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## A Perspective on Adult Corrections in Washington

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# COMMENT

## A PERSPECTIVE ON ADULT CORRECTIONS IN WASHINGTON

Any proposals for reform of Washington's correctional process must be evaluated in the context of factual information concerning the present system. This comment will familiarize those interested in correctional issues with the legal and institutional framework of the Washington system. The first section of the comment describes the course of events experienced by an adult offender immediately after conviction of a felony,<sup>1</sup> whether upon a guilty plea or by a verdict of guilty following a trial. It examines the probation decision, the sentencing process, the institutions, and the parole considerations for those offenders subject to the correctional system.<sup>2</sup> The second section of the comment analyzes available statistical information on certain aspects of the Washington correctional process, including the increased use of probation, the nature of institutional populations, and the likelihood of a paroled offender returning to the correctional system.

### I. AN OVERVIEW OF WASHINGTON CORRECTIONS

#### A. Probation

Upon conviction, the first decision in the criminal correction process affecting the offender's status is the determination of whether he or she should be placed on probation. This decision is solely within the discretion of the court.<sup>3</sup>

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1. A felony is classified in WASH. REV. CODE § 9.01.020 (1974) as a crime punishable by imprisonment in the state penitentiary or death. The new criminal code, effective July 1, 1976, *id.* tit. 9A (Supp. 1975), defines a felony as a crime so designated by statute or punishable by a term of imprisonment of more than one year. *Id.* § 9A.04-.040(2).

2. Programs dealing with offenders who require special treatment outside of the conventional correctional system, *e.g.*, the criminally insane, the sexual psychopath, and the drug addict, are not considered in this comment. For the statutory provisions governing these types of offenders, see WASH. REV. CODE chs. 10.77, 71.06, and § 72.48.030 (1974).

3. *Id.* § 9.95.200.

### 1. *Suspension or deferral*

There are two statutory means for placing the convicted person on probation: a suspension after sentence is imposed,<sup>4</sup> or a deferral of the sentencing determination.<sup>5</sup> Although both methods are similar in result—the convicted offender avoids confinement in a state institution—the methods differ in certain respects.<sup>6</sup> The suspension statute specifically provides that suspension cannot be granted for certain crimes.<sup>7</sup> The deferral statute, however, states that deferral of sentencing generally may be granted for “any crime,”<sup>8</sup> although some criminal statutes expressly preclude deferral for particular offenses.<sup>9</sup>

These two provisions also prescribe different ways of setting the terms or conditions for probation. For a suspension, the court sets the terms; for a deferral, the convicted offender is placed under the supervision of an officer of the Division of Probation and Parole and is subject to rules and regulations set by that organization.<sup>10</sup> Under either method, if the offender is “violating the terms of his probation, or engaging in criminal practices, or is abandoned to improper associates, or living a vicious life,”<sup>11</sup> the probation officer can cause the

4. The exact term of the sentence is decided, pronounced, and then suspended. *See id.* §§ 9.92.060–.066.

5. In this situation, the sentencing decision is not made immediately, and the offender is placed on probation. *See id.* §§ 9.95.210–.240.

6. With suspension, the court must set a definite termination date for the suspended sentence; the period of suspension can be no longer than the term of the sentence originally imposed and may be shorter if the court so elects. *Id.* § 9.92.064. With deferral, the court must designate a period of time during which imposition of sentence is deferred; this period cannot exceed the maximum sentence provided by statute for the crime. *Id.* § 9.95.210.

7. These crimes are murder, burglary in the first degree, arson in the first degree, robbery, carnal knowledge of a female child under ten, and rape. *Id.* § 9.92.060.

8. *Id.* § 9.95.200. An offender whose sentence has been deferred may have his conviction set aside. *Id.* § 9.95.240. Suspension of a sentence is a slightly harsher disposition, because an offender whose sentence is suspended can never have the underlying conviction expunged, *see* notes 18–20 and accompanying text *infra*, but ironically a court can defer a sentence where it cannot suspend it.

9. *See, e.g.,* WASH. REV. CODE § 9.41.025 (1974) (crimes committed with a firearm) and *id.* § 46.61.515 (second conviction within five years for driving a motor vehicle while intoxicated). *See City of Mercer Island v. Walker*, 76 Wn. 2d 607, 458 P.2d 274 (1969), where the Washington Supreme Court held that a special statute, WASH. REV. CODE § 46.61.515 (1974) which precludes suspension for a specific crime, *i.e.*, driving a motor vehicle while intoxicated, controlled over the previously enacted general probation statute, *id.* § 9.95.200, which provided for probation for “any crime.” Note that *id.* § 9.41.025 was also enacted after the probation statute.

10. WASH. REV. CODE §§ 9.92.060, 9.95.210 (1974). Examples of conditions of probation include restitutionary payments, retention of a job, and participation in drug rehabilitation or education programs. *See Comment, Discretion in Felony Sentencing—A Study of the Influencing Factors*, 48 WASH. L. REV. 857, 864 (1973).

11. WASH. REV. CODE § 9.95.220 (1974).

offender to be brought before the court and have the probation revoked.<sup>12</sup> In this event, if the offender's sentence was originally suspended, it would be reinstated and he would proceed to a state correctional institution. If the sentence was originally deferred, sentence would then be pronounced and the offender would begin to serve that sentence.<sup>13</sup>

The court may supplement sentence deferral or suspension by requiring the convicted offender to serve a term of imprisonment of less than one year in a county jail or by imposing a fine of not more than \$1,000, or both.<sup>14</sup> It can also require payments for family support, restitution, and court costs.<sup>15</sup>

## 2. *Revocation or modification*

At any time during the probationary period of suspension or deferral, the court has the power to change, modify, or revoke its suspension or deferral order.<sup>16</sup> The court may also terminate the period of probation at any time and discharge the probationer.<sup>17</sup> An offender with a deferred sentence whose probation has been terminated in the above manner or who has fulfilled the conditions of probation may petition the court to have the conviction set aside prior to the expiration of the maximum term for the offense.<sup>18</sup> The court may then dismiss the criminal charge against the defendant, thereby releasing him from all penalties and disabilities that result from the offense.<sup>19</sup> On the other hand, although an offender on a suspended sentence may petition the court for a similar restoration of civil rights,<sup>20</sup> there is no

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12. *Id.*

13. *Id.*

14. *Id.* § 9.95.210. The language of § 9.95.210, which provides that the court "may suspend the imposing or the execution of the sentence" seems to apply to both suspension and deferral, even though § 9.95.210 is located among the statutes governing deferral. In practice, however, sentences are often suspended with only jail time or payment of a fine required, or both. *See* King County Prosecuting Atty., 1974 Annual Report 18. This construction appears to render superfluous the language in the suspension statute dealing with monetary payments. *See* WASH. REV. CODE § 9.92.060 (1974). The statutory scheme dealing with suspension and deferral is not precise and the distinctions between the two processes are often blurred.

15. WASH. REV. CODE §§ 9.92.060, 9.95.210 (1974).

16. *Id.* § 9.95.230.

17. *Id.*

18. *Id.* § 9.95.240.

19. *Id.*

20. *Id.* § 9.92.066.

provision for expunging the conviction. In both the deferral and suspension situations, however, the grant or denial of the offender's petition is within the discretion of the court.

### 3. *Judicial discretion*

The most striking feature of the initial corrections decision regarding the appropriateness of probation is the complete reliance placed upon the court's discretion. In the deferred sentence process, the sentencing judge may, prior to making the probation decision, request a presentence report from probation and corrections authorities concerning the defendant's personal and family circumstances and those surrounding his crime.<sup>21</sup> The use of this report is discretionary, however, and there are no specific statutory criteria to guide the court in the probation decision. The Canons of Judicial Ethics may be the sole guide for judicial discretion in this area.<sup>22</sup>

#### B. *Sentencing*

##### 1. *Prescribing the maximum term*

In marked contrast to the extensive judicial discretion in the probation decision there are severe restrictions on judicial prerogative in fixing the term of confinement. Once the court makes the decision to commit an offender to a state correctional institution, it must impose the maximum term provided by statute.<sup>23</sup> If a maximum term is not statutorily fixed, then the court must sentence the offender to at least

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21. *Id.* § 9.95.200.

22. *See, e.g.*, WASHINGTON STATE SUPER. CT. JUDGES' ASS'N, FACTORS AFFECTING JUDICIAL DISCRETION IN FELONY SENTENCING IN WASHINGTON STATE: A STUDY OF JUDICIAL ATTITUDES 8-11 (1971).

23. WASH. REV. CODE § 9.95.010 (1974). Examples of such maximum terms include 20 years for forgery in the first degree, *id.* § 9.44.020, and 15 years for grand larceny, *id.* § 9.54.090. Under the new criminal code, tit. 9A, effective July 1, 1976, forgery is a class C felony subject to a five year maximum, *id.* §§ 9A.20.020(1)(c), 9A.60.020(2) (Supp. 1975); grand larceny, if theft in the first degree, is a class B felony carrying a ten year maximum, *id.* §§ 9A.20.020(1)(b), 9A.56.030(2); if theft in the second degree, grand larceny is a class C felony subject to a five year maximum, *id.* §§ 9A.20.020(1)(c), 9A.56.040(2). A fine may also be imposed on the offender. *See* note 75 *infra*.

20 years imprisonment.<sup>24</sup> If there is no prescribed punishment for the defined offense, the maximum sentence is ten years.<sup>25</sup> The Board of Prison Terms and Paroles (Board) must then fix the minimum term within six months after admission of the offender to the Division of Adult Corrections (DAC) or the Department of Social and Health Services (DSHS).<sup>26</sup>

## 2. *Mandatory minimum terms*

Although the Board usually has considerable discretion in setting minimum terms, its powers are limited with respect to particular crimes where the mandatory minimum terms are prescribed by statute.<sup>27</sup> In addition, the Board's powers are restricted with respect to certain crimes which carry a mandatory sentence of life imprisonment.<sup>28</sup> Since offenders convicted of these offenses can be paroled only after serving 20 years less earned good time,<sup>29</sup> this restriction effectively establishes mandatory minimums for these crimes as well.

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24. WASH. REV. CODE § 9.95.010 (1974). Offenses which have no specified maximum term include robbery, *id.* § 9.19.010, and arson in the first degree, *id.* § 9.09.010. Under the new criminal code, robbery in the first degree is a class A felony carrying a 20 year minimum, and robbery in the second degree is a class B felony with a ten year maximum. *Id.* §§ 9A.56.200(2), .210(2) (Supp. 1975). Burglary is similarly classified and carries like sentences. *Id.* §§ 9A.52.020(2), .030(2). Arson in the first degree, a class A felony, carries a 20 year minimum. *Id.* §§ 9A.20.020(1)(a), 9A.48.020(2). See note 75 *infra*.

25. WASH. REV. CODE § 9.92.010 (1974). One such offense is the taking of a motor vehicle without permission. *Id.* § 9.54.020. Under the new code, this offense is a class C felony, see note 75 *infra*, subject to a five year maximum. WASH. REV. CODE § 9A.56.070(2) (Supp. 1975).

26. WASH. REV. CODE § 9.95.040 (1974). The Board's rules of practice and procedure provide for this six-month limit and also require that a parole violator's minimum term be fixed within 30 days of commitment to the Division of Adult Corrections. Washington Bd. of Prison Terms and Paroles, Annual Report 9 (Draft, Dec. 1975) [hereinafter cited as the 1975 Ann. Rep.].

27. The situations in which Board discretion is curtailed include commission of a crime with a deadly weapon, WASH. REV. CODE §§ 9.95.015, .040(1), & .040(2) (1974); first degree rape, *id.* § 9.79.170(2) (Supp. 1975); habitual criminal determinations, *id.* §§ 9.92.090, 9.95.040(3) (1974); certain instances of embezzlement, *id.* § 9.95.040(4); and sale of heroin for profit, *id.* § 69.50.410(3).

28. *E.g.*, murder in the first degree, *id.* § 9.48.030, kidnapping in the first degree, *id.* § 9.52.010, and carnal knowledge of a child under ten years, *id.* § 9.79.020(1). The only crime for which the new criminal code provides a mandatory life sentence is first degree murder, *id.* § 9A.32.040 (Supp. 1975).

29. *Id.* § 9.95.115 (1974). For a discussion of good time, see notes 40-42 and accompanying text *infra*. In this context, the effect of good time is that a person convicted of one of the offenses enumerated in note 28 *supra* would be required to serve 13 years and 4 months before he or she could be paroled.

Mandatory minimum terms are not conclusive, however, for with the exceptions of first and second degree murder, the Board is empowered to parole an offender prior to the expiration of the minimum term.<sup>30</sup> In addition, the Board can refix the minimum terms of confinement at any time after the minimum term has been established.<sup>31</sup>

### C. *The Institutions*

There are six major adult correctional facilities in Washington where a committed offender may serve a sentence fixed by the Board.<sup>32</sup> A male offender will be sent first to the reception center of the corrections center at Shelton for a six-week classification and diagnostic study. During this time he will meet with the Board, the length of his sentence will be determined, and he will be assigned to another institution by the Secretary of the Department of Social and Health Services on the basis of the recommendation of the classification staff at Shelton.<sup>33</sup> If he is a young first offender, he probably will be assigned to the training center at Shelton, a medium security facility that specializes in vocational and academic training.<sup>34</sup> Alternatively, this type of offender may be assigned to the Indian Ridge Treatment Center at Arlington, a minimum security facility where an offender receives four months of forestry work-training and then proceeds to academic or vocational training.<sup>35</sup>

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30. WASH. REV. CODE § 9.95.040 (1974). It should be noted that those paroled under these conditions cannot obtain a conditional discharge from supervision, see notes 64-66 and accompanying text *infra*, until the minimum term has expired.

31. WASH. REV. CODE § 9.95.052 (1974). In making such a determination, the Board may request a report on the offender from the supervisor of the corrections institution where the offender is incarcerated and may conduct its own investigation as well.

32. These are the Washington Corrections Center at Shelton (capacity 720), the Washington State Reformatory at Monroe (capacity 679), the Washington State Penitentiary at Walla Walla (capacity 1657), the Purdy Treatment Center for Women at Gig Harbor (capacity 150), the Indian Ridge Treatment Center at Arlington (capacity 60), and the Larch Mountain Honor Camp in Yacolt (capacity 100). A basic source describing the functions of these facilities is a pamphlet published by the Washington Department of Social and Health Services [hereinafter cited as DSHS], *Adult Corrections in Washington State* (undated).

33. WASH. REV. CODE §§ 72.13.120, .140, .160 (1974).

34. One of the aims of this type of inmate selection is to preclude the development of a prison subculture. See DAC, Washington Dep't of Institutions, *Washington Corrections Center* (undated). See also Table 9 *infra*, which shows that the great majority of offenders committed to Shelton are 25 years old or younger.

35. DSHS, News Release No. 75-117 (Oct. 30, 1975).

If the offender is more criminally sophisticated, he may be assigned to the reformatory at Monroe or the penitentiary at Walla Walla. Generally, younger repeat offenders who are more likely to respond to education and vocational training go to Monroe, while older repeaters or those convicted of capital crimes go to Walla Walla.<sup>36</sup> Both of these institutions are maximum security facilities in which the offender can be placed under close, medium, or minimum custody.<sup>37</sup> The more promising subjects for rehabilitation among the minimum custody residents of both institutions may be assigned to Larch Mountain Honor Camp to engage in reforestation work, road construction, and firefighting under the auspices of the Department of Natural Resources.<sup>38</sup>

All female offenders sentenced to a state correctional institution are assigned to the Purdy Treatment Center for Women at Gig Harbor. As offenders at Purdy are not classified by custody or treatment categories and are offered numerous educational opportunities, the treatment center has drawn considerable praise from corrections experts as one of the more innovative facilities of its kind.<sup>39</sup>

There are several means by which an offender sent to one of the above institutions may have his or her minimum term reduced.<sup>40</sup> The Board may grant good time credits for up to one-third of an offender's minimum term upon report from the superintendent of the institution

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36. See generally DSHS, Washington State Reformatory (Oct. 1970); DAC, Washington Dep't of Institutions, Washington State Penitentiary (undated). The reformatory at Monroe also has a mental health unit (capacity 35) for severely disturbed individuals who require close supervision and intensive psychiatric care.

37. See Washington State Reformatory and Washington State Penitentiary, *supra* note 36. A prisoner under close custody has only limited privileges and cannot participate in evening activities; an individual under medium custody may participate fully in all institutional programs; minimum custody allows an individual to leave the institution for work or training release or work in honor programs at the institutions.

38. See Washington State Reformatory and Washington State Penitentiary, *supra* note 36.

39. See Denenberg, *Profile—Washington State*, 1 CORRECTIONS 31, 36–38 (Nov.-Dec. 1974).

40. See text accompanying notes 30 & 31 *supra*. The factors considered by the Board in making this decision are similar to those involved in granting parole. See note 53 *infra*. To carry out this mandate, the Board's practice has been to meet annually with each institutional resident. State of Washington Human Resources Agency, Annual Report—Fiscal Year 1974, at 57 (1975) [hereinafter cited as 1974 Ann. Rep.]. This year, however, the Board has evolved a new policy whereby the number of these annual meetings will be reduced. In lieu of personal meetings, the Board will place greater reliance on administrative review during the early stages of an offender's confinement where the offender's minimum term has been set at more than 18 months. 1975 Ann. Rep., *supra* note 26, at 5–6.



that the offender's conduct has been meritorious.<sup>41</sup> Both good time credits and the fixed minimum sentence are subject to revocation if an offender violates an institution's rules of confinement.<sup>42</sup>

The possibility of extending the limits of confinement prior to the expiration of sentence is available through the Work Training Release Program.<sup>43</sup> Near the end of an offender's term, he or she may be released to a community facility<sup>44</sup> to engage in employment or participate in an approved vocational training program during work hours. During non-working hours the offender returns to the community facility for custody. The offender reimburses the state for boarding expenses during this period of reintegration into society.<sup>45</sup> An offender's work release may be revoked or modified at any time at the discretion of the corrections authorities, and willful failure to return to confinement constitutes a felony.<sup>46</sup>

Another means by which the limits of confinement are extended is the Furlough Program.<sup>47</sup> An eligible "resident"<sup>48</sup> may obtain an authorized leave of absence from the correctional institution without being in custody of any law enforcement or corrections officer<sup>49</sup> for a period not to exceed 30 consecutive days or a total of 60 days in any twelve-month period.<sup>50</sup> Furloughs may be granted for a variety of reasons: *e.g.*, to meet a family emergency, to obtain medical care not available in a correctional facility, to arrange for future employment, or to make residential plans for parole.<sup>51</sup>

41. WASH. REV. CODE §§ 9.95.070, .110 (1974).

42. *Id.* § 9.95.080. The offender must be given a hearing with the opportunity to present evidence and witnesses before his good time credits or fixed minimum sentence can be revoked.

43. *Id.* §§ 72.65.010 *et seq.*

44. The facility can be a state penal institution, an approved county jail, or a local institution specifically established for work release purposes. *Id.* § 72.65.020.

45. *Id.* § 72.65.050(2).

46. *Id.* §§ 72.65.040-.070.

47. *Id.* §§ 72.66.010 *et seq.*

48. As defined in *id.* § 72.66.010(4), "'Resident' means a person convicted of a felony and serving a sentence for a term of confinement in a state correctional institution or facility, or a state approved work or training release facility." Eligibility turns upon meeting the minimum-time-served requirement of *id.* § 72.66.016, and upon avoiding disqualification under *id.* § 72.66.014.

49. Each furloughed offender must have a sponsor who is responsible for overseeing the individual's furlough and for reporting any departures from the furlough plan to the appropriate authorities. *Id.* § 72.66.024.

50. *Id.* § 72.66.036(1). Absent unusual circumstances, however, each first and second furlough granted a resident may not exceed five days, *id.* § 72.66.036(2).

51. *Id.* § 72.66.018. It should be noted that a prisoner may also obtain a leave of absence, but greater supervision is required and the grounds for granting it are more limited. *Id.* § 72.01.370-.380.

D. Parole

There are two ways that an offender's institutionalization may be terminated. He or she may be discharged from an institution after serving the maximum term for the offense or after serving the sentence fixed by the court.<sup>52</sup> Alternatively, he or she may be paroled by the Board after serving the minimum term, less earned good time credit.<sup>53</sup> The terms and conditions of parole are established by the Board,<sup>54</sup> and the parolee is assigned to a supervising officer from the Division of Probation and Parole.<sup>55</sup> If the parolee violates the terms or conditions of parole, the parole officer must report the violation to the Board and may also cause the parolee to be returned to custody.<sup>56</sup> On the basis of the report, the Board may modify the terms of parole or take steps toward its revocation.<sup>57</sup>

The parole revocation process requires that the Board conduct a hearing near the site of the alleged violation to determine whether a violation has in fact occurred.<sup>58</sup> The parolee may waive his right to a hearing,<sup>59</sup> but if a hearing is held, the parolee is entitled to representation by counsel.<sup>60</sup> If, after the hearing, the Board determines there has been no violation, parole is reinstated.<sup>61</sup> If a violation is found or a hearing waived, the Board may reinstate or revoke the parole, de-

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52. *Id.* § 9.95.100.

53. *Id.* § 9.95.110. The factors the Board weighs in determining an individual's fitness for parole are the threat posed to the public by the individual based on his record, the personal and family circumstances of an individual which might affect stability after release, the nature of an individual's responses to institutionalization, the vocational or academic training an offender has completed, and the willingness of the community to accept the returned offender. 1975 Ann. Rep., *supra* note 26, at 10-11. See Johnson, *The Board of Prison Terms and Paroles: Criteria in Decision-Making*, 51 WASH. L. REV. 643 (1976).

54. WASH. REV. CODE § 9.95.110 (1974).

55. The Division of Probation and Parole supervises probationers and parolees, whereas the Board of Prison Terms and Paroles makes the parole decision, sets the minimum term, and determines whether parole is to be revoked. *Id.* §§ 72.04A.050-.110.

56. *Id.* § 9.95.120.

57. *Id.*

58. *Id.* The Board conducts two types of onsite hearings: a preliminary hearing before a Board hearing officer within ten days of the parolee's detention to determine "probable cause" for suspecting a violation as required by *id.* § 9.95B.010, and a full hearing before a member of the Board within 30 days as required by *id.* § 9.95.120. See also 1974 Ann. Rep., *supra* note 40, at 57; 1975 Ann. Rep., *supra* note 26, at 15.

59. WASH. REV. CODE § 9.95.121 (1974).

60. *Id.* § 9.95.122. If the parolee is indigent, he will be provided counsel at state expense. *Dillenburg v. Morris*, 84 Wn. 2d 353, 525 P.2d 770 (1974).

61. WASH. REV. CODE § 9.95.125 (1974).

pending on the parolee's individual circumstances and whether the violation is deemed sufficient cause for revocation.<sup>62</sup> If parole is revoked, the parolee is returned to the DAC where his minimum term will be fixed within 30 days and he will be assigned to a correctional institution.<sup>63</sup>

If the parolee's reintegration into society appears to have been successful, the parole officer may recommend that he be granted a conditional discharge from supervision.<sup>64</sup> A conditional discharge requires the parolee to report annually to the Board and to continue under its supervision.<sup>65</sup> After one year in the conditional discharge status, the Board may grant the parolee a final discharge which results in restoration of the parolee's civil rights.<sup>66</sup>

### E. Recent Developments

Three recent developments which may have a strong impact on Washington corrections should be mentioned at this point. First, the legislature has enacted a probation subsidy program which was to have taken effect on January 1, 1974.<sup>67</sup> It calls for the development of "special adult supervision programs"<sup>68</sup> by each community. These programs are to receive and treat probationers at the local level.<sup>69</sup> Each community will receive funds for such programs based on the amount of savings that would result to the state by the reduction of offenders sent to state institutions.<sup>70</sup>

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62. *Id.* §§ 9.95.121, .125.

63. *Id.*

64. Normally this occurs after an individual has been on parole for one year to 18 months. 1975 Ann. Rep., *supra* note 26, at 18. See also WASH. REV. CODE §§ 9.95.040, 9.96.050 (1974).

65. 1975 Ann. Rep., *supra* note 26, at 18.

66. WASH. REV. CODE § 9.96.050 (1974).

67. *Id.* ch. 9.95A. This program has not been implemented because to date the legislature has not provided funds for it. Interview with Mr. Charles Langen, Senior Research Analyst, Washington State Senate Ways and Means Committee, in Olympia, Wash., Jan. 29, 1976.

68. A "special adult supervision program" entails supervision better than that which presently exists, with individualized programs employing new techniques. WASH. REV. CODE § 9.95A.030(3) (1974).

69. In addition to deferred and suspended sentences, the statute provides for "deferred prosecution," which allows an offender to enter a "special adult supervision program" before plea or trial. If the offender successfully completes the program, the charges are dismissed; if not, prosecution is commenced. *Id.* § 9.95A.030(4).

70. *Id.* § 9.95.020. For the method of calculating the amount each community is to receive, see *id.* § 9.95A.060.

Secondly, the Board of Prison Terms and Paroles has developed a new parole policy that limits its own discretion by extensive reliance on statistical aids. The Board has adopted guidelines for fixing minimum terms in the form of a decision-making matrix which incorporates such factors as the severity of the offense and the risk posed to the community based on studies of past offenders.<sup>71</sup> It will generally fix minimum terms in accordance with these guidelines, and any deviation from them must be justified in writing by the Board.<sup>72</sup> The Board intends to implement these guidelines in conjunction with Washington's new criminal code.<sup>73</sup>

The new criminal code is the third development that will affect the Washington correctional system.<sup>74</sup> It redefines substantive offenses and provides for a new offense classification system which prescribes maximum sentences for each type of crime.<sup>75</sup> Additionally, in November 1975, voters approved a capital punishment measure, Initiative 314, which mandates the death penalty for crimes designated as aggravated first degree murder. Initiative 314 also affects the discretion of the Board in treating or releasing such offenders and provides for life imprisonment without parole, deferral, or suspension in the event the death penalty cannot be implemented.<sup>76</sup>

## II. STATISTICAL ASPECTS OF THE WASHINGTON CORRECTIONAL SYSTEM

The following discussion supplements Part I's description of the legal and institutional framework of Washington corrections by pre-

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71. See generally Washington State Bd. of Prison Terms & Paroles, Proposed Guidelines for Fixing Minimum Terms of Confinement (Mar. 31, 1976). For a recent study that deals with the federal guidelines in this area, see Project—*Parole Release Decisionmaking and the Sentencing Process*, 84 YALE L.J. 810 (1975).

72. See Proposed Guidelines, *supra* note 71, at 4.

73. *Id.* at 1.

74. See generally WASH. REV. CODE tit. 9A (Supp. 1975).

75. *Id.* § 9A.20.020 provides for classifications of crimes and sentences as follows:

Class A Felony: 20 year minimum—\$10,000 fine or both

Class B Felony: 10 year maximum—\$10,000 fine or both

Class C Felony: 5 year maximum—\$ 5,000 fine or both

Gross Misdemeanor: 1 year in jail maximum—\$10,000 fine or both

Misdemeanor: 90 days in jail maximum—\$500 fine or both

For crimes not defined in Title 9A, those with a prescribed sentence of 20 years or more will be treated as class A felonies, those of 8 to 20 years as class B felonies, and those of less than 8 years as class C felonies. *Id.* § 9A.20.040(3).

76. The measure will be codified as WASH. REV. CODE ch. 9A.32 (Supp. 1975). For a text of the measure, see Wash. Legis. Serv., 44th Legis., 1st Ex. Sess. 1037-38.

senting some of the operational features of the present system in the form of empirical data. This section is not intended to be a rigorous statistical analysis of the present correctional process, nor is its purpose to use the data to justify the need for particular reforms. Rather, the section is designed to provide background information concerning the Washington correctional system to those interested in evaluating subsequent articles in this Symposium. It will present some of the more significant facts available regarding probation, parole, and the institutions, and will amplify what appear to be some of the more significant findings.

Before examining the statistical aspects of Washington adult corrections, it is important to have some idea of the proportion of offenders who actually reach correctional institutions.<sup>77</sup> During 1974 in King County, there were approximately 67,000 Federal Bureau of Investigation criminal index offenses reported to the police.<sup>78</sup> If the estimated number of larcenies involving less than \$200 is disregarded, approximately 36,000 crimes that could be classified as felonies were reported in King County in 1974.<sup>79</sup> It can be estimated that approximately 15 to 20 percent of these offenses<sup>80</sup> were cleared by the local law enforcement authorities, *i.e.*, the offender was identified, charged,

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77. This discussion is based upon King County data, as similar statewide figures are unavailable. The information is presented to provide perspective on the limited role that correctional institutions have in reducing crime, at least in terms of absolute numbers. The information here is *not* intended as a definitive statistical summary of crime in King County or as a definitive statement of the role of Washington's correctional system in alleviating crime. Nevertheless, the figures indicate the great number of offenders who do not reach the state institutions. It should be recognized, however, that the ensuing discussion contrasts reported *crimes* with convicted *offenders*, and that many of the reported crimes may have been committed by the same individuals.

78. This total was derived from FBI crime figures by adding the number of index offenses for King County (excluding Seattle), 20,960, and the number of index offenses for Seattle, 46,031; total 66,991. FEDERAL BUREAU OF INVESTIGATION, 1974 UNIFORM CRIME REPORTS 133, 145 (1975) [hereinafter cited as 1974 UNIFORM CRIME REPORTS]. There are seven index offenses: criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft. Other offenses such as arson and forgery are not included in these totals. Consequently, the figures cited in the text are probably a low estimate of the number of felony offenses committed in King County in 1974.

79. This figure was obtained from Seattle Police Department statistics which show that of the 46,031 index offenses reported, 21,219, or approximately 46%, were larcenies involving less than \$200. Seattle Police Dept., 1974 Statistical Report 23 (Apr. 3, 1975). Assuming that a similar percentage of petty larcenies prevails in King County as a whole, one arrives at the 36,000 estimate.

80. The Seattle Police Department clearance rate for index offenses is 19% (14% if larcenies of less than \$200 are excluded). *Id.* at 45. The clearance rate for index offenses in the Pacific states (Alaska, California, Hawaii, Oregon, and Washington) is 20.8%, 45.9% for personal offenses, and 18.5% for property offenses. 1974 UNIFORM CRIME REPORTS, *supra* note 78, at 169.

## Adult Corrections in Washington

and brought into custody.<sup>81</sup> During 1974, 3,774 criminal charges were filed in the King County Superior Court by the King County Prosecutor, 2,430 of which resulted in criminal convictions.<sup>82</sup> Of the convicted offenders, 359 were sentenced to state correctional institutions.<sup>83</sup>

### A. Probation<sup>84</sup>

The most striking fact that emerges from an examination of available data on probation in Washington is the increased use of probation throughout the state. As Table 1 shows, while court commitments to correctional institutions increased approximately one-fourth during the period from 1969 to 1974, admissions to probation more than doubled. The percentage of convicted offenders who received probation rose from 67.3 percent to 77.9 percent for the same period, although the percentage stabilized at about 78 percent in the last three years shown in Table 1.

TABLE 1  
ADMISSIONS TO DIVISION OF ADULT CORRECTIONS  
AND TO PROBATION—STATE TOTAL<sup>85</sup>

| Calendar Year | Court Commitments to DAC | Admissions to Probation | Percent of Convicted Offenders Placed on Probation |
|---------------|--------------------------|-------------------------|----------------------------------------------------|
| 1969          | 1,091                    | 2,244                   | 67.3                                               |
| 1970          | 1,000                    | 2,826                   | 73.9                                               |
| 1971          | 1,083                    | 3,206                   | 74.7                                               |
| 1972          | 1,186                    | 4,235                   | 78.1                                               |
| 1973          | 1,238                    | 4,388                   | 78.0                                               |
| 1974          | 1,372                    | 4,845                   | 77.9                                               |

81. Thus, the arrest of one person may clear several crimes and the arrest of several people may clear one crime. 1974 UNIFORM CRIME REPORTS, *supra* note 78, at 42.

82. King County Prosecuting Atty., 1974 Annual Report 17. These are not all felony charges and convictions. Some traffic offenses and other misdemeanors are included. In addition, these 1974 dispositions do not correspond exactly to the 1974 crime and clearance figures as some of the convictions resulted from the 1,917 charges filed prior to 1974, and 2,488 of the charges were still pending as of Dec. 31, 1974.

83. *Id.* at 18.

84. It should be noted at the outset that available data is limited in the probation area. There have been very few studies done on what type of offender (*i.e.*, by such characteristics as race, offense, and previous offenses) is given probation rather than sentenced to a state correctional institution. Considerable research is needed in this

The percentages for King County over this same period were consistently higher than the state average. Disposition was by probation in 70 percent of the cases in 1969, 84.9 percent in 1973, and 82.5 percent in 1974.<sup>86</sup> Of the remaining five largest counties,<sup>87</sup> only Yakima, with a range from 55.8 percent in 1969 to 76.7 percent in 1974, was consistently below the state average.<sup>88</sup>

As the use of probation has increased, so has the proportion of repeat probationers as a percentage of total probationers. In 1968, only 2.1 percent of the total probations were granted to offenders who had previously been on probation. The percentage increased steadily until it reached 11.5 percent in 1973; it dropped to 10.8 percent in 1974.<sup>89</sup>

As for the probation method selected by the courts, the statewide figures show that deferral is used more frequently than suspension. Of the 27,775 probations granted in Washington during the calendar years 1965 through 1974, 3,498 or 12.6 percent were suspended sentences; the remainder were deferred.<sup>90</sup>

Perhaps the most interesting statistical aspect of probation is that despite the increased use of probation, the failure rate has remained relatively constant; that is, the rate of return of probationers to the correctional system in Washington has not increased significantly.

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area, especially given the large number of offenders currently obtaining probation. See Table 1 *infra*. There is one Washington study of judicial reactions to hypothetical offender characteristics. WASHINGTON STATE SUPER. CT. JUDGES' ASS'N, FACTORS AFFECTING JUDICIAL DISCRETION IN FELONY SENTENCING IN WASHINGTON STATE: A STUDY OF JUDICIAL ATTITUDES (1971). For an analysis of this study, see Comment, *supra* note 10.

85. Appendices A-1 to A-6. The *Washington Law Review* has provided its own appendix numbering system for this data which is contained in generally unpublished, undated Department of Social and Health Services reports, on file with the *Washington Law Review*.

86. *Id.*

87. In descending order of population, the five largest Washington counties after King County are Pierce, Spokane, Snohomish, Yakima, and Clark. These six counties comprise approximately 70% of the state's population, *i.e.*, 2,406,300 of Washington's 3,448,100 citizens. King County alone has a population of 1,146,200 or about 33% of the state total. WASHINGTON STATE OFF. OF PROGRAM PLANNING AND FISCAL MGT., POCKET DATA BOOK 1974, at 169 (1975) [hereinafter cited as 1974 POCKET DATA BOOK].

88. Appendices A-1 to A-6, *supra* note 85.

89. Office of Research, DSHS, Adult Corrections Population Data, Rep. No. 8:1-1 (1975), at Table 124.

90. This figure has held fairly constant over the years. *Id.* at Table 84. Available statistics on the six largest counties, see note 87 *supra*, show that during the period 1966-72, King and Pierce county courts used suspended sentences far more than the courts of the other four largest counties: 20% and 18% respectively as compared with less than 5% for the other four. DSHS, Guidelines and Standards for Adult Probation Subsidy Programs, Appendices 2, 3.6, 3.17, 3.27, 3.31, 3.32, 3.39 (1973).

TABLE 2  
ADULT PROBATION FAILURES FOR PERSONS SENTENCED  
IN STATE—TOTAL<sup>91</sup>

| Year of Admission to Probation | % Probation Revoked* | % B/W Issued** | % Total B/W & Revocations | Avg. Fail Time in Months |
|--------------------------------|----------------------|----------------|---------------------------|--------------------------|
| 1965                           | 20.5                 | 17.5           | 38.0                      | 20.0                     |
| 1966                           | 18.7                 | 15.5           | 34.2                      | 20.5                     |
| 1967                           | 17.1                 | 20.2           | 37.3                      | 22.0                     |
| 1968                           | 17.4                 | 18.1           | 35.5                      | 19.6                     |
| 1969                           | 13.5                 | 16.2           | 29.7                      | 20.2                     |
| 1970                           | 15.3                 | 16.9           | 32.2                      | 18.8                     |
| 1971                           | 12.1                 | 15.5           | 27.6                      | 17.7                     |
| 1972                           | 11.8                 | 12.3           | 24.1                      | 13.6                     |
| 1973                           | 7.4                  | 9.0            | 16.4                      | 9.0                      |
| 1974                           | 3.4                  | 3.2            | 6.6                       | 3.6                      |

\* Percentage of probationers in the designated years whose probation was revoked.

\*\* Percentage of probationers for whom a bench warrant was issued without a revocation of probation, e.g., one brought before the court as a probation violator whose probation was reinstated; one who violated probation but left the jurisdiction and was not brought before the court.

This table must be read with some caution.<sup>92</sup> Although the “failure rate” may have declined slightly in recent years, the average fail time statistics indicate that a few years must pass after the expiration of a year indicated in the table before accurate conclusions may be drawn regarding probation success for the particular year. There are, however, certain conclusions which can be safely drawn. Past performance indicates that a conservative estimate of the ultimate “failure rate” is approximately 30 percent.<sup>93</sup> Additionally, the rate of failure has not changed dramatically despite the increased use of probation as indicated by Table 1.

91. DSHS, *An Examination of Probation and Parole Rates for Wash. State and King County for Calendar Years 1965 Through 1974* (Oct. 10, 1975), at Table 2. Failure here is perhaps an unfortunate semantic choice, as probationer conduct ranging from the commission of a felony to failure to report to the probation officer may lead to the issuance of a bench warrant or a revocation of probation. Some of these acts are less indicative of probation “failure” than others.

92. It is possible some of the bench warrants were issued for probationers whose probation was ultimately revoked without reducing the bench warrant total. Thus the combination of the two categories perhaps overstates the total percentage of failures.

93. The data given in Table 2 would seem to indicate a higher rate, but 30% attempts to account for the fact that issuance of a bench warrant may not be a fair



## B. Institutional Population

### 1. Commitments

Once the choice between probation and commitment has been made, perhaps the most important determination affecting an offender's status during institutionalization is the fixing of the minimum term by the Board of Prison Terms and Paroles.<sup>94</sup> During fiscal year 1975 the Board fixed 1,267 minimum terms for those offenders committed by the courts and 216 minimum terms for parole violators.<sup>95</sup> Of the 1,267 minimum terms for those committed by the courts, the Board was required to impose mandatory minimum terms in 95 cases.<sup>96</sup> Over the same period, the Board exercised its discretion to waive minimum terms<sup>97</sup> in 53 cases.<sup>98</sup>

The average minimum term imposed by the Board for those offenders committed by the courts was 4 years and 10 months, and the average minimum term for parole violators was 2 years and 11 months. The following table indicates that the length of these terms is greater than those fixed in the previous six fiscal years and that the length of the minimum terms fixed for both situations has increased.

TABLE 3  
COMPARISON OF AVERAGE MINIMUM TERMS  
FIXED (FISCAL YEARS 1970-1975)<sup>99</sup>

| Calendar<br>Year | Average Minimum Terms |        |                  |        |
|------------------|-----------------------|--------|------------------|--------|
|                  | Court Commitments     |        | Parole Violators |        |
|                  | Years                 | Months | Years            | Months |
| 1970             | 3                     | 9      | 2                | 4      |
| 1971             | 3                     | 8      | 1                | 10     |
| 1972             | 3                     | 4      | 1                | 11     |
| 1973             | 3                     | 5      | 1                | 11     |
| 1974             | 4                     | 2      | 2                | 1      |
| 1975             | 4                     | 10     | 2                | 11     |

measure of probation "failure," and to adjust for discrepancies in the data collection methods.

94. See text accompanying notes 26-31 *supra*.

95. 1975 Ann. Rep., *supra* note 26, at 7.

96. *Id.* at 8. See notes 27-29 *supra*.

97. See notes 30 & 31 *supra*.

98. 1975 Ann. Rep., *supra* note 26, at 8.

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## 2. Institutions and costs

The prison population in Washington is distributed among a number of institutions as discussed previously.<sup>100</sup> The costs of incarceration vary with the nature of the institutional program. Table 4 indicates that, as of December 12, 1975, the state correctional institutions were filled to 90.79 percent of their overall capacity with the most over-taxed facilities being the Training Center at Shelton and the Reformatory at Monroe. Walla Walla and Shelton's Reception Center were the least crowded, neither being filled to capacity. As both Walla Walla and Monroe are designed to house offenders for most of their terms, it appears that an effort has been made to keep offenders out of Walla Walla.

TABLE 4  
DAILY POPULATION REPORT—DECEMBER 12, 1975  
WASHINGTON ADULT CORRECTIONAL INSTITUTIONS<sup>101</sup>

| Institution                   | Capacity | Population* | % of Capacity |
|-------------------------------|----------|-------------|---------------|
| Walla Walla (Penitentiary)    | 1,657    | 1,366       | 82.44         |
| Monroe (Reformatory)          | 679      | 706         | 103.98        |
| Shelton Reception Center      | 240      | 188         | 78.33         |
| Shelton Training Center       | 480      | 494         | 102.92        |
| Purdy Treatment Center        | 150      | 148         | 98.67         |
| Larch Mountain Honor Camp     | 100      | 94          | 94.00         |
| Indian Ridge Treatment Center | 60       | 60          | 100.00        |
| Total                         | 3,366    | 3,056       | 90.79         |

\* Excludes work and training releasees housed elsewhere; includes furlough count.

An examination of the population trends of correctional institutions for fiscal years 1970 to 1975 reveals that the institutional population declined through fiscal year 1973 but has since increased approxi-

99. Appendix B-1, *supra* note 85. It is instructive to compare this table with the discussion of the median length of stay. See notes 120-25 and accompanying text *infra*. It should be noted, however, that this table reflects the *mean* minimum terms whereas the length of stay materials deal with the *median* length of stay.

100. See Part I-C *supra*.

101. Appendix B-2, *supra* note 85.

mately 20 percent. This coincides roughly with the period during which the percentage of offenders granted probation stabilized.<sup>102</sup> It also appears from Table 5 that in the past year more offenders have been sent to Walla Walla, perhaps because it is the one institution not filled to near capacity.

TABLE 5

END OF YEAR POPULATIONS\* FOR ADULT CORRECTIONAL FACILITIES FOR FISCAL YEARS 1970 THROUGH 1975<sup>103</sup>

| Institution       | Fiscal Year |       |       |       |       |       |
|-------------------|-------------|-------|-------|-------|-------|-------|
|                   | 1970        | 1971  | 1972  | 1973  | 1974  | 1975  |
| Walla Walla       | 1,305       | 1,225 | 1,136 | 1,034 | 1,071 | 1,361 |
| Monroe            | 699         | 764   | 739   | 714   | 718   | 752   |
| Shelton Training  | 428         | 464   | 460   | 515   | 557   | 560   |
| Shelton Reception | 181         | 189   | 194   | 173   | 188   | 214   |
| Purdy             | 94          | 95    | 124   | 153   | 148   | 156   |
| Honor Camps**     | 229         | 128   | 116   | 76    | 148   | 153   |
| Total             | 2,936       | 2,865 | 2,769 | 2,665 | 2,830 | 3,196 |

\* Includes those in residence, on authorized leave, on work training release, and on furlough.

\*\* The fluctuation in the number in honor camps reflects the fact that several were closed prior to 1973 and that Indian Ridge was opened in 1973.

Both daily and annual per capita costs for maintaining offenders in the institutions are set forth in Table 6.

Predictably, the newer facilities that emphasize rehabilitation, Purdy and Indian Ridge, have higher per capita costs than the older institutions that deal largely with repeat offenders.<sup>105</sup> Monroe is more expensive to operate as a facility than Shelton, however, and much of the 41 percent cost increase in the treatment of offenders statewide

102. See Table 1 *supra*.

103. Appendix B-3, *supra* note 85.

104. Appendices B-4 to B-5, *supra* note 85. The cost increase percentages were calculated by the author from DSHS figures.

105. One reason for this is undoubtedly the number of counselors available at each institution. For example, at Indian Ridge there are 13 permanent and 3 part-time counselors, making the counselor-resident ratio about 4:1. At the larger institutions the ratio is sometimes as high as 120:1. DSHS, News Release, *supra* note 35, at 2.

## Adult Corrections in Washington

has resulted from the increased expense of maintaining the older institutions at Walla Walla and Monroe.<sup>106</sup>

TABLE 6  
PER CAPITA COSTS FOR RESIDENTS IN WASHINGTON  
STATE INSTITUTIONS—FISCAL YEAR 1975\*<sup>104</sup>

| Institution               | Per Capita Costs |         | % Cost Increase<br>Since FY 1972 |
|---------------------------|------------------|---------|----------------------------------|
|                           | Daily            | Annual  |                                  |
| Walla Walla               | \$16.23          | \$5,924 | 40                               |
| Monroe                    | 23.59            | 8,609   | 56                               |
| Shelton                   | 21.58            | 7,875   | 23                               |
| Purdy Treatment Center    | 46.36            | 16,920  | 15                               |
| Larch Mountain Honor Camp | 17.79            | 6,494   | 61                               |
| Indian Ridge              | 28.71            | 10,478  | —                                |
| Total Adult Corrections   | 21.11            | 7,704   | 41                               |

\* Based on average daily population which excludes work-training release, furloughs, and authorized leaves.

### 3. Characteristics of the inmate populations

The characteristics and records of the people incarcerated in Washington may impart some idea of the shortcomings of the present correctional system. From 1965 through 1973 approximately 68 percent of the felons admitted to the correctional institutions had no prior Washington adult court commitments.<sup>107</sup> Of the 32 percent who had previous court commitments, approximately 40 percent, 13.4 percent

106. It is interesting to compare the estimated costs of probation. Although few figures are available for probation costs, one estimate of the daily cost per probationer in fiscal year 1974 was \$1.07. Denenberg, *supra* note 39, at 42. The author reported, however, that the typical Washington probation officer's caseload ranges from 60 to 90, whereas the recommended national maximum is 50. Nevertheless, the economic advantages of probation are obvious.

107. Percentage derived from DSHS, ADULT CORRECTIONS, DEMOGRAPHIC DATA FOR COUNTIES PARTICIPATING IN ADULT PROBATION SUBSIDY vol. 8 (Research Rep. 2-1, June 1975), at Table 37 [hereinafter cited as ACDD]. This percentage has ranged from 55% to 77% over the years, 1970 being the peak year.

TABLE 7

COMMITMENT OFFENSE OF FELONS ADMITTED TO ADULT CORRECTIONAL FACILITIES IN THE STATE OF WASHINGTON DURING CALENDAR YEARS 1970 THROUGH SEPT. 30, 1975<sup>110</sup>

| Commitment Offense      | 1970  | 1971  | 1972  | 1973  | 1974  | 1975* | TOTAL  |
|-------------------------|-------|-------|-------|-------|-------|-------|--------|
| <b>Violent Crimes:</b>  |       |       |       |       |       |       |        |
| Murder, First           | 14    | 6     | 14    | 6     | 7     | 8     | 56     |
| Murder, Second          | 25    | 18    | 24    | 35    | 25    | 19    | 146    |
| Manslaughter, Vehicle   | —     | —     | 2     | 1     | —     | —     | 3      |
| Manslaughter, Other     | 24    | 27    | 25    | 21    | 18    | 8     | 123    |
| Robbery                 | 152   | 151   | 149   | 166   | 128   | 87    | 833    |
| Assault, First          | 11    | 10    | 15    | 19    | 5     | 5     | 65     |
| Assault, Second         | 74    | 64    | 80    | 103   | 60    | 31    | 412    |
| Assault, Other          | 1     |       | 4     |       |       |       | 5      |
| Rape                    | 5     | 15    | 14    | 22    | 23    | 10    | 89     |
| Carnal Knowledge        | 20    | 21    | 14    | 18    | 19    | 7     | 99     |
| Indecent Liberties      | 25    | 26    | 25    | 24    | 20    | 11    | 131    |
| Subtotal                | 351   | 338   | 367   | 415   | 305   | 186   | 1,962  |
| <b>Property Crimes:</b> |       |       |       |       |       |       |        |
| Burglary, First         | 4     | 3     | 5     | 8     | 6     | 5     | 31     |
| Burglary, Second        | 396   | 354   | 364   | 338   | 238   | 156   | 1,846  |
| Larceny, General        | 310   | 296   | 306   | 276   | 216   | 136   | 1,540  |
| Auto Theft              | 155   | 146   | 141   | 117   | 96    | 35    | 690    |
| Forgery, First          | 186   | 180   | 150   | 115   | 88    | 52    | 771    |
| Forgery, Other          | 8     | 4     | 11    | 5     | 5     |       | 33     |
| Narcotics               | 100   | 173   | 195   | 119   | 203   | 84    | 874    |
| Non-support             | 13    | 10    | 9     | 4     | 1     | 1     | 38     |
| Other                   | 70    | 107   | 154   | 260   | 267   | 202   | 1,060  |
| Subtotal                | 1,242 | 1,273 | 1,335 | 1,242 | 1,120 | 671   | 6,883  |
| Not Reported**          | 97    | 101   | 89    | 146   | 511   | 644   | 1,588  |
| Total†                  | 1,690 | 1,712 | 1,791 | 1,803 | 1,936 | 1,501 | 10,433 |
| Violent Crimes          | 22.0% | 21.0% | 21.6% | 25.0% | 21.4% | 21.7% | 22.2%  |
| Property Crimes         | 78.0% | 79.0% | 78.4% | 75.0% | 78.6% | 78.3% | 77.8%  |

\* The 1975 figures do not include the last quarter of 1975.

\*\* The large number of unreported offenses in the most recent years results from the time lag before the Research Division of DSHS receives data from the institutions.

† The total offenses will be higher than the total admittees for these years because some offenders committed more than one offense.

of the total committed offenders,<sup>108</sup> were parole violators. In addition, 18 percent of the felons admitted to state institutions over the same period had one or more prior juvenile commitments.<sup>109</sup> Over one-third of the residents of adult correctional institutions had previously served time in a state correctional facility. Table 7 delineates the types of offenses for which inmates were committed to institutions during calendar years 1970 through 1975.

It is somewhat risky to identify any trends from this table, given the large number of unreported offenses for the last two years. It would seem, however, that the ratio of offenses against persons to offenses against property has remained relatively constant. Within the property offense category, the table suggests that a decrease in burglaries and larcenies as commitment offenses has been accompanied by an increase in narcotics offenses.

The racial make-up of the institutional population for the calendar years 1968 through 1973 is shown in Table 8. The relative percentages seem to have remained constant over the years, though the proportion of blacks in the institutional population appears to have gradually increased.<sup>111</sup>

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108. Percentages derived from ACDD, *supra* note 107, at Table 43. With these figures it should be pointed out that the 13.4% is fairly characteristic of the years 1965-1970, but that in 1970 the number of offenders sent by the courts who had previously served time dropped to 8.6%. Thereafter the percentage increased steadily, reaching 17.3% in 1973.

109. Derived from *id.* at Table 49. The figures for the latter part of the study period 1969-1973 were somewhat higher, averaging around 20%.

110. Appendix B-6, *supra* note 85.

111. The increase can be partially explained by the proportionate increase in Washington's black population for these years. From 1970 to 1974 it is estimated that the state's black population rose from approximately 2.2 to 3.2% of the state population. 1974 POCKET DATA BOOK, *supra* note 87, at 6, 10; WASHINGTON STATE OFF. OF PROGRAM PLANNING AND FISCAL MGT., POCKET DATA BOOK 1970, at 6.

TABLE 8

RACE OF FELONS ADMITTED TO WASHINGTON ADULT  
CORRECTIONAL FACILITIES DURING CALENDAR YEARS  
1968 THROUGH 1973<sup>112</sup>

| Race            | 1968  | 1969  | 1970  | 1971  | 1972  | 1973  |
|-----------------|-------|-------|-------|-------|-------|-------|
| White           | 1,122 | 1,274 | 1,221 | 1,330 | 1,306 | 1,269 |
| % of total      | 79.8  | 73.5  | 75.6  | 80.3  | 76.2  | 74.7  |
| Black           | 175   | 306   | 286   | 222   | 280   | 306   |
| % of total      | 12.4  | 17.7  | 17.7  | 13.4  | 16.3  | 18.0  |
| American Indian | 74    | 99    | 81    | 71    | 95    | 80    |
| % of total      | 5.3   | 5.7   | 5.0   | 4.3   | 5.5   | 4.7   |
| Mexican         | 8     | 34    | 15    | 26    | 25    | 29    |
| % of total      | .6    | 2.0   | .9    | 1.6   | 1.5   | 1.7   |
| Filipino        | 1     | 7     | 1     | 4     | 2     | 3     |
| Japanese        | —     | —     | 2     | 1     | 2     | 2     |
| Chinese         | 2     | —     | 1     | —     | —     | 1     |
| Other           | 24    | 13    | 9     | 3     | 4     | 9     |
| Total           | 1,406 | 1,733 | 1,616 | 1,657 | 1,714 | 1,699 |

Although at first glance it may not seem that any of these racial groups are disproportionately represented, a comparison of these percentages with each group's respective percentage of Washington's population suggests that both blacks and American Indians are over-represented.<sup>113</sup>

As for the age and educational level of the offenders admitted to state institutions, the data for 1965 through 1973 show that almost 70 percent were under 31 years of age and over 50 percent were under 26.<sup>114</sup> For this same period, the data show that over 50 percent of the offenders had completed school through 10th grade or higher.<sup>115</sup>

112. Appendix B-7, *supra* note 85.

113. Blacks and people with Spanish surnames each comprise 2.3% of the state's population while American Indians constitute 1.1%. 1974 POCKET DATA BOOK, *supra* note 87, at 10.

114. ACDD, *supra* note 107, at Table 55.

115. *Id.* at Table 13. These data also seem to show that the educational level of felons has increased from 1965 until 1973, but the number of cases where no data is reported makes drawing such conclusions difficult.

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Table 9 shows the distribution by age within the system. As might be expected, the proportion of offenders sent to Walla Walla, a maximum security facility, increases with the age of the offenders.

TABLE 9  
NUMBER OF RESIDENTS IN ADULT CORRECTIONAL  
INSTITUTIONS BY ATTAINED AGE AND BY AGENCY  
AS OF JUNE 30, 1975<sup>116</sup>

| Attained Age<br>In Years | Walla<br>Walla | Purdy | Monroe | Shelton<br>Reception | Shelton<br>Training | Honor<br>Camps | Total All<br>Residents |
|--------------------------|----------------|-------|--------|----------------------|---------------------|----------------|------------------------|
| 17 & under               | 0              | 2     | 5      | 6                    | 6                   | 0              | 19                     |
| 18-20                    | 31             | 13    | 152    | 52                   | 216                 | 22             | 486                    |
| 21-25                    | 318            | 58    | 378    | 73                   | 268                 | 72             | 1,167                  |
| 26-30                    | 342            | 23    | 139    | 40                   | 43                  | 20             | 607                    |
| 31-40                    | 391            | 34    | 61     | 27                   | 21                  | 23             | 557                    |
| 41-59                    | 250            | 26    | 17     | 14                   | 4                   | 14             | 325                    |
| 60-64                    | 12             | 0     | 0      | 1                    | 2                   | 1              | 16                     |
| 65 & over                | 17             | 0     | 0      | 1                    | 0                   | 1              | 19                     |
| Total                    | 1,361          | 156   | 752    | 214                  | 560                 | 153            | 3,196                  |

Perhaps the most discernible trend among the personal characteristics of offenders committed to the correctional system during the period of 1965 through 1973 is a decline in alcohol use accompanied by an increase in the use of drugs.<sup>117</sup> Offenders with a history of alcohol use constitute approximately half of those admitted annually. Prior to 1970, the number of offenders with alcohol problems always exceeded those without a history of alcohol use. In 1970 and later years, however, offenders without alcohol problems outnumbered by slowly increasing margins those with a history of alcohol use.<sup>118</sup>

In recent years, the transference to drug use has been dramatic. The watershed year was 1971, when, for the first time, more of those

116. DSHS, Adult Corrections Quarterly Report, June 1975, Table 25 (August 1975) [hereinafter cited as June Quarterly Report].

117. Alcohol use in this context "is indicated if the drinking history and the drinking habit of the felon appear to have been a major source of his or her problems." Drug use is defined as those cases in which "a felon has used benzedrine, seconal, codeine, phenobarbital, cocaine, heroin, opium, morphine, and marijuana to such an extent that he or she is dependent upon, or has illegally obtained such drugs regardless of the extent of his or her dependence." ACDD, *supra* note 107, at 30, 23.

118. June Quarterly Report, *supra* note 116, at Table 25.



admitted had a history of drug use than did not. In 1966 one of every six committed offenders had a history of drug use; in 1973 two out of three had drug problems. While from 1965 to 1973 there was a 20 percent increase in the number of offenders committed, during that same period the number of offenders with a history of drug use grew by 365 percent.<sup>119</sup> Given this change in constituency, it is apparent why drug use has become a problem for correctional authorities.

#### 4. Length of stay

An informative statistic is the length of an offender's stay in the institution. The last column in Table 10 shows the median length of stay (LOS) for all offenders paroled from Adult Correctional Institutions during the past six years.<sup>120</sup>

TABLE 10  
MEDIAN LENGTH OF STAY IN MONTHS FOR THOSE  
REGULARLY PAROLED (ALL OFFENSES)<sup>121</sup>

| Fiscal Year | White |            | Black |            | Other |            | All Races |            |
|-------------|-------|------------|-------|------------|-------|------------|-----------|------------|
|             | No.   | Median LOS | No.   | Median LOS | No.   | Median LOS | No.       | Median LOS |
| 1970        | 994   | 18.3       | 162   | 19.4       | 106   | 16.9       | 1,262     | 18.4       |
| 1971        | 1,158 | 18.0       | 204   | 17.8       | 146   | 14.1       | 1,508     | 17.6       |
| 1972        | 1,257 | 16.5       | 268   | 19.0       | 106   | 17.1       | 1,631     | 16.9       |
| 1973        | 1,227 | 15.9       | 244   | 16.8       | 99    | 13.6       | 1,570     | 15.9       |
| 1974        | 1,051 | 16.3       | 202   | 17.6       | 102   | 15.1       | 1,355     | 16.3       |
| 1975        | 1,006 | 16.2       | 218   | 19.5       | 81    | 15.0       | 1,306     | 16.6       |

The typical offender spends slightly less than eighteen months in an institution. The average stay is considerably less than the average min-

119. *Id.* at Table 19.

120. The median length of stay (LOS) for those paroled is calculated from the resident's latest admission date to the date of parole release. Thus, the LOS for a person serving consecutive sentences will be based on his or her last sentence. DSHS, Adult Corrections Quarterly Report, Sept. 1975, at 1 (Dec. 1975) [hereinafter cited as Sept. Quarterly Report]. The LOS for those paroled is representative because nearly all offenders in Washington are paroled. During the calendar years 1960-1974, 21,140 offenders were released from the correctional institutions. 20,870 of these, or nearly 99%, were paroled rather than discharged. Appendices B-8 to B-10, *supra* note 85.

121. Appendices B-11 to B-12, *supra* note 85.

imum term fixed,<sup>122</sup> even including maximum good time reductions. It can be concluded that the Board frequently exercises its discretion to parole an offender prior to the expiration of the minimum term.<sup>123</sup> The first three columns of Table 10 indicate the median length of stay by race. The figure for blacks has been consistently higher than that for whites, whereas the length of stay for other races has usually been lower than that for whites. One explanation for this disparity along racial lines can be obtained by analyzing Table 11 which shows the median length of stay by race for different crime categories.

TABLE 11  
 MEDIAN LENGTH OF STAY IN MONTHS BY RACE—PERSONS  
 PAROLED IN FISCAL YEAR 1975<sup>124</sup>

| Crimes             | White |            | Black |            | Other |            |
|--------------------|-------|------------|-------|------------|-------|------------|
|                    | No.   | Median LOS | No.   | Median LOS | No.   | Median LOS |
| Assault*           | 158   | 26.7       | 70    | 28.7       | 26    | 18.0       |
| Other Personal** † | 34    | 20.4       | 5     | 21.0       | —     | —          |
| Property‡          | 489   | 16.4       | 78    | 18.4       | 41    | 15.5       |
| Drug               | 177   | 14.0       | 35    | 16.4       | 4     | 18.0       |
| Other              | 75    | 10.5       | 12    | 9.0        | 4     | 12.0       |
| Not Reported       | 73    | 12.3       | 18    | 9.0        | 6     | 9.0        |

\* Assaultive crimes include murder, manslaughter, robbery, assault, and rape.

\*\* Other personal offenses include carnal knowledge and indecent liberties.

† There were no persons of other races paroled for other personal offenses in fiscal year 1975.

‡ Property offenses include burglary, larceny, auto theft, and forgery.

Blacks comprise a much greater proportion of those paroled for offenses against persons than of those paroled for offenses against property; 25.6 percent of those paroled for personal offenses were black, while only 12.8 percent of those paroled for property offenses were black.<sup>125</sup> Since personal offenses carry longer sentences, the median

122. See Table 3 *supra*.

123. See text accompanying notes 30 & 31 *supra*.

124. Appendices B-12 to B-13, *supra* note 85.

125. A similar comparison for the 1970-74 fiscal years showed that 20% of those paroled for personal offenses were black, whereas only 12% of those paroled for property offenses were black. Appendices B-11 to B-12, *supra* note 85.

length of stay for blacks is longer. Nevertheless, the table indicates that blacks tend to serve longer terms for almost all types of offenses.<sup>126</sup>

Work release and furlough programs are a significant aspect of the offender's confinement.<sup>127</sup> Nearly 50 percent of those in the adult correctional system are given a work-training release prior to parole. In so far as the average number of offenders on work release is 300 per day and the average duration of a work release is 109 days, over one thousand offenders a year are placed on work-training release.<sup>128</sup> Of these, 74 percent continue on to parole, 22 percent are returned to the institutions for rule infractions, and 4 percent escape or commit new crimes.<sup>129</sup> The 22 percent return figure indicates one advantage of work release. These offenders are returned to institutions prior to being paroled without the time and expense of parole revocation proceedings, which must meet due process standards. Work-training release is thus a test in the community to identify offenders likely to fail upon parole as well as an opportunity for training and employment to facilitate the offender's adjustment to the community. Significant cost savings are also achieved by the work training releasee reimbursing the state for much of the cost of room and board.<sup>130</sup>

The statistics on furloughs are equally impressive: 99.4 percent of the furloughs granted are completed without incident and only .6 percent result in an escape or other crime.<sup>131</sup> Furloughs average three days in length and approximately 250 furloughs are granted each

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126. The 1970-74 figures show that blacks served longer terms than whites for personal crimes for three of the five years (1972-74); for property crimes they served longer terms for two of the five years (1970 & 1972), with one year being the same for both races (1974); for "other" crimes (defined as all drug violations and offenses *other than* murder, manslaughter, robbery, assault, rape, carnal knowledge, indecent liberties, burglary, larceny, auto theft, and forgery) blacks served longer terms than whites for all five years. *Id.* Comparisons of parole and median length of stay should also be adjusted to account for offenders' prior criminal records.

127. The number of those placed on work release has advanced steadily since 1971, doubling each year. One reason for the large number of people obtaining work release is the desire to avoid inequities among groups within each institution. For example, if work release were not given to offenders committed for violent personal crimes, fewer blacks than whites would obtain work release as the proportion of blacks admitted to institutions for personal crimes is higher than that for whites. Such a criterion could be perceived as racially biased. Interview with Mr. Ray Messegee, DAC Work and Training Release Supervisor, in Olympia, Wash., Dec. 23, 1975.

128. *Id.*

129. *Id.*

130. *Id.* The average daily cost to the state for an institutionalized offender is approximately \$21.00 compared to a daily cost of \$11.33 for an offender on work training.

131. *Id.*

month.<sup>132</sup> Unfortunately, little data are available as to whether these programs significantly affect the behavior of offenders after parole.<sup>133</sup>

C. Parole

One thousand three hundred and nine offenders were paroled during fiscal year 1975 (1234 males and 75 females).<sup>134</sup> This total is slightly lower than that of 1974, but it is representative of the number paroled annually by the Board.<sup>135</sup> The statistics concerning parole revocations<sup>136</sup> show one clear trend: fewer parolees are returned for parole violations than previously.<sup>137</sup> The Board is less likely to return an offender to an institution for a violation of parole, but is more likely to wait for a court disposition, that is, a new felony conviction.<sup>138</sup> As for other functions in the parole process, in fiscal year 1975 the Board granted 811 parolees' requests for a conditional discharge from supervision while it rejected 119 applications.<sup>139</sup> The Board also granted 283 applicants' requests for a final discharge restoring civil rights, while denying 100 similar requests.<sup>140</sup>

A key measure of the effectiveness of parole is the number of parolees who are returned to institutions after their release. Table 12 indicates the rate of return to state institutions for those released over the past 15 years.

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132. *Id.* The number reached 400 in 1971 but an incident involving an escaped furloughed offender that resulted in the death of a peace officer in 1971 caused the program's curtailment, and furloughs have been limited to about 250 per month since then.

133. *Id.*

134. 1975 Ann. Rep., *supra* note 26, at 11.

135. The total for fiscal year 1974 was 1,358 (1,265 males and 93 females). *Id.* at 58. The average number of parolees for the previous 10 calendar years is 1,453. Appendix B-9, *supra* note 85.

136. In fiscal year 1974, 721 alleged violators were arrested. Of these, 109 were administratively reinstated, 211 were administratively revoked (admission of violation or waiver), 165 were reinstated at revocation hearings, and 205 parolees were revoked at hearings. 1974 Ann. Rep., *supra* note 40, at 59.

137. June Quarterly Report, Summary and Analysis, *supra* note 116. From fiscal year 1974 to fiscal year 1975 the percentage of admitted offenders who were parole violators declined from 18.6% to 16.7%. *Id.*

138. 1975 Ann. Rep., *supra* note 26, at 17. See note 63 and accompanying text *supra*.

139. *Id.* at 18.

140. *Id.* at 19.

TABLE 12

RETURNS TO WASHINGTON STATE ADULT CORRECTIONAL INSTITUTIONS THROUGH SEPT. 30, 1975 BY PERSONS RELEASED FROM DAC INSTITUTIONS DURING THE PERIOD OF JAN. 1, 1960 THROUGH DEC. 21, 1974<sup>141</sup>

| Calendar Year of Release | % Returned of Those Released (Total 21,140) | % Returned of Those Paroled (Total 20,870) | % Returned of Those Discharged (Total 270) |
|--------------------------|---------------------------------------------|--------------------------------------------|--------------------------------------------|
| 1960-68*                 | 41.1                                        | 41.1                                       | 44.6                                       |
| 1969                     | 38.1                                        | 38.0                                       | 42.1                                       |
| 1970                     | 33.1                                        | 32.9                                       | 41.7                                       |
| 1971                     | 31.3                                        | 31.0                                       | 50.0                                       |
| 1972                     | 28.5                                        | 28.1                                       | 58.3                                       |
| 1973                     | 23.4                                        | 23.3                                       | 33.3                                       |
| 1974                     | 16.1                                        | 15.6                                       | 35.7                                       |

\* The 1960-68 line indicates the percentage of offenders released during those years who had returned to state institutions by Sept. 30, 1975.

Table 12 leads to two interesting observations. First, discharged offenders are a very small portion of all offenders who leave prison. Secondly, the proportion of released offenders who have been reinstitutionalized increases with each year after the year of release. The percentage of offenders returned does appear to level off about six years after parole or discharge when the rate of return reaches 40 to 45 percent.<sup>142</sup> Any evaluation of parole effectiveness should take this time factor into account.

A recent study conducted by the Board of Prison Terms and Paroles supplements Table 12 with more detailed information. Table 13 resulted from the Board's in-depth study of fiscal year 1973 parolees which traced their progress over a two-year period through June of 1975.

141. Appendix B-8, *supra* note 85.

142. The return rates for 1960-1968 releasees (paroles and discharges) ranged from a low of 36.5% (1967) to a high of 45.8% (1964). *Id.*

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TABLE 13  
 PAROLE OUTCOME AT SIX-MONTH INCREMENTS—ALL  
 PERSONS PAROLED<sup>143</sup>

| Result                           | 6 months |       | 12 months |       | 18 months |       | 24 months |       |
|----------------------------------|----------|-------|-----------|-------|-----------|-------|-----------|-------|
|                                  | No.      | %     | No.       | %     | No.       | %     | No.       | %     |
| Clear<br>Success*                | 1,028    | 73.0  | 885       | 63.0  | 831       | 59.0  | 811       | 57.0  |
| Marginal<br>Success**            | 226      | 16.0  | 238       | 17.0  | 201       | 14.0  | 171       | 12.0  |
| Marginal<br>Failure:             |          |       |           |       |           |       |           |       |
| New Min. Term<br>Less than 1 Yr. | 3        | 0.0   | 5         | 0.0   | 8         | 1.0   | 12        | 1.0   |
| Absconded<br>Supervision         | 97       | 7.0   | 140       | 10.0  | 144       | 10.0  | 137       | 10.0  |
| Clear<br>Failure:                |          |       |           |       |           |       |           |       |
| Instate Felony<br>Conviction     | 26       | 2.0   | 73        | 5.0   | 121       | 9.0   | 155       | 11.0  |
| Out-of-State<br>Felony Convic.   | 21       | 1.0   | 27        | 2.0   | 34        | 2.0   | 37        | 3.0   |
| New Min. Term<br>More than 1 Yr. | 8        | 1.0   | 41        | 3.0   | 70        | 5.0   | 86        | 6.0   |
| Total Paroled†                   | 1,409    | 100.0 | 1,409     | 100.0 | 1,409     | 100.0 | 1,409     | 100.0 |

\* Clear success means that no negative information was found in an offender's file.<sup>144</sup>

\*\* Marginal success means that something negative, such as an arrest, was in the file.<sup>145</sup>

† Excluded from Total: Deaths—26; Maximum sentence expirations—10.

The 20 percent clear failure figure after two years corresponds roughly to the 23 percent return rate for offenders released in 1973 in

143. Appendix C-1, *supra* note 85.

144. Interview with Mr. J. Walter Gearhart, Administrative Supervisor, Board of Prison Terms and Paroles, in Olympia, Wash., Dec. 22, 1975.

145. *Id.*

TABLE 14

RATE OF RETURN FOR THOSE PAROLED FROM  
WASHINGTON STATE ADULT CORRECTIONAL FACILITIES  
DURING CALENDAR YEARS 1970-73<sup>147</sup>

| Institution and<br>Year of Release          | Number<br>Paroled | Percent Returned* After |         |         |         |
|---------------------------------------------|-------------------|-------------------------|---------|---------|---------|
|                                             |                   | 1 Year                  | 2 Years | 3 Years | 4 Years |
| <b>Walla Walla</b>                          |                   |                         |         |         |         |
| 1970                                        | 487               | 16                      | 24      | 27      | 31      |
| 1971                                        | 584               | 14                      | 22      | 25      | —       |
| 1972                                        | 577               | 15                      | 23      | —       | —       |
| 1973                                        | 488               | 11                      | —       | —       | —       |
| <b>Monroe</b>                               |                   |                         |         |         |         |
| 1970                                        | 377               | 11                      | 22      | 28      | 31      |
| 1971                                        | 471               | 10                      | 23      | 28      | —       |
| 1972                                        | 478               | 13                      | 23      | —       | —       |
| 1973                                        | 440               | 16                      | —       | —       | —       |
| <b>Shelton Training &amp;<br/>Reception</b> |                   |                         |         |         |         |
| 1970                                        | 274               | 14                      | 21      | 26      | 27      |
| 1971                                        | 284               | 9                       | 19      | 23      | —       |
| 1972                                        | 394               | 11                      | 20      | —       | —       |
| 1973                                        | 327               | 12                      | —       | —       | —       |
| <b>Purdy</b>                                |                   |                         |         |         |         |
| 1971                                        | 47                | —                       | 11      | 15      | —       |
| 1972                                        | 71                | 6                       | 11      | —       | —       |
| 1973                                        | 89                | 3                       | —       | —       | —       |
| <b>Honor Camps</b>                          |                   |                         |         |         |         |
| 1970                                        | 213               | 16                      | 25      | 29      | 29      |
| 1971                                        | 182               | 15                      | 25      | 30      | —       |
| 1972                                        | 140               | 15                      | 22      | —       | —       |
| 1973                                        | 98                | 13                      | —       | —       | —       |
| <b>All Institutions<br/>Combined</b>        |                   |                         |         |         |         |
| 1970                                        | 1,351             | 14                      | 23      | 27      | 30      |
| 1971                                        | 1,568             | 12                      | 22      | 26      | —       |
| 1972                                        | 1,660             | 13                      | 22      | —       | —       |
| 1973                                        | 1,437             | 12                      | —       | —       | —       |

\* Returned as of Jan. 1, 1975.

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Table 12. It is also apparent that parole success rates decline as the elapsed time from release date increases.<sup>146</sup>

The recidivist rate for those paroled from treatment-oriented facilities is surprisingly near the rate for the general prison population. Table 14 shows the rates of return for offenders paroled in recent years.

While those released from Shelton and the honor camps<sup>148</sup> seem to have slightly lower return rates, there do not appear to be major differences in the rates of return for male offenders according to the releasing institution. Purdy, on the other hand, apparently has a much lower rate of return. This may show that a greater expenditure per inmate has significant consequences,<sup>149</sup> but it may also reflect differences between male and female offenders. Aside from the Purdy results, the nature of the Washington correctional institution where an offender is housed has not had much effect on the tendency of offenders to return to the correctional system.<sup>150</sup>

The recidivist rate may vary according to the type of original offense committed. Table 15 shows that offenders institutionalized for property offenses are far more likely to return to correctional institutions than those institutionalized for personal offenses. Moreover, the most serious offenses have the lowest recidivist rates.

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146. The study represented in Table 13 corresponds to a similar study done by the Board for fiscal year 1970 parolees. When compared with that study, the more recent one shows that the success rate has risen. In comparing the 18-month figures for both studies, the 1973 parolees had a higher success rate (73% to 61%), a lower return rate (16.3% to 27%), and a smaller proportion of those who fled supervision (10% to 12%). 1975 Ann. Rep., *supra* note 26, at 17; 1974 Ann. Rep., *supra* note 40, at 59.

147. Appendix C-2, *supra* note 85.

148. The figures for Indian Ridge are not reflected in the above chart and its success rate appears to be quite high. DSHS, News Release No. 75-117 (Oct. 30, 1975) stated that the rate of return was 2½% (3 of 115) for those released over a two-year period. *Id.* at 3.

149. See Table 6 *supra*.

150. The rates of return by institution for all offenders released (by both parole and discharge) from 1965 through 1974 and returned by June 30, 1975 are as follows: Walla Walla—30%; Monroe—33%; Shelton—28%; Honor Camps—30%; Purdy—13.5%. The return rate for all institutions was 30%. One interesting sidelight is that those released from the Training Center at Shelton had a much lower rate of return than those released from the Reception Center (25% as opposed to 52%), so that the Training Center's record is better than the figures at first indicate. DSHS, An Examination of Probation and Parole Admission and Failure Rates for Wash. State and King County for Calendar Years 1965 Through 1974 (Oct. 10, 1975), at Table 4.



TABLE 15

TOTAL NUMBER OF RELEASES (PAROLES & DISCHARGES) FROM WASHINGTON STATE ADULT CORRECTIONS FROM JAN. 1, 1965 TO DEC. 31, 1974 BY OFFENSE AND BY THE NUMBER WHO HAD RETURNED AS OF JUNE 30, 1975<sup>151</sup>

| Offense            | Total Released | Number Returned | % Returned |
|--------------------|----------------|-----------------|------------|
| Personal Offenses: |                |                 |            |
| Murder             | 203            | 33              | 16.2       |
| Manslaughter       | 237            | 39              | 16.5       |
| Robbery            | 1,240          | 333             | 26.8       |
| Assault            | 677            | 157             | 23.2       |
| Rape               | 76             | 16              | 21.0       |
| Carnal Knowledge   | 249            | 63              | 25.3       |
| Indecent Liberties | 293            | 69              | 23.6       |
| Property Offenses: |                |                 |            |
| Burglary           | 3,589          | 1,200           | 33.4       |
| Larceny            | 2,636          | 739             | 28.0       |
| Auto Theft         | 1,506          | 616             | 40.9       |
| Forgery            | 2,016          | 660             | 32.7       |
| Other:             |                |                 |            |
| Drug Violations    | 928            | 158             | 17.0       |
| Non-support        | 142            | 37              | 26.1       |
| Other              | 597            | 147             | 24.6       |
| Grand Total        | 15,051         | 4,521           | 30.0       |

Ironically, the offenders most likely to have a lengthy stay in an institution are generally the least likely to repeat or return for a new offense.<sup>152</sup>

### III. CONCLUDING OBSERVATIONS

At the outset of any assessment of a correctional system, it must be recognized that offenders within adult correctional institutions consti-

151. *Id.* at Table 7. The data are for those paroled and for those discharged, but because almost all offenders are paroled in Washington, these figures can be read as if they were for parolees alone.

152. For example, an outraged spouse moved to violence at the infidelity of a marriage partner may be less likely to commit a new crime on release than a chronic alcoholic forger. Nevertheless, the violent offender would probably serve a longer term.

tute a very small percentage of the criminals in contemporary society. It is perhaps overly optimistic to believe that changes within the institutions alone will significantly reduce crime without accompanying large-scale alterations throughout the criminal justice system. Nevertheless, some immediate predictions about the Washington system can be made based upon its past performance. Recently the increase in probations granted has tapered off on a state-wide level. Because crime has continued to increase and more offenders are brought to trial, more are being sent to the institutions which are now nearing capacity. Moreover, a slight decline in the number of offenders granted parole in recent years has contributed to the swelling institutional populations.<sup>153</sup> Once the institutions are filled, it is probable that the Board will exercise its discretionary parole powers earlier in offenders' terms; <sup>154</sup> both the maximum term set by the court and the minimum term fixed by the Board are longer than the actual time served by an offender. In the next several years this disparity is likely to be accentuated.

Perhaps the most surprising observation that can be made about the Washington system is that its ability to reduce offenders' returns to the correctional system has not changed dramatically despite significant changes in the correctional process. The increased use of probation has not resulted in a marked increase in recidivism among probationers. Conversely, the treatment-oriented facility has not had an appreciable impact on the recidivism rates of parolees. At the risk of appearing unduly pessimistic about man's ability to alter his own behavior, one could argue that the responses of offenders to corrections

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153. While these trends can be observed in the data presented in Part II, a more succinct description lies in the rates of institutional commitments and admissions to probation and parole per 10,000 population in Washington for the period 1970-74. The probation rate rose steadily from 8.28 to 14.05 during those years. Likewise, the rate of commitments to adult corrections rose from 2.93 to 3.97. However, although the parole rate also increased from 4.03 to 4.96 from 1970 to 1972, it has since declined to 3.88 in 1974. Office of Research, DSHS, Adult Corrections Population Data, Rep. No. 8:1-1 (1975), at Table 64.

154. This is not necessarily going to be the result. The Board is an agency independent from the Department of Social and Health Services and it may not respond to institutional pressures. Interview with Mr. J. Walter Gearhart, Administrative Officer, Wash. Board of Prison Terms and Paroles, in Olympia, Wash., Apr. 5, 1976.

are inherent in the offenders themselves, given current societal conditions. The correctional system alone may not have an appreciable impact on the actions of offenders.

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