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# **IMPACT OF THE SENTENCING REFORM ACT**

**Report No. 87-2**

111432

NCJRS

MAY 1988

ACQUISITIONS

A Report to the  
**WASHINGTON STATE LEGISLATURE**  
January, 1987

APPENDIX V

ROXANNE PARK  
Executive Officer



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STATE OF WASHINGTON

SENTENCING GUIDELINES COMMISSION

3400 Capitol Blvd., Mail Stop QE-13 • Olympia, Washington 98504-6513 • (206) 753-3084 • (SCAN) 234-3084

January 5, 1986

Ms. Cheryle A. Broom  
Legislative Auditor  
Legislative Budget Committee  
506 East 16th  
Mail Stop KD-11  
Olympia, Washington 98504

Dear Ms. Broom:

Thank you for sending me a copy of the preliminary report on the Impact of the Sentencing Reform Act.

One finding concerned the Sentencing Guidelines Commission, recommending that this agency examine whether alternative sentences are being used to the extent that they appropriately could, and if not, the reasons why.

The Commission's computerized information system includes data on which offenders are eligible for alternative sentences and whether alternatives are imposed; thus, this data is easily retrieved.

Collecting data on the reasons for not imposing an alternative sentence is slightly more complicated. The Supreme Court's pattern form for adult felony Judgment and Sentences includes a section where the court can indicate why an alternative sentence is not imposed. To the extent that this information is included on the form, our agency is able and willing to collect and analyze the data. Many counties, however, do not use the Pattern Form or neglect to fill out this section on the form.

One recommendation in the report is to amend RCW 9.94A.380 and require courts to indicate in writing their reasons for not imposing an alternative sentence. Even if this information was prepared in writing, the documentation may not necessarily be sent to the Commission office. As a solution, you might consider amending RCW 9.94A.380 to stipulate that the reasons for not imposing an alternative sentence shall be stated in writing on the Judgment and Sentence form.

Please let me know if I can answer any additional questions.

Sincerely yours,

*Donna Schram*

Donna Schram, Ph.D.  
Chair

DS:shz

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SUMMARY

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STUDY ORIGIN AND OBJECTIVES

This report was prepared pursuant to Section 6, Chapter 163, Laws of 1983.

The study assesses the impact of the Sentencing Reform Act on the state's prison and jail populations and reviews the utilization of community corrections and treatment programs under the Act.

BACKGROUND

In 1981, the Legislature enacted what has been referred to as the most comprehensive sentencing reform measure in the United States in the last half century. The Sentencing Reform Act of 1981 (SRA), which established a presumptive or determinate sentencing system, was implemented on July 1, 1984. With relatively few exceptions, judges are required under the SRA to sentence felony offenders within "standard ranges" which were initially recommended by the Sentencing Guidelines Commission and subsequently enacted by the Legislature. An important feature of the Act is that it emphasizes "...confinement for the violent offender and alternatives to total confinement for the nonviolent offender".

IMPACT OF THE SRA ON STATE PRISON POPULATION

Our analysis compared projections of what the state's prison population **would have been** had the SRA not been implemented with what the population actually was in fiscal year 1985 and 1986, and with what the population is forecasted to be through 1997. The forecasts were prepared by the Policy Analysis and Forecasting Division of OEM.

The data indicates that the SRA has had the effect of **reducing** the prison population in comparison to what it likely would

have been had the SRA not been implemented. As of June 30, 1986, it was projected that there were 1,074 fewer inmates in the state's prisons than there would have been had it not been for the SRA. Although the prisons are still operating above rated capacity levels, the inmate population is projected to remain well below "emergency" capacity levels for the next several years.

The data also indicates that the proportion of violent offenders in the prisons has increased substantially. This is consistent with the SRA's mandate to emphasize confinement for the violent offender.

#### IMPACT OF THE SRA ON LOCAL JAIL POPULATION

Legislative Budget Committee staff contacted a number of county jail and corrections officials to ascertain their perceptions as to the impact of the SRA on their jail population. The consensus opinion of these officials was that the SRA was one of three factors which has contributed to an increase in jail population. The other two were the state's Domestic Violence Law and the recent emphasis on DWI cases. No county contacted reported having documentation as to the specific impact of the SRA on their jail population.

Staff also examined data from the Corrections Standards Board pertaining to changes in jail population between 1984 and 1986. This data, which was based on 17 of the state's county jails with 50 or more beds, indicated that the total jail population had increased 25.5%. The felony population, which is the population which would be impacted by the SRA, increased 13.7%, while the nonfelony population increased 38.5%. This suggests that whatever impact the SRA may have had on jails is likely not as significant as other factors.

In order to assess the impact of the SRA on the jail population, LBC staff conducted, on a far more limited basis, a study similar to one initially proposed by the Sentencing Guidelines Commission. The amount of time actually served by a sample number of offenders from seventeen counties was compared with the amount of time they might have been expected to serve had the SRA not been implemented.

A number of potential methodological problems associated with the study are described in the body of the report. Given these potential problems, the study results may not be totally reliable and, therefore, are not conclusive. The results do provide preliminary indications, however, that the SRA may have had a **negative impact** on the population of local jails. On average, the offenders in our study were reported to have served 23.8% more time than they would have been expected to serve had they been sentenced under the previous indeterminate

system (60.8 days compared to 49.1 days). If these figures are accurate, it means that the average daily population in the state's jails has increased by anywhere from 7.1% to 12.5% as a result of the SRA.

One of the findings from the study was that many counties appear to be taking relatively little advantage of provisions for good time reductions (up to one third of the sentence). The report suggests that those counties experiencing jail overcrowding reexamine their policies regarding this issue.

While the study results appear significant, they are also tentative. Therefore, the report recommends that a **more comprehensive analysis of the SRA's impact on jail population should precede any policy or programmatic changes which may be proposed based solely or primarily on the assumption that the SRA has increased the state's jail population.**

#### UTILIZATION OF COMMUNITY CORRECTIONS PROGRAMS UNDER THE SRA

In large part, a central question pertaining to the utilization of community corrections programs under the SRA remains unanswered. That is: "Are these programs being utilized to the extent that they could, and were originally envisioned to be utilized?" At least with respect to sentences of community service, however, the data included in this report tends to suggest that the answer may be "no".

In sentencing non-violent offenders to sentences of less than a year, the SRA requires that the court "...consider and give priority to available alternatives to total confinement and ...state its reasons if they are not used". Data in the report shows that while community service was ordered more than twice as often as it was in 1982, it was still ordered for only 28% of all non-violent offenders with sentences less than a year. Data from the Department of Corrections (DOC) indicates that 2,750 offenders were sentenced to community service in FY 1986. However, DOC also estimates that its capacity level for these sentences is such that 15,000 offenders per year could be handled. Thus, capacity seems to far exceed usage. **The report recommends that the Sentencing Guidelines Commission examine the issue of whether alternative sentences are being used to the extent that they appropriately could, and if not, the reasons why.**

While judges are required to state their reasons for not imposing alternative sentences, they are not required to do so in writing. To assist in monitoring the use of alternative sentences, **the report recommends that the SRA be amended to require judges to state their reasons in writing.** This would provide valuable information on the use of these programs, as well as the reasons for not using them.

The report also notes that the Department of Corrections has done little to implement a program of "voluntary assistance" for offenders being released from prison, as provided for in RCW 9.94A.220. **The report recommends that DOC implement procedures for a program of voluntary assistance as described in statute.**

Responses from the Sentencing Guidelines Commission and the Department of Corrections are in Appenidx V. They generally concur with the report recommendations.

This study was conducted by Robert Krell of the LBC staff. Special appreciation is extended to Dave Fallen of the Sentencing Guidelines Commission staff who was instrumental in assisting us with our jail study. We also gratefully acknowledge the efforts of Jack O'Connell and other staff of OFM who prepared the prison population forecast. Finally, we wish to thank the many individuals in the various counties who provided us with the information necessary for our jail study.

CHERYLE A. BROOM  
Legislative Auditor

On January 6, 1987, this report was approved by the Legislative Budget Committee, and its distribution authorized.

REPRESENTATIVE HELEN SOMMERS  
Chair

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## **SECTION I**

### **SCOPE AND OBJECTIVES**

#### **SCOPE:**

As required by Section 6, Chapter 163, Laws of 1983, this study assesses the impact of the Sentencing Reform Act, with emphasis on the impact on prison and jail populations.

#### **OBJECTIVES:**

1. To assess the impact of the Sentencing Reform Act on the state's prison population.
2. To assess the impact of the Sentencing Reform Act on the population of local jails.
3. To review the utilization of community corrections and treatment programs under the Sentencing Reform Act.

## SECTION II

### FINDINGS AND CONCLUSIONS

#### A. Background

##### 1. The Sentencing Reform Act

In 1981, the Washington State Legislature enacted what has been referred to as the most comprehensive sentencing reform measure enacted in the United States in the last half century. The Sentencing Reform Act (SRA) of 1981 was implemented on July 1, 1984. The stated purpose of the Act is to "...make the criminal justice system accountable to the public by developing a system for the sentencing of felony offenders which structures, but does not eliminate, discretionary decisions affecting sentences, and to...

- (1) Ensure that the punishment for a criminal offense is proportionate to the seriousness of the offense and the offender's criminal history;
- (2) Promote respect for the law by providing punishment which is just;
- (3) Be commensurate with the punishment imposed on others committing similar offenses;
- (4) Protect the public;
- (5) Offer the offender an opportunity to improve him or herself; and
- (6) Make frugal use of the state's resources.

Under the SRA, judges sentence adult felony offenders within "standard ranges" which were initially recommended by the Sentencing Guidelines Commission, and subsequently enacted by the Legislature. These standard ranges are laid out in matrix form (see Appendix II). One axis of the matrix represents 14 "offense seriousness" levels, while the other represents the "offender score". The offender score is calculated based primarily on the offender's criminal history. For any particular case, the intersection of the axes determines the presumptive, or standard sentence. The standard sentence is always expressed in a range, e.g., from 15 to 20 months. The judge can sentence anywhere within this range. The Act permits the judge to sentence outside

this range only if there are "substantial and compelling" reasons. This type of sentence, which is referred to as an exceptional sentence, requires written justification and is the only type of sentence which is appealable. In addition to exceptional sentences, there are three other sentencing options available to the court. The first permits a judge to impose a special sentence for first time felony offenders convicted of a nonviolent, nonsexual crime. This type of sentence is referred to as a First Time Offender Waiver. The two other options pertain only to sex offenders, and allow the court to impose treatment as a sentence condition.

In developing their recommended sentence standards, the SRA directed the Sentencing Guidelines Commission to "...emphasize confinement for the violent offender and alternatives to total confinement for the nonviolent offender". The SRA further requires that each of the standard sentence ranges include one or more of five specific sanctions: total confinement, partial confinement, community supervision, community service, and fines.

2. Initial Projections Regarding the SRA's Impact on Prison and Jail Population

The Sentencing Reform Act was being considered at a time when serious problems were being experienced in the state with respect to prison overcrowding. Consequently, the Legislature was concerned about the impact that the new sentencing system might have on prison and jail overcrowding. The SRA, therefore, directed the Sentencing Guidelines Commission to conduct a study to determine the capacity of correctional facilities, and to determine whether implementation of their recommended sentence guidelines would exceed that capacity. If this study indicated that capacity would be exceeded, the Commission was directed to prepare and submit a second set of recommendations which could be implemented without exceeding capacity.

The Commission reported on the results of this study in their 1983 "Report to the Legislature". The Commission estimated that by November, 1985, total prison capacity would be 7,093. Their projections showed that if their recommended guidelines were implemented, the FY 1985 average daily prison population would be 6,521. Their projections also showed that the prison population would drop sharply in FY 1986 to 5,888 and by 1996 the prison population

would only be 6,328. As a result of these projections, the Commission concluded that their recommended guidelines would not exceed prison capacity. The results of this study as regards jail population came out somewhat differently. The projections showed that under the guidelines, the statewide jail population would exceed the projected sentenced felon bed capacity. In response to this finding, the Commission adopted the following policy statement:

"It is the judgment of the Commission that credit for time served pre-trial and implementation of the statute's emphasis on alternatives to total confinement will bring the effects of the Commission's guidelines within jail capacity. It is noted however, that meaningful alternatives to total confinement must be created to enable judges to impose such alternatives and thereby eliminate population in excess of sentenced felon jail bed capacity."

Concerns continued to be raised about the Act's potential effects on local governments in terms of resource requirements and jail space. As a result, the 1983 Legislature directed the Commission to study the impact of the guidelines on local jail population. The results of this study were presented in the Commission's 1984 Report to the Legislature. In summary, it was concluded that:

"...application of the guidelines would not adversely affect sentenced felon population in local jails. In general, in large counties the sentenced felon population would decrease substantially, whereas in the mid-sized counties, the sentenced felon population would increase slightly. For all 18 counties considered together, the total sentenced felon bed requirements under the guidelines would actually decline".

### 3. Purpose of Study

The same legislation which required the Commission to study the impact of the guidelines on local jail population, also stated that:

"The legislative budget committee shall prepare a report to be filed at the beginning of the 1987 session of the legislature. The report shall include a complete assessment of the impact of the Sentencing Reform Act of 1981. Such a report shall include the effectiveness of the guidelines and impact on prison and jail populations and community correction programs."

The Executive Committee of the Legislative Budget Committee limited the scope of the study to an assessment of the impact of the SRA on prison and jail populations, and to a limited review of the utilization of community corrections programs under the SRA.

**B. OVERVIEW OF SENTENCING PRACTICES UNDER THE SENTENCING REFORM ACT**

This section presents a very brief overview of certain sentencing practices under the Sentencing Reform Act. Specifically, this section focuses on three factors which ultimately have a direct impact on prison and jail population: imprisonment rate; changes in length of sentence for both prison and nonprison sentences, and the use of exceptional sentences.

Information presented in this section was obtained from the report "Preliminary Evaluations of Washington's Sentencing Guidelines" (October, 1986) prepared by David L. Fallen of the Sentencing Guidelines Commission staff. Data pertaining to sentences received under the SRA is based on information included on Judgment and Sentence forms for 7,961 offenders convicted under the Act during 1985. In a number of instances, this data is compared to sentencing practices under the previous indeterminate system. The baseline data is derived from a Sentencing Guidelines Commission study of over 3,000 offenders convicted under the indeterminate system during fiscal year 1982.

**1. Imprisonment Rates**

The imprisonment rate is simply the proportion of convicted felons who receive a prison sentence. The overall imprisonment rate in 1985 under the SRA decreased; 16.7% compared to 20.2% in 1982 under the indeterminate system. However, this decrease cannot be attributed to the SRA. Rather, it is the result of a change in the proportion of violent and nonviolent convictions. In 1982, 19.5% of all convictions were for violent crimes. In 1985, only 14.0% of all convictions were for violent crimes. Commission staff estimate that had the proportion of violent convictions in 1985 remained at the 1982 level, the overall imprisonment rate would have been 19.8%. This is nearly the same as the 20.2% imprisonment rate recorded in 1982. Commission staff noted that it is unknown whether the decrease in the proportion of violent convictions recorded in 1985 is a result of an actual change in the violent crime rate, a change in prosecutorial charging decisions or some other cause.

Seemingly consistent with the SRA's mandate to emphasize total confinement for violent offenders and alternatives to total confinement for nonviolent offenders, the imprisonment rate for offenders

convicted of violent offenses increased substantially as shown below.

TABLE 1

Imprisonment Rate for Violent and Nonviolent Offenses

	<u>Violent Offenses</u>	<u>Nonviolent Offenses</u>
1982	48.8%	13.3%
1985	65.1%	8.8%

2. Average Sentence Lengths for Prison and Nonprison Sentences

At this point in time, it is not possible to make precise comparisons regarding changes in average length of stay between the previous and current sentencing systems. (Some offenders sentenced in 1985, and even some sentenced in 1982, have yet to complete their sentence.) The comparisons shown on the following page are estimates developed by staff of the Sentencing Guidelines Commission. As they are estimates, it is necessary to briefly describe how the figures were derived.

For the 1982 figures, actual average length of stay in jail was used as the "length of sentence" for nonprison cases. Length of sentence for prison sentences was estimated using historical baseline data pertaining to average good time reductions and "Public Safety Score" reductions. Because sentences under the SRA must be determinate sentences, precise data is available on the average length of sentence imposed in 1985. However, even though these sentences are determinate, they are still subject to being reduced by up to one-third for good time. Since no baseline data is available to estimate the average amount of good time that will be given to SRA offenders, it is necessary to express their average length of sentence in a range (i.e., from two-thirds to full sentence).

**TABLE 2**

**Average Length of Stay - Pre and Post SRA**

	<u>Pre-SRA (FY 82)</u>	<u>SRA (CY 85)</u>
Prison Sentences (excluding life terms)	36.8 months	29.7 to 44.6 months
Nonprison Sentences	1.7 months	1.7 to 2.5 months

Again, exact comparisons of sentence lengths cannot be made without knowing the average amount of good time which SRA offenders will receive. The Sentencing Guidelines Commission report notes that the only information regarding this variable is a Department of Correction's estimate that 87% of the maximum good time credits were earned by the first 116 SRA prison inmates who were released from DOC facilities. If that figure proved accurate and held constant, SRA offenders sentenced to prison in 1985 would serve less time than offenders sentenced in 1982 (31.7 months compared to 36.8 months).

In contrast, it appears that SRA offenders sentenced to nonprison sentences serve, on average, a longer period of time than offenders sentenced in 1982. The lowest end of the range shown in Table 2, which is the same as the average sentence length in 1982, would occur only if all such offenders received their maximum amount of good time credit. Data collected as part of the LBC staff's "jail impact" study (see Section D) indicate that has not happened.

**3. Exceptional Sentences**

Under the SRA, the court "...may impose a sentence outside the standard range...if it finds, considering the purpose of (the) chapter, that there are substantial and compelling reasons justifying an exceptional sentence". Exceptional sentences may be used by the court for such reasons as setting the sentence above or below the standard range, requiring community service in excess of the normal time, and requiring treatment in cases where it would not be allowed under a standard sentence.

Exceptional sentences accounted for only 3.5% of all cases in 1985. In a majority of these cases (56%), the sentence was set below the standard range. Sentences were set above the standard range in 41% of

the cases, and in 3% of the cases the sentence was within the standard range. As shown below, exceptional sentences were more frequently set below the standard range for violent offenses.

**TABLE 3**

**Exceptional Sentences: Comparison to Standard Range  
for Violent and Nonviolent Offenders**

	<u>Violent Offense</u>	<u>Nonviolent Offense</u>
Sentence Above Standard Range	27%	47%
Sentence Below Standard Range	70%	49%
Sentence Within Standard Range	3%	4%

Despite the fact that the majority of exceptional sentences were set below the standard range, the net effect of these sentences was that they contributed to increasing the prison population more than the jail population. This is because, typically, a sentence cannot be reduced as much as it can be increased. A presumptive eighteen month sentence can only be reduced by 18 months. That same sentence, however, can be increased up to the statutory maximum which may be several years more than 18 months. Data compiled by the Sentencing Guidelines Commission indicates that the average exceptional sentence set below the standard range resulted in a 10 month sentence reduction. The average exceptional sentence set above the range resulted in a 39 month increase.

**4. Summary**

The overall imprisonment rate does not appear to have been affected by the implementation of the SRA. Adjusting for changes in the mix of violent and nonviolent offenders, the proportion of convicted felons who were sentenced to prison in 1985 is nearly the same as it was in 1982. What has changed, however, is that under the SRA, violent offenders are far more likely to go to prison than they were under the indeterminate system.

While nearly the same proportion of convicted felons are going to prison under the SRA, those that do appear to be serving less time than their pre-SRA counterparts. In contrast, SRA offenders who receive a nonprison sentence appear, on average, to serve more time than those similarly sentenced in 1982.

Since exceptional sentences accounted for only 3.5% of all sentences, they have comparatively little impact on prison or jail populations. What impact there is, however, has the effect of increasing the prison population more than the jail population.

C. Impact of The Sentencing Reform Act on State Prison Population

1. Background

The information presented in this section compares projections of what the state's prison population **would have been** had the SRA not gone into effect with what the prison population actually was in fiscal years 1985 and 1986, and with what the prison population is now forecasted to be through 1997.

For a number of years, the Office of Financial Management has annually prepared a "Prison and Inmate Population Forecast" for the Governor's Interagency Criminal Justice Work Group. The "SRA Forecast" which is used as a base for comparison in this section (for FY 87 and beyond) was published in February, 1986. The "Pre SRA Forecast" was developed by the Policy Analysis and Forecasting Division of OFM at the request of LBC staff. This is essentially a "what if" forecast; that is, it forecasts what the state's prison population would have been had the SRA not gone into effect. The methodology and assumptions used in developing this forecast are described in Appendix III.

2. The Forecasts

Table 4 on the following page presents both the pre-SRA and the SRA forecasts prepared by OFM. The table shows that as of June 30, 1986, there were 1,074 fewer inmates in the state's prisons than there would have been had the SRA not gone into effect. This represents a 13.3% reduction. It can also be seen that as time goes on, the disparity between the pre-SRA and SRA forecasts increases. In 1990, it is forecasted that there will be 1,722 (17.6%) fewer inmates than there otherwise would have been. By 1995, the difference increases to 2,120 inmates (19.2%).

The reduction in prison population attributable to the SRA has had, and is forecast to continue to have, a significant effect on alleviating prison overcrowding. This can be seen on Figure 1 on page 13, which was prepared by staff of the Policy Analysis and Forecasting Division.

TABLE 4

INMATE FORECAST COMPARISONS  
PRE-SRA AND SRA

FY	Pre-SRA <sup>1</sup> Forecast			:	SRA <sup>2,3</sup> Forecast			:	SRA-PreSRA Difference	
	Person	Property	Total <sup>4</sup>		Person	Property	Total		Person	Total
1984	3994	2320	6834	:	4352	2388	6994	:	358	160
1985	4269	2407	7272	:	4825	1907	7005	:	556	-267
1986	4624	2762	8055	:	5175	1582	6981	:	551	-1074
1987	5017	2914	8587	:	5267	1488	7350	:	250	-1237
1988	5355	2975	9001	:	5479	1458	7577	:	124	-1424
1989	5634	3054	9391	:	5773	1362	7803	:	139	-1588
1990	5915	3136	9767	:	6064	1286	8045	:	149	-1722
1991	6142	3212	10084	:	6317	1221	8254	:	175	-1830
1992	6340	3271	10363	:	6524	1133	8387	:	184	-1976
1993	6561	3304	10636	:	6733	1102	8581	:	172	-2055
1994	6756	3318	10855	:	6917	1074	8750	:	161	-2105
1995	6899	3346	11036	:	7093	1057	8916	:	194	-2120
1996	7090	3365	11261	:	7280	1035	9084	:	190	-2177
1997	7246	3389	11453	:	7446	1026	9247	:	200	-2206

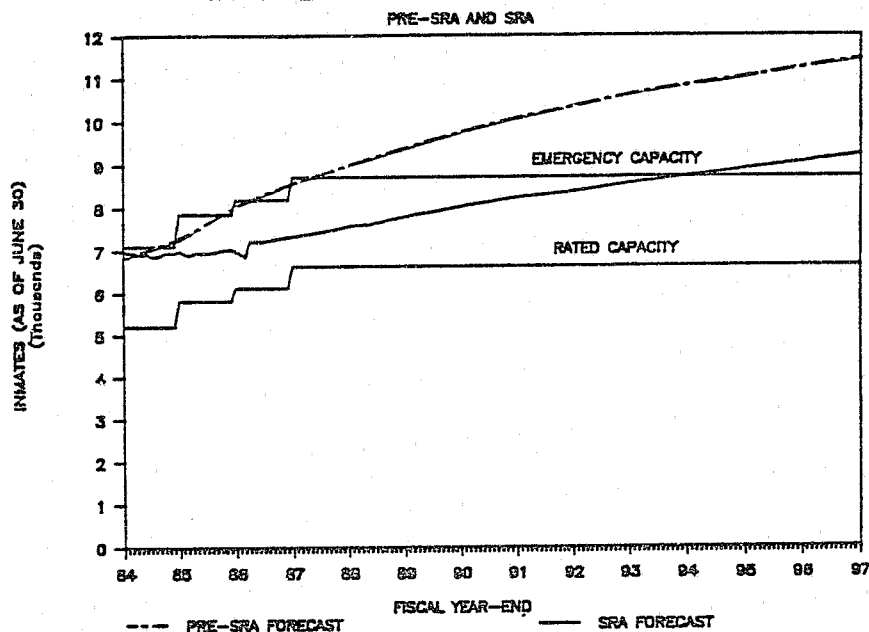
## Notes:

1. The pre-SRA forecast was adjusted for actual conviction rates and state population forecast through Fiscal Year 1986.
2. The SRA forecast shows actual inmate populations for Fiscal Year 1984 through Fiscal Year 1986.
3. The SRA forecast is based on Fall 1985 assumptions. It does not include the effects of In RE. Myers, 1986, which directs the Parole Board to review and recompute if necessary, the minimum terms of inmates sentenced after the implementation of the SRA. It is anticipated that this will result in the early release of a number of inmates.
4. "Person" refers to offenders convicted of crimes against persons, while "property" refers to offenders convicted of crimes against property.

Source: Office of Financial Management

**FIGURE 1**

**INMATE FORECAST COMPARISONS**



Source: Office of Financial Management

Referring back to Table 4 on the previous page, an examination of the data depicted therein shows that a major effect of the SRA has been to change the composition of the prison population. As of the end of fiscal year 1986, 74% of the state's prison population consisted of "person" offenders, i.e., individuals convicted of crimes against persons. The forecast shows that had the SRA not gone into effect, the proportion of person offenders would only have been 57%. By 1995, it is projected that person offenders will account for 79.5% of all prison inmates.

**3. Conclusions**

The preceding data indicates that the SRA has had the effect of reducing the state's prison population in comparison to what it likely would have been had the SRA not been implemented. That effect is forecasted to continue at least through 1997. Although the prisons are still operating above rated capacity levels, the inmate population is projected to remain well below "emergency" capacity levels for the next several years. Finally, the data indicates that the proportion of "person offenders" in the state's prisons has increased substantially under the SRA.

This would seem to be wholly consistent with that Act's mandate to emphasize total confinement for violent offenders, and alternatives to total confinement for nonviolent offenders.

## **D. Impact of the SRA on Local Jail Population**

### **1. Background**

Ever since the enactment of the SRA, concerns have been raised by many of the state's counties as to the potential negative impact of the Act on their jail populations. The Corrections Standards Board notes that, even with the addition of new jail capacity through the state's jail construction program, many jails continue to experience problems with overcrowding. While jail capacity has increased 29.95% since 1983, jail population has increased almost an identical amount, 29.06%. The Board notes that the number of jails considered to be "crowded" (in excess of 100% capacity) and "full" (90%-100% of capacity) has been higher in 1986 than in 1984. Based on average daily population figures for the month of June\*, 19.4% of the state's county jails were at or above 90% of capacity in 1984. In 1986, that figure increased to 32.3%.

### **2. Counties' Perception of the SRA's Impact on Jail Population**

During the course of this study, Legislative Budget Committee staff contacted a number of county jail and corrections officials to ascertain their perceptions as to the impact of the SRA on their jail population. While no county contacted reported having documentation as to the SRA's impact, the consensus opinion of the individuals talked to appeared to be that the SRA was one of three factors which has contributed to an increase in jail population. The other two factors cited were the recent emphasis on DWI cases (with a mandatory minimum stay in jail of 24 hours) and the state's Domestic Violence Law (Chapter 263, Laws of 1984). That law requires a police officer to "...arrest and take into custody, pending release...a person without a warrant when the officer has probable cause to believe that...the person within the preceding four hours has assaulted that person's spouse, former spouse, or other person with whom the person resides or has formerly resided".

---

\* 1984 data unavailable for Pierce and Asotin Counties. 1986 data unavailable for Island and Skagit Counties. Also, figures for some counties are based on months other than June (see footnote on the following page).

### 3. Changes in State Jail Population

As a potential indicator of the SRA's impact on jail population, LBC staff compared 1984 and 1986 jail population data provided by the Corrections Standards Board. Data was examined for all but three of the state's county jails with 50 or more beds. (Data was unavailable for the Island, Pierce and Skagit County Jails). Specifically, the data consisted of average daily population (ADP) figures for these jails for the months of June, 1984 and June, 1986\*, and was broken down between total population, pre-conviction felony population and post-conviction felony population. The felon population is of particular significance since that is the only population which is impacted by the SRA.

The data presented in Table 5 divides the total population into what is referred to as the "felony" and "nonfelony" population. The felony population is the combined total of what the Corrections Standards Board classifies as pre-conviction felons and post-conviction felons. The nonfelony population consists of everyone else. It is important to note that some felons are actually included in the nonfelon total. They include sentenced felons who are awaiting transfer to a state facility, felons who are in jail on a state probation or parole hold, and state work release prisoners who are housed in the jail under contract with the local jurisdiction. In total, these "state prisoners" account for approximately 10% of the total combined jail average daily population.

Table 5 shows, by county and for all counties combined, the comparisons of total population, felony population and nonfelony population for 1984 and 1986. For the 17 counties combined, total population increased 25.5% between June, 1984 and June, 1986. The increase in the felony population was 13.7%, while the increase in the nonfelony population was 38.5%. It should be pointed out that these combined figures are influenced substantially by King County which accounts for approximately 40% of the total combined population. In King County, the felony population increased only 7.9% between 1984 and 1986, while the nonfelony population increased 65.4%.

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\* With the following exceptions: 1984 figures for Clark and Grays Harbor Counties are for the month of August; 1986 figures for Kitsap County are for the month of July; and 1986 figures for Spokane County are for the month of May.

Still, even excluding King County, the combined totals for the remaining 16 counties show that the nonfelony population increased at a faster rate than did the felony population, 22.9% to 17.5%.

**TABLE 5**

CHANGE IN COMPOSITION OF COUNTY JAIL POPULATION: 1984-1986  
COUNTY JAILS WITH CAPACITY OF 50 INMATES OR MORE\*

County	--1984--			--1986--					
	Total Jail Pop.	Felony Jail Pop.	Nonfelony Jail Pop.	Total Jail Pop.	Percent Change	Felony Jail Pop.	Percent Change	NonFelony Jail Pop.	Percent Change
Benton	40.8	23.7	17.1	83.0	103.4	27.1	14.3	55.9	226.9
Chelan	97.2	32.2	65.0	103.2	6.2	27.6	-14.3	75.6	16.3
Clallam	91.7	27.8	63.9	77.8	-15.2	15.9	-42.8	61.9	-3.1
Clark	263.5	141.3	122.2	327.5	24.3	181.0	28.1	146.5	19.9
Cowlitz	67.7	38.9	28.8	98.8	45.9	52.4	34.7	46.4	61.1
Franklin	67.3	42.1	25.2	52.7	-21.7	35.2	-16.4	17.5	-31.4
Grant	42.5	14.7	27.8	75.0	76.5	24.4	66.0	50.6	82.0
Grays Harbor	78.8	42.8	36.0	53.7	-31.8	35.6	-16.8	18.1	-49.7
King	1054.0	572.5	481.5	1414.4	34.2	618.0	7.9	796.4	65.4
Kitsap	61.3	45.4	15.9	76.2	24.3	52.6	15.9	23.6	48.4
Lewis	47.0	18.5	28.5	57.0	21.3	26.0	40.5	31.0	8.8
Okanogan	40.8	12.2	28.6	44.2	8.3	15.7	28.7	28.5	-0.3
Snohomish	147.0	102.4	44.6	199.4	35.6	121.8	18.9	77.6	74.0
Spokane	306.7	151.7	155.0	333.9	8.9	174.4	15.0	159.5	2.9
Thurston	81.9	46.5	35.4	117.5	43.4	72.2	55.3	45.3	28.0
Whatcom	92.4	35.0	57.4	118.5	28.2	48.6	38.9	69.9	21.8
Yakima	192.5	108.7	83.8	246.8	28.2	127.7	17.5	119.1	42.1
TOTAL	2773.1	1456.4	1316.7	3479.6	25.5	1656.2	13.7	1823.4	38.5

\* Excluding Island, Pierce, and Skagit Counties (data not available).

Data for each of the 17 counties was also examined to check for changes in the proportion of the pre and post conviction felony populations as a percentage of each jail's total population. Expressed as an average for all counties, the changes are shown in Table 6.

TABLE 6

Pre and Post Felon Population as a Percent  
of Total Jail Population: 1984 - 1986

	<u>1984</u>	<u>1986</u>
Pre-Conviction Felon Population Average (median) of 17 Counties	28.6%	27.4%
Post-Conviction Felon Population: Average (median) of 17 Counties	23.5%	17.1%

As can be seen, on average, both categories of felony offenders decreased as a percentage of the total jail population.

The data shows that the felony population in the state's jails has increased less rapidly than the nonfelony population. This cannot be interpreted, however, as indicating that the SRA has reduced the load on the state's jails. It may be, for example, that had the SRA not been implemented, the felony population might have actually decreased, or at least increased at a slower rate than it actually did. What it suggests, however, is that any impact that the SRA may have had is likely not as significant as other factors influencing jail population. These other factors could include increased population or increased crime rates, or they could include the state's Domestic Violence Law, or the increased emphasis on DWI cases.

4. Jail Impact Study

a. Purpose and Methodology

In order to assess the impact of the SRA on the jail population, LBC staff conducted, on a far more limited basis, a study similar to one originally proposed by the Sentencing Guidelines Commission. The purpose of this jail impact study was to compare the amount of time actually served in jail by SRA offenders with the amount of time they might have been expected to serve had the SRA not been implemented. Given time and resource limitations, it was necessary to make a number of significant revisions to the Commission's original study plan. The two major ones were: 1) basing the study on a relatively small sample of 500 offenders convicted during 1985, as opposed to looking at the "entire universe" of 5,662 offenders; and 2) relying on "self reported" information (i.e.,

information provided by the separate counties) rather than employing trained data collectors.

The study was limited to the same eighteen counties included in the Sentencing Guidelines Commission 1983 jail impact study\*. Initially, a random sample was drawn (by the SGC) of 1,000 offenders convicted in these eighteen counties between January and December, 1985. Recognizing that offenders sentenced in the later months of 1985 might not have completed their jail sentence by the time data collection began in September, 1986, the decision was made to further limit the study to only the 500 offenders who were sentenced during the first seven months of 1985.

The counties were asked to provide the following information for each case:

- o number of days served pre-sentence;
- o number of days served post-sentence;
- o number of days credit granted for time served pre-sentence;
- o number of days "good time" credit granted; and
- o number of days served post-sentence awaiting transfer to a state facility (for cases with a prison disposition only).

In total, 408 cases were included in the study. Appendix IV details those cases which were excluded and describes the method of analysis. It is sufficient here to say that the analysis results in a comparison between the average number of days actually served in jail by the offenders in the study and projections of the average number of days they would have served had the SRA not been implemented.

Before presenting the results of the study, a number of potential methodological problems need to be mentioned.

- o Although the study design controls for factors such as changes in crime and conviction rates, it cannot control for such things as changes in policy which might have occurred even in the

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\* Benton, Clallam, Clark, Franklin, Grant, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pend Oreille, Skagit, Snohomish, Spokane, Thurston, Walla Walla, and Yakima. Limiting the sample to 500 offenders resulted in Pend Oreille County having no cases included in the sample.

absence of the SRA. County policies with respect to offering good time reductions is one example;

- o The 1985 data is based on information provided by the counties. Except on a limited basis, it has not been verified as to accuracy; and
- o For a period of time after implementation of the SRA and extending into the time frame of the study, an offender would sometimes be sentenced on one cause number for both a pre-SRA and an SRA offense. In these instances, particularly if the sentences were set to run concurrently, it could be extremely difficult to identify how much time was served on the SRA offense and how much was served on the pre-SRA offense.

The last two factors are of greatest concern since it is critical for this study that the time reported to have been served was actually served **only** on the specific cause number(s) for the particular **SRA** cases included in the study. Given that some offenders are in and out of jail frequently, either on different charges or on parole or probation holds, it can be difficult to identify how many days may have been served on one particular charge.

b. Study Results

The comparison between the time actually served by the offenders in our sample with the time they could have been expected to serve had they been sentenced in 1982 under the indeterminate system is shown below.

TABLE 7

LBC Study Results

<u>Average Jail</u> <u>Days Served</u>	<u>1982</u> <u>Pre-SRA</u>	<u>1985</u> <u>SRA</u>	<u>Percent</u> <u>Change</u>
Pre-Sentence	16.5	24.3	+47.3%
Post-Sentence	32.7	36.4	+11.3%
Total Number of Days	49.1*	60.8*	+23.8%

As can be seen, the offenders in the study served substantially more days in jail than they might have

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\* Total off by one decimal due to computer rounding.

been expected to had they been sentenced under the indeterminate system. The largest increase was in the number of days served pre-sentence. These figures indicate that the SRA has had a significant impact on increasing the population of local jails.

It should be noted that there is some consistency between these figures and information presented in Section B comparing changes in average length of sentence for nonprison cases. There it was noted that the average length of stay in 1982 was 1.7 months (51.7 days) while the average length of stay in 1985, depending on the amount of good time credit granted, was from 1.7 months (51.7 days) to 2.5 months (76.0 days). The lowest end of that range would only occur if all offenders received their maximum good time reductions.

Results of the current study indicate that, on average, offenders received far less than the maximum good time reduction. The average jail sentence for all offenders in the study was 84.5 days. The average maximum good time reduction would have been one-third of that amount, or 28.2 days. The average good time reduction actually received by the offenders in the study was 7.0 days. This represents only 24.8% of the allowable good time, and 8.3% of the total sentence.

Other findings from the study include:

- o 62 out of 408 (15.2%) offenders actually served one day or more than their total jail sentence. This number drops to 47 (11.5%) when looking at the number of offenders who served two days or more in excess of their sentence. However, 33 (8.1%) offenders were reported to have served seven days or more in excess of their sentence. It is unknown whether these figures indicate problems with the data, or noncompliance with the conditions of sentence.
- o A total of 18.6% of the offenders served one day or more pre-sentence than they were given credit for. The SRA requires that all time served pre-sentence be credited to the offender's sentence. Again, this could indicate problems with the data, or noncompliance with the law. It also could reflect situations where, for example, an offender served 45 days pre-sentence but then only received a sentence of 30 days.

- o A total of 40 offenders (9.8%) were reported to have received more credit for time served (one day or more) than time actually served pre-sentence. Other than problems with the data, a possible explanation for this is credit being granted for time served in a treatment facility pre-sentence. An offender could, for example, be booked into jail and the next day moved to a treatment program where he spends 14 days. At the time of sentencing, he would likely and appropriately receive credit for 15 days, even though he had only served one day pre-sentence time in jail.

It must be emphasized that the study results indicating a 23.8% increase in time served **does not** translate into indicating that the total jail population has increased by that amount. Any increases in length of stay under the SRA apply only to felony offenders. According to the Corrections Standards Board, as of the second quarter of 1986, the pre and post felon population accounted for less than half (48.9%) of the state's total jail population. LBC staff estimate that if the study results are accurate, the increase in the total jail population attributable to the SRA would be approximately from 7.1% to 12.5%.

## 5. Summary and Conclusions

Data presented herein shows that the population of county jails has increased substantially in the last few years. Although no county contacted reported having documentation as to the SRA's specific impact on jail population, it was frequently mentioned as being one of three factors which have contributed to the increase. The other two are the state's Domestic Violence Law and the recent emphasis on DWI cases.

Data from the Corrections Standards Board shows that the felony population in the state's jails has increased **less** rapidly than the nonfelony population. This tends to suggest that whatever impact the SRA may have had on jails is likely not as significant as other factors.

Given the potential methodological problems with the LBC jail impact study, the results may not be reliable and, therefore, are not conclusive. The results do provide preliminary indications, however, that the SRA may have had a **negative impact** on the population of local jails.

One of the findings from the jail impact study was that counties appear to be taking relatively little advantage of provisions for good time reductions. Given that many jails are experiencing problems with respect to overcrowding, it is suggested that those counties which are not taking advantage of these provisions reexamine their policies regarding this issue.

Although the results of the jail impact study appear significant, they are also tentative. As such, it would be premature to recommend major new programs or policy changes based on those results.

6. Recommendation

Recommendation 1

A more comprehensive analysis of the SRA's impact on jail population should precede any policy or programmatic changes which may be proposed based solely or primarily on the assumption that the SRA has increased the state's jail population.

**E. UTILIZATION OF COMMUNITY CORRECTIONS PROGRAMS UNDER THE SENTENCING REFORM ACT**

Programs which serve as an alternative to a standard prison or jail sentence are generally referred to as community corrections programs. Such programs cover a broad spectrum of services and/or activities. Some are treatment oriented, while others may provide educational or vocational services. Community corrections programs may be set in the context of total confinement (e.g. residential treatment programs), partial confinement (e.g. work release), or no confinement (e.g. community service).

The Sentencing Reform Act emphasizes the importance of alternative sentences. It directed the Sentencing Guidelines Commission to develop a proposed sentencing system which would "emphasize confinement for the violent offender and alternatives to total confinement for the non-violent offender". Additionally, RCW 9.94A.380 states that "For sentences of non-violent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state its reasons if they are not used."

This section focuses on two types of alternative sentences which may be imposed under the SRA; treatment and community service. Additionally, information included in a study conducted by the Department of Corrections pertaining to the utilization of community corrections programs is reviewed.

**1. Treatment Oriented Sentences**

The court's ability to impose treatment or rehabilitation oriented sentences is far more limited, or at least more problematic, under the SRA than it was under the former indeterminate system. Under the old system, it was not unusual for the court to require participation in a treatment program as a condition of probation. Probation has been replaced under the SRA by community supervision. While the two are similar, they are not identical. The conditions of community supervision are referred to as "crime related prohibitions" which are expressly defined in statute as not including "...orders directing an offender affirmatively to participate in rehabilitation programs...". Under the SRA, the imposition of treatment as a condition of sentence is primarily limited to first time offenders who are convicted of a nonviolent, nonsexual crime (First Time Offender Waiver). Treatment can also be imposed

on sex offenders. Finally, treatment may be required as a sentence condition in an exceptional sentence.

Staff of the Sentencing Guidelines Commission report that approximately 35% of offenders sentenced under a First Time Offender Waiver were required to participate in a treatment program. Nearly 50% of the sex offenders sentenced were required to participate in a treatment program. Commission staff also noted 234 instances in which treatment was imposed when it appeared that the offender was not in fact eligible to receive such a sentence; that is, sentences which were not considered to be "exceptional" by the court, and which were not part of a First Time Offender Waiver or one of the special sex offender sentencing options.

In total, Commission staff reported that for the last six months of 1985, treatment was ordered as a sentence condition in 15.6% of all SRA cases (704 out of 4,518). While it is assumed that that figure is less than would have been posted under the indeterminate system, there is no data which would allow for a direct comparison. However, data contained in a report prepared by the Department of Corrections\* does provide for a limited comparison between the frequency with which treatment was required for SRA offenders and for probationers and parolees under DOC's supervision. Based on information derived from caseload audits conducted during November, 1985, it was determined that treatment had been ordered for 52% of the SRA offenders. The corresponding percentages for probationers and parolees were 67% and 81% respectively.

## 2. Community Service

The SRA defines community service as "...compulsory service, without compensation, performed for the benefit of the community by the offender". Offenders receiving a standard sentence may have up to 30 days of their total confinement time converted to community service at the rate of eight hours of service for each day of confinement. This conversion cannot be made for offenders receiving either a First Time Offender Waiver or a Special Sex Offender Sentencing Alternative. For individuals receiving one of these two types of sentences, community service is a

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\* Survey of Community Resources For Adult Offenders.

sentence condition which must be performed in addition to any confinement imposed. There is no statutory limit to the number of community service hours which can be imposed.

According to staff of the Sentencing Guidelines Commission, community service was ordered in 27% of all nonprison sentences in 1985. This was more than double the rate at which it was imposed in 1982 (12%). Community service was ordered for 28% of all offenders convicted of a nonviolent crime, and 14% of all offenders convicted of a violent crime (those with a nonprison disposition only).

In a recent study conducted by the Department of Corrections\*, it was noted that DOC "...has secured over 640 job worksites where offenders may perform community service hours in state agencies, local units of government and nonprofit organizations". During the two year period of July 1, 1984 through June 30, 1986, a total of 3,700 offenders were sentenced to approximately 615,000 hours of community service. It might be noted that the number of offenders so sentenced was substantially higher in the second year after the SRA's implementation than in the first; 2,750 compared to 950. This might indicate that judges are becoming more willing to impose this type of sentence.

It is significant to note that the Department of Corrections estimates that the capacity level for community service sentences is such that 15,000 offenders a year could be handled. This is far higher than the 2,750 offenders who received this type of sentence in FY 1986.

As mentioned earlier, the SRA emphasizes the use of alternative sentences. RCW 9.94A.380 states that "For sentences of nonviolent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state its reasons if they are not used." The Judgment and Sentence Form used by the majority of courts in the state includes a section entitled: "Alternative Conversion Pursuant to RCW 9.94A.380". This section contains two boxes which are to be "checked" if converting total confinement days to either partial confinement or community service. There is also a

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\* Workload Study of the Division of Community Services (Rough Draft, July, 1986).

box which can be checked which states "alternative conversion was not used because: [fill in the blank]". In January, 1985, staff of the Sentencing Guidelines Commission examined 319 Judgment and Sentence forms for SRA offenders in terms of whether alternative sentences were imposed.

Alternatives were not used in nearly two-thirds (65.5%) of those cases. The Commission staff also tabulated the reasons stated for not imposing alternative sentences. In 121 of the 209 cases (57.9%) where alternatives were not imposed, no reason was given for not using alternatives. Commission staff stated that it was their understanding that while the court was legally obligated to state its reasons for not imposing alternative sentences, it was not obligated to do so in writing.

3. Availability and Utilization of Certain Types of Community Corrections Programs

It is apparent that the Legislature has had concerns regarding the availability of community corrections programs under the SRA. The 1985 operating budget (Chapter 6, Laws of 1985, 1st Ex Sess) required the Director of the Division of Community Services to "...document...nonstate community corrections services as of July 1, 1985, for the purpose of establishing a basis upon which to evaluate current services, to assess any local program changes, and to identify emerging program needs."

The Department responded to this directive in January, 1986, by issuing a report entitled "Survey of Community Resources for Adult Offenders". Unfortunately, while this effort obviously required substantial time and resources to complete, it does not present a clear picture of the issues it was intended to address. Based in part on caseload audits conducted by DOC's Community Corrections officers during November, 1985, the Survey of Community Resources study presented data on the following:

- o the number of different community resource agencies throughout the state offering various programs or services -- 703;
- o the number of separate programs or services available by type (17 separate programs or services, including such things as alcohol

treatment, housing assistance, etc.) -- 1,496;

- o the number of occasions these programs or services were utilized (one offender may have utilized more than one service) -- 31,337; and
- o the number of occasions that the various services or programs would have been recommended by DOC personnel but were not, either because they were unavailable or funds were not available -- 1,608 (affecting 1,354 offenders).

Unfortunately, the study did not include information pertaining to the capacity of the various programs or services. As a result, it is unknown whether the current programs are operating at 50% or 150% capacity. Information was also not included on the number of offenders who utilized the various programs and services. While it is known that the programs and services were used a total of 31,337 times, it is not known whether this was by 30,000, 20,000 or even 5,000 offenders. Further, information was not included on the number of offenders who were actually under DOC supervision during this time period. Thus, the percentage of DOC's supervised caseload who utilize these programs and services is unknown.

#### 4. The Department of Corrections "Voluntary Program"

The Sentencing Reform Act (RCW 9.94A.220) provides that:

"Upon release from custody, the offender may apply to the department for counseling and help in adjusting to the community. This voluntary help may be provided for up to one year following the release from custody".

According to the newly appointed Director of the Division of Community Services, almost nothing has been done by the Department in this regard. Apparently, no comprehensive procedures are in place to inform soon-to-be released prisoners that this service is available and, in fact, most prisoners are not aware of the service at all. Consequently few, if any, offenders are taking advantage of it.

#### 5. Conclusions

As noted, the court's ability to impose treatment as a condition of sentence is more limited under the SRA than under the previous indeterminate system.

Unfortunately, there is no data which would provide for a comparison of the frequency with which treatment is imposed under the SRA as opposed to the previous system. However, the fact that there were 234 instances (3% of all cases) in which treatment was imposed when the offender didn't appear to be eligible to receive such a sentence indicates that some judges may be overly reluctant to let go of the treatment option.

In large part, a central question pertaining to the overall utilization of community corrections programs under the SRA remains unanswered. That is: "Are these programs being utilized to the extent that they could, and were originally envisioned to be utilized?" At least with respect to sentences of community service, the data included in this section tends to suggest that the answer may be "no". This is particularly significant given data presented elsewhere in the report which indicates that the SRA may have had the effect of increasing the state's jail population. The issue of whether alternative sentences are being used to the extent they could, and if not, the reasons why, should be examined by the Sentencing Guidelines Commission.

To assist the Commission in this effort, it would be beneficial to amend the SRA to require judges to state their reasons in writing for not imposing alternative sentences. Since the Judgment and Sentence Forms used in most courts already contain a space for providing this information, this would not seem to be overly burdensome for the courts.

Finally, it appears that the Department of Corrections has done little to implement any type of a program of voluntary assistance as provided for in the SRA. This situation should be rectified.

## **6. Recommendations**

### **Recommendation 2**

**The Sentencing Guidelines Commission should examine the issue of whether alternative sentences are being used to the extent that they appropriately could, and if not, the reasons why.**

### **Recommendation 3**

**The first paragraph of RCW 9.94A.380 should be amended as follows:**

"For sentences of nonviolent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state in writing its reasons if they are not used."

#### **Recommendation 4**

The Department of Corrections should implement procedures for a program of voluntary assistance for offenders being released from prison as provided for in RCW 9.94A.220. At a minimum, the procedures should ensure that: 1) soon to be released prisoners are informed of the availability of this service; and 2) the Department is able to respond in a reasonable manner to such requests by either providing directly or facilitating the provision of the assistance requested.

**APPENDIX I**  
**SUMMARY OF RECOMMENDATIONS**

**Recommendation 1**

A more comprehensive analysis of the SRA's impact on jail population should precede any policy or programmatic changes which may be proposed based solely or primarily on the assumption that the SRA has increased the state's jail population.

<b>Legislation Required:</b>	no
<b>Fiscal Impact:</b>	not unless further analysis undertaken
<b>Completion:</b>	on-going

**Recommendation 2**

The Sentencing Guidelines Commission should examine the issue of whether alternative sentences are being used to the extent that they appropriately could, and if not, the reasons why.

<b>Legislation Required:</b>	no
<b>Fiscal Impact:</b>	no
<b>Completion:</b>	Beginning July, 1987

**Recommendation 3**

The first paragraph of RCW 9.94A.380 should be amended as follows:

"For sentences of nonviolent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state in writing its reasons if they are not used."

<b>Legislation Required:</b>	yes
<b>Fiscal Impact:</b>	no
<b>Completion:</b>	1987 Legislative Session

**Recommendation 4**

The Department of Corrections should implement procedures for a program of voluntary assistance for offenders being released from prison as provided for in RCW 9.94A.220. At a minimum, the procedures should ensure that: 1) soon to be released prisoners are informed of the availability of this service; and 2) the Department is able to respond in a reasonable manner to such requests by either providing directly or facilitating the provision of the assistance requested.

**Legislation Required:**  
**Fiscal Impact:**

no  
Possibility of some impact,  
depending on nature of  
procedures implemented  
July, 1987

**Completion:**

# APPENDIX II

## SENTENCING GRID

### SERIOUSNESS LEVEL

### OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
XIV	Life Sentence without Parole/Death Penalty									
XIII	23y 4 m 240 - 320	24y 4m 250 - 333	25y 4m 261 - 347	26y 4m 271 - 361	27y 4m 281 - 374	28y 4m 291 - 388	30y 4m 312 - 416	32y 10m 338 - 450	36y 370 - 493	40y 411 - 548
XII	12y 123 - 164	13y 134 - 178	14y 144 - 192	15y 154 - 205	16y 165 - 219	17y 175 - 233	19y 195 - 260	21y 216 - 288	25y 257 - 342	29y 298 - 397
XI	6y 62 - 82	6y 9m 69 - 92	7y 6m 77 - 102	8y 3m 85 - 113	9y 93 - 123	9y 9m 100 - 133	12y 6m 129 - 171	13y 6m 139 - 185	15y 6m 159 - 212	17y 6m 180 - 240
X	5y 51 - 68	5y 6m 57 - 73	6y 62 - 82	6y 6m 67 - 89	7y 72 - 96	7y 6m 77 - 102	9y 6m 98 - 130	10y 6m 108 - 144	12y 6m 129 - 171	14y 6m 149 - 198
IX	3y 31 - 41	3y 6m 36 - 48	4y 41 - 54	4y 6m 46 - 61	5y 51 - 62	5y 6m 57 - 75	7y 6m 77 - 102	8y 6m 87 - 116	10y 6m 108 - 144	12y 6m 129 - 171
VIII	2y 21 - 27	2y 6m 26 - 34	3y 31 - 41	3y 6m 36 - 48	4y 41 - 54	4y 6m 46 - 61	6y 6m 67 - 89	7y 6m 77 - 102	8y 6m 87 - 116	10y 6m 108 - 144
VII	18m 15 - 20	2y 21 - 27	2y 6m 26 - 34	3y 31 - 41	3y 6m 36 - 48	4y 41 - 54	5y 6m 57 - 75	6y 6m 67 - 89	7y 6m 77 - 102	8y 6m 87 - 116
VI	13m 12+ - 14	18m 15 - 20	2y 21 - 27	2y 6m 26 - 34	3y 31 - 41	3y 6m 36 - 48	4y 6m 46 - 61	5y 6m 57 - 75	6y 6m 67 - 89	7y 6m 77 - 102
V	9m 6 - 12	13m 12+ - 14	15m 13 - 17	18m 15 - 20	2y 2m 22 - 29	3y 2m 33 - 43	4y 41 - 54	5y 51 - 68	6y 62 - 82	7y 72 - 96
IV	6m 3 - 9	9m 6 - 12	13m 12+ - 14	15m 13 - 17	18m 15 - 20	2y 2m 22 - 29	3y 2m 33 - 43	4y 2m 43 - 57	5y 2m 53 - 70	6y 2m 63 - 84
III	2m 1 - 3	5m 3 - 8	8m 4 - 12	11m 9 - 12	14m 12+ - 16	20m 17 - 22	2y 2m 22 - 29	3y 2m 33 - 43	4y 2m 43 - 57	5y 51 - 68
II	0 - 90 Days	4m 2 - 6	6m 3 - 9	8m 4 - 12	13m 12+ - 14	16m 14 - 18	20m 17 - 22	2y 2m 22 - 29	3y 2m 33 - 43	4y 2m 43 - 57
I	0 - 60 Days	0 - 90 Days	3m 2 - 5	4m 2 - 6	5m 3 - 8	8m 4 - 12	13m 12+ - 14	16m 14 - 18	20m 17 - 22	2y 2m 22 - 29

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NOTE: Numbers in the first horizontal row of each seriousness category represent sentencing midpoints in years (y) and months (m). Numbers in the second row represent presumptive sentencing ranges in months, or in days if so designated. 12+ equals one year and one day.

### APPENDIX III

#### METHODOLOGY AND ASSUMPTIONS USED IN DEVELOPING PRE-SRA PRISON FORECAST

The last pre-SRA prison forecast developed by OFM for the Governor's Interagency Criminal Justice Work Group was published in January, 1984. That 1984 forecast served as the basis for this forecast, which was also prepared by OFM. The forecast was updated to reflect the following:

- o the last indeterminate length of stay practices used by the Board of Prison Terms and Parole;
- o the last indeterminate "judicial decision to imprison" practices of the superior court judges; and
- o the last known recidivism patterns experienced under the former indeterminate system.

The pre-SRA forecast was also updated to include actual state demographic patterns between FY 1984 and 1986. Also, both forecasts are based on the actual felony conviction patterns recorded in fiscal years 1984 through 1986.

The effects of the Phelan and Knapp decisions which have had an impact on reducing prison population are not included in the pre-SRA forecast. These impacts were excluded because prior to the SRA, the length of sentence established by the Parole Board increased a little each year. It was assumed that the reductions in sentence length caused by the two court decisions would be offset by the increases in sentence lengths given by the Parole Board.

The Phelan decision required that all time served in jail prior to sentencing for a given conviction be credited to the minimum term for that conviction. It also mandated that jail time be granted retroactively to the existing prison population. The average reduction in sentence length resulting from the Phelan decision was 2.2 months.

The Knapp decision (1984) required that all time spent in state mental institutions, whether pre-trial or post-conviction, be credited to an inmate's minimum prison term. Again, the decision required that this time be applied retroactively to the existing prison population. Approximately 10% of the prison population was eligible to receive reductions based on the Knapp decision. The average reduction for those eligible was estimated to be 6.3 months.

## APPENDIX IV

### JAIL IMPACT STUDY

#### METHOD OF ANALYSIS AND CASES EXCLUDED FROM STUDY

Analysis of the data was accomplished by comparing it to actual length of stay data for 1982. The 1982 data was collected by the Sentencing Guidelines Commission as part of their 1983 jail impact study. It represents the most comprehensive information available on length of stay practices prior to the implementation of the SRA.

Under the SRA, offender sentences are set pursuant to a sentencing matrix or grid. The grid contains 14 offense seriousness levels and 10 offender score columns. Consequently, the grid contains a total of 144 separate cells. In part, the 1982 data was used to calculate an average length of stay for every cell in the grid. Each case in the current study also falls into one of the 144 cells. By determining in which cells the current study cases appear, it is possible to then calculate the total number of days the offender would have been expected to serve had they been sentenced in 1982 under the indeterminate system. An "average number of days served" can then be derived by dividing the total number of days by the number of offenders. This figure can then be compared to the actual average number of days served by the offenders included in the study.

The total number of cases included in the study is 408. This represents:

500	cases in original sample;
-7	cases not included either because they were currently on appeal, were still serving their sentence, or where jail records were reportedly unclear;
-13	cases which were excluded because the offenders had been convicted of "unranked" crimes (i.e., crimes not included in one of the 14 seriousness levels on the sentencing grid);
-72	cases which had a prison disposition (the study is limited to cases which had a nonprison disposition).
408	

APPENDIX V  
AGENCY COMMENTS



STATE OF WASHINGTON

**DEPARTMENT OF CORRECTIONS**

CHASE RIVELAND, SECRETARY

P.O. Box 9699 MS EN 61 • OLYMPIA, WASHINGTON 98504 • (206) 358-1100

December 31, 1986

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LEGISLATIVE  
BUDGET COMMITTEE

Ms. Cheryle A. Broom  
Legislative Auditor  
Legislative Budget Committee  
506 East 16th  
Olympia, Washington 98504

Dear Ms. Broom:

Thank you for the opportunity to respond to the report on "The Impact of the Sentencing Reform Act." We recognize the complexity of the subject matter and commend you and your staff for a job well done, especially the efforts of Mr. Krell. Below please find DOC's responses as requested.

<u>Recommendation</u>	<u>Agency Position</u>	<u>Comment</u>
1. A more comprehensive analysis of the SRA's impact on jail population should precede any policy or programmatic changes which may be proposed based on the assumption that the SRA has increased the State's jail population.	DOC concurs with the changed recommendation.	DOC is sensitive to the problems experienced by Local Government regarding overcrowded jails. DOC will be working in partnership with Local Government to coordinate our resources and energies to better identify the reasons for the jail overcrowding and develop viable solutions.
2. The Sentencing Guidelines Commission should examine the issue of whether alternative sentences are being used to the extent that they appropriately could, and if not, the reasons why.	Concur	DOC strongly supports this recommendation.

Ms. Cheryle A. Broom  
December 31, 1986  
Page Two

<u>Recommendation</u>	<u>Agency Position</u>	<u>Comment</u>
4. The Department of Corrections should implement comprehensive procedures for, or a program of voluntary assistance for offenders being released from prison as provided for in RCW 9.94A.220.	DOC concurs with the changed recommendation.	The Department is currently developing clear procedures and instructions regarding a program of voluntary assistance for offenders being released from prison. The further development of such a program shall be consistent with the results of DOC's ongoing workload analysis and the deployment of available resources as determined appropriate.

Thank you for the opportunity to respond. I hope this adequately responds to those recommendations that affect the Department of Corrections.

Sincerely,

Chase Riveland  
Secretary

CR:jkt

## **FACTS ABOUT THE LEGISLATIVE BUDGET COMMITTEE**

The Legislative Budget Committee (LBC) is a statutory joint bi-partisan committee of the Legislature. Its membership consists of four legislators from each of the four caucuses of the House and the Senate. The Committee staff undertake performance audits, surveys, program and compliance reviews, sunset reviews, policy studies and other types of special studies. LBC studies generally focus on the economy, efficiency and effectiveness of state programs and agency operations. They also examine whether appropriations have been expended in accordance with legislative intent, and typically proposed alternative policy and management actions.

Committee staff monitor and report on the use of consultants by state agencies, and spending from unanticipated federal, state or local revenues. Additionally, the Committee staff conduct various other ongoing oversight activities for the Legislature.

The Committee generally meets on a monthly basis during the interim period between legislative sessions. Reporting directly to the Legislature, the Committee makes recommendations for legislative consideration and action.