

## **SEX OFFENDER SENTENCING IN WASHINGTON STATE: MEASURING RECIDIVISM**

The 2004 Washington Legislature directed the Washington State Institute for Public Policy (Institute) to analyze the impact and effectiveness of current sex offender sentencing policies.<sup>1</sup> Because this topic is extensive, we are publishing a series of reports.

The Legislature directed that this study examine ways to increase public safety. As a result, recidivism is a key outcome of interest. In 1997, the Washington State Legislature directed the Institute to develop a definition of recidivism.<sup>2</sup>

### **This report explains the rationale for the selected follow-up and adjudication periods used to measure recidivism.**

Working in conjunction with other Washington State criminal justice researchers, the Institute defined a recidivism event as any offense committed after release to the community that results in a Washington State court legal action. A court legal action includes a conviction, deferred sentence, deferred prosecution, deferred disposition, or a diversion agreement as defined by Washington State statute for misdemeanors, gross misdemeanors, and felonies.<sup>3</sup>

A recidivism rate is the percentage of offenders who have a recidivism event within a fixed period of time when there is the opportunity to reoffend. This follow-up period starts with the offender's placement in the community. It is critical that the follow-up period be long enough to capture most reoffending, yet short enough to provide timely information. In addition, the follow-up time between the date of a recidivism offense and the conviction for that offense must be taken into account. This adjudication period must be long enough to ensure that most offenses committed during the follow-up period are adjudicated.

### **SUMMARY**

**This report describes how recidivism is measured to analyze the impact and effectiveness of current sex offender sentencing policies. Two time frames are required for this measurement: a follow-up period, which is the fixed period of time in which the offender has the opportunity to reoffend in the community, and the adjudication period, which is the fixed period of time for the offender to be adjudicated in court.**

#### **Findings**

- **At least 70 percent of sex offenders who recidivated with any felony within 10 years do so within the first five years.**
- **In combination with a five-year follow-up period, a one-year adjudication period results in an accurate measurement of recidivism.**

**As a result of these findings, a five-year recidivism follow-up period with a one-year adjudication period is used to measure recidivism in this study of sex offenders.**

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

<sup>2</sup> RCW 13.40.500–540.

<sup>3</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.

**Adjudication Period Analyses.** The study sample to determine the adjudication period includes 45,761 offenders convicted of a felony offense who subsequently reoffended after being placed at risk in the community between 1995 and 2000.<sup>4</sup> For these offenders, we analyzed the number of days between the commission of the recidivism offense and the adjudication for that offense (we use the term “adjudication days”).

Offenders from this sample are examined in two ways: by the nature of the most serious offense for which they were originally sentenced (the “current sentencing offense”) and by the nature of the most serious offense for which they recidivated (the “recidivism offense”).

**Exhibit 1** plots the cumulative percentage of cases that recidivated with a felony offense by the number of adjudication days. For example, it takes no more than 365 days to be adjudicated on a felony recidivism offense for 85 percent of the offenders who recidivated. The offenders are grouped by the most serious offense in their current sentencing: felony rape, child sex, other sex, and all other felony offenders.<sup>5</sup>

The four groups of cases are indistinguishable because their curves are identical. That is, for all four types, 85 percent who recidivate with a felony offense have that felony adjudicated as a conviction within 365 days of the offense date.

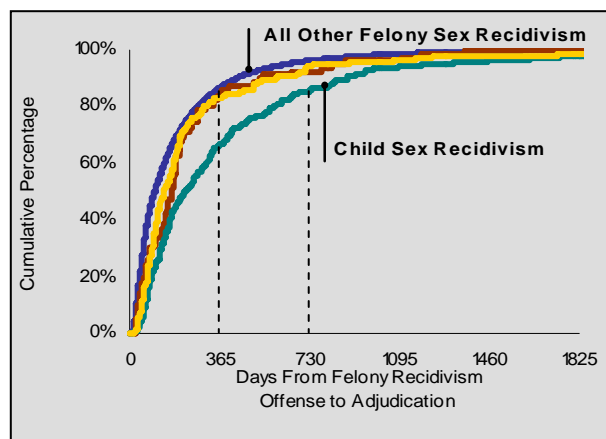
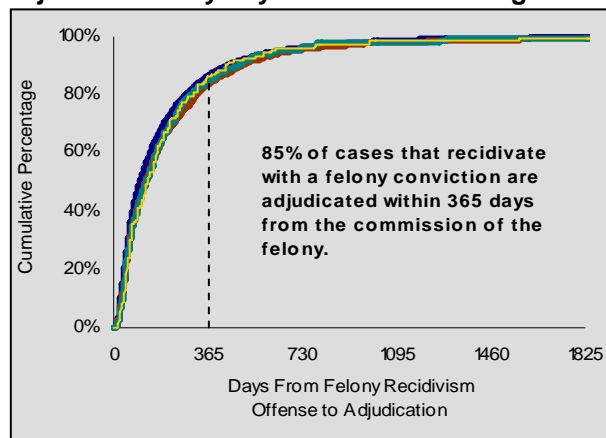
**Exhibit 2** is similar to Exhibit 1, but the offenders are grouped by the nature of their recidivism offense. The group recidivating with a felony child sex offense has a different curve than the others: 75 percent of those recidivating with a felony child sex offense take 730 days (two years) to be adjudicated with a conviction.

A one-year adjudication period adequately measures felony sex offense recidivism. At this point in the analysis, to capture child sex reoffending appears to require a two-year adjudication period. However, we return to this issue after we analyze the length of the follow-up period.

<sup>4</sup> “Placed at risk in the community” means the offender was either released from prison or jail or the offender was sentenced directly to community supervision.

<sup>5</sup> Because Exhibit 1 includes only those who recidivate, the cumulative percentage reaches 100 percent at five years (1,825 days).

**Exhibit 1**  
**Adjudication Days by Current Sentencing Offense**



**Exhibit 2**  
**Adjudication Days by Recidivism Offense**

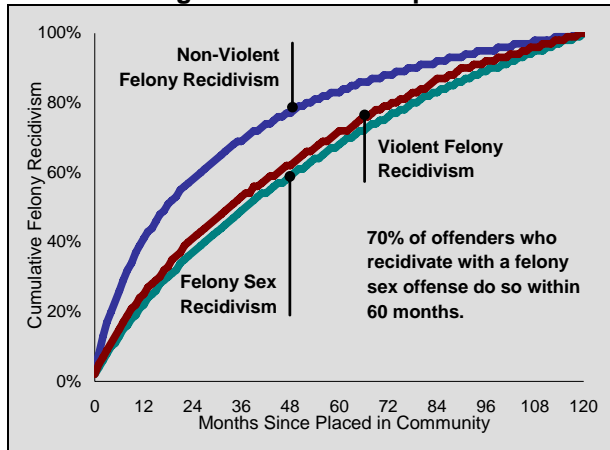
**Follow-up Period Analyses.** The study sample for the analyses of the follow-up period includes 35,160 offenders placed at risk in the community between 1990 and 1995 who recidivated with a felony offense within the following ten-year period. Offenders are again grouped by their original sentencing offense and their recidivism offense.

**Exhibit 3** shows the cumulative percentage of offenders recidivating each month for all who recidivated with a felony within ten years.<sup>6</sup> Three types of recidivism offenses are displayed: non-violent felony, violent felony, and felony sex.<sup>7</sup> Those who recidivate with a non-violent offense do so more quickly than those who recidivate with a sex or violent offense. After 36 months, 70 percent of the non-violent reoffenders recidivated compared with 50 percent of the sex and violent reoffenders.

<sup>6</sup> Because Exhibit 2 includes only those who recidivate, the cumulative percentage reaches 100 percent at 120 months.

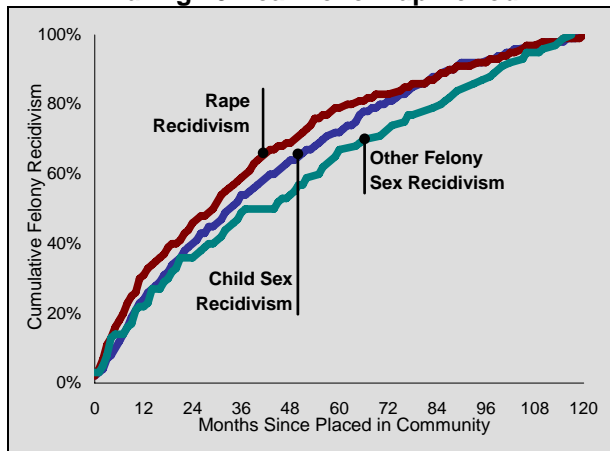
<sup>7</sup> Violent felony recidivism includes felony sex offenses as well as homicide, robbery, extortion, kidnapping, unlawful imprisonment, assault, and weapon offenses.

**Exhibit 3**  
**Felony Offense Recidivism**  
**During 10-Year Follow-up Period**



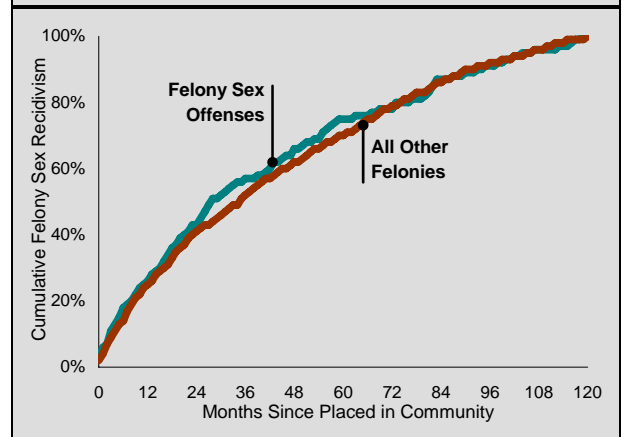
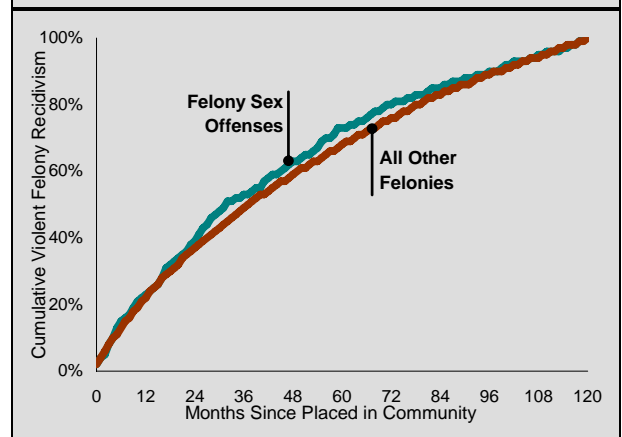
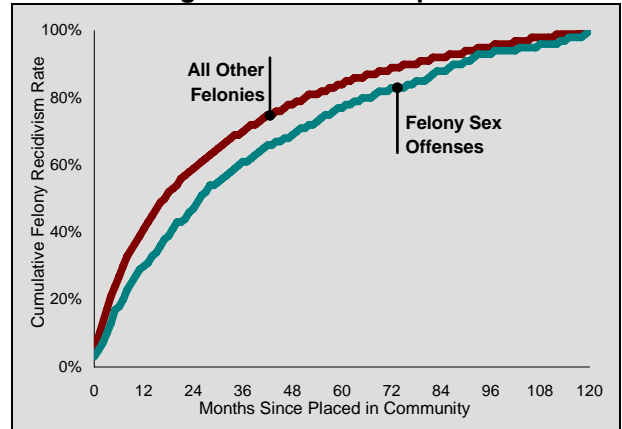
**Exhibit 4** shows these cumulative percentages for three types of sex offense recidivism: rape, child sex, and other felony sex. All three curves are similar, indicating that the timing of reoffending is similar for all three types of felony sex offense recidivism.

**Exhibit 4**  
**Felony Sex Offense Recidivism**  
**During 10-Year Follow-up Period**



**Exhibit 5** compares the three cumulative recidivism rates according to their original sentencing offense: either a felony sex or other felony case. Sex offenders recidivate with a felony offense at a slower rate than other felony offenders. However, the recidivism rate curves for violent felony and sex reoffending are identical for sex offenders and the other felony offenders.

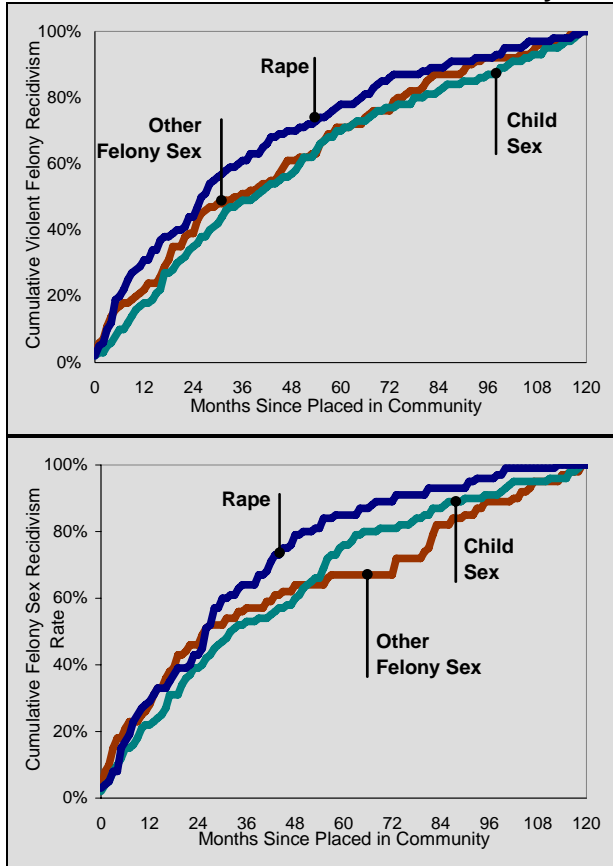
**Exhibit 5**  
**Comparison of Sex and All Other Felony**  
**Offenders Recidivating With Felony Offense**  
**During 10-Year Follow-up Period**



**Exhibit 6** takes a more detailed look at the recidivism follow-up period of offenders whose current sentencing offense is felony sex. It compares the violent felony and felony sex recidivism of three types of sex offenders: rapists, child sex, and other felony sex offenders. The three types of sex offenders recidivate with a violent felony and felony sex offense at about the same rate.

**Exhibit 6**

**Comparing Rape and Child Molestation Offenders Who Recidivated With a Violent Felony**



**Exhibit 7**

**Felony Sex Offense Cases  
Summary of Follow-up Period**

Type of Reoffending	Follow-up Period	
	36 Months	60 Months
Any Felony	58%	77%
Violent Felony	53%	73%
Felony Sex	57%	75%
Rape	72%	88%
Child Sex	59%	78%
Other Felony Sex	60%	90%

These analyses indicate that a five-year follow-up period is needed to adequately measure recidivism for sex offenders.<sup>9</sup> However, the appropriate length for the adjudication period is not as clear.

**ADJUDICATION PERIOD IMPACT ON RECIDIVISM WITH FIVE-YEAR FOLLOW-UP PERIOD**

Exhibit 8 displays the two possible adjudication periods—one year and two years—for each combination of current sentencing and recidivism offense. The violent and sex offense recidivism rates with the two-year adjudication period exceed the one-year adjudication period by only one- or two-tenths of a percentage point for all combinations. Because a longer adjudication period restricts the currency of the study sample, the one-year adjudication period will be used to measure recidivism. This adjudication period does not noticeably reduce recidivism rates.

<sup>9</sup> Offenders who die or are known to have moved out of Washington State are excluded from the study sample.

Exhibit 7 summarizes the analysis of an appropriate follow-up period for studying sex offender recidivism. The 36-month follow-up period is too short, but the 60-month follow-up period captures at least 70 percent of the reoffending that would occur in a ten-year period.

**Exhibit 8**

**Recidivism Rates for Each Combination of Current Sentencing and Recidivism Offense**

Current Sentencing Offense	Adjudication Period	Recidivism Offense					
		Any Felony	Violent Felony	Felony Sex	Other Felony Sex	Child Sex	Rape
Sex Offense in Original Sentence	One Year	15.3%	7.8%	3.4%	0.2%	2.5%	0.7%
	Two Years	15.0%	7.9%	3.6%	0.2%	2.6%	0.7%
Rape	One Year	21.2%	11.7%	4.5%	0.3%	2.2%	2.0%
	Two Years	21.5%	11.9%	4.7%	0.2%	2.4%	2.1%
Child Sex	One Year	11.7%	6.3%	3.0%	0.2%	2.5%	0.3%
	Two Years	11.2%	6.3%	3.1%	0.2%	2.6%	0.3%
Other Felony Sex	One Year	22.1%	9.2%	3.8%	0.5%	2.8%	0.5%
	Two Years	21.7%	9.3%	4.0%	0.5%	3.0%	0.6%

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