

CONFINEMENT SENTENCING
IN THE
U.S. PRISON SYSTEM
WHAT IS DONE?

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INTRODUCTION

On July 1, 1973 the Colorado Judiciary had available a new sentencing option. It consisted of an indeterminate minimum term to the Colorado State Penitentiary. Sentencing to the Colorado State Reformatory under such conditions had been possible for some time. In fact, all commitments to the Reformatory carried an indeterminate minimum.

Now, in 1975, there are calls to abolish both the Reformatory and Penitentiary indeterminate sentencing options in favor of a fixed term of sentence. It is therefore a matter of some interest to examine the changes which have occurred since July of 1973. The Office of Research and Planning has recently examined three specific questions which address this concern.

1. Has the length of initial incarceration at the Penitentiary changed since July of 1973?
2. Have recidivism rates changed since July of 1973?
3. What would be the impact of replacing indeterminate sentences by the fixed minimums suggested by the District Attorney's Association?

Methodology

To address the first two of these questions, two sample groups were chosen - the first consisting of all new commitments to the penitentiary

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during the last quarter of 1972, and the second composed of all new commitments to the penitentiary during the last quarter of 1973. Hence, the groups were chosen on the basis of having one sample before the indeterminate sentencing law and the other after it went into effect. Each offender file was then examined for length of initial incarceration and reason for leaving the institution. Offenders who left because of transfer, death, or court order were then excluded from the study group. Those who left as parolees or on discharge were subsequently checked for reincarceration in the Division of Correctional Services. The length of time until return was calculated for those returning and the length of time since release was calculated for those still not returned to the Division.

The third question was addressed by analyzing the length of time served for all new commitments to the Division during the last quarter of 1973. This included all commitments to the Colorado State Reformatory. The maximum sentence for all indeterminate sentences was examined to see if it was more or less than five years. If the maximum was in excess of five years, the assumption was made that an offender would have had to serve 16 months if the proposed legislation had been in effect. If the maximum was five years or less, the assumption was made that eight months must be served if the new law were in effect. This is a conservative approach since many offenders were given maximum terms of five years or less for Class 4 felonies. A determination of the class of felony would have required considerably more time and was not deemed worthwhile for this preliminary analysis. The difference between these assumed minimums

and the actual time served was calculated for all offenders serving less than 16 or eight months, respectively. The total number of man-days was calculated and averaged over all indeterminate sentences given to produce an average number of additional man-days per indeterminate sentence. This average was multiplied times the anticipated 1975 intake of indeterminate sentences (adjusted to anticipate transfers, deaths, etc.) and divided by 365 to produce an anticipated increase in Average Daily Population for the year.

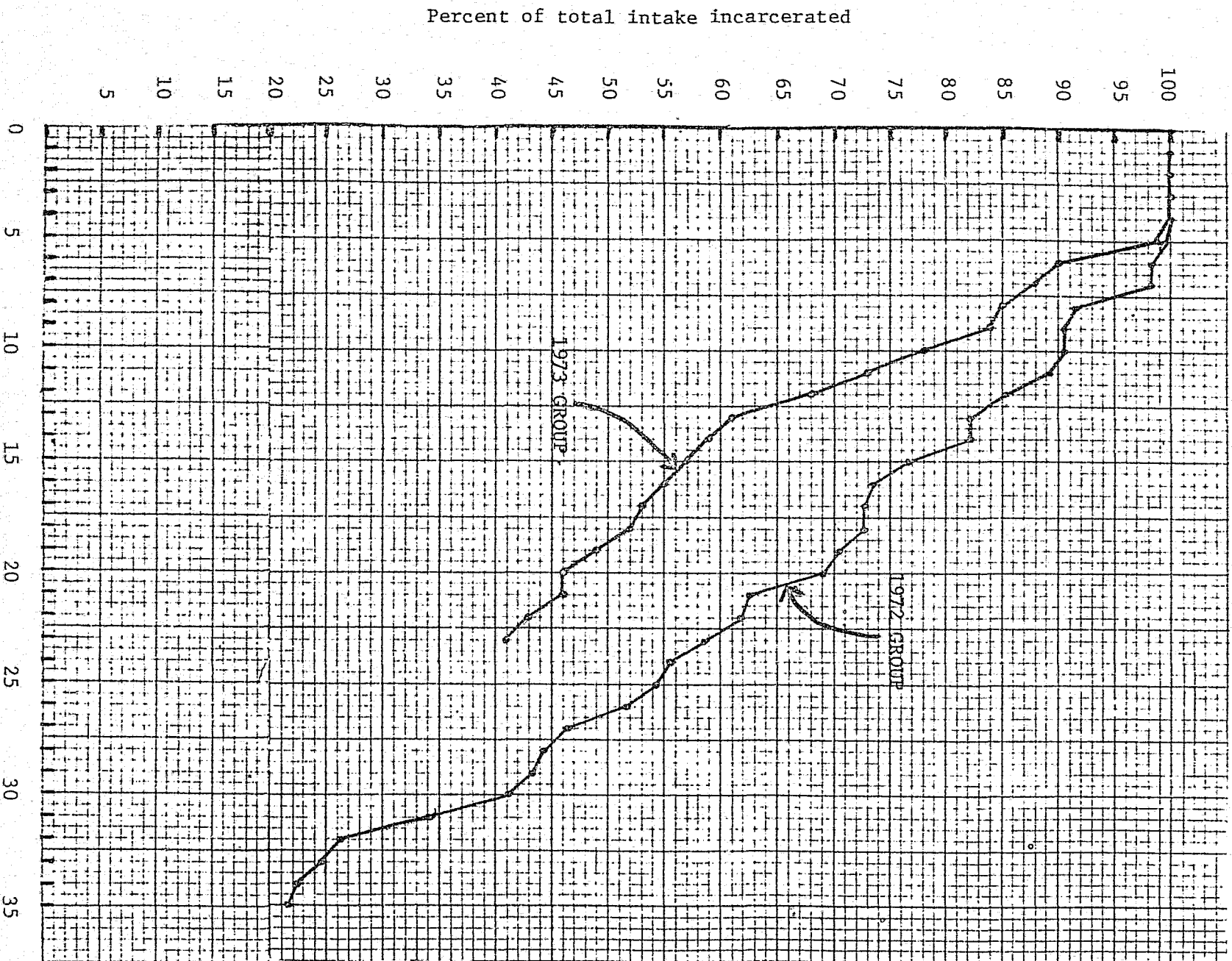
Results

1. Has the length of initial incarceration at the Penitentiary changed since July of 1973?

The 1973 group, composed of 56 indeterminate and 42 determinate sentences, appears to have a significantly shorter length of stay. The median length of stay for this group was 18 months 27 days. The median length of stay for the 1972 group, composed of 8 indeterminate and 121 determinate sentences, had a median length of stay of 26 months, 27 days. This is a difference of 8 full months from the 1973 group. Using a chi-square test for independence the curves were found to be statistically different, using a .05 probability level. ($\chi^2 = 4.16$, 1 df). It is therefore reasonably safe to assert that the typical length of stay for penitentiary inmates dropped between 1972 and 1973. These curves can be seen in Figure 1.

Colorado State Penitentiary
Comparison of 1972 and 1973
Time Served by Months

Figure 1



2. Have recidivism rates changed since July of 1973?

The answer to this question will have to wait for further study and analysis. We found that only 10 offenders from both groups (N=227) had been both released and subsequently returned to Division custody. Five were in the 1972 group and five were in the 1973 group. Statistical analysis produced no significant differences in recidivism rates and only a larger sample and more time will give us a definitive answer to this question.

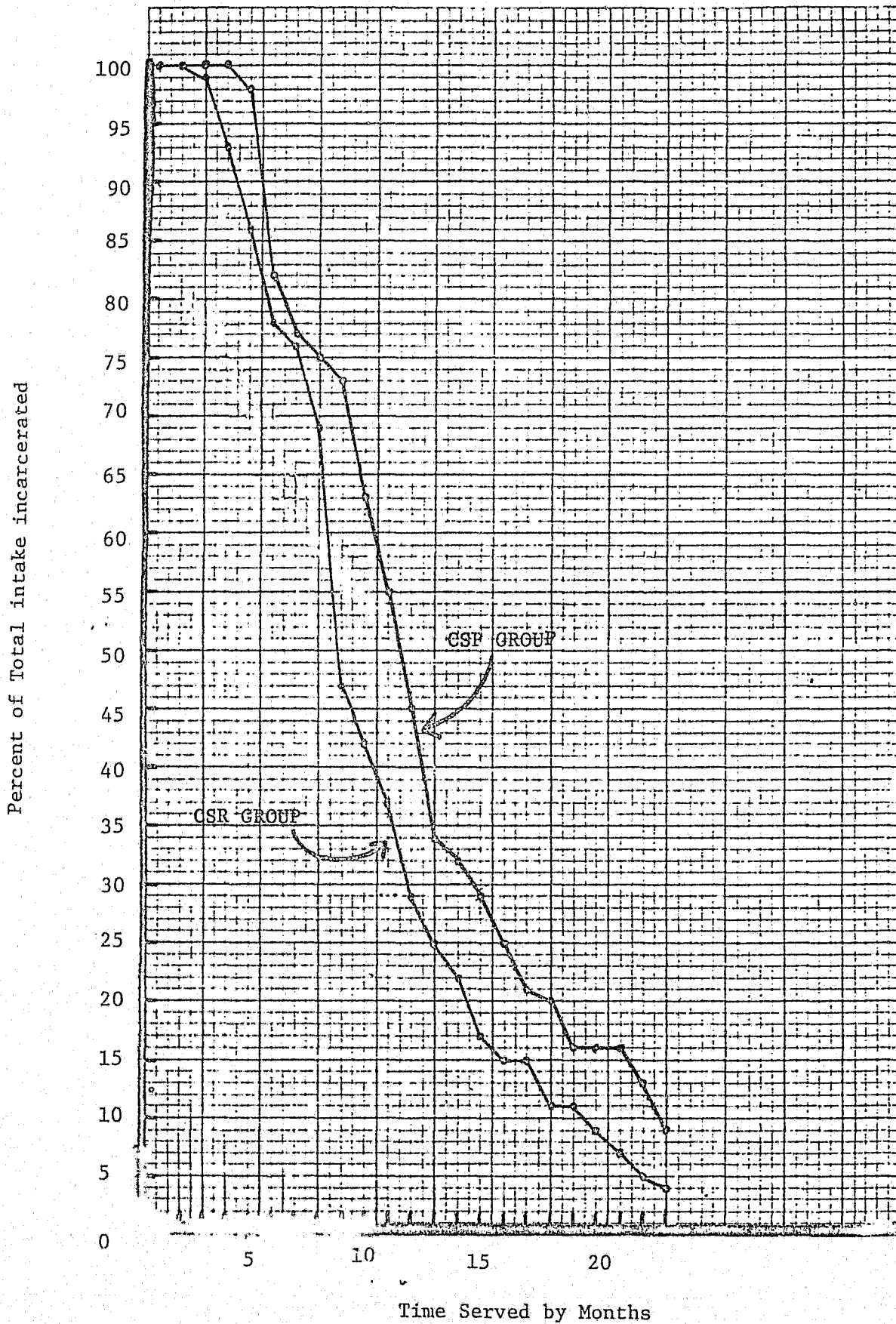
3. What would be the impact of replacing indeterminate sentences by the fixed minimums suggested by the District Attorney's Association?

The mean length of additional time per indeterminate sentence which would be necessary under the District Attorney's plan was calculated as described above. Each penitentiary commitment on an indeterminate minimum would spend an average of 46 days more time. The anticipated intake of 457 indeterminate sentences was adjusted to 441 in order to anticipate transfers, deaths, etc., resulting in an anticipated increase of 56 in the average daily population.

The Reformatory, with a shorter typical length of stay, produced an average of 63 additional days per indeterminate sentence under the proposed legislation (see Figure 2). An anticipated intake of 826 offenders at the Reformatory in 1975 was adjusted to 789 for anticipated transfers, etc. and the indicated increase in average population was 136.

Comparison of 1973 Colorado State Reformatory
and Colorado State Penitentiary
Time Served for Indeterminate Sentences

Figure 2



The aggregate effect, then, of this proposed legislation would be to increase the population of the Division of Correctional Services by 192. At a present estimated annual cost of \$7,500 per offender, it would cost the state no less than \$1,440,000 to maintain our present level of services.

Conclusion

This preliminary study has shown that the typical length of stay at the Colorado State Penitentiary has declined since indeterminate sentencing to the Penitentiary became law. It has also shown no statistically significant change in recidivism for these groups. Finally, the legislation proposed by the District Attorneys should cause a population increase of no less than 192 inmates.

It is our conclusion that there is currently insufficient evidence to warrant returning to a longer term of incarceration on the basis of allegations that recidivism rates are higher as a result of indeterminate sentencing. Until such evidence is available, a return to determinate sentencing will result in only one certainty - increased costs for the taxpayers of the State.

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