



## SMART SENTENCING

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### PROBATION WORKS FOR NONVIOLENT OFFENDERS

Sentencing serves many purposes, but possibly the most important purpose is public safety. In determining punishment, the public safety questions judges and prosecutors may ask are:

- How many of these types of offenders will reoffend?
- How many of these types of offenders later will be incarcerated?

Recidivism studies can help answer these questions. The purpose of this bulletin is to compare the recidivism rates of nonviolent offenders<sup>1</sup> sentenced to prison with those sentenced to probation and discuss when probation is likely to result in lower recidivism.

This is a timely issue because, nationally, incarceration rates

are at an all-time high and truth-in-sentencing policies that were intended to place the most violent and repeat offenders in prisons also have resulted in more nonviolent offenders being incarcerated.

Prosecutors and judges commonly express the sentiment that probation only works for first-time offenders. A recidivism study of the outcomes of offenders supervised by the Missouri Department of Corrections, indicates, however, that recidivism rates actually are lower when offenders are sentenced to probation, regardless of whether the offenders have prior felony convictions or prior prison incarcerations.

The department's recidivism study examined offenders'

incarceration rates after three years from the start of probation or from their release from prison. For offenders placed on probation who had one or two prior felonies, 36 percent were incarcerated after three years, compared with 53 percent for offenders who had been sent to prison. Similarly, among offenders placed on probation who had one prior incarceration or three prior felonies, 47 percent were incarcerated after three years, compared with 55 percent for offenders who had been sent to prison.

<sup>1</sup>Nonviolent offenses comprise property offenses, drug offenses, DWI, and C- and D-felony public order and weapon offenses.

#### NOTE:

The Sentencing Advisory Commission has launched this periodic bulletin to keep judicial decision-makers current as to the latest information related to sentencing practices and their impacts.

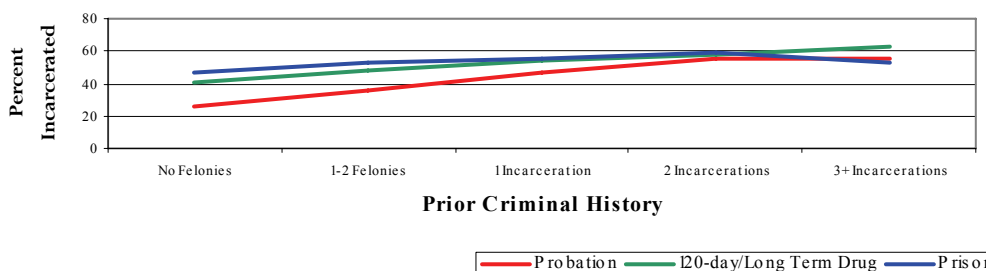
The purpose of this bulletin is to highlight trends in sentencing patterns among violent and nonviolent offenders.

The bulletin is being distributed to judges, prosecutors, public defenders, probation officers and the public via email and on the SAC Website:

[www.mosac.mo.gov](http://www.mosac.mo.gov)

Comments and suggestions are welcome and should be sent to: [smart.sentencing@courts.mo.gov](mailto:smart.sentencing@courts.mo.gov)

Percent of Offenders Incarcerated After Three Years from Start of Probation or Release from Prison



MOSAC  
Is dedicated to supporting public safety, fairness, and effectiveness in criminal sentencing

**Prior convictions affect probation sentencing rates for nonviolent offenders**

Missouri trial judges overwhelmingly sentence to probation – at a rate of 88 percent – offenders convicted of nonviolent offenses who have no prior felony convictions. That probation preference drops to 55 percent when the offender has one or two prior felony convictions and drops to 40 percent when the offender has a prior incarceration (including 120-day incarcerations). This decline in the use of probation, however, is not supported by data, which indicate that even those nonviolent offenders who have previous offenses or incarcerations may have lower recidivism rates if they are sentenced to probation or community service than if they are sent to prison.

**Recidivism Rates by Disposition and Prior Criminal History  
New Nonviolent Sentences and Probation Start or Prison  
Release 2000 - 2008**

Prior Criminal History	Disposition	New Sentences Started	Disposition Percent	Percent Incarcerated Within	
				3 yrs	5 yrs
No Prior Felonies	Probation	93,672	88%	26.4	33.1
	120-Day/Long Term Drug	7,787	6%	40.9	49.5
	Prison	7,313	6%	46.2	49.8
One or Two Prior Felonies	Probation	22,189	55%	35.6	43.3
	120-Day/Long Term Drug	7,087	19%	48.4	57.7
	Prison	9,273	25%	53.4	59.6
One Prior Incarceration	Probation	11,633	40%	46.7	54.8
	120-Day/Long Term Drug	4,555	15%	54.1	63.5
	Prison	12,333	45%	55.1	62.1
Two Prior Incarcerations	Probation	4,342	35%	55.6	64.0
	120-Day/Long Term Drug	2,365	18%	58.1	68.3
	Prison	5,925	47%	58.5	66.4
Three or More Prior Incarcerations	Probation	1,854	32%	55.2	64.9
	120-Day/Long Term Drug	1,478	21%	62.3	73.0
	Prison	3,290	47%	53.2	61.1
	Total	195,096		37.1	43.9

**WHY PROBATION MIGHT RESULT IN LOWER RECIDIVISM**

Probation allows offenders to maintain employment and continue their responsibilities in communities. It avoids incarceration with fellow offenders who might encourage criminal thinking. The conviction and the sentencing, rather than an incarceration, may be sufficient punishment reduce recidivist behavior. In addition to prior criminal history, therefore, judges should consider factors that are known to impact recidivism, including age, employability, substance abuse, drug treatment, supervision strategies and the risks of future violent offenses. These topics will be covered in future bulletins.

**Probation as a Percent of All Dispositions**  
(Probation, 120-Day/Long Term Drug or Prison)

