

## SEX OFFENDER SENTENCING IN WASHINGTON STATE: HAS COMMUNITY NOTIFICATION REDUCED RECIDIVISM?

The 2004 Legislature directed the Washington State Institute for Public Policy (Institute) to evaluate the effectiveness of sex offender sentencing policies in Washington State.<sup>1</sup>

A previous report covered recidivism rates of sex offenders in Washington State.<sup>2</sup> **This report examines the influence of sex offender registration and community notification statutes on recidivism.**

The 1990 Community Protection Act and subsequent amendments to the law require sex offenders to register with the sheriff in their county of residence.<sup>3</sup> The Act authorizes law enforcement to release information to the public regarding dangerous sex offenders (“community notification”).<sup>4</sup>

Decision-making by government officials related to community notification has evolved over time. In the early 1990s, a multi-disciplinary committee in the Department of Corrections (DOC), the End of Sentence Review Committee (ESRC), issued three types of notifications to law enforcement: Special Bulletins (highest risk), Law Enforcement Alerts, and Teletype.<sup>5</sup>

In 1997, the notification law was significantly modified to establish a more consistent statewide approach; the ESRC was directed to set the offender’s risk level (I, II, or III).<sup>6</sup> Local law enforcement is allowed to modify the level of sex offenders living in their jurisdictions. The Washington Association of Sheriffs and Police Chiefs created model policy for release of information.<sup>7</sup>

This study examines recidivism rates of sex offenders during three periods: before passage of the 1990 Community Protection Act, after 1990 but before passage of the 1997 legislation, and after the 1997 amendments.

### SUMMARY

This report examines the relationship between recidivism and Washington’s passage of sex offender registration and community notification statutes.

Have these policies reduced the recidivism rates of sex offenders? We tracked 8,359 sex offenders released from Washington prisons before passage of the statutes (1986–1989), after passage of the 1990 law (1990–1996), and after passage of the amendments in 1997. Statistical techniques are used to determine the effect of the law by controlling for observed differences in offenders. Recidivism is defined as a conviction in Washington State for an offense committed during the five-year period after the offender leaves prison.

Three types of recidivism are measured: (1) any new felony conviction, (2) any new violent felony conviction, and (3) any new felony sex conviction.

### Findings

- 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 amendments is 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.

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

<sup>2</sup> Robert Barnoski, 2005, *Sex Offender Sentencing in Washington State: Recidivism Rates*, Olympia: Washington State Institute for Public Policy, Document No. 05-08-1203.

<sup>3</sup> RCW 9A.44.130.

<sup>4</sup> RCW 4.24.550.

<sup>5</sup> *Policy 350.500, End of Sentence Reviews*, Olympia: Washington State Department of Corrections, May 1990.

<sup>6</sup> RCW 4.24.5502.

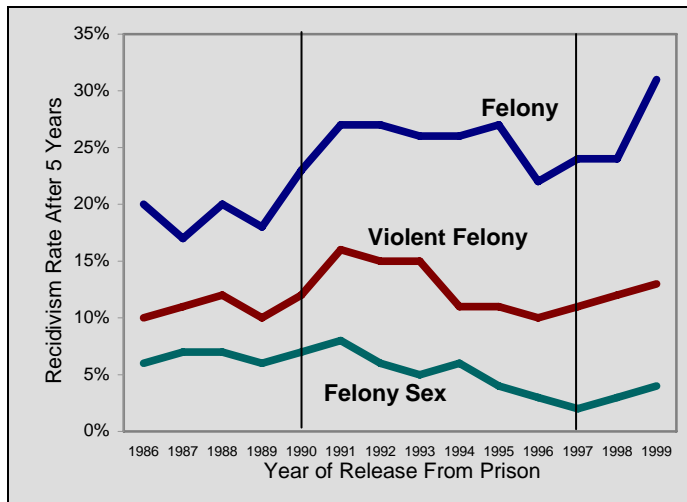
<sup>7</sup> RCW 4.24.5501.

Measuring recidivism requires a five-year period of time in the community (and one additional year for processing in the courts). As a result, only offenders released from prison before October 1999 are included in the analyses.<sup>8</sup> We measure three types of recidivism: a conviction in Washington State for (1) any new felony offense, (2) any new violent felony offense, and (3) any new felony sex offense.<sup>9</sup> This follows legislative definition of recidivism.<sup>10</sup>

To set the stage for our analyses, we first examine the trends in sex offender recidivism over the study period.

**Exhibit 1** displays the three felony recidivism rates of all sex offenders released from prison in Washington State between 1986 and 1999. Three types of recidivism are examined: felony, violent felony, and felony sex. The 1990 and 1997 statutes are represented as vertical lines in the exhibit. Changes in the recidivism rates appear to correspond to the 1990 and 1997 statutes.

**Exhibit 1**  
**Five-Year Felony Recidivism Rates**  
**For All Sex Offenders**  
**By Year Released From Prison**



Can these changes be attributed to the community protection statutes? To answer this question, we

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

<sup>9</sup> The recidivism rates are based on the most serious offense. Violent recidivism is the most serious felony category and includes homicide sex offenses, robbery, assault, and weapon offenses. Sex recidivism includes all felony sex offenses. Felony recidivism includes any felony reoffense.

<sup>10</sup> Robert Barnoski, 1997, *Standards for Improving Research Effectiveness in Adult and Juvenile Justice*, Olympia: Washington State Institute for Public Policy, Document No. 97-12-1201.

compare recidivism rates of offenders placed in the community during three time periods:

- The period before passage of the 1990 Community Protection Act,
- The period between passage of the Act and the 1997 statute, and
- The period after the 1997 statute.<sup>11</sup>

If notification increases public safety, either by deterrence or early detection, then recidivism rates of sex offenders released after the 1990 Act should be lower than the rates before the Act. We adjust for measurable differences in the demographics and criminal histories of offenders from one time period to the next using multivariate analyses. However, other factors may have changed during these years, and our analyses cannot account for these influences.

**Exhibit 2** summarizes offender characteristics for each time period for the sex offenders released from prison between 1986 and 1999. The four risk scores are empirically based measures being developed by the Institute for DOC and will be described in future reports on predicting recidivism.<sup>12</sup> Nearly all these factors differ significantly among the time periods (those marked with an asterisk). The differences indicate that offenders in more recent periods have a higher risk for reoffending.

**Exhibit 2**  
**Risk for Reoffense Factors:**  
**Sex Offenders Within Each Study Period**

|                                   | 1986–1989 | 1990–1996 | 1997–1999 |
|-----------------------------------|-----------|-----------|-----------|
| Number of Offenders               | 2,528     | 4,445     | 1,386     |
| Rapist*                           | 25%       | 22%       | 19%       |
| Child Sex Offender*               | 28%       | 55%       | 67%       |
| Male*                             | 99%       | 99%       | 98%       |
| European American                 | 78%       | 78%       | 77%       |
| African American*                 | 14%       | 16%       | 18%       |
| Native American                   | 3%        | 3%        | 3%        |
| Asian American*                   | 1%        | 1%        | 2%        |
| <b>Average Values for Period</b>  |           |           |           |
| Felony Risk Score*                | 24.9      | 30.5      | 34.1      |
| Violent Felony Risk Score*        | 16.6      | 18.2      | 19.6      |
| Non-Child Sex Risk Score          | 9.2       | 9.1       | 9.1       |
| Child-Sex Risk Score*             | 8.2       | 8.6       | 8.7       |
| Age at Release*                   | 36.4      | 36.4      | 37.3      |
| Years in Prison*                  | 3.6       | 3.3       | 3.9       |
| Felony Sex Adjudications*         | 1.1       | 1.1       | 1.1       |
| Non-Sex Violent Adjudications*    | 0.1       | 0.2       | 0.3       |
| Non-Violent Felony Adjudications* | 0.3       | 0.7       | 0.8       |

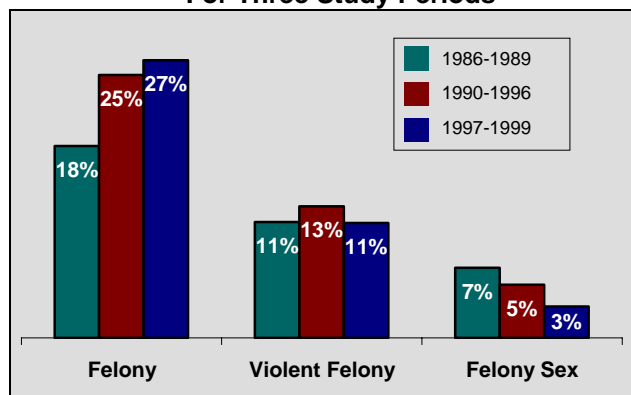
\*Differences among study periods are statistically significant beyond the .05 probability level.

<sup>11</sup> The revised notification process began in October 1997.

<sup>12</sup> Statistical techniques are used to combine variables to produce a score that is optimally associated with recidivism.

**Exhibit 3** displays the actual five-year recidivism rates for the three study periods. The felony rate increases from the 1986–1989 period to the 1997–1999 period, while violent felony recidivism increases slightly during 1990–1996 and then decreases. Only the felony sex recidivism rates decrease over the three time periods.

**Exhibit 3**  
**Unadjusted Five-Year Felony Recidivism Rates For Three Study Periods**



These recidivism rates, however, are influenced by the differences in offender characteristics from one period to the next, as shown in Exhibit 2. To address these differences, we developed adjusted recidivism rates. These adjusted rates are derived from the multivariate analyses shown in the technical appendix; the calculations estimate recidivism rates as though offenders in the three study periods have the same characteristics.

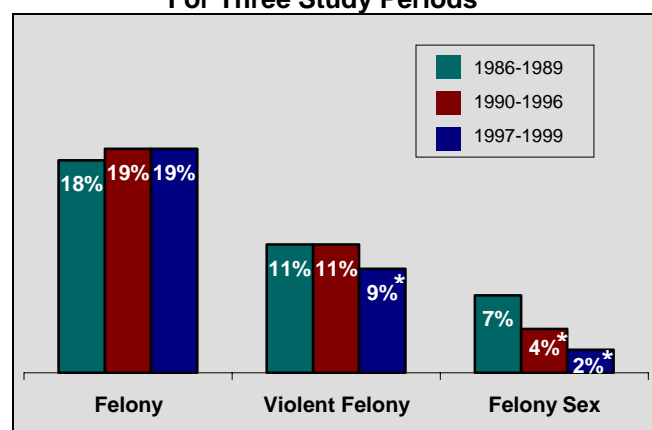
**Exhibit 4** presents the adjusted rates for the three types of recidivism in the three study periods.

- **Felony Recidivism:** The adjusted felony recidivism rates for the three time periods are similar; the slight differences are not statistically significant. For example, 18 percent of the sex offenders released from 1986 to 1989 were reconvicted for a felony—only 1 percentage point less than the felony recidivism of those released after 1990.
- **Violent Felony Recidivism:** The adjusted violent felony rate for the 1997 to 1999 period is 9 percent compared to 11 percent before 1997. That is, the violent felony recidivism rate following the 1997 statute is 2 percentage points lower than the rate before 1990, a statistically significant difference. The 2 percentage point difference is equivalent to a 19 percent reduction in violent felony recidivism.

- **Felony Sex Recidivism:** The adjusted felony sex rates for the 1990 to 1996 and 1997 to 1999 periods are 4 and 2 percent respectively, as compared with 7 percent before 1990. These 3 and 5 percentage point differences are statistically significant. The 5 percentage point difference is equivalent to a 70 percent reduction in felony sex recidivism.

The adjusted figures show, in summary, that when differences in offender characteristics are taken into account, violent felony and felony sex recidivism rates decreased subsequent to the enactment of the community protection statutes.

**Exhibit 4**  
**Adjusted Five-Year Felony Recidivism Rates For Three Study Periods**



\* Statistically significant differences.

## Discussion

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.

## Technical Appendix

This technical appendix summarizes the results of the logistic regression analyses. Three separate logistic regression analyses are performed—one for each type of recidivism. The odds ratios show how strongly each factor is associated with recidivism. Odds ratios of less than 1 indicate the factor is associated with a reduced likelihood of recidivism, while odds ratios above 1 indicate an increased likelihood. A probability level less than .05 indicates that the factor has a statistically significant association with recidivism.

The Area Under the Receiver Operator Characteristic (AUC) is a statistic which measures the strength of the association between the set of factors and recidivism. There is a moderately strong association between the set of factors and felony and violent felony recidivism (AUCs above .700) but a weaker association with felony sex recidivism. That is, in aggregate, demographics and criminal histories do not statistically control for differences among the study periods for felony sex recidivism as well as they do for felony and violent felony recidivism.

The first two rows of the exhibit pertain to the two community notification time periods. The first factor,

the post-1990 Community Protection Act, represents offenders released since 1990, including the 1997 to 1999 period. The second factor, post-1997 Notification Revision Statute, represents offenders released since 1997. The remaining rows are factors that statistically control for systematic differences among the three time periods.

Neither the post-1990 Community Protection Act nor the post-1997 Notification Revision Statute has a statistically significant impact on felony recidivism. The felony recidivism rates for post-1990 Community Protection Act offenders are not different from the pre-1990 rates.

The post-1997 Notification Revision Statute has a statistically significant impact on violent felony recidivism. The violent felony recidivism rate for post-1997 statute offenders is lower than the pre-1997 rate.

Both the post-1990 Community Protection Act and the post-1997 Notification Revision Statute have a statistically significant impact on felony recidivism. The felony sex recidivism rates for post-1990 Community Protection Act offenders are lower than the pre-1990 rates.

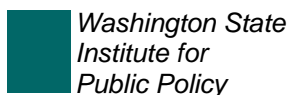
### Results of Logistic Regression Analyses: Estimating the Impact of the Community Protection Statutes

|  | Five-Year Felony Recidivism (AUC=.798) |             | Five-Year Violent Felony Recidivism (AUC=.706) |             | Five-Year Felony Sex Recidivism (AUC=.656) |             |
|--|--|-------------|--|-------------|--|-------------|
|  | Odds Ratio                             | Prob. Level | Odds Ratio                                     | Prob. Level | Odds Ratio                                 | Prob. Level |
| N = 8,359 sex offenders                        |  |             |  |             |  |             |
| <b>Post-1990 Community Protection Act</b>      | <b>1.07</b>                            | <b>0.37</b> | <b>1.00</b>                                    | <b>0.99</b> | <b>0.76</b>                                | <b>0.01</b> |
| <b>Post-1997 Notification Revision Statute</b> | <b>0.95</b>                            | <b>0.52</b> | <b>0.81</b>                                    | <b>0.04</b> | <b>0.63</b>                                | <b>0.01</b> |
| Felony Risk Score*                             | 1.04                                   | 0.00        | <i>na</i>                                      | <i>na</i>   | <i>na</i>                                  | <i>na</i>   |
| Violent Felony Risk Score*                     | <i>na</i>                              | <i>na</i>   | 1.04   | 0.00        | 0.94                                       | 0.02        |
| Male   | 1.82                                   | 0.05        | 2.27   | 0.08        | 7.71                                       | 0.04        |
| Age at Release                                 | 0.96                                   | 0.00        | 0.96   | 0.00        | 0.97                                       | 0.00        |
| European American                              | 2.71                                   | 0.00        | 2.34   | 0.00        | 2.52                                       | 0.02        |
| African American                               | 5.33                                   | 0.00        | 2.78   | 0.00        | 2.15                                       | 0.06        |
| Native American                                | 3.41                                   | 0.00        | 2.83   | 0.00        | 3.38                                       | 0.01        |
| Years in Prison                                | 0.97                                   | 0.00        | 0.98   | 0.14        | 1.00                                       | 0.83        |
| Rapist   | 1.18                                   | 0.03        | 1.36   | 0.00        | 1.00                                       | 0.99        |
| Child-Sex Offender                             | 0.81                                   | 0.00        | 0.83   | 0.03        | 0.90                                       | 0.38        |
| Total Felony Sex Adjudications                 | 1.60                                   | 0.00        | 1.54   | 0.00        | 1.30                                       | 0.37        |
| Total Non-Sex Violent Felonies                 | 1.30                                   | 0.00        | 1.27   | 0.01        | 1.43                                       | 0.03        |
| Total Non-Violent Felonies                     | 1.19                                   | 0.00        | 1.10   | 0.00        | 1.16                                       | 0.03        |
| Non-Child Sex Offender Risk Score*             | <i>na</i>                              | <i>na</i>   | <i>na</i>                                      | <i>na</i>   | 1.10                                       | 0.00        |
| Child-Sex Offender Risk Score*                 | <i>na</i>                              | <i>na</i>   | <i>na</i>                                      | <i>na</i>   | 1.03                                       | 0.68        |

\*The risk score is specific to the type of recidivism in the regression. For felony recidivism, a felony recidivism risk score is used. For violent and sex recidivism, a violent recidivism risk score is used. For sex recidivism, two additional risk scores are used: a child-sex offender risk score and a non-child sex offender risk score.

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