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## WASHINGTON'S DRUG OFFENDER SENTENCING ALTERNATIVE: AN UPDATE ON RECIDIVISM FINDINGS

In recent years, the Washington legislature has amended the state's sentencing laws for drug-involved felony offenders. One of these changes occurred in 1995 with the passage of the Drug Offender Sentencing Alternative (DOSA).

DOSA allows certain offenders to receive reduced prison terms in exchange for completing chemical dependency treatment while incarcerated. Since 1995, DOSA laws have been modified twice (1999 and 2005), each time broadening the eligibility criteria. The 2005 changes also created a "community-based" DOSA for offenders with non-prison sentences; these offenders receive residential drug treatment in the community.

The Washington State Institute for Public Policy (Institute) was directed by the Legislature to evaluate the impacts of DOSA.<sup>1</sup> Our initial evaluation, published in 2005, examined DOSA prior to the 2005 law change.<sup>2</sup> Subsequently, the Institute was directed to study recidivism rates of DOSA offenders, including the new community-based alternative.<sup>3</sup>

This report extends the recidivism follow-up period from our 2005 evaluation for the prison-based DOSA. The evaluation of the community-based alternative, however, cannot be undertaken until 2009 because of delayed implementation of the law. This report discusses the research timeline for the community-based DOSA.

### Summary

The Washington State Institute for Public Policy (Institute) was directed by the Legislature to evaluate the impacts of DOSA. DOSA was originally enacted in 1995 as a sentencing alternative. When ordered by a court, a felony offender's sentence time is reduced in exchange for completing chemical dependency treatment.

Prior to 2005 legislation, DOSA was restricted to a "prison-based" treatment alternative. The 2005 changes created a "community-based" DOSA for offenders with non-prison sentences. Because only 30 offenders have received this community alternative to date, further implementation is necessary before an evaluation of the community-based DOSA can be completed.

This report updates our 2005 study of the original "prison-based" DOSA, extending the follow-up from 24 to 36-months. In our earlier report, we found that recidivism rates were lower for drug offenders receiving DOSA, but not for property offenders. With a 36-month follow-up, our findings did not change. That is, **prison-based DOSA significantly lowers recidivism rates for drug offenders, but has no statistically significant effect on recidivism rates of property offenders.**

### What is DOSA?

DOSA is a sentencing alternative for felony offenders where an offender's sentence time is reduced in exchange for completing chemical dependency treatment. The legislative intent of DOSA is to increase the use of effective treatment for substance abusing offenders, thereby reducing recidivism.<sup>4</sup>

<sup>1</sup> ESSB 1006, Section 12, Chapter 197, Laws of 1999.

<sup>2</sup> S. Aos, P. Phipps, R. Barnoski. (2005). *Washington's drug offender sentencing alternative: An evaluation of benefits and costs*, Olympia: Washington State Institute for Public Policy, Document No. 05-01-1901.

<sup>3</sup> ESSB 6239, Section 305, Chapter 339, Laws of 2006.

<sup>4</sup> RCW 9.94A.660

The 2005 DOSA statute gives the courts discretion to sentence felony drug and property offenders to this sentencing option, with certain exceptions:

- ✓ An offender cannot have a violent or sex offense conviction in the last 10 years, or a
- ✓ Deportation order, or a
- ✓ Prior DOSA sentence in the last decade.

DOSA sentences are offered as a “prison-based” alternative. That is, the standard sentence length is split between prison confinement and a term of community custody. The prison-based alternative has been available as a sentencing option since 1995.

Recent 2005 legislation, however, made a “residential chemical dependency treatment-based” alternative available in addition to the prison-based alternative.<sup>5</sup> To receive the community-based option, offenders must serve two years on community custody, or half the midpoint of the standard sentence range, whichever is greater.

If an offender does not complete drug treatment or is administratively terminated from DOSA, the legislation requires that he or she return to prison to serve the remainder of the community custody term.

**Exhibit 1** displays how DOSA has changed over time. The 1999 and 2005 revisions generally expanded the eligibility criteria to allow more drug offenders to be placed on DOSA.

**Exhibit 1**  
**Comparison of 1995, 1999, and 2005 DOSA Legislation**

Legal Requirements	Year of DOSA Legislation		
	1995	1999	2005
<b>Current felony conviction</b>	<ul style="list-style-type: none"> <li>• Manufacture, delivery or possession with intent to manufacture/deliver a controlled substance</li> <li>• Criminal attempt, solicitation, or conspiracy to commit these crimes.</li> </ul>	<ul style="list-style-type: none"> <li>• All felonies, with exception of violent or sex offenses.</li> </ul>	<ul style="list-style-type: none"> <li>• All felonies, with exception of violent or sex offenses.</li> </ul>
<b>Prior felony conviction</b>	<ul style="list-style-type: none"> <li>• No prior felony convictions.</li> </ul>	<ul style="list-style-type: none"> <li>• No violent or sex felonies.</li> </ul>	<ul style="list-style-type: none"> <li>• No violent or sex offenses within the last 10 years. Cannot have served a DOSA sentence within the last 10 years.</li> </ul>
<b>Immigration</b>	<ul style="list-style-type: none"> <li>• No requirements.</li> </ul>	<ul style="list-style-type: none"> <li>• Not subject to deportation detainer or order.</li> </ul>	<ul style="list-style-type: none"> <li>• Not subject to deportation detainer or order.</li> </ul>
<b>Sentence length</b>	<ul style="list-style-type: none"> <li>• Midpoint of standards range greater than 12 months.</li> </ul>	<ul style="list-style-type: none"> <li>• Standard range greater than 12 months.</li> </ul>	<ul style="list-style-type: none"> <li>• For "prison-based" alternative, standard range greater than 12 months. For "community-based" alternative, two years on community custody, or half the midpoint of the standard sentence range, whichever is greater.</li> </ul>
<b>Community supervision/Revocations</b>	<ul style="list-style-type: none"> <li>• 1 year community custody; court may revoke.</li> </ul>	<ul style="list-style-type: none"> <li>• Remainder of sentence on community custody; DOC may revoke.</li> </ul>	<ul style="list-style-type: none"> <li>• Remainder of sentence on community custody; DOC may revoke.</li> </ul>

<sup>5</sup> ESSB 2015, Chapter 460, Laws of 2005.

## Community-Based DOSA Evaluation

Since the 2005 legislation became effective, there has been a shortage of inpatient treatment beds available to DOSA offenders in the community.<sup>6</sup> As of November 2006, only 30 offenders have been sentenced under the community-based DOSA since the enactment of the law in October 2005.

Due to the shortage of treatment beds, the Department of Corrections (DOC) has worked with the Division of Alcohol and Substance Abuse to locate available treatment beds for DOSA offenders.<sup>7</sup> Two treatment providers have been identified, one for the west side and the second for the east side of the state. Pioneer Human Services, in King County, will accept DOSA referrals in December 2006. Because a residential facility was not available to place DOSA offenders on the east side, construction of a facility will begin in January 2007. American Behavioral Health Systems, in Spokane, will run an inpatient program for DOSA offenders. The treatment center is expected to be operational by March 2007.<sup>8</sup>

Our evaluation of the community-based DOSA is not possible at this time because the law has not yet been fully implemented. As previously mentioned, treatment beds will be made available in the beginning of 2007. If implementation occurs as planned and a sufficient number of offenders are sentenced to the alternative, an evaluation is possible in January 2009. This date allows 12 months for implementation, a 12-month adjudication period, and 12 months of recidivism follow-up.

## Evaluation Design

Our 2005 study reported 24-month recidivism rates. In this study, we extend the follow-up period to 36 months. In addition, we have expanded our DOSA sample to include a more recent cohort of DOSA offenders and report a 24-month follow-up period. The results of the expanded samples are displayed in the Technical Appendix B.

We established a comparison group of offenders by matching DOSA participants with similar offenders sentenced prior to DOSA's July 1999 implementation date. That is, the comparison group for this evaluation consists of offenders who would have been eligible for DOSA, had it existed when they were sentenced to prison between July 1, 1997, and June 30, 1999. We then performed multivariate statistical analyses to control for any observed differences in the two groups.<sup>9</sup>

### Does DOSA Lower Recidivism Rates?

Recidivism is defined as any offense committed after release to the community that results in a Washington State conviction.<sup>10</sup> This definition includes convictions in juvenile and adult court. We report three dichotomous reconviction rates: felony, drug felony, and non-drug felony recidivism.<sup>11</sup> The follow-up "at-risk" period for each offender is 36 months. In calculating rates, we allow an additional 12-month period for an offense to be adjudicated by the courts. Because both property and drug offenders are eligible for DOSA, we analyzed the effects for these two groups of offenders separately.

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<sup>6</sup> Personal communication with Doreen Geiger of the Department of Corrections, November 2006; and Terrie Orphey of the Division of Alcohol and Substance Abuse, December 2006.

<sup>7</sup> DASA is a division under Washington State's Department of Social and Health Services.

<sup>8</sup> Department of Corrections. (November 2006). *DOSA News 1(2)*.

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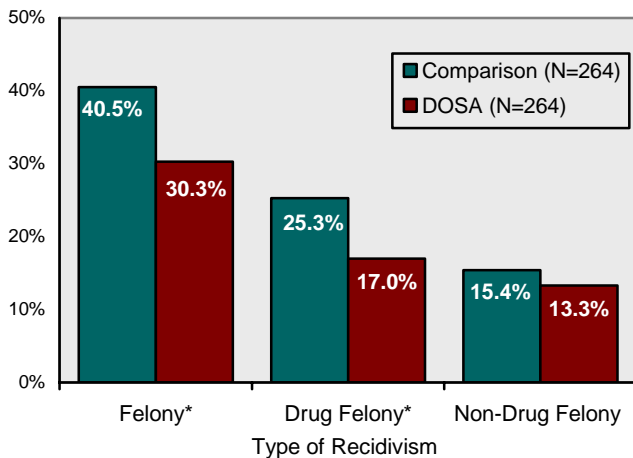
<sup>9</sup> For more information on how the study groups were matched and limitations of the study, see S. Aos, et al. (2005). *Washington's drug offender sentencing alternative*.

<sup>10</sup> R. Barnoski. (1997), *Standards for improving research effectiveness in adult and juvenile justice*. Olympia: Washington State Institute for Public Policy, Document No. 97-12-1201, pg. 2.

<sup>11</sup> We did not report violent felony recidivism in this study because there were so few offenders reconvicted for a violent offense. Non-drug felony recidivism includes reconvictions of either a property or a violent felony, but not a drug offense.

**Drug Offenders: Recidivism Rates.** Without DOSA, we estimate that 40.5 percent of DOSA-eligible drug offenders will be reconvicted for a new felony within three years of release from prison. For those drug offenders who receive a DOSA sentence, we find that the felony recidivism rate is 30.3 percent, a statistically significant difference.<sup>12</sup> **Exhibit 2** displays these results. The results of the logistic regression analyses for each type of recidivism are located in Technical Appendix A.

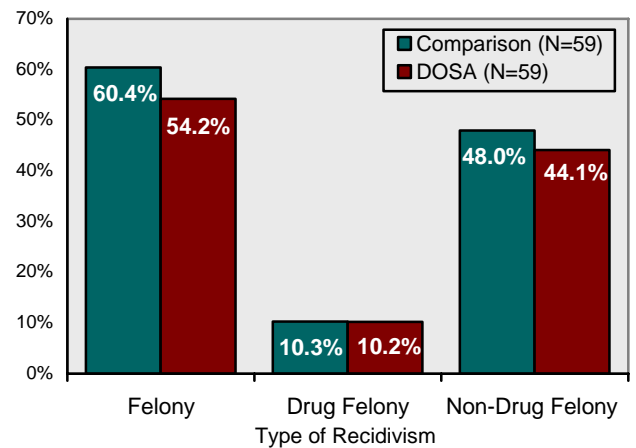
**Exhibit 2**  
**DOSA Drug Offenders vs. Comparison Group:**  
**Odds Ratio-Adjusted 36-Month Recidivism Rates**



\* Statistically significant at  $p < .05$ .

**Property Offenders: Recidivism Rates.** Without DOSA, we estimate that 60.4 percent of DOSA-eligible drug offenders will be re-convicted for a new felony within three years of release from prison. For those drug offenders who receive a DOSA sentence, we find that the felony recidivism rate is 54.2 percent. This is not a statistically significant difference. **Exhibit 3** displays the recidivism rates for property drug offenders. The results of the logistic regression analyses for each type of recidivism are located in Technical Appendix A.

**Exhibit 3**  
**DOSA Property Offenders vs. Comparison Group:**  
**Odds Ratio-Adjusted 36-Month Recidivism Rates**



In our 2005 study, we found that recidivism rates, after a 24-month follow-up period, were lower for drug offenders receiving DOSA. Recidivism rates, however, were not lower for drug-involved property offenders. In this report we extended the follow-up period to 36 months and found the same outcomes for DOSA drug and property offenders. **That is, DOSA significantly lowers recidivism rates for drug offenders, but has no statistically significant effect on the recidivism rates of property offenders.**

### Benefit-Cost Analysis

Our 2005 DOSA evaluation reported benefit-cost findings. About \$7 to \$10 in benefits per dollar of cost were generated for drug offenders given a DOSA sentence. For drug-involved property offenders given a DOSA sentence, about one dollar of benefits was generated per dollar of cost.

In the current study, we do not report updated benefit-cost findings. However, we will update these findings when we complete the community-based DOSA evaluation.

<sup>12</sup> The recidivism rate for the comparison group has been adjusted using the odds ratio from the logistic regression.

**Technical Appendix A: Logistic Regression Results for the 36-Month Recidivism**

Exhibit A1 shows the regression results for drug offenders on felony, drug felony, and non-drug felony recidivism finding.

**Exhibit A1**

**Drug Offender Recidivism: Logistic Regression Results**

**Felony Recidivism**

Variable	Co-efficient	Odds Ratio	Probability
<b>Included Observations: 528</b>			
Intercept	0.075		0.936
DosaFlag	-0.449	0.638	0.026
Sassi	0.944	2.571	0.015
Male	0.390	1.477	0.120
Age	-0.057	0.945	0.149
AgeDecade	0.012	1.012	0.797
Black	0.541	1.717	0.013
CommitmentCount	0.197	1.217	0.167
SRASeverityLevel	-0.112	0.894	0.179
CurrentClassB	-0.627	0.534	0.063
PriorJuvenileFelony	-0.569	0.566	0.113
PriorFelPerson	-0.550	0.577	0.201
PriorFelProperty	-0.547	0.579	0.037
PriorMisdProperty	0.444	1.559	0.001
PriorSentViol	0.176	1.192	0.352

**Drug Felony Recidivism**

Variable	Co-efficient	Odds Ratio	Probability
<b>Included Observations: 528</b>			
Intercept	-2.148		0.041
DosaFlag	-0.501	0.606	0.032
Sassi	0.490	1.632	0.257
Male	0.351	1.421	0.244
Age	-0.065	0.937	0.153
AgeDecade	0.046	1.047	0.369
Black	0.579	1.783	0.019
CommitmentCount	0.287	1.332	0.066
SRASeverityLevel	0.013	1.013	0.889
CurrentClassB	-0.168	0.845	0.650
PriorJuvenileFelony	-0.118	0.888	0.760
PriorFelPerson	-0.306	0.737	0.503
PriorFelProperty	-0.918	0.399	0.001
PriorMisdProperty	0.323	1.381	0.034
PriorSentViol	0.290	1.336	0.150

**Non-Drug Felony Recidivism**

Variable	Co-efficient	Odds Ratio	Probability
<b>Included Observations: 528</b>			
Intercept	0.241		0.846
DosaFlag	-0.173	0.842	0.512
Sassi	1.194	3.299	0.058
Male	0.228	1.256	0.489
Age	-0.012	0.988	0.821
AgeDecade	-0.047	0.954	0.431
Black	0.197	1.218	0.494
CommitmentCount	-0.094	0.910	0.626
SRASeverityLevel	-0.205	0.815	0.047
CurrentClassB	-1.031	0.357	0.064
PriorJuvenileFelony	-1.125	0.325	0.103
PriorFelPerson	-0.545	0.580	0.366
PriorFelProperty	0.414	1.513	0.164
PriorMisdProperty	0.386	1.471	0.024
PriorSentViol	-0.166	0.847	0.547

Exhibit A2 shows the regression results for property offenders on felony, drug felony, and non-drug felony recidivism finding.

**Exhibit A2  
Property Offender Recidivism:  
Logistic Regression Results**

**Felony Recidivism**

Variable	Co-efficient	Odds Ratio	Probability
<b>Included Observations: 118</b>			
Intercept	3.756		0.076
DosaFlag	-0.251	0.778	0.567
age	-0.061	0.941	0.122
White	-0.675	0.509	0.475
SRASeverityLevel	-0.764	0.466	0.091
SRAOffenderScore	-0.214	0.808	0.145
CurrentClassB	0.979	2.662	0.273
PriorJuvenileJra	-0.723	0.485	0.187
PriorMisdem	2.157	8.645	0.017
PriorMisdPerson	-0.541	0.582	0.045
PriorSentViol	0.268	1.307	0.191

**Drug Felony Recidivism**

Variable	Co-efficient	Odds Ratio	Probability
<b>Included Observations: 118</b>			
Intercept	-12.924		0.957
DosaFlag	-0.010	0.990	0.987
age	0.014	1.014	0.806
White	-0.434	0.648	0.736
SRASeverityLevel	1.085	2.961	0.287
SRAOffenderScore	-0.444	0.641	0.057
CurrentClassB	-4.112	0.016	0.112
PriorJuvenileJra	-7.778	<0.001	0.973
PriorMisdem	13.039	>999.999	0.957
PriorMisdPerson	0.105	1.111	0.792
PriorSentViol	0.184	1.202	0.567

**Non-Drug Felony Recidivism**

Variable	Co-efficient	Odds Ratio	Probability
<b>Included Observations: 118</b>			
Intercept	2.229		0.256
DosaFlag	-0.159	0.853	0.710
age	-0.061	0.941	0.105
White	-0.182	0.834	0.832
SRASeverityLevel	-0.979	0.376	0.044
SRAOffenderScore	-0.013	0.987	0.924
CurrentClassB	2.022	7.553	0.039
PriorJuvenileJra	-0.429	0.651	0.423
PriorMisdem	1.315	3.725	0.132
PriorMisdPerson	-0.542	0.581	0.040
PriorSentViol	0.126	1.134	0.530

## Technical Appendix B: Selecting Multiple Comparison Groups to Determine Whether DOSA Reduces Recidivism

The ability to evaluate whether DOSA achieves reductions in recidivism rates depends on identifying an adequate comparison group of offenders. Ideally, DOSA-eligible offenders would be randomly assigned to either DOSA or a non-DOSA group. With a successfully implemented random assignment, any observed difference in recidivism rates could be attributed to the effect of DOSA. Unfortunately, as is the case in many real world settings, random assignment was not possible for this evaluation.

Absent random assignment, we established a comparison group of offenders by matching actual DOSA participants with similar offenders sentenced prior to DOSA's July 1999 implementation date. That is, the comparison group for this evaluation consists of offenders who would have been eligible for DOSA, had it existed when they were sentenced to prison between July 1, 1997, and June 30, 1999. We then performed multivariate statistical analyses to control for any observed differences in the two groups.

For the comparison group, in addition to having a sentence date between July 1, 1997, and June 30, 1999, we selected offenders who met the following DOSA eligibility requirements set by statute:

- A standard sentencing range greater than one year,
- No current or prior sex or violent offenses,
- No sentencing enhancement (use of deadly weapon or firearm), and
- Offender not subject to a deportation detainer or order.

We were unable to analyze the requirement that the crime involve a small quantity of a controlled substance. Under DOSA, judges make this determination. No data in electronic records are available on the quantity of controlled substances. Additionally, because our criminal recidivism data include only Washington State convictions, we removed offenders from our sample who were released to an out-of-state placement.

While this research design is fairly strong, it is not perfect for two reasons. First, the matched DOSA and DOSA-eligible comparison group are from two different time periods. DOSA offenders are those sentenced after June 30, 1999, while the comparison group includes similar offenders sentenced during the two years prior to the start of DOSA. This means there could be other time-dependent factors that distinguish these two periods for which we cannot control in our analysis.

Second, DOSA is an option for judges, it is not mandatory. The actual screening process used by the courts to issue a DOSA sentence is not fully captured in the DOSA selection criteria; that is, not all DOSA-eligible offenders are given this option. Judges, aided by the advice of prosecutors and defense attorneys, decide whether to offer an offender a DOSA sentence. Additionally, the offender must agree to complete drug treatment in exchange for a shorter prison stay. All these elements are selection factors, unobserved to the researcher, that determine whether an offender receives a DOSA sentence.

While the timing and selection attributes of the evaluation design pose possible threats to the validity of this study, we attempt to minimize their influence by performing multivariate analyses using a comprehensive set of observed control variables.

Two samples were created to examine the impact of DOSA on recidivism. The two approaches we tested are:

1. A sample where DOSA and comparison group participants are matched on 15 variables in the equations predicting felony, property, and violent felony re-offending. These variables are: age, male, African American, current sentence for a felony drug offense, current sentence for a felony property offense, prior Class C adjudications, prior felony drug adjudications, prior juvenile court felony drug adjudications, prior juvenile court felony adjudications, prior commitment to the Juvenile Rehabilitation Administration (JRA), prior misdemeanor adjudications, prior adult sentence condition violations, was administered the SASSI, number of commitments to DOC, and the SRA Severity Level for the current admission. The result is a sample of 753 comparison group participants matched to 753 DOSA participants.
2. A sample where DOSA and comparison group participants are matched on scores that measure the risk for felony (non-drug) and felony drug re-offending. The result is a sample of 2,581 comparison group participants matched to 2,581 DOSA participants.

There are benefits to both sampling methods. For the "risk variable" approach, the advantage is that all of the variables previously mentioned are matched exactly on every characteristic. This means that the comparison group is virtually identical to the DOSA group except that they did not receive DOSA. The downside is there are fewer matches because the criteria are stricter. The fewer the matches, the less generalizable the results are to all DOSA offenders.

For the “risk score” matched group, a larger sample is possible because the matching is less strict. Results are then easier to generalize to all DOSA offenders. The disadvantage is that the groups are not as similar.

Because there are advantages and disadvantages to both methods, we chose to analyze both to get a better idea on how DOSA affects recidivism. Since DOSA is applicable for two different groups of offenders, we analyzed the effects for those offenders sentenced to prison for a drug offense, and those sentenced for a property offense.

**Exhibit B1** displays the adjusted recidivism rates for the DOSA and comparison groups for both sampling methods. Felony recidivism is statistically significantly lower for the DOSA drug offenders using both methods.

**Exhibit B2** shows the regression results for the recidivism findings for both matching methods.

Analyses presented in this appendix further substantiate our findings from the 2005 report and from the 36-month follow-up that DOSA significantly lowers recidivism rates for drug offenders.

**Exhibit B1**  
**24-Month Adjusted Recidivism Rates**  
**For DOSA/Comparison Matched Samples**

Risk Variable Matched Sample <sup>a,b</sup>			Risk Score Matched Sample <sup>c,d</sup>		
Type of Recidivism	Comparison	DOSA	Type of Recidivism	Comparison	DOSA
<b><u>Drug Offenders</u></b>			<b><u>Drug Offenders</u></b>		
Felony*	28.1%	21.3%	Felony*	34.3%	28.0%
Drug Felony	15.9%	12.5%	Drug Felony*	22.4%	17.2%
Non-Drug Felony	9.6%	8.9%	Non-Drug Felony	11.6%	10.8%
<b><u>Property Offenders</u></b>			<b><u>Property Offenders</u></b>		
Felony	53.7%	43.2%	Felony	43.2%	44.4%
Drug Felony	3.0%	7.2%	Drug Felony	10.0%	8.8%
Non-Drug Felony *	51.9%	36.0%	Non-Drug Felony	33.3%	35.5%

\* Statistically significant difference at p <= .05.

**Exhibit B2**  
**Logistic Regression Results for 24-Month Follow-up Period**  
**For Study Sample Matching Methods**

Parameter	(1) Risk Variable Matched Sample <sup>a,b</sup>			(2) Risk Score Matched Sample <sup>c,d</sup>		
	Comparison N = 753, DOSA N = 753			Comparison N = 2581, DOSA N = 2581		
	Estimate	Odds Ratio	Sig. Level	Estimate	Odds Ratio	Sig. Level
<b>Drug Offenders</b>						
Felony	-0.367	0.693	0.0096	-0.292	0.747	0.0003
Drug Felony	-0.285	0.752	0.0916	-0.331	0.718	0.0004
Non-Drug Felony	-0.087	0.916	0.6817	-0.076	0.927	0.5037
<b>Property Offenders</b>						
Felony	-0.422	0.656	0.1648	0.046	1.047	0.6724
Drug Felony	0.914	2.495	0.1781	-0.135	0.873	0.4528
Non-Drug Felony	-0.650	0.522	0.0382	0.098	1.103	0.3913

- a In the drug offender group of the risk variable matched sample, there were 642 in the comparison group and 642 in the DOSA group.
- b In the property offender group of the risk variable matched sample, there were 111 in the comparison group and 111 in the DOSA group.
- c In the drug offender group of the risk score matched sample, there were 1730 in the comparison group and 1835 in the DOSA group.
- d In the property offender group of the risk score matched sample, there were 851 in the comparison group and 746 in the DOSA group.

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