



JOSEPH P. FOLEY
COMMISSIONER

The Commonwealth of Massachusetts
Office of Commissioner of Probation
211 New Court House, Boston 02108

f MALICIOUS DESTRUCTION OF PROPERTY:
Random Sample of Convictions 1975 - 1978

Joseph P. Foley
Commissioner of Probation

Prepared by:

Marjorie Brown Roy
Director of Research

Peter R. Mason
Research Intern

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MALICIOUS DESTRUCTION OF PROPERTY

(Convictions 1975 - 1978)

I. INTRODUCTION

The Office of the Commissioner of Probation, Commonwealth of Massachusetts, has analyzed the cases of 122 randomly selected defendants convicted of Malicious Destruction of Property in an effort to assess sentencing patterns of cases between 1975 and 1978.

This analysis of Malicious Destruction of Property convictions is but one part of a larger study of sentencing patterns for criminal offenses in Massachusetts. Nearly five thousand records (4,976) were used as the basis of the aggregate study.

The Office of Commissioner of Probation is unique in that it maintains all criminal and delinquency records statewide. Six million records, dating back to 1924, are stored in the Probation Central File.

II. METHODOLOGY

The data for the Malicious Destruction of Property convictions were drawn from the sample of 4,976 records randomly selected from the Probation Central File. Stratified random sampling was undertaken throughout the alphabetized file to assure no ethnic bias.

Criteria for inclusion in the aggregate sentencing study were:

1. Case arraignment and disposition between January 1, 1975 and December 31, 1978.
2. Record showed a conviction for qualifying offense.
3. Qualifying offense was either a crime against person or crime against property (Massachusetts General Laws, Chapters 265 and 266) or Use of Motor Vehicle without Authority (M.G.L. Chapter 90, Section 24).

Records were coded to delete identifying data (see attached sample of the coding sheet). The data, in turn, were entered into the Probation Central File Computer.

Malicious Destruction of Property offenses constituted 1.6 percent (126)* of the total 7,739 offenses in the aggregate study. Records for this narrower study were extracted from the aggregate study in order to assess the following:

- A. Frequency Distribution of the cases of Malicious Destruction of Property.

*The discrepancy between this number and the number in the first paragraph is because there were 122 defendants, but 126 charges.

- B. Frequency Distribution of Malicious Destruction of Property by year of arraignment.
- C. Frequency Distribution of Malicious Destruction of Property by sex.
- D. Frequency Distribution of Malicious Destruction of Property by Court of Jurisdiction (District or Superior).*
- E. Frequency Distribution of Malicious Destruction of Property by age categories (Juvenile: 8 to 16; Young Adult: 17 to 25; Older Adult: 26 and over).
- F. Frequency Distribution of Malicious Destruction of Property by prior offense history.
- G. Frequency Distribution of Malicious Destruction of Property by disposition.

Findings were then compared to the distributions of the aggregate study to ascertain whether any significant differences exist between this offense and all offenses.

III. DEFINITIONS

Malicious Destruction of Property is a violation of Massachusetts General Laws Chapter 266, Section 127**, which states, "whoever destroys or injures the personal property, dwelling house or building of another in any manner...shall, if such destruction or injury is wilful and malicious, be punished."

The word malice signifies a wrongful act done intentionally without legal justification or excuse. In order to be malicious, the act must have been done with a sense of hostility, or of ill will, or of wanton cruelty, or with wanton disregard of the rights of others.

Malicious Destruction of Property is punishable by "imprisonment in the state prison for not more than ten years or by a fine of three thousand dollars or three times the value of the property so destroyed or injured, whichever is greater, and the imprisonment in jail for not more than three years." (M.G.L., C.266, S.127)

If the value of the property destroyed or injured is found not to exceed one hundred dollars, the punishment is by a fine of three times the value of the damage or injury to the property or by up to three months imprisonment.

*All Juvenile cases are included, for this study, in the District Court whether they were heard in Juvenile or District Court.

**Prior to 1978, when the statute was amended, imprisonment was for five years and the fine was one thousand dollars.

Because the offense is punishable by imprisonment in the state prison, Malicious Destruction of Property may be classified as a felony. The statute also makes provision for misdemeanor offenses.

Defendants convicted of Malicious Destruction of Property were usually charged with other offenses. Out of the 122 defendants, 44.3 percent (54) were charged with some sort of breaking and entering; 24.6 percent (30) were charged with some type of assault and battery; 27 percent (33) were charged with a larceny; 10.6 percent (13) were charged with assault or assault on an officer; and 2.4 percent (3) were charged with arson.

IV. RESEARCH FINDINGS

A.) Year of Arraignment

The cases were distributed as follows:

<u>Year</u>	<u>Number of Cases</u>	<u>Percent</u>
1975	23	18.8%
1976	27	22.1%
1977	41	33.6%
1978	29	23.7%

While this is not an even distribution, cases in the aggregate study were chosen to provide a consistent number each year. In the aggregate study, 20 percent of the cases were arraigned in 1975; 26 percent in 1976; 27 percent in 1977; and 25 percent in 1978.

B.) Distribution by Sex

Out of the 122 convicted persons, 95.1 percent were male (116). 4.9 percent were female (6).

The data were not consistent with the sex distribution of the aggregate study, which found 90.2 percent male (4488) for all categories of offenses, and 9.8 percent female (486). Females appear to be underrepresented in Malicious Destruction of Property.

C.) Distribution by Court of Jurisdiction

As Malicious Destruction of Property is almost always charged as a misdemeanor (only one case in this study was charged as a felony), the majority of cases were heard in the District Court.

Ninety-six (96) cases were heard in the District Court (78.6%), whereas twenty-six (26) were heard in the Superior Court (21.3%). One reason for the large percentage heard in the Superior Court might be the seriousness of the simultaneous charges.

D.) Distribution by Age

While one might expect juveniles to be responsible for the overwhelming majority of Malicious Destruction of Property offenses, this study found that persons between the ages of 17 and 25 represented by far the highest percent of defendants convicted of Malicious Destruction of Property, 63.9 percent, (78 persons). Those who were age 26 and older represented the next highest percent of convictions, 22.1 percent (27 persons). Juveniles represented only 13.9 percent (17 persons) of the total.

This compares to the age distribution of the aggregate study, which found that persons between the ages of 17 and 25 represented 54.2 percent of convictions; older adults represented 30.4 percent; and juveniles represented 15.3 percent.

E.) Distribution by Prior Criminal History

Among the 105 adults convicted of Malicious Destruction of Property, 60.9 percent were convicted of prior property offenses. 36.2 percent had prior convictions for public order offenses; 28.6 percent had prior convictions for motor vehicle offenses; and only 4.8 percent were convicted of prior drug offenses.*

Out of the thirty persons with juvenile histories (11 juveniles and 19 adults), 83.3 percent had prior juvenile property delinquencies. Fifty (50) percent had prior public order delinquencies; forty (40) percent had motor vehicle delinquencies; and 26.6 percent were found delinquent of crimes against person.

The data may be compared to the aggregate study, which found that 50.4 percent of all adult offenders were convicted of prior property offenses. This comparison suggests a link between Malicious Destruction of Property offenses and prior property convictions.

Crimes Against Property

Eighty records indicated previous property offenses, 65.6%. Sixty-four (64) of the defendants, 52.4%, had previous adult property convictions; twenty-five, 20%, had previous juvenile property delinquencies; and nine, 7.3%, had both.

A further breakdown revealed that approximately sixty percent (59.5%) of the defendants with a prior criminal history of property offenses were convicted of one to three (1 to 3) offenses. The frequency distribution is as follows:

*The percentages in this paragraph and the following one do not add up to 100% due to the fact that some persons were convicted of more than one type of offense.

<u>Number of Offenses</u>	<u>Number of Defendants</u>	<u>Percent</u>
1 to 3	47	59.5%
4 to 6	14	17.7%
7 and over	18	22.8%

F.) SENTENCING PATTERNS

Analysis of the sentencing patterns for Malicious Destruction of Property convictions found the following:

<u>Disposition</u>	<u>Number of Defendants</u>	<u>Percent</u>
Suspended Sentence	46	37.7%
Formal Probation	26	21.3%
Continued/Filed	22	18.0%
Incarceration	17	13.9%
Others (Dismissed, DYS, Fine, Default)	11	9.1%

The aggregate study found:

<u>Disposition</u>	<u>Number of Defendants</u>	<u>Percent</u>
Suspended Sentence	2707	34.9%
Incarceration	1633	21.1%
Formal Probation	1347	17.4%
Continued/Filed	855	11.0%
Others	1201	15.5%

When a comparison is made between the dispositions for Malicious Destruction of Property and dispositions in the aggregate study, the data reveal that the incarceration rate for Malicious Destruction of Property convictions is only two-thirds (2/3) the incarceration rate for all convictions.

The lesser rate of incarceration for Malicious Destruction of Property leads to a greater emphasis on suspended sentences and probation as dispositions.

An interesting statistic is revealed by comparing the incarceration rate for Malicious Destruction of Property in the Superior Court to that in the District Court. Out of the 26 defendants convicted in the Superior Court, seven (26.9%) were incarcerated. In the District Court, only ten out of the 96 convicted defendants were incarcerated (10.4%). The incarceration rate in the Superior Court is over two and a half times greater than that in the District Court.

One reason for this disparity might be the seriousness of the Malicious Destruction of Property offenses in Superior Court, coupled with serious simultaneous charges.

Almost all the incarceration was in the Houses of Correction (16 out of 17 defendants). Sentences ranged from one month to twenty-four months (1 to 24), the mean being just over six months (6.8 months). There was only one sentence to state prison, MCI Walpole, for three to five years (3 to 5).

Probation ranged from seven months to thirty-six months (7 to 36), the mean being sixteen-and-a-half months.

V. CONCLUSIONS

Data from this study reveal that persons convicted of Malicious Destruction of Property are largely male (95.1%) and between the ages of seventeen and twenty-five (17 and 25), (62.3%).

Almost every charge of Malicious Destruction of Property was treated as a misdemeanor, and most charges were heard in the District Court (78.6%).

Eighty percent (81.1%) of the convicted defendants had previous criminal histories. Crimes against Property represented the largest percentage of prior offenses.

Most persons received suspended sentences (37.7%), but many were given probation (21.3%) that extended, on average, for a year and four months. Just under fourteen percent (13.9%) of the convicted defendants were incarcerated, as compared to twenty-one percent for all offenses.

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