

DRUG OFFENDER SENTENCING GRID: PRELIMINARY REPORT

The Washington State Institute for Public Policy (Institute) was directed by the 2002 Legislature to evaluate the effectiveness of the drug offense sentencing grid implemented in 2003.¹ This preliminary report discusses changes in the sentencing grid and outlines our research design for the final report due in December 2008. In the final report, we will evaluate the effectiveness of the drug offense grid on recidivism and determine the financial impacts.

Sentencing Reform Act of 1981

The Sentencing Reform Act (SRA), enacted in 1981, put in place a determinate sentencing structure in Washington State.² The tenets of the SRA are multi-faceted, but primarily focus on reducing judicial discretion in an attempt to deliver sentences that are fair, consistent, and commensurate with the offense.

Judges determine an offender's sentence using a "sentencing grid" enacted into law by the legislature and governor. The sentencing grid is based on the severity of the crime and the offender's criminal history. The offense seriousness level reflects the current offense of conviction and ranges from a low of Level I to a high of Level XVI. Criminal history is captured by an offender score that is primarily calculated from prior convictions. Offender scores range from a low of 0 to a high of 9 plus.

Once the offense severity level and the offender score have been calculated, the "presumptive standard sentence range" can be ascertained. This provides a range in which a judge can sentence an offender, for example, 13 to 17 months in prison.³

¹ 2SHB 2338, Chapter 290, Laws of 2002.

² RCW 9.94A; Affects offenders who committed felonies on or after July 1, 1984.

³ The court may impose a sentence outside the standard range if there are documented, compelling facts.

Drug Offense Sentencing Grid

In 2002, the Legislature made substantial changes to the sentencing grid regarding drug laws.⁴ The intent of the legislation was to reduce recidivism by:

- Decreasing the time drug offenders spend in confinement, and by
- Increasing the use of substance abuse treatment through the allocation of funds to a criminal justice treatment account.⁵

These changes removed drug offenses from the original sentencing grid and a separate drug offense sentencing grid was created. The drug grid became effective for drug offenses committed on or after July 1, 2003.

The concept of the 2002 drug grid, as shown in **Exhibit 1**, is the same as the original 1981 sentencing grid, and the method for calculating the offender score did not change. The offense seriousness level for drug offenses, however, ranges from a low of 1 to a high of 3.

Exhibit 1 Drug Offense Sentencing Grid in Months

Seriousness Level	Offender Score		
	0 to 2	3 to 5	6 to 9+
Level III	51 to 68	68+ to 100	100+ to 120
Level II	12+ to 20	20+ to 60	60+ to 120
Level I	0 to 6	6+ to 18	12+ to 24

⁴ 2SHB 2338, Chapter 290, Laws of 2002.

⁵ RCW 70.96A.350

Examples of Level III drug offenses include controlled substance homicide, manufacture of methamphetamine, and involving a minor in drug dealing. Examples of Level I drug offenses include manufacture, deliver, or possession with intent to deliver marijuana, and forged prescription.

Research Design

Study Groups. The best way to determine the effectiveness of a program is to compare the outcomes of offenders in the program with similar offenders not in the program. In an ideal research setting, offenders would be randomly assigned to the study or comparison group. Since all drug offenders are sentenced under the new drug grid, we do not have that option for this evaluation; thus, we will construct an appropriate comparison group.

The comparison group will include offenders sentenced under the original SRA grid prior to the implementation of the drug grid on July 1, 2003.

The study group will consist of offenders sentenced under the drug grid from the time it was implemented in July 1, 2003 through July 1, 2005. This study group is as recent as possible, while allowing sufficient time for a 24-month recidivism follow-up period.

Typically, we use a 36-month recidivism follow-up period for adult offenders: however, it is not possible for this study. Since implementation of the drug grid began in mid-2003 and drug offenders can spend up to 10 years in prison, we must allow sufficient time to pass once offenders are released from prison before a recidivism follow-up can be conducted.

Benefit-Cost Analysis. In addition to estimating whether offender recidivism is reduced due to changes in the drug grid, it is important to determine if the benefits of the drug grid outweigh the costs. We do this using the same economic model used in previous Institute benefit-cost analyses.⁶

The first step in conducting a benefit-cost analysis is to determine the cost of participating in the program versus the cost of not participating. This is calculated by multiplying the total length of stay by the cost per person, per day. For this study, the cost of substance abuse treatment will also be included.

The second step in conducting a benefit-cost analysis is to determine the monetary benefits of participation in the program. Crime reduction results in a benefit to both taxpayers and crime victims. To estimate the benefits of participation in the program, we first estimate how the effect of the program is related to future crimes avoided and monetize the savings to taxpayers and crime victims when crime is reduced.

The final step in conducting a benefit-cost analysis is to compare the benefits with the costs in order to determine the bottom-line estimate for Washington.

Our final report will be completed by December 1, 2008.

For further information, please contact Elizabeth Drake at (360) 586-2767 or ekdrake@wsipp.wa.gov.

Document No. 08-01-1201

⁶ See, for example, S. Aos, M. Miller, & E. Drake (2006). *Evidence-based public policy options to reduce future prison construction, criminal justice costs, and crime rates*. Olympia: Washington State Institute for Public Policy, Document No. 06-10-1201.