Analysis of Washington State Earned Time Study

By Howard Rodstein, Policy Analyst
Crime Victims United
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The study (http://www.wsipp.wa.gov/pub.asp?docid=09-04-1201) from the Washington State Institute for Public Policy (WSIPP) found that increasing earned time to 50 percent for certain offenders led to a 3.5 percent reduction in recidivism by releasing offenders on average 63 days early. They also found that this led to an estimate 4.7 additional property crimes per offender. WSIPP concluded that the benefits of the decreased recidivism outweighed the costs of the additional crime. This conclusion rests on some complex statistical adjustments. The need for these adjustments leaves me with some doubt about the conclusion.

As the study says in page 3:

> *"In an ideal research setting, offenders would be randomly assigned to either a study or a comparison group and any differences in recidivism rates could be readily observed."*

Lacking the clarity afforded by a randomized controlled trial, the Washington study had to fall back on a series of complex statistical adjustments which leave the study resting on a series of assumptions.

In a randomized controlled trial, you know that the treatment group and the comparison group are in fact comparable because any differences cancel out due to random assigment from a common pool of subjects. In the WSIPP study, the treatment group (the 5990 group as they call it) and the comparison group were released and followed during different periods of time: January 2001 through June 2003 for the comparison group versus July 2003 through July 2004 for the 5990 group.

The study acknowledges (page 5, paragraph 2) that the first attempt to identify a comparison group revealed that "the comparison group had some significantly higher risk factors for recidivism". So the study authors used additional statistical techniques to try to cancel out the differences between the groups by accounting for factors that made them different.

But were they successful in canceling out all of these factors? Here are some factors that they may have failed to account for.

1. WSIPP has been prominent in touting the benefits of "evidence-based practices" (EBPs) which have been employed in increasing levels and presumably with increasing quality over some number of years. The 5990 group, being incarcerated and released roughly two years after the comparison group, presumably benefited from improved EBPs. It is plausible that these improved EBPs are responsible for the decrease in recidivism, not the early release program. If this conjecture is wrong then either EPBs don't work or the number and quality of EPBs did not improve despite considerable promotion during this period.

2. The 5990 group was selected using two filters:

A. They had to pass 5990 eligibility based on criminal history.

B. They had to show good behavior while incarcerated.

It is not clear from the study that the second filter was applied to the comparison group. If it was not then this is a significant difference between the groups and invalidates the finding.

3. Migration to Washington from far-away places (e.g., California, Mexico) has increased over the years. It is possible that a larger percentage of the 5990 group had ties to other places and left Washington. This would account for fewer convictions and therefore a lower recidivism rate.

4. There may be other factors that make the periods different. For example, 2002-2003 was a tough time for state budgets. (In Oregon, courts were closed and in some places prosecutors stopped charging some crimes.) Differences in criminal justice practices may account for the difference in recidivism rates.

Can we be sure that the WSIPP study accounted for all factors? There is room for doubt.

WSIPP used various offender matching techniques to create three additional comparison groups beyond the original comparison group that they identified. Exhibit 2 on page 6 shows that better matching of offenders ("Risk variable matched groups") shows a smaller difference in recidivism that poorer matching ("SRA matched groups"). This can be explained by canceling out factors that distinguish the two groups. The study gives no reason to believe that they successfully canceled out all factors. You have to wonder what would happen to the difference in recidivism if they did.

The study lists on page 3 those crimes which got offenders excluded from 5990. It would be useful to see a list of those crimes which got offenders included and the percentage of participants by crime. One has to wonder if some of these people would be incarcerated at all in Oregon.

Page 4, paragraph 1 explains how offender criminal history was assessed. The assessment does not account for crimes committed outside the United States.

Page 6, paragraph 3 says:

> *"We used regression analyses to adjust for observed differences that exist between study groups. Controlling for these differences enables us to calculate adjusted recidivism rates within three years of release from prison."*

I'm not sure what this means but it does not fill me with confidence. Footnote 17 on that page is does not help.

Exhibit 2 on page 6 shows a total (felony and misdemeanor) recidivism rate around 50% for both the 5990 group and the comparison group. These are quite high rates of recidivism.

Certainly there were many more crimes that were committed but were not detected or not reported or did not result in an arrest or a conviction.

The Oregon DOC claims a felony recidivism rate in the low 30 percent. Exibit 2 shows felony recidivism rates around 40 percent. This suggests that the Washington offenders were more prolific and therefore probably lower-level on average than Oregon's prison population.

Page 8, paragraph 3 says that WSIPP estimates that Washington incurred 4.7 additional property crimes for each offender. It is not clear whether this is 4.7 additional property crimes per offender per year or per offender in the three-year followup period.

In either case, this raises a big question that is not answered by the study: Did Washington wind up with more or less crime because of 5990?

On page 9 the study shows costs and benefits in dollar terms. It is puzzling that WSIPP broke benefits out into categories but lumped costs together. It is good to quantify victim costs but for state budgeting purposes it would also be useful to specify the cost/benefit ratio to the state only.

The study does not propose any explanation of why more earned time would cause lower recidivism. One possibility is that prisons are "schools for crime". If that is the case, we could reach minimum recidivism by increasing earned time to 100% and broadening the program to cover all offenders.

If prison is a "school for crime", you have to wonder if 5990 is creating one of those "schools without walls" where the professors take the message out to the streets.