

Sex Offenses in Washington State: 1998 Update

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Washington State Institute for Public Policy

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Washington State Institute for Public Policy

Mission

The Washington Legislature created the Washington State Institute for Public Policy in 1983. A Board of Directors—representing the legislature, the governor, and public universities—governs the Institute, hires the director, and guides the development of all activities.

The Institute's mission is to carry out practical research, at legislative direction, on issues of importance to Washington State. The Institute conducts research activities using its own policy analysts, academic specialists from universities, and consultants. New activities grow out of requests from the Washington legislature and executive branch agencies, often directed through legislation. Institute staff work closely with legislators, as well as legislative, executive, and state agency staff to define and conduct research on appropriate state public policy topics.

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CONTENTS

ntroduction	. 1
Overview	.2
Section 1: Definitions of Sex Offenses	.4
Section 2: Rates of Sex Crimes and Child Abuse in Washington State	10
ection 3: Adult Sex Offenders	14
Section 4: Juvenile Sex Offenders2	26
ection 5: Recidivism Patterns	30
ection 6: Crime Victims Compensation	36
Section 7: Sex Offender Registration and Community Notification	38
ppendix: Summary of Publications	44

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*Previous versions of this document were titled "Findings From the Community Protection Research Project: A Chartbook."

Introduction

In 1990, the Washington State Legislature passed the Community Protection Act, a comprehensive set of laws that increased prison terms for sex offenders, established registration and notification laws, authorized funds for treatment of adult and juvenile sex offenders, and provided services for victims of sexual assault.

The legislation directed the Washington State Institute for Public Policy to evaluate the effectiveness of these state-supported programs. The charts that follow were selected from this research and cover such topics as:

- Definitions of Sex Offenses
- Rates of Sex Crimes and Child Abuse in Washington State
- Adult Sex Offender Sentences, Criminal History, Demographics, and Treatment
- Juvenile Sex Offender History, Characteristics, and Caseloads
- Recidivism Patterns of Sex Offenders
- Crime Victims Compensation for Sex Assault Victims
- Sex Offender Registration and Community Notification

This report addresses felony-level sex offenses.

A complete list of Institute publications on this topic is included as an Appendix (page 44).

OVERVIEW

Key findings from this 1998 update reveal the following:

Arrests and Case Reports

- Arrest rates for both juvenile and adult sex offenders continue to *decline*. The rate change for adults is modest, but the decline in juvenile rates has been dramatic, particularly for sex offenses other than rape.
- The number of cases accepted for investigation by Child Protective Services for suspicion of sexual abuse have remained *stable* since 1995.

Sentencing

- The *majority* of adult sex offenders receive prison sentences.
- Median sentence length for offenders convicted of serious sex offenses has *doubled* since passage of the Community Protection Act of 1990.

Community Treatment for Sex Offenders

- The caseload for juveniles receiving sex offender outpatient treatment sentences(SSODA) has *declined* steadily since 1994.
- The number of adult sex offenders sentenced to a community treatment option (SSOSA) continues to gradually *decline*.

Persistent Offenders

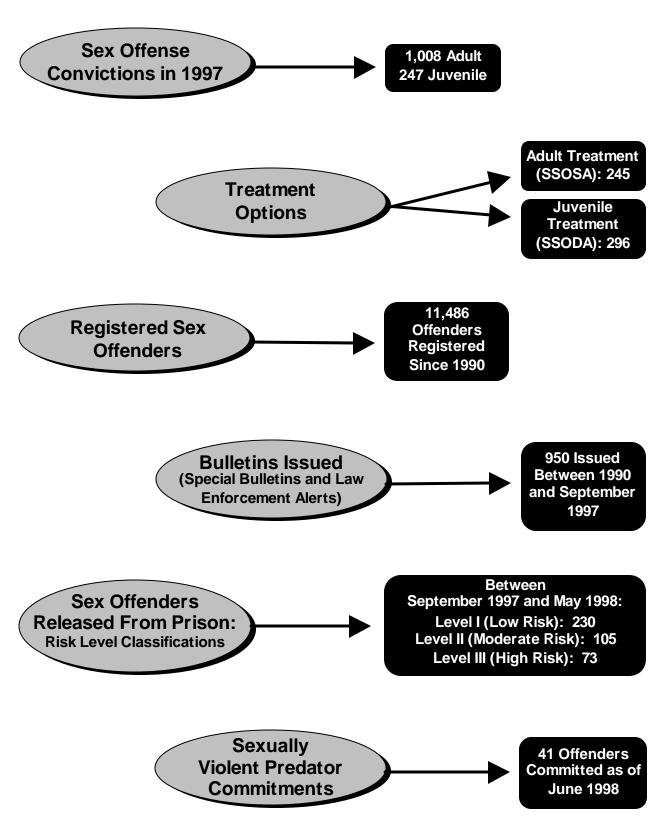
• 32 offenders have been convicted under the "Three Strikes" law for sex offenses; 2 sex offenders have been convicted under the "Two Strikes" law.

Sexually Violent Predators

• Persons designated as sexually violent predators through the civil commitment process represent *less than one percent* of the state's released sex offenders.

The chart on the following page provides an overview of criminal justice activity related to sex offenders.

WASHINGTON STATE SEX OFFENDERS: An Overview





DEFINITIONS OF SEX OFFENSES

- Sex Crimes
- Special Sex Offender Sentencing Alternative
- Special Sex Offender Disposition Alternative
- Sexually Violent Predator

SEX CRIMES*

INVOLVING SEXUAL INTERCOURSE:

RAPE 1 CLASS A FELONY, Violent	1. Forcible compulsion, and a) deadly weapon, or b) kidnapping, or c) serious physical injury (includes rendering victim unconscious through physical injury), or d) felonious entry (vehicle, building). 2. Forcible compulsion, and a) victim incapable of consent, or b) perpetrator in supervisory authority over a victim who is developmentally disabled (DD) or c) perpetrator is health care provider and crime occurs during treatment, or d) perpetrator has supervisory authority over victim who is a resident of a facility for the mentally disordered or chemically dependent.
RAPE 2 CLASS C FELONY, Nonviolent	Not married, and a) refusal to consent clearly expressed, or b) threat of substantial unlawful harm to property rights of victim. RCW 9A.44.060
INCEST 1 CLASS B FELONY, Non-violent	Known to be related, either legitimately or illegitimately, as ancestor, descendent, brother or sister of whole or half blood, (includes stepchildren and adopted children under 18). RCW 9A.64.020

INVOLVING SEXUAL CONTACT:

INCEST 2 CLASS C FELONY, Non-violent	Known to be related, either legitimately or illegitimately, as ancestor, descendent, brother or sister of whole or half blood, (includes stepchildren and adopted children under 18). RCW 9A.64.020
INDECENT LIBERTIES CLASS B FELONY, Violent if force used, otherwise non-violent	Not married and knowingly causes another to have sexual contact with him or another, and a) forcible compulsion, or b) victim incapable of consent, or c) perpetrator in supervisory authority over a victim who is developmentally disabled (DD) or d) perpetrator is health care provider and crime occurs during treatment, or e) perpetrator has supervisory authority over victim who is a resident of a facility for the mentally disordered or chemically dependent.

INVOLVING SEXUAL COMMUNICATION:

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^{*}Other sex crimes include: Sexually Violating Human Remains and felonies found to have been committed with a sexual motivation.

SEX CRIMES AGAINST CHILDREN

INVOLVING SEXUAL INTERCOURSE: Age of Victim Age of Offender

RAPE OF A CHILD 1 CLASS A FELONY, Violent	Less than 12 years old	At least 16 years of age
RAPE OF A CHILD 2 CLASS A FELONY, Violent	At least 12, but less than 14	At least 18 years of age
RAPE OF A CHILD 3 CLASS C FELONY, Non-violent	At least 14, but less than 16	At least 48 months older than victim
SEXUAL MISCONDUCT WITH A MINOR 1 CLASS C FELONY, Non-violent	At least 16, but less than 18	At least 60 months older than victim (and in supervisory position)

INVOLVING SEXUAL CONTACT: Age of Victim Age of Offender

	<u> </u>	<u> </u>
CHILD MOLESTATION 1 CLASS A FELONY, Violent	Less than 12 years old	At least 36 months older than victim
CHILD MOLESTATION 2 CLASS B FELONY, Non-violent	At least 12, but less than 14	At least 36 months older than victim
CHILD MOLESTATION 3 CLASS C FELONY, Non-violent	At least 14, but less than 16	At least 48 months older than victim
SEXUAL MISCONDUCT WITH A MINOR 2 GROSS MISDEMEANOR, Non-violent	At least 16, but less than 18	At least 60 months older than victim (and in supervisory position)

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Source: RCW Chapters 9A.44 and 9.94A.030.

SSOSA: Special Sex Offender Sentencing Alternative

FOR ADULTS:

This sentencing option can be imposed by the court for adult sex offenders convicted for the first time of a felony sex offense other than Rape in the First or Second Degree or attempted First Degree Rape and whose sentence does not exceed 11 years.

Under this option, offenders are treated by a state-certified therapist and are supervised by the Department of Corrections. Other crime-related prohibitions, such as restricted contact with minors, may be ordered. In addition, the judge may order up to six months in jail. The offender must pay all treatment costs.

If an offender does not comply with sentence conditions, or the judge determines that the offender is not making adequate progress in treatment, the alternative sentence may be revoked and a determinate sentence imposed.

This sentencing option has been available since 1984.

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SSODA: Special Sex Offender Disposition Alternative

FOR JUVENILES:

The court has the option to order a treatment sentence for most juvenile sex offenders. The Special Sex Offender Disposition Alternative (SSODA) is for offenders adjudicated for a first-time sex offense other than Rape in the First Degree.

Under SSODA, the judge can suspend the offender's sentence, place the offender on community supervision for up to two years, and require the juvenile to participate in sex offender treatment with a state-certified therapist. In addition, the court may impose other conditions, including up to 30 days of confinement. The state pays for the cost of treatment.

If an offender does not comply with sentence conditions, or the judge determines that the juvenile is not making adequate progress in treatment, the alternative disposition may be revoked and a determinate sentence imposed, or up to 30 days confinement may be ordered.

SSODA became available in 1990 as part of the Community Protection Act.

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Sexually Violent Predator

"Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence.

RCW 71.09.020(1)

"Predatory" means acts directed toward strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization.

RCW 71.09.020(3)

Washington State authorizes the civil commitment of persons determined to be sexually violent predators. If a judge or jury finds beyond a reasonable doubt that a person is a sexually violent predator, the person is committed to the Special Commitment Center, a facility run by the Department of Social and Health Services, located inside a state prison on McNeil Island, Washington. The person is held until a jury determines the offender is safe to be released.

In June 1997, the U.S. Supreme Court upheld the constitutionality of Kansas's law for sexually violent predators, which was based on Washington's law.

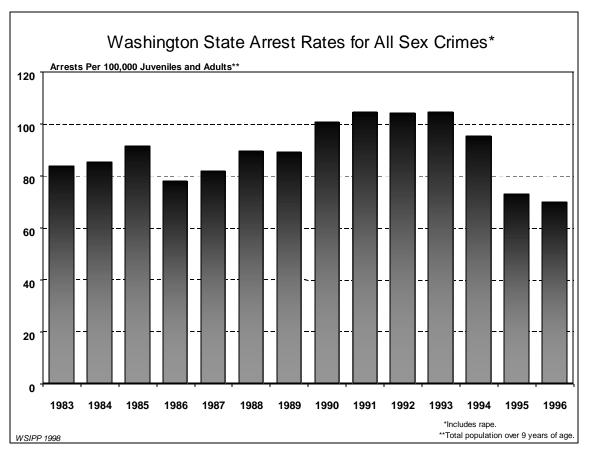
As of June 1998, 41 individuals have been committed as sexually violent predators and 24 others are in confinement awaiting trial. One individual was released to a less restrictive facility following confinement, and another person was sent directly to a community setting following his trial.

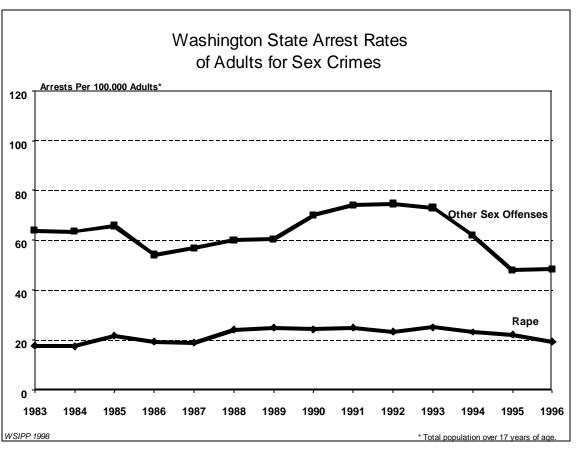
The Special Commitment Center has been under a federal court injunction regarding treatment conditions since 1994. A special master appointed by the court oversees the program's progress toward achieving improvements (*Turay v. Weston*, Order and Injunction).

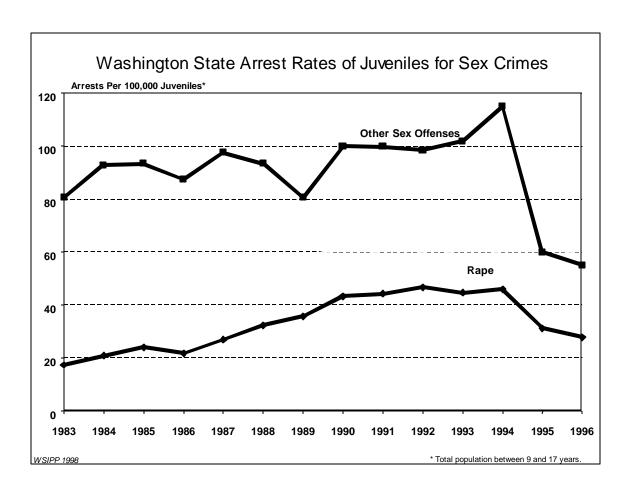


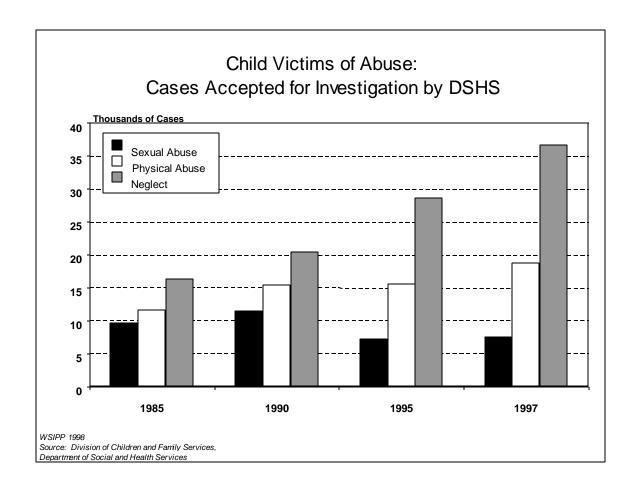
RATES OF SEX CRIMES AND CHILD ABUSE IN WASHINGTON STATE

- Arrest Rates for Sex Crimes
 - Adults
 - Juveniles
- Child Victims of Abuse: DSHS Investigations











ADULT SEX OFFENDERS

- Conviction Trends
- Sentencing Trends
- Sentencing Options
- Criminal History
- Changes in Sentence Length
- Prison Treatment
- Sentencing Costs
- Sexually Violent Predators

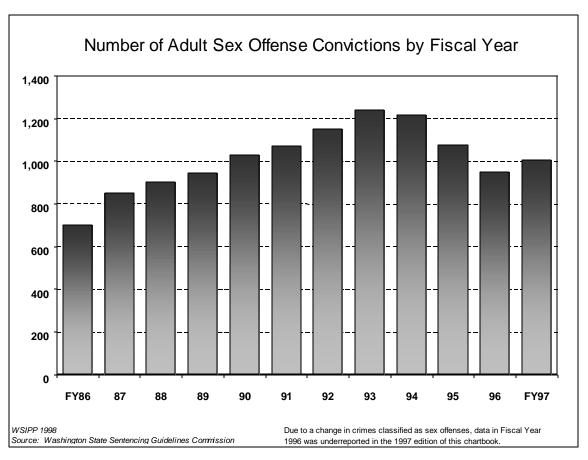
Adult Sex Offenders

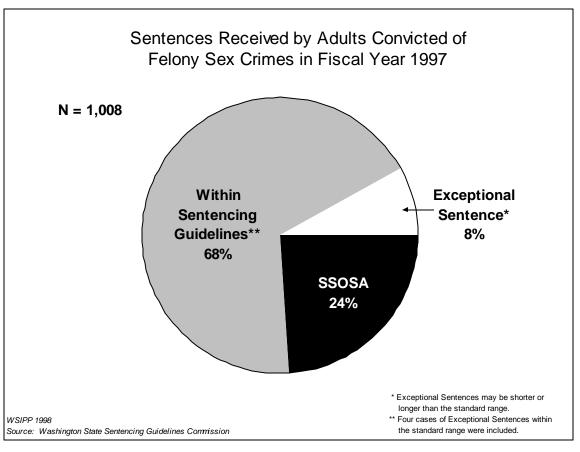
In Washington State, adult felons are sentenced within standard sentencing guidelines. This standardized sentencing system went into effect in 1984. Various sentencing options are available to the court for sex offenders:

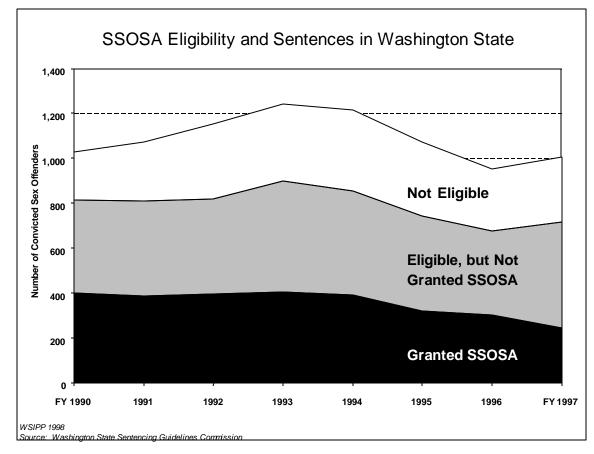
- Jail or prison terms within state sentencing guidelines.
- SSOSA (Special Sex Offender Sentencing Alternative), a suspended sentence requiring outpatient treatment.
- Exceptional sentence (higher or lower than the sentencing guidelines).

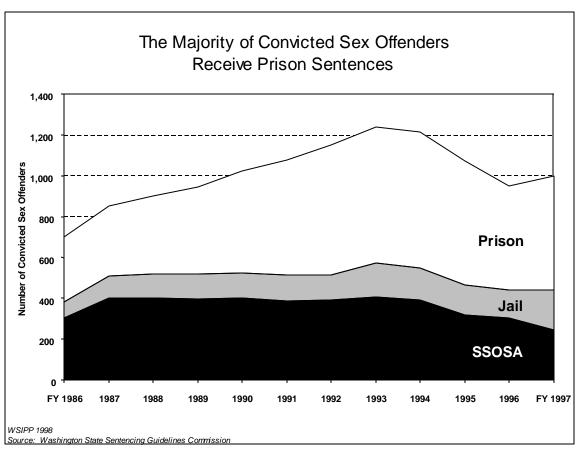
From July 1996 to June 1997, 1,008 adults were convicted of sex felonies— 4.7 percent of adult felony convictions during this period.

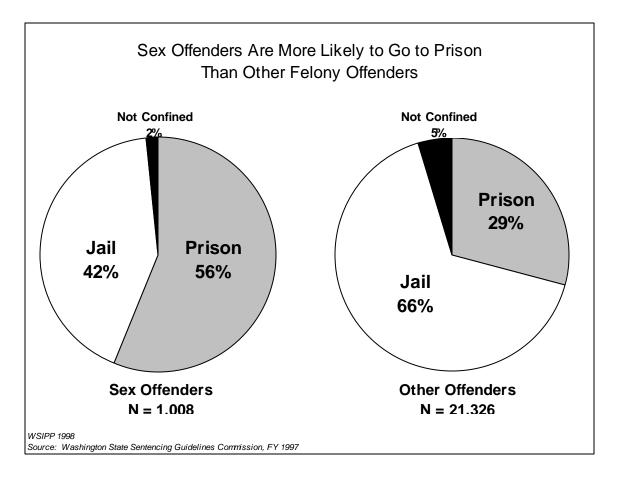
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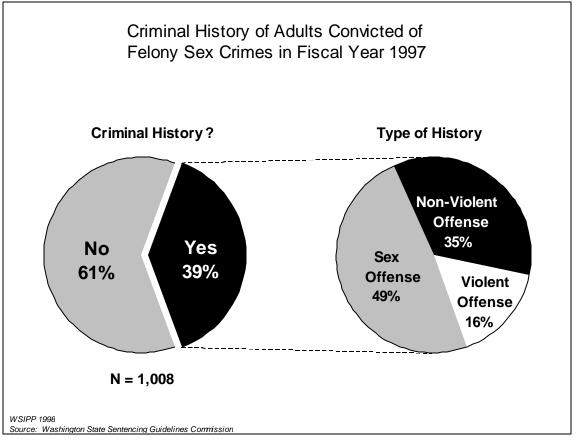












Serious Sex Offenses

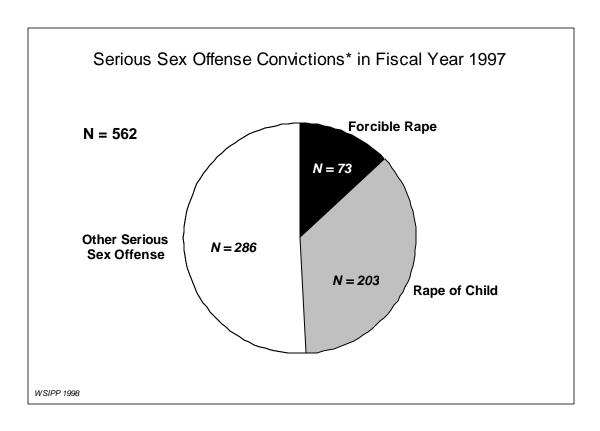
In recent years, the penalties for serious sex offenses have been raised through legislative actions. These serious sex offenses include:

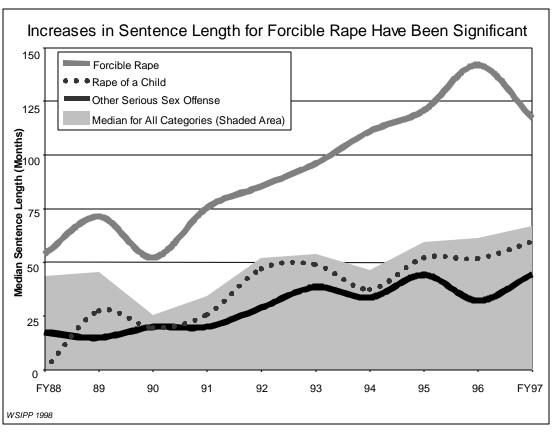
- Rape 1 and 2
- Rape of a Child 1 and 2
- Child Molestation 1 and 2
- Indecent Liberties With Force

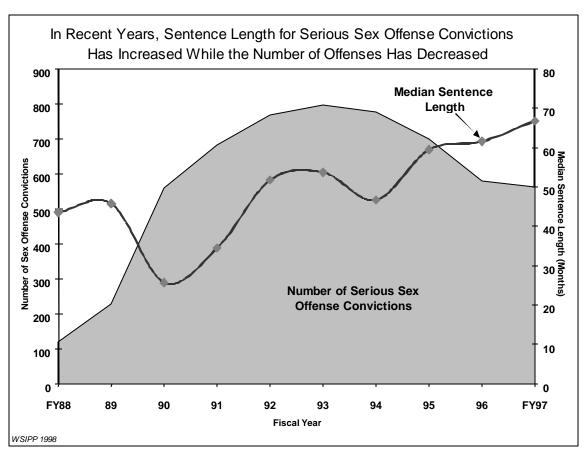
During Fiscal Year 1997, there were 1,008 convictions for sex offenses in Washington. Of those, 562 convictions were for the serious sex offenses listed above. The following charts examine convictions and sentence length for these more serious sex offenses in Washington State.

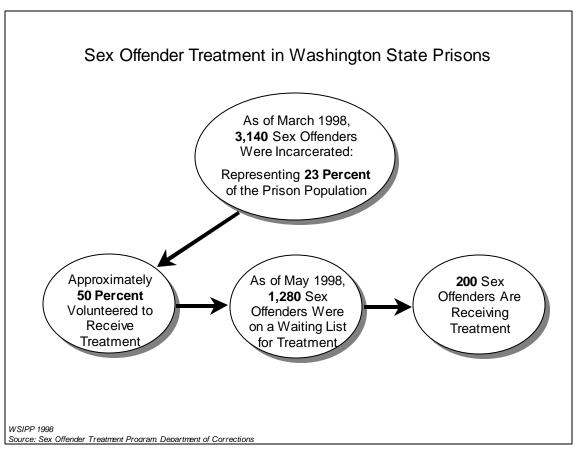
The offenses excluded from the category of serious sex offenses are as follows: Rape 3, Rape of a Child 3, Child Molestation 3, Incest, Communication with a Minor for Immoral Purposes, and Sexual Misconduct with a Minor. Felonies committed with a sexual motivation are also excluded due to disproportionate sentence length. (For example, the sentence for murder committed with a sexual motivation would be extremely long and skew the analysis.)

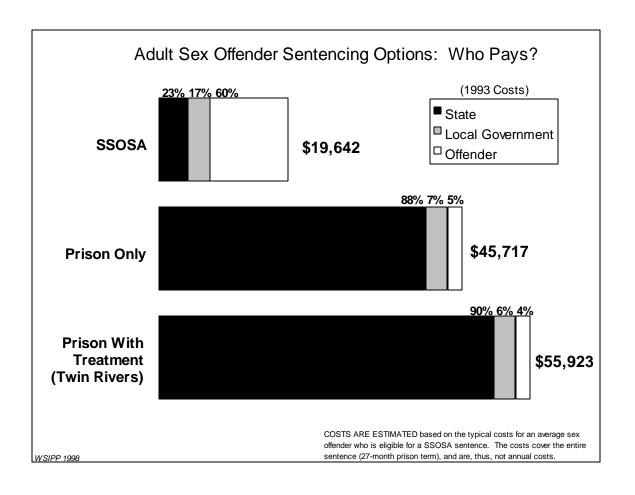
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PERSISTENT OFFENDERS

Initiative 593, "Three Strikes and You're Out," became effective December 2, 1993, and established a penalty of life without parole for "persistent offenders."

The original law defined a "persistent offender" as a person who is convicted of a most serious offense and who has at least two prior convictions (on separate occasions) for most serious offenses. 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 committed with a deadly weapon.

The 1996 Legislature broadened the definition of persistent offender to include "Two Strike" sex offenders, and the 1997 Legislature expanded the list offenses. To qualify as a "Two Strike" sex offender, the offender must have two separate convictions for Rape 1 or 2, Rape of a Child 1 or 2, Indecent Liberties by Forcible Compulsion, Child Molestation 1, Homicide by Abuse with sexual motivation, Assault of a Child with sexual motivation, or a finding of sexual motivation associated with convictions for Murder 1 or 2, Kidnapping 1 or 2, Assault 1 or 2, or Burglary.

- 32 offenders convicted under the "Three Strikes" law have a sex offense as a most serious offense.
- Two sex offenders have been convicted under the "Two Strikes" law.

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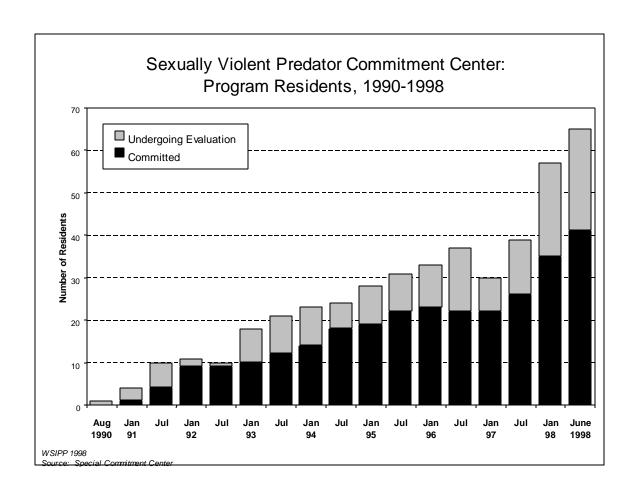
Sexually Violent Predators Represent Less Than One Percent of the Released Sex Offender Population

Since the Community Protection Act was passed on February 28, 1990, the most current data show:

- √ 4,388 adult sex offenders have been released from custody
 by the Department of Corrections.
- ✓ 1,548 juvenile sex offenders have been released from custody by the Juvenile Rehabilitation Administration.
- √ 5,550 offenders have been reviewed by the End of Sentence Review Committee to determine dangerousness.
- ✓ 196 offenders were referred to county prosecutors for evaluation and possible civil commitment.
- √ 41 offenders were tried and committed as sexually violent predators, and 24 others were awaiting trial.

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The release statistics represent individuals most be referred for civil commitment; other sex offenders the community potentially meet the statutory





JUVENILE SEX OFFENDERS

- Sentencing Treatment Option (SSODA)
- Criminal History
- State Commitments

Juvenile Sex Offenders

Under state law, most persons under age 18 charged with a crime fall under the jurisdiction of the juvenile court and may be held in an institutional program up to the age of 21.*

Juvenile offenders sentenced to more than 30 days are committed to the Juvenile Rehabilitation Administration (JRA) within the Department of Social and Health Services. Juvenile offenders sentenced to less than 30 days, and those placed on community supervision, remain under local jurisdiction.

Certain juveniles can be sent to a diversion unit where they are directed to fulfill certain conditions in lieu of prosecution.

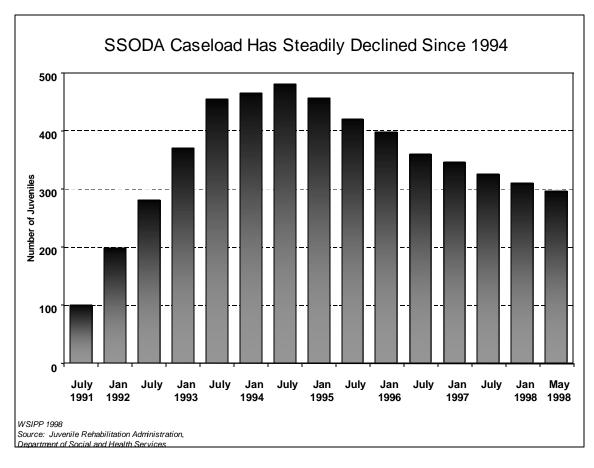
JRA provides residential programs for youths committed to its custody, parole supervision of youths released from its facilities, and community corrections' resources to youths under county authority.

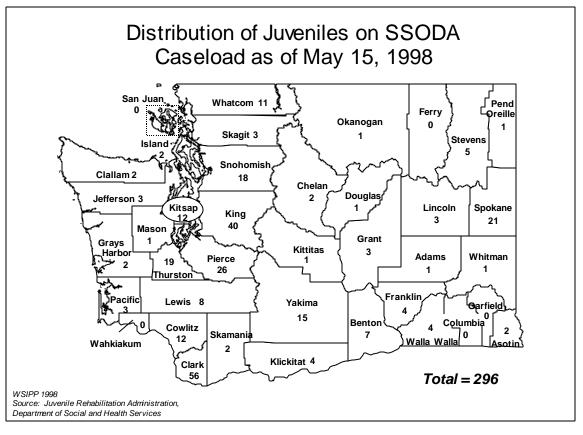
The following charts provide detail on the characteristics of juvenile sex offenders.

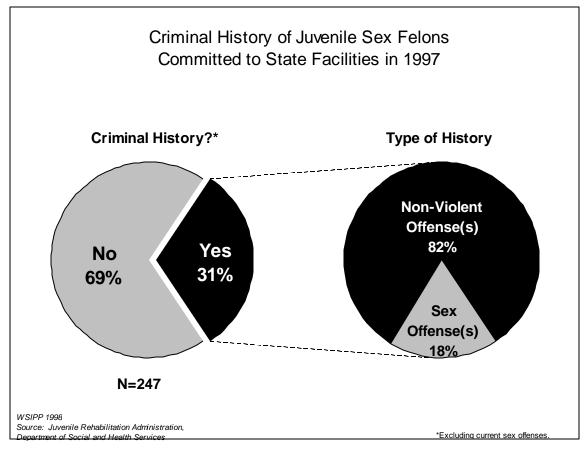
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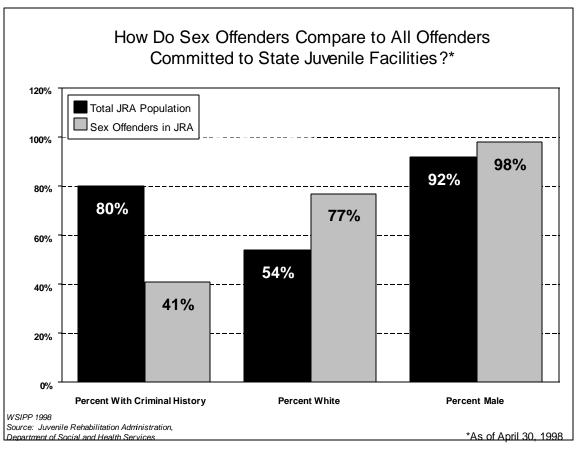
*Some juveniles who are 16 and 17 are prosecuted as adults if they are charged with certain offenses.

See RCW 13.04.030.











RECIDIVISM PATTERNS

- Washington State Research
- Summary of International Research

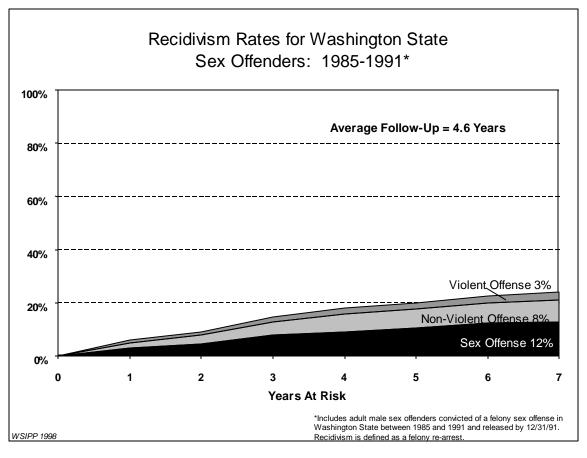
Recidivism Patterns

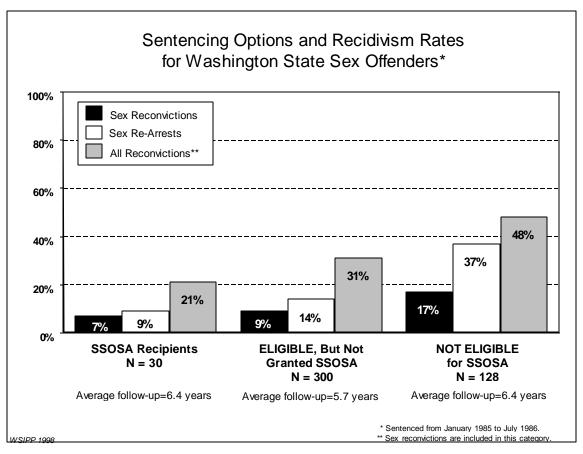
Citizens and policymakers are often interested in knowing how often sex offenders reoffend after they are released into the community. This reoffense behavior is known as recidivism.

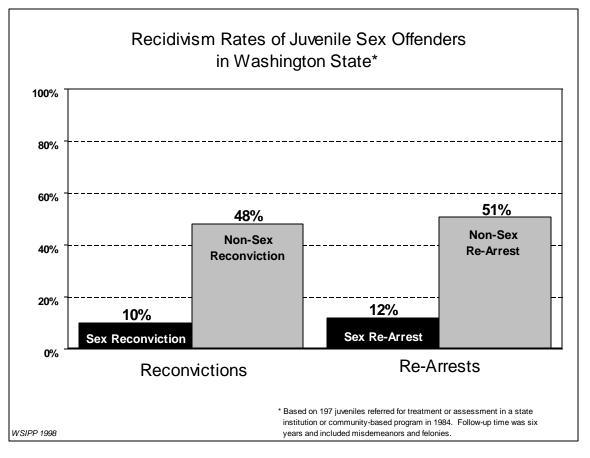
The ideal measure of recidivism rates is an actual count of new criminal acts. Since a large proportion of sex offenses are never reported to the police, and those that are reported do not always lead to arrests or convictions, this measure is not available. Most research, therefore, must rely on two data sources: police reports of arrests and court reports of convictions. Re-arrest rates are higher than reconviction rates because not all arrests lead to convictions.

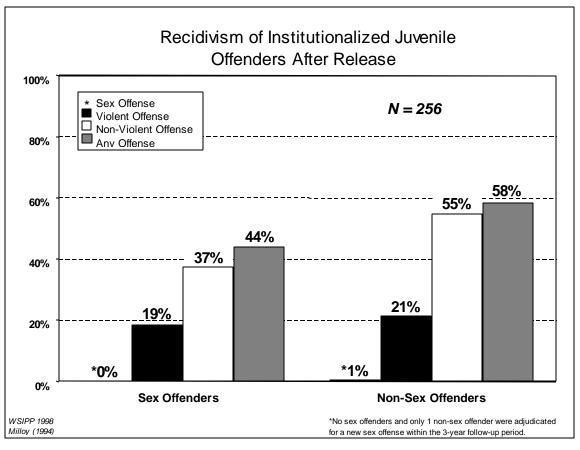
The following charts illustrate recidivism using both re-arrest and reconviction measures. Most of the studies are based on follow-up periods of five years or longer. Recent research indicates that comprehensive information on sex offender recidivism requires follow-up studies of 15 to 20 years.

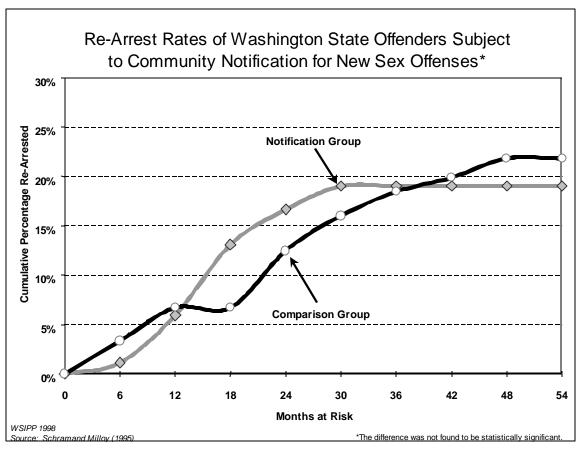
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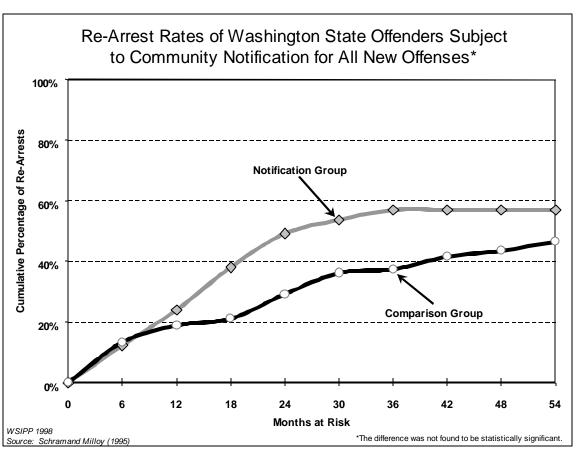


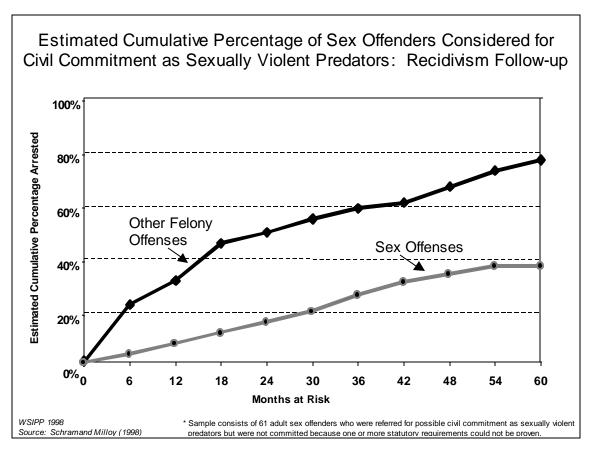


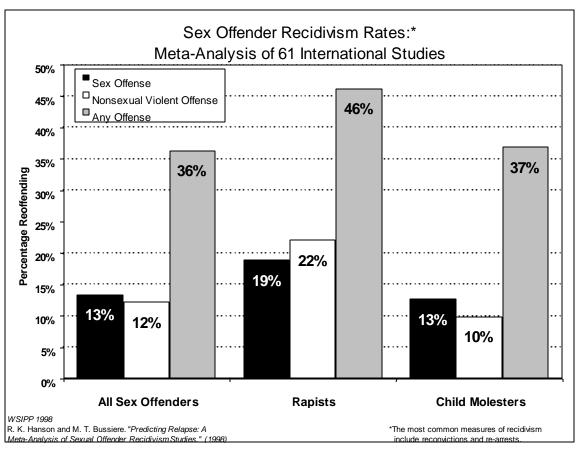














SECTION 6

CRIME VICTIMS COMPENSATION

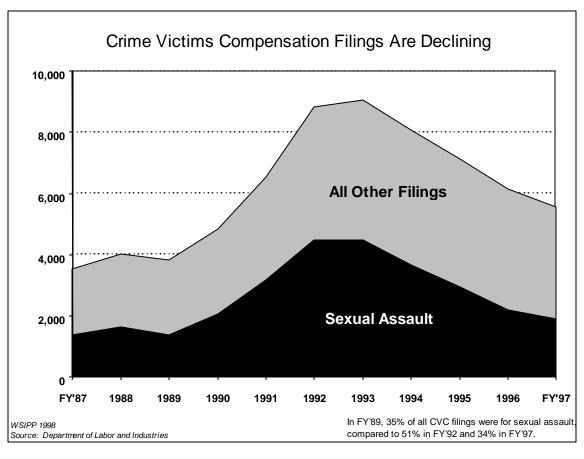
• Crime Victims Compensation Filings

Crime Victims Compensation

The Department of Labor and Industries has operated a crime victims compensation program since 1974. In 1990, the Community Protection Act:

- Extended the reporting time for crime victims.
- Allowed reimbursement of services to persons who repressed childhood memories of sexual or other violent assault.
- Allowed the cap on medical benefits to be exceeded in certain situations.

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SECTION 7

SEX OFFENDER REGISTRATION AND COMMUNITY NOTIFICATION

- Registration Compliance
- Convictions for Failure to Register
- Decision Making Process
- Juvenile Release Procedures
- National Chronology of Sex Offender Legislation
- States Requiring Notification

Sex Offender Registration and Community Notification

Washington State has both a sex offender registration *and* a community notification law. These laws were passed in 1990 as part of the Community Protection Act. All states now require sex offenders to register; currently, 49 states have some form of community notification or allow access to sex offender registration information.

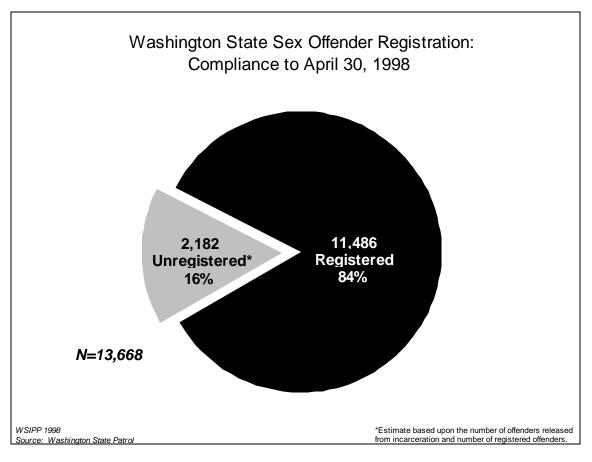
Sex offenders leaving prison are registered by the Department of Corrections prior to release with the sheriff in their county of intended residence. The duration of the registration requirement (for both juveniles and adults) is: life for Class A felony sex offenders or a person convicted of any sex or kidnapping offense who has one or more prior convictions for a sex or kidnapping offense, 15 years for Class B felony sex offenders, and 10 years for Class C felony sex offenders. The penalty for non-compliance is a Class C felony for Class A felony sex offenders and a gross misdemeanor for Class B and C sex offenders.

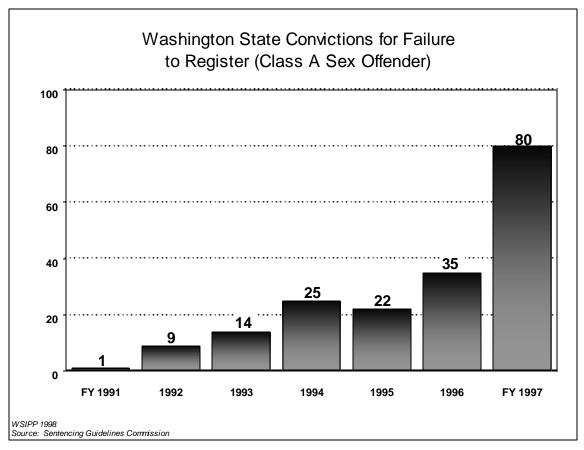
Eight months prior to release, the End of Sentence Review Committee classifies sex offenders according to their risk potential, using three risk levels. The Committee is required to classify offenders into one of three levels of risk. From September 1997 to June 1998, the ESRC has classified:

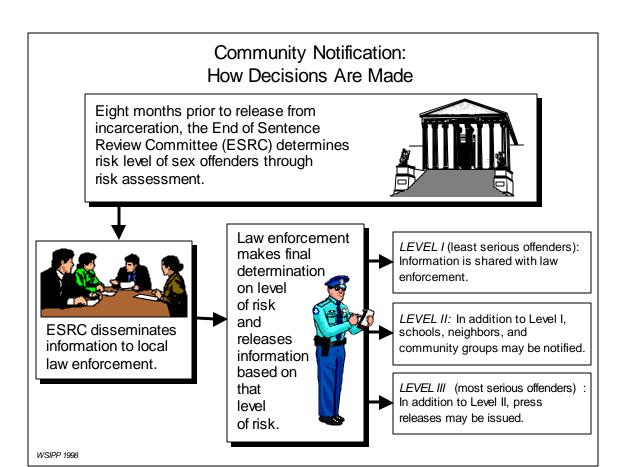
- 230 offenders (56%) as Level I, Low Risk
- 105 offenders (26%) as Level II, Moderate Risk
- 73 offenders (18%) as Level III, High Risk

Local law enforcement receives this risk classification from the Committee and makes the final risk determination for the purpose of community notification. From September 1997 to June 1998, local law enforcement has made 33 changes to the Committee's classifications (8 percent). The following changes in risk level were made:

- Level I → Level II: 21
- Level I → Level III: 1
- Level II → Level I: 1
- Level II → Level III: 8
- Level III → Level II: 2



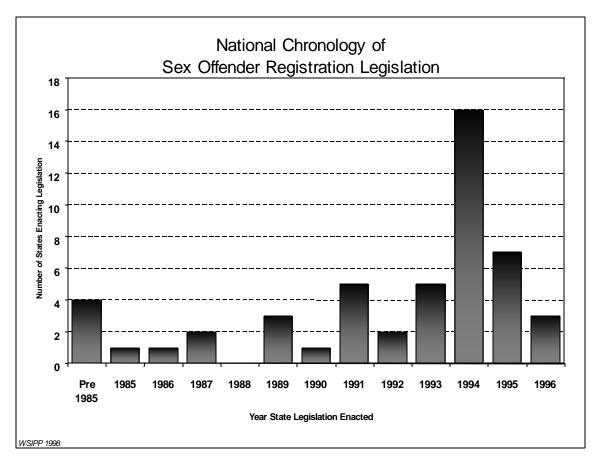


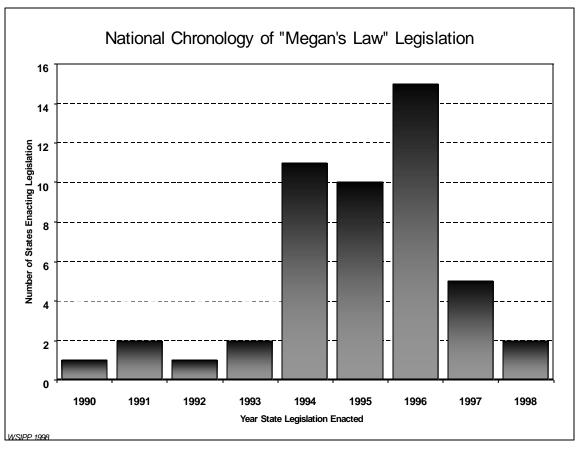


Notification Procedures: Juvenile Sex Offenders

- Prior to discharge, the Juvenile Rehabilitation Administration notifies:
 - ✓ Local law enforcement
 - ✓ Local school districts
 - ✓ Victims of juvenile sex offenders
- Convicted juveniles may not attend their victim's school.
- 1,548 juvenile sex offenders were released from custody between the passage of the Community Protection Act (February 28, 1990) and April 30, 1998.

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49 STATES HAVE COMMUNITY NOTIFICATION LAWS OR ALLOW ACCESS TO SEX OFFENDER REGISTRATION INFORMATION

