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Investigating links between probation enforcement and reconviction

Ian Hearnden
Andrew Millie

Home Office Online Report 41/03

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The authors

At the time of writing, Ian Hearnden was Senior Research Fellow and Andrew Millie Research Fellow at the Criminal Policy Research Unit, South Bank University. Both are now working for the Institute for Criminal Policy Research (ICPR), School of Law, King's College London.

These findings aim to examine how different enforcement strategies affect the reconviction rates of offenders under probation supervision in the community. The main purpose was to explore how reconviction rates vary amongst areas with different patterns of enforcement. For this purpose, data were gathered on 882 offenders drawn from eleven probation areas, five of which had harsher than average responses to non-compliance and six of which were more lenient than average. The findings also explored how reconviction rates vary between offenders exposed to different enforcement strategies.

Key points

- 882 offenders were included in the follow-up sample. Of the 823 whose supervision outcome was known, 21 per cent (170) were breached at court.
- Offenders in areas with high rates of breach at court had reconviction rates, which were not statistically significantly different from those in areas with low rates of breach at court.
- 'Strictness' of an area, therefore, appeared to have little impact on the overall reconviction rate.
- Certain areas continued to offer appointments after breach was initiated. As some of these offenders were not breached at court, this effectively acted as an extra layer of warning after a final warning.
- Only half of those liable for breach were actually breached at court. Those not breached at court recorded lower reconviction rates; however, caution should be used due to the small numbers involved.
- Over three-quarters of offenders breached at court were reconvicted within two years. Those breached at court were more likely to be reconvicted than those who completed their orders successfully or had orders terminated early for good behaviour. This may, at least in part, be due to selection effects.
- Offenders with high rates of unacceptable absences also tended to have higher rates of reconviction than offenders with lower rates of unacceptable absences.
- Probation areas and policy makers should be realistic about what reductions in offending can be achieved in the short term through toughening up enforcement practices. One option may be to explore ways of positively reinforcing good attendance and of addressing non-compliance without recourse to breach action.

Background to study

The 'what works' literature (summarised in Vennard and Hedderman, 1998) suggests that those who fail to complete probation programmes do worse than those who complete and usually worse than control groups. This difference is partly due to selection effects, as those least likely to reoffend are also those most likely to complete an order successfully. National Standards (NS) determine how often an offender should be seen by a probation officer during an order or while on licence, and what steps should be taken in the event of non-compliance. The strict enforcement of NS may also affect reconviction rates. May and Wadwell (2001) found that offenders who do not comply with a community order were subsequently more likely to be reconvicted, and that action to achieve compliance may have a positive effect on reducing reconviction. However, little other work has been done to explore the connection between enforcement and reconviction.

In the late 1990s, the Association of Chief Officers of Probation (ACOP)¹ invited the Criminal Policy Research Unit (CPRU) at South Bank University to carry out a series of three national audits.² These examined the way Community Rehabilitation Orders (CROs), Community Punishment Orders (CPOs) and post-release licences were enforced.³ The second audit (Hedderman and Hearnden, 2000) showed a general trend towards tougher enforcement. The

¹ ACOP was disbanded with the establishment of the National Probation Service in 2001 when the original 54 probation areas became 42.

² Hedderman (1999); Hedderman and Hearnden (2000; 2001a).

³ It should be noted that these audits predated the Criminal Justice and Court Services Act 2000. Before this came into force in April 2001, CROs were known as Probation Orders while CPOs were called Community Service Orders.

current study builds on this second audit by investigating the relationship between different forms of enforcement action and reconviction. It should not be regarded as an assessment of compliance with NS. The main focus is on differences in area practice and questions about the deterrent effects of strict enforcement.

The second audit was used in preference to the first or third audit for two reasons. Firstly, the original 54 probation areas, which became 42 when the National Probation Service was set up, had agreed to this research by the time the second audit was conducted. Secondly, virtually all court orders and licences which began in September 1999 had either run their course or been terminated by the time that reconviction data were assembled for the study.

Methodology

Complete enforcement records and reasons for termination were requested from a sample of probation areas. These were selected to ensure representation of two contrasting groups of areas: those whose levels of compliance with NS fell below the average of the overall sample of offenders in the second audit, and those who were above average. A mix of large, medium and small areas was also selected, based on the number of cases included in the second audit.

Eleven probation areas provided updated enforcement details. Seven areas supplied data electronically, two submitted paper returns and, in two cases, researchers visited areas and updated records through file readings in conjunction with local probation staff.

The aim was to collect follow-up information and reasons for termination on around half the original audit sample. Data were gathered on 882 cases, which represented just over a fifth of the 4,386 cases included in the second audit. Nevertheless, this follow-up sample can be used with confidence as frequency values were not statistically significantly different⁴ between this group and those not followed up. This was in terms of gender, ethnicity, and reconviction rates.⁵ Also, the average age of both groups was identical. The shortfall in the number of cases followed up stemmed from several factors. Some areas felt unable to participate due to other commitments; others found it difficult to locate all the required case records; and in some areas records were incomplete. The distribution across areas is shown in Table 1.

Table 1: Number of cases in enforcement sample, by area

Area 1	131	Area 7	68
Area 2	103	Area 8	54
Area 3	48	Area 9	93
Area 4	56	Area 10	45
Area 5	139	Area 11	69
Area 6	76		Total = 882

Enforcement follow-up sample ⁶

Eighty-three per cent (734) of the follow-up sample of 882 were men, and the mean age was 28. Over a quarter of the sample were aged between 17 and 20. Information on ethnicity was missing for ten per cent of cases. However, white offenders accounted for at least 81 per cent of the sample, the remainder being black (6%), Asian (1%) or 'other' (2%).

⁴ For the testing of statistical significance in these findings the chi-squared (χ^2) test was used for comparing frequency values.

⁵ Reconviction rates were drawn from the Home Office Offenders Index (OI).

⁶ These data are derived from the updated enforcement details drawn from the 11 probation areas.

Forty-five per cent were serving a CRO, and 35 per cent had been given a CPO. The remaining 20 per cent had been released from custody and were on some form of licence. Offenders were most often under supervision for offences of theft (27%) or violence (24%), though there were variations by supervision type.

Why did orders end?

Reasons for termination in each area are shown in Table 2. At the time of the second audit, the 1995 NS were in operation. These required that, whatever the supervision type, breach proceedings be initiated against offenders no later than the third unacceptable absence.⁷

Table 2: Percentage outcome of supervision

Area ⁽¹⁾	Breached at court ⁽²⁾	Completed successfully	Terminated early – good behaviour	Further offence/in custody	Other ⁽³⁾	Don't know	Total
Area 1	22	68	<1	4	<1	5	100
Area 2	23	62	1	6	1	7	100
Area 3	8	73	8	4	0	6	100
Area 4	43	45	5	7	0	0	100
Area 5	15	53	3	7	0	22	100
Area 6	18	57	4	11	7	4	100
Area 7	13	69	2	16	0	0	100
Area 8	30	56	0	9	0	6	100
Area 9	11	67	8	10	1	4	100
Area 10	13	49	11	13	7	7	100
Area 11	19	67	3	10	1	0	100
Total per cent	19	61	4	8	1	7	100
Valid per cent	21	65	4	9	1	-	100
	n=170	n=537	n=31	n=73	n=12	n=59	n=882

Notes

- (1) Care should be taken when comparing areas due to the low numbers involved in some sites.
- (2) Breached at court refers to cases in which breach was proved at court.
- (3) 'Other' includes medical reasons; revocation for unclear reasons; orders still in operation, and offenders for whom appointments on this order were indistinguishable from those on a subsequent order.

Of the 823 whose supervision outcome was known, 21 per cent (170) were breached at court. Offenders completed their supervision successfully in 537 cases (65%). A further 31 offenders (4%) had their cases terminated early for good behaviour.

Initiation of breach

Complete details of each appointment made, attended and action taken in the event of non-attendance were available for 89 per cent (782) of cases in the follow-up sample.⁸ Of these, 70 per cent (545) either completed their order or had it terminated early for good behaviour.

⁷ The 1995 NS have since been replaced (in 2000). The key change was that only two unacceptable absences - including one warning - were permitted before breach proceedings could be initiated.

⁸ The 782 for which full enforcement details were available were compared with all the 882 cases in the follow-up sample. There were no statistically significant differences in terms of average age, gender and ethnic breakdown.

However, 12 per cent (68) of the 545 had breach proceedings initiated against them after three or more unacceptable absences that did not ultimately lead to the offender being breached at court. Such cases occurred in most areas. Table 3 shows the full breakdown.

Table 3: Breach proceedings initiated but order did not end in breach

Area	Cases with full appointment and attendance details	Cases completed successfully or terminated early for good behaviour	Cases where breach was initiated but offender not breached at court
	(no.)	(no.)	(no.)
Area 1	125	90	16
Area 2	96	65	13
Area 3	45	39	2
Area 4	53	28	0
Area 5	104	78	7
Area 6	73	46	11
Area 7	68	48	5
Area 8	50	30	1
Area 9	85	69	10
Area 10	41	27	0
Area 11 ⁽¹⁾	42	25	3
Total	782	545	68

Notes
 (1) For Area 11, while reasons for termination were available in all cases, full enforcement histories were missing in some cases.

Often, initiation of a breach did not result in a breach at court because the supervision period had expired before a court date hearing was set. However, probation staff in several areas commented that in some cases where breach was initiated, this was used to alert the offender to the fact that they were liable to end up in court. Some areas continued to offer appointments to all offenders after breach was initiated, while others did so only for CPO cases. Effectively this process functioned as an extra layer of warning after a final warning, to be applied to relatively motivated offenders whose record of reporting was generally good.

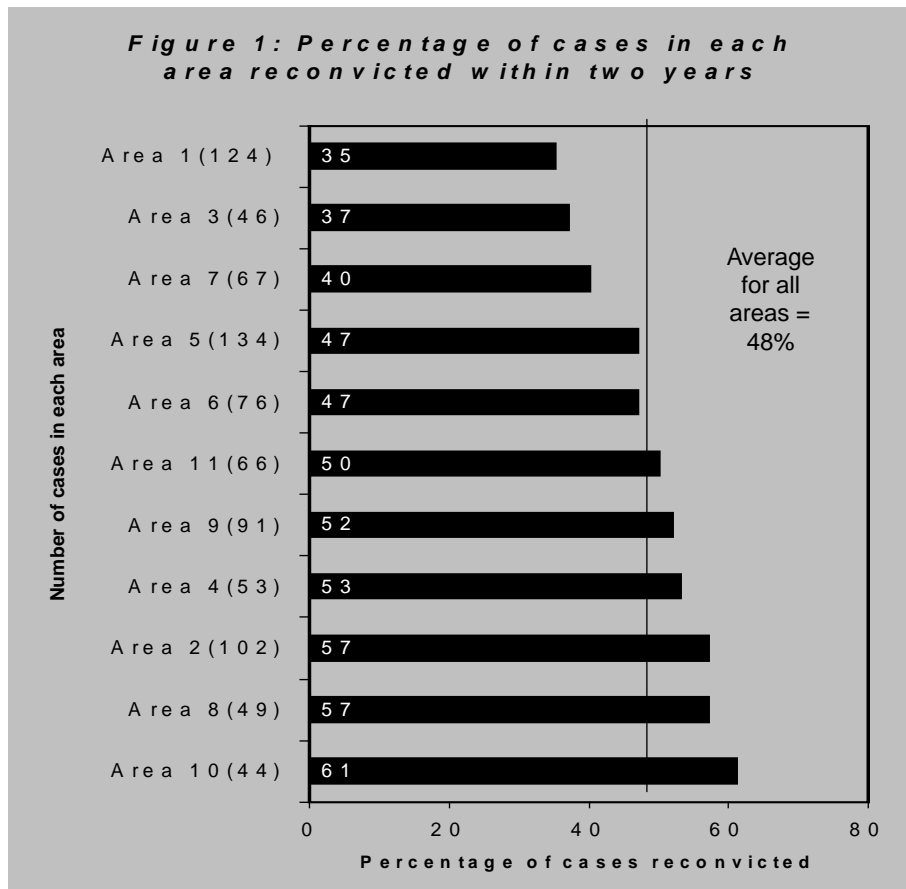
Reconviction

Reconviction data were sought on all 4,386 cases included in the second audit, whether or not enforcement practice beyond the first three months was examined. Figure 1 shows actual reconviction rates for those followed up, along with the number of cases from each area. This was calculated over two years for each offender, and began from the date of the sentence for which they were being supervised on the order sampled in the second audit.⁹

The actual reconviction rate recorded in each enforcement sample area ranged from 35 per cent to 61 per cent. The mean number of days between commencement of supervision and date of reconviction was 227 days, equivalent to around seven and a half months.

⁹ The reconviction dataset provided by the Home Office Offending and Criminal Justice Group did not include details of reoffence date. Therefore, the date to reconviction has been used.

Figure 1: Percentage of cases in each area reconvicted within two years



Offender details were also submitted to the Offenders Index (OI) so that Offender Group Reconviction Scale scores (OGRS2) could be calculated. This allowed an assessment of whether the sub-sample of offenders with complete enforcement information was representative of the full sample in the second audit.

Analysis of OI data produced a successful match with the enforcement follow-up sample in 97% (852) of the 882 cases. Similarly, matches were made with 97 per cent (3,388 out of 3,504) of cases that were not followed up. The expected rate of reconviction within two years, as derived from OGRS2, was identical for the two groups at 47 per cent. Actual reconviction rates for all cases in the follow-up sample (48%) were not statistically significantly different from those not followed up (51%).

Reconviction and termination type

In Table 4 reconviction rates for cases breached at court are compared with all other types of order outcome.

Table 4: Offenders reconvicted according to order outcome

Reason for termination	Number of cases	Number reconvicted	% reconvicted
Breached at court ⁽¹⁾	163	125	77
Completed successfully	521	184	35
Early for good behaviour	30	7	23
Further offence/in custody ⁽²⁾	71	60	85
Other ⁽³⁾	12	6	50
All reasons ⁽⁴⁾	797	382	48
<i>Not known</i>	55	26	47

Notes

(1) This refers to cases in which breach was proved at court.

(2) The proportion reconvicted does not total 100% as this includes offenders who were on remand.

(3) 'Other' includes medical reasons; revocation for unclear reasons; orders still in operation, and offenders for whom appointments on this order were indistinguishable from those on a subsequent order.

(4) 30 cases were not matched with the OI data and therefore were excluded from this breakdown.

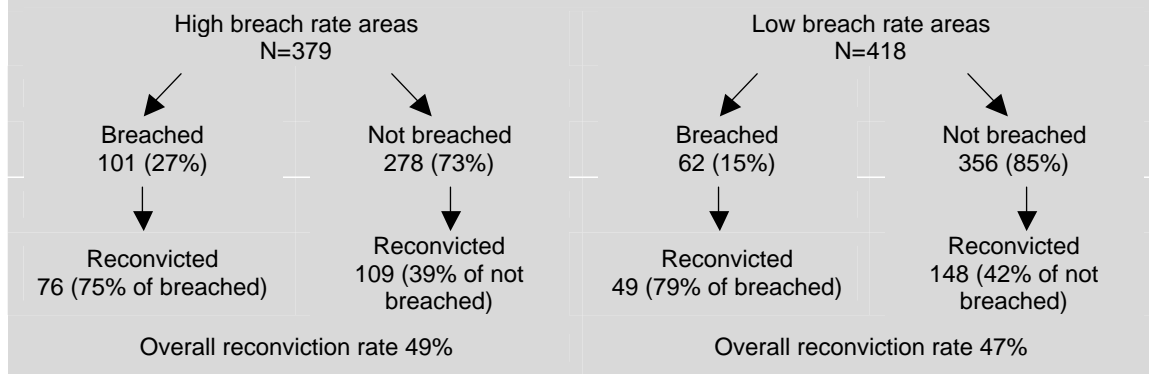
Over three-quarters of offenders who were breached at court were reconvicted within two years. Those breached at court were more likely to be reconvicted than those who completed their orders successfully or had orders terminated early for good behaviour. This may of course reflect the fact that those least likely to be reconvicted are also those most likely to complete their supervision (Hedderman and Hearnden, 2001b).

As shown in Table 3, those not breached at court included 68 offenders for whom breach proceedings were initiated in line with National Standards, but who did not reach court. Matches with OI data were obtained for 67 of these offenders, of whom 39 (58%) were reconvicted. This compares favourably with the 77% rate for those against whom breach was similarly initiated and subsequently proved at court. It may be the case that, by continuing to offer appointments after a breach is initiated, this will have an impact on reconviction rates. Alternatively, the 67 may have been a comparatively low risk group who were less likely to be reconvicted anyway.

Area enforcement patterns

The main purpose of this study was to compare whether areas with a pattern of harsher than average enforcement had different reconviction patterns to areas with a more lenient approach. A further test of the relationship between order outcome and reconviction involved dividing areas into two groups. The first comprised the five areas that had the highest proportion of cases breached at court in the enforcement follow-up sample. The second combined the remaining six areas where proportions of cases breached at court were lower. Figure 2 shows the results for these two 'high' and 'low' breach rate groups.

Figure 2: Reconviction and order outcome for areas with high and low rates of breach at court



In both types of area the proportion reconvicted following breach at court was much higher than for those whose orders had finished in other ways. Despite this variation, there was no significant difference¹⁰ in the overall reconviction rates for high or low breaching areas. This does not take into account variation between areas in terms of, for example, offender characteristics or police detection rates. However, viewed purely in terms of whether an area has a high or low rate of breach at court, 'strictness' of enforcement appears to have little impact on the overall reconviction rate.

Reconviction and unacceptable absences

Full details of both enforcement and reconviction were available for 754 offenders.¹¹ Table 5 shows the proportion of offenders reconvicted depending on the number of unacceptable absences they registered. Figures are irrespective of whether or not those with three or more unacceptable absences had breach proceedings initiated against them, and do not include offenders whose order was terminated for unknown reasons.

Table 5: Reconviction according to number of unacceptable absences⁽¹⁾

Number of unacceptable absences	Number of cases	Percentage reconvicted	Average number of days to reconviction
None	230	26	259
1	135	39	267
2	124	48	180
3 or more	265	71	210
All cases	754		223
Overall % reconvicted		48	

Notes

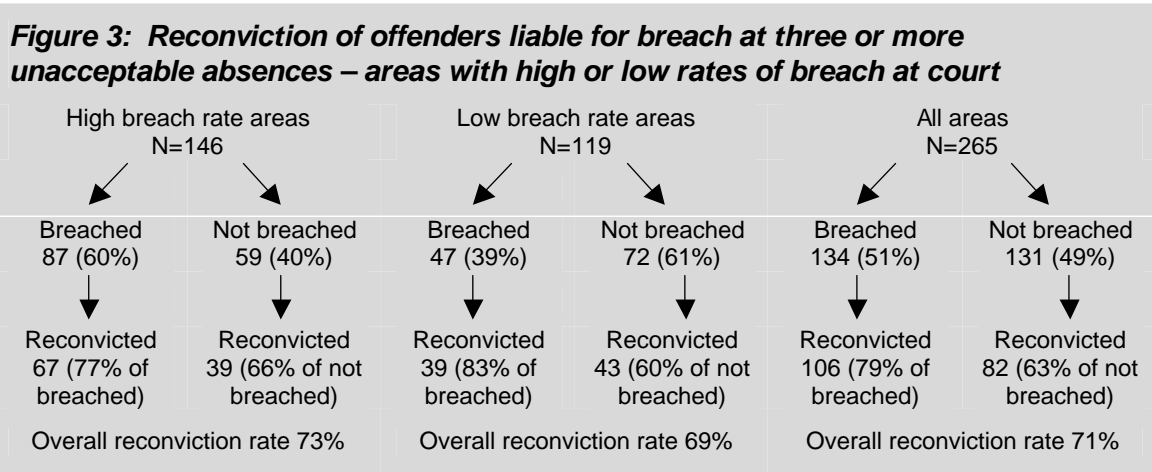
(1) Reconviction records were available for 852 cases out of 882. In 797 of these 852 cases the outcome of supervision was known. Complete enforcement details were available for 754 of these 797 cases. Complete enforcement details comprised of: appointments made by supervising officers, appointments attended by offenders, and action taken by supervising officers in the event of non-attendance.

There was a greater likelihood of reconviction as the number of unacceptable absences increased. However, the speed of reconviction did not appear to depend on the number of unacceptable absences.

¹⁰ There was no statistically significant difference between high and low breach rate areas.

¹¹ Those within the sample who had full enforcement details were not statistically significantly different from those that did not, in terms of gender, ethnicity and reconviction rates. The average age of both groups was identical.

Figure 3 also considers reconviction in relation to the number of unacceptable absences. This time, reconviction rates are shown for all offenders who were liable for breach at three or more unacceptable absences - whether or not breached at court - and excludes offenders whose order was terminated for unknown reasons. Results are shown for the same areas as in Figure 2.



Although all those with three or more unacceptable absences were liable for breach, only half actually resulted in breach at court. In both high and low breaching areas, offenders who were not breached at court recorded lower reconviction rates. While the difference between high and low breaching areas was not significant, there may be value in continuing to offer further appointments following the initiation of breach.

Conclusions

Over three-quarters of offenders breached at court were reconvicted within two years. This group was more likely to be reconvicted than those who completed their orders successfully or had orders terminated early for good behaviour. The likelihood of reconviction rose as the number of unacceptable absences increased. However, the speed of reconviction did not appear to depend on the number of unacceptable absences.

When areas were grouped between 'high' and 'low' rates of breach at court, there was very little difference in their overall reconviction rates. 'Strictness' of an area appears to have little impact on rates of reconviction. There are two possible explanations for this. The first is that probationers are typically accustomed to, and thus unresponsive to, deterrent threat – whether offered in the form of a court sentence or in the form of rigorous enforcement of probation conditions. The second is that differences between areas in their enforcement strategies are too small to have any differential impact on offenders' perceptions. Offenders may simply lack the necessary information to assess the strictness of the regime to which they are exposed; or alternatively, regimes that are actually quite lenient may be able to present themselves convincingly as strict ones. Whatever the explanation, probation areas and policy makers should be realistic about what reductions in offending can be achieved in the short term through toughening up enforcement practices.

Some areas continued to offer appointments to offenders after breach was initiated. As these were not necessarily breached at court, this effectively acted as an extra layer of warning after a final warning, applied to offenders whose reporting was generally good.

Only half of those liable for breach were actually breached at court. While those not breached at court recorded lower reconviction rates, the small numbers involved means that caution should be used with these figures. It may be the case that, by continuing to offer appointments after a breach is initiated, this will have an impact on reconviction rates. Alternatively, those liable for

breach but who were not breached at court may have been comparatively low risk cases who were less likely to be reconvicted anyway.

One option may be to explore ways of rewarding good attendance and of addressing non-compliance without recourse to breach action. The next step will therefore be to consider the effect of strategies to ensure compliance on reconviction.

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Home Office
Research, Development and Statistics Directorate
Communication Development Unit
Room 264
50 Queen Anne's Gate
London SW1H 9AT

Tel: 020 7273 2084 (answerphone outside of office hours)

Fax: 020 7222 0211

Email: publications.rds@homeoffice.gsi.gov.uk

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