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Florida's Truth in Sentencing Effectiveness on Recidivism Rates

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THE FLORIDA STATE UNIVERSITY
COLLEGE OF CRIMINOLOGY AND CRIMINAL JUSTICE

FLORIDA'S TRUTH IN SENTENCING EFFECTIVENESS ON RECIDIVISM
RATES

By

KERENSA N. PATE

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ABSTRACT

Spohn and Holleran (2002) have stated that “little evidence exists that the crime control policies pursued during the past 20 years have produced a predicted reduction in crime (p. 336).” This sentiment has been voiced by many researchers for the last 30 years. As early as 1973, the National Advisory Commission on Criminal Justice Standards and Goals, concluded that “the prison, the reformatory and the jail have achieved only a shocking record of failure (p. 358),” and recommended that “no new institutions for adults should be built” (p. 358). Notably absent from the literature are studies that examine the effectiveness of sentencing policies that incarcerate offenders with their effectiveness to reduce recidivism. This study responds to this void in the prior literature on incarceration and recidivism.

The purpose of this study is to explore the effectiveness of Florida’s Minimum 85% Sentence Served Law on recidivism rates. Specifically, what is the effect of the 85% law on the probability of recidivism among released inmates and does the effect vary across different demographic characteristics, offense categories or prior recidivism events? The major findings are that sentencing offenders to serve at least 85% of their court-imposed sentence significantly reduces the probability of recidivism regardless of the time served incarcerated. It was found that the 85% law reduces the likelihood of recidivism among violent and drug offenders. Moreover, when evaluating the effectiveness of the 85% law across different types of offender demographic characteristics it was found that the effect of the 85% law on recidivism was statistically greater for younger than older offenders, males than females and blacks than whites. However, the 85% law had an equivalent effect on recidivism for Hispanic’s and non-Hispanics. Finally, the effect of 85% law in reducing recidivism is greater for those with more prior recidivism events.

The findings from this study lend support that punishment certainty may explain the consistent impact of the 85% law on recidivism rates. Since the length of sentence and numerous known recidivism factors were controlled for, certainty of punishment may explain the findings. After serving 85% of their court imposed sentence some people may reason that the cost-benefit calculation of the consequence of doing another 85% of a sentence is too costly.

While the 85% law has been shown to be an effective sentencing policy, as shown by the reduction in recidivism, it has not been determined what it is about the policy that reduces the

likelihood of recidivism. However, these findings do suggest that states contemplating a move towards a more determinate sentencing strategy will not necessarily experience increased prison populations and the associated increase in correctional expenditures. The differential effects presented in this study suggest policymakers could change sentencing policies to those it has the biggest impact (i.e., age 20 to 40 year olds, those with prior recidivism events and drug or violent offenses). This would potentially reduce the growing impact on the prison system while maintaining public safety.

Future studies should focus on the 85% laws theoretical underpinnings, cost-effectiveness, impact on crime rates, effect on ex-offender behavior and if the results found in this study can be replicated in other states.

CHAPTER 1

INTRODUCTION

Few issues currently confronting social scientists elicit a wider range of responses than does the question of the effects of public safety policies, such as those found in the criminal justice arena (Bartell & Winfree, 1977). In the early 1970's, many states permitted parole boards to determine when an offender would be released from prison (Ditton & Wilson, 1999). In addition, good time reductions for suitable prison behavior, earned time incentives for participation in work or educational programs, and other time reductions to control prison crowding resulted in the early release of prisoners (Ditton & Wilson, 1999). These policies permitted officials to individualize the amount of punishment or leniency an offender received and provided means to manage the prison population (Ditton & Wilson, 1999). However, in the mid-1970's, there was a noticeable shift in criminal justice policy in the United States from indeterminate to determinate sentencing.

Such discretion or individualization, as with indeterminate policies, in sentencing and release guidelines led to disparagement that some offenders were punished more disproportionately than others for similar offenses (Ditton & Wilson, 1999). Other complaints felt that overall sentencing and release laws were too soft on criminals. By the late 1970's and early 1980's, states began developing sentencing guidelines, enacting mandatory minimum sentences and adopting other sentencing reforms to reduce disparity in sentencing and to toughen penalties for certain offenses (Ditton & Wilson, 1999).

Various "get tough" strategies emerged as a panacea for dealing with offenders. Emphasis was directed away from offender rehabilitation programming toward punishment. The use of incarceration increased substantially and sentences of imprisonment became longer. Three-strikes laws were passed to keep persistent offenders in prison for life. Mandatory minimums were established to require implementation of a prison term for specific crimes. Truth in sentencing designs were adopted to ensure long prison terms for violent offenders (Tonry, 1999).

One justification for incarcerating so many individuals for longer periods of time is that it reduces crime. Some criminologists have argued that increasing prison populations not only

reduces crime but also saves money to taxpayers (Austin, Bruce, Carroll, McCall & Richards, 2001). It is essentially a two variable equation, which claims that as incarceration increases crime rates decline. Prior to the 1970s, there were relatively low crime and incarceration rates (Austin, Bruce, Carroll, McCall & Richards, 2001; Blomberg & Cohen, 2003; National Council on Crime & Delinquency, 2005). However, both measures have steadily grown over the past 30 years (Austin, Bruce, Carroll, McCall & Richards, 2001; National Council on Crime & Delinquency, 2005). Only in the past five years have crime rates began to decline while incarceration rates have continued to increase (Blomberg & Cohen, 2003). However, preliminary results from the 2007 Uniform Crime Report (UCR) show the United States violent crime rate has increased over the past two years (i.e., 2005 and 2006).

There have been a number of major studies conducted by criminologists, which question the effectiveness of incarceration as an effective crime control policy. The National Academy of Sciences in its two Panels (Deterrent and Incapacitation Effects and Criminal Careers and “Career Criminals”) concluded that there was not logical evidence that general incapacitation and selective incapacitation has had or could have a major impact on crime rates. Similarly, a 1998 review of “what works” by Sherman et al., concluded that while the incarceration of offenders who will continue to commit crimes would reduce crime, it also noted that “. . . the number of crimes prevented by locking up each additional offender declines with diminishing returns as less active and less serious offenders are incarcerated” (Reuter & Bushway, 1998). Zimring and Hawkins (1988) in their critique of selective incarceration observed that if the key assumptions of such a policy were true, crime would have been eliminated in the United States many years ago based on the dramatic increase in incarceration rates. Linsky and Strauss (1986) found that states with the highest incarceration rates also had the highest crime rates, a pattern that remains true today.

This surprising trend of an increase in incarceration and sentence length to produce a meaningful reduction in crime reduction needs further review. Despite unparalleled mass incarceration, crime continues to be a problem (Currie, 1998; Austin & Irwin, 2001; Austin, Irwin, & Kubrin, 2003). In particular the prior literature is missing longitudinal and comparative studies that assess the precise outcomes of “get tough” determinate punishments, like the 85% law. Because of this gap in the literature it is not clear if determinate “get tough” punishment policies like the 85% law have had the desired deterrent effect. The purpose of this paper is to

examine the impact of Florida's determinate punishment policy, the 85% law, on recidivism. Examining recidivism levels in the years immediately following the law's imposition allows for the analysis of its effectiveness.

The Minimum 85% Sentence Served Law in Florida states that for all crimes committed on or after October 1, 1995 the offender will serve 85% of the court-imposed sentence. The 85% law was developed to ensure incarceration of violent criminal offenders and non-violent criminal offenders who commit repeated acts of criminal behavior. It also ensured incarceration to those who have demonstrated an inability to comply with the laws of society. This model of crime policy suggests that truth in sentencing laws will lower the expected utility of offending and deter offenders from committing crimes.

Judging from this trend in sentencing, lawmakers and the general public not only regard imprisonment as a suitable sanction for a growing number of crimes, they believe that imprisoning offenders for longer periods of time serves some useful purpose. Nagin (1998) concedes that there is a great deal we do not yet know about the effects of legal punishment. He nevertheless concludes, "The collective actions of the criminal justice system exert a substantial deterrent effect" (Nagin, 1998: 346). Deterrence is more important to lawmakers and government officials, since they hope to alter the behavior of potential offenders by adopting measures that will enhance the deterrent effects of punishment (Lippke, 2002). While we have evidence that policy changes can produce short-term deterrent effects, there have been few studies of whether such changes produce long-term deterrent effects (Lippke, 2002).

Many researchers suggest a growing need for long-term impact analyses to aid in policy reform (Harris & Mointra, 1978; Petersilia & Greenwood, 1978). More recent requests for research on punishment policies have also occurred (Gottfredson, 1999; Shichor & Sechrest, 1996). The need for punishment policy research hinges on the fact that many times criminal justice policies are made spontaneously, giving into public opinion, without the use of empirical support (Satter, 1998; Weisman, 1998). The importance of the findings of this research will focus on the impact on recidivism and how it is directly relevant to decisions made in correctional policy.

In an effort to address the effectiveness of the 85% law, this paper will provide a review of Florida's penal practices, transformations, and outcomes. Included in the paper is an overview of incarceration trends, status of recidivism rates, history of punishment policy, and

their effect on penal practices in Florida. The paper will highlight the evolution in Florida's penal practices from an indeterminate to determinate system and the impact the 85% law has had on Florida.

For the purposes of this study, the sample is comprised of inmates released from January 1, 1995 through December 31, 2005. The pre-85% group includes commitment offense dates prior to October 1, 1995. The post-85% law group contains all offenders whose offenses were committed on or after October 1, 1995, as outlined in Florida Statute 944.275, and served at least 85% of their court imposed sentence within the Florida Department of Corrections.

CHAPTER 2

BACKGROUND INFORMATION

Florida's Punishment Policies and Practices

Florida is tougher on criminals today than any time over the past 30 years (Florida Department of Corrections, 2004). “Florida boasts the largest number of guidelines sentenced offenders of any jurisdiction in the country” (Holten & Handberg, 1990). In 1996, Florida ranked among the most violent states in the nation and had the highest violent crime rate of any state, exceeding the national average by 66 percent (Fingerhut & Scola, 2001). Florida has put into practice numerous major changes in the way it sentences lawbreakers to prison. Striking, yet, incremental changes in punishment policies have occurred over the past three decades. Prior to the minimum 85 percent of sentence served rule, which began in 1995, a prison sentence had limited association to the actual time criminals spent in prison (Florida Department of Corrections, 2004). Parole, early prison release, and significant gain time earnings resulted in substantially shorter periods of actual incarceration than the current punishment policy (Florida Department of Corrections, 2004). Florida’s method of punishing criminals has been transformed from an indeterminate sentencing policy to a determinate policy.

Florida’s Sentencing Guidelines developed out of the problems experienced by state courts in the 1970s in attaining equity in sentencing lawbreakers (Holten & Handberg, 1990). “Many judges and legislators agreed that too great a discrepancy existed across Florida’s 20 criminal court circuits” (Holten & Handberg, 1990: 260). Many felt that criminals received unjustly different sentences for similar crimes; even when individual differences in prior prison and arrest records, and specific crime variables were factored in (Holten & Handberg, 1990). In particular, there was concern that discretion was applied to the disadvantage of minorities even when prior criminal record was controlled for (Holten & Handberg, 1990).

The original principle was not to eliminate judicial discretion but rather to guide discretion, in an effort to ensure comparability and fairness across circuits (Holten & Handberg, 1990). Therefore, in 1977 the chief justice of Florida’s Supreme Court appointed a study commission to examine the issues. By 1979, the Office of the State Court Administrator tested the viability of sentencing guidelines in a multi-jurisdictional setting as well as to calculate the

success of sentencing guidelines as a mechanism for enhancing sentencing consistency across different jurisdictions within the state (Holten & Handberg, 1990; Sundberg, Plante & Braziel, 1983).

In 1982 the legislature created the Sentencing Guidelines Commission that was charged with the duty of developing and implementing sentencing guidelines statewide (Holten & Handberg, 1990). The commission was lead by Associate Judge Parker Lee McDonald and consisted of 15 members drawn from the courts, the legal profession and the state legislature (Holten & Handberg, 1990). The commission completed the guidelines in July 1983. The guidelines were laid out in the Florida Rules of Criminal Procedures 3.701(b) and ratified by the legislature (Holten & Handberg, 1990). The purpose was to create a uniform set of standards that aimed to eliminate unwarranted variation in sentencing by defining offenses and offender related criteria and determining their significance in the sentencing decision (Holten & Handberg, 1990).

Florida Sentencing Guidelines first became effective on October 1, 1983 (Florida Department of Corrections, 1997). Prior to that time, Florida, like most other states, operated under an indeterminate sentencing structure. Indeterminate sentencing refers to a structure in which judges have discretion in specifying minimum and maximum sentence lengths and in which the release of the offender is determined by administrative personnel, such as correctional officials and/or parole boards. Sanctions ranged from a minimum of a fine, up to state prison incarceration. These indeterminate sentencing policies dictated that most offenders sentenced to prison were, by law, eligible for parole. Parole (in existence since 1941) was a discretionary early release policy, which had a significant impact upon the percentage and actual amount of time served.

The end of parole eligibility for offenders sentenced for crimes committed after October 1983 was meant as a complement to the determinacy of guidelines. The use of gain time was intended as a counter move to provide officials with a way to keep prison population growth under control and persuade inmates their behavior would have an effect on their release dates (Holten & Handberg, 1990). Gain time came in three types (Bales & Dees, 1992; Holten & Handberg, 1990). First was statutory or basic gain time at 10 days per month that was credited against the sentence immediately. Second was incentive gain time that could be earned at a rate of up to an additional 20 days per month off the remaining sentence, awarded for program

participation and good behavior. Third was meritorious gain time, awarded in blocks of up to 60 days to any inmate who performed such deeds as saving the life of an inmate or assisting in putting out fires (Bales & Dees, 1992; Florida Department of Corrections, 2006; Holten & Handberg, 1990).

In 1987, in response to the difference between increasing prison admissions and a population cap forced by the federal courts under the Costello Agreement, the Florida Legislature authorized the Department of Corrections to implement a fourth gain time method called, Administrative Gain Time (AGT), renamed later to Provisional Credits. Under this court mandate, Florida was to prevent prison overcrowding by awarding early release credits for selected inmates through December 1994. AGT permitted inmates to get up to an additional 60 days off their court-imposed sentences; however, this excluded sex offenders, habitual offenders, or inmate serving a mandatory minimum sentence (Florida Department of Corrections, 2003; Holten & Handberg, 1990).

From 1983 through 1987, Florida followed sentencing guidelines that excluded early release. Due to concerns regarding the actual percent of time served, as well as, concerns regarding a lack of uniformity in sentencing, the 1983 Florida Sentencing Guidelines were enacted and parole eligibility was abolished. These guidelines eliminated indeterminate sentences for crimes after October 1, 1983. The new sentencing guidelines allowed inmates to reduce their sentence by one third when they entered prison and yet another 20 days of gain time per month served. This reduced the actual time served for inmates to just 40 percent of the imposed sentence (Florida Department of Corrections, 2004). In December 1994, the early release credits were discontinued because of a reduction in prison admissions and a massive prison-building program (Florida Department of Corrections, 2003).

As stated by the Florida Department Corrections Annual Report (2006b), several factors eroded the reliability of the truth in sentencing facet of the 1983 sentencing guidelines. Some of these factors included an epidemic of crack cocaine related offenses, which resulted in an unexpected impact upon correctional resources; the passage of unfunded mandatory minimum sentencing legislation; and significant growth in the population of the State of Florida (Florida Department of Corrections, 2006b). The Department of Corrections contributes these and other factors to the decline in percentage of time served. By 1989, the average percentage of time served was only 34 percent (Florida Department of Corrections, 2006a). This lack of integrity in

court-imposed sentences was the momentum needed for a new sentencing guideline structure in Florida.

Florida's comprehensive *Safe Streets Initiative* (P.L. 93406) went into effect in January 1994. The initiative was created to focus Florida's guidelines on offenders who committed serious or violent offenses, or who offended repeatedly. The 1994 guidelines repealed basic gain time incentives and went into effect for all non-capital felony offenses committed on or after January 1, 1994 and before October 1, 1995 (Florida Department of Corrections, 2006b).

In 1993, the grassroots organization Stop Turning Out Prisoners (STOP) petitioned the passage of the *Stop Turning Out Prisoners Act*, which required offenders to serve a minimum of 85 percent of the sentence imposed, with gain time limited accordingly (Turner, Fain, Greenwood, Chen & Chiesa, 2001). State prisoners sentenced to life imprisonment, including capital felonies, will be incarcerated for the rest of their natural lives. All prison sentence offenses are affected. Also in 1995, the *Officer Evelyn Gort and All Fallen Officers Career Criminal Act* was passed. The bill established a new category of habitual offender, the "violent career criminal." Persons convicted three or more times of any forcible felony, aggravated stalking, aggravated child abuse, other sexual crimes, escape, and certain weapons crimes can be sentenced as a violent career criminal. It provided three strikes type penalties and included an 85 percent requirement for some offenders. In addition, courts must give written reasons for not imposing statutory sentences, specifically addressing protection of the public (Turner, Fain, Greenwood, Chen & Chiesa, 2001).

In 1995, the *Safe Street Initiative* guidelines were significantly amended through the passage of the Crime Control Act of 1995. Through the passage of the Crime Control Act of 1995, Florida changed its sentencing guidelines to require that offenders sentenced to prison must serve a minimum of 85 percent of their imposed sentence (Florida Department of Corrections, 2006b). This change was effective for all crimes committed on or after October 1, 1995. Offenders who have been sentenced to prison under the current minimum 85 percent rule, will, on average, serve a significantly longer period of time in prison than at any time over the past 15 years (Florida Department of Corrections, 2004). Overall, the average prison sentence under this policy will result in 4 years of incarceration compared to 1.6 years under the court ordered capacity limits of the mid-1980's and early 1990's (Florida Department of Corrections, 2004). In fact, actual time served has increased 150 percent from FY 1988-89 to FY 2003-04

(Florida Department of Corrections, 2004). Of the inmates sentenced under the current 85 percent rule, 7.6 percent will serve more than 10 years in prison compared to 4.4 percent under the parole system, 3.2 percent when early prison release existed, and 5.9 percent under the 1994 sentencing guidelines (Florida Department of Corrections, 2004).

In 1996, Florida established an eight-year revision cycle for crime and other public safety statutes and guiding principles for justice information technology. It redefined habitual and violent felony offenders to include felonies committed while a serving prison sentence and limited gain time for such offenders to ensure 85 percent of their sentence is served. It also limited gain time for felonies that involved weapon or firearms; and included special provisions for drug, sex offender, and juveniles (Turner, Fain, Greenwood, Chen & Chiesa, 2001).

In 1997, the *Prison Release Reoffender Punishment Act* required mandatory minimum sentences that 100 percent of the court imposed sentence be served for offenders who commit a qualifying offense within three years of release from prison (Turner, Fain, Greenwood, Chen & Chiesa, 2001). Offenses include weapon use in a criminal offense and various crimes against children. In 1998, the Florida Senate (S. 1522) prohibited the shortening of a sentence if a defendant would serve less than 85 percent of the term imposed (Turner, Fain, Greenwood, Chen & Chiesa, 2001; Senate 1522: Relating to Sentencing, 1998).

The consistent response by Florida policymakers to the mounting crime trouble and increased public response has been to craft more severe penalties (Holten & Handberg, 1990). Public sentiments about lengthy prison sentences and use of the death penalty have shifted the focus away from rehabilitation ideals to that of retribution and incapacitation policies (Holten & Handberg, 1990). Florida is no different in this regard than many other states, but the increasing prison population has produced a public uproar for which incarceration appears to be the only acceptable response (Holten & Handberg, 1990).

Overview of the Minimum 85% Sentence Served Law

In October 1983, the Florida Sentencing Guidelines Commission initiated sentencing guidelines based on an objective scoring of offense-related and offender-related criteria (Hogenmuller, 1997). In an effort to promote truth-in-sentencing and to increase actual time served for violent and repeat offenders, Florida revised the sentencing guidelines and modified prison release policies as part of the Safe Streets Act, effective January 1994. With the Crime Control Act of 1995, Florida changed its sentencing guidelines to increase the frequency of

prison sentences and the duration of time served for crimes involving serious offenses or serious victim injury, and for offenders who had serious prior criminal records (Florida Department of Corrections, 1997). The sentencing guidelines were developed to ensure incarceration of offenders who committed repeated acts of criminal behavior and who had demonstrated an inability to comply with less restrictive penalties previously imposed.

In 1995 the Florida Legislature passed into law the requirement that offenders who committed their offenses on or after October 1, 1995, section 944.275 Florida Statutes, are required to serve a minimum of 85 percent of their court-imposed sentences prior to their release. Specifically, the sentence cannot end, terminate or expire prior to the offender having satisfied 85 percent of the term imposed. In addition, the statute provides that the offender may earn monthly awards of incentive gain time up to 10 days per month. However, when the inmate's tentative release date becomes equivalent to the 85 percent minimum service date, the inmate is prohibited from earning further gain time awards.

On June 30, 2009, 87% of all inmates in prison had been sentenced under this law, meaning they will serve at least 85% of their sentences, and that number continues to increase annually. The average percentage of sentence served for released offenders has risen steadily in the last five years, from 78.6% in June 2005 to 87% in June 2009.

CHAPTER 3

LITERATURE REVIEW

Explaining Mass Incarceration

American politicians always seem to be fighting a war on crime. Whether the latest problem is drive-by shootings, the drug trade, or sexual predators, an answer usually is at hand. It may come in the form of enacting new gun controls, sweeping loiterers into police vans, mandating registration requirements, or requiring longer prison terms.

The effect of prison sentences on recidivism is an important issue to those concerned with public safety and the cost-effectiveness of putting convicted offenders in prison. “Opinions are divided between those advocating longer sentences in the interest of public safety (Blumstein, Cohen, & Nagin, 1978; Song & Lieb, 1993: 2; U.S. Department of Justice, 1992) and those advocating shorter sentences with the assumption that incarceration, or longer prison terms, will not reduce recidivism rates” (Song & Lieb, 1993: 2).

Those advocating longer sentences argue that long periods of incarceration discourage released offenders from committing other crimes (specific deterrence) and the knowledge of punishment policies discourage would-be offenders from committing crimes (general deterrence) (Song & Lieb, 1993). Those advocating shorter sentences argue that the certainty of punishment is more important than the length of punishment in deterring offenders from re-offending (Song & Lieb, 1993). It is felt that many offenders commit crimes due to physical addictions, or limited life choices, and are in need of treatment programs, literacy efforts, and job training as opposed to long periods of incarceration (Song & Lieb, 1993). Some even believe that prisons are a school for criminals and those who are incarcerated become more sophisticated and more entrenched criminals (Branham, 1992; Song & Leib, 1993).

In addition, several primary issues came together to provide the drive for the change in how states would shift policy and practices to “get tough” measures. First, there was an apparent increase in governmental dissatisfaction with parole (Palmer, 1984). Parole was generally thought to be too reactive to public opinion, shifting from giving a disproportionate number of paroles in one time to granting too few in another (Palmer 1984; National Council on Crime & Delinquency, 2005). Concerns increased whenever a paroled inmate re-offended in the

community, and the victimization of citizens and their families influenced parole boards to reduce the number of paroles granted (Travis & Lawrence, 2002). Over time considerable doubt developed about the ability of the parole board to function in a constant fashion (Travis & Lawrence, 2002).

Secondly, opinions developed that crime was becoming a worse problem. In the years leading up to sentencing reforms the nation witnessed an increase in crime rates (Stemen, 2006). Enhanced media coverage of crime and the notion that we were in the midst of a “crime wave” helped encourage many that something significant should be done to gain control over crime (e.g., victim rights movement) (Anderson, 1995).

The Center on Media and Public Affairs reported that the number of crime stories on the three largest television networks more than tripled between 1991 and 1993 (Dyer, 2000). The result of the increased publicity on crime and public concern over it lent support for lawmakers spending more money to stop the rising crime rate. Surprisingly, this trend peaked in 1994, the year of the federal crime act (Anderson, 1995).

Third, the term “expressive justice” has been used to classify “laws, policies, and practices that are designed more to vent public outrage than to reduce crime” (Anderson, 1995: 14). It is the response to crime that prevailed in Western societies before 18th century reformers and theorist like John Howard, Jeremy Bentham, and Cesare Beccaria proposed a more practical penology based on crime control and rehabilitation (Rothman, 1980).

Many individuals accept that there will always be evil people in the world; however, Rothman (1980) points out punishment is not so much about stopping evil as much as it is to exact revenge on the perpetrators of it. As a result, criminals were humiliated, tortured, and executed. In addition, punishments were carried out in public to allow for its chance to exact satisfaction (Foucault, 1977; Rothman, 1980).

Expressive justice can be traced to the American colonial settlers, who accepted the Calvinist idea of evil as a basic part of human nature. David Rothman (1980) writes, “They would combat the evil, warn, chastise, correct, banish, flog or execute the offender. But they saw no prospect of eliminating deviancy from their midst. Crime, like poverty, was endemic to society.” They were satisfied with punishment that reinforced values of community, church, and family (Rothman, 1980).

However the Constitution's Eighth Amendment, which bans "cruel and unusual punishments" reflects the influence of the 16th century philosopher, Beccaria, an Italian criminologist and economist, who argued "that clarity of the law and certainty of punishment are more important than the severity of punishment." Beccaria proposed an end to torture and execution in favor of rational, orderly approach to punishment (Anderson, 1995).

Benjamin Franklin and Thomas Jefferson believed not only in Beccaria but also that man could change their wayward behavior. Anderson (1995) attributes Franklin and Jefferson's belief in rehabilitation to the development of the penitentiary in the late 1780s. Instead of being flogged or hanged, criminals would be required to follow a schedule of work, Bible study, and solitary reflection (Anderson, 1995). In the 1980s and 1990s, Americans gripped by fear appeared to be turning away from the original principles laid out by Beccaria, Franklin and Jefferson (Anderson, 1995). Nobody was about to repeal the Eighth Amendment; therefore, there would be no going back to "cruel and unusual" torture. This led to a new form of expressiveness, one that had little to do with reducing crime or rehabilitation of criminals and everything to do with helping an anxious, angry public manage its feelings (Anderson, 1995).

The demand for tougher sentences on wrong doers has empowered the public to feel as if they are doing something. In an effort to quell the fear of crime, voters often take advantage of ballot propositions to bypass legislatures and enact mandatory sentences themselves. Petition drives and other grassroots campaigning give large numbers of people the chance for direct participation. Anderson (1995) calls the political work enacted by the public "a massive exercise in group therapy" (Anderson, 1995). The objective doesn't seem to be deterrence of crime but more about making the criminal experience fear and pain.

There was also a general perception that the public's fear of crime had increased and the public's dissatisfaction with the performance of the criminal justice system (Chiricos, Eschholz, & Gertz, 1997). The authors highlight that politicians kept up with public opinion by proposing everything from "castration to caning, from fingerprinting school children to incorporating military technology in the latest "war on crime" (Chiricos, Eschholz, & Gertz, 1997). Collectively, these various impressions of increasing crime rates and fear of crime encouraged broad based legislative support for policy reforms.

According to Gallup, those believing that crime was the nation's most important problem rose from nearly zero in the summer of 1991 to more than 50% in August 1994. Fear of crime

nearly doubled from 1989 to 1994, from 34% to 62% (Larson, 1999). Gallup reported that in 1993 and 1994, fewer than 20% of those asked expressed “a great deal” or “quite a lot” of confidence in the criminal justice system. There was an increase in the portion of the public feeling that courts had not been harsh enough in dealing with criminals, from 73% in 1972 to 89% in 1994 (Larson, 1999).

The War on Crime produced a punitive intent in response to this dissatisfaction with the criminal justice system and became the heart of this movement. Retribution, incapacitation, and deterrence were often highlighted as justifications for determinate “get tough” approaches popularized throughout the 1980s and 1990s. Specifically, punishments were to be associated with the offense and not the offender’s characteristics. Public safety was upheld by the passage of specific policies that were aimed at controlling offenders’ behavior. In addition, policy makers hoped that the rise in determinate “get tough” policies would deter the general population from offending, as well as to curb potential future offending behavior of those who previously had experienced punishments from the judicial system.

History of Punishment Policy and Practices

The past thirty years has brought about several indices of change in punishment policies and practices. These changes are “characterized by two connected and jointly conditioning patterns of action: the formal controls exercised by the state’s criminal justice systems and the informal social controls that are embedded in the everyday activities and interactions of society (Garland, 2001).”

In *The Culture of Control: Crime and Social Order in Contemporary Societies*, Garland (2001) discusses some of the most important changes occurring over the last thirty years in punishment policy and practices. One of the most important was the decline of the rehabilitative principle (Garland, 2001). This includes the reduced emphasis upon rehabilitation as the goal of penal institutions and changes in sentencing laws that uncouple participation in treatment programs from the length of sentence served (Garland, 2001). With the reemergence of punitive sanctions and expressive justice public sentiment shifted towards retribution and incarceration (Garland, 2001). For most of the 20th century, penalties that appeared overtly retributive or intentionally harsh were widely criticized as a relic that had no place within a modern penal system (Garland 2001). However, there has been a return of ‘just deserts’ retribution as a universal policy goal over the last 30 years (Garland, 2001).

Changes in crime policy have influenced the United States punishment policies and practices. The emergence of fear of crime as a prominent cultural theme is confirmed by public opinion research (Chiricos, Eschholz, Gertz, 1997). Studies find that a large majority of the public believe crime rates are getting worse, whatever the actual patterns, and that there is little public confidence in the ability of the criminal justice system to do anything about it (Chiricos, Eschholz, Gertz, 1997; Garland, 2001). This notion of a fearful, angry public has had a large impact upon the style and content of policy making in recent years (Garland, 2001).

Garland (2001) also points out that the interest and feelings of victims are regularly invoked in the determination of penalties. Several examples show how this mere fact has influenced punishment policy and practices. For example, politicians announcing new laws that are accompanied by the family of crime victims and laws passed and named for victims (i.e., Megan's Law, Jessica Lunsford Act, etc.). Garland (2001) explains this as a "zero sum policy game" where it is assumed the offender's gain is the victim's loss, and supporting the victims automatically means being tough on offenders. The victim is now a more representative character, whose experience is taken to be familiar and shared, rather than individual and uncommon (Garland, 2001).

Protecting the public has become a dominant theme of punishment policies and practices. It is believed that the public must be protected above all else. Today, there is an emphasis upon the need for security, the control of the dangerous offender, and the detection of risk to individuals or society (Garland, 2001).

Garland (2001) highlights that punishment policy and practices of crime control has ceased to be a bipartisan matter that can be handed off to experts. Punishment policy and practices have become prominent issues during electoral races. However, Garland explains that policy measures are constructed in ways that appear to value political advantage and public opinion over the views of experts and research evidence.

In the last 30 years the long-term affinity to view prisons as a "last resort" has changed (Garland, 2001). For most of the 20th century there appeared to be a shift away from incarceration towards other community-type sentences. The ruling assumption now is that 'prison works,' however, not as an instrument of rehabilitation, but as a means of incapacitation and punishment that satisfies popular political demands for public safety and retribution (Garland, 2001).

Garland (2001) posits that the insurgency of criminological theory has fueled many of the changes seen in punishment policy and practices. Criminality used to be viewed as a problem of defective or poorly adapted individuals and families, or as indications of need, social justice and the inevitable clash of cultural norms (e.g., anomie, relative deprivation, sub cultural theory, and labeling) (Garland, 2001). The theories that now shape criminological thinking are control theories of various kinds that consider crime and delinquency to be problems not of deprivation but of inadequate controls (e.g., social controls, situational controls, self controls, rational choice, routine activity, crime as opportunity and situational crime prevention) (Garland, 2001). Control theorists assume that individuals will be strongly attracted to self-serving, antisocial, and criminal conduct unless inhibited from doing so by robust and effective controls. The public looks to the family head of household, the community, and the state to uphold restrictions and instill restraint among its citizens. This line of thought is in contrast to the older criminological theories that demanded more in the way of welfare and assistance, where newer theories insist upon tightening controls and enforcing discipline (Garland, 2001).

Example of Punishment Policies Impact on Recidivism

Increasing sentence severity for offenders has been a politically popular policy reform throughout the 20th century, whether through mandatory minimum sentences, three strikes you're out, get tough measures, or harsher sentences (Greene, 2002). In the early 1990s, in response to a particularly brutal crime committed by a repeat offender, California enacted one of the most well-known laws, three strikes and you're out (Schiraldi, Colburn & Lotke, 2004). The statute mandated a 25-year sentence for individuals convicted of a third felony (Parent, Dunworth, McDonald & Rhodes, 1997). Researchers question if the three strikes law reduces crime or not. Whether it is by keeping repeat offender in prison for longer periods of time (incapacitation) or by deterring would be offenders from committing crimes out of fear of longer sentences (deterrence) (Ehlers, Schiraldi, & Ziedenberg, 2004). However, the research on the impact of three strikes demonstrated more modest outcomes.

The *Justice Policy Center* has broadly reviewed the three strikes law over the last 10 years, including comparing jurisdictions within California, as well as comparing California's crime rate to that of other states around the country (Ehlers, Schiraldi, & Ziedenberg, 2004). Peter Greenwood, former director of the RAND Corporation's Criminal Justice Program, briefly outlines some the findings surrounding three strikes law. He found that the law had little impact.

“Stolenberg and D’Alessio (1997) analyzed serious crime trends in California’s ten largest cities, using monthly data for 1985 through 1995. Their analysis suggests that the three strikes law did not reduce the California Crime Index below the level that would have been expected given the prevailing downward trend that had begun before the implementation of the law” (as cited in Ehlers, Schiraldi, & Ziedenberg, 2004).

“Macallair and Males (1999) and Austin et al. (1999) compared the crime rates of California counties that applied the law at higher and lower rates, expecting the counties with more extensive three strikes enforcement should experience a larger drop in crime than those less likely to invoke the law. Both studies suggest no clear pattern of crime reduction associated with the rate of three strikes application” (as cited in Ehlers, Schiraldi, & Ziedenberg, 2004).

“A similar study by Auerhahn (2001) finds that the three strikes law has not made California streets safer. If a selective incapacitation policy is successful, “dangerousness” should be maximized in the incarceration population and minimized in the rest of the population. Auerhahn’s analysis shows that the three strikes law has not been particularly successful in the selective incapacitation of dangerous offenders (a primary motivation for the law). The average dangerousness of the prison population has declined and that of the rest of the population has increased” (as cited in Ehlers, Schiraldi, & Ziedenberg, 2004).

In 1997, a five-year post impact analysis of 24 states and the federal government’s mandatory minimum legislation was completed (Parent, Dunworth, McDonald & Rhodes, 1997). The analysis revealed that most of the laws have minimal impact because they focus on offenders already receiving lengthy prison terms under existing statutes (Parent, Dunworth, McDonald & Rhodes, 1997).

Chief Justice William Rehnquist has stated that mandatory minimum statutes are “perhaps a good example of the law of unintended consequences” (Vincent & Hofer, 1994). Justice Anthony Kennedy has stated that he is in agreement with most federal judges who suggest mandatory minimums are “imprudent,” “unwise,” and often the “unjust means” of sentencing (Kopel, 1995). In addition, a study by the Federal Sentencing Commission in 1991 found that mandatory minimum sentences were applied so unevenly that it dramatically reduced the certainty of punishment (Dolinko, 1998).

The research on mandatory minimum statutes, such as three strikes legislation, indicates that they were a response to sentencing reform that was not well supported by prior research.

Also, that their development did not benefit from our understanding of the potential use of sentencing to increase prison populations and decrease crime. Even in California and Washington where there has been some utilization of three strikes, implementation of this law has been uneven, modest in numbers, and the impact on crime and prison populations has been far less than expected (Austin, Clark, Hardyman & Henry, 1999; Chen, 2000).

Empirical Evidence Related to Crime Rates, Recidivism, and Length of Prison Stay

“If incarceration is assumed to be the punishment policy of choice, then the effectiveness of the correctional system can be inferred through the success (or failure) rate of released offenders” (Wilson, Franklin & Stewart, 2001: 2). To date, only a limited number of studies have examined the relationship between crime rates, time served and post release recidivism. As this literature review will show the empirical evidence is mixed. Depending on the sample, methodology, and control variables used, studies have found negative, positive and no significant link, causal or otherwise, between incarceration and recidivism.

Crime Rates. Incapacitative effects are commonly assessed through comparisons of prison population growth and crime rates. Marvell and Moody (1994), collecting state level data at the beginning of the “get tough” era, found that each additional inmate, on average, accounted for a reduction of at least 17 index crimes. A large proportion of the crimes prevented through such policies were property crimes, although a greater proportion of these averted crimes were burglaries and robberies. This finding provided support for the incapacitative policy utilized during the early 1980s. Marvell and Moody also hypothesized that the number of index crimes averted in the early 1990s could be as high as 21 offenses per additional offender incarcerated.

Lynch and Sabol (1997) found that as the prison population expands, its potential impact on crime may decrease, as lower rate offenders are included in the expansion. Thus, incarcerating serious, high rate offenders may reduce crime, but expanding incarceration to include less serious, low rate offenders will produce small reductions in crime (as cited in Kovandzic & Vieraitis, 2006). Past research shows that only a small percentage of offenders commit the greatest percentage of crime (Greenwood & Abrahamse, 1982; Kovandzic & Vieraitis, 2006; Wolfgang et al., 1972). For the biggest impact on crime rates, incarceration should be reserved for high rate offenders (Kovandzic & Vieraitis, 2006). “However, targeting the right offenders has always been a challenging process” (Kovandzic & Vieraitis, 2006; Walker, 2001). However, as Clear (1996) posits, if those offenders targeted are at the end of the

criminal career the effects of imprisonment will be limited (as cited in Kovandzic & Vieraitis, 2006).

Kovandzic & Vieraitis (2006) espoused that incarceration should lower crime rates through its deterrent effect on offenders and potential offenders. However, the authors point out that, “as Cook (1998) and others (Clear, 1996; Mauer, 1999) have suggested, expanding incarceration may serve to lessen the deterrent effect of prison as the prison experience becomes less stigmatized.” Like Bentham proposed during the 18th century, “as offenders and potential offenders weigh the expected utility of offending, the costs associated with imprisonment should factor into their analysis” (Kovandzic & Vieraitis, 2006). Conversely, Clear (1996) has argued, due to mediating factors it is possible that the images of prison have less of an impact on potential offenders therefore making threat of prisons lose its deterrent factor (as cited in Kovandzic & Vieraitis, 2006). The authors feel that this dependence on “incarceration may lessen both specific deterrence, as offenders become knowledgeable about a previous unknown, and general deterrence, as other become aware of the prison experience.” Cook (1998) attributes this to potential status enhancement rather than as punishment (as cited in Kovandzic & Vieraitis, 2006).

Fabelo (1995) reported that a 30 percent increase in incarceration rates across 50 U.S. states, corresponded with a decrease of 5 percent in the crime rate for a five year period. Fabelo’s data has been interpreted as convincing evidence that prisons deter crime (Reynolds, 1996).

Recidivism. A meta-analytic review (Smith, Goggin and Gendreau, 2002) of the literature on the effects of criminal justice sanctions (i.e., policies) on recidivism identified 111 studies that examined the association between various criminal justice punishments (i.e., fines, prison terms, community control) and recidivism. Over 442,000 offenders were involved in these studies. The overall findings showed that harsher policies had no deterrent effect on recidivism. On the other hand, punishment produced a slight 3 percent increase in recidivism. Further analysis of the incarceration studies found that longer sentences were associated with higher recidivism rates. Short sentences (less than six months) had no effect on recidivism but sentences of more than two years had an average increase in recidivism of 7 percent. The conclusion was that criminal justice policies that are based on the belief that “getting tough” on crime will reduce recidivism are without empirical support.

In an early study, Bartell and Winfree (1977) analyzed the reconviction rates of 100 offenders convicted of burglary in 1971 in New Mexico. Of the 100 offenders, 34 were imprisoned, 45 were granted probation, and 21 were given other sentences (fines, drug and alcohol treatment, community services, etc.). After statistically controlling for differences in age, prior criminal history, and type of burglary, the findings indicated that offenders who were placed on probation were less likely to be reconvicted than those who were incarcerated. The authors concluded that incarceration was less effective than probation (as cited in Song & Lieb, 1993).

Walker, Farrington, and Tucker (1981) used data obtained from a sample of 2,069 male offenders in England to analyze the reconviction rates for offenders with different types of sentences. These sentences included discharge, fine, probation, suspended sentence, and immediate imprisonment. The researchers statistically controlled for the effects of offense type, previous convictions, age, and length of sentence. The study indicated that reconviction rates varied according to the offenders' previous convictions. For offenders with five or more previous convictions, the reconviction rates were high in all sentence types. Probation was less effective than imprisonment in reducing the reconviction rates for first-time offenders, but was more effective for those with one-to-four previous convictions (as cited in Song & Lieb, 1993).

Wheeler and Hissong (1987) compared the recidivism rates of misdemeanor offenders (Class A or B misdemeanor convictions, excluding driving while intoxicated) who received fines, probation, or jail sentences in Houston, Texas. Recidivism was defined as any Class A or B misdemeanor or felony violation. With three years of follow-up and controlling for offenders' criminal history and demographic factors into account, the researchers found that probation was superior to fines and jail sentences in terms of recidivism. The authors concluded that probation was a better deterrent to subsequent new offenses than a relatively brief jail experience (as cited in Song & Lieb, 1993).

Cohen, Eden, and Lazar (1991) conducted a follow-up study of 202 offenders who were convicted in Israel in 1978 and 1979 for serious felonies. All of these offenders were recommended for probation by their investigating probation officers. Forty-eight percent of the offenders were granted probation and 52 percent were sent to prison. After five years of follow-up, either after completion of probation or release from prison, the recidivism rate was 55.7 percent for the probation group and 60 percent for the prison group. After controlling for the

effects of age, education, and prior offenses, the researchers found that “whether an offender received incarceration or probation was not associated with the recidivism rates.” Because of the high recidivism rates in both groups, the researchers concluded, “neither prison nor probation was a very good means of reducing recidivism” (as cited in Song & Lieb, 1993).

Length of Prison Stay. Findings regarding the relationship between length of confinement and recidivism are inconsistent, at best. Some studies conducted within the United States and Great Britain report that length of confinement has little or no effect on the likelihood of recidivism (Beck & Shipley, 1989; Brody, 1975; Home Office, 1986; Lattimore & Baker, 1992; Lloyd et al., 1994; Wladron & Angelino, 1977). While other studies from these nations report that persons who serve longer prison terms are more likely to recidivate (Nuttall, 1977; Schmidt & Witte, 1988; U.S. Sentencing Commission, 1990).

Beginning with the research of Garrity (1956) and Glaser (1964), there has been a persistent interest in the relationship of time served to post-release success. Both studied the effect of length of incarceration upon parole and prison sentences. In the 1960s, the Research Division of the California Department of Corrections conducted a series of studies relating time served in prison and subsequent post-release performance. While investigating parole outcomes for release cohorts in which average time served had substantially changed from previous cohorts, Mueller (1996), concluded that there was no general consistent association of differences in parole outcomes with changes in prison time served (as cited in Austin, 1986).

Studies by Jaman (1968) and Jaman and Dickover (1969) compared a number of release matched cohorts receiving shorter and longer terms found that offenders serving longer terms did worse and in some cases as well as releasees who had served shorter terms (as cited in Austin, 1986). Other studies, using matching techniques, examined the effect of sentence length on parole performance. A study by Gottfredson et al. (1977) examined the link between parole outcomes in nine risk groups using data of over 5,000 Ohio parolees. They reported no relationship between time served and parole outcomes for most of their subgroups and more complex relationships between time served and parole success in a few remaining risk groups.

Gottfredson, Neithercutt, Nutterfield, & O’Leary (1973) studied 104,182 male inmates in 14 different offense categories in the United States who were paroled for the first time between 1965 and 1970. The follow-up time was one year, with recidivism defined as a return to prison. The median time served ranged from 12.2 months for fraud offenders (non-check fraud) to 58.6

months for homicide offenders. The researchers attempted to statistically control for the effects of offense type, prior offense, and age. The results showed that while on parole, offenders with the longest time served generally had higher recidivism rates than offenders with the shortest time served. The significance of the association between time served and the recidivism rates varied across different offense categories. For property offenders, all subgroups (auto theft, check offense, burglary, larceny, and fraud) that served the longest time had higher recidivism rates than those subgroups that served the shortest time. For armed robbery and drug offenses, however, offenders with longer sentences had slightly lower recidivism rates than offenders with shorter sentences.

Beck and Hoffman (1976) followed 1,546 adult federal prisoners in the United States for two years after their release. Offenders were categorized according to their “salient factor score” which took into account their prior criminal history, age, education, employment history, and marital status. The offenders were first grouped by their scores, and were then further divided according to their time served. The authors concluded that there was no substantial association between time served and the recidivism rates (as cited in Song & Lieb, 1993).

Gottfredson, Gottfredson, and Garofalo (1977) investigated the relationship between time served and parole outcome in a single jurisdiction. The study followed 5,349 male prisoners paroled in Ohio between 1965 and 1972, with a follow-up time of one year. The offenders were classified into nine categories of re-offense risk according to their age, offense type, prior criminal history, alcohol and drug use, and parole performance. Results of the study showed a somewhat mixed relationship between time served and the recidivism rates in different risk categories. However, the authors were able to conclude that overall, increased length of time served did not reduce recidivism. The recidivism rates either increased or remained constant with increased time served (as cited in Song & Lieb, 1993).

Orsagh and Chen (1988) tested the theory that there is an optimum sentence length that minimizes recidivism rates. The researchers studied 1,425 offenders released from a North Carolina prison in 1980. Of the total sample, 40 percent had been incarcerated for robbery or burglary. These offenders were followed for two years and recidivism was defined as a post release arrest. After controlling for the potential effects of age, race, marital status, employment, and criminal history, Orsagh and Chen concluded that time served affects recidivism rates; the direction of the effect varies across offense classes; and for some offense classes, shortening the

period of incarceration will reduce recidivism rates. Orsagh and Chen also pointed out that the effect of longer prison sentences on recidivism is multifaceted and is likely to be offender specific (as cited in Song & Lieb, 1993).

Dejong (1997) compared the pretrial failure rates of arrestee who were detained in jail for a period of time prior to trial with those of arrestees who were released pending trial. Dejong found that pretrial incarceration had no effect on the timing of recidivism, but arrestees who were incarcerated were more likely than those who were not incarcerated to be rearrested during the follow-up period. The length of time the arrestee was incarcerated, on the other hand, had no effect on the likelihood of recidivism, but did affect the timing of recidivism. Arrestees incarcerated for longer periods of time took longer to re-offend than arrestees incarcerated for shorter periods of time. Dejong also found that pretrial incarceration increased the probability of recidivism among first-time offenders, and that the length of time the arrestee was incarcerated increased the time-to-failure among offenders with previous arrests. These results led Dejong (1997:573) to conclude “expectations for universal, sweeping effects for incarceration, common among policymakers and the public, are unrealistic.”

Smith, Goggin, and Gendreau (2002) examined two sets of data that addressed whether longer periods of incarceration are associated with reductions in recidivism. They located 222 comparison groups of offenders (n = 68,248) who spent more (an average of 30 months) versus less (an average of 17 months) time in prison. The groups were similar on approximately one to five risk factors. The results showed that offenders who did more time had a slight increase in recidivism of 2 to 3 percent, depending on whether the effect sizes were unweighted or weighted.

These studies illustrate the confounding effects of changing policies and definitions over time. Collectively, these studies offer evidence suggesting that the effects of incarceration and the length of time served on recidivism are perhaps offender specific. The direction and extent of these effects upon the offenders may be influenced by the jurisdiction and offender characteristics such as age, offense type, prior offense history, and prior sentence experiences. Because most of these studies are now outdated, were undertaken with parole systems that may no longer exist and/or were based on small samples, there is a need to test the new sentencing policies under current conditions, like the 85% law.

Recidivism Rates. One of the purposes of imprisonment is to prevent offenders from returning to crime. However, offenders may re-offend after they return to the community. This

re-offense behavior is known as recidivism. Recidivism is defined as the reoccurrence of criminal behavior by offenders after involvement in the criminal justice system (Holley & Ensley, 2002). Studies of criminal behavior consistently show that some offenders return to crime even after serving time in a correctional institution (Holley & Ensley, 2003). The public concern about crime and the return of these inmates to prison makes recidivism an important public policy issue.

Florida uses reincarceration as a measure of recidivism for two primary reasons. First, reincarceration rates can be determined using the database of a single agency, and second, reincarceration focuses on those behaviors that place the greatest demand on state corrections resources. The Florida Department of Corrections measure of recidivism excludes offenders who returned to prison for technical violations, and includes offenders who are sentenced to probation or community control for new crimes (OPPAGA, 1995). However, starting in May of 1995, the Florida Department of Corrections defined recidivism as a return to prison or sentence to Community Supervision for a new crime occurring within 24 months of the offender's date of release from prison.

Of the 183,692 offenders released from Florida's prisons for the period of July 1, 1986 through February 28, 1992, 41% returned to prison within three years of their prison release dates (OPPAGA, 1995). An additional 20% of the offenders in this study either came back to prison more than three years after their release date or received a new probation or community control term after release from prison. Only 39% of all offenders released during the reporting period had not had any further contact with the Florida Department of Corrections as of February 28, 1992 (OPPAGA, 1995).

While the portion of offenders returning to prison for committing new crimes had decreased substantially between July 1, 1986 and February 28, 1992, the portion of offenders returning to prison for violating the terms of post-release supervision had increased. Of 1987-88 releasees, 5% of those who were reincarcerated were returned to prison for technical violations, while 42% of the 1991-92 releasees were reincarcerated for technical violations (OPPAGA, 1995). Since 1985 most of the growth in the Florida's prison population is due to reincarceration rather than offenders entering prison for the first time. During the ten-year period of June 30, 1985 to June 30, 1995, Florida's prison population more than doubled from 28,310 to 61,992.

Approximately 78% of this growth was attributed to offenders returning to prison (OPPAGA, 1995).

According to the Florida Department of Corrections Recidivism Report (2003b) the re-offense rate after three years post-release was 39.9% and the re-incarceration rate was 25.7%. In fiscal year 2005-2006, the Florida Department of Corrections spent over \$1.3 billion to imprison more than 88,500 inmates (i.e., security and institutional operations budget; total budget over \$2.1 billion). Over 33,000 of these inmates were released during the year as their sentences ended.

Of the new admissions in fiscal year 2006-07, 56.6% had no prior commitments to prison. The Florida Department of Corrections defines prior commitments as any previous occasion that an inmate served time in the Florida prison system. This does not include supervision, such as probation. Nor does it include inmates who may have been in county jails in Florida, or in other state systems or in the Federal prison system. Nearly 43.4% of the offenders who were admitted to Florida's prison system in fiscal year 2006-07 had been in Florida state prison before, and that number has decreased slightly over this past year. A little more than 20% had been in prison in Florida once previously, and 10% had been in twice previously. Almost eight percent had been in prison in Florida four or more times in the past (Florida Department of Corrections, 2007).

How gender, race, age, and different offense types (i.e., property, violent, drug, sex offenses) affect recidivism.

Certain factors that influence recidivism are confirmed by studies of large release cohorts. The basic inmate characteristics related to higher recidivism rates include being male, young, or non-white; with low educational achievement, prior recidivism, or serious criminal history; having prison misbehavior, high security custody needs or shorter prison stays (Florida Department of Corrections, 2003b). Deterrence theorists also point out that age is one of the few stable predictors of recidivism (Pritchard, 1979). The central tendency shows that the age-crime relationship varies substantially over time, over types of offenses, and between males and females (Farrington, 1986).

Research has consistently shown that recidivism rates decrease with age of the offender (Benedict et al., 1998; Hepburn & Albonetti, 1994), that recidivism is more likely among males than females (Gainey et al. 2000); that African Americans and Hispanics are more likely to

recidivate (Hanley & Latessa, 1997; Hepburn & Albonetti, 1994); that recidivism is more likely among individuals imprisoned for property offenses than among individuals imprisoned for violent offenses (Baumer, 1997); and that the likelihood of recidivism increases with an offender's number of prior arrests or convictions (Beck & Shipley, 1989; Broadhurst & Maller, 1990; Gendreau et al., 1979; Greenfield, 1984; Hepburn & Albonetti, 1994; Home Office, 1990; Kruttschnitt et al., 2000; Langan & Levin, 2002; Roeger, 1994; Schmidt & Witte, 1988; Wallerstedt, 1984). A study conducted by Gottfredson and Mitchell-Herzfeldt (1982) reported that the risk of recidivism is higher among drug offenders than non-drug offenders.

In summary, younger offenders have a higher probability of recidivism or recidivate more quickly than older offenders. African American and Hispanic offenders have higher recidivism rates than Caucasian offenders. Lastly, offenders with more serious prior criminal records have higher recidivism rates than those with less serious criminal histories.

Racial Disparity in Sentencing

Sentencing research documents the remarkable correlation between race/ethnicity and sentencing outcomes on black and Hispanic communities. Racial disparity exists when the proportion of a racial or ethnic group is greater than the proportion of such groups in the general population (The Sentencing Project, 2008). Both blacks and Hispanics tend to be sentenced more severely than comparably situated white males (Kansal, 2005). In addition, unemployed black males tend to be sentenced more severely than white males (Kansal, 2005).

Spohn (2000) reviewed forty studies investigating the link between race and sentencing disparity. Many of these studies found evidence of direct discrimination against minorities that resulted in significantly more severe sentences than their white counterparts. Of the estimates of the direct effect of race on sentencing at the state level, 43.2% indicated harsher sentences for blacks, and over a quarter (27.6%) of the estimates showed harsher sentences for Hispanics (Kansal, 2005). Spohn (2000) also found that, at the state level, compared to white, the likelihood blacks and Hispanics will be disadvantaged is far greater at the initial decision to incarcerate than when determining sentencing length.

While racial discrimination is not as overt as it has been over the last 30 years, racial discriminatory sentencing is more subtle than in the past but still exist despite of sentencing reforms and the implementation of structured sentencing (Kansal, 2005). This is evident in a recent study where researchers found that among whites, support for harsh sentencing policies

was correlated with the degree to which a particular crime was perceived to be a black crime (Chiricos, Welch, & Gertz, 2004).

CHAPTER 4

CONCEPTUAL FRAMEWORK

Crime policy has taken on perhaps more importance in the 21st century than any other point in history (Hancock & Sharp, 2000). More than any of the other factors regarding crime policy, the differing results these policies have produced a crisis of mass incarceration that faces our nation (Hancock & Sharp, 2000). We have changed policies from rehabilitation to punishment and waste tremendous amounts of time, money, and energy on the crime problem. All the while not achieving the major goal of increased public safety (Hancock & Sharp, 2000).

“Policy is often what people declare it to be rather than a narrowly defined set of procedures” (Hancock & Sharp, 2000). Some think that policy is always in motion and depends on political, social and economic influences (Hancock & Sharp, 2000). The two leading explanation to explain policy changes over the last 30 years are that increasing crime rates led to public demand for harsher policies and that politicians used crime policy to exacerbate public fears and win electoral favor (Caplow & Simon, 1999). The impetus created against crime and violence has not offered a realistic remedy but has instead ignored that many criminal justice policies have failed (Hancock & Sharp, 2000).

For the past few decades, American society has been pursuing crime control polices that reflect a central theme of “get tough with criminals” (Gibbons, 2000). Recent decades have witnessed the spread of punitive responses to crime and criminals (Gibbons, 2000). The most visible impact of this hard line is found in the striking increase in the incarcerated population (Gibbons, 2000). This explosion is a direct effect of convicting more criminals and putting them away for longer periods (Gibbons, 2000). Crime control through incapacitation of great numbers of criminals has been the guiding principle of social policies (Gibbons, 2000). The policy system is an ongoing process where issues are being confronted at different places and times with the outcomes representing what the government has chosen to do (Gibbons, 2000). The impact refers to what happens as a result of the outcome. This paper will examine the impact of the 85% law (i.e., public policy) has on recidivism rates.

There are two fundamental questions that should be asked about the 85% law. First, is the policy validated by evidence indicating that it has an appreciable effect on crime rates?

Second, is the 85% law a viable criminal justice policy? It is imperative that crime control policies be judged by how much justice they deliver as well as their specific impact upon offenders (Gibbons, 2000).

The 85% law requires that state prisoners sentenced to a term of years shall serve at least 85% of their imposed sentence. For some parole, conditional release, or any mechanism of sentence reduction may reduce the term of year's sentence by no more than 15%. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted a pardon or clemency.

This dramatic trend of incapacitative policy cries out for explanation and reflection. To frame this discussion John's Kingdon's (1984) model of agenda setting will be used as a guide for tracing the evolution of the 85% law in Florida. Kingdon's (1984) model of agenda setting suggests that public policy making follows a set of processes that includes problems, policies and politics.

Problems

The first element in agenda setting is how problems come to be recognized. Problems are brought to the attention of people in and around government by various mechanisms, such as systematic indicators and focusing events (Kingdon, 1984). The systematic indicators are crises and/or disasters that bring attention to a specific situation. For example, the systematic indicators involved with the 85% law was the increase in countless crimes against law-abiding Floridians. In Florida, the year 1994 was touted as the worst crime year in the nation (Yeomans, 1995). Kingdon (1984) asserts that decision-makers use indicators in two major ways: to assess the magnitude of a problem and to become aware of changes in the problem.

Kingdon (1984) asserts that focusing events draw the public's and policy maker's attention to a problem. For Florida, two distinguishing events became the impetus for change, first were the highly publicized tourist killings that rocked the state's biggest industry by juveniles and "tarnished the state's fun-and-sun image" (Yeomans, 1995). Second was the murder and mutilation of 9-year old Jimmy Ryce, who vanished after getting off a school bus in South Florida. The youngster was missing for three months when a 28-year old handyman was indicted for the child's slaying. After these focusing events, public safety became the major issues for lawmakers in 1995.

Kingdon (1984) also asserts that problems are brought to the attention of policy makers through “feedback.” Feedback can simply be information on current performance that may not square with legislative intent, indication of a failure to meet stated goals, or suggests unanticipated consequences. To continue the analysis of the 85% law, lawmakers reacted to the crime wave Florida seemed to be in by passing several crime fighting measures that took effect in 1995. First, was the requirement of felons convicted for offenses committed after October 1, 1995 to serve at least 85% of their prison term. Second, Florida imposed mandatory prison terms for violent career criminals convicted of a fourth offense. This strengthened the state’s sentencing guidelines that were enacted in 1983 to provide for uniform prison terms statewide. Third, chain gains were allowed again and required inmates to be placed in ankle chains while working on them. Fourth, was the toughening of domestic violence laws and lastly, lawmakers allowed the state to add more than 4,000 prison beds by increasing the system’s capacity from 133% to 150% (Yeomans, 1995).

Policy

The second element Kingdon (1984) proposes in the agenda setting process begins with policy communities and how a community of specialists and the public are “softened up” to accept the policy. Kingdon (1984) says that “the recognition of a pressing problem is sometimes insufficient to gain a prominent place on a policy agenda.” There are numerous problems that we face everyday and officials only pay serious attention to a fraction of them. Several considerations independent of problem solving prompt government to act (Kingdon, 1984). For instance, issues that allow politicians to make their mark, keep their jobs or expand their turf may gain prominence. Another way to have an agenda move to a position of significance is when interest groups pressure politicians to act. Kingdon (1984) suggests that in order for a policy to gain prominence among lawmakers policy entrepreneurs are necessary.

Policy entrepreneurs are people who are willing to invest resources of various kinds in hopes of a future return in the form of policies they favor. The proposed policy must meet several criteria to ensure its passage. For instance, the policy must be feasible, it must have values that are acceptable to the members of society, consider budgetary constraints, and be acceptable to the mass public and elected officials (Kingdon, 1984).

With the 85% law, the Save our State (S.O.S.) Foundation and Stop Turning Out Prisoners (S.T.O.P) were its “policy entrepreneurs.” S.T.O.P is a grassroots organization that, in

1993, pushed for a state constitutional amendment that would require prisoners to serve nearly all of their sentences. In May 1994, the Attorney General received the initiative petition from the Secretary of State for review. The Attorney General advised the Florida Supreme Court by letter that the proposed amendment met the pre-requisites for review by the Court. It was up to the Supreme Court to determine by advisory opinion whether the proposed amendment complied with general law. According to the Senate Staff Analysis and Economic Impact Statement for Senate Justice Resolution (SJR) 610 (April 21, 1998), the Supreme Court found that the ballot summary was deficient in three areas: the word “ensure” was misleading because the proposed amendment allowed for pardons or clemency, there was no mention of collateral consequences to the modified power of the Parole Commission, and it did not address the question of how to determine what constitutes 85% of a life sentence.

In August of 1994, S.T.O.P. rewrote the proposed amendment with the Florida Supreme Court’s objections answered. In October 1995 the Legislature passed the law requiring inmates to serve 85% of their sentences. S.T.O.P. continued to push to add the 85% law to the State Constitution. Supporters of the law wanted to ensure that lawmakers couldn’t weaken the 1995 law without a constitutional provision that cannot be repealed without voter approval. However, by the end of the 1997 Legislative Session the bill failed to pass.

As outlined by Kingdon (1984) the S.T.O.P. organization provided the advocacy that was necessary to ensure the policy’s survival. S.T.O.P. invested resources and endured many revisions to the policies elements that Kingdon says is vital to the initiative being placed on the government’s agenda. S.T.O.P. set out to solve a problem and advocated for solutions that closed the door on early release of prisoners.

Politics

The final element in the agenda setting process is what Kingdon (1984) refers to as the political stream. It is composed of such factors as national mood, election results, administrative changes, interest group movements and ideological or partisan distributions in Congress. Kingdon explains that the national mood does not necessarily reside in the mass public, but instead is perceived in the attitudes of segments of the public. These opinions affect government agenda setting by promoting items that fit the mood or inhibit the ones that do not. The degree on consensus among politicians guides the policy agenda. The stronger the policy and the more communication that takes place surrounding a policy the more likely those interests will be

furthered in government. However, Kingdon (1984) cautions that administrative change in government can change agendas substantially.

Important to the 85% law is Kingdon's (1984) discussion of the national mood, which is tantamount with public opinion. S.T.O.P. gained momentum when U.S. Senator Connie Mack, became the first to sign the petition to address concerns about the early released inmates committing new crimes. Mack is quoted saying that these "crimes would not have occurred if criminals had been forced to serve their sentenced time" (Martinez, 1994). This sentiment was further reinforced by the fact that Florida inmates served only about 40% of their sentence during this time period because of prison overcrowding. Mack said the decision "opens the way for Florida voters to send a strong message that early prison release will never again be tolerated in Florida."

Former Senator Locke Burt, Republican-Ormond Beach, chairman of the Senate Criminal Justice Committee, is later quoted saying "the Florida Senate is going to make criminal justice its number one priority" (Leen & Van Natta, 1995). "We are going to be tough on crime" said Representative Elvin Martinez, Democrat-Tampa, chairman of the House's criminal justice committee (Leen & Van Natta, 1995). Governor Charlie Crist, then Republican Senator of St. Petersburg, said "... it is real important that we send a clear and unmistakable message. If you are convicted of committing that crime in Florida, then Florida will punish you and you will serve your time, That's the impetus and thrust of making criminal serve at least 85% of their sentence" (Leen & Van Natta, 1995).

The public rejoiced S.T.O.P. efforts by saying "Wonderful, I'm so excited. Fantastic. You have wonder news...Oh, I can't believe it!" (Hallifax, 1995). Others reacted with subdued appreciation "Just God, thank you." Kathleen Finnegan, S.T.O.P. director, is quoted saying "We are driven by our hearts and memories of crime victims. Florida needs this" (Hallifax, 1995).

Not only did the S.T.O.P. movement have the public support, the national mood encouraged the political support needed to finally pass the 85% law. However, it should be noted that critics of the get tough efforts said the law would come at the expense of schools, roads, and other public services. Others believe the tougher sentences may not do much to deter crime. Alfred Blumstein, a prominent criminologist, said "We pass lots of laws, and I don't expect there's going to be very much effect. That's typically driven by the 'crime of the month'

that attracts legislative attention, public attention, and so there's a rush to get a bill in" (Yeomans, 1995).

Kingdon (1984) describes the political stream as involving a "bandwagon" mentality. Here politicians feel they should be active in shaping the outcome and push for the proposal at hand. Once an issue seems to be moving, everybody with an interest in the subject leaps in, out of fear that they will be left out. It is possible that the passage of the 85% law may have not been possible had the political powers that be not "jumped on the bandwagon." Political receptivity is an important factor in agenda setting and makes it possible for governments to pay serious attention to proposals under consideration.

"The probability of an item rising on a decision agenda is dramatically increased if all three elements, problem, policy proposal, and political receptivity, are linked in a single package" (Kingdon, 1984). Supporters of a new policy plan, like S.T.O.P., not only take advantage of politically favorable instances (e.g., increase in crime) but also assert that their proposal is a solution to the problem (e.g., increase time served). The separate elements come together at critical times. Kingdon (1984) summarizes this process utilizing a metaphorical "window" that opens infrequently, and does not stay open long. This "window" can be seen as analogous to opportunity. He concludes that policy entrepreneurs play a major part in opening the "window" (i.e., taking advantage of the situation), attaching solutions to problems, overcoming the constraints by redrafting proposals, and taking advantage of politically promising events.

Law in Action

Now that the origins of the 85% law have been explained, we must ask, "how does the 85% affect people's lives in the real world?" As outlined above sentencing policies are in part determined by the political and cultural environment in which they occur. Law in action is a legal theory, associated with legal realism that examines laws, not just as it exists in the statutes and cases, but also as it is actually applied in society. Law in action scholars often start with observations about behavior of institutions and work "backwards" towards the legal philosophies guiding courts and traditional jurisprudence. As early as the 1900s, Roscoe Pound (1917) argued for a more pragmatic and public-interested interpretation of law and a focus on how the legal process actually occurred.

The interest of law in action and exploring the gaps between law and society arises from a variety of converging factors, which include a particular conception of the nature of law, the attempts by researchers to prove the relevance of the law and from the political bias of the laws development (Sarat, 1985). The relationship between these factors is considered essential to the understanding the relationship between law and social change. The findings from the study of law in action are useful to lawmakers as a guide in using law as an instrument of social policy and how well they achieve their ends or modified to better achieve those ends.

As Joan Petersilia comments, “there has been a long history of over-promising and under-delivering that has contributed to the constant pendulum swings in punishment practices” (Center for Court Innovation, Interview). Many contend that sentencing policies in the United States have produced distorted outcomes while failing to contribute to public safety. The desire to understand the conditions under which legislation and/or judicial decision effectively guide behavior or result in anticipated and desired social changes (Sarat, 1985) is closely tied to law in action research. Law in action research begins by identifying the goals of legal policy and moves to assess its success or failure by comparing the goals with the results produced (Sarat, 1985). In most cases, the results do not match the goals; attention is given to the factors that might explain the “gap” between law on the books and law in action (Sarat, 1985).

For example, the research on three strikes legislation provides an example of law in action versus law on the books. When California enacted its “three strikes” law, any felony was considered as a third strike if an offender already has convictions for two serious or violent felonies as defined in statute. The challenge to the policy centers around whether the sentencing outcomes are considered excessive and have resulted in the intended consequence. As told by Marc Mauer (2009), “Weldon Angelos, a 24-year old music producer with no prior convictions, was sentenced in 2004 for three related marijuana sales of about \$350 each. Since he possessed a weapon during the course of these sales, the sentencing judge was obligated to impose harsh consecutive penalties on Angelos, even though he did not use or threaten to use a knife or gun. As a result, Angelos is now serving a 55-year sentence with no parole.” Another example provided involved a defendant whose third strike was the theft of three golf clubs from a sporting goods store; as a result he is serving a sentence of 25 years to life. Does the three strikes law, as a sentencing policy on the books, truly reflect what the law in action is accomplishing?

Chen (2000) found that the three strikes legislation clearly indicates that three strikes was a response to sentencing reform that was not well supported by prior research, and that its development did not benefit from our understanding of the potential of using sentencing to decrease crime. It was also found that the impact of three strikes was modest primarily because few jurisdictions in California had applied the law equivocally with substantial variation in its implementation, and therefore, considerable variation in its impact.

The “one size fits all” sentencing structure is beginning to be reassessed (Mauer 2009). The law in action research offers us insight into how careful attention to the implementation of a sentencing strategy can result in achieving the goals set forth in the sentencing reform. Such studies permit decision makers to examine the impact of changes in policy on an existing system.

As a result of a series of legislative and administrative actions, Florida abolished parole, eliminated good time credits and increased prison sentences substantially. These changes in sentencing policies have allotted Florida over a decade of experience with the current 85% law. This study explores the foundations of the 85% laws effectiveness and looks at its differential effects on the recidivism rates.

CHAPTER 5

METHODOLOGY

This study employs a quasi-experimental design (Cook & Campbell, 1979) that compares offenders released from Florida prisons prior to the implementation of the minimum 85% of sentence served law with offenders sentenced after the minimum 85% of sentence served law on their relative likelihood of recidivism. This type of design is used when random assignment is not possible and requires sufficiently equivalent comparison groups in order to support inferences about the ways in which the minimum 85% of sentence served law affects recidivism.

Research Questions

1. What is the effect of the minimum 85% of sentence served law on the probability of recidivism among released inmates?

2. What is the effect of the minimum 85% of sentence served law on the probability of recidivism across various offenses for which offenders were imprisoned (i.e., violent, sex, property, drug, and other offenses)?

3. What is the effect of the minimum 85% of sentence served law across different types of offender demographic groups (i.e., age, race, ethnicity, and gender)?

4. What is the effect of the minimum 85% of sentence served law across groups of released inmates with varying levels of the seriousness of their prior recidivism records?

Data Sources

Florida Department of Corrections (FDC). The data collected for this study began with electronic records maintained by the Bureau of Research and Data Analysis within the Florida Department of Corrections (FDC) that include both social characteristics and identifying information needed to track offenders' criminal histories. The Bureau of Research and Data Analysis builds, maintains, and analyzes research files for not only the FDC and its needs (e.g., FDC Annual Reports) but also the Florida Legislature and independent research efforts.

Data for the study was extracted from the FDC's Offender Based Information System (OBIS). OBIS is the FDC's official mainframe computer system and central data repository used to gather, store and report data regarding felony offenders sentenced to prison or supervision. Each offender is assigned an offender identification number that is used for all commitments to the FDC. Detailed prior and subsequent convictions and sentencing information is available for cohorts of prison releases since that time.

OBIS contains detailed offender characteristics, sentencing, and correctional experience data on all felony offenders sentenced to state prison or state supervision since 1980. Detailed data exists on all offenses, convictions, and sentencing events as well as all movements of offenders in and out of the correctional system, and between facilities. Data on demographic variables, disciplinary infractions, and classification decisions may be drawn from the system.

Data for this study was extracted by the FDC Bureau of Research and Data Analysis from OBIS to create a recidivism dataset. The initial FDC data file for this study included all inmates released from the Florida prison system from January 1, 1995 through December 31, 2005 (N = 208,169). The recidivism dataset from FDC was merged with arrest data matched by the Florida Department of Law Enforcement (FDLE).

Florida Department of Law Enforcement (FDLE). The FDLE's Computerized Criminal History (CCH) files contain information on all arrests in Florida. The Florida Statistical Analysis Center (FSAC) at FDLE matched the FDC prison release cohort developed from the FDC data to their CCH data and supplied arrest date, arrest charge, statutory degree, and county of arrest for all arrest charges for the offenders in the FDC prison release cohort. The FSAC has access to the criminal histories of offenders through the Florida Crime Information Center (FCIC), which provides information on offenders' arrests and convictions in Florida.

The FDC recidivism data file was matched to FDLE arrest records by last and first name, social security number, full date-of-births, FDC identification number, FDLE number, and FBI number. The FDC identification number is a unique alphanumeric variable that is assigned to each individual upon their first commitment (i.e., supervision or prison) to the FDC and is retained for that individual for subsequent contact with the FDC. The FDLE tracking number is a State Identification Number (SID) and is assigned to an individual during their first arrest in Florida. The SID is retained and remains associated with that individual for all future arrests in Florida.

The arrest data supplied by FDLE included 4,431,294 records, which contains all arrest charges of the offenders in the FDC prison release cohort. Unique offenders from FDC and associated FDLE arrest records were matched on all seven identifiers. Scores are then assigned to the identifiers and summed for a total score. The scale matches the number and percent of these case identifiers, including partial matches (i.e., last and first name, social security number, full date of birth, FDC identification number, FDLE identification number, and FBI identification number). For the purposes of this study cases that scored greater than or equal to 45 were retained in the data set (N = 207,580). For this study, 98% of the individuals in the FDC prison release file matched precisely to FDLE's CCH data on all seven identifiers, which virtually ensures a precise match of the prison and arrest records for each case.

From the matched data set, 831 cases were eliminated due to missing data on race or Ethnicity as well as 1,478 cases where the release commitment offense code could not be grouped into one of the nine offense categories due to missing labels. There were 1,530 cases that had no arrest records in the FDLE data and were therefore eliminated. There were 14,597 cases excluded from the final file because they were mixed 85% and pre-85% cases due having multiple release commitment offense convictions that occurred both before and after October 1, 1995. An additional 1,781 cases were deleted if the 85 percent variable in the FDC recidivism file indicated they were 85% cases but the offense date was prior to October 1, 1995 or they were defined as pre-85% cases and the offense date was on or after October 1, 1995. Pre-85% records were in which the number of months from the prison admission to December 2005 was longer than the study period for the 85% cases (11 years) were disqualified (1,557). Cases in which the length of time from the date of the commitment offense to the prison admission date was one month or less were eliminated (n=900). Finally, there were 1,977 cases which were not released

to one of Florida's 67 counties that were eliminated. The final data set used for the study included 182,929 or 87.9% of the original cases, due to the eliminated of cases for the reasons described above. Table 1 provides descriptive statistics on each of the variables used in the analyses and also describes the coding.

Dependent Variables

The dependent variable in this study is recidivism. Recidivism means that an offender, who has previously been apprehended, convicted, sentenced to state prison and then released has been convicted of a new criminal offense (Maltz, 1984) following release. Recidivism studies typically employ one or more the following to measure reoffending events: re-arrest, reconviction, and re-imprisonment for a new offense.

For this study, reconviction, the first recidivism measure utilized, was dichotomized as reconviction or no reconviction over a three year follow-up and refers to a new felony offense conviction of at least one felony charge since the FDC release date (i.e., how soon after release the inmate commits a new crime) that results in a prison or supervision sentence. Re-imprisonment, the second recidivism measure, refers to any new sentence to prison after reconviction for a new felony offense. This is measured as the date of the offense that results in a subsequent prison commitment for a new felony offense over a three year follow-up period.

The date of the new felony offense is used to determine if the recidivism event occurred within the follow-up period and to create a time-to-recidivate measure. To ensure that the study captured the most serious offending, reconviction for a new felony offense and re-imprisonment were used as the dependent variables for each year (i.e., Year 1, Year 2 and Year 3) (Bales & Mears, 2008). The study also measured recidivism as "time-to-failure," which reflects the length of time until relapse for offenders who had at least one new felony conviction during the follow-up period.

The follow-up date for both recidivism measures, reconviction and re-imprisonment, are based on the re-offense date that led to the first reconviction or reconviction that resulted in re-imprisonment within a three year time period. This method of measuring recidivism after an inmate is released allows us to determine if that the individual committed a new crime that results in re-imprisonment or community supervision within three years of follow-up. The use of both reconviction and re-imprisonment recidivism measures increases the strength of the study results.

Recidivism Use in Research. There is considerable agreement in the recidivism literature that indicates if recidivism is low; the correctional policy is viewed as deterring repeat offenders, or rehabilitating offenders, so that they do not become involved in crime again. If offenders involved in a correctional program or policy have the same or higher rates of recidivism than those not involved in the program or policy is considered ineffective in reducing recidivism (Morris & Tonry, 1990). For the purposes of this study, it will be determined what effect the minimum 85% of sentence served law has on the probability of recidivism among a cohort of released inmates.

Whenever recidivism measures are used to assess the relative success of a particular policy or program, a great deal of skepticism is injected into the findings by critics claiming that the data used to calculate recidivism are not valid (Maltz, 1984). Recidivism is defined in a variety of ways. For example, Langan and Levin (2002) define recidivism as a new offense committed during a three year follow up period after a prisoner's release. As pointed out by Sirakaya (2005), others define recidivism as the first felony re-arrest after a sentence (e.g. Benedict and Huff-Corzine, 1997; McGaha *et al.*, 1987; Petersilia, 1985; Vito, 1987; Whitehead, 1991). Maltz (1984) derived nine different categories used to indicate that recidivism had occurred: arrest, reconviction, incarceration, parole violation, parole suspension, parole revocation, offense, absconding, and probation.

Arrest data suffer from criticisms of both overestimating and underestimating actual recidivism rates. Many arrests turn out not to be valid and many offenders are never arrested for crimes they actually committed. Maltz (1984) concludes that no single source is wholly accurate and that, whenever possible, multiple indicators of recidivism should be used. Maltz (1984) does support the use of reconviction over re-arrest stating that "probable cause is sufficient to arrest an individual; proof beyond a reasonable doubt is needed for a conviction" (p. 56). He also notes "arrests are used for purposes other than detaining suspects or those known to have committed crimes" (i.e., usual suspects) (Maltz, 1984: 57).

For this research, the decision was made to exclude re-arrest and use reconviction and re-imprisonment as indicators of recidivism. Of the arrest records received from FDLE, 30 percent had missing data on whether the arrest charge was a felony or a misdemeanor. This made it difficult to accurately identify post-prison arrests for felonies. With hundreds of different Florida criminal justice agencies entering data into the Florida Crime Information Center (FCIC) and

National Crime Information Center (NCIC), there are potential inconsistencies in the collection of this data, especially over time. In contrast, FDC receives data from only twenty (20) Clerks of Court offices, which is based on official sentencing documents that must be accurate because they result in imprisonment or supervision (Springer, 2009). In addition to more stability in the completeness of the sentencing data from the courts compared to the law enforcement agencies arrest data, differentials in the data quality may have occurred as the systems have improved their automated technology over time. Therefore, since the study examines inmates released over an eleven year period with the intervention variable of whether they were sentenced under the 85% law occurring in the middle of this time frame, the re-arrest variable was not included. To determine the effectiveness of the 85% law, it is very important to have consistent outcome data over time.

Independent Variables

Whether released inmates were sentenced under the minimum 85 percent of sentence served law is the independent variable of interest. The data set contains those individuals in which the offense that resulted in the imprisonment occurred before or after October 1, 1995. Three categories emerged: (1) pre-85% law cases included those in which all prison commitment offense dates occurred *prior* to October 1, 1995, (2) post- 85% law included cases with all prison commitment offense dates on or *after* October 1, 1995 and (3) cases that had multiple offenses with at least one in pre- 85% law and one post- 85% law. In an effort to measure the unique effectiveness of the 85% law on recidivism, cases that were not distinctly pre- or post- 85% law were eliminated (N = 2,058).

Control Variables

The study relies on control variables for which FDC has reliable data and have previously be found to be significant recidivism predictors in other studies (Anderson, Schumacker, & Anderson, 1991; Bales, Bedard, Quinn, Ensley, & Holley, 2005; Kubrin & Stewart, 2006; Langan & Levin, 2002; Uggen, 2000). These factors include individual inmate demographic data on gender, age at release, race and ethnicity, offense history, custody level at release, disciplinary infraction history, prior recidivism, post-release supervision, and time served in prison (as cited in Bales et al., 2005, Anderson et al., 1991; Beck and Shipley, 1989; Farabee and Knight, 2002; Florida Department of Corrections, 2003; Harer, 1995a; Harer, 1995b; Jernigan and Krosnick,

1992; Langan and Levin, 2002; McGuire et al., 1988; Schmidt and Witte, 1989; Smith and Polsenberg, 1992; Uggen, 2000; Ulmer, 2001; Washington Department of Corrections, 2002).

The FDC (2003) operationalized the majority of the control variables. The FDC variables were derived from more than 100 initial potential variables including several measures for similar features. The prior arrest and length of criminal career variables were derived from the arrest data supplied by FDLE. The final control variables used in this study included only those with low intercorrelations and significant and distinct impacts on recidivism likelihoods.

Demographics

The offender characteristics included in the study cohort contain the variables age at release, black and Hispanic, male or female. These control variables were coded as dichotomies (0 = no; 1 = yes) with age at release coded as a continuous variable (years). The age at release variable was calculated as the integer age on the day of release from the current release commitment. Age is a frequent subject in recidivism prediction studies and has been found to be negatively associated with the likelihood of returning to prison (Beck & Shipley, 1989; Langan & Levin, 2002; and Schmidt & Witte, 1989).

The race variable was categorized as a dichotomous variable, white, non-Hispanic (0 = no; 1 = yes) vs. black, non-Hispanic (0 = no; 1 = yes) for the analyses. The Hispanic variable was categorized as Hispanic, black or white (0 = no; 1 = yes). Studies consistently show that blacks have a greater hazard of recidivism than non-minority offenders (Beck & Shipley, 1989; Langan & Levin, 2002; McGuire et. al., 1988; Stanz & Tweksbury, 2000; Washington Department of Corrections, 2002).

Overall, gender has typically been documented as a correlate with criminal behavior with males being more likely to recidivate after release from prison (Beck & Shipley, 1989; Langan & Levin, 2002; Spivak & Damphousse, 2006; Ulmer, 2001). The gender variable was categorized as males (0 = no; 1 = yes).

Institutional Measures

The time served in prison on the current release commitment, disciplinary history and custody level are the institutional measures. The months in prison variable is defined as the number of months between admission and prison release (months). The disciplinary history is a count of the total number of disciplinary infraction reports each inmate received between their prison admission and prison release date. The FDC includes only disciplinary reports that were

unchallenged by inmates or upheld after being challenged. Three variables capture the custody level of inmates at release; close custody (0=no;1=yes), medium custody (0=no;1=yes), minimum custody (0=no;1=yes). Minimum custody was used as the reference category in all of the models presented.

Current Release Offense

Five dichotomous variables were used to categorize an inmate's release offense. The most serious primary release offense types were mutually exclusive and coded as 0=no, 1=yes: violent, sex, property, drug and other offenses, leaving property release offense as the reference category. Violent offenses are "defined as violent if it involves actual physical harm or the threat of physical harm to a person, or the crime has a reasonable probability of causing unintended physical harm or physical threat of harm to a person" (e.g., murder, manslaughter, robbery, aggravated assault/battery, kidnapping, child abuse, carjacking, home invasion) (FDC Annual Report, 2007). Sex offenses include offenses such as sexual battery, sexual assault, and lewd and lascivious behavior. FDC characterizes property offenses as fraud, theft, forgery or damage of property. Drug offenses include trafficking, manufacturing, dealing, distribution, and possession of illegal drugs and illegal activity with prescription drugs. The "other" category includes racketeering, escape, DUI, traffic and other offenses.

Prior Criminal Record

Prior research has shown that offenders with longer prior criminal history have higher recidivism rates than those with less serious criminal trajectories. "The predictive strength of past criminal history on future criminal behavior is intuitive and unsurprising no matter what measure or operational definition is used" (Spivak & Damphousse, 2006). Researchers continuously find that prior criminal history and the time between incidents have been found to predict future offending (Spivak & Damphousse, 2006).

However, this does not mean that having committed more serious crimes equates with a greater likelihood of recidivism. This concept is supported by several studies that find that the type of offense is a strong predictor of recidivism, with property offenders more likely to recidivate than any others (Beck & Shipley, 1989; Jones & Sims, 1997; Langan & Levin, 2002; Ulmer, 2001; Petersilia, 1985).

Prior arrest history was measured with six variables. These include continuous measures that counted the total number of prior felony arrests within each category of violent, sex,

property, drug, and other offenses as well as the number of prior misdemeanor arrests. The total number of prior supervision violations was also controlled for in the analyses and was measured as a continuous variable.

Length of criminal career is measured as the number of months from the first arrest to the prison admission date of the release commitment. Prior recidivism is measured as the number of times inmates were previously released from Florida's prisons and subsequently convicted of a new offense resulting in a state prison commitment.

Descriptive Statistics

Table 1 shows the descriptive statistics of the variables in the study. A total of 182,929 cases were included, of which 66% were sentenced under the minimum 85% of sentence served law. The mean age was 33 years old and more than half of the releases were black offenders (55%). In addition, 6% of the cohort was Hispanic and males comprised 90% of the sample.

The security level at which the inmate was last housed before release indicates that more than half were released from minimum custody (54%), a third from medium custody (33%) and 14% from close custody. The offense categories associated with the release commitment consisted of violent (25%), sex (5%), property (30%), drug (30%), and other (10%) offenses. On average, offenders in this sample served 32.39 months in prison and 36% of the releasees had supervision following their incarceration. In addition, the cohort of released inmates had an average of 2.5 disciplinary infractions while incarcerated.

The highest average number of prior felony arrests was for property crimes (3.45), followed by drug (2.32), violent (1.45), other (.94) and sex (.14) offenses. Additionally, the sample had on average of 7.5 prior misdemeanor arrest charges and an average of two prior supervision violations. The length of criminal career averaged just over 9.13 years, while on average the cohort had 0.93 prior recidivism events.

Analytic Strategy

This study estimated multivariate models of the effect of the minimum 85% of sentence served law on recidivism, controlling for variables that have been shown to predict recidivism. The analysis addresses the question of whether there are meaningful and statistically significant differences in the recidivism rates between released inmates sentenced prior to the minimum 85% of sentence served law and those after the minimum 85% of sentence served law was enacted, holding constant factors known to affect the likelihood of recidivism.

Binary logistic regression is used to determine the effect of the independent variable, in particular, the minimum 85% of sentenced served law, on the likelihood of recidivism. A logistic regression model allows the researcher to establish a relationship between a binary outcome variable and a group of predictor variables (Allison, 1991; Bales & Mears, 2008; De Maris, 1992; Menard, 1995). In logistic regression, the coefficient measures the direction of the relationship between the variables studied and whether the effect of each variable in the model is statistically significant. Odds ratios indicate the likelihood of an occurrence relative to the likelihood of a nonoccurrence of the dependent variable (Pampel, 2000).

Table 1: Descriptive Statistics (N = 182,929)

	<u>Mean</u>	<u>S.D.</u>
<i>Dependent Variables</i>		
Reconviction, 1 Year (0=no, 1=yes)	.20	.40
Reconviction, 2 Years (0=no, 1=yes)	.31	.46
Reconviction, 3 Years (0=no, 1=yes)	.37	.48
Re-Imprisonment, 1 Year (0=no, 1=yes)	.17	.38
Re-Imprisonment, 2 Years (0=no, 1=yes)	.26	.44
Re-Imprisonment, 3 Years (0=no, 1=yes)	.30	.46
<i>Independent Variable</i>		
Sentenced Under 85% Law (0=no, 1=yes)	.66	.47
<i>Control Variables</i>		
Age at Release	33.28	9.66
Black, Non-Hispanic (0=no, 1=yes)	.55	.50
Hispanic, White or Black (0=no, 1=yes)	.06	.24
Male (0=no, 1=yes)	.90	.30
Custody at Release		
Close Custody (9=no, 1=yes)	.14	.34
Medium Custody (9=no, 1=yes)	.33	.47
Minimum Custody (9=no, 1=yes)	.54	.50
Primary Offense at Release Commitment		
Violent (0=no, 1=yes)	.25	.43
Sex (0=no, 1=yes)	.05	.21
Property (0=no, 1=yes)	.30	.46
Drug (0=no, 1=yes)	.30	.46
Other (0=no, 1=yes)	.10	.30
Total Number of Prior Misdemeanor Arrest Charges	7.52	8.23
Number of Prior Arrest Charges – 5 Groups		
Violent	1.45	1.87
Sex	.14	.49
Property	3.45	4.43
Drug	2.32	3.22
Other	.94	1.76
Prior Number of Supervision Violations	2.12	2.21
Number of Prior Recidivism Events	.93	1.36
Month in Prison	32.39	27.47
Number of Disciplinary Infractions While Incarcerated	2.58	5.82
Length of Criminal Career	9.13	7.34
Supervision Following Prison Release (9=no, 1=yes)	.36	.48

Multicollinearity Tests. Multicollinearity statistics (i.e., tolerance levels) were computed for each variable in determining the effectiveness of the minimum 85% of sentenced served law for reconviction and re-imprisonment across a three-year follow-up period. While there are no formal cutoffs researchers become concerned when the tolerance statistics falls below .40 (Allison, 1999: 89). The rule of thumb has been that high tolerance values indicate low multicollinearity, and low tolerance values indicate high multicollinearity (Allison, 1999:89). The tolerance statistics show that there is little concern for multicollinearity among the independent variables. The tolerance levels ranged from .487 to .943, with the majority of the variables well above .500.

Survival Analyses. Survival analysis was used to analyze the time-to-failure, specifically, Cox proportional-hazards regression (survival) analyses (Hosmer & Lemeshow, 1999). This statistical procedure is commonly used in recidivism studies (e.g., Bales & Mears 2008; DeJong, 1997; Maltz, 1994) to examine the effects of independent and control variables on the time to recidivism while controlling for other variables. The Cox proportional-hazards regression allows the researcher to measure the potential for an event to occur at a particular time, given that the event has not yet occurred (Kleinbaum, 1996) and how long it took for the event to occur (Spivak & Damphousse, 2006).

One of the advantages of the Cox proportional-hazards regression (survival) method is that it is semi-parametric, and thus more robust than other methods (Allison, 1995:112). The method produces coefficients and hazard ratios that allow for interpretations of the differences in recidivism for different predictor variables (Allison, 1995). The Cox proportional-hazards regression (survival) coefficient refers to the odds of an event happening over the entire time period studied, similar to a logistic regression coefficient. The survival or time-to-failure calculated in this study indicates if and when the offenders have been reconvicted and/or reincarcerated.

Analyses were conducted to examine the interaction effects for the research questions regarding possible differential effects of the minimum 85% sentenced served law on recidivism across different offender demographic characteristics, type of release offense, and prior criminal record. In addition, predicted probabilities were computed based on these models to provide a better empirical description of the effects of the minimum 85% of sentence served law on recidivism across categories of the variables of interest. Researchers have questioned the

interpretability of analyses that produce differential effects (Brambor, Clark, & Golder, 2006; Norton, Wang, & Ai, 2004; Bales & Mears, 2008). The problem is believed to lie with the interaction terms interpretation in that the standard error and coefficients may be misleading (Brambor, Clark, & Golder, 2006; Norton, Wang, & Ai, 2004). One technique to solve this issue has been to create predicted probabilities to assess whether such effects are statistically significant (Bales & Mears, 2008; Jaccard, 2001). This method generates predicted probabilities in which all continuous control variables are set to their means (King, Tomz, & Wittenberg, 2000). This method calculates predicted probabilities of the relative effect of the minimum 85% of sentenced served law on recidivism across categories of different variables, such as, age, gender, race, offense type and prior recidivism history.

CHAPTER 6

RESULTS

This chapter presents the results to four research questions regarding the effectiveness of the minimum 85% sentenced served law on the probability of recidivism among released inmates. The research questions posed previously specifically address whether the 85% law is effective at reducing recidivism and its impact across various offense types, demographic characteristics and prior criminal histories on recidivism. These analyses are salient for the following reasons. First, since its induction in October 1995, its effectiveness on recidivism rates has not been studied. Second, the differential impact of the 85% law has been largely ignored. As outlined below the 85% law has a greater impact on reducing recidivism rates for younger than older, males than females, and blacks than whites. Third, the study controlled for time served and still found that the 85% law was effect in reducing recidivism across various offense types, demographic characteristics and prior criminal histories. Lastly, with the continued growth in Florida's correctional system, policies that may impact the population should be researched to ensure they are having the intended impact and are not adding to the problem of an expanding system. This study will provide information to policy makers regarding the effectiveness of the 85% law on recidivism rates. In addition, correctional officials can use the information gained from this study to determine where to allocate scarce correctional resources.

Research Question 1: Effect of the Minimum 85% of Sentence Served Law on Recidivism

The first research question addressed in this study is whether the 85% law has an effect on the probability of recidivism among released inmates. Table 2 shows that among inmates sentenced under the 85% law, the odds of reconviction for a felony offense within one year after release were significantly less ($p < .001$). The odds of reconviction within one year were 6.8% lower among releases sentenced under the 85% law than those who were not subject to the law. The effect of the 85% law was even larger when the recidivism follow up period was two years after release and three years after release. Specifically, the odds of recidivism were 12% lower two years after release ($p < .001$) and 21% lower three years after release ($p < .001$) among inmates sentenced under the 85% law. Therefore, the 85% law has a greater effect in reducing the

likelihood of recidivism as the time from prison to release to the follow up date increases regardless of the time served on the current release commitment.

Table 3 presents findings of the effect of the 85% law on the probability of re-imprisonment among released inmates. Among offenders sentenced under the 85% law, the odds of re-imprisonment for a new felony offense are even greater than reconviction. The results indicate that the odds of re-imprisonment for those sentenced under the 85% law for a new felony offense within one year after release were 12.3% lower than the odds for those sentenced prior to the 85% law ($p < .001$). The odds of re-imprisonment decreases each year for those sentenced under the 85% law, 18.6% after two years and 26.9% after three years ($p < .001$). Collectively, these analyses indicate the 85% law does have a significant effect on reducing recidivism when measured by both reconviction and re-imprisonment.

In summary, the results of these analyses, shown in Tables 2 and 3, reveal that the measures of the effect of the 85% law were statistically significant ($p < .001$) and negative. Among offenders sentenced under the 85% law, the odds of recidivism for a new felony offense after release is consistently lower than the odds for those sentenced prior to the 85% law. The results in Tables 2 and 3 support the conclusion that the 85% law does reduce the likelihood of recidivism.

Further support for the 85% law and recidivism relationship was found when survival analysis was performed (Appendix). Survival analysis was used to test for significant differences in the timing of recidivism between offenders sentenced under the 85% law and sentenced prior to the law, while controlling for the offender's demographic characteristics, type of offense, prior arrest history, and institutional measures.

The results were statistically significant ($p < .001$) and negative, as was found in the logistic regression models. For a new felony offense the time to failure was lower for those sentenced under the 85% law than individuals sentenced prior to the 85% law. Based on reconviction for a new felony the time to failure was 12.4% lower for those sentenced under the 85% law than those sentenced prior to the 85% law. The re-imprisonment time to failure was almost 20% lower for a new felony for inmates sentenced under the 85% law.

Table 2: Logistic Regression of the Effect of 85% Law on Reconviction Within One, Two, and Three Years (N = 182,929)

	Year 1			Year 2			Year 3		
	Beta	Standard Error	Odds Ratio	Beta	Standard Error	Odds Ratio	Beta	Standard Error	Odds Ratio
Sentenced Under 85% Law	-.070***	.014	.932	-.128***	.013	.880	-.238***	.012	.788
Age At Release	-.044***	.001	.957	-.044***	.001	.957	-.044***	.001	.957
Male	.326***	.023	1.385	.294***	.019	1.341	.276***	.018	1.318
Black, Non-Hispanic	.179***	.015	1.196	.241***	.013	1.273	.277***	.012	1.319
Hispanic, White or Black	-.137***	.028	.872	-.126***	.025	.882	-.112***	.023	.894
Close Custody	.240***	.020	1.271	.214***	.018	1.239	.196***	.017	1.216
Medium Custody	.164***	.014	1.179	.134***	.013	1.143	.119***	.012	1.127
Release Offense-Violent	-.306***	.019	.737	-.291***	.017	.748	-.274***	.016	.760
Release Offense - Sex	-.634***	.049	.530	-.551***	.041	.576	-.526***	.038	.591
Release Offense -Drug	-.152***	.018	.859	-.131***	.016	.877	-.118***	.016	.889
Release Offense-Other	-.085***	.023	.918	-.063**	.020	.939	-.052**	.019	.949
Prior Misdemeanor Arrest Charges	.016***	.001	1.016	.018***	.001	1.018	.017***	.001	1.018
Prior Arrest - Violent	-.006	.004	.994	-.009**	.003	.991	-.004	.003	.996
Prior Arrest - Sex	-.025	.017	.975	-.035*	.015	.966	-.020	.014	.980
Prior Arrest - Property	.041***	.002	1.042	.042***	.001	1.043	.042***	.001	1.042
Prior Arrest - Drug	.040***	.002	1.041	.041***	.002	1.042	.043***	.002	1.044
Prior Arrest - Other	.017***	.003	1.017	.010***	.003	1.010	.007*	.003	1.007
Prior Number of Supervision Violations	.042***	.003	1.043	.044***	.003	1.045	.046***	.003	1.047
Number of Prior Recidivism Events	.204***	.005	1.226	.210***	.005	1.233	.218***	.005	1.244
Months in Prison	-.007***	.000	.994	-.007***	.000	.993	-.009***	.000	.991
Number of Disciplinary Infractions	.025***	.001	1.025	.028***	.001	1.028	.031***	.001	1.031
Length of Criminal Career	-.013***	.001	.987	-.012***	.001	.988	-.011***	.001	.989
Supervision Following Prison Release	-.240***	.014	.787	-.273***	.012	.761	-.262***	.011	.770
Intercept	-.605***	.039		.036	.033		-.414***	.032	
Model Chi-Square / df		.113			.137			.149	
Nagelkerke R-square									

*p < .05; **p < .01; ***p < .001

Note: Release Offense Property and Minimum Custody were the reference categories.

Table 3: Logistic Regression of the Effect of 85% Law on Re-Imprisonment Within One, Two, and Three Years (N = 182,929)

	Year 1			Year 2			Year 3		
	Beta	Standard Error	Odds Ratio	Beta	Standard Error	Odds Ratio	Beta	Standard Error	Odds Ratio
Sentenced Under 85% Law	-.131***	.015	.877	-.205***	.013	.814	-.314***	.013	.731
Age At Release	-.048***	.001	.953	-.047***	.001	.954	-.047***	.001	.954
Male	.475***	.026	1.607	.465***	.022	1.592	.447***	.020	1.564
Black, Non-Hispanic	.221***	.016	1.248	.284***	.014	1.329	.310***	.013	1.363
Hispanic, White or Black	-.168***	.031	.845	-.143***	.027	.867	-.140***	.025	.870
Close Custody	.296***	.020	1.344	.278***	.018	1.321	.272***	.018	1.313
Medium Custody	.199***	.015	1.220	.165***	.013	1.179	.158***	.013	1.171
Release Offense-Violent	-.329***	.020	.720	-.303***	.018	.739	-.290***	.017	.748
Release Offense - Sex	-.633***	.052	.531	-.541***	.043	.582	-.534***	.040	.586
Release Offense -Drug	-.176***	.019	.839	-.160***	.017	.852	-.146***	.017	.864
Release Offense-Other	-.143***	.024	.867	-.126***	.021	.882	-.121***	.021	.886
Prior Misdemeanor Arrest Charges	.017***	.001	1.017	.018***	.001	1.018	.017***	.001	1.017
Prior Arrest - Violent	-.006	.004	.994	-.006	.003	.994	-.001	.003	.999
Prior Arrest - Sex	-.014	.018	.986	-.020	.016	.981	-.008	.015	.992
Prior Arrest - Property	.042***	.002	1.043	.042***	.002	1.043	.041***	.001	1.042
Prior Arrest - Drug	.039***	.002	1.040	.039***	.002	1.040	.041***	.002	1.041
Prior Arrest - Other	.017***	.004	1.017	.010**	.003	1.010	.006	.003	1.006
Prior Number of Supervision Violations	.034***	.003	1.035	.033***	.003	1.034	.034***	.003	1.034
Number of Prior Recidivism Events	.245***	.006	1.278	.257***	.005	1.293	.271***	.005	1.311
Months in Prison	-.006***	.000	.994	-.006***	.000	.994	-.007***	.000	.993
Number of Disciplinary Infractions	.025***	.001	1.025	.027***	.001	1.027	.029***	.001	1.029
Length of Criminal Career	-.014***	.001	.986	-.013***	.001	.987	-.012***	.001	.988
Supervision Following Prison Release	-.136***	.015	.873	-.147***	.013	.863	-.118***	.012	.888
Intercept	-.898***	.042		-.380***	.036		-.077*	.034	
Model Chi-Square / df		.121			.142			.155	
Nagelkerke R-square									

*p < .05; **p < .01; ***p < .001

Note: Release Offense Property and Minimum Custody were the reference categories.

Research Question 2: Effect of the Minimum 85% of Sentence Served Law on Recidivism Across Offenses Types

The findings discussed thus far reveal that offenders sentenced under the 85% law have lower rates of recidivism than offenders sentenced prior to the 85% law, even when the offender's background characteristics, type of offense, prior arrest history, institutional measures and time served on the current release commitment are taken into consideration. To determine whether this conclusion applies to each of the five types of release offenses, a set of interactions between the type of offense and the 85% law were included in the models.

Table 4 provides mixed results concerning the second research question of whether there is an effect of the 85% law on reconviction within three years differs across the five release offense types. There was no interaction effect for violent, sex or other offenses. However, statistically significant interactions were found in Model 1 (property) and Model 4 (drug). The results indicate that having a property offense at release for those sentenced under the 85% law is associated with 7.5% greater odds of being reconvicted within three years of release. While having a drug offense at release for those sentenced under the 85% law is associated with 7.2% lower odds of being reconvicted within three years.

Consistent with the results presented in Table 4, the data shown in Figure 1 shows the differential effects of release offense types on recidivism for reconviction. The first set of bars shows the predicted probabilities for release offense type property compared to non-property release offense type. The 85% law is effective in reducing recidivism regardless of whether the individual was released for a property or non-property offense.

Among offenders released on a property offense, the probability of recidivism for those sentenced under the 85% law is 4% lower than among property offenders sentenced prior to the 85% law, and 6% lower among non-property offenders. Therefore, the effect of the 85% law on recidivism is somewhat greater for non-property offenders than property offenders.

Table 4: Logistic Regress of the Effect of the 85% Minimum Sentence Served Law on Reconviction Within Three Years for a New Felony Conviction on the Interaction with Release Offense Type (N = 182,929)

	Model 1: Property		Model 2: Violent		Model 3: Sex		Model 4: Drug		Model 5: Other	
	Beta	Odds Ratio	Beta	Odds Ratio	Beta	Odds Ratio	Beta	Odds Ratio	Beta	Odds Ratio
Sentenced Under 85% Law	-.264***	.768	-.228***	.796	-.242***	.785	-.217***	.805	-.242***	.785
Age At Release	-.044***	.957	-.044***	.796	-.044***	.957	-.044***	.957	-.044***	.957
Male	.276***	1.318	.276***	1.317	.276***	1.318	.277***	1.318	.276***	1.317
Black, Non-Hispanic	.276***	1.318	.277***	1.319	.277***	1.319	.277***	1.319	.277***	1.319
Hispanic, White or Black	-.113***	.894	-.112***	.895	-.112***	.894	-.113***	.893	-.112***	.894
Close Custody	.197***	1.217	.197***	1.218	.196***	1.216	.195***	1.215	.196***	1.217
Medium Custody	.120***	1.128	.121***	1.128	.120***	1.127	.119***	1.126	.120***	1.127
Release Offense-Violent	.256***	1.292	-.250***	.779	-.274***	.760	-.272***	.762	-.274***	.760
Release Offense-Property	.485***	1.624	-	-	-	-	-	-	-	-
Release Offenses-Sex	-	-	-.524***	.592	-.573***	.564	-.521***	.594	-.527***	.590
Release Offense -Drug	.417***	1.518	-.119***	.888	-.118***	.889	-.064**	.938	-.117***	.889
Release Offense-Other	.484***	1.622	-.054**	.948	-.052*	.950	-.055**	.947	-.089*	.915
Prior Misdemeanor Arrest Charges	.017***	1.018	.017***	1.018	.017***	1.018	.017***	1.018	.017***	1.018
Prior Arrest-Violent	.004	.996	-.004	.996	-.004	.996	-.004	.996	-.004	.996
Prior Arrest-Sex	-.020	.980	-.020	.980	-.020	.980	-.020	.980	-.020	.980
Prior Arrest-Property	.042***	1.042	.042***	1.042	.042***	1.042	.042***	1.042	.042***	1.042
Prior Arrest-Drug	.043***	1.044	.043***	1.044	.043***	1.044	.043***	1.044	.043***	1.044
Prior Arrest-Other	.007*	1.007	.007*	1.007	.007*	1.007	.007*	1.007	.007*	1.007
Prior Number of Supervision	.046***	1.047	.046***	1.047	.046***	1.047	.046***	1.047	.046***	1.047
Number of Recidivism Events	.218***	1.244	.218***	1.244	.218***	1.243	.218***	1.244	.218***	1.244
Months in Prison	-.009***	.991	-.009***	.991	-.009***	.991	-.009***	.991	-.009***	.991
Number of Disciplinary Infractions	.031***	1.031	.031***	1.031	.031***	1.031	.031***	1.031	.031***	1.031
Length of Criminal Career	-.011***	.989	-.011***	.989	-.011***	.989	-.011***	.989	-.011***	.989
Supervision Following Prison Release	-.262***	.770	-.261***	.770	-.262***	.769	-.263***	.769	-.262***	.770
Release Offense Property x 85% Law	.072**	1.075	-	-	-	-	-	-	-	-
Release Offense Violent x 85% Law	-	-	-.041	.959	-	-	-	-	-	-
Release Offense Sex x 85% Law	-	-	-	-	.106	1.112	-	-	-	-
Release Offense Drug x 85% Law	-	-	-	-	-	-	-.075**	.928	-	-
Release Offense Other x 85% Law	-	-	-	-	-	-	-	-	.047	1.048
Intercept	-.102*	-	.407***	-	.415***	-	.400***	-	.416***	-
Model Chi-Square / df	21132.13(24)***	-	21125.31(24)***	-	21125.57(24)***	-	21131.69(24)***	-	21123.84(24)***	-
Nagelkerke R-square	.149	-	.149	-	.149	-	.149	-	.149	-

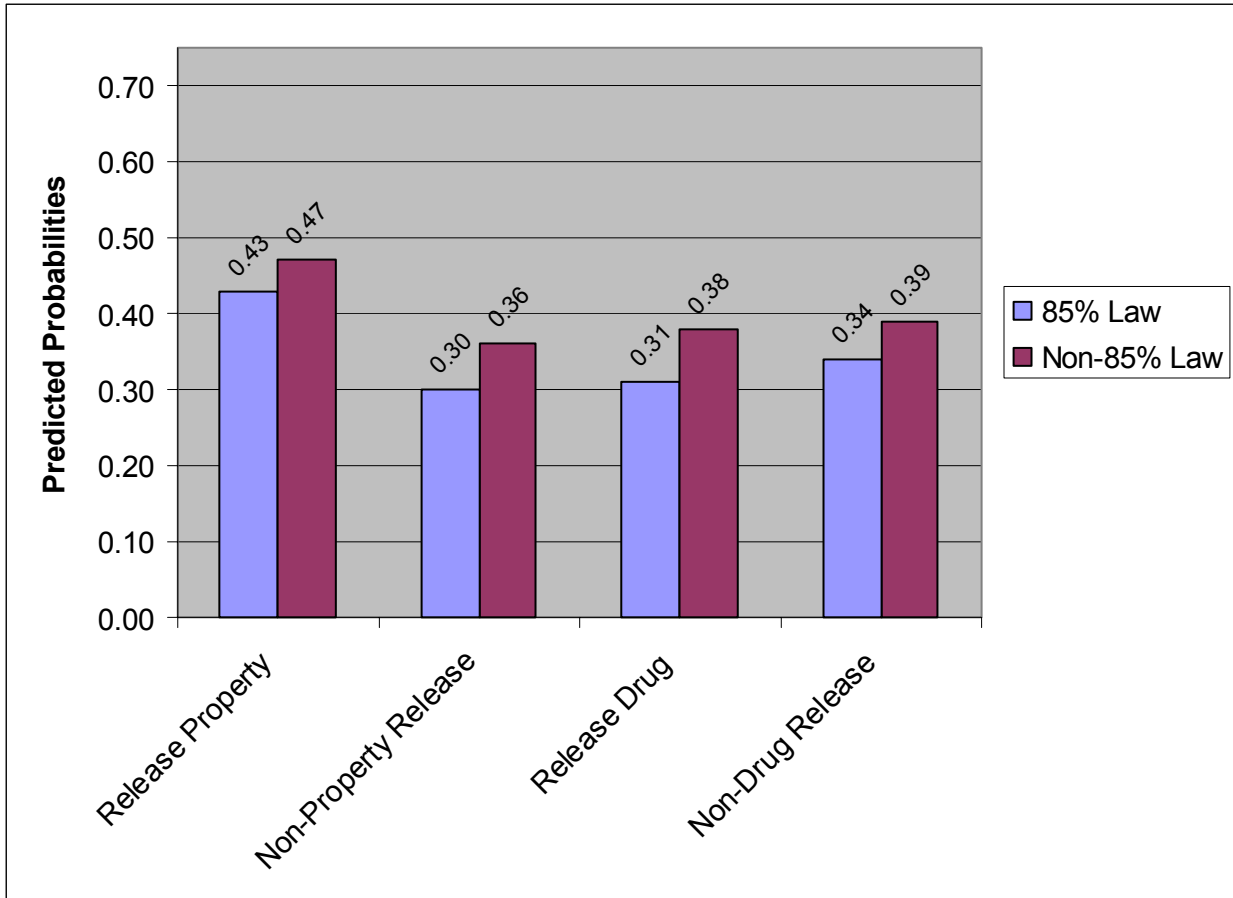


Figure 1: Effect of the Minimum 85% Sentence Served Law on Reconviction Within 3 Years for a New Felony Conviction by Release Offense Type

The second set of bars indicates that the 85% law exerts a somewhat greater effect on offenders released on a drug offense than non-drug offenses. The probability of recidivism among offenders released on a drug offense is 7% lower than among drug offenders sentenced prior to the 85% law, and 5% lower among non-drug offenders.

Table 5 provides additional results concerning the research question whether there is an effect of the 85% law on re-imprisonment within three years differs across the five release offense types. In contrast to reconviction within three years for a new felony conviction by release offense type, all of the coefficients of the effect of the 85% of law on re-imprisonment were statistically significant ($p < .05$), except for other offenses. Model 1 (property) and Model 3 (sex) release offense categories were positive and statistically significant, while Model 2 (violent) and Model 4 (drug) were negative and statistically significant.

These results indicate being imprisoned for a sex (16.7%) or property (7.9%) offense at release for those sentenced under the 85% law is associated with higher odds of being re-imprisoned within three years. While being imprisoned for a violent (5.6%) or drug (5.9%) offense at release for those sentenced under the 85% law is associated with a lower likelihood of being re-imprisoned within three years.

Figure 2 shows the differential effects of release offense types on re-imprisonment. The 85% law is effective in reducing recidivism regardless of the offense type an individual was released for, with the exception of the other offense category. Among offenders released on a violent offense, the probability of re-imprisonment for those sentenced under the 85% law is 7% lower than among violent offenders sentenced prior to the 85% law, and 6% lower among non-violent offenders. The results indicate that the 85% law exerts a quantifiable difference but the effect on offenders released on violent offenses compared with non-violent offenses is minimal (1%).

Among offenders released on a sex offense, the probability of re-imprisonment for those sentenced under the 85% law is 3% lower than among sex offenders sentenced prior to the 85% law, and 7% lower among non-sexual offenders. The effect of the 85% law on re-imprisonment is greater for non-sex offenders than for sex offenders (4%).

Table 5: Logistic Regression of the Effect of the 85% Minimum Sentence Served Law on Re-Imprisonment Within Three Years for a New Felony Conviction on the Interaction with Release Offense Type (N = 182,929)

	Model 1: Property		Model 2: Violent		Model 3: Sex		Model 4: Drug		Model 5: Other	
	Beta	Odds Ratio	Beta	Odds Ratio	Beta	Odds Ratio	Beta	Odds Ratio	Beta	Odds Ratio
Sentenced Under 85% Law	-.341***	.711	-.299***	.741	-.319***	.727	-.297***	.743	-.315***	.730
Age At Release	-.047***	.954	-.047***	.954	-.047***	.954	-.047***	.954	-.047***	.954
Male	.448***	1.565	.447***	1.563	.447***	1.564	.448***	1.565	.447***	1.564
Black, Non-Hispanic	.309***	1.362	.301***	1.362	.310***	1.363	.310***	1.363	.310***	1.363
Hispanic, White or Black	-.141***	.869	-.140***	.870	-.140***	.869	-.141***	.869	-.140***	.870
Close Custody	.273***	1.314	.274***	1.315	.272***	1.313	.272***	1.312	.272***	1.313
Medium Custody	.159***	1.173	.160***	1.173	.159***	1.172	.158***	1.171	.158***	1.172
Release Offense-Violent	.248***	1.281	-.258***	.773	-.290***	.748	-.288***	.750	-.290***	.748
Release Offense-Property	.492***	1.635	-	-	-	-	-	-	-	-
Release Offenses-Sex	-	-	-.531***	.588	-.600***	.549	.530***	.589	-.534***	.586
Release Offense -Drug	.397***	1.487	-.147***	.863	-.146***	.864	-.103***	.902	-.146***	.864
Release Offense-Other	.423***	1.527	-.123***	.884	-.120***	.887	-.123***	.884	-.134***	.875
Prior Misdemeanor Arrest Charges	.017***	1.017	.017***	1.017	.017***	1.017	.017***	1.017	.017***	1.017
Prior Arrest-Violent	-.000	.999	-.001	.999	-.001	.999	-.001	.999	-.001	.999
Prior Arrest-Sex	-.008	.993	-.008	.992	-.007	.993	-.007	.993	-.008	.992
Prior Arrest-Property	.041***	1.042	.041***	1.042	.041***	1.042	.041***	1.042	.041***	1.042
Prior Arrest-Drug	.041***	1.041	.041***	1.041	.041***	1.041	.041***	1.041	.041***	1.041
Prior Arrest-Other	.006	1.006	.006	1.006	.006	1.006	.006	1.006	.006	1.006
Prior Number of Supervision	.034***	1.034	.034***	1.034	.034***	1.034	.034***	1.034	.034***	1.034
Number of Recidivism Events	.271***	1.311	.271***	1.311	.270***	1.310	.271***	1.311	.271***	1.311
Months in Prison	-.007***	.993	-.007***	.993	-.007***	.993	-.007***	.993	-.007***	.993
Number of Disciplinary Infractions	.029***	1.029	.029***	1.029	.029***	1.029	.029***	1.029	.029***	1.029
Length of Criminal Career	-.012***	.988	-.012***	.988	-.012***	.988	-.012***	.988	-.012***	.988
Supervision Following Prison Release	-.118***	.888	-.118***	.889	-.119***	.888	-.119***	.888	-.118***	.888
Release Offense Property x 85% Law	.076**	1.079	-	-	-	-	-	-	-	-
Release Offense Violent x 85% Law	-	-	-.058*	.944	-	-	-	-	-	-
Release Offense Sex x 85% Law	-	-	-	-	.155*	1.167	-	-	-	-
Release Offense Drug x 85% Law	-	-	-	-	-	-	-.061*	.941	-	-
Release Offense Other x 85% Law	-	-	-	-	-	-	-	-	.017	1.017
Intercept	-.599***	-	-.058**	-	-.155*	-	-.088**	-	-.076*	-
Model Chi-Square / df	21198.20(24)***	-	21193.21(24)***	-	21193.89(24)***	-	21193.90(24)***	-	21188.58(24)***	-
Nagelkerke R-square	.155	-	.155	-	.155	-	.155	-	.155	-

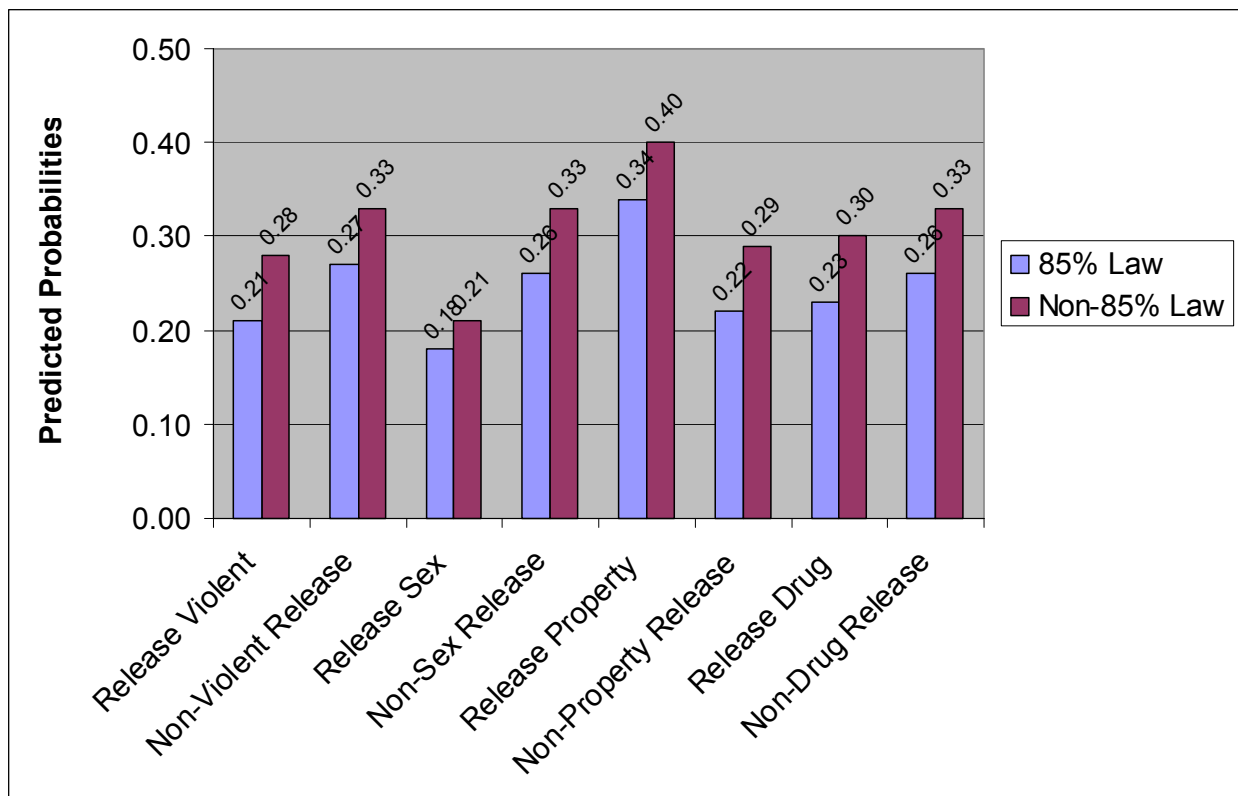


Figure 2: Effect of the Minimum 85% Sentence Served Law on Re-Imprisonment Within 3 Years for a New Felony Conviction by Release Offense Type

Among offenders released on a property offense, the probability of re-imprisonment for those sentenced under the 85% law is 6% lower than among property offenders sentenced prior to the 85% law, and 7% lower among non-property offenders. The results indicate that the 85% law exerts a minimal effect on offenders released for non-property offenses than property offenses (1%).

Among offenders released on a drug offense, the probability of re-imprisonment for those sentenced prior to the 85% law is 7% lower than among drug offenders sentenced prior to the 85% law, and 7% among non-drug offenders. These results indicate that the 85% law exerts the same effect on offenders released for drug offenses and non-drug offenses.

Research Question 3: Effect of the Minimum 85% of Sentence Served Law on Recidivism Across Demographic Groups

Table 6 provides the results concerning the third research question whether there are differential effects of the 85% law on reconviction within three years across various age, race, ethnicity or gender groups. Each variable indicates that the interaction term between gender ($p < .001$), and race ($p < .001$) and the 85% law were negative and statistically significant. The interaction terms for each variable between age ($p < .05$) and the 85% law was positive and statistically significant. However, the interaction term for Hispanic and the 85% law was negative but not significant.

The results indicate with an increase in age for individuals sentenced under the 85% law there is a 0.3% increase in the odds of being reconvicted each year after release ($p < .01$). While the odds of males sentenced under the 85% law were 17.4% ($p < .001$) less likely to be reconvicted within three years of release relative to females. Finally, the odds of blacks sentenced under the 85% law were 17.1% ($p < .001$) less for reconviction within three years of release relative to whites.

To further highlight the differential effects between the demographic variables, predicted probabilities were computed for age, race, ethnicity and gender on reconviction. Figure 3 shows the predicted probabilities of reconviction for increments of age at release. The 85% law is effective in reducing reconviction regardless of an individual's age at release and time served on the current release commitment. However, the 85% law has differential effects on the likelihood of recidivism across age categories. Specifically, among offenders age 20 at release, the odds of reconviction for those sentenced under the 85% law is 6% lower than among those sentenced prior to the 85% law. While among offenders age 40 at release, the probability of reconviction for those sentenced under the 85% law is 5% lower than among those sentenced prior to the 85% law. However, among offenders age 60 at release, the probability of reconviction for those sentenced under the 85% law is only 2% lower than among individuals age 60 at release sentenced prior to the 85% law. The results indicate that released inmates sentenced under the 85% law exert a greater effect on younger rather than older individuals.

Table 6: Logistic Regression of the Effect of the 85% Minimum Sentenced Served Law on Reconviction Within Three Years for a New Felony Conviction with Interaction Terms for Age, Race, Ethnicity and Gender (N = 182,929)

	Model 1: Age			Model 2: Race			Model 3: Hispanic			Model 4: Gender		
	Beta	Odds Ratio		Beta	Odds Ratio		Beta	Odds Ratio		Beta	Odds Ratio	
Sentenced Under 85% Law	-.328***	.721		-.130***	.878		-.234***	.792		-.064	.938	
Age At Release	-.046***	.955		-.044***	.957		-.044***	.957		-.044***	.957	
Male	.276***	1.317		.280***	1.323		.276***	1.317		.414***	1.512	
Black, Non-Hispanic	.277***	1.319		.401***	1.494		.277***	1.319		.278***	1.321	
Hispanic, White or Black	-.112***	.894		-.115***	.892		-.057	.944		-.111***	.895	
Close Custody	.196***	1.217		.198***	1.218		.196***	1.216		.194***	1.214	
Medium Custody	.120***	1.127		.121***	1.129		.119***	1.126		.119***	1.126	
Release Offense - Violent	-.275***	.759		-.277***	.758		-.274***	.760		-.274***	.760	
Release Offense - Sex	-.525***	.592		-.516***	.597		-.527***	.591		-.528***	.590	
Release Offense - Drug	-.116***	.890		-.119***	.888		-.118***	.889		-.118***	.889	
Release Offense - Other	-.052**	.949		-.057**	.945		-.052**	.949		-.051**	.950	
Prior Misdemeanor Arrest Charges	.017***	1.018		.017***	1.018		.017***	1.018		.017***	1.018	
Prior Arrest - Violent	-.004	.996		-.004	.996		-.004	.996		-.004	.996	
Prior Arrest - Sex	-.020	.981		-.020	.980		-.020	.980		-.020	.980	
Prior Arrest - Property	.042***	1.043		.042***	1.043		.042***	1.042		.042***	1.042	
Prior Arrest - Drug	.043***	1.044		.044***	1.045		.043***	1.044		.043***	1.044	
Prior Arrest - Other	.007*	1.007		.007*	1.007		.007*	1.007		.007*	1.007	
Prior Number of Supervision Violations	.046***	1.047		.046***	1.047		.046***	1.047		.046***	1.047	
Number of Prior Recidivism Events	.217***	1.242		.218***	1.243		.218***	1.244		.218***	1.244	
Months in Prison	-.009***	.991		-.009***	.991		-.009***	.991		-.009***	.991	
Number of Disciplinary Infractions	.030***	1.031		.031***	1.031		.031***	1.031		.031***	1.031	
Length of Criminal Career	-.011***	.989		-.011***	.989		-.011***	.989		-.011***	.989	
Supervision Following Prison Release	-.261***	.770		-.264***	.768		-.261***	.770		-.262***	.770	
Age At Release x 85% Law	.003*	1.003		-.187***	.829							
Black, Non-Hispanic x 85% Law							-.079	.925		-.192***	.826	
Hispanic, White or Black x 85% Law										.290***		
Male x 85% Law												
Intercept	.475***			.342***			.411***			.290***		
Model Chi-Square / df	21127.42 (24)***			21192.73 (24)***			21125.36 (24)***			21143.36 (24)***		
Nagelkerke R-square	.149			.149			.149			.149		

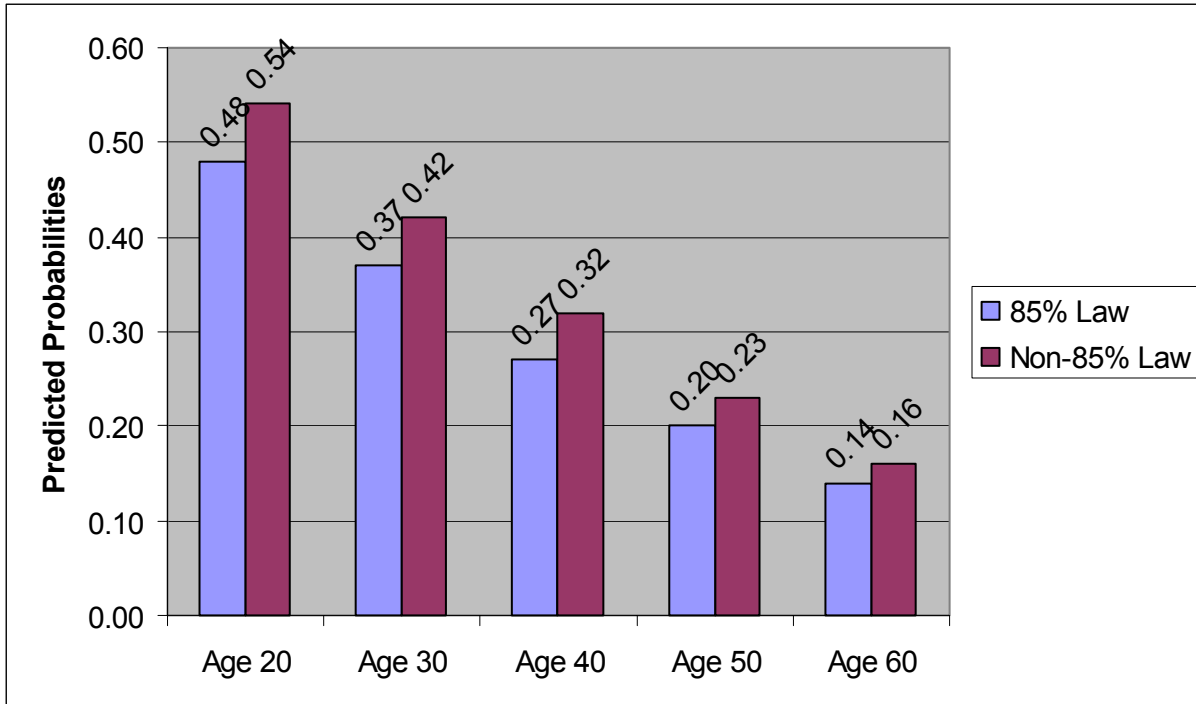


Figure 3: Effect of the Minimum 85% Sentence Served Law on Reconviction Within 3 Years for a New Felony Conviction by Age

Figure 4 shows the predicted probabilities for the effect of race, ethnicity and gender on reconviction within three years of release. The 85% law is effective in reducing recidivism regardless of an individual’s race, ethnicity, gender and time served. Among white offenders, the probability of recidivism for those sentenced under the 85% law is marginally lower (3%) than among white offenders sentenced prior to the 85% law. Blacks have a 7% lower probability of reconviction if sentenced under the 85% law. The results indicate that the 85% law exerts a greater effect on black offenders than whites.

For Hispanic offenders, the probability of reconviction for those sentenced under the 85% law is 7% lower than among Hispanics sentenced prior to the 85% law. The results indicate that the 85% law exerts the same effect on black offenders as Hispanic offenders.

Figure 4 also includes the predicted probabilities for the effect of the 85% law on reconviction for males versus females. The 85% law is effective in reducing reconviction regardless of an individual’s gender and time served on the current release commitment. However, the 85% law exerts less of an effect on females than males. Among male offenders, the

probability of reconviction for those sentenced under the 85% law is 6% lower than for males sentenced prior to the 85% law. Among female offenders, the probability of reconviction for those sentenced under the 85% law is only 1% lower than among female offenders sentenced prior to the 85% law.

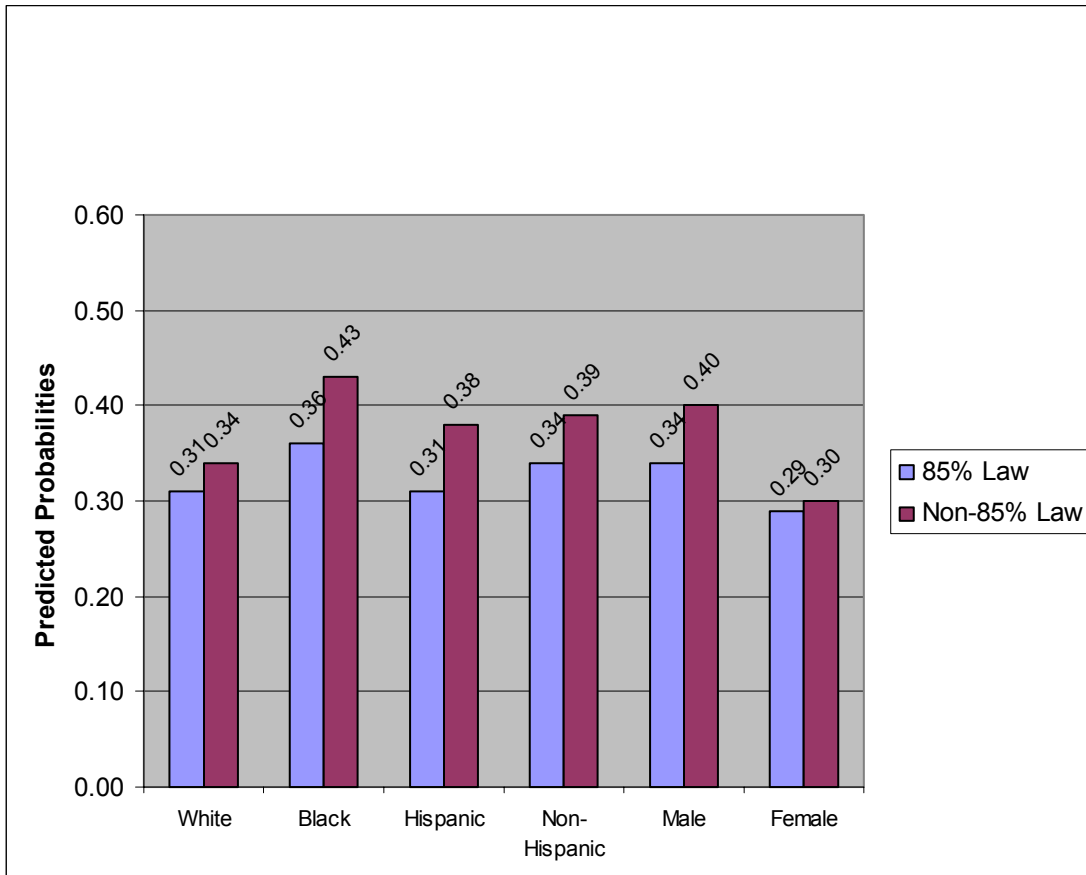


Figure 4: Effect of the Minimum 85% Sentence Served Law on Reconviction Within 3 Years for a New Felony Conviction by Race, Ethnicity and Gender

Table 7 provides the results concerning the question of whether there is an effect of the 85% law on re-imprisonment within three years across age, race, ethnicity or gender. The interaction terms for each variable between age ($p < .01$) and the 85% law was positive and statistically significant. The remaining variable indicates that the interaction terms between race ($p < .001$), Hispanic ($p < .05$) and gender ($p < .001$) and the 85% law were negative and statistically significant. The results indicate with an increase in age for individuals sentenced under the 85%

of law there is a 0.4% increase in the odds of being reconvicted each year after release ($p < .01$). While the odds of blacks sentenced under the 85% law were 17.8% ($p < .001$) less for re-imprisonment within three years of release relative to whites. The results also show that the odds of Hispanics sentenced under the 85% law were 11.6% ($p < .05$) less likely to be re-imprisoned within three years relative to non-Hispanics. Finally, the odds of males sentenced under the 85% law were 14.5% ($p < .001$) less likely to be re-imprisoned within three years of release relative to females.

Figure 5 shows the predicted probabilities of re-imprisonment for increments of age. The minimum 85% of sentence served law is effective in reducing re-imprisonment regardless of an individual's age and time served on the current release commitment. For example, among offenders age 20 at release, the probability of re-imprisonment for those sentenced under the 85% law is 7% lower than among those sentenced prior to the 85% law. While among offenders age 40 at release, the probability of re-imprisonment for those sentenced under the 85% law is 5% lower than among those sentenced prior to the 85% law. However, among offenders age 60 at release, the probability of re-imprisonment for those sentenced under the 85% law is only 2% lower than among individuals age 60 at release sentenced prior to the 85% law. As with reconviction, the results indicate that released inmates sentenced under the 85% law exerts a greater effect on younger rather than older individuals.

Figure 6 shows the predicted probabilities for the effect of race, ethnicity and gender on re-imprisonment within three years. As with reconviction, the 85% law is effective in reducing re-imprisonment regardless of an individual's race, ethnicity, gender and time served on the current release commitment. Among white offenders, the probability of re-imprisonment for those sentenced under the 85% law is marginally lower (4%) than among white offenders sentenced prior to the 85% law. Blacks have a 9% lower probability of re-imprisonment if sentenced under the 85% law. While Hispanic offenders have a 6% lower probability of re-imprisonment if sentenced under the 85% law. The results indicate that the 85% law exerts a 5% greater effect on black offenders than whites.

Table 7: Logistic Regression of the Effect of the Minimum 85% Sentenced Served Law on Re-Imprisonment Within Three Years for a New Felony Conviction with Interaction Terms for Age, Race, Ethnicity and Gender (N = 182,929)

	Model 1: Age		Model 2: Race		Model 3: Hispanic		Model 4: Gender	
	Beta	Odds Ratio	Beta	Odds Ratio	Beta	Odds Ratio	Beta	Odds Ratio
	Sentenced Under 85% Law	-.451***	.637	-.197***	0.822	-.307***	.736	-.169***
Age At Release	-.050***	.951	-.047***	0.954	-.047***	.954	-.047***	.954
Male	.447***	1.563	.452***	1.571	.447***	1.564	.558***	1.747
Black, Non-Hispanic	.310***	1.363	.437***	1.548	.310***	1.363	.311***	1.364
Hispanic, White or Black	-.140***	.870	-.143***	0.866	-.057	.945	-.139***	0.870
Close Custody	.273***	1.314	.274***	1.316	.272***	1.313	.271***	1.311
Medium Custody	.159***	1.172	.160***	1.174	.158***	1.171	.158***	1.171
Release Offense - Violent	-.292***	.747	-.293***	0.746	-.290***	.748	-.290***	.748
Release Offense - Sex	-.532***	.587	-.523***	0.593	-.534***	.586	-.535***	.585
Release Offense - Drug	-.144***	.866	-.147***	0.863	-.147***	.864	-.146***	.864
Release Offense - Other	-.121***	.886	-.126***	0.882	-.121***	.886	-.120***	.887
Prior Misdemeanor Arrest Charges	.017***	1.017	.017***	1.017	.017***	1.017	.017***	1.017
Prior Arrest - Violent	-.001	.999	-.001	.999	-.001	.999	-.001	.999
Prior Arrest - Sex	-.007	.993	-.007	.993	-.007	.993	-.008	.992
Prior Arrest - Property	.042***	1.043	.042***	1.042	.041***	1.042	.041***	1.042
Prior Arrest - Drug	.040***	1.041	.041***	1.042	.041***	1.041	.041***	1.041
Prior Arrest - Other	.006*	1.006	.006*	1.006	.006	1.006	.006	1.006
Prior Number of Supervision Violations	.033***	1.034	.033***	1.034	.034***	1.034	.034***	1.034
Number of Prior Recidivism Events	.269***	1.309	.270***	1.310	.271***	1.311	.271***	1.311
Months in Prison	-.007***	.993	-.007***	.993	-.007***	.993	-.007***	.993
Number of Disciplinary Infractions	.029***	1.029	.029***	1.029	.029***	1.029	.029***	1.029
Length of Criminal Career	-.012***	.988	-.012***	.988	-.012***	.988	-.012***	.988
Supervision Following Prison Release	-.118***	.889	-.121***	.886	-.118***	.889	-.119***	.888
Age At Release x 85% Law	.004**	1.004	-.196***	.822				
Black, Non-Hispanic x 85% Law					-.123*	.884	-.157***	.855
Hispanic, White or Black x 85% Law							.177***	
Male x 85% Law								
Intercept	.017		-.153***		.081*			
Model Chi-Square / df	21198.68 (24)***		21257.24 (24)***		21194.36 (24)***		21201.39 (24)***	
Nagelkerke R-square	.155		.155		.155		.155	

For Hispanic offenders, the probability of re-imprisonment for those sentenced under the minimum 85% of sentence served law is 6% lower than among Hispanics sentenced prior to the 85% law. However, the 85% law exerted a slightly greater effect on probability of re-imprisonment for non-Hispanic offenders (7%) when compared to Hispanic offenders.

Figure 6 also includes the predicted probabilities for the effect of the 85% law on re-imprisonment across males versus females. The 85% law is effective in reducing re-imprisonment regardless of an individual’s gender and time served on the current release commitment. The 85% law exerts less of an effect on females than males. Among male offenders, the probability of reconviction for those sentenced under the 85% law is 8% lower than males sentenced prior to the 85% law. Among female offenders, the probability of reconviction for those sentenced under the 85% law is 4% lower than among female offenders sentenced prior to the 85% law.

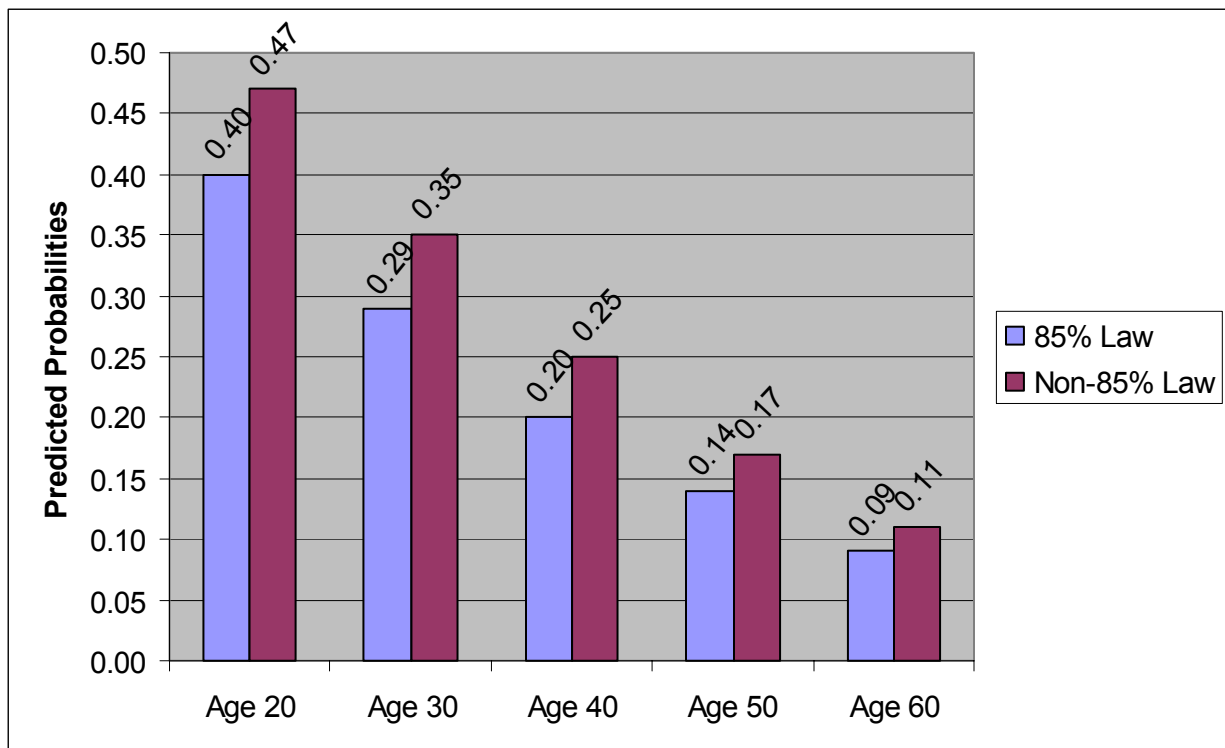


Figure 5: Effect of the Minimum 85% Sentence Served Law on Re-Imprisonment Within 3 Years for a New Felony Conviction by Age

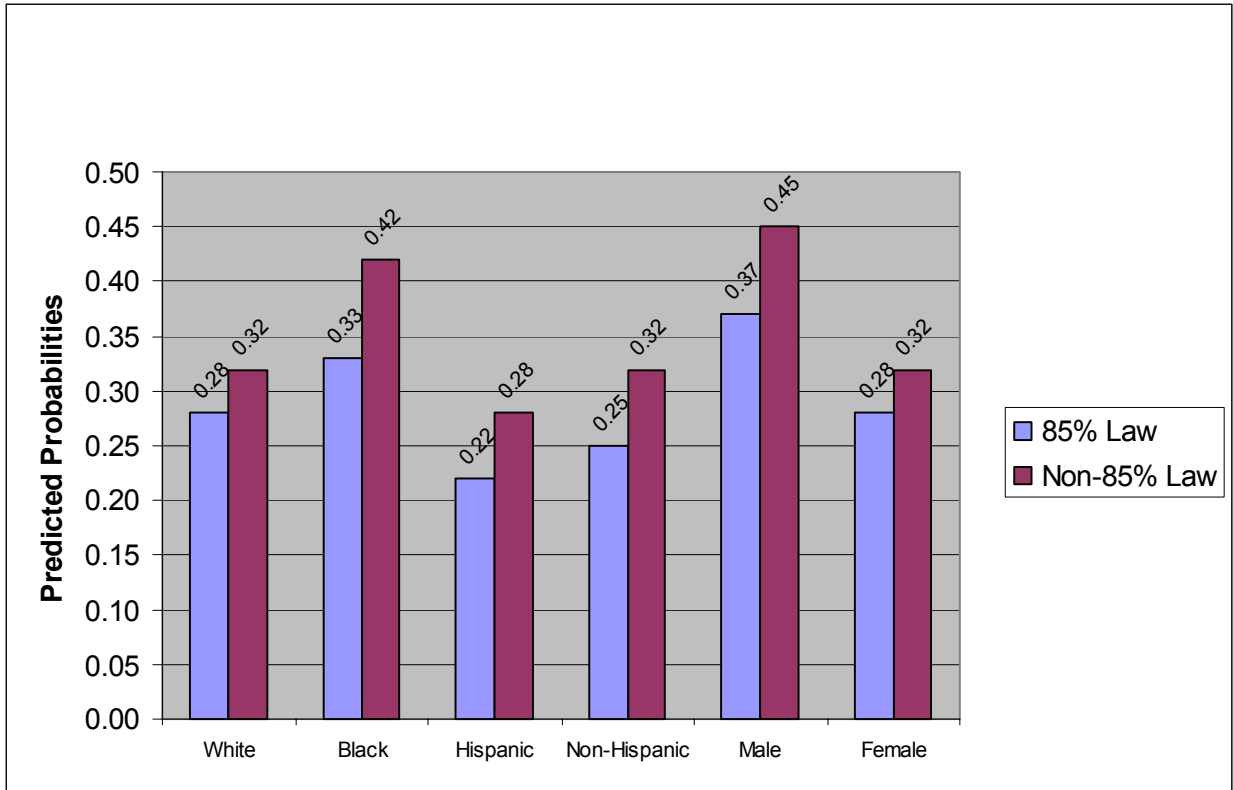


Figure 6: Effect of the Minimum 85% Sentence Served Law on Re-Imprisonment Within 3 Years for a New Felony Conviction by Race, Ethnicity and Gender

Research Question 4: Effect of the Minimum 85% of Sentence Served Law on Recidivism across Prior Criminal Records

Table 8 provides the results concerning the fourth research question whether there is an effect of the 85% of law on recidivism within three years across varying levels of prior criminal records. The interaction terms between the number of prior recidivism events ($p < .001$) and the 85% law were negative and statistically significant. The results in Model 1 (reconviction) indicate individuals sentenced under the 85% law and having a prior recidivism events were 5.6% less likely to be reconvicted within three years of release than those sentenced prior to the 85% law. While Model 2 (re-imprisonment) suggests that, individuals sentenced under the 85% law and having a prior recidivism events were only 3.6% less likely to be re-imprisoned within three years of release than those sentenced prior to the 85% law.

Table 8: Logistic Regression of the Effect of the 85% Minimum Sentenced Served Law on Reconviction and Re-Imprisonment Within Three Years for a New Felony Conviction with Interaction Terms for Prior Recidivism Event (N = 182,929)

	Model 1: Reconviction		Model 2: Re-Imprisonment	
	Beta	Odds Ratio	Beta	Odds Ratio
Sentenced Under 85% Law	-.170***	.844	-.252***	.777
Age At Release	-.044***	.957	-.047***	.954
Male	.279***	1.321	.451***	1.569
Black, Non-Hispanic	.273***	1.314	.304***	1.355
Hispanic, White or Black	-.110***	.896	-.138***	.872
Close Custody	.190***	1.210	.265***	1.304
Medium Custody	.116***	1.122	.153***	1.166
Release Offense-Violent	-.256***	.775	-.267***	.766
Release Offense - Sex	-.481***	.618	-.478***	.620
Release Offense -Drug	-.129***	.879	-.160***	.852
Release Offense-Other	-.062**	.939	-.135***	.874
Prior Misdemeanor Arrest Charges	.018***	1.018	.018***	1.018
Prior Arrest - Violent	-.007*	.993	-.005	.995
Prior Arrest - Sex	-.024	.977	-.013	.988
Prior Arrest - Property	.042***	1.042	.041***	1.042
Prior Arrest - Drug	.044***	1.045	.041***	1.042
Prior Arrest - Other	.006*	1.006	.005	1.005
Prior Number of Supervision Violations	.042***	1.043	.027***	1.028
Number of Prior Recidivism Events	.328***	1.388	.395***	1.484
Months in Prison	-.009***	.991	-.008***	.992
Number of Disciplinary Infractions	.031***	1.032	.030***	1.030
Length of Criminal Career	-.011***	.989	-.013***	.988
Supervision Following Prison Release	-.282***	.754	-.143***	.867
Prior Recidivism Events x 85% Law	-.058***	.944	-.037***	.964
Intercept	.362***		-.115***	
Model Chi-Square / df	21301.15(24)**		21528.24(24)***	
Nagelkerke R-square	.150		.157	

*p < .05; **p < .01; ***p < .001

Note: Release Offense Property and Minimum Custody were the reference categories.

Figure 7 shows the predicted probabilities for the effect of the 85% law on reconviction across prior recidivism events. The results support the conclusion that the 85% law exerts a greater influence among inmates with histories of incarceration and time served on the current release commitment. Among offenders with no prior recidivism events, those sentenced under the 85% law had a probability of recidivating 3% lower than that of those who were sentenced prior to the 85% law. Among offenders with one prior recidivism events, the 85% law had a probability of recidivating 5% lower than those sentenced prior to the 85% law. The more reconviction events an individual has the probability of recidivism for those sentenced under the 85% law decreases. For example, those with two recidivism events the probability of reconviction was 7% lower. Those with three recidivism events exerted an even greater influence (8%) on the probability of reconviction for a new felony offense within three years of release.

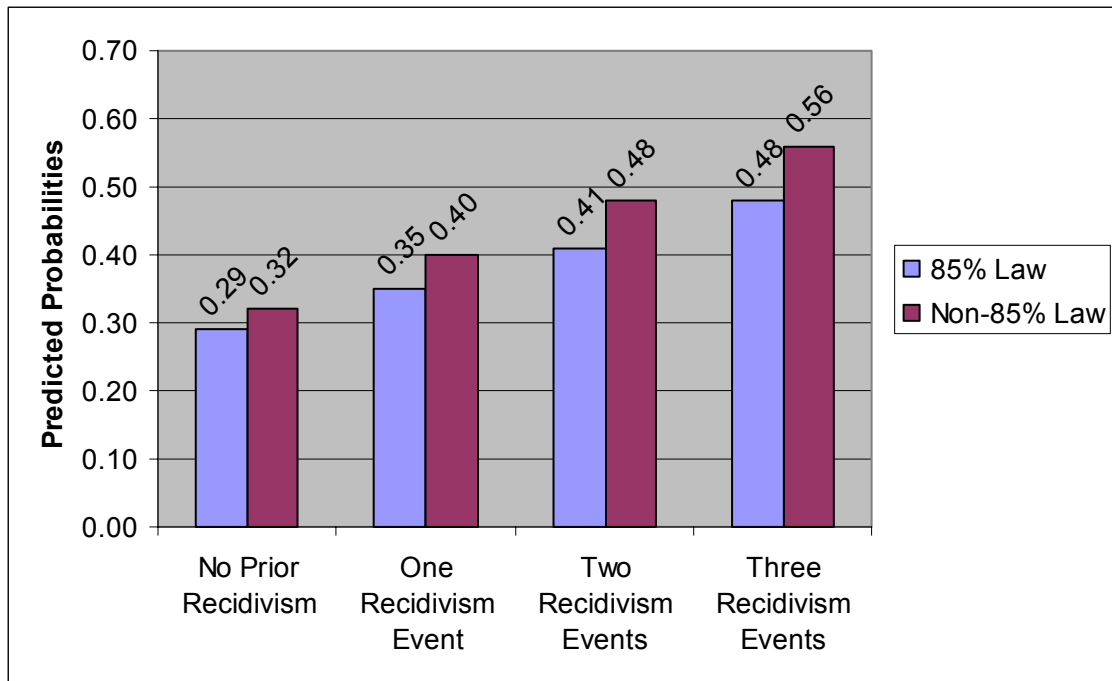


Figure 7: Effect of the Minimum 85% Sentence Served Law on Reconviction Within 3 Years for a New Felony Conviction by Prior Recidivism Event

Figure 8 shows the predicted probabilities for the effect of the 85% law on re-imprisonment across prior recidivism events. As with reconviction, the results indicate that the 85% law exerts a greater influence among inmates with histories of incarceration. Among offenders with no prior recidivism events, those sentenced under the 85% law had a probability of recidivating 5% lower than that of those who were sentenced prior to the 85% law. Among offenders with one prior recidivism events, the 85% law had a probability of recidivating 6% lower than those sentenced prior to the 85% law. The more re-imprisonment events an individual has the probability of recidivism for those sentenced under the 85% of law decreases. For example, those with two recidivism events the probability of re-imprisonment was 8% lower. Those with three recidivism events exerted an even greater influence (9%) on the probability of recidivism. Regardless of the number of prior recidivism events and time served on the current release commitment, the 85% of law was found to be effective in reducing the probability of reconviction and re-imprisonment for a new felony offense within three years of release.

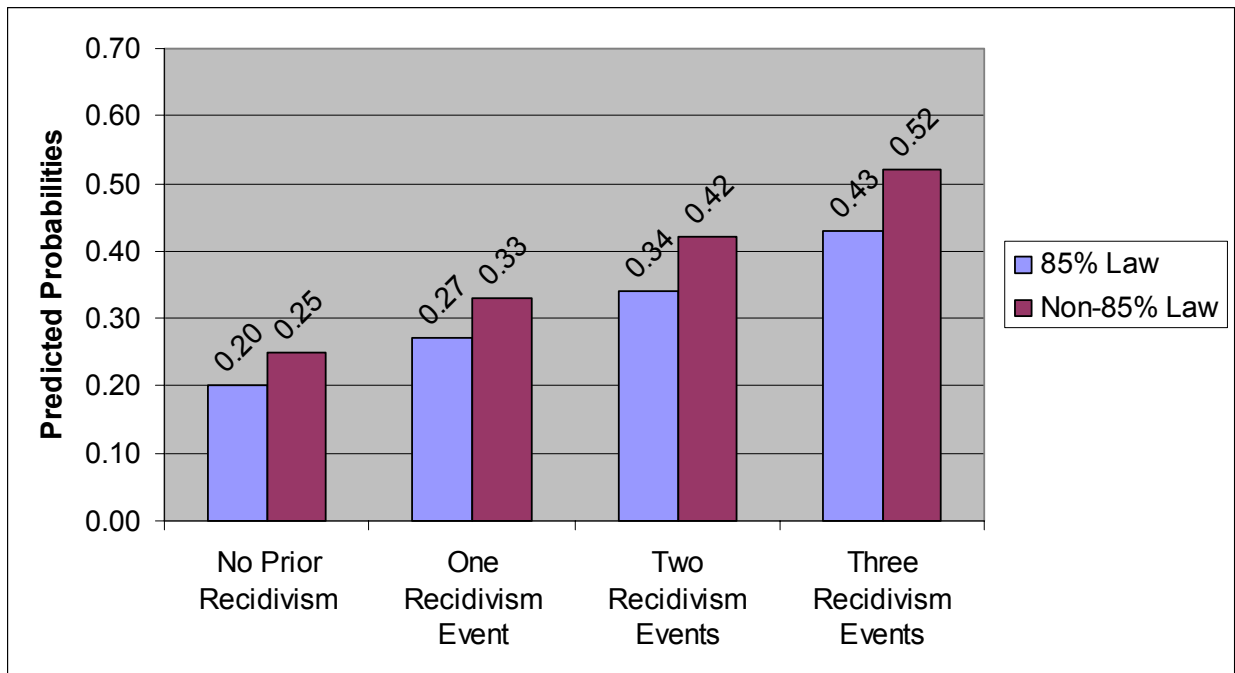


Figure 8: Effect of the 85% Minimum Sentence Served law on Re-Imprisonment Within 3 Years for a New Felony Conviction by Prior Recidivism Event

CHAPTER 7

CONCLUSION

This study aimed to test the effectiveness of the 85% law on recidivism among released inmates. Policymakers and the public view the 85% law as a way of ensuring criminals serve their sentences and in turn maintain public safety. However, the 85% law has received enthusiastic support despite the absence of empirical evidence that the law is effective in reducing recidivism. The effectiveness of the law was evaluated by comparing recidivism rates for offenders sentenced under the 85% law with those sentenced prior to the law. The findings indicate that the 85% law does significantly reduce the odds of recidivism among those sentenced under the law regardless of time served on the current release commitment. In addition, this study evaluated the differential effects of the 85% law on recidivism across varying age groups, racial and ethnic groups, offense categories, and levels of offenders' prior recidivism events. The major findings are that the effect of the 85% law on recidivism was statistically greater for younger than older offenders, males than females, blacks than whites and for those with more prior recidivism events regardless of time served.

Oftentimes, research published on recidivism is limited by an absence of multiple data sources, small sample sizes and the use of different operationalization of recidivism. The current study was designed to remedy some of those limitations allowing the results to translate into potential policy implications in Florida. Data from two statewide databases were integrated which enabled the matching of reconviction and re-imprisonment records, thereby strengthening the measurement of recidivism and the use of prior arrest as well as conviction histories as important control variables. The large sample provides the opportunity to examine the 85% law effectiveness on recidivism with sufficient statistical power to uncover both large and small effects. The significant number of cases in the dataset provided a unique opportunity to explore the outcome of recidivism in ways not typically possible. The large dataset allowed for better representation of the effectiveness of the 85% law on recidivism by studying cases over a 10-year period. The data collection ability of both FDLE and FDC provided the opportunity to match cases on multiple indicators ensuring accurate recidivism events. In addition, the research project was designed to remedy recidivism measurement limitations by controlling for many known predictors of recidivism.

By employing the use of both FDLE and FDC databases, the study derived 14 distinct control variables from more than 100 initial potential variables. The 14 control variables used in this study had low intercorrelations and significant and distinct impacts on recidivism likelihoods.

Another strength of this study includes the diversity, size, and ever-expanding penal system in Florida. Furthermore, Florida is the third largest state correctional system in the country. Given the variety of factors represented, the analytic findings are likely to lend great breadth and credibility to the interpretation of the concepts under study.

Major Findings

The first research question set out to determine if the 85% law had an effect on recidivism among released inmates. The findings presented here are clear. Sentencing offenders to serve at least 85% of the court-imposed sentence does reduce the probability of recidivism. This diverges from the conclusions of McGuire and Priestly (1995), who found that incarceration “has a net destructive effect, in that they serve primarily to worsen rates of recidivism” (p. 10). Instead, it appears from the results here that the 85% law significantly reduces the probability of recidivism when measured by reconviction and re-imprisonment for a new felony offense regardless of time served.

The second research question led to the examination of the effect of the 85% law on the probability of recidivism across various offenses. The effectiveness of the 85% law was evaluated based on the probability of recidivism for various offenses for which an offender was imprisoned. It was found that the 85% law reduces the likelihood of reconviction among drug offenders, while property offenders sentenced under the 85% law were more likely to recidivate. Further, the 85% law had an impact on reducing the likelihood of re-imprisonment for violent offenders but more likely to increase the odds of re-imprisonment for sex offenders.

Prior literature supports that released property offenders have higher recidivism rates than those released for violent, drug, or public-order offenses (Baumer, 1997; Langan & Levin, 2002). However, policy makers oftentimes make sweeping policies that affect all offenders equally (e.g., the minimum 85% sentenced served law) without knowing the impact it has on deterring offenders from recidivating. Hence, there does seem to be some deterrent effect for violent, drug and other offenders under the 85% law, depending on how recidivism is defined.

The third research question examined the effect of the 85% law across different demographic groups. When evaluating the effectiveness of the 85% law across different types of

offender demographic characteristics it was found that the effect of the 85% law on recidivism was statistically greater for younger than older offenders, males than females and blacks than whites regardless of time served on the current release commitment. However, the 85% law had an equivalent effect on recidivism for Hispanic's and non-Hispanics.

The last research question investigated the effect of the 85% law across groups of released inmates with varying levels of prior recidivism events. Specifically, the effect of the 85% law in reducing recidivism is greater for those with more prior recidivism events regardless of time served.

Contribution of Knowledge

During the past three decades there has been an ideological change in sentencing and punishment practices from the goal of rehabilitation through indeterminate sentencing for offenders incarcerated to one of longer and determinate sentences. This resulted in a substantial shift toward “truth-in-sentencing” punishment policies (Tonry, 1999). This paper focused upon one such policy and its effectiveness on reducing recidivism rates. Knowledge gained from these findings in Florida will advance the discussion of evaluating the effectiveness of punishment policies beyond one state.

The most important contribution of this study is that it is the only known study of its kind. The 85% law was enacted in October 1995 to ensure that all offenders sentenced to prison will serve the majority of their court imposed sentence. This policy suggested that truth-in-sentencing laws, like the 85% law, will lower the expected utility of offending and deter offenders from committing crimes after their release from prison. However, there has been a notable absence of studies that have assessed the precise outcomes of the 85% law. Examining recidivism levels in the years following the law's imposition allows for the analysis of its effectiveness and contributes to the sentencing and punishment policy field.

In addition, the findings presented in this study highlight a law in action that has fidelity. Study after study documents the failure of policies passed, the limited impact of ideals, like due process and rehabilitation, to work in the real world. Moral outrage at the failure of sentencing laws to contribute to real social improvement is unwarranted when it comes to the 85% law.

Second, the study addresses the assertions by critics that “get tough”, determinate sentencing policies are a dismal failure and are not grounded in empirical research (Austin & Irwin, 2001; Currie, 1998). Currie (1998) contends that there is “no evidence whatsoever” that

crime control policies that “have raced through our legislatures like wildfire” reduce crime (pg. 3). Currie continues by arguing that “we do not know how to use our criminal justice system for anything other than punishment” (p. 162). Yet, the results presented in this study lend empirical support that determinate sentencing and punishment policies has resulted in a significant reduction in the likelihood of offenders re-offending and returning to prison post-release regardless of time served on the current release commitment.

Important for the findings reported in this paper is recent research using the same dataset utilized in the current study but with different statistical procedures (i.e., propensity score matching) that provides compelling evidence about the various punishment policies in Florida (Bales, Gaes, Blomberg & Pate, forthcoming). The major findings were that the 85% law was not more punitive than determinate sentencing policies implemented in the past. Additionally, a comparison of recidivism outcomes between indeterminate and determinate sentences found that the 85% law is associated with significant reductions in the likelihood of recidivism regardless of time incarcerated. The current study not only examined the overall effectiveness of the 85% law on recidivism but expanded on the results from this forthcoming research to determine the effectiveness of the policy on different types of offenders.

The findings from this study also show that the 85% law differentially impacts various types of offenders. This is an important contribution because it answers the question of “For whom does the policy work best?” Too often the impact of a policy receives scant attention or ignored altogether. Without objective research, policy makers are unable to determine the acceptable return on the investment the state has made towards public safety. Specifically, the results reported in this paper can be used to inform policy makers on how the 85% law could be changed to reduce the reliance on determinate sentencing for certain offender types without impacting recidivism rates and saving scarce prison beds, thereby reducing the cost of the prison system. For example, the results support reducing the amount of time served for older inmates, those with longer histories of prior recidivism occurrences and drug offenders.

Theory and Logic Explanations

As cited by Nagin, Cullen, and Jonson (2009: 117-118), “the incarceration rate for state and federal inmates rose more than fivefold from 96 per 100,000 in 1970 to 501 at year-end 2006.” Counting those housed in jails, the nation's total incarceration rate surpassed 750 per 100,000 (Liptak, 2008). In absolute terms, the number of state and federal prison inmates jumped

from below 200,000 in 1970 to over 1.5 million in 2008. When those held in local jails and other secure facilities are added, the daily count exceeds 2.3 million (Sabol, Couture, and Harrison, 2007). This inexorable expansion was not confined to a few states but reflects a trend that, with some variation, occurred across all states and regions (Zimring and Hawkins, 1991).”

The increase in the prison population echoes a crime control policy premised in part on a theory of deterrence. Specifically, the assumption that sentencing offenders to longer periods of time will deter current and prospective offenders, leading eventually to a reduction in crime has been proposed (Skolnick, 1997). However, as numerous researchers have advocated, this assumption rests on the false premise that altering criminal sanctions will alter behavior (Irwin & Austin, 1997; Paternoster, 1991; Tonry, 1995). Despite the negative findings and cynical conclusions about the deterrent effect of punishment, many politicians argue that sentencing offenders to longer prison sentences will deter offender behavior, leading eventually to a reduction in crime.

While the present findings cannot be taken as directly testing any theoretical model, they do provide a basis for interpreting the findings. As developed by Jeremy Bentham (1948) and Cesare Beccaria (1963 [1764]), deterrence theory suggests that crime results from a rational calculation of the costs and benefits of criminal activity. Specific deterrence is said to occur when those who have been punished stop offending, commit less serious offenses, or offend at a lower rate because they fear future sanctions (Paternoster & Piquero, 1995). General deterrence occurs when potential offenders are made aware of the consequences of criminal involvement and decide not to risk possibly getting caught.

The concept of deterrence has commonly been used in theorizing about the efficacy of legal sanctions as a form of crime control. It implies a legal theory of crime control, that is, a statement about the impact of legal sanctions on the incidence of crime. In addition, deterrence theory presumably stems from the perceived threat or fear of punishment, not through some indirect process (Gibbs, 1975). Deterrence theory, therefore, focuses attention on state imposed legal sanctions in the form of physical and material deprivations (e.g., fines and incarceration). In the utility model (Becker, 1968), individuals are assumed to devise estimates or perceptions of the likelihood (i.e., certainty) of such sanctions and the magnitude (i.e., severity) of such sanctions should they be imposed. The resulting perceived threat of legal sanctions, conceptualized as the product of certainty and severity, is a cost factor in the expected utility of

committing a crime. This notion is important because if individuals are rational, severe punishments will have a greater deterrent effect when they are fairly certain to be imposed and will have no deterrent effect if the actor perceives that there is no probability of apprehension.

“It is seldom the case that correctional policies are based on well-articulated theoretical views, although it is a truism that all policies ultimately reflect someone’s theory of crime or the effects of criminal sanctions, however incoherent and unexamined that theory may be” (Smith & Akers, 1993: 273). As Kingdon (1984) explains, when a policy stream (i.e., problem, proposal, politics) converges a “policy window” opens in which an opportunity to advocate for change occurs. Policy proposals rise to prominence when they are associated with problems to which government officials pay serious attention. Many correctional policies tend to be the reaction to a crisis without clear theoretical underpinnings predicting what the outcome will result from the law (Smith & Akers, 1993; Waldo & Chircos, 1974; Vold & Bernard, 1986) and the 85% law is no exception. While examining the recidivism rates of individuals sentenced under the 85% law versus prior to the laws passage cannot be taken as a direct test of deterrence theory, the empirical findings can be taken as providing greater or lesser persuasiveness to such a law as a guide for correctional policy.

Incarceration is clearly based on the traditional tenants of deterrence principles. However, since the overall intent of the 85% law was to ensure offenders served the majority of their imposed sentence, it is a leap to assume that the grassroots organization that was instrumental in its passage were concerned about the laws effect on recidivism. Some version of deterrence theory may lie behind the enactment of the 85% law but there is little evidence that suggests recidivism reduction was the intended result. Whether some form of deterrence theory, or some other model, was the rationale for the law can only be derived by conjecture.

However, the findings from this study lend support that punishment certainty is what may explain the consistent impact of the 85% law on recidivism rates. Since the length of sentence and numerous known recidivism factors were controlled for, certainty of punishment may be explaining the findings. After serving 85% of their court imposed sentence some people may reason that the cost-benefit calculation of the consequence of doing another 85% of a sentence is too costly. Laub and Sampson (2003) point out, that greater certainty of incarceration for a specific time period could very well serve a deterrent function. Inmates released from prison after serving 85% of their court imposed sentence may well be deterred from future criminal

behavior for the simple reason of not wanting to return to prison and serve another 85% of a sentence, therefore reducing their likelihood of recidivism.

In addition, how incarceration is experienced by an offender can be quite varied for different offenders. For some, spending time incarcerated may impact their perception and the certainty of punishment (Dejong, 1997). For others, the incarceration event may result in a chance for bettering themselves (Dejong, 1997). While the results from this study support that the 85% law reduces recidivism, this may be due to the individual offender experiencing the impact of serving 85% of their court-imposed sentence and not wanting to experience incarceration again. While those sentenced prior to the 85% law have experienced a less severe sanction and are less likely to refrain from future criminal behavior than those experiencing a harsher sanction.

Another potential explanation for the effectiveness of the 85% law findings may be that after experiencing imprisonment under this determinate sentencing policy may increasingly erode the criminal desire. Cusson and Pinsonneault (1986) theorized that punishment may produce various reactions in the offender which could reduce the likelihood of committing another crime: 1) increased probability of punishment for a new crime; 2) increased difficulty in coping with imprisonment; 3) increased awareness of the weight of previous convictions on the severity of subsequent sentences; and 4) increased fear of punishment. Cusson and Pinsonneault propose that as the occurrence of punishment accumulates, offenders may slowly become unhappy with their way of life and decide to give up criminal activity.

As pointed out by Bales et al. (forthcoming), a possible reason for these findings may include the idea that under the 85% law an inmate's prison release date is known by corrections officials within a very small window of error. In contrast, the release dates of inmates sentenced prior to the 85% law could not be predicted with any degree of accuracy. Therefore, it is reasonable to expect that greater community transition success under the 85% law may result because of an enhanced ability of correctional officials and inmates to implement strategies that will result in better post-release success. This includes proper reentry planning, such as when to have inmates participate in certain program (i.e., closer to release more useful), what intensity of programming is needed (i.e., based on risk to recidivate assessments) and the duration of programs (i.e., best when three to six months in duration).

These findings could also be influenced by the fact that inmates incarcerated for 85% of their court imposed sentence have more time to complete institutional programs. Research suggests programs can have an impact on reducing recidivism if they combine a variety of components such as education, vocational training, life skills, substance abuse and cognitive behavioral principles (Andrews et. al, 1990; Lipsey, 1992; Redondo, Sanchez-Meca, & Garredo, 1999). Exposure to these programs may result in increased post-release success by countering the forces of imprisonment and reinforcing law-abiding norms, not to mention selective knowledge attainment.

Policy Implications

The importance of the 85% laws impact on recidivism is directly relevant to decisions made in correctional sentencing and policies. Policymakers adopt reforms designed to increase the severity of sentences and thus to enhance the deterrent effect of punishment. This includes sentencing guidelines based on the seriousness of the offense and an offender's prior criminal history, mandatory minimum sentences, truth in sentencing laws, and three strikes and you're out legislation (Tonry, 1996). To date, policymakers' emphasis on incarceration for reducing crime has been premised, largely, on theories about its influence in incapacitating current offenders and deterring would be offenders. Support for the incarceration reduces crime thesis is largely based on the incapacitation effect principle, which simply states that criminals who commit crimes cannot do so from prison or jail (Greenwood, & Abrahamse, 1982; Kraska, 2004; Moore et al., 1984). The 85% law is in essence an "incapacitation" law, which keeps offenders in prison for the majority of their court-imposed sentence. The question is whether these sentencing policies produce the predicted reduction in criminal behavior. While not necessarily the intent of the law, the findings presented here indicate that the 85% law reduces recidivism regardless of time served on the current release commitment. However, caution should be taken when interpreting the results.

As measured in this study by a significant reduction in reconviction and re-imprisonment, the overall goal of public safety has been met for those sentenced under the 85% law. However, it has not been determined what it is about the policy that reduces the likelihood of recidivism. "Opinions are divided between those advocating longer sentences in the interest of public safety, and those advocating shorter sentences with the assumption that incarceration will not reduce recidivism rates" (Song & Lieb, 1993: 2). However, the present study controlled for the length of

time served and still found that the effect of the 85% law reduces recidivism. These findings suggest that states contemplating a move towards a more determinate sentencing and punishment strategy will not necessarily experience increased prison populations and the associated increase in correctional expenditures. Bales, et. al. (forthcoming) found that the implementation of determinate sentencing policies, like the 85% law, could result in a decrease in recidivism rates even though the punitiveness and cost of incarceration remained essentially the same.

The findings presented in this study provide a basis for suggesting a rethinking of the universal application of the 85% law to all offenders. The differential effects presented in this study suggest policymakers could change sentencing and punishment policies to those it has the biggest impact (i.e., age 20 to 40 year olds, those with few prior recidivism occurrences, and drug or violent offenses). These changes could, in turn, decrease the incarcerated population and reduce recidivism.

As pointed out in this study, the direction and impact of the 85% law on recidivism may be influenced by offender characteristics such as age, offense type, and prior recidivism events. It is possible that for some types of offenders, there is an optimum length of sentence which minimizes recidivism. Research clearly supports these findings which show that as an individual ages they are less likely to continue with a life of crime. Specifically, it was found that the largest impact of the 85% law was on those 20 to 40 years of age. Beck and Shipley (1989), Langan and Levin (2002), and Schmidt and Witte (1989) found age to be negatively associated with the likelihood of returning to prison. The predictive strength of prior recidivism events on future criminal behavior is also well established. Gottfredson and Gottfredson (1986) summarize their meta-analysis saying that they “know of no study in which a measure of criminal history did not emerge as significantly associated with the outcome criterion” (p. 240). In addition, offense types are strongly predictive of recidivism, with property offender more likely to recidivate than any others (Beck & Shipley, 1989; Washington State, 2000).

The current findings also allow policymakers to see for whom the law is most effective and possibly reduce the percentage of time served for certain individuals. This would potentially reduce the growing impact on the prison system while maintaining public safety. In addition, due to Florida’s large and expanding population and universal application of the 85% law, other states considering transforming their sentencing and punishment policies can utilize these findings to determine who best to apply the 85% law to.

While this study has found the 85% law to be effective in reducing recidivism it does not imply that other efforts known to reduce recidivism through evidence based practices should be ignored. The evidence from research over the last two decades is clear and compelling. Several evidence-based principles have been identified as effectively reducing recidivism. The most effective interventions, assess actuarial risk/needs of the offender, are cognitive behavioral, enhance intrinsic motivation, apply target interventions using the Risk-Need-Responsivity principles, increase positive reinforcement and enhance pro-social connections (Andrews, 2007). Agencies interested in reducing the likelihood that offenders will commit future crime must be mindful of the research on the principles of effective interventions.

Future Research

While the present research provides a comprehensive study of the effectiveness of the 85% law on recidivism, there remains much to be done in studying the impact of such a law. The frequent call for additional research is obviously in order. First, some insight into the theoretical underpinnings of the 85% law should be addressed. This could be done by examining the legislation, inquiries with policymakers about their intent of such a law, interviewing parties involved in its passage, and determining the rationale implied by the implementation of the 85% law. Kingdon (1984) supports this by stressing that interviews with government officials and policy elites should be more closely examined to describe the process by which officials and interest groups pursue passage of policy agendas.

In an era of economic struggles and tight budgets, the cost-effectiveness of sentencing and punishment policies needs to be assessed in light of limited taxpayer dollars. The nation's prison population is growing exponentially and the fiscal crisis has compounded the issues faced by prison systems, including Florida. However, the nature and breadth of the challenges faced in each state are unique. For example, on June 30, 2009 (most recent data available), Florida housed 100,894 inmates (D. Ensley, personal communication, February 1, 2010) at a cost of over \$2 billion. This is based on the cost of \$20,272 per year to house an inmate (E. Cantral, personal communication, February 1, 2010). It has been speculated in Florida that if the prison population was reduced by 10% it would equate to a cost avoidance of approximately \$191 million in operational and construction costs (P. Denmark, personal communication, January 22, 2009). These numbers highlight the economic costs of incarceration. It would be useful to know what impact the 85% law may have on prison costs for the state of Florida. Does it make financial

sense to continue to incarcerate all inmates for 85% of their court imposed sentence? Findings from this type of study, along with the results presented here, could provide policymakers with the knowledge necessary to change sentencing policies without harming public safety.

Additional recidivism research should be conducted that will take an in-depth look at the impact the 85% law has on Florida's crime rates. The effectiveness of the 85% law in maintaining public safety has not been addressed in any study to date. The recidivism rate of convicted offenders is an important contributor to the amount of crime, but it is not the sole factor. Crime rates are affected by many factors including demographic changes, economic conditions and law enforcement policies. Is it possible that the findings in the current study were influenced by these factors? Or is it possible that the escalation of punishment policies and incapacitation has little or no impact on crime rates (Irwin & Austin, 1994).

In addition, the stated goals and objectives of such a policy remain questionable. Future studies should consider including focus groups and follow-up interviews with ex-offenders to determine their impressions of such a law on their behavior. Why does the 85% law appear to impact post-release behavior? The goal of focus groups would be to explore the ingredients for success as perceived by the ex-offenders, and to seek their advice as to ways policymakers and the correctional system could better support reentry and reintegration of inmates returning to their communities.

Lastly, the research presented here is based on the synopsis of one state, Florida. Future research should include other states to determine if the findings presented here can be replicated. Research by other states that have similar sentencing and punishment policies may determine if the outcomes are consistent with those found in Florida.

In short, the findings of this study suggest that the 85% law does reduce the odds of recidivism. These results indicate that critics of this crime control approach are incorrect and that determinant punishment policies do have a deductive impact on recidivism rates. The question, now, becomes whether a different approach should be taken with how sentencing policies are applied. While there is no clear consensus on how to prevent recidivism, there is agreement that we should explore ways to more efficiently mete out justice. Researchers, along with policy makers, must balance the need to reduce crime and protect public safety with appropriate and effective punishment measures. Further research should be conducted to determine the full potential of the 85% law.

APPENDIX A

SURVIVAL ANALYSIS OF THE EFFECT OF THE 85% LAW

Survival Analysis of the Effect of the Minimum 85% Sentenced Served Law on Months from Release to Re-Offense for a New Felony Conviction (or to the Follow-Up Date of April 30, 2007) (N = 182,929)

	Model 1:		Model 2:	
	<u>Reconviction</u>		<u>Re-Imprisonment</u>	
	Beta	Standard Error	Beta	Standard Error
Sentenced Under 85% Law				
Age At Release	-.132***	.008	-.220***	.009
Male	-.037***	.001	-.041***	.001
Black, Non-Hispanic	.197***	.013	.362***	.016
Hispanic, White or Black	.248***	.008	.283***	.009
Close Custody	-.072***	.165	-.112***	.019
Medium Custody	.147***	.011	.226***	.012
Release Offense-Violent	.010***	.008	.140***	.009
Release Offense - Sex	-.197***	.011	-.228***	.012
Release Offense -Drug	-.378***	.026	-.407***	.293
Release Offense-Other	-.078***	.010	-.104***	.012
Prior Misdemeanor Arrest Charges	-.028*	.013	-.089***	.015
Prior Arrest - Violent	.010***	.000	.010***	.000
Prior Arrest - Sex	-.005*	.002	-.002	.002
Prior Arrest - Property	-.142	.010	-.001	.011
Prior Arrest - Drug	.027***	.001	.028***	.001
Prior Arrest - Other	.029***	.001	.028***	.001
Prior Number of Supervision Violations	.011***	.002	.011***	.002
Number of Prior Recidivism Events	.044***	.002	.035***	.002
Months in Prison	.155***	.003	.202***	.003
Disciplinary Infractions While Incarcerated	-.006***	.000	-.005***	.000
Length of Criminal Career	.017***	.001	.017***	.001
Supervision Following Prison Release	-.004***	.001	-.004***	.001
Model Chi-Square / df	-.152***	.008	-.047***	.009
- 2 Log L	25353.66(23)***		24424.51(23)***	
	2009353.0		1578211.6	

APPENDIX B
HUMAN SUBJECTS APPROVAL

-----Original Message-----

From: Human Subjects <humansubjects@magnet.fsu.edu>

To: kpendtable@aol.com

Cc: tblomber@fsu.edu

Sent: Thu, Sep 10, 2009 4:46 pm

Subject: Use of Human Subjects in Research - Approval Memorandum

Office of the Vice President For Research
Human Subjects Committee
Tallahassee, Florida 32306-2742
(850) 644-8673 • FAX (850) 644-4392

RE-APPROVAL MEMORANDUM

Date: 9/10/2009

To: Kerensa Pate

Address: 423 Brooke Hampton Drive
Dept.: CRIMINOLOGY AND CRIMINAL JUSTICE

From: Thomas L. Jacobson, Chair

Re: Re-approval of Use of Human subjects in Research
Florida's Truth in Sentencing Effectiveness on Recidivism Rates

Your request to continue the research project listed above involving human subjects has been approved by the Human Subjects Committee. If your project has not been completed by 9/8/2010, you are must request renewed approval by the Committee.

If you submitted a proposed consent form with your renewal request, the approved stamped consent form is attached to this re-approval notice. Only the stamped version of the consent form may be used in recruiting of research subjects. You are reminded that any change in protocol for this project must be reviewed and approved by the Committee prior to implementation of the proposed change in the protocol. A protocol change/amendment form is required to be submitted for approval by the Committee. In addition, federal regulations require that the Principal Investigator promptly report in writing, any unanticipated problems or adverse events involving risks to research subjects or others.

By copy of this memorandum, the Chair of your department and/or your major professor are reminded of their responsibility for being informed concerning research projects involving human

subjects in their department. They are advised to review the protocols as often as necessary to insure that the project is being conducted in compliance with our institution and with DHHS regulations.

Cc: Thomas Blomberg, Dean
HSC No. 2009.3166

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