

SEX OFFENDER SENTENCING IN WASHINGTON STATE: SPECIAL SEX OFFENDER SENTENCING ALTERNATIVE REVOCATIONS

The 2004 Legislature directed the Washington State Institute for Public Policy (Institute) to conduct a comprehensive analysis and evaluation of the impact and effectiveness of current sex offender sentencing policies.¹ Because this is an extensive topic, we are publishing a series of reports.

Washington State's sentencing guidelines include an alternative for offenders convicted of a felony sex offense: the Special Sex Offender Sentencing Alternative (SSOSA). A SSOSA may be granted in lieu of a prison sentence. If the sex offender fails to comply with supervision, the SSOSA is revoked and the sex offender is sentenced to prison.

A previous report in this series examined how SSOSA offenders differ from other sex offenders.² Approximately 95 percent of SSOSA offenders are child molesters, compared with 73 percent for sex offenders imprisoned. A second report found it is possible to determine with high certainty which sex offenders **will not** be granted a SSOSA based on the statutory eligibility criteria.³ However, there is less certainty in determining who **will** receive a SSOSA. A third report found that SSOSA offenders have substantially lower recidivism rates than other sex offenders.⁴ A fourth report found that SSOSA is being granted less often.⁵

This report examines SSOSA revocations.

¹ ESHB 2400, Chapter 176, Laws of 2004.

² R. Barnoski, 2005, *Sex Offender Sentencing in Washington State: Initial Sentencing Decision*, Olympia: Washington State Institute for Public Policy, Document No. 05-09-1202.

³ R. Barnoski, 2005, *Sex Offender Sentencing in Washington State: Predicting the Initial Sentencing Decision*, Olympia: Washington State Institute for Public Policy, Document No. 05-09-1203.

⁴ R. Barnoski, 2005, *Sex Offender Sentencing in Washington State: Recidivism Rates*, Olympia: Washington State Institute for Public Policy, Document No. 05-08-1203.

⁵ R. Barnoski, 2005, *Sex Offender Sentencing in Washington State: Special Sex Offender Sentencing Alternative Trends*, Olympia: Washington State Institute for Public Policy, Document No. 06-01-1205.

SUMMARY

Washington State's sentencing guidelines include an alternative for offenders convicted of a felony sex offense: the Special Sex Offender Sentencing Alternative (SSOSA). A SSOSA may be granted in lieu of a prison sentence. If the sex offender fails to comply with supervision, the SSOSA is revoked and the sex offender is sentenced to prison. This report examines SSOSA revocations.

Findings

- Of the SSOSA offenders whose sentences were revoked within a 10-year follow-up period, 85 percent were revoked within three years of being placed in the community on a SSOSA.
- SSOSA revocations increased from an initial rate of 15 percent in 1986 to a high of 25 percent in 1994, and then back to 13 percent in 2002.
- Offenders who were revoked while on a SSOSA are subsequently imprisoned, on average, for 4.4 years.
- Based on demographic and criminal history factors, it is not possible to predict with any degree of accuracy which SSOSA offenders will be revoked.
- A 2001 Department of Corrections publication indicated that most revocations are the result of offender behavior while being supervised. This report supports that conclusion by showing that demographics and criminal history factors do not account for SSOSA revocations.
- The five-year felony recidivism rates for SSOSA offenders who were revoked are higher than the rates of those not revoked:
 - ✓ For felony recidivism, 15.2 percent for those revoked compared to 3.1 percent for those not.
 - ✓ For violent felony recidivism, 7.5 percent compared to 1.9 percent.
 - ✓ For felony sex recidivism, 3.8 percent compared to 1.3 percent.

The SSOSA decision is made by the court. The decision involves statutory eligibility criteria, as well as an expert's assessment of the offender's amenability to treatment, and the offender's ability to pay for the diagnostic and treatment costs. The statutory eligibility criteria through 2004 were:

- Convicted of a sex offense other than Rape 1 or Rape 2; and
- No prior convictions for felony sex offenses in this or any other state; and
- Standard sentence range for the offense includes the possibility of confinement for less than 11 years.

The 2004 Legislature added the following additional eligibility criteria:

- No prior violent offenses within five years of the current offense; and
- The current offense did not cause substantial bodily harm to the victim; and
- The offender has an established relationship or connection to the victim.

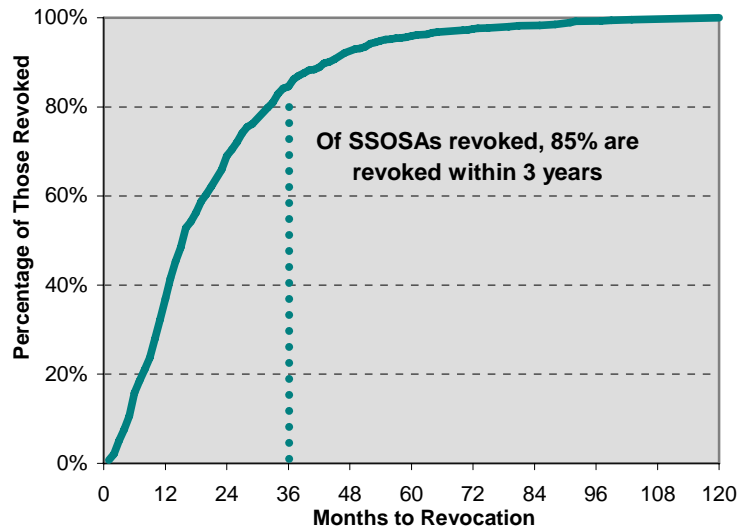
The 2004 Legislature also expanded what the judge is to consider in the SSOSA decision:

- A report provided by a treatment provider.
- The opinion of the victim.
- Whether the offender and the community will benefit from the SSOSA.
- Whether the offender had multiple victims.
- Whether the offender is amenable to treatment.
- The risk the offender poses.
- Whether the SSOSA is too lenient in light of the circumstances.

To discuss SSOSA revocations, we must first determine the SSOSA revocation follow-up period—the period between being granted a SSOSA and a time far enough in the future to know whether a person is likely to be revoked.

Exhibit 1 displays the cumulative percentage of SSOSA offenders who had a revocation within the 10-year period following their initial sentencing. Of the SSOSA offenders whose sentences were revoked, 85 percent were revoked within the first three years following initial sentencing.

Exhibit 1
Cumulative Percentage of
SSOSA Sentences Revoked, by Month



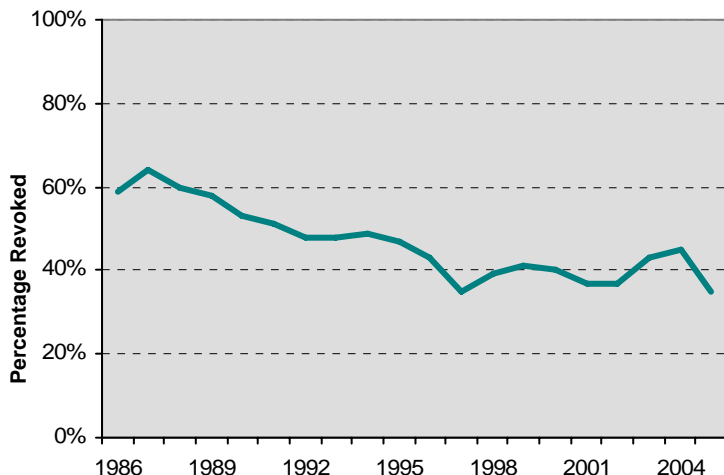
Therefore, when measuring SSOSA revocations we must wait three years to capture 85 percent of the revocations. As a result, the study sample consists of offenders receiving a SSOSA sentence from 1986 to 2002.

Exhibit 2 displays the percentage of SSOSA sentences revoked within three years from the date of the sentence. SSOSA revocations increased from an initial rate of 15 percent in 1986 to a high of 25 percent in 1994, and then back to 13 percent in 2002.

It is clear from Exhibit 2 that the percentage of SSOSA offenders whose sentences were revoked has changed substantially over time. It is not clear if these changes are a result of shifts in policy and practice or changes in SSOSA offender characteristics.

We next use multivariate analysis to determine if offender characteristics can predict which offenders' SSOSA sentences will be revoked.

Exhibit 2
Percentage of SSOSA Sentences Revoked
Within Three Years of Sentencing



Multivariate analyses are used to find a set of demographic and criminal history factors that predict which SSOSA sentences will be revoked.⁶ The year an offender was granted a SSOSA is also included in the analyses. The best results achieved only a weak association with a SSOSA revocation. That is, based on demographic and criminal history factors, it is not possible to predict with any degree of accuracy which SSOSA offenders will be revoked. This implies that changes in the revocation rate may result from changes in policy or practice.

In 2001, the Department of Corrections published a survey of the reasons given by criminal justice professionals for SSOSA revocations.⁷ The publication indicated that most revocations are attributed to the offender's willful violation of the SSOSA court order. The publication includes additional information describing the rationale and history of SSOSA.

This report supports the DOC survey conclusion that factors other than demographics and criminal history may account for SSOSA revocations.

We next compare the recidivism rates of SSOSA offenders who were revoked with those not revoked. Measuring sex offender recidivism requires a five-year time period in the community, and one additional year for processing in the courts.⁸ As a result, trends in sex offender five-year recidivism rates can be calculated for offenders placed in the community up to 1999.

Offenders who were revoked while on a SSOSA are subsequently imprisoned, on average, for 4.4 years.⁹ For those revoked, recidivism is measured from the time of placement back in the community following the revocation.

Exhibit 3 displays the three types of recidivism rates of SSOSA offenders who were revoked and not revoked. The five-year felony recidivism rates for SSOSA offenders who were revoked are higher than the rates of those not revoked:

- For felony recidivism, 15.2 percent for those revoked compared to 3.1 percent for those not revoked.
- For violent felony recidivism, 7.5 percent compared to 1.9 percent.
- For felony sex recidivism, 3.8 percent compared to 1.3 percent.

Exhibit 3
Five-Year Felony Recidivism Rates for SSOSA
Sentences Revoked and Not Revoked

	Number of Offenders	Type of 5-Year Felony Recidivism		
		Felony	Violent Felony	Felony Sex
Revoked	652	15.2%	7.5%	3.8%
Not Revoked	3,658	3.1%	1.9%	1.3%

⁶ Logistic regression.

⁷ D. Keegan, 2001, *Survey of Criminal Justice Professionals: Reasons for Special Sex Offender Sentencing Revocations*, Olympia: Washington State Department of Corrections. Available at <http://www.doc.wa.gov/BudgetAndResearch/studies.htm>

⁸ R. Barnoski, 2005, *Sex Offender Sentencing in Washington State: Measuring Recidivism*, Olympia: Washington State Institute for Public Policy, Document No. 05-08-1202.

⁹ Based on SSOSA offenders revoked and then released from prison between 2000 and 2005.

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

Document No. 06-01-1206



*Washington State
Institute for
Public Policy*

The Washington State Legislature created the Washington State Institute for Public Policy in 1983. A Board of Directors—representing the legislature, the governor, and public universities—governs the Institute and guides the development of all activities. The Institute's mission is to carry out practical research, at legislative direction, on issues of importance to Washington State.