop at command of a police officer
Other Public Order	Endangering welfare of a child; Hindering prosecution; Escape, any degree; Promoting prison contraband; Resisting arrest; Tampering with a witness; Tampering with physical evidence; Criminal contempt of a domestic protection from abuse order; Non-compliance with conditions of recognizance; Failure to register as a sex offender; Sex offender residing/loitering in prohibited zone

## Appendix B

### Conditions of Probation and Parole

**Table B1. New offense and general violation codes with counts (with sole violation) and percentages of violation category**

Code	Definition	N	%
1	You must not commit a new criminal offense or moving motor vehicle offense during the supervision period. This includes the charges of Escape after Conviction, Escape 3rd and motor vehicle offenses.	29 (5)	6.7%
2	You must report any new arrest, conviction, or police contact within 72 hours to your supervising officer.	7 (0)	1.6%
3	You must report to your supervising officer at such times and places as directed, and permit the probation/parole officer to enter your home and/or visit places of employment.	116 (21)	26.8%
4	You must have authorization from your supervising officer to leave the State of Delaware or your approved state of residence.	11 (1)	2.5%
5	You must report any changes of residence and/or employment within 72 hours to your supervising officer.	37 (0)	8.5%
6	You must have written approval of your supervising officer to own, possess, or be in control of any firearm or deadly weapon. (Note: 11 Del.C.1448 prohibits purchase, possession, ownership or control of any deadly weapon by persons convicted of a felony, crime of violence, drug offense or commitment for mental disorder.)	6 (0)	1.4%
7	You are not to possess or consume a controlled substance or other dangerous drugs unless prescribed lawfully. You are subject to random testing as directed by your supervising officer.	84 (5)	19.4%
8	You must pay a supervision fee as required by state law in accordance with a schedule as established by the Department of Correction.	0	0.0%
9	You must comply with any special conditions imposed at any time by your supervising officer, the Court and/or the Board of Parole.	105 (15)	24.2%
10	You must not quit a job, training program, or school without prior approval of your supervising officer.	1 (0)	0.2%
11	You must be employed full-time or active in job training or school on a full-time basis. If not, you must attend a job search program or perform community service on a schedule established by the supervising officer.	3 (0)	0.7%
12	You must participate in 0 - 35 hours of community service each week as directed by your supervising officer.	0	0.0%
13	You must abide by a curfew established by your supervising officer.	34 (0)	7.9%

**Table B2. Home confinement violation codes with counts (with sole violation) and percentages of violation category**

<b>Code</b>	<b>Definition</b>	<b>N</b>	<b>%</b>
HC1	You will not commit a new criminal/motor vehicle offense or participate in any illegal activities. New arrests, convictions, or police contacts must be reported immediately to your officer.	1 (0)	1.4%
HC2	You will not change your residence without prior approval from your officer. You may not reside in subsidized housing unless your name appears on the lease, nor with someone identified as a past or potential victim in a domestic violence or sex offense.	6 (0)	8.5%
HC3	You will not change your employment without prior approval from your officer. No "under the table" work is permitted and those who are approved by the program as self-employed must possess a valid business license.	3 (0)	4.2%
HC4	You will not leave the State of Delaware without permission from your officer.	2 (0)	2.8%
HC5	You will not own, possess or be in control of any firearm, ammunition, dangerous weapon or explosive.	0	0.0%
HC6	You will not possess or use any alcoholic beverage or drug except for prescribed medication of which you have made your officer aware. You are required to submit to urinalysis/breathalyzer testing as well as DNA testing and/or sex offender registration as required by law.	17 (3)	23.9%
HC7	You will not leave your residence during curfew hours except for life threatening emergencies. All schedule changes must be submitted at least twenty-four hours in advance and may be approved only by your officer.	20 (4)	28.2%
HC8	You must not damage or destroy the House Arrest equipment. You will be responsible for any repair/replacement due to negligence or willful damage. You must call your officer or the monitoring center to report any equipment problems. Do not call this number to request schedule changes.	1 (0)	1.4%
HC9	You must keep appointments with your officer, follow all instructions issued by any officer, and report to your employment, treatment programs, etc. as listed in your curfew hours.	8 (0)	11.3%
HC10	You must pay fines, costs, restitution, fees, etc. according to a schedule as ordered by your officer.	0	0.0%
HC11	You must obey any special conditions imposed by your officer, the Board of Parole, or the Courts.	10 (0)	14.1%
HC12	You must maintain electric and telephone service to your residence during the entire period of supervision. Your phone may not be connected on the same line with an answering machine, fax or computer, and it must be free of all special features such as Caller ID, call forwarding, answer call, call waiting, three-way calling, etc. Nor may any TV service such as Direct TV be on the line.	3 (0)	4.2%
HC13	You must allow officers to enter your home or place of employment at any time they request.	0	0.0%