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AN EVALUATION OF WASHINGTON STATE'S FIRST-TIME OFFENDER

WAIVER (FTOW)

by

Marianne Galgon

B.S. December 1993, Old Dominion University

A Thesis Submitted to the Faculties
of Old Dominion University and Norfolk State University
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May 2001

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ABSTRACT

AN EVALUATION OF WASHINGTON STATE'S FIRST-TIME OFFENDER WAIVER (FTOW)

Marianne Galgon
Old Dominion University and Norfolk State University, 2001
Director: Dr. Randy R. Gainey

Considering the current staggering number of people under various forms of government supervision, reducing recidivism is a serious concern of the criminal justice system. A possible solution to this problem may lie in intensive supervision programs (ISPs) that were implemented in every state by 1990. This thesis evaluates Washington State's First-Time Offender Waiver (FTOW) to determine whether it is a viable alternative to prison for eligible nonviolent offenders. Specifically, I want to know: (1) Is there is a bias in who is sentenced with FTOW based on demographic variables? (2) Do FTOW recipients recidivate more or less compared to eligible non-FTOW offenders? (3) Of the offenders who do recidivate, do certain groups recidivate more than others? (4) Of the FTOW offenders who recidivate, is their second felony conviction for a more serious crime compared to the initial conviction versus eligible non-FTOW offenders?

Analyses revealed two important findings. First, the odds that offenders receiving FTOW would recidivate was less than other eligible offenders. Second, the odds of

committing a more serious crime was less likely with offenders who were given FTOW compared to offenders who were not given FTOW. Implications of the results are discussed.

This thesis is dedicated to my mom and dad. There are no words to describe what your understanding, encouragement, and unwavering support has meant to me. Thank you for everything, always and forever. I wish to also dedicate this thesis to my brother Paul. You are a constant reminder that life is not to be taken for granted. Your amazing strength and perseverance has made me a better person. Thank you for that wonderful gift.

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CHAPTER I

INTRODUCTION

For years, criminal justice policy makers have been searching for ways to reduce recidivism. As of 1999, a staggering 6.3 million people, or 3.1 percent of the adult U.S. population, were under some form of government supervision (United States Department of Justice 2000b). From 1990-1999, there was a 44.6 percent gain in the number of offenders in the various correctional systems with no sign of a slow down (United States Department of Justice 2000b).

These numbers have important implications for the criminal justice system. Increases in incarceration rates in any state create significant costs associated with prison construction and maintenance costs to avoid overcrowding. The economic strain associated with prison overcrowding translates to problems in other areas of the state budget as well. To help alleviate these problems, intermediate sanction programs (ISP) serve as a potential solution.

In the mid-1980s, states began adopting and implementing ISPs and "by 1990 jurisdictions in every

The format for this thesis follows current style requirements of the *American Sociological Review*.

state had instituted ISP programs for adult offenders" (Petersilia and Turner 1993:283). Researchers were quick to see if the programs actually kept offenders from reoffending. Beck and Shipley (1989) found of the 108,580 prisoners released from 11 states in 1983, within 2 years, 38.3 percent were reconvicted and 46.8 percent within 3 years. Petersilia's (1985) study of 16,500 felony probationers in California over 40 months found 51 percent were reconvicted and 18 percent were reincarcerated. Vito's (1987) research of felony probationers in Kentucky over 36 months found 18 percent were reconvicted and 19 percent were reincarcerated. Reconviction in these studies was defined as being convicted of a charge once released during the follow-up period.

In analyzing federal offenders on supervised release in 1998, of the 19,878 offenders, 21 percent committed technical violations and 12 percent committed a new crime (United States Department of Justice 2000a). Being reconvicted and committing a new crime does not always mean reincarceration. When researchers both define and measure recidivism differently, comparing study results is challenging (Maltz 1984; Petersilia and Turner 1991). Recidivism rates vary with the type of ISP being analyzed and with the length of the follow-up period. The "amount of time given to the follow-up period has a significant

impact upon the size and nature of recidivism rates" and must be considered when comparing studies (Vito 1986:22). Other factors such as random assignment and type of offender play another part in the research results. Therefore, studies differ in results, thus preventing a universal solution to lowering recidivism. All of these factors must be kept in mind when generalizing about the success or failure of an ISP based solely on recidivism rates.

This thesis will examine offenders eligible for the First-time Offender Waiver (FTOW) in Washington State to see if FTOW is a viable alternative sanction to incarceration with respect to reducing recidivism. The results of these analyses are important in trying to ascertain whether intermediate and alternative sanctions to incarceration should be explored by states further as real solutions to the various problems currently plaguing the criminal justice system. Offenders sentenced with FTOW "may include up to 90 days confinement, plus 2 years community supervision, with additional sentencing requirements optional" (Engen, Gainey, and Steen 1999:17). FTOW only applies to certain offenders based on their previous criminal history and current type of felony offense. In detail, FTOW is defined in RCW 9.94A.030 as:

(22)(a) "First-time offender" means any person who is convicted of a felony (i) not classified as a violent offense or a sex offense under this chapter, or (ii) that is not the manufacture, delivery, or possession with intent to manufacture or deliver a controlled substance classified in schedule I or II that is a narcotic drug, nor the manufacture, delivery, or possession with intent to deliver methamphetamine, its salts, isomers, and salts of its isomers as defined in RCW 69.50.206(d)(2), nor the selling for profit of any controlled substance or counterfeit substance classified in schedule I, RCW 69.50.204, except leaves and flowering tops of marihuana, and except as provided in (b) of this subsection, who previously has never been convicted of a felony in this state, federal court, or another state, and who has never participated in a program of deferred prosecution for a felony offense. (Engen et al. 1999:97)

Offenders receiving the waiver may be required to undergo treatment, report to a corrections officer, pay legal financial obligation(s) and/or community service work, pursue vocational training, and maintain employment (Engen et al. 1999). The court may require an individual to perform any combination of the above-mentioned requirements. Two broad goals guide the implementation of the waiver. First, to deal with the high prison population, FTOW was designed to reduce the number of offenders serving their full sentence in prison. Another goal was to reduce recidivism by keeping offenders in the community for the majority of their sentence. The attainment of each of these goals should lead to a reduction in the costs associated with incarceration.

More importantly, offenders can maintain their social bonds and reduce the amount of time they are exposed to the negative learning process that prison provides.

Here, I discuss incarceration, length of time served, intermediate sanctions, punishment, sociological theory, as well as the factors that affect recidivism. An understanding of all these aspects of the criminal justice system are necessary in order to appreciate the complex nature of the subject matter. Four research questions are posed to better understand FTOW.

1. Is there a bias in who is sentenced with FTOW based on demographic variables? Specifically, do females get sentenced with FTOW more than males? Are older offenders (30 and above) more likely than younger offenders (18-29) to get FTOW? Are white offenders more likely than blacks, Hispanics, and other ethnic groups to get FTOW?
2. Do FTOW recipients recidivate more or less compared to eligible non-FTOW offenders?
3. Of the offenders who do recidivate, do certain groups recidivate more than others? Do males have a higher recidivism rate than females? Do younger offenders (18-29) recidivate more than older offenders (30 and above)? Do blacks, Hispanics, and other ethnic group's recidivate more than whites?

4. Of the offenders who get FTOW and who do recidivate, is their second felony conviction for a more serious crime compared to the initial conviction versus eligible non-FTOW offenders?

CHAPTER II

REVIEW OF THE LITERATURE

The First-Time Offender Waiver (FTOW) allows offenders to serve only a few months in prison and the remainder of the sentence undergoing treatment, community service, probation, vocational training, or other sanctions. It may provide a successful alternative to incarceration. By diverting nonviolent offenders from prison, the overcrowding issue affecting prisons can be minimized. This is important since prison overcrowding was dubbed "the most critical administrative problem facing the United States criminal justice system" in the first part of the 1980s (Kelly and Ekland-Olson 1991:601). Prison overcrowding is due, in part, to the societal belief that longer sentences will punish offenders, deter convicted criminals, and keep potential offenders from engaging in illegal behavior. However, studies that look at incarceration and length of time served show varying results regarding recidivism.

INCARCERATION/LENGTH OF TIME SERVED

The following studies describe a wide variety of inmate populations to illustrate how complex the issue of incarceration and length of time served has become.

Bartell and Winfree's (1977) study of 100 offenders convicted of burglary in Albuquerque, New Mexico in 1971 found that "persons placed on probation consistently had lower rates of subsequent conviction than offenders given incarceration and other sentences" (p. 394). The sample consisted of 45 sentenced to probation, 34 imprisoned and 21 given other sentences (Bartell and Winfree 1977). Their findings suggest that incarceration may not be the solution to the problem.

Clarke and Harrison (1992) analyzed a sample of 37,933 offenders with various types of convictions who were paroled or sentenced to supervised probation in an evaluation of community correctional programs in North Carolina. They found that "increases in time served were associated with increasing, not decreasing, probabilities of some types of rearrest" (Clarke and Harrison 1992:22). Specifically, the rearrest probability for a property offense increased 2.8-percentage-points for each additional ten months served (Clarke and Harrison 1992).

Gottfredson, Gottfredson and Garofalo's (1977) study of 5,349 males and 238 females paroled in Ohio between 1965 and 1972 and then followed for one year indicate that "there is no major and consistent pattern for parole success to increase as time served increases" (p. 9). Success was defined as not returning to prison for a

number of reasons (Gottfredson et al. 1977). Beck and Hoffman's (1976) study of 1,546 federal adult male prisoners, after controlling for their salient factor score, showed "no substantial association between time served and release outcome" (p. 127). The findings of these two studies cast doubt on the popular belief that the threat and the actual serving of long sentences deters criminals from offending or reoffending.

Researchers studied 104,182 male paroled prisoners in the United States in 1973. They found that individuals had higher rates of recidivism the longer they spent in prison versus offenders serving a shorter time (Song and Lieb 1993). Recidivism was operationalized as a return to prison during the follow-up period of one year in this study.

A more recent study by Dejong (1997) looked at two types of offenders, 'naïve' or first-time offenders and experienced offenders. Following offenders for three years, Dejong (1997) concluded that of the 4,989 criminal court cases, "incarceration has no effect on the timing of recidivism," and the length of incarceration can affect future recidivism (p. 568). Dejong (1997) defined the failure event "as a rearrest for a new crime before the end of the study, approximately one year following the triggering event" (p. 562-563).

Dejong (1997) found that incarceration and length of time served uniquely affects different types of offenders. Dejong (1997) specified "first-time arrestees who are incarcerated are more likely to recidivate than similar offenders who are not incarcerated, and there is no relationship between incarceration and time until next arrest" (p. 571). For naive offenders, length of incarceration and recidivism reveals no relationship. On the other hand, Dejong (1997) found "experienced arrestees seem very likely to recidivate regardless of anything else, however, longer incarcerations do seem to extend the time until experienced offenders return to crime" (p. 571).

According to Dejong (1997), this is due, in part, to experienced arrestees not being as bonded to society and short periods of confinement do not force them to reevaluate this type of punishment. For this reason, it is important to look at the influence that various sanctions have on different types of offenders to analyze the different sentences. Sending a naive offender to prison for a long period of time allows that individual an opportunity to become 'schooled' by more experienced prisoners for the length of their sentence (Cullen 1984; Dejong 1997; Kolstad 1996;). Compared to seasoned offenders, the prison experience could be more harmful,

and in fact criminogenic, for first-time offenders. So, rather than deterring first-time offenders from lives of crime, the lengthy prison sentence may actually play a role in fostering a future filled with criminal activity. This is a key finding since current policy leans towards the belief that longer sentences will reduce crime and recidivism for all offenders.

Studies have shown that incarceration has varying effects on inmates. For some inmates, prison impacts them positively and they leave criminal behavior behind when they are released. For others, prison may be responsible, in part, for increased recidivism upon release. The criminogenic effects those more experienced inmates can have on inexperienced ones can not be ignored. This aspect of social learning theory is important to understand in order to facilitate an atmosphere where more criminality is not being generated while attempting to decrease it.

In an attempt to determine whether other sanctions would be more beneficial to inmates and society, researchers have explored intermediate sanctions like intensive supervision and probation. There is, however, much debate regarding whether intensive supervision and probation are real cost saving alternatives to incarceration; whether ISPs are a significant means for

reducing prison populations; and if ISPs effectively control criminal behavior and reduce recidivism (Deschenes, Turner, and Petersilia 1995; Petersilia and Deschenes 1994; Petersilia and Turner 1993). Petersilia and Turner (1993) discussed some of the concerns with ISPs, including results which show that stringently enforced programs may actually lead to increased costs and add to the prison overcrowding problem they were designed to alleviate.

INTERMEDIATE SANCTIONS

Intermediate sanction programs (ISP) take a variety of forms and differ from state to state. Various types of intermediate sanctions implemented across the country include: intensive supervision, intensive probation, restitution, community service, work release or furlough, house arrest, and electronic monitoring. This review will focus on intensive supervision and intensive probation, due to the fact that these two programs are utilized with FTOW and pertain to this research study.

ISPs perform three functions in the justice process. First, they keep offenders out of prison who otherwise would be sent there. Second, they allow intermediate sanctions, which can be quite punitive, to be applied to offenders. Third, they improve the ability of probation

or parole departments to monitor, control, and treat offenders (Fulton and Stone 1992). On the punishment continuum, ISPs fall somewhere between traditional probation and incarceration (Petersilia and Turner 1991). When comparing the results of studies on the effectiveness of ISPs, random assignment, the definition of recidivism, and the offender sample selection process was found to be very important (Fulton and Stone 1992; Petersilia and Turner 1991).

Petersilia and Deschenes' (1994) research shows that when Oregon implemented an intensive supervision probation program in 1989, one third of eligible nonviolent offenders chose prison instead of intensive probation because they did not feel they could abide by all of the conditions that the intensive probation entailed. Prison to them was 'easier' than having to work, deal with home visits, and take drug tests as part of the intensive probation requirements. Half of the intensive probation participants ended up in prison within a year after violating the conditions of this program.

Petersilia and Deschenes' (1994) study looked at 48 low-risk inmates in Minnesota who were eligible for their Intensive Community Supervision (ICS) program to determine what their opinions were on fifteen legal sanctions compared to one year in jail in order of perceived

severity. Their findings indicate that inmates preferred prison to jail based on the number of activities available, the conditions and atmosphere, and ranked five years of intensive probation supervision as harsher than one year in prison (Petersilia and Deschenes 1994). They also found that inmate marital status and/or having children shaped their rankings of jail, prison, fines, and restitution. Being married and having children "provides people with a social investment in conformity and act as informal controls on their behavior" (Wright and Wright 1992:50). Policy makers, in analyzing such findings, would have to acknowledge that intermediate sanctions can be viewed as viable alternatives to incarceration and would result in comparable punitive punishments especially for some types of offenders (Deschenes et al. 1995; Petersilia and Deschenes 1994).

The strong enforcement of the rules increases the likelihood that crimes and/or technical violations of ISPs are detected, putting a person back in prison or jail (Petersilia and Turner 1993). As expected, "many offenders have difficulty in achieving conventional, law-abiding patterns of living and many stumble along the way" (Tonry 1996:105). Policy makers have a formidable task in front of them when determining if their jurisdiction should participate in such programs and if so, how they

should be implemented, designed, and evaluated. A problem that arises is that society may view such programs differently than government officials. People will not necessarily view intensive probation or supervision as a harsh punishment compared to going to prison. They could interpret such measures as dangerous to their personal safety and a passive governmental response to this social problem.

One of the missions of ISPs and similar programs should be to educate the public as to how these programs can affect a change through the principal of positive punishment. Positive punishment is "the process of decreasing the emission of behavior through the presence of an aversive stimulus" (Williams and McShane 1999:217). Intensive supervision and the expectation that a person will adhere to the rules of the program or be returned to prison can be a strong deterrent. Since one of the purposes of prison is to punish offenders for their crime(s), an understanding of what punishment is and how it is administered and experienced is important.

PUNISHMENT

The social purposes of punishment are "vengeance, protection of the law-abiding public, and deterrence" (Eysenck 1964:147). Members of society look to the

criminal justice system to do all of these things. According to some, individuals will continue to violate the law unless there are "fundamental changes in [their] thinking" (Samenow 1998:157). Compounding this issue is the fact that after going through the criminal justice system or 'the process', society is likely to be unwilling to forgive and re-accept offenders (MacLeod 1965).

Consider a classic study by Schwartz and Skolnick (1962) who did a field experiment where four prepared folders of prospective applicants with different criminal backgrounds were given to twenty-five employers to assess either positive or negative responses regarding possible job opportunities. As one would expect, the folder without a criminal record received the highest number of positive responses, while the folder with an assault conviction received mainly negative responses. Even though the 'prepared applicant' had been punished by the criminal justice system like society demands, upon release, employers are largely unwilling to provide employment opportunities based on the stigma of 'ex-con'. An individual needs to earn a living, but without legitimate employment opportunities, resorting back to crime is highly probable.

The "learning theory model of punishment suggests that continuous delivery of sanctions will more

effectively reduce the incidence of future offenses than intermittent delivery" (Brennan and Mednick 1994:436). The criminal justice system and society must keep in mind that offenders committing the same crime can be very different, and convictions sharing the same criminal label can be more different than similar (Tonry 1996). This situation leads to the argument that cases need to be decided on an individual case-by-case basis in lieu of harsh mandatory sentences that eliminate the consideration of mitigating circumstances. After all, the "research evidence makes it clear that enactment of mandatory penalties has either no, or at best, modest and short-term deterrent effects..." (Tonry 1996:191).

The various research that examines recidivism rates of offenders attempts to explain their results using a number of sociological theories. Social control and social learning theories are two of the more commonly used theories in this regard.

THEORETICAL FRAMEWORK

Social Control Theory

Social control theories "all rely on social factors to explain how people are restrained from acting in ways harmful to others" (Williams and McShane 1999:190). Family

structure, education, and peer groups, for instance, are variables attributed as causes of crime and delinquency (Williams and McShane 1999). The interesting and "critical component of all social control theories is their attempt to explain factors keeping people from committing criminal or delinquent behavior" (Williams and McShane 1999:188).

Four elements of Hirschi's social control theory that promote conformity are: commitment, involvement, belief, and attachment. Commitment involves an individual becoming "committed to a conventional line of action, and he is therefore committed to conformity" (Hirschi 1969:292). Involvement refers to the amount of time spent in conventional activities. Hirschi (1969) believed that the more one was involved in conventional activities, the less time as well as desire one would have to be involved in criminal activity. Belief encompasses not only an individual's values and belief system, but also the strength of those beliefs (Hirschi 1969). Hirschi (1969) argued that the most important of the four elements of his theory was attachment. The more strongly attached individuals are to conventional society, the less likely they will turn to deviant behavior (Cullen 1984; Downes and Rock 1998; Hirschi 1969; Kelly 1990; Morgan 1994;

Needels 1996; Orsagh and Chen 1988; Paternoster et al. 1983; Sampson and Laub 1990; Wright and Wright 1992).

Some criminologists refer to Hirschi's social control theory as 'social bonding theory' (Williams and McShane 1999). In actuality, social bonding theory refers to external social controls and is a subset of social control theory. Matza's (1964) work used the term 'bond to the moral order', referencing the link that exists between individuals and the dominant values of society. He then discussed techniques of neutralization to describe how people may become involved with deviant behavior.

The relationship between social control, social bonds, and the propensity to commit crime is important. One can not ignore the vital role family, friends, education, stable employment, and involvement in the community play in peoples' lives and their life choices. As noted by Dejong (1997), "those individuals with few bonds to society (job, family, education) are more likely to recidivate following a period of incarceration" (p. 569). When the risk of personal and social losses are greater than the possible gain from committing a crime, most people would not choose crime. By creating and building on these factors, offenders are more likely to avoid future criminal behavior, thus lowering recidivism.

Social Learning Theory

Social learning theory best explains why a prison sentence may not be the answer to the problem of reducing recidivism among "naïve" or first-time felons. This theory has its roots in behavioral psychology and can be linked to Edwin Sutherland's differential association theory (Akers 1998; Kelly 1990; Quinney 1975; Sutherland 1947; Williams and McShane 1999). Sutherland felt that delinquency occurs when individuals have more definitions favorable to violating the law over definitions unfavorable to violating the law (Akers 1985; Akers 1998; Kelly 1990; Quinney 1975; Suchar 1978; Sutherland 1947; Williams and McShane 1999).

Social learning theory incorporates the concept of imitation or modeling to be essential in the learning process, which includes learning by observing the behavior of others (Akers 1985; Akers 1998; Krohn and Akers 1978; McGuire and Priestley 1985; Paternoster et al. 1983; Williams and McShane 1999). This is fundamental to understanding why some individuals resort to criminal activity. It could be argued that social learning theory explains why recidivism is more likely for some offenders once they leave prison. After spending a period of time

with more experienced criminals, one may be at high-risk of committing more and different crimes.

The learning aspect of the prison experience is the "reinforcement of the feeling and cognition as a deviant person and a criminal man" (Kolstad 1996:331). Their behavior is not judged in the same way as when they are outside of the prison walls. In that way, prison life may be easier than civilian life for some offenders. This in turn breeds more of the same deviant and criminal behavior.

A study of offenders' assessment of prison found that "nine out of ten offenders looked upon prison as a criminal university" (Kolstad 1996:331). The prisoners incarcerated for the first-time mentioned that other inmates taught them and reinforced their criminal behavior (Kolstad 1996). In effect, "criminal behavior is learned behavior, and behavior that is reinforced in specific subcultures" (Kolstad 1996:332). For this reason, alternatives to incarceration, especially for nonviolent first-time offenders, are important to explore as a solution that might ameliorate this type of learning process.

In addition to certain sociological theories frequently cited in the literature explaining recidivism, there are certain factors that are consistently discussed

as predictors of recidivism. The following discussion illustrates the studies that find these factors to be stable and consistent predictors of recidivism.

FACTORS ASSOCIATED WITH RECIDIVISM

Age is one of the most stable predictors of criminal involvement (Gottfredson and Hirschi 1990). Broadhurst and Miller's (1990) study of 16,381 prisoners released from Western Australian prisons between June 30, 1975 and June 30, 1987 demonstrated an individual's age at the time of imprisonment for the first-time was strongly related to recidivism. The younger a person was, the higher the probability of failure on probation. As further evidence, Gendreau, Little, and Goggin's (1996) examined a sample of studies published between January 1970 and June 1994 on adult offenders and found that younger offenders consistently had higher rates of recidivism compared to older offenders.

Beck and Shipley (1989) looked at 108,580 people released from prisons in 1983 in 11 states. They found recidivism rates higher for younger offenders. More than "75 percent of those age 17 or younger when released from prison were rearrested, compared to 40.3 percent of those age 45 or older" (Beck and Shipley 1989:5). Their results also found that the "largest declines in recidivism were

found among prisoners age 35 or older" (Beck and Shipley 1989:5). When analyzing a person's age at the time of the first arrest, younger offenders still had higher rates of recidivism. Beck and Shipley (1989) estimated that:

72.2 percent of the prisoners first arrested before the age of 18 were rearrested within 3 years of there release, compared to 39.2 percent of those first arrested between age 25 and 29 and 26.6 percent of those first arrested at age 30 or older. (P. 8)

MacKenzie et al. (1999) looked at 126 offenders on probation in one of three probation districts in northern Virginia. They were interviewed shortly after their probation started and then again approximately six to eight months after. It was found that "although probation appeared to significantly reduce criminal activities for older offenders, there was much less impact on the younger offenders" (MacKenzie et al. 1999:438).

Turner and Petersilia (1996) examined a prison work release program in Washington State in the early 1990s. The study consisted of 2,452 male offenders released from prison during 1990. Their analysis revealed "older offenders were more successful at work release than younger offenders" (Turner and Petersilia 1996:148).

Jones and Sims (1997) compared "rearrest statistics of males and females released from prison in North Carolina between July 1, 1992 and June 30, 1993" (p. 335). Jones and Sims (1997) analysis showed that even with a

high number of prior arrests, "older offenders were more likely to avoid rearrest than younger offenders with few prior arrests" (p. 345). Bartell and Winfree (1977) and Clarke and Harrison (1992) also found younger offenders have higher rates of recidivism. In fact, Bartell and Winfree (1977) stated that the "single best predictor of subsequent arrest for a felony was age" (p. 391).

It is an undisputed fact that men are "greatly overrepresented in the crime statistics" (Gottfredson and Hirschi 1990:178). Gendreau et al. (1996) stated that "there is no disagreement in the criminological literature about some of the predictors of adult offender recidivism," and gender was one of them (p. 576). Morgan's (1994) study "investigated probation terminations of 266 felony adult probationers in Tennessee whose cases had been terminated between January 1, 1980 and December 31, 1989" (p. 341). This study found that men were 35 percent more likely to experience failure on probation versus 19 percent failure rate for women (Morgan 1994).

Paternoster et al. (1983) surveyed 300 randomly selected college students between January and June 1975 and again approximately one year later. When comparing their data to Hirschi's four elements of social control, they found a "significant zero-order relationship between sex and each social control variable with the exception of

involvement" (Paternoster et al. 1983:469). Levels of informal social controls might explain the gender-recidivism relationship.

Beck and Shipley's (1989) data showed the rearrest rate for men was 11 percentage points higher than among women. Clarke and Harrison's (1992) and Jones and Sims' (1997) results also support the findings that men commit more crimes than women.

Race is another consistent predictor of recidivism. Needels' (1996) study used a "data set containing 17 years of criminal activity and 9 years of earnings records for 1,176 men released from Georgia prisons" (p. 471). Needels' (1996) results demonstrated that "minority populations are more likely to have poor labor outcomes, high incarceration rates, and high recidivism rates" (p. 472).

Beck and Shipley (1989) found blacks to have recidivism rates roughly 5 to 8 percentage points higher versus whites. Hispanic recidivism rates were found to be "about 6 percentage points higher than those among non-Hispanics" (Beck and Shipley 1989:5). So even though more whites were released from prison, more blacks and Hispanics were rearrested, reconvicted, and reincarcerated. Another study found that "blacks are

significantly more likely to be rearrested than are members of other ethnic groups" (Clarke and Harrison 1992:23).

Dejong (1997) found that "black and Hispanic arrestees are more likely to recidivate following release than white arrestees, although white arrestees recidivate faster than black and Hispanic arrestees" (p. 567). Another study indicated that "over 40 percent of Hispanic and black work releasees were returned to prison, whereas this was true with only 25 percent of white offenders" (Turner and Petersilia 1996:148). Jones and Sims (1997) found that in "some of the logistic models, race was a significant predictor of rearrest for both males and females" with African-Americans having a higher rate of rearrest (p. 345).

There are many other factors that are associated with recidivism that do not have a consensus in the criminal justice literature. This can be attributed to variation across studies in sample composition, variables available, methodology, definition of recidivism as well as the goal of the research. The following is a discussion of studies that find such factors to be associated with recidivism.

An individual's prior criminal history can be a significant indicator of future criminal behavior (Clarke and Harrison 1992; Dejong 1997; Gendreau et al. 1996).

Sims and Jones (1997) "examined 2,850 felony probationers in North Carolina who were revoked from probation" for various reasons (p. 317). Their results showed the number of past convictions an individual had was significant in predicting success or failure on probation. In another study, Jones and Sims (1997) found that an individual's prior arrest history is significantly associated with predicting recidivism.

Morgan's (1994) study showed that probationers with more than two prior felony commitments had a higher rate of failure on probation. Morgan (1994) found "each felony commitment increases the likelihood of failure" with none at 20 percent and one or two at 37 percent (p. 346). Another study found that "almost two thirds of those inmates with no prior record were successful compared with fewer than half of those offenders with a prior conviction" (Turner and Petersilia 1996:148).

Jones and Sims (1997) found that the "type of offense for which offenders had served time in prison was a common predictor of recidivism for males and females" (p. 346). Beck and Shipley (1989) and Tonry (1996) both found that property offenders had higher rates of recidivism compared to other crimes. Specifically, "an estimated 68.1 percent of the property offenders released in 1983 were rearrested within 3 years" (Beck and Shipley 1989:5).

Vito (1986) looked at 317 convicted felons who were placed on probation in 1982 in Kentucky. He found that "property offenders were the quickest to recidivate (5 months), followed by violent offenders (8 months), and drug offenders (15 months)" (Vito 1986:22-23). It was noted that the "higher crime rate in urban as opposed to rural areas seems universal, as does the predominance of property crimes among offenses" (Gottfredson and Hirschi 1996:178).

Another study found that "nearly 38 percent of all released prisoners either had previously been arrested for a drug offense or had been incarcerated for drugs in conjunction with a more serious offense before their release in 1983" (Beck and Shipley 1989:11). Sims and Jones' (1997) study of 2,850 probationers included more than half with substance abuse problems. Substance abuse of all types is an important consideration since it is a growing problem in our society that not only has health risks, but also can lead into criminal activity.

Three other factors that do not have consensus in the literature are marital status, employment status, and educational attainment. Studies analyzing marital status found a decreased likelihood of engaging in criminal behavior when offenders were married (Sampson and Laub 1990; Wright and Wright 1992) and also as a predictor of

success or failure on probation supervision (Morgan 1994; Sims and Jones 1997). Research on offender's employment status found that it can significantly lower recidivism (Dejong 1997; Needels 1996; Sampson and Laub 1990; Sims and Jones 1997), determine success on work release programs (Broadhurst and Miller 1990), and probation outcomes (Morgan 1994). Studies examining educational attainment found individuals wanting higher education to be less likely to engage in deviant behavior (Sampson and Laub 1990) and offenders with lower educational levels to have higher recidivism rates (Dejong 1997; Needels 1996). Unfortunately, these three variables were not available in my data and therefore could not be analyzed.

The theoretical framework of this thesis relies on social learning theory to explain why prison may not be the solution to reducing recidivism of first-time offenders. This lead me to ask a few questions to determine if FTOW was useful as an alternative sanction. Social learning theory addresses how criminal behavior is learned and being around this negative environment can lead to deviant behavior. Therefore, the primary research questions relate specifically to recidivism of FTOW and non-FTOW offenders as well as the seriousness of second felony convictions. Additionally, two other questions were formed in a broader context to examine individual

aspects of offenders. They involved looking at how different demographic groups were sentenced as well as the recidivism rates of these groups. These questions are important but are less apart of the theoretical orientation guiding this thesis.

RESEARCH QUESTIONS

Based on a review of the literature, I have developed the following four research questions in relation to the First-Time Offender Waiver (FTOW) that warrant attention. These research questions will be examined using Washington State's Sentencing Guidelines Commission's data. The research questions are as follows.

1. Is there a bias in who is sentenced with FTOW based on demographic variables? Specifically, are females given FTOW more than males? Are older offenders (30 and above) more likely than younger offenders (18-29) to get FTOW? Are whites more likely than blacks, Hispanics, and other ethnic groups to get FTOW? This is a possibility since judges have discretion when sentencing offenders with FTOW.
2. Do FTOW recipients recidivate more or less compared to eligible non-FTOW offenders? In Sutherland's differential association theory, he discusses a process of how criminal behavior is learned.

Learning criminal and anti-criminal patterns by association is similar to other forms of learning (Sutherland 1947). With this in mind, offenders that did not receive FTOW would be surrounded by more criminal patterns while in prison and therefore be at a higher risk of recidivating.

3. Of the offenders who do recidivate, do certain groups recidivate more than others? Specifically, do males recidivated more than females? Do younger offenders (18-29) recidivate more than older offenders (30 and above)? Do black, Hispanic, and other ethnic group's recidivate more than white offenders? Differential social organization addresses "groups with different values about the law (and lawful behavior) come into conflict with the authorities more often, resulting in higher rates of crime and delinquency" (Williams and McShane 1999:80). This is important since an individual's social environment and the values that they learn from others that they deem important will direct their behavior.
4. Of the offenders who get FTOW and who do recidivate, is their second felony conviction for a more serious crime compared to the initial conviction versus eligible non-FTOW offenders? From a learning theory perspective, since "criminal behavior is learned in

interaction with other persons in a process of communication," the likelihood is that incarcerated offenders would commit more serious crimes once released compared to FTOW recipients (Sutherland 1947:78).

CHAPTER III

METHODOLOGY

The data utilized in this research comes from the Washington State Sentencing Guidelines Commission. It was collected beginning in the mid-1980s and consists of 3491 individuals that were eligible for the First-Time Offender Waiver (FTOW). Eligible FTOW offenders have never been convicted of a felony and those that get the waiver may serve up to 90 days of confinement that includes up to 2 years of community supervision with various requirements specified by the judge (Engen et al. 1999). These offenders were sentenced between July 1989 and December 1989 and followed through June 1992. This work concentrates on recidivism controlling for an offender's age, gender, race, offense severity, and offender score.

Recidivism will be defined here as an adult felon in Washington State convicted of another felony within the state. Specifically, FTOW will be analyzed to determine if it indeed lowers recidivism among eligible individuals receiving it as well as reduce the seriousness of the crime committed by reoffenders during the follow-up period. Additionally, I will be looking for whether or not there is any bias in the groups that get sentenced

with FTOW as well as any groups that have a higher likelihood of recidivating.

There are several limitations in using this data. First, since it is secondary data, I am limited to using only the variables the Sentencing Guidelines Commission chose to include. Second, offenders convicted of misdemeanor(s) are not included which would also include a felony offense being plea-bargained down to a misdemeanor. Third, technical violations once on FTOW are not included in the data. Therefore, the term "first-time offender" is misleading to a certain degree without knowing its definition. Fourth, offenders that commit a felony during the follow-up period outside of Washington State will not appear in the data. Fifth, keypunch errors when entering in the information could also lead to not locating offenders during the follow-up period. Sixth, there is some discretion used in sentencing offenders to FTOW and that may vary from jurisdiction. Finally, since offenders are not randomly assigned to FTOW, that allows the possibility of biasing the results, however, these factors will be statistically controlled for when doing logistic regression.

VARIABLES

The independent variables for this study are age, gender, race, offense severity (SRA level), and offender score (SRA score). The dependent variables are FTOW (used and not used), Recidivated (not reconvicted and reconvicted), and Worse Offense (reconvicted offenders SRA level is the same/lower or higher than initial conviction).

INDEPENDENT VARIABLES

The age of the offender was recoded and grouped into three ranges (1=18-29, 2=30-49, 3=50-88). Subtracting the offenders' year of birth from the year they were sentenced provided this information. The gender of the offender was coded either male or female (1=female, 2=male). The race of the offender was broken down into four categories: white, black, Hispanic, and other (1=white, 2=black, 3=Hispanic, 4=other). Race, like age, was further recoded into dummy variables (white, black, hisp, other) for logistic regression analyses.

In 1984, Washington State implemented standards in their sentences using a determinate model called the Sentencing Reform Act (SRA) (Engen et al. 1999). The SRA model sets up "presumptive ranges determined by the Offense Seriousness Level and the Offender Score, which

represents both prior and concurrent convictions" (Engen et al. 1999:11). The SRA level (SRALEVL), or offense severity, initially ranged from 0 to 9 with a higher level indicating a more serious offense. This was recoded into a new variable (SRALVN) to combine low percentages at the higher levels (0=0, 1=1, 2=2, 3=3, 4=4, 5-9=5 and above). The SRA score (SRASCR), or offender score, also ranged from 0 to 9 with a higher score indicating a longer and/or more serious criminal history. Again, it was recoded into a new variable (SRASCN) to combine low percentages at the higher scores (0=0, 1=1, 2=2, 3=3, 4=4, 5-9=5 and above).

DEPENDENT VARIABLES

The dependent variable FTOW (1=used, 0=not used) was taken directly from the data. The variable "Recidivated" (1=reconvicted, 0=not reconvicted) was derived by searching the data for offenders appearing again after their initial sentence date. The variable "Worse Offense" was coded into two categories (1=SRA level of second felony higher than first, 0=SRA level of second felony same/lower than first). Subtracting the offense severity of the first felony from the second felony created this variable, if applicable.

STATISTICAL ANALYSES

Descriptive statistics were used to describe the sample (e.g., percentages and means of the sample). Bivariate statistics (cross-tabs and Chi-square) were used to measure the relationship between variables while multivariate methods (logistic regression) was used to test the independent influence of each of the variables.

CHAPTER IV

RESULTS

The purpose of this research was to examine the factors affecting who is sentenced with the First-Time Offender Waiver (FTOW), an alternative sanction unique to Washington State. The Washington State Sentencing Guidelines Commission collected the sample. The offenders in this research were sentenced between July 1989 and December 1989 and followed until June 1992. This chapter presents the findings of this research.

DESCRIPTIVE STATISTICS

Table 1 describes the sample for both the independent and dependent variables. The sample consists of 3491 eligible first-time felons. Offenders ranged in age from 18 to 88 years. The offense severity of eligible offenders ranged from 0 to 9 with a mean of 1.89 (SD=1.04) and the offender score had a mean of .37 (SD=1.06).

Males represented 79.5 percent (n=2769) of the sample. The sample was primarily white (n=2556, 77.1%) while blacks made up 12.1 percent (n=400) and 7.9 percent (n=261) were Hispanic. FTOW was only used for 31.5 percent (n=1044) of the eligible offenders. Finally, 17.3 percent (n=603) of the sample was reconvicted of another

Table 1. Descriptive Statistics of Sample (N=3491)

Variable	N	Percent
Male	2769	79.5
Female	715	20.5
Age 18-29	1938	58.4
Age 30-49	1285	38.7
Age 50-88	94	2.8
White	2556	77.1
Black	400	12.1
Hispanic	261	7.9
Other	100	3.0
FTOW Used	1044	31.5
FTOW Not used	2273	68.5
Recidivated (Yes)	603	17.3
Recidivated (No)	2888	82.7
	Mean	SD
Offense Severity	1.89	1.04
Offender Score	.37	1.06

felony in Washington State during the follow-up period. For all the variables except "Recidivated", there were missing or unknown cases that account for the difference between the sample size and the frequencies listed in Table 1.

LOGISTIC REGRESSION

Logistic regression was used to model the influence of demographic variables, offense severity, and offender score variables with three dependent variables. In the first research question, I was interested in whether there was a bias in who was given a FTOW sentence. In this logistic regression, FTOW was the dependent variable with gender, age, race, offense severity, and offender score as independent variables. The results are presented in Table 2.

This model explained 2.8 percent of the variance in the dependent variable ($\text{Chi-square}=93.213$, $\text{d.f.}=8$, $p<.05$). Gender, black and Hispanic offenders, offense severity, and offender score were statistically significant at the .05 level. Age was not found to be significant. With respect to gender, the exponent of the parameter estimate suggests, controlling for the other variables, the odds of a male being sentenced with FTOW was 40.08 percent less

Table 2. Logistic Regression Results of FTOW on an Offender's Gender, Age, Race, Offense Severity, and Offender Score

Variable	B	SE	Exp(B)
Gender (coded male)	-.5121	.0899	.5992 *
Age 30-49	.0525	.0793	1.0539
Age 50-88	-.4238	.2524	.6545
Black	-.4386	.1245	.6449 *
Hispanic	-.4711	.1549	.6243 *
Other	-.1033	.2222	.9019
Offense Severity	.1881	.0429	1.2069 *
Offender Score	-.1762	.0476	.8384 *

Nagelkerke r-square=.028

Chi-square (df=8)= 93.213

* Significant at $p < .05$

than for females. Black offenders' odds of getting FTOW were 35.51 percent less and Hispanics 37.57 percent less than whites. The odds of receiving FTOW was 20.69 percent greater with each unit change in the offender's offense severity, and was 16.16 percent less with each unit change in an offender's score.

The second and third research questions involve recidivism. The second question concerns the likelihood of recidivating among FTOW recipients as opposed to eligible non-FTOW recipients. Since FTOW was designed to help lower recidivism rates, finding out if it does is very important. The third question looks at offenders that are reconvicted to see if certain groups have a greater likelihood of recidivating. The second logistic regression had recidivating as the dependent variable with gender, age, race, offense severity, offender score, and FTOW as the independent variables. The results are presented in Table 3.

This model explained 6.2 percent of the variance in the dependent variable (Chi-square=211.108, d.f.=9, $p<.05$). Gender, age, black and Hispanic offenders, offender score, and FTOW were statistically significant at the .05 level. With respect to gender, the exponent of the parameter estimate suggests that, controlling for the other variables, the odds of a male recidivating was

Table 3. Logistic Regression Results of Recidivating on an Offender's Gender, Age, Race, Offense Severity, Offender Score, and FTOW

Variable	B	SE	Exp(B)
Gender (coded male)	.9373	.1715	2.5531 *
Age 30-49	-.4248	.1186	.6539 *
Age 50-88	-1.3702	.4730	.2540 *
Black	1.1314	.1351	3.1000 *
Hispanic	-1.0331	.2939	.3559 *
Other	-.2460	.3639	.7819
Offense Severity	-.0389	.0629	.9619
Offender Score	.2834	.0466	1.3277 *
FTOW	-.4822	.1308	.6174 *

Nagelkerke r-square=.062

Chi-square (df=9)= 211.108

* Significant at $p < .05$

155.31 percent greater than females. The odds of recidivating was 34.61 percent less likely for offenders age 30 to 49 and 74.6 percent less likely for offenders age 50 to 88 compared to 18 to 29 year olds.

Black offenders' odds of recidivating compared to whites were 210 percent greater while Hispanics odds were 64.41 percent less likely. The odds of recidivating were 32.77 percent greater with each unit increase in the offender's score. Importantly, the odds of offenders receiving FTOW recidivating were 38.26 percent less than other eligible offenders.

The fourth research question involved FTOW recipients who recidivate, and whether the second felony conviction was more serious than the initial conviction versus eligible non-FTOW offenders. The third logistic regression had "Worse Offense" as the dependent variable with gender, age, race, offense severity, offender score, and FTOW as independent variables. The results are presented in Table 4.

This model explained 14.3 percent of the variance in the dependent variable ($\text{Chi-square}=46.875$, $\text{d.f.}=9$, $p<.05$). Black offenders, offense severity, and FTOW were statistically significant at the .05 level. With respect to race, the exponent of the parameter estimate suggests that, controlling for other variables, the odds black

offenders will commit a more serious crime is 83.71 percent greater compared to whites. The odds of committing a more serious crime were 50.86 percent less likely with each unit change in an offender's offense severity. The odds of committing a more serious crime was 46.50 percent less likely with offenders who are given FTOW compared to offenders who are not given FTOW.

Table 4. Logistic Regression Results of Worse Offense on an Offender's Gender, Age, Race, Offense Severity, Offender Score, and FTOW

Variable	B	SE	Exp(B)
Gender (coded male)	.1475	.3584	1.1589
Age 30-49	.2584	.2370	1.2949
Age 50-88	-.9288	1.1664	.3950
Black	.6082	.2442	1.8371 *
Hispanic	-.7731	.6993	.4616
Other	1.1622	.7412	3.1970 .
Offense Severity	-.7105	.1545	.4914 *
Offender Score	-.1597	.0828	.8524
FTOW	-.6254	.2768	.5350 *

Nagelkerke r-square=.143

Chi-square (df=9)= 46.875

* Significant at $p < .05$

CHAPTER V

DISCUSSION AND CONCLUSIONS

This thesis examined offenders eligible for the First-Time Offender Waiver (FTOW) in Washington State. The offenders were sentenced between July 1989 and December 1989 and followed until June 1992. There were four research questions posed to better understand the factors that are involved in getting FTOW as well as if there are biases within the system.

RESEARCH QUESTIONS RESULTS

The first research question looked at FTOW recipients' demographic composition to see if there was a bias in who gets this sentence. Through logistic regression, I found that males were much less likely to receive FTOW than females, and blacks and Hispanics were less likely than whites to get FTOW.

The results for gender and race are consistent with the criminal justice literature in that the factors that make an offender a high-risk for recidivating may also play a role in whether they are sentenced with FTOW or other forms of intermediate sanctions. Research has found that males commit more crimes (Clarke and Harrison 1992; Gottfredson and Hirschi 1990; Jones and Sims 1997) and

have higher recidivism rates (Beck and Shipley 1989; Gendreau et al. 1996; Morgan 1994; Paternoster et al. 1983) compared to females. The literature also shows that blacks and Hispanics have higher incarceration and recidivism rates compared to whites (Beck and Shipley 1989; Clarke and Harrison 1992; Dejong 1997; Jones and Sims 1997; Needels 1996; Turner and Petersilia 1996). Since judges decide whether to sentence offenders with FTOW, candidates who have the best chance (i.e. low-risk of recidivating) of being successful will likely be chosen.

The literature on offenders' age shows that younger people have higher rates of recidivism (Bartell and Winfree 1977; Beck and Shipley 1989; Broadhurst and Miller 1990; Clarke and Harrison 1992; Gendreau et al. 1996; Jones and Sims 1997; MacKenzie et al. 1999; Turner and Petersilia 1996) compared to older offenders. The expectation therefore would be that the older offenders are when given a first-time felony conviction, for example, the more likely they would be to get sentenced with FTOW since they represent a low-risk of recidivating. My results do not support this. Age was not significantly related to receiving an FTOW sentence. A possible reason for this could be that older offenders might have opted for prison time in lieu of supervised probation or

treatment. Such programs can be for a longer period of time than the original sentence and therefore are not viable options for certain individuals. In addition, the judge may have determined that the individual, based on her/his current offense or prior criminal history, would be better served by going to prison instead of getting FTOW.

The second research question addressed whether FTOW recipients had a higher recidivism rate than eligible offenders who did not get FTOW. Controlling for other variables, FTOW recipients were less likely to recidivate than others. This is consistent with literature that demonstrates that offenders on probation and ones spending less time in prison had lower recidivism rates compared to incarcerated offenders (Bartell and Winfree 1977; Clarke and Harrison 1992; Dejong 1997; Song and Lieb 1993).

The third research question addressed eligible offenders who recidivated to determine if certain groups had a higher rate of recidivating. My results showed the odds of males recidivating was greater than females. Older offenders (age 30 and above) odds of recidivating were much less likely compared to that of younger offenders (age 18 to 29). Black offenders' odds of

recidivating were significantly greater compared to whites, while the odds for Hispanics were less than for whites.

My results are consistent with the literature regarding male's recidivating more than females, younger offenders more than older offenders, and black offenders having higher recidivism rates compared to whites. My results with respect to Hispanic recidivism rates compared to whites, however, were not consistent with the literature. Studies have shown that Hispanic offenders have a higher recidivism rate compared to whites (Beck and Shipley 1989; Dejong 1997; Turner and Petersilia 1996). One possible reason for this difference could be because Hispanics overlap the other race categories. Hispanics represent only 7.9 percent of the subjects, which is lower than some studies where they are found to higher recidivism rates compared to whites. Additionally, on the eastern side of the Cascade Mountains in Washington, many Hispanics are migratory workers and may leave the area. Felony violations could also mean deportation for legal and illegal aliens so they would have greater risks and concerns with committing another crime compared to other ethnic groups (Engen et al. 1999).

The fourth research question compared FTOW and non-FTOW offenders on their second conviction if they

recidivated during the follow-up. The second conviction was then compared to their first conviction to determine if a more serious crime was committed. Logistic regression showed that the odds of committing a more serious crime was less likely with offenders who are given FTOW compared to offenders that are not given FTOW.

Beck and Shipley (1989) noted that released prisoners often were rearrested for the same type of crime for which they had just served time. In a study on intensive probation and parole of higher risk offenders, it was found that "intensive supervision probation did not decrease the frequency or seriousness of new arrests" (Petersilia and Turner 1993:281). My results support the former but not the latter research finding. However, the literature on the seriousness of crimes committed by offenders who recidivate compared to their previous conviction is more difficult to ascertain due to the research specificity in this thesis. The majority of studies involving ISPs define recidivism as returning to prison, which largely means technical violations. This research is defining recidivism as another felony conviction during the follow-up period within Washington State, so it greatly narrows the ability to compare results to other studies.

Variation is limited in offense severity and offender score because only certain types of offenders are eligible. Not surprising, the models did not explain a great deal of the variation in the dependent variables (r-square ranged from 2.8 to 14.3 percent). This is somewhat consistent with the literature, most explaining a relatively small amount of the variance. Those studies that explained more variance tended to have more variables available and more proximate determinants of recidivism (e.g., job stability, income, education, and prior criminal history).

Theoretically, this thesis lends support to social learning theory and best explains why prison may not be the answer to the problem of reducing recidivism among first-time nonviolent felons. The criminogenic effect that prison can have on 'naïve' offenders has been documented in the research (Dejong 1997). FTOW reduces the amount of time offenders are incarcerated and exposed to this negative learning process. They spend the majority of their sentence in the community where they are around people that are largely not criminals. It has been reported that "most researchers today agree that imprisonment itself does not serve any rehabilitative function" (Kolstad 1996:331). With that in mind, ISPs present an opportunity to further the rehabilitative

efforts that may start in prison but needs to continue for a long period of time upon leaving prison. Realizing that drug offenses are increasing, treatment programs are necessary in order to help the offender get off drugs and hopefully, stop the criminal behavior.

With regards to social control theory, this can provide additional insight when explaining why FTOW recipients are more successful than offenders who are not sentenced with FTOW. Being able to stay in your community around your family and peers does not strain your conventional bonds the same as if an offender was in prison for the length of their sentence. FTOW sentence requirements such as drug treatment, community service, financial restitution, and/or maintaining employment, force offenders to conform to the norms of society or risk being sent back to prison. In this way, naïve offenders can reevaluate the choice to engage in criminal behavior and equate that with the personal loss associated with going to prison and then make a decision.

LIMITATIONS

As in all research, there are limitations. When using secondary data, you are limited to the variables chosen by someone else. The Sentencing Guidelines Commission collected this data in Washington State for

their purposes. To better answer my research questions, collecting data on offenders that are convicted of misdemeanor(s), technical violations, as well as any felony offense being plea-bargained down to a misdemeanor would have been beneficial. Also, if during the follow-up period an offender were convicted of a felony outside Washington, it would be helpful to include this information. Key punch errors could also lead to not locating offenders during the follow-up period. Having judges determine which eligible offenders will get FTOW is a fairly solid strategy since they are good at selecting likely successful candidates. However, this discretionary power does not preclude them from making a decision based on their own biases and stereotyping. For this reason, researchers stress the importance of studies that examine ISPs that allow for random assignment so this is not a factor. Because FTOW is only available based on the type of felony offense you are convicted of and it applies only to first-time felons, generalizing and comparing results to ISPs involving more violent and/or experienced criminals would present some issues.

POLICY IMPLICATIONS

The criminal justice literature regarding the utility of ISPs is not as vast as the literature on recidivism in

general. This is in part, because ISPs have only been around since the mid-1980s. In addition, FTOW has not been researched in depth as a viable program for other states to adopt entirely or in part.

If an alternative sanction can provide an effective way to reduce recidivism in lieu of going to prison or in conjunction with a reduced prison term, it would achieve a few objectives. Prison populations would be reduced in both the short and long term as well as reducing the costs associated with housing inmates. The literature has shown though, that no one ISP has proven to be a solution to all of these issues. It has also demonstrated the myriad of ways ISPs have been evaluated and have defined success, has caused additional confusion.

It is important for criminal justice policy makers to evaluate current ISPs in their state and determine whether or not they are successful in achieving the goals that have been set forth. Petersilia and Turner (1991) stressed that ISP programs need to continually develop in order to make the punishment fit the crime committed.

Instead of primarily using recidivism rates, alternative measures of ISP success should also be examined. In this study, I examined the seriousness of the second felony conviction during the follow-up period to see if FTOW played a role in affecting future crimes.

FTOW recipients were less likely to be reconvicted of a more serious crime in this study, which, in conjunction with lower recidivism rates, would be considered a success. FTOW recipients serving a brief time in prison do not usually communicate daily with other criminals while in the community, and therefore the learning process is much different for them. In this way, FTOW offenders are not exposed to the adverse criminal learning process that occurs in prison and have a decreased likelihood of becoming a more serious criminal.

Rehabilitative programs need to take place in prison and need to be carried through following incarceration. ISPs like FTOW allow for up to 2 years of various treatment and supervision programs for offenders that takes place within the community. Although this may not rehabilitate them, it gives first-time offenders an opportunity to start changing their life course in lieu of sitting in a prison cell associating with other offenders for the entire length of their sentence. In this way, FTOW recipients can begin to align their value and judgment system with the societal norms to avoid conflicts in the future with the criminal justice system.

When comparing FTOW with the goals of the criminal justice system, some aspects are noteworthy. One of the goals is to punish the offender for the crime(s)

committed. There are some offenders that view ISPs and their requirements as harsher than serving out their term in prison (see Petersilia and Deschenes 1994). For these offenders, FTOW may be viewed as a harsher punishment because of the increased supervision extending beyond their original sentence length. However, this form of punishment for a nonviolent offender may better fit the crime than a prison sentence.

Deterrence, both general and specific or special, is another goal of the criminal justice system. FTOW is not generally viewed as a form of general deterrence but is a form of specific deterrence. FTOW, for some offenders, may be a severe enough sanction that they decide not to commit crime in the future. Other offenders may not view this as an opportunity to change their lives and therefore, FTOW would not be enough of a deterrence to keep them away from crime.

Cost-effectiveness is another goal and one that is usually foremost in the minds of policy makers. The data set that was used in this research did not include cost information and therefore, could not be analyzed. However, logically it is cheaper to supervise offenders in the community rather than house them in prisons.

Additionally, technical violators of FTOW as well as offenders committing misdemeanor violations do not appear

in the follow-up data. This information would be necessary in order to make a definitive conclusion as to whether FTOW is a more cost-effective approach to deal with nonviolent offenders. Also, the results showing that the recidivism rate of FTOW recipients being less than offenders not receiving FTOW indicates that it is making a difference in the direction necessary to achieve a cost-effective solution.

Finally, rehabilitation is one of the criminal justice system's stated goals. Rehabilitation is a long process and there were no variables to measure this in the data. However, offenders who need drug treatment or educational assistance can be given this as part of their FTOW sentence. These types of programs are important in both the short and long term success of offenders. In addition, reducing the effects of the prison environment by limiting the period of incarceration may give these offenders another opportunity to start thinking of another way of life.

The results of this study also add to the existing research on factors that affect recidivism such as age, gender, and race. It is also important to look at offenders in ISPs in a less aggregate fashion with respect to the type of offender. First-time offenders react and receive the prison experience differently compared to more

seasoned criminals (Dejong 1997). With that in mind, programs should be more tailored to both the type of offender and type of offense.

Future research and design of ISPs should focus on a few things. Widening the definitions of success on such programs and not limiting them to recidivism rates would produce more detailed results. Making sure the number of conditions that are necessary to exact the punishment of ISPs is not so numerous that the revocation rate as well as the cost-effectiveness suffers as a result. Finally, creating realistic goals for the program so offenders and society are not shortchanged on the potential gains from such programs.

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