

## SEX OFFENDER SENTENCING IN WASHINGTON STATE: FAILURE TO REGISTER AS A SEX OFFENDER—REVISED

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> Because this topic is extensive, we are publishing a series of reports.

The 1990 Community Protection Act requires sex offenders residing in Washington State to register with the sheriff in their county of residence.<sup>2</sup> The law applies to adults and juveniles convicted of any sex offense. Sex offenders must register in their county of residence following their release from prison or jail or their placement on community supervision or after moving to Washington State. When relocating to a new county, offenders must update their registration in the new location. Failure to register is either a felony or misdemeanor offense.<sup>3</sup>

**This report examines the relationship between failure to register as a sex offender and subsequent recidivism.**

The study sample includes Washington State Department of Corrections (DOC) sex offenders released from prison or jail or sentenced to community supervision. The data regarding failure to register convictions are from the Institute's criminal justice database.<sup>4</sup> The analysis first examines the percentage of sex offenders with a conviction for failure to register during the five-year period following placement in the community.<sup>5</sup> We then compare the characteristics and recidivism of those convicted of failure to register with those not convicted of this crime.

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

<sup>2</sup> RCW 9A.44.130

<sup>3</sup> The statutes distinguishing felony from misdemeanor failure to register offenses have changed over time. See 9A.44.130 for the current definition.

<sup>4</sup> The Institute combines data from the Administrative Office of the Courts and the Department of Corrections to form a comprehensive database of convictions in Washington State.

<sup>5</sup> Placement in the community means release from prison or jail or placement directly on community supervision.

### SUMMARY

**This report examines the relationship between failure to register as a sex offender and subsequent recidivism.**

#### Findings

- **Almost one-fifth of sex offenders required to register are convicted of failure to register.**
- **The percentage of sex offenders convicted of failure to register has steadily increased since the 1990 law established the requirement: from 5 percent for sex offenders placed in the community during 1990 to 18 percent placed in the community during 1999.**
- **Convictions for failure to register occurred throughout the five-year follow-up period and were not concentrated during the first few months after placement in the community.**
- **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:**
  - ✓ **38.5 percent versus 22.9 percent for felony recidivism**
  - ✓ **15.8 percent versus 9.4 percent for violent felony**
  - ✓ **4.3 percent versus 2.8 percent for felony sex convictions.**

**That is, sex offenders with a conviction for failure to register have recidivism rates that are 50 percent higher than the rates of those without a conviction.**

**Exhibit 1** displays the percentage of sex offenders convicted of failure to register during the five-year period following their release from prison or jail or their placement on community supervision.<sup>6</sup> For example, during 1990, 1,159 offenders were placed in the community and 5 percent had at least one conviction for failure to register during the next five years.

The percentage of sex offenders convicted of failure to register has been steadily increasing since the 1990 legislation: from 5 percent in 1990 to 18 percent in 1999.

**Exhibit 1**  
**Trend in Percentage of Sex Offenders With a Subsequent Failure to Register Conviction**

Year of Community Placement	Number of Offenders	Failure to Register Conviction
1990	1,159	5%
1991	1,106	6%
1992	1,211	7%
1993	1,279	8%
1994	1,205	10%
1995	1,159	11%
1996	1,097	14%
1997	1,255	16%
1998	1,439	16%
1999	1,100	18%

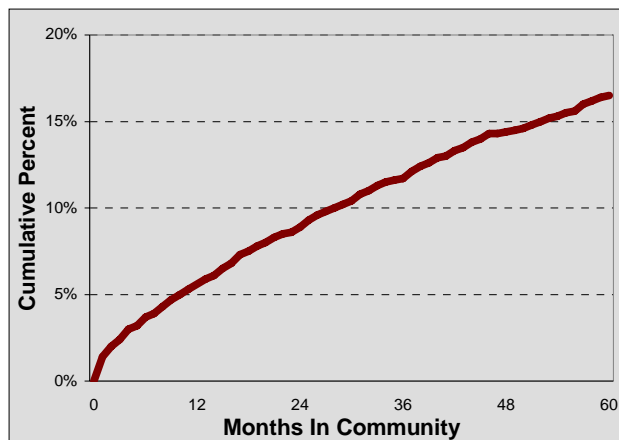
**Exhibit 2** illustrates the cumulative percentage of sex offenders convicted of a failure to register by months since placement in the community.<sup>7</sup> To represent the most current cohort of sex offenders, the sample includes placements in the community between 1997 and 1999. Approximately 4 percent failed to register within six months of placement in the community, 6 percent within 12 months, 9 percent within two years, and 17 percent within five years. On average, approximately 2 percent failed to register every six months.

Sex offenders who failed to register did so throughout the five-year follow-up period and not only within the first few months of placement in the community.

<sup>6</sup> A five-year follow-up period is needed to adequately measure sex offender recidivism.

<sup>7</sup> Number of months since placement is based on time between the date of community placement and the offense date recorded in the criminal justice databases for the failure to register.

**Exhibit 2**  
**Cumulative Percentage of Offenders With a Failure to Register Conviction for Offenders Placed in Community Since 1997**



**Exhibit 3** compares demographic and prior criminal record characteristics of sex offenders convicted of failure to register with those without this conviction. The characteristics are presented in decreasing order of the strength of association (based on the Area Under the Receiver Operating Characteristic, or AUC). The AUC is the best measure of association for the dichotomous outcome of recidivism.<sup>8</sup> The AUC varies between .500 and 1.00. AUCs in the .500s indicate little to no association, .600s indicate weak association, .700s moderate, and those above .800 strong associations.<sup>9</sup>

The first four offender characteristics are measures empirically designed to predict any felony and then violent felony recidivism for the general DOC population.<sup>10</sup> Although these measures have the largest AUCs, they weakly differentiate those with a failure to register from those without. All other offender characteristics have no relationship with having failed to register. The best combination of offender characteristics has an AUC slightly above .700, which means a moderate degree of differentiation is possible.<sup>11</sup>

<sup>8</sup> V.L. Quinsey, G.T. Harris, M.E. Rice, C.A. Cormier (2005). *Violent offenders: Appraising and managing risk, Second Edition*, Washington, DC: American Psychological Association.

<sup>9</sup> University of Michigan (2003). *The area under an ROC curve*. See: <http://gim.unmc.edu/dxtests/roc3.htm>

<sup>10</sup> A future report will describe the development of these risk measures by the Institute.

<sup>11</sup> The best combination is based on a multivariate statistical technique: logistic regression. Statistical techniques are used to combine variables to produce a score that is optimally associated with recidivism.

That is, it is not possible to accurately identify who is likely to fail to register based on demographics and criminal history. To have moderately accurate prediction requires an AUC of at least .750.

**Exhibit 3**  
**Association Between Failure to Register and Offender Characteristics for Offenders Placed in Community Since 1997**

Offender Characteristic	AUC*	Odds Ratio	Prob. Level
Violent/Property Felony Risk Score	0.682	1.04	0.001
Felony Risk Score	0.676	1.03	0.001
Violent Felony Risk Score	0.672	1.06	0.001
Child-Sex Risk Score	0.626	1.42	0.001
Number of DOC Commitments	0.605	1.29	0.001
Age at Release	0.580	1.46	0.001
Juvenile Felony Sex Adjudications	0.574	1.43	0.001
Prior Sex Register Convictions	0.572	4.32	0.001
Prior Felony Property Convictions	0.572	1.28	0.001
Non-Child-Sex Risk Score	0.555	1.07	0.001
Juvenile Violent Felony Adjudications	0.553	2.09	0.001
Juvenile Felony Sex Adjudications	0.549	3.16	0.001
Commitments to Juvenile Institution (JRA)	0.545	1.79	0.001
Prior Felony Sex Convictions	0.544	0.63	0.001
Prior Misdemeanor Assault Non-Domestic Violence Convictions	0.544	1.31	0.001
Prior Misdemeanor Alcohol Convictions	0.539	1.73	0.001
Sentence Violations	0.539	1.73	0.001
Misdemeanor Domestic Violence Assault Convictions	0.538	1.52	0.001
Prior Felony Non-Domestic Violence Assault Convictions	0.517	1.31	0.006
African American	0.514	1.22	0.075
European American	0.513	0.86	0.140
Male	0.510	2.99	0.005
Native American	0.510	1.91	0.003
Asian American	0.509	0.13	0.005
Prior Felony Domestic Violence Assault Convictions	0.504	1.30	0.236
Prior Felony Robbery Convictions	0.503	0.85	0.426
Homicide Convictions	0.502	0.23	0.156
Prior Misdemeanor Sex Convictions	0.501	0.98	0.930
Prior Misdemeanor Other Domestic Violence Convictions	0.501	0.76	0.604
Prior Felony Drug Convictions	0.500	0.99	0.843

\* AUC = Area Under the Receiver Operating Characteristic

We now compare the recidivism rates of those with a failure to register conviction to those without this conviction. Recidivism is a conviction for an offense committed during the five-year period after the offender leaves prison or jail or upon release directly to community supervision.<sup>12</sup> We measure

<sup>12</sup> R. Barnoski (2005). *Sex offender sentencing in Washington State: Measuring recidivism*. (Document No. 05-08-1202.) Olympia: Washington State Institute for Public Policy.

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>13</sup>

To allow sufficient follow-up time, the study sample includes sex offenders released to the community before October 1999. Three types of recidivism are measured: any felony, violent felony, and felony sex. To represent the most current cohort of those who fail to register, the analysis sample includes placements in the community between 1997 and 1999.

**Exhibit 4** displays the five-year recidivism rates for three types of sex offenders placed in the community during 1997 to 1999: those with (1) no failure to register conviction, (2) misdemeanor failure to register conviction, and (3) felony failure to register conviction in their past. Only 14 of the 3,794 offenders in the sample have a felony-level failure to register conviction, whereas 848 have a misdemeanor failure to register conviction. The remaining 2,932 offenders do not have a failure to register conviction.

Those with a failure to register conviction have a 38.5 percent felony recidivism rate compared with 22.9 percent for those without a failure to register. In addition, the violent felony and felony sex recidivism rates for those with a failure to register conviction are higher than the rates of those without.

That is, sex offenders with a conviction for failing to register have recidivism rates that are a 50 percent increase over the rates of those without a conviction.

**Exhibit 4**  
**Failure to Register Conviction and Subsequent Recidivism for Sex Offenders Placed in Community From 1997 to 1999**

Type of Failure to Register Conviction	Number of Offenders	Five-Year Felony Recidivism		
		Any Felony	Violent Felony	Felony Sex
No Conviction	2,932	22.9%	9.4%	2.8%
Any Conviction	862	38.5%	15.8%	4.3%
Misdemeanor	848	38.2%	15.8%	4.4%
Felony	14	57.1%	14.3%	0.0%

<sup>13</sup> Felony recidivism includes reoffending for any felony offense. Violent felony recidivism includes homicide, sex, robbery, assault, and weapon offenses. Felony sex recidivism is also included in violent felony recidivism.

**Exhibit 5** displays the recidivism rates for offenders with one, two, and three or more convictions for failure to register. Felony recidivism rates increase with the number of failure to register convictions: 36.3 percent for those with one conviction, 44.3 percent for those with two, and 50.0 percent for those with three or more convictions. The violent felony recidivism rates do not increase with the number of failure to register convictions, and the and felony sex decrease with the number of failure to register convictions.

*Exhibit 5*  
**Number of Failure to Register Convictions and Subsequent Recidivism for Sex Offenders Placed in Community From 1997 to 1999**

Number of Failure to Register Convictions	Number of Offenders	Five-Year Felony Recidivism		
		Any Felony	Violent Felony	Felony Sex
1	666	36.3%	15.8%	4.7%
2	140	44.3%	17.1%	4.3%
3+	56	50.0%	12.5%	0.0%

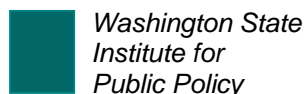
## Conclusions

- Almost one-fifth of sex offenders required to register are convicted of failure to register.
- The percentage of sex offenders convicted of failure to register has been steadily increasing since passage of the 1990 legislation requiring registration: from 5 percent for sex offenders placed in the community during 1990 to 18 percent for those placed in the community in 1999.
- Sex offenders who fail to register do so throughout the five-year follow-up period, not just within the first few months of being in the community.
- It is not possible to accurately identify who is going to fail to register based on demographic characteristics and criminal history.
- Sex offenders convicted of failure to register have higher subsequent recidivism rates than those without a conviction:
  - ✓ 38.5 percent versus 22.9 percent for felony recidivism
  - ✓ 15.8 percent versus 9.4 percent for violent felony
  - ✓ 4.3 percent versus 2.8 percent for felony sex convictions.

That is, sex offenders with a conviction for failure to register have recidivism rates that are 50 percent higher than the rates of those without a conviction.

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Document No. 06-01-1203A



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