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SEX OFFENDER SENTENCING IN WASHINGTON STATE: HOW SEX OFFENDERS DIFFER FROM OTHER FELONY OFFENDERS

The 2004 Washington State Legislature directed the Washington State Institute for Public Policy to analyze the impact and effectiveness of current sex offender sentencing policies.¹ Because the topic is extensive, we are publishing a series of reports.

This report describes how offenders sentenced in Washington State superior court for felony sex offenses differ from those sentenced for other felony offenses. Subsequent reports will examine types of sex offender sentences, recidivism, sex offender treatment, and risk for reoffense assessments.

This report analyzes cases filed in Washington superior courts between 2000 and 2004 that resulted in a conviction for a felony offense. These cases are divided into three categories by the type of felony conviction: sex, violent (excluding sex), and other felony cases.²

A subsequent report will focus on how cases involving felony sex offenses are sentenced.

SUMMARY

This report describes how persons convicted of felony sex offenses differ from those convicted of other violent and non-violent felony offenses.

Findings

- **Felony sex offense cases are more likely to result in a prison sentence (54 percent) than other violent and non-violent felony cases.**
- **Offenders involved in felony sex convictions are overwhelmingly male (98 percent), predominately European American (84 percent), and older than most other offenders (32 percent are over 39 years old).**
- **Persons convicted of sex offenses are more often (61 percent) first-time commitments to the Department of Corrections (DOC) compared with other offenders.**
- **Those convicted of felony sex offenses have fewer prior felony convictions (32 percent).**
- **Sex offenders have the highest rate of prior felony sex convictions compared with other offenders; however, the rate is relatively low (14 percent).**
- **Offense seriousness level consistently and strongly separates sex offense cases from all other cases. Commitments to DOC, prior felony convictions, and prior misdemeanor convictions consistently, yet weakly, differentiate the case types. Sex offenders tend to have fewer prior records.**
- **The results from logistic regression analyses indicate that there are greater differences between sex cases and non-violent felony cases than between sex cases and other violent cases.**

¹ ESHB 2400, Chapter 176, Laws of 2004.

² If a case involves a conviction for a felony sex offense, it is categorized as a "sex offense" case. If a case involves a non-sexual violent felony conviction, it is included in the "violent" category. All other cases involving a felony conviction are in the "other" category.

Exhibit 1 describes all cases in the study sample filed in Washington State superior courts between 2000 and 2004 that resulted in a conviction for a felony offense. Felony sex offense cases represent 5 percent of the sample. Felony sex offense cases are more likely to result in a prison sentence (54 percent) than the other cases.

Exhibit 1

Type of Sentence	Type of Felony Offender		
	Sex	Violent	Other
Number of Cases	5,351	29,402	82,453
Percentage of Cases	5%	25%	70%
Prison Sentence	54%	40%	24%
Jail/Community Supervision Sentence	46%	60%	76%

Washington State’s determinant sentencing system is primarily driven by two factors: the seriousness of the current offense and the offender’s criminal history.³ Exhibits 2 and 3 examine these two factors. A later report will analyze sex offender sentencing in detail.

Exhibit 2 shows the percentage distribution of offense seriousness levels for the three groups of cases.⁴ Those convicted of sex offenses have higher offense seriousness levels than other offenders. Proportionally more felony sex cases involve seriousness levels V, VI, VII, X, XI, and XII.

Exhibit 2

Offense Seriousness Level	Type of Felony Offender		
	Sex	Violent	Other
I	2.1%	1.3%	53.2%
II	0.9%	0.8%	20.3%
III	7.3%	43.6%	11.8%
IV	4.6%	25.0%	5.3%
V	13.3%	9.3%	0.3%
VI	12.3%	0.7%	0.4%
VII	10.7%	6.4%	1.0%
VIII	0.7%	2.1%	6.6%
IX	1.3%	6.3%	0.0%
X	20.6%	0.8%	1.0%
XI	11.5%	0.5%	0.0%
XII	14.0%	1.3%	0.0%
XIII	0.2%	0.1%	0.0%
XIV	0.2%	0.9%	0.0%
XV	0.3%	0.8%	0.0%
XVI	0.0%	0.1%	0.0%
Average	7.9	4.6	2.2

Exhibit 3 shows the percentage distribution of offender prior-record scores. Although slightly more sex offenders have no prior record score (48.8 percent have a zero), they have higher average offender scores than the other two groups. This is attributable to the “triple weighting” of prior serious violent felony offenses for offenders being sentenced for a felony sex offense.⁵ As a result, there are proportionally more sex offender cases with scores of 3, 6, and 9 points.

Exhibit 3

Offender Prior-Record Score	Type of Felony Offender		
	Sex	Violent	Other
0	48.8%	43.5%	42.8%
1	6.6%	16.1%	16.3%
2	4.5%	12.7%	10.7%
3	18.0%	7.9%	8.2%
4	4.1%	6.4%	6.1%
5	2.8%	4.1%	4.5%
6	6.7%	2.9%	3.2%
7	1.6%	2.0%	2.4%
8	1.0%	1.3%	1.6%
9	5.9%	3.1%	4.2%
Average	2.3	1.9	2.1

Thus, the higher imprisonment rate of offenders convicted of a felony sex offense shown in Exhibit 1 is attributable, as intended by the sentencing guidelines, to the higher offense seriousness levels and offender scores of these cases shown in Exhibits 2 and 3.

Exhibit 4 displays the demographic characteristics of the three groups of offenders. Offenders involved in felony sex convictions are overwhelmingly (98 percent) male, predominately European American (84 percent), and older than both violent and non-violent felony offenders (32 percent are over 39 years old).

³ Sentencing Reform Act of 1981, RCW 9.94A (implemented in 1984).

⁴ The seriousness level and offender score data are from the Department of Corrections database.

⁵ RCW 9.94A.525(9) specifies “If the present conviction is for a serious violent offense, count three points for prior adult and juvenile convictions for crimes in this category.”

Exhibit 4

Demographic Characteristics	Type of Felony Offender		
	Sex	Violent	Other
Gender			
Female	2%	10%	25%
Male	98%	90%	75%
Ethnicity			
European American	84%	72%	78%
African American	10%	19%	15%
Native American	3%	4%	3%
Asian American	3%	3%	2%
Other/Unknown	1%	1%	1%
Hispanic	13%	10%	9%
Age at Sentencing			
15 to 19	8%	11%	8%
20 to 24	20%	24%	22%
25 to 29	12%	16%	16%
30 to 39	28%	28%	32%
40 to 49	20%	16%	18%
50 to 59	8%	4%	4%
60 and Over	4%	1%	0%
Under 25	28%	35%	30%
Over 39	32%	21%	22%
Average Age	34.6	31.0	31.6

Exhibit 5 illustrates that offenders involved in sex offense convictions are more often (61 percent) first-time commitments to the Department of Corrections (DOC).

Exhibit 5

DOC Commitments	Type of Felony Offender		
	Sex	Violent	Other
One	61%	44%	41%
Two	20%	22%	20%
Three	8%	12%	12%
Four	4%	8%	8%
At Least Five	7%	14%	18%

Exhibit 6 shows the percentage of offenders under the age of 25 with a prior Washington State juvenile court conviction.⁶ Sex offenders have the lowest percentage of juvenile court felony convictions (30 percent) but the highest rate of juvenile court felony sex convictions (10 percent).

Exhibit 6

Prior Juvenile Felony Convictions [†]	Type of Felony Offender		
	Sex	Violent	Other
Any Felony	30%	45%	39%
Sex	10%	2%	2%
Violent (not sex)	7%	18%	12%

[†] Record of felony convictions in Washington State juvenile courts for sex offenders under 25 years old.

⁶ Offenders under the age of 25 would have been adolescents recently enough that their juvenile court adjudications are recorded in the juvenile court databases.

Exhibit 7 shows that those convicted of felony sex offenses have the lowest percentage of prior felony convictions (32 percent).⁷ In addition, sex offenders have the lowest rates of both prior violent (not sex) and non-violent felony convictions.

However, sex offenders have the highest rate of prior felony sex convictions (14 percent). Two percent of the other violent felony offenders have prior felony sex convictions. That is, there are relatively few repeat felony sex offenders—one out of seven.

Exhibit 7

Prior Adult Felony Convictions	Type of Felony Offender		
	Sex	Violent	Other
Any Felony	32%	50%	59%
One	15%	19%	19%
Two	7%	12%	13%
Three or More	11%	20%	27%
Sex	14%	2%	1%
One	9%	2%	1%
Two or More	5%	0%	0%
Violent (not sex)	8%	29%	15%
One	4%	18%	10%
Two or More	4%	12%	5%
Non-Violent	24%	49%	75%

Exhibit 8 further illustrates that felony sex offenders have the lowest rates of prior felony convictions across a more detailed breakdown of prior felony offense types. Sex offenders also have the lowest rates of prior misdemeanors.

Exhibit 8

Prior Convictions	Type of Felony Offender		
	Sex	Violent	Other
Adult Felony			
Homicide	0.5%	0.8%	0.3%
Assault	7.6%	20.1%	8.9%
Robbery	2.8%	6.4%	4.2%
Weapon	1.4%	6.0%	3.1%
Property	14.3%	26.4%	36.9%
Drug	7.8%	19.2%	34.3%
Other	1.9%	3.7%	3.7%
Adult Misdemeanor			
Any	35%	62%	64%
Violent	22%	44%	33%
Assault	20%	41%	29%
Sex	2%	2%	3%
Weapon	2%	5%	5%
Property	17%	32%	40%
Drug	7%	16%	23%
Alcohol	15%	27%	23%

⁷ The prior convictions in this report are based on Washington State court records and do not include out-of-state convictions.

Although we have displayed how cases involving felony sex convictions differ from other types of felony convictions, we have not measured the strength of these differences. Exhibit 9 displays a measure of how much the sex offense cases differ from the non-sex offense cases using a metric called the area under the receiver operator characteristic (AUC).⁸ The AUC varies between .500 and 1.00. AUCs in the .600s indicate weak differentiation, those in the .700s moderate, while those above .800 mean strong differentiation. AUCs of at least .600 are underlined in Exhibit 9 for emphasis. The plus (+) indicates that sex offense cases tend to possess the attribute while a minus (-) means they tend to not possess the attribute.

Sex offense cases differ the most from the other case types by offense seriousness level. That is, offense seriousness level consistently and strongly separates sex offense cases from all other cases. Commitments to DOC, prior felony convictions, and prior misdemeanor convictions consistently, yet weakly, differentiate the case types. Sex offenders tend to have fewer prior records.

The results from logistic regression analyses indicate that combining case characteristics with offense seriousness level increases the amount of differentiation between sex offense cases and the other case types. The larger AUC for the other felony group indicates there are greater differences between sex cases and other non-violent felony cases than between sex cases and other violent (not sex) cases.

Exhibit 9

Characteristic	Felony Sex Offense Cases vs.:		
	All Felony	Violent Felony	Other Felony
Demographics			
Male Gender	0.596*(+)	0.542*(+)	<u>0.615*(+)</u>
European American	0.533*(+)	0.556*(+)	0.525*(+)
African American	0.531*(-)	0.546*(-)	0.526*(-)
Native American	0.502 (-)	0.506*(-)	0.501 (-)
Asian American	0.500 (+)	0.504*(-)	0.501 (+)
Hispanic	0.517*(+)	0.513*(+)	0.519*(+)
Age at Sentence	0.560*(+)	0.576*(+)	0.555*(+)
Juvenile Court Adjudications (Under 26 Years Old)			
Any Felony	0.553*(-)	0.579*(-)	0.543*(-)
Commitments to JRA	0.512 (-)	0.529*(-)	0.500 (+)
Felony Sex	0.542*(+)	0.542*(+)	0.542*(+)
Violent Felony	0.511*(+)	0.513 (-)	0.520*(+)
Sentencing Factors			
Offense Seriousness	<u>0.778*(+)</u>	<u>0.708*(+)</u>	<u>0.804*(+)</u>
Offender Score	0.503*(+)	0.510*(+)	0.530*(+)
Current Sentence Convictions			
Commitments to DOC	<u>0.615*(-)</u>	<u>0.600*(-)</u>	<u>0.621*(-)</u>
Class A	<u>0.689*(+)</u>	<u>0.649*(+)</u>	<u>0.704*(+)</u>
Class B	0.562 (-)	0.593*(-)	0.524*(+)
Class C	0.508*(-)	0.554*(-)	<u>0.610*(-)</u>
Current Sentence Felony Convictions			
Homicide	0.502 (-)	0.514*(-)	0.502 (+)
Robbery/Kidnap	0.500 (+)	0.554*(-)	0.517 (+)
Assault	0.539*(-)	<u>0.791*(-)</u>	0.550 (+)
Weapon	0.518*(-)	0.580*(-)	0.504 (+)
Property	<u>0.659*(-)</u>	0.533*(-)	<u>0.704*(-)</u>
Drug	<u>0.693*(-)</u>	0.527*(-)	<u>0.753*(-)</u>

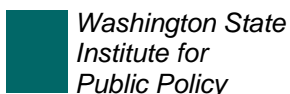
Characteristic	Felony Sex Offense Cases vs.:		
	All Felony	Violent Felony	Other Felony
Current Sentence Misdemeanor Convictions			
Any	0.514*(-)	0.514*(-)	0.514*(-)
Sex	0.546 (+)	0.545 (+)	0.545 (+)
Assault	0.509*(-)	0.548*(-)	0.506*(+)
Weapon	0.501*(-)	0.503*(-)	0.501 (-)
Property	0.518*(-)	0.504*(-)	0.523*(-)
Drug	0.521*(-)	0.513*(-)	0.524*(-)
Alcohol	0.505*(-)	0.507*(-)	0.504*(-)
Prior Felony Convictions			
Any	<u>0.635*(-)</u>	<u>0.600*(-)</u>	<u>0.648*(-)</u>
Violent Felony	0.508*(+)	0.548*(-)	0.527*(+)
Homicide	0.500 (-)	0.502*(-)	0.501 (+)
Sex	0.561*(+)	0.559*(+)	0.561*(+)
Robbery/Kidnap	0.509*(-)	0.518*(-)	0.506*(-)
Assault	0.521*(-)	0.563*(-)	0.505 (-)
Weapon	0.512*(-)	0.524*(-)	0.508*(-)
Property	<u>0.601*(-)</u>	0.562*(-)	<u>0.615*(-)</u>
Drug	<u>0.612*(-)</u>	0.557*(-)	<u>0.632*(-)</u>
Prior Misdemeanor Convictions			
Any	<u>0.663*(-)</u>	<u>0.659*(-)</u>	<u>0.665*(-)</u>
Violent	0.570*(-)	<u>0.616*(-)</u>	0.554*(-)
Sex	0.503*(-)	0.500 (+)	0.504*(-)
Assault	0.562*(-)	<u>0.613*(-)</u>	0.544*(-)
Weapon	0.515*(-)	0.517*(-)	0.514*(-)
Property	<u>0.610*(-)</u>	0.579*(-)	<u>0.621*(-)</u>
Drug	0.571*(-)	0.544*(-)	0.581*(-)
Alcohol	0.543*(-)	0.559*(-)	0.538*(-)
Sentence Violations	0.504*(+)	0.505*(+)	0.504*(+)
Logistic Regression	0.885	0.831	0.914

⁸ The AUC is mathematically equivalent to the common language effect size, Somer's D, and tau-a measures of association.

* Statistically significant = <.05

For further information, contact Robert Barnoski at (360) 586-2744 or email barney@wsipp.wa.gov.

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