

BJS fuels myths about sex offense recidivism, contradicting its own new data

A new government report reinforces harmful misconceptions about people convicted of sex offenses. Here's our take on how to parse the data.

by Wendy Sawyer, June 6, 2019

By now, most people who pay any attention to criminal justice reform know better than to label people convicted of drug offenses “drug offenders,” a dehumanizing label that presumes that these individuals will be criminals for life. But we continue to label people “sex offenders” – implying that people convicted of sex offenses are somehow different.

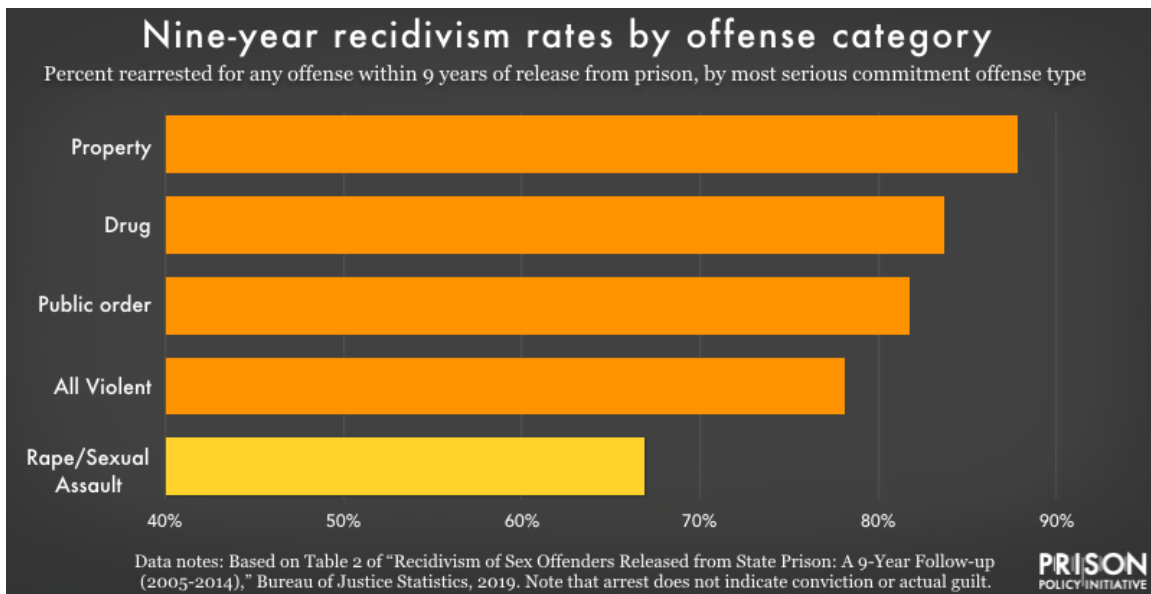
A new report released by the Bureau of Justice Statistics should put an end to this misconception: The report, Recidivism of Sex Offenders Released from State Prison: A 9-Year Follow-Up (2005-2014), shows that people convicted of sex offenses are actually much less likely than people convicted of other offenses to be rearrested or to go back to prison.

But you wouldn't know this by looking at the report's press release and certain parts of the report itself, which reinforce inaccurate and harmful depictions of people convicted of sex offenses as uniquely dangerous career criminals.

The press release and report both emphasize what appears to be the central finding: “Released sex offenders were three times as likely as other released prisoners to be re-arrested for a sex offense.” That was the headline of the press release. The report itself re-states this finding *three different ways*, using similar mathematical comparisons, in a single paragraph.

Unfortunately, this BJS report is a good example of how our perception of sex offenses is distorted by alarmist framing, which in turn contributes to bad policy.

What the report doesn't say is that the same comparisons can be made for the other offense categories: People released from sentences for homicide were more than twice as likely to be rearrested for a homicide; those who served sentences for robbery were more than twice as likely to be rearrested for robbery; and those who served time for assault, property crimes, or drug offenses were also more likely (by 1.3-1.4 times) to be rearrested for similar offenses. And with the exception of homicide, those who served sentences for these other offense types were *much more likely* to be rearrested at all.



The new BJS report, unfortunately, is a good example of how our perception of sex offenses is distorted by alarmist framing, which in turn contributes to bad policy. That this publication was a priority for BJS at all is revealing: this is the only offense category out of all of the offenders included in the recidivism study to which BJS has devoted an entire 35-page report, even though this group makes up just 5% of the release cohort. This might make sense if it was published in an effort to dispel some myths about this population, but that's not what's happening here.

Every piece on recidivism should come with a warning label

Any time we talk about recidivism, it's important to understand that recidivism data – which is so essential to the idea of a permanent “sex offender” – is categorically flawed. “Recidivism” suggests a relapse in behavior that leads to a return to criminal offending. As in the BJS study, this is often measured by post-release arrests (rearrest), but arrest does not suggest conviction or even actual guilt; of all recidivism measures, rearrest casts the widest net.² Usually, these measures also don't account for *what* the post-release offense is, even though common sense tells us that a post-release arrest for a liquor law violation is very different than an arrest for another sex offense. Better measures to indicate a return to criminal behavior might be reconviction or receiving a new prison sentence, but most jurisdictions don't track all of these indicators, and certainly not with much detail.³ Finally, timeframes matter, since rearrest is much more likely soon after release, and the longer people go without reoffending, the lower their risk of ever doing so. This BJS report offers a remarkably long look-back period, but such a long period also risks correlating criminal behaviors that stem from unrelated motivations or circumstances.

For more on the myriad problems with recidivism data, see:

- Recidivism Reconsidered: Preserving the Community Justice Mission of Community Corrections by Jeffrey A. Butts and Vincent Schiraldi (2018)
- Following Incarceration, Most Released Offenders Never Return to Prison by Rhodes et al. (2014). Author William Rhodes' summary of "Following Incarceration" can also be found on the London School of Economics' USAPP American Politics and Policy blog.
- The Misleading Math of 'Recidivism' by Dana Goldstein for the Marshall Project (2014)

Framing aside, the recidivism data presented in the BJS report can offer helpful perspective on the risks posed by people after release. Whether measured as rearrest, reconviction, or return to prison, BJS found that people whose most serious commitment offense was rape or sexual assault were much less likely to reoffend after release than those who served time for other offense types. The BJS report shows that within 9 years after release:

- Less than 67% of those who served time for rape or sexual assault were rearrested for any offense, making rearrest 20% less likely for this group than all other offense categories combined (84%). Only those who served time for homicide had a lower rate of rearrest (60%).
- People who served sentences for sex offenses were much less likely to be rearrested for another sex offense (7.7%) than for a property (24%), drug (18.5%), or public order (59%) offense (a category which includes probation and parole violations).
- Only half of those who served sentences for rape or sexual assault had a new arrest that led to a conviction (for any offense), compared to 69% of everyone released in 2005 (in the 29 states with data).

While the data was more limited on returns to prison,¹ the study found that within 5 years after release, people who had served sentences for rape or sexual assault also had a lower return-to-prison rate (40%) compared to the overall rate for all offense types combined (55%). BJS notes that some of these returns to prison were likely for parole or probation violations, but because of data limitations, it is impossible to say how many were for new offenses, much less how many were for rape or sexual assault.

In sum, the BJS data show that people who served time for sex offenses had markedly lower recidivism rates than almost any other group. Yet the data continue to be framed in misleading ways that make it harder to rethink the various harmful and ineffective punishments imposed on people convicted of sex offenses.

The recidivism data suggest that current legal responses to people convicted of sex offenses are less about managing risk than maximizing punishment. The desire for retribution is understandable; unquestionably, rape and sexual assault inflict serious and

lasting trauma. But our criminal justice system does a poor job of providing survivors of rape, sexual assault, and other violent crimes what they really want. In a 2016 survey of crime survivors, the Alliance for Safety and Justice found that, “Survivors of violent crime — including victims of the most serious crimes such as rape or murder of a family member — widely support reducing incarceration to invest in prevention and rehabilitation and strongly believe that prison does more harm than good.” But more prison time is the default response: those released after serving sentences for rape and sexual assault served longer sentences, with a median sentence of 5 years (compared to 3 years for all others combined) and over a quarter serving 10 years or more before release.

And for many people convicted of sex offenses, confinement doesn’t end when their prison sentence does. Twenty states continue to impose indefinite periods of involuntary confinement under civil commitment laws – *after* individuals have completed a sentence (or, in some cases, before they are even convicted). Proponents justify the practice as “treatment,” but conditions of civil commitment are punitive and prison-like, and this confinement is hard to justify with the recidivism data we have. The likelihood of post-release arrest for another rape or sexual assault for this group is less than 2% in the first year out of prison, and after 9 years, less than 8% have been rearrested for a similar offense. Those who are released at age 40 or older are even less likely to be rearrested for another sex offense, with re-arrest rates about half those of people who are released at age 24 or younger.

After prison, a number of other special restrictions make reentry especially challenging for those who have served sentences for sex offenses, including registration, public notification, and restrictions to residence and employment. A current proposal suggests banning them from using New York City mass transit. (Even before release, some restrictions make it difficult for some people to leave prison when they would otherwise be paroled.) But these restrictions tend to cause more problems than they solve. Residence restrictions in particular have contributed to homelessness and other problems in cities where they leave little room for returning citizens. According to a 2015 U.S. Department of Justice brief, “residence restrictions may actually increase offender risk by undermining offender stability and the ability of the offender to obtain housing, work, and family support.”

In another recent academic article, Hanson et al. agree that these additional restrictions are “justified on the grounds of public protection,” even though the underlying assumptions may be wrong: “Individuals are targeted because policy-makers believe they are likely to do it again. This is a testable assumption, and, as it turns out, not entirely true.” Their analysis shows that individual recidivism risk varies widely, can be low enough to be indistinguishable from that of people convicted of non-sex offenses, and drops predictably over time. The data published by BJS track with those findings.

Collectively, the research seems fairly clear: our responses to people convicted of sex offenses do not reflect the actual – generally low – risks they present. Instead of panicking about the small portion who reoffend after release, it’s time we talk more rationally about responses that effectively support desistance from crime – and serve the


actual needs of victims of violence.

Footnotes

1. Only 23 states could provide the necessary data for the 5-year follow-up period, and only 17 could do so for the entire time frame. The BJS report only includes return-to-prison rates for the first 5 years after release in the 23 states with the necessary data. ↩
2. Conversely, it also only captures those behaviors that are caught by police. People who break laws after release but are never arrested would not be captured in recidivism data at all. Police presence and enforcement are therefore factors that affect recidivism statistics, as are prosecutorial decisions (for conviction rates) and sentencing policies and practices (for incarceration rates). ↩
3. While the BJS study compares overall rates of conviction and returns to prison by most serious commitment offense, only the rearrest data allows us to compare post-release offenses by most serious commitment offense. ↩


Wendy Sawyer is the Prison Policy Initiative Research Director. ([Other articles](#) | [Full bio](#) | [Contact](#))

4 responses:

1.  [Derek Logue of OnceFallen.com](#) says:
[June 6, 2019 at 2:23 pm](#)

This is a good analysis. One has to ask why the DoJ report not only leaves the actual numbers off the report in favor of using percentages as well as why they bury the fact the conviction rates are only half of the rearrest rate.

It seems like people simply cannot believe the reoffense rates are so low and so they must accentuate everything that confirms their personal biases. Perhaps that is why victim advocates love to stress the myth of widespread underreporting.

2.  [Will Bassler](#) says:
[June 6, 2019 at 11:59 pm](#)

In an article that will be published tomorrow morning on the SOSEN website we addressed this very issue but not only that we point out the fact that this in tire fiasco is based on two things first of all it's rearrest records and in this country nobody is considered guilty until after they've been convicted the media learned this after many lawsuits that you don't assume a person is guilty until after they've been convicted. For the study apart for and actually found a hard number giving average yearly conviction rate for people with prior sexual conviction of 4/10 of one percent and the highest conviction rate was during the second year of release and 8/10 of one percent. Secondly if you want to compare prisoners released from prison the on nonsexual convicted group that was released during this time. Was

5.6 times more likely to be involved in a New Sex Crime than people with prior sexual conviction.

If you're interested take a look at the article its title is "A limited study done by the Department of Justice still proves that registrants have the lowest re-offense rate." And it will be published on our site SOSEN.org June 7

3.  *EdC* says:

June 11, 2019 at 10:41 pm

It is important to note that for the purpose of the BJS study, "sex offenders" are defined as those convicted of rape or sexual assault. The 7.7% statistic applies to that cohort, which is a small subset of all those convicted of sex crimes. Since the term sex offender commonly refers to the entire group, a casual reader could easily ascribe the 7.7% rate to all offenders. Overall, the sexual recidivism rate is well below 5%, perhaps as low as 2-3%.

4.  *Zoe Wyse* says:

January 14, 2020 at 1:32 am

I think it's great that you are talking about these issues and challenging common assumptions. We should make decisions in the criminal justice system based on what the evidence supports. I also agree with you that thinking about the needs of victims does not necessarily mean that a long period of incarceration is the way to help victims heal.

Particularly in cases where the victim is raped by a family member as a young child, there are many complicated ramifications of incarcerating that person that may in some cases inflict even more harm on the victim. I am in no way saying that this is always the case, as in other cases, removing a child from a dangerous parent or other family member is absolutely essential. However, in other cases, depriving a child who has been raped of perhaps the only family member who can financially support the family and a person who is quite possibly very loved may create further harm. Stigmatizing these acts to the point where people feel that someone who has done this kind of action is a horrible monster may only further silence the victim, who feels they cannot speak about what has happened to them for fear of damaging the reputation of the person who has hurt them.

I have also known people who have worked very hard to have their day in court and speak about what has happened to them, only to be demeaned and humiliated because they don't seem credible. This kind of process inflicts further harm on the victim. These kinds of humiliating attitudes towards victims in court do not serve anyone. People should at the very least be treated respectfully as they tell their story, whatever the ultimate outcome of the legal case. Those I have known who have dealt with this want to be acknowledged and have accountability, not to inflict

harsh punishment.

These issues are very complicated and accountability is so important to honoring victims. But we should have no “throwaway” people in our society. We should recognize the possibility of change and redemption when it is possible. Connecting people who have committed harmful acts with the appropriate therapies and treatments also reinforces that we believe even people with habitual problematic behaviors can change.

These acts can cause so much trauma and enduring pain for victims that they should be taken very seriously. When it is needed to protect public safety, long periods of incarceration may be warranted in some cases. But each case should be evaluated individually, on its merits, with the best evidence and data also taken into account. And no person, no matter how horrible the actions they have committed, should be seen as a monster. Hating some people in our society does not honor victims.

Thank you for having the courage to take on an issue that is often difficult for people to talk about. It is important to have respectful dialogue in our society about all of these issues, no matter how challenging and painful, so that we can move more and more towards humane, effective ways of creating safety and accountability while also being fair and responsible rather than vindictive.

Sarah Johnson
Sanford
LD 1113

Testimony in support of LD 1113 to the Committee on Judiciary
April 2, 2025

Senator Carney, Representative Kuhn, and distinguished members of the Committee:
My name is Sarah Johnson and I am a resident of Sanford.
I am writing in support of LD 1113, An Act Regarding Fairness in Sentencing for
Persons Under 26 Years of Age.

For your consideration I am attaching a June 2019 Prison Policy Initiative Briefing:
BJS fuels myths about sex offense recidivism, contradicting its own new data.

I hope you will review this data on the low recidivism rates of people released after
having been convicted of sex offenses. In summary: “A new report released by the
Bureau of Justice Statistics should put an end to this misconception: The report,
Recidivism of Sex Offenders Released from State Prison: A 9-Year Follow-Up
(2005-2014), shows that people convicted of sex offenses are actually much less
likely than people convicted of other offenses to be rearrested or to go back to
prison.”

I hope you will support LD 1113.
Thank you for your time and consideration.

Sarah Johnson
Sanford, Maine.

[https://www.prisonpolicy.org/blog/2019/06/06/sexoffenses/#:~:text=Less%20than%2067%%20of%20those%20who%20served,had%20a%20lower%20rate%20of%20rearrest%20\(60%\)](https://www.prisonpolicy.org/blog/2019/06/06/sexoffenses/#:~:text=Less%20than%2067%%20of%20those%20who%20served,had%20a%20lower%20rate%20of%20rearrest%20(60%))