

## **SEX OFFENDERS IN WASHINGTON STATE: KEY FINDINGS AND TRENDS**

### **INTRODUCTION**

The Washington State Institute for Public Policy (Institute) was directed by the 2004 Legislature to analyze the impact and effectiveness of sex offender sentencing policies.<sup>1</sup> This report focuses on trends of adult sex offenders in Washington and summarizes key research findings.<sup>2</sup>

The report is organized in two sections:

**Section I. Sex offense trends.** This section discusses reported sex crimes, arrests, convictions, population trends, and recidivism.

**Section II. Legislation and its impact on the management of sex offenders.**

Topics include community notification, failure to register, sexually violent predators, two and three strikes laws, and determinant plus sentencing.

### **Report Highlights**

This report focuses on trends of adult sex offenders in Washington and summarizes key research findings

#### **Crime Patterns**

Official measures of crime, such as reports from Child Protective Services (CPS), police reports, arrests, court cases filed, and convictions, show that sex crimes have declined in Washington.

#### **Sentences**

Over the last 15 years, the use of jail/community supervision as a sentence increased, but use of the treatment sentence, SSOSA, decreased.

#### **Prison Population**

Seventy-three percent of the sex offender population in prison are child sex offenders.

The average length of stay in prison is 60 months for offenders convicted of sex crimes against adults, 44 months for offenders convicted of sex crimes against children, and 33 months for all other sex offenders.

Sex offenders are more often first-time commitments to prison compared with all other felony offenders.

#### **Recidivism**

Sex offenders have the lowest recidivism rates for felony offenses (13 percent) and violent felony offenses (6.7 percent) but the highest recidivism rates for felony sex offenses (2.7 percent) compared with all other felony offenders.

Violent and sexual felony recidivism by sex offenders has decreased since passage of the 1997 Community Protection Act.

Sex offenders convicted of failure to register have higher subsequent recidivism rates than those without a conviction.

<sup>1</sup> ESHB 2400, Chapter 176, Laws of 2004.

<sup>2</sup> Suggested citation for this report: E. Drake and R. Barnoski, 2006, *Sex offenders in Washington State: Key findings and trends*. Olympia: Washington State Institute for Public Policy, Document No. 06-03-1201.

## SECTION I: SEX OFFENSE TRENDS

Many methods are used to count crime. Victim surveys, police arrests, court case filings, and convictions, all offer a different perspective. However, caution must be used when comparing different measures of crime, because definitions and methods of counting crime vary for each data source. These variations will be noted throughout this report.

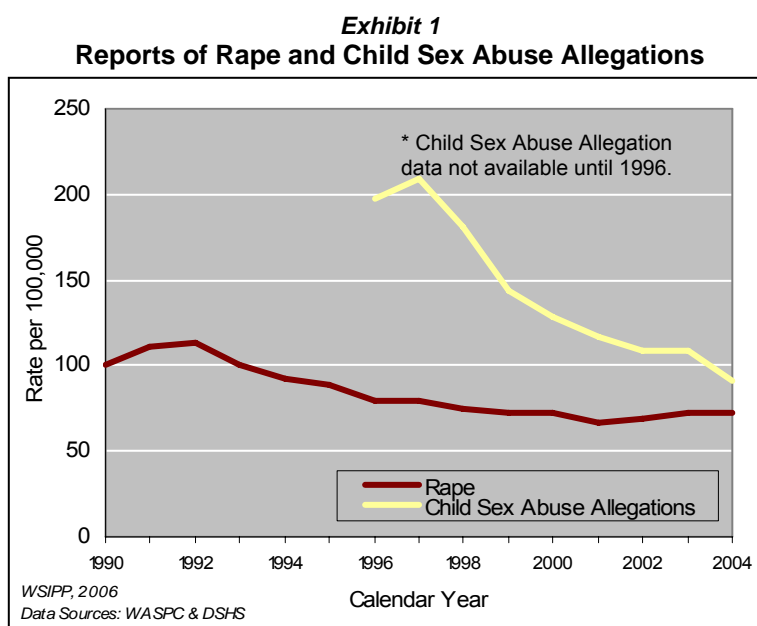
### Reported Sex Crimes and Victims of Sexual Abuse

The Federal Bureau of Investigation (FBI) collects data on reported crimes, which are compiled into the Uniform Crime Reports (UCR).<sup>3</sup> UCR data are compared to Washington State population data as a rate per 100,000.<sup>4</sup>

**Exhibit 1** shows that the rate of rapes reported to the police has declined from 113 in 1992 to 67 in 2001.<sup>5</sup> This is a 57 percent reduction.

Children's Administration is responsible for receiving and investigating referrals of alleged child abuse.<sup>6</sup> Reports are received by Child Protective Services (CPS) and assessed to determine whether the allegation meets the legal definition of abuse.

Exhibit 1 shows allegations of sexual abuse accepted by CPS for investigation.<sup>7</sup> Allegations have declined since 1997. This is a 52 percent reduction in child sex abuse allegations.



<sup>3</sup> Washington Association of Sheriffs and Police Chiefs (WASPC) report the following to the FBI: crimes reported to the police and arrests. Data were retrieved from <http://www.waspc.org/index.php> in February 2006.

<sup>4</sup> Washington State population data were retrieved from <http://www.ofm.wa.gov/pop/stfc/stfc2004/stfc2004.xls> in February 2006. The total population includes persons age 12 to 55.

<sup>5</sup> The UCR uses the following definition of rape: the carnal knowledge of a female forcibly and against her will. Rapes by force and attempts or assaults to rape, regardless of the age of the victim, are included. Statutory offenses (no force used—victim under age of consent) are excluded. This definition of rape includes only rape with a penis not objects or digits.

<sup>6</sup> Children's Administration is a branch of the Department of Social and Health Services. Child Protective Services is a unit within Children's Administration.

<sup>7</sup> Research and Data Analysis Division of DSHS January 2006. Data were only available beginning in 1996.

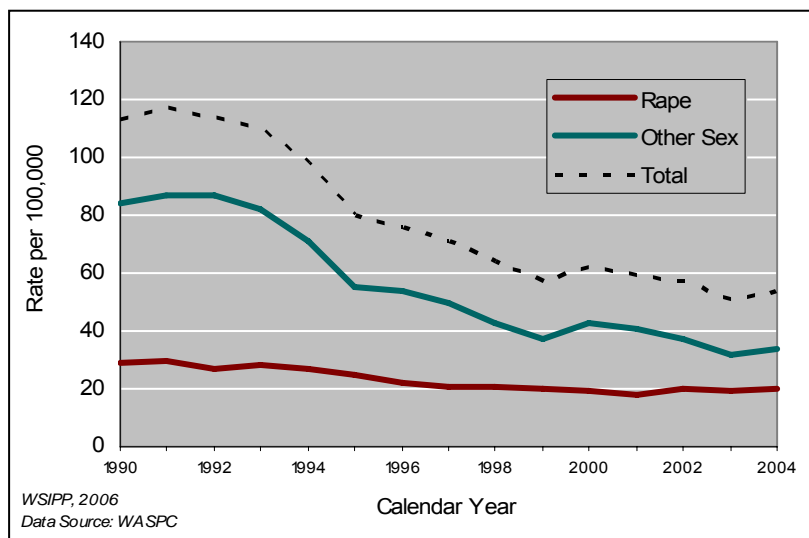
## Arrests

Exhibit 2 shows UCR arrest rates for rape and other sex crimes in Washington State.<sup>8</sup>

Significant trends include the following:

- From 1990 to 2004, the arrest rate for total sex crimes decreased by 52 percent.
- Arrests for rape have changed little over time. Thus, the decrease in sex offenses is due to the decline of arrests for other sex crimes.

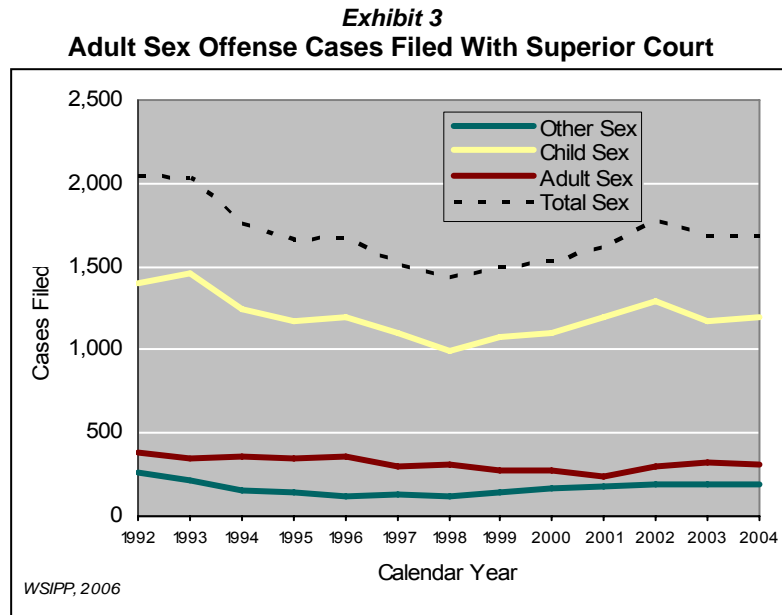
**Exhibit 2**  
**Adult Arrest Rates by Sex Offense Type**



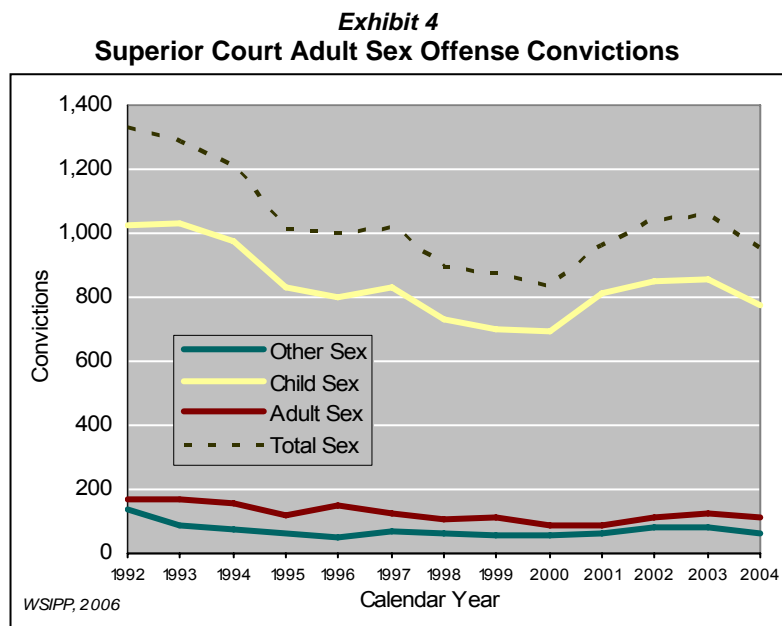
<sup>8</sup> Washington Association of Sheriffs and Police Chiefs (WASPC) report annual arrest data to the FBI; however, these data were obtained from the Washington Caseload Forecast Council (CFC) after adjustments were made to the data. Data were retrieved from CFC January 2006. The UCR's definition of rape is found in footnote 5; "other sex crimes" include statutory rape and offenses against chastity, common decency, and morals. Other sex crimes do not include forcible rape, prostitution, and commercialized vice, but do include attempts of these crimes.

## Court Filings and Convictions

Once an arrest is made, the prosecuting attorney decides if there is sufficient evidence to file a case in Superior Court. **Exhibit 3** illustrates that sex offense filings decreased until 1998 and then increased until 2002.<sup>9</sup> Since then, the number of case filings has been decreasing.



**Exhibit 4** shows the trend in sex offense convictions closely mirrors the trend of cases filed with the court, as seen in Exhibit 3. Convictions reached a low in 2000 then began to climb, with a slight decrease in 2004.



<sup>9</sup> Unless otherwise noted, data for the remainder of this report are from the Institute's Criminal Justice Database. The database divides sex offenses into adult sex crimes, child sex crimes, and other sex crimes. Definitions of these offenses are detailed in the Appendix of this report.

## Sentences

The Sentencing Reform Act of 1984 replaced indeterminate sentencing with a determinate system that uses sentencing guidelines.

**Exhibit 5** shows the percentage of sentences for sex offenses from 1986 to 2004. The total number of sentences for sex offenses has decreased, from 9.2 percent in 1986 to 4.8 percent in 2004.

**Exhibit 6** shows the distribution of sex offense sentences has changed over time. In 1986, about 30 percent of the sex offense sentences were for child sex crimes, but that number increased to nearly 80 percent in 2004.

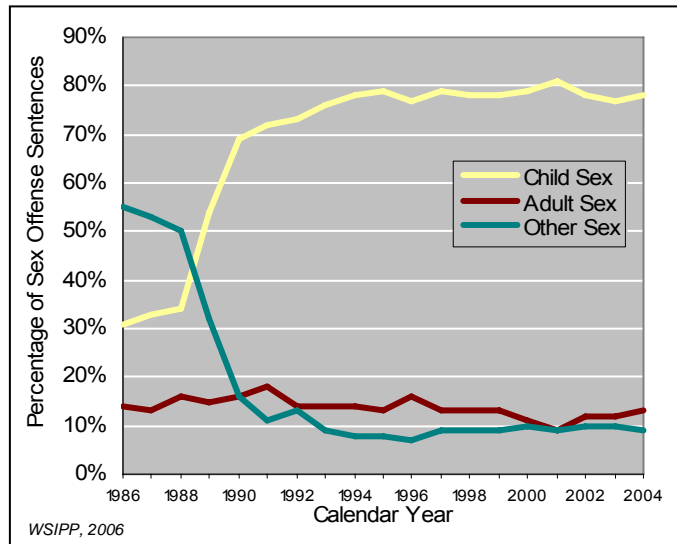
Of the total sentences between 1986 to 2004:

- 3.7 percent were for child sex crimes (69 percent of all sex offense sentences).
- 0.7 percent were for adult sex crimes (14 percent of all sex offense sentences).
- 0.9 percent were for other sex crimes (18 percent of all sex offense sentences).

**Exhibit 5**  
Sentences by Year  
Percentage Which Were Sex Sentences

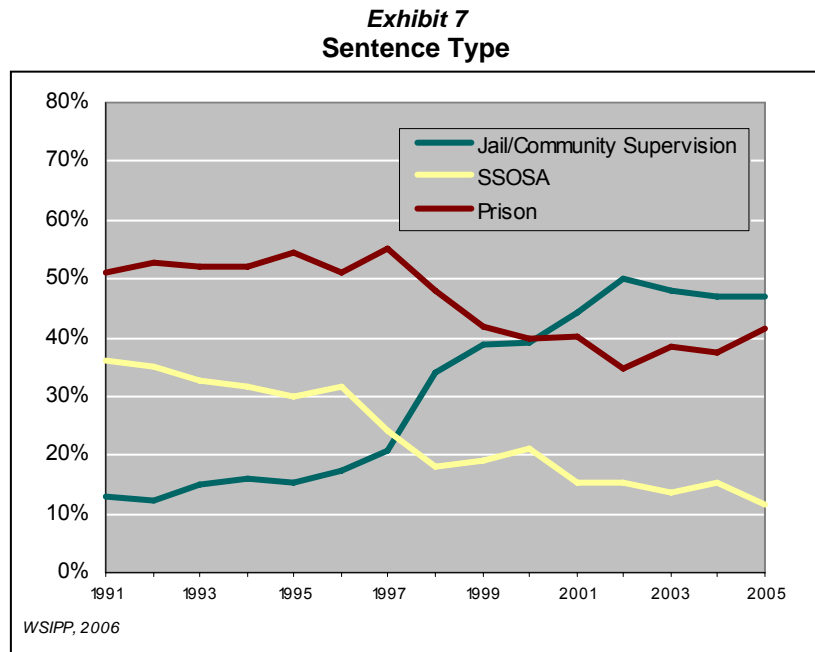
|              | Child Sex   | Adult Sex   | Other Sex   | Total Sex   |
|--------------|-------------|-------------|-------------|-------------|
| 1986         | 2.9%        | 1.3%        | 5%          | 9.2%        |
| 1987         | 2.7%        | 1.1%        | 4%          | 8.2%        |
| 1988         | 2.6%        | 1.2%        | 4%          | 7.6%        |
| 1989         | 3.4%        | 0.9%        | 2%          | 6.4%        |
| 1990         | 5.0%        | 1.1%        | 1%          | 7.3%        |
| 1991         | 5.4%        | 1.3%        | 1%          | 7.5%        |
| 1992         | 5.3%        | 1.0%        | 1%          | 7.2%        |
| 1993         | 5.2%        | 1.0%        | 1%          | 6.9%        |
| 1994         | 5.0%        | 0.9%        | 1%          | 6.4%        |
| 1995         | 3.7%        | 0.6%        | 0%          | 4.7%        |
| 1996         | 3.7%        | 0.8%        | 0%          | 4.7%        |
| 1997         | 3.6%        | 0.6%        | 0%          | 4.6%        |
| 1998         | 2.9%        | 0.5%        | 0%          | 3.8%        |
| 1999         | 3.0%        | 0.5%        | 0%          | 3.8%        |
| 2000         | 2.8%        | 0.4%        | 0%          | 3.5%        |
| 2001         | 3.1%        | 0.4%        | 0%          | 3.8%        |
| 2002         | 3.0%        | 0.5%        | 0%          | 3.8%        |
| 2003         | 3.4%        | 0.5%        | 0%          | 4.3%        |
| 2004         | 3.8%        | 0.6%        | 0%          | 4.8%        |
| <b>Total</b> | <b>3.7%</b> | <b>0.7%</b> | <b>0.9%</b> | <b>5.3%</b> |

**Exhibit 6**  
Distribution of Sex Offense Sentences  
By Type of Sex Offense



Sex offenders are sentenced to either prison, jail, or a community sentencing option called the Special Sex Offender Sentencing Alternative (SSOSA).<sup>10</sup> A SSOSA may be granted in lieu of a prison sentence under certain conditions and requires some jail time with outpatient treatment and community supervision.

**Exhibit 7** shows that the use of jail/community supervision as a sentence has increased, but the use of SSOSA has decreased over time.



A profile of sex offenders in Washington State:<sup>11</sup>

- 98 percent of persons convicted of felony sex offenses are males;
- 84 percent are white offenders; and
- 32 percent are 40 years old and older.

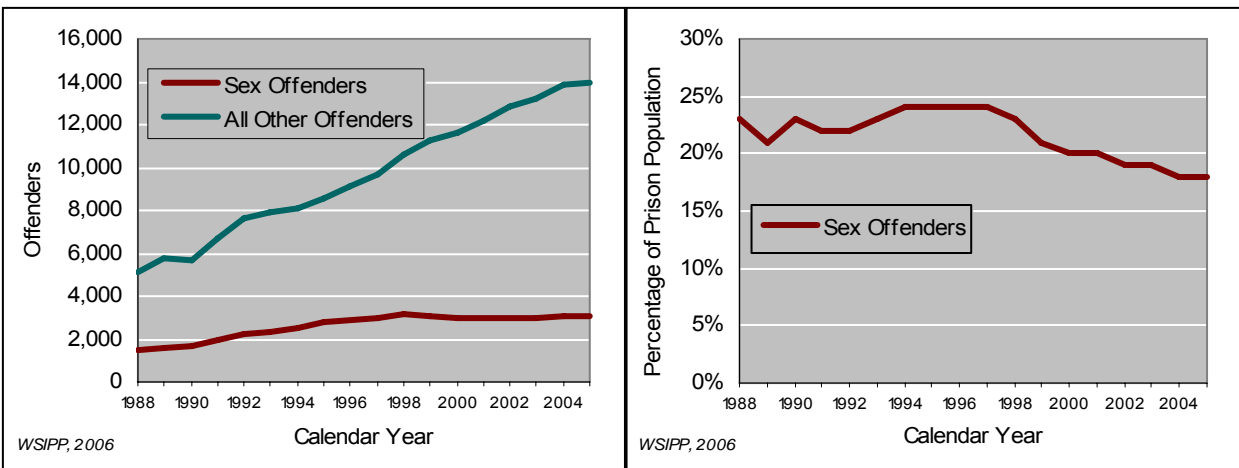
<sup>10</sup> RCW 9.94A.670

<sup>11</sup> R. Barnoski (2005). *Sex offender sentencing in Washington State: How sex offenders differ from other felony offenders* (Document No. 05-09-1201). Olympia: Washington State Institute for Public Policy.

## Prison Population

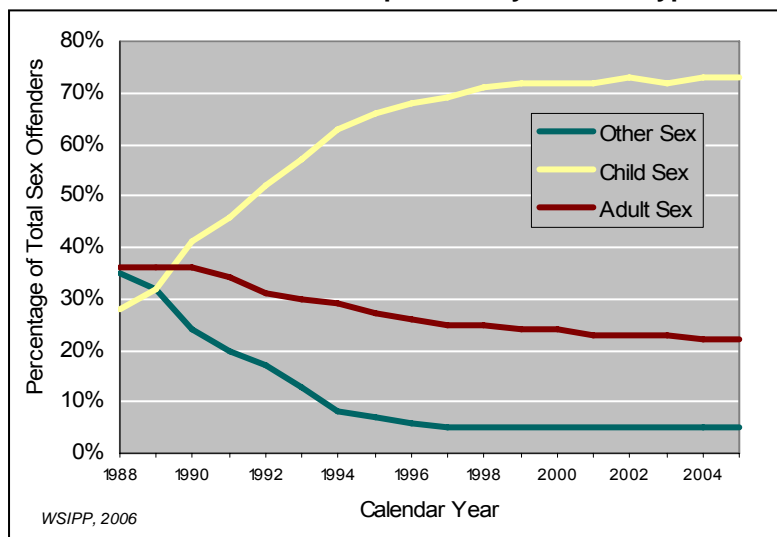
**Exhibit 8** shows the sex offender population in prison from 1988 to 2004 has not increased as dramatically as the offender population for all other offenses.<sup>12</sup> The sex offender population has decreased from 24 percent to 18 percent of the total prison population.

**Exhibit 8**  
Prison Population by Offense Type and  
Percentage of Sex Offenders



**Exhibit 9** shows how the distribution of the sex offender population has changed. In 1998, about 28 percent of sex offenders were child sex offenders; however, in recent years, about 73 percent of the sex offender population are child sex offenders.

**Exhibit 9**  
Sex Offender Prison Population by Offense Type



<sup>12</sup> Population data are based on June 30th of each calendar year.

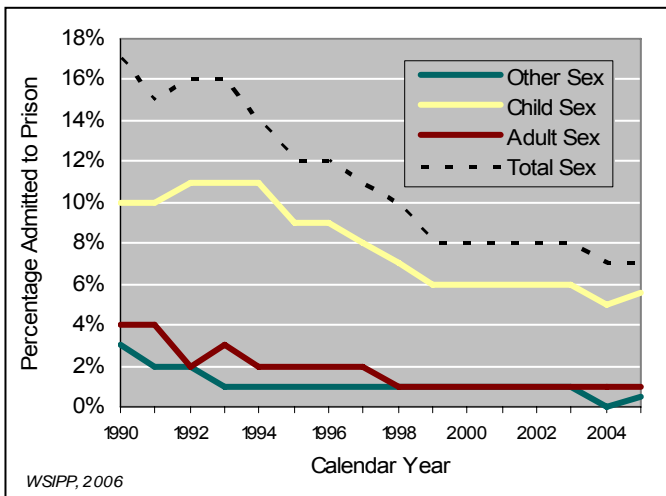
## Admissions to Prison

As shown in **Exhibit 10**, the number of sex offenders admitted to prison has decreased steadily since 1993. In 1990, 83 percent of the admissions to prison were for a non-sex offense and 17 percent were for a sex offense.

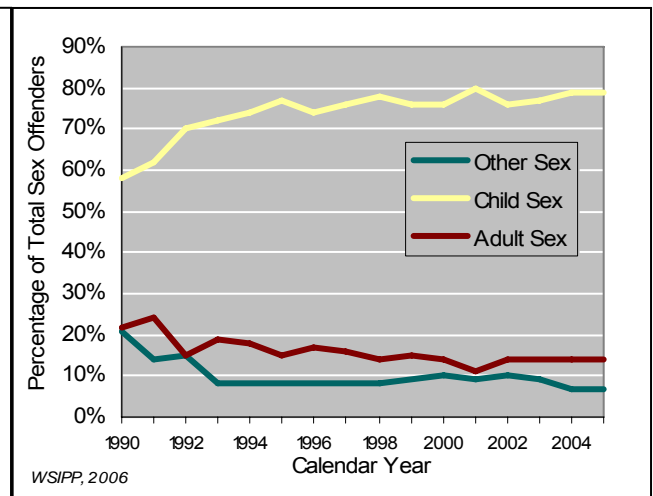
**Exhibit 11** shows that the distribution of sex offender admissions to prison has changed over time. In 1990, 58 percent of all sex offenders were child sex offenders, compared with nearly 80 percent in 2005.

**Exhibit 12** shows that 93 percent of admissions to prison during 2005 were for non-sex offenses and 7 percent were for sex offenses.

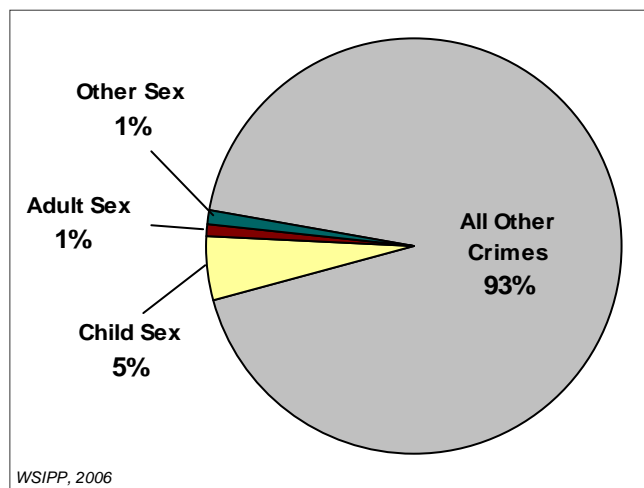
**Exhibit 10**  
Admissions to Prison as Percentage of Total Offender Population



**Exhibit 11**  
Admissions to Prison as Percentage of Total Sex Offender Population



**Exhibit 12**  
Admissions to Prison During Calendar Year 2005





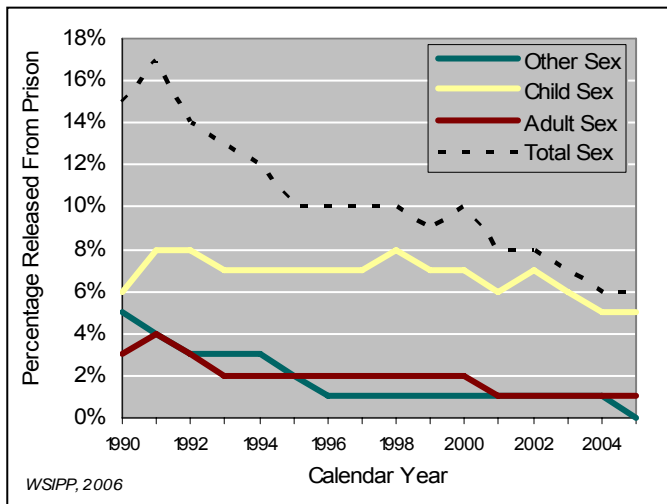
## Releases From Prison

**Exhibit 13** shows the number of sex offenders released from prison has decreased steadily since 1991. Of the 1991 releases from prison, 83 percent were for non-sex offenses and 17 percent were for sex offenses.

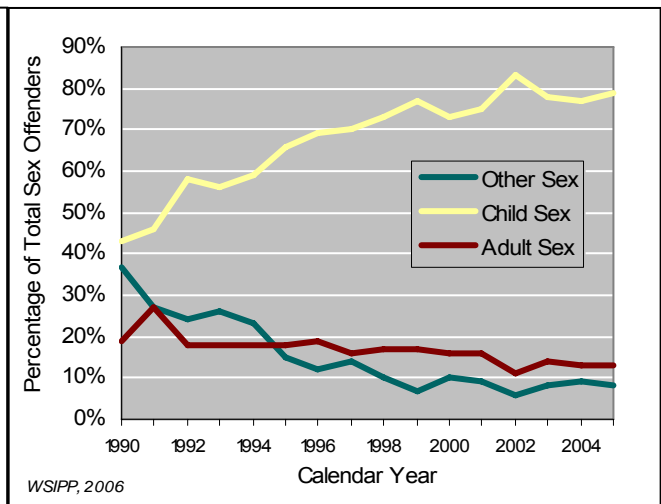
**Exhibit 14** shows the distribution of sex offenders released from prison has changed over time. In 1990, about 43 percent of those released were child sex offenders compared with nearly 80 percent in 2005.

As shown in **Exhibit 15**, 91 percent of releases from prison during 2005 were for non-sex offenses and 9 percent were for sex offenses.

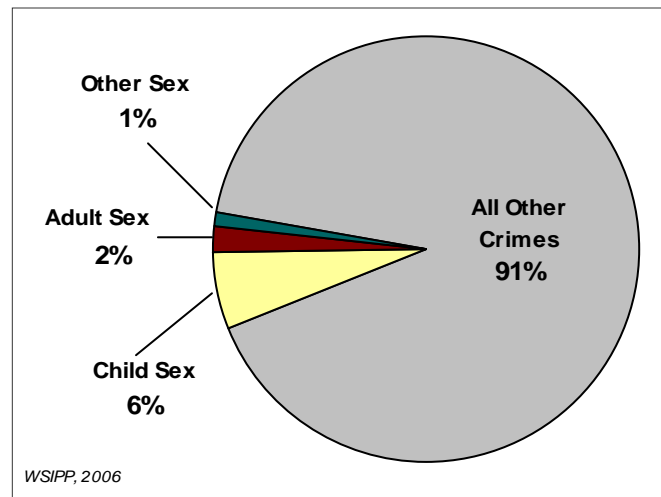
**Exhibit 13**  
Releases From Prison as Percentage of Total Offender Population



**Exhibit 14**  
Releases From Prison as Percentage of Total Sex Offender Population



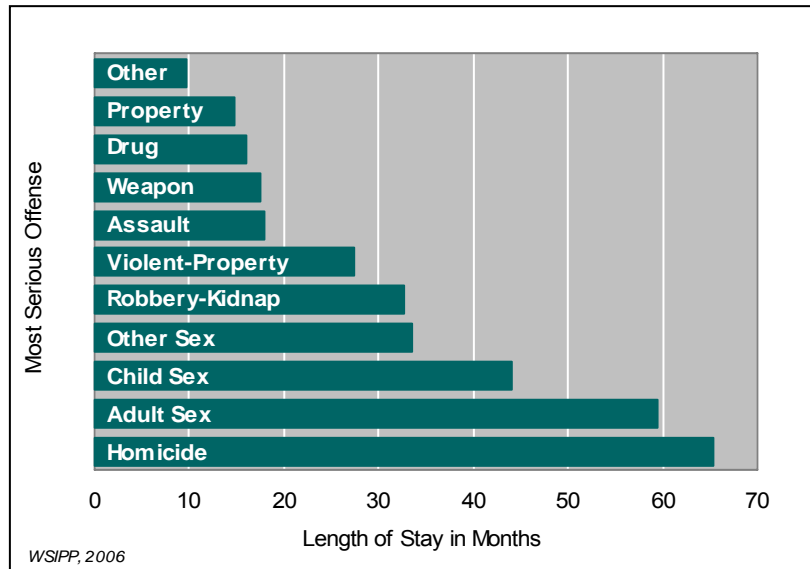
**Exhibit 15**  
Releases From Prison During Calendar Year 2005



## Average Length of Stay in Prison

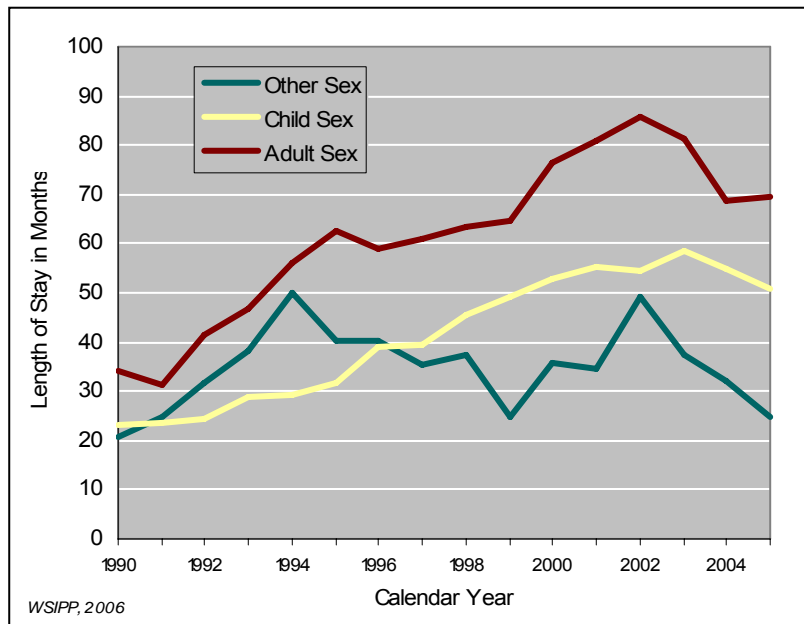
The average length of stay was calculated for offenders released from prison from 1990 to 2005. Offenders convicted of homicide were incarcerated the longest, averaging 65 months. Next, were those convicted of all three types of sex crimes—adult sex offenders, child sex offenders, and other sex offenders. The average length of stay was 60 months, 44 months, and 33 months respectively.

**Exhibit 16**  
**Average Length of Prison Stay by Most Serious Offense Type**  
**For Offenders Released Between 1990 and 2005**



In general, the average length of stay for adult and child sex offenders increased from 1991 to 2002, but has been declining since. The length of stay for other sex offenders does not follow a consistent trend.

**Exhibit 17**  
**Average Length of Stay in Prison**  
**By Year of Release and Sex Offense Type**



## First Time and Repeat Sex Offenders

Persons convicted of sex offenses are most often first-time commitments to DOC. Sixty-one percent of sex offenders were first-time commitments compared with 44 percent of violent offenders and 41 percent of all other felony offenders.

**Exhibit 18** shows the percentage of sex offenders with a prior adult conviction and their current sentence type.<sup>13</sup>

- Offenders sentenced to SSOSA have the lowest percentage of prior adult convictions, which is to be expected since SSOSA is targeted toward low-risk offenders.
- 19 percent of sex offenders sentenced to prison have a prior felony sex conviction.
- Although sex offenders have the highest rate of prior felony sex convictions compared with other offenders, the rate is relatively low at 14 percent.

**Exhibit 18**  
**Adult Convictions Prior to Current Sex Offense**  
**By Current Sentence Type**

| Prior Adult Convictions         | Total | Type of Sentence |       |        |
|---------------------------------|-------|------------------|-------|--------|
|                                 |       | Jail             | SSOSA | Prison |
| <b>Felony Sex</b>               | 14%   | 10%              | 4%    | 19%    |
| None                            | 86%   | 90%              | 96%   | 81%    |
| One                             | 9%    | 7%               | 3%    | 12%    |
| Two or More                     | 5%    | 3%               | 1%    | 7%     |
| <b>Violent Felony (not sex)</b> | 7%    | 8%               | 1%    | 20%    |
| <b>Total Violent Felony</b>     | 21%   | 18%              | 5%    | 39%    |

*WSIPP, 2006*

<sup>13</sup> R. Barnoski (2005). *Sex offender sentencing in Washington State: How sex offenders differ from other felony offenders* (Document No. 05-09-1201). Olympia: Washington State Institute for Public Policy.

## Recidivism

Recidivism is defined as any offense committed after release to the community resulting in a Washington State conviction.<sup>14</sup> A 2005 study by the Institute found the following:<sup>15</sup>

- When compared with other felony offenders, sex offenders have the lowest recidivism rates for felony offenses (13 percent) and violent felony offenses (6.7 percent), but the highest recidivism rates for felony sex offenses (2.7 percent).

**Exhibit 19**  
**Comparing Felony Sex and Other Felony Offenders:**  
**Five-Year Recidivism Rates**

| Most Serious Recidivism Offense | Type of Felony Offender |               |              |
|---------------------------------|-------------------------|---------------|--------------|
|                                 | Sex                     | Other Violent | Non-Violent  |
| <b>Number of Offenders</b>      | 4,091                   | 15,952        | 49,380       |
| <b>Percentage Distribution</b>  | 5.9%                    | 23.0%         | 71.1%        |
| <b>Felony</b>                   | <b>13.0%</b>            | <b>31.5%</b>  | <b>33.7%</b> |
| Sex                             | <b>2.7%</b>             | <b>0.9%</b>   | <b>0.7%</b>  |
| Violent (not sex)               | <b>4.0%</b>             | <b>15.7%</b>  | <b>7.8%</b>  |
| <b>Violent Total</b>            | <b>6.7%</b>             | <b>16.6%</b>  | <b>8.4%</b>  |
| Property                        | 3.1%                    | 7.4%          | 12.6%        |
| Drug                            | 2.3%                    | 6.4%          | 11.8%        |
| Other                           | 0.9%                    | 1.0%          | 0.9%         |
| <b>Non-Violent Total</b>        | 6.3%                    | 14.8%         | <b>25.2%</b> |
| <b>Misdemeanor</b>              | 11.5%                   | 16.9%         | 13.5%        |
| Sex                             | 0.1%                    | 0.3%          | 0.4%         |
| Failure to Register             | <b>2.4%</b>             | 0.1%          | 0.0%         |
| Assault                         | 4.9%                    | 9.7%          | 5.2%         |
| Other                           | 4.1%                    | 6.9%          | 7.8%         |
| <b>Total Recidivism</b>         | 24.5%                   | 48.4%         | 47.2%        |

WSIPP, 2006

- Sex offenders who victimize children have the lowest felony recidivism rates as well as the lowest sex (2.3 percent) and violent felony (5.7 percent) recidivism rates. Rapists have the highest sex (3.9 percent) and violent felony (9.5 percent) recidivism rates.
- Sex offenders who complete SSOSA, an outpatient treatment sentence, have the lowest recidivism rates in all categories. In contrast, sex offenders sentenced to prison have the highest rates. Those sentenced to jail or community supervision have rates similar to, but slightly lower than, the recidivism rates of those sentenced to prison.
- The relatively low “base rate” of recidivism makes it challenging to predict reoffending.

<sup>14</sup> For a complete understanding on the definition of recidivism and how recidivism is measured, see R. Barnoski (2005). *Sex offender sentencing in Washington State: Measuring recidivism* (Document No. 05-08-1202). Olympia: Washington State Institute for Public Policy. Also, see R. Barnoski (1997). *Standards for improving research effectiveness in adult and juvenile justice* (Document No. 97-12-1201). Olympia: Washington State Institute for Public Policy, pg. 2.

<sup>15</sup> R. Barnoski (2005). *Sex offender sentencing in Washington State: Recidivism rates* (Document No. 05-08-1203). Olympia: Washington State Institute for Public Policy.

## SECTION II: LEGISLATION AND ITS IMPACT ON THE MANAGEMENT OF SEX OFFENDERS

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*Exhibit 20*  
**Timeline of Key Sex Offense Legislation and Court Findings**

|             |  |
|-------------|--|
| <b>1984</b> | The <b>Sentencing Reform Act</b> (SRA) is effective. Indeterminate sentencing is replaced with a determinate system which uses sentencing guidelines.  |
| <b>1984</b> | <b>Special Sex Offender Sentencing Alternative</b> (SSOSA) is available as a sentencing option. SSOSA may be granted in lieu of a prison sentence under certain conditions and requires some jail time with outpatient treatment and supervision.  |
| <b>1990</b> | The <b>Community Protection Act</b> passes. The Act is a comprehensive set of laws that increases prison terms for sex offenders, establishes registration and notification laws, authorizes funds for treatment of adult and juvenile sex offenders, and provides services for victims of sexual assault. Civil commitment of sexually violent predators is authorized. |
| <b>1993</b> | Voters pass a <b>Three Strikes</b> initiative providing for lifetime incarceration without parole for offenders who have committed three “most serious” felonies.  |
| <b>1993</b> | <b>Civil commitment</b> law for sexually violent predators is found constitutional by the Washington State Supreme Court.  |
| <b>1994</b> | The <b>Special Commitment Center</b> is placed under a federal injunction regarding the constitutionality of its treatment conditions and provisional release (Turay v. Weston, Order and Injunction).   |
| <b>1996</b> | <b>Two Strikes</b> legislation passes, providing for lifetime sentences without parole for persons convicted of two or more serious sex crimes.  |
| <b>1997</b> | The <b>U.S. Supreme Court</b> upholds the constitutionality of civil commitment for sexually violent predators (Kansas v. Hendricks).  |
| <b>1997</b> | The Legislature directs a more consistent statewide approach to <b>community notifications</b> .   |
| <b>2001</b> | <b>Determinate Plus Sentencing</b> is adopted for sex offenders convicted of certain sex offenses who are subject to a life sentence in prison with discretionary release by the Indeterminate Sentencing Review Board.  |
| <b>2004</b> | <b>Federal court injunction</b> on Special Commitment Center is narrowed to one area concerning the transition facility.   |
| <b>2005</b> | <b>SSOSA eligibility</b> requirements change for crimes committed after July 1, 2005. Changes include: no prior adult violent convictions committed within five years of the current offense; offense did not result in substantial bodily harm to the victim; and offender had relationship to victim (not a stranger).   |

WSIPP 2006

## Community Notification

Since passage of the Community Protection Act in 1990, sex offenders are required to register with the sheriff in their county of residence. Decisions regarding the community notification level are first considered by the End of Sentence Review Committee (ESRC) prior to an offender's release from prison. ESRC is comprised of representatives of Washington State agencies that have jurisdiction over the release of sex offenders or are significantly impacted by their release. The classification decision is based upon the offender's criminal history, institutional behavior, and other relevant information. In 1997, the Legislature directed a more consistent statewide approach to classification, resulting in the adoption of the Washington State Sex Offender Risk Level Classification Tool.<sup>16</sup>

The Classification Tool combines two factors: specific notification considerations and an offender's risk assessment score. The risk assessment score is based on the original 1995 version of the Minnesota Sex Offender Screening Tool (MnSOST) in addition to four other items:

- The victim in a non-familial sex conviction was particularly vulnerable or incapable of resistance due to physical or mental disability or ill health.
- The sex offense was of a predatory nature, or the offender used a position of community trust (e.g., coach, teacher, group leader, police officer) or a professional relationship to facilitate the non-familial sex offense.
- The offender continued to act out sexual deviancy during incarceration.
- The offender was an adult male with a Rapid Risk Assessment for Sexual Offense Recidivism (RRASOR) score of 4 to 6. The RRASOR is a widely used actuarially based assessment.<sup>17</sup>

The combined score results in one of three notification levels. The ESRC notification levels are sent to local law enforcement who can alter the level as they see fit. The tool defines the three notification levels:

- **Level I:** Low-risk offenders with an assessment score under 47 points and no notification considerations.
- **Level II:** Moderate-risk offenders with an assessment score under 47 points and one or two notification considerations.
- **Level III:** High-risk offenders with an assessment score under 47 points and three or four notification considerations, or an assessment score of 47 or more points.

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<sup>16</sup> RCW 4.24.5502.

<sup>17</sup> R. K. Hanson (1997). *The development of a brief actuarial risk scale for sexual offense recidivism*, Department of the Solicitor General of Canada, Public Works and Government Services Canada, cat. No. JS4-1/1997-4E.

The Institute determined that:<sup>18</sup>

- The 1997 statute increased the percentage of sex offenders who received a notification level from 50 percent in 1997 to 88 percent in 1999.
- The notification levels determined by the ESRC do not classify sex offenders into groups that accurately reflect their risk for reoffending.

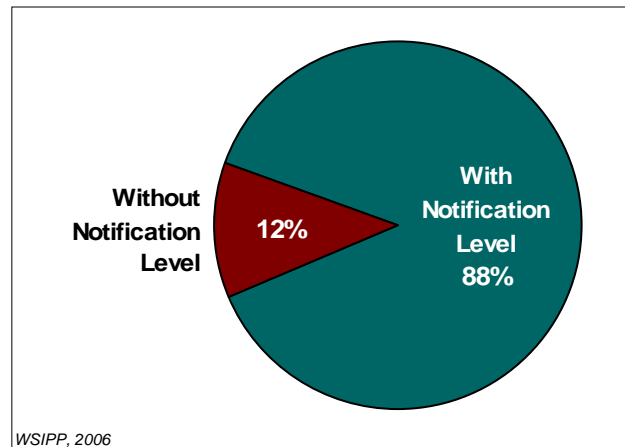
The Institute examined the influence of sex offender registration and community notification statutes on recidivism by studying records of offenders placed in the community during three time periods: (1) before passage of the 1990 Community Protection Act, (2) between passage of the Act and the 1997 statute, and (3) after the 1997 statute.<sup>19</sup>

Results indicate the following:

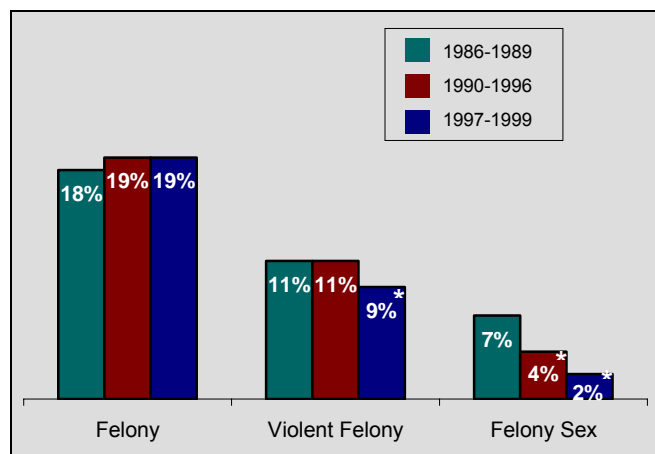
- Felony recidivism rates remained the same before and after enactment of the statutes.
- The violent felony recidivism rate of sex offenders released after the 1997 amendment was 2 percentage points below the pre-1990 rate—equivalent to a 20 percent reduction in violent felony recidivism.
- The felony sex recidivism rate for post-1997 offenders is 5 percentage points below the pre-1990 rate—equivalent to a 70 percent reduction in felony sex recidivism.

Violent and sexual felony recidivism by sex offenders in Washington has decreased since passage of the 1997 statute. The causal link to notification laws is not proven by this research. Other conditions may be contributing to this reduction, such as the national and state drop in crime rates and the state's increased incarceration (incapacitation) of sex offenders. However, the drop in recidivism rates by sex offenders is clear, and the influence of community notification laws cannot be ruled out.

**Exhibit 21**  
**Sex Offenders With a Notification Level**



**Exhibit 22**  
**Five-Year Felony Recidivism Rates For Three Study Periods**



<sup>18</sup> R. Barnoski (2005). *Sex offender sentencing in Washington State: Notification levels and recidivism* (Document No. 05-12-1203). Olympia: Washington State Institute for Public Policy.

<sup>19</sup> R. Barnoski (2005). *Sex offender sentencing in Washington State: Has community notification reduced recidivism?* (Document No. 05-12-1202). Olympia: Washington State Institute for Public Policy.

## Failure to Register

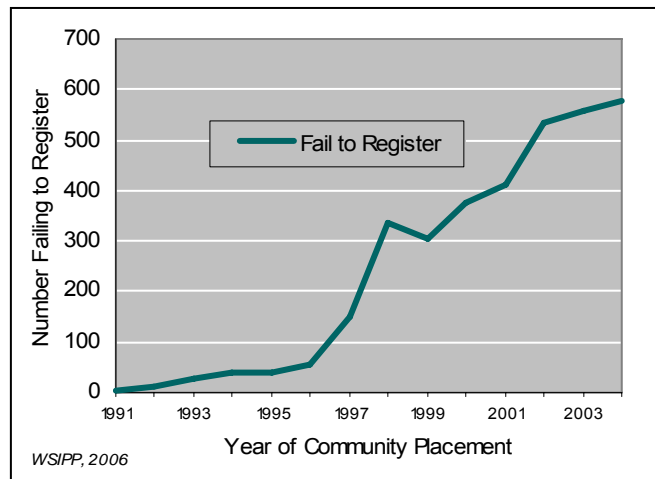
The 1990 Community Protection Act requires sex offenders residing in Washington State to register with the sheriff in their county of residence.<sup>20</sup> The law applies to adults and juveniles convicted of any sex offense. Offenders must update their registration when relocating to a new county. Failure to register is either a felony or misdemeanor offense.<sup>21</sup>

**Exhibit 23** shows the number of sex offenders failing to register has increased to about 580.

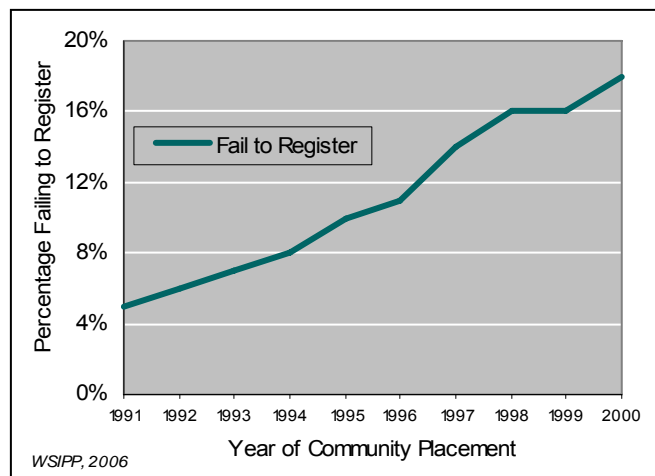
In one study, the Institute found the following:<sup>22</sup>

- The percentage of sex offenders placed in the community who have been convicted of failure to register has steadily increased since the 1990 law established the requirement. Five percent were convicted of failure to register during 1990; that number grew to 18 percent in 1999.
- Almost one-fifth of sex offenders required to register are convicted of failure to register.
- It is not possible to accurately predict the characteristics of those likely to fail to register by examining demographic characteristics and criminal history.
- Sex offenders convicted of failure to register have higher subsequent recidivism rates than those without a conviction:
  - ✓ 34 percent felony recidivism for those who fail to register versus 15 percent for those who register.
  - ✓ 14 percent violent felony recidivism for those who fail to register versus 6 percent for those who register.
  - ✓ 5 percent felony sex recidivism for those who fail to register versus 2 percent for those who register.

**Exhibit 23**  
Number of Sex Offenders Failing to Register



**Exhibit 24**  
Percentage of Sex Offenders Failing to Register



<sup>20</sup> RCW 9A.44.130

<sup>21</sup> The statutes distinguishing felony from misdemeanor failure to register offenses have changed over time. See 9A.44.130 for the current definition.

<sup>22</sup> R. Barnoski (2006). *Sex offender sentencing in Washington State: Failure to register as a sex offender* (Document No. 06-01-1203). Olympia: Washington State Institute for Public Policy.



## Sexually Violent Predators

The Community Protection Act of 1990 enabled the state to civilly commit Sexually Violent Predators (SVP). SVPs are offenders who:<sup>23</sup>

- Have been convicted of or charged with a crime of sexual violence; and
- Suffer from a mental abnormality or personality disorder; and
- Are likely to engage in predatory acts of sexual violence due to the mental disorder.

The ESRC reviews information on offenders convicted of sexually violent offenses nearing release from confinement. Offenders who meet the statutory criteria are referred to the Attorney General's office or the King County Sexually Violent Predator Unit where the decision is made to petition for involuntary civil commitment. A trial is held to determine if the person meets the definition of a sexually violent predator. If so, the person is confined at the Special Commitment Center on McNeil Island.

The person is offered treatment and held until the mental abnormality or personality disorder has changed or the person is considered safe to be released under supervision within the community. Transition options include Secure Community Transition Facilities (SCTF) in Pierce and King Counties or a Less Restrictive Alternative (LRA).

As of February 2006, there were:<sup>24</sup>

- 229 residents at the Special Commitment Center. Of these:
  - ✓ 156 individuals were committed as SVPs, and
  - ✓ 73 persons are being detained.
- 6 SVPs at a Secure Community Transition Facility, and
- 6 SVPs supervised in the community as an LRA.

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<sup>23</sup> RCW 71.09.020(16)

<sup>24</sup> Data obtained per phone conversation with Special Commitment Center staff.

## Two and Three Strikes Laws

In 1993, voters passed a “three strikes you're out” initiative providing for lifetime incarceration without parole for offenders who have committed three “most serious” felonies. In 1996, “two strikes you're out” legislation was passed, which provides for lifetime sentences without parole for persons convicted of two or more serious sex crimes.

The three strikes law identifies a persistent offender as a person convicted of a most serious offense who has at least two prior convictions (on separate occasions) for most serious offenses.<sup>25</sup> The statute enumerates the crimes that constitute most serious offenses, including all Class A offenses, most violent offenses, any Class B offense committed with sexual motivation, and any felony with a deadly weapon verdict.

To qualify as a two strikes offender, the offender must have two separate convictions for the following crimes: Rape 1 or 2, Indecent Liberties by Forcible Compulsion, Child Molestation 1, and Rape of a Child 1 or 2. The offender also meets the two strikes criteria if there is a finding of sexual motivation associated with convictions for Murder 1 or 2, Kidnapping 1 or 2, Assault 1 or 2, Assault of a Child 1, or Burglary 1. An attempt to commit any of these crimes also qualifies as a strike under the two strikes law.<sup>26</sup>

The Sentencing Guidelines Commission reports the following two and three strikes' sentences as of September 2005.<sup>27</sup>

### Three Strikes:

- **264 offenders have been sentenced under the three strikes law.**
  - ✓ 72 offenders (27 percent) with a sex offense as one of their three strikes.

### Two Strikes:

- **61 offenders have been sentenced under the two strikes law.**
  - ✓ 61 percent with a current child sex crime,
  - ✓ 26 percent with a current adult sex crime, and
  - ✓ 10 percent with a current other sex crime.

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<sup>25</sup> RCW 9.94A.030 (33)(a)

<sup>26</sup> RCW 9.94A.030 (33)(b)

<sup>27</sup> Data retrieved from [http://www.sgc.wa.gov/PUBS/Persistent\\_Offender/Persistent\\_Offender\\_Report.pdf](http://www.sgc.wa.gov/PUBS/Persistent_Offender/Persistent_Offender_Report.pdf) in January 2006.

## Determinate Plus Sentencing

Sex offenders convicted of certain sex offenses committed after September 1, 2001, are subject to a life sentence under a determinate plus sentencing structure.<sup>28</sup> Eligible offenders are those convicted of Rape 1 or 2, Rape of a Child 1 or 2, Child Molestation 1, Indecent Liberties with Forcible Compulsion, or one of several Class A felonies with sexual motivation.

Determinate plus sentencing uses both a minimum and a maximum sentence. The minimum sentence imposed by the court is the sentence the offender would receive on the sentencing grid or based on an exceptional sentence (if those conditions apply). The maximum sentence is the statutory maximum sentence. For Class A felonies, including all the offenses listed above, the statutory maximum sentence is life in prison.

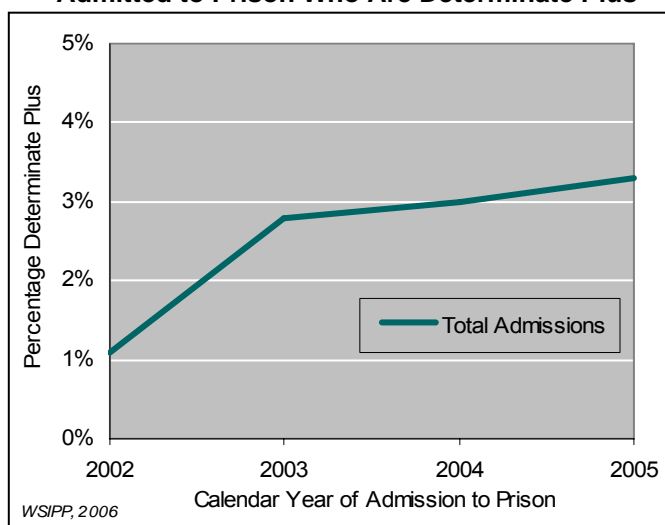
At the end of the minimum sentence, the Indeterminate Sentence Review Board (ISRB) decides whether the offender is likely to commit new sex offenses. If the offender is released, he or she is subject to lifetime supervision. The offender's release may be revoked upon a serious violation.

**Exhibit 25** shows that about 3 percent of the total admissions to prison in recent years are determinate plus offenders. **Exhibit 26** shows that 45 percent of the sex offenders admitted to prison in 2005 are determinate plus offenders.

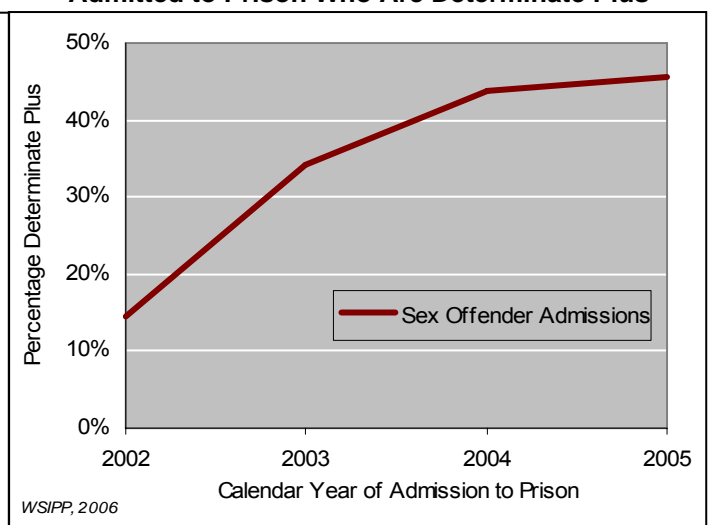
The ISRB reports that, as of 2005:<sup>29</sup>

- 792 determinate plus offenders were incarcerated in a DOC facility (approximately 5 percent of the prison population).
- 24 determinate plus offenders have been released to supervision in the community (approximately 0.1 percent of the active community supervision population).

**Exhibit 25**  
Percentage of All Offenders  
Admitted to Prison Who Are Determinate Plus



**Exhibit 26**  
Percentage of Sex Offenders  
Admitted to Prison Who Are Determinate Plus



<sup>28</sup> 3ESSB 6151, Chapter 12, Laws of 2001.

<sup>29</sup> Data retrieved from the Indeterminate Sentence Review Board in January 2006.

## APPENDIX

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### Washington State Institute for Public Policy Criminal Justice Research Database

The Washington State Institute for Public Policy maintains a database of criminal records for both juvenile and adult offenders. The primary sources for these data are the Department of Corrections and the Administrative Office of the Courts. These criminal records include both felony and misdemeanor convictions that occur in Washington State juvenile and adult criminal courts.

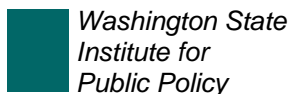
**Adult sex crimes** are sex offenses committed against adults; primarily rape.

**Child sex crimes** are sex offenses committed against children such as child rape, statutory rape, child molestation, sexual misconduct, and sexual exploitation.

**Other sex crimes** are sex offenses not defined as adult or child sex crimes such as indecent liberties, incest, voyeurism, and promoting prostitution.

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Document No. 06-03-1201



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